

## Briefing Note for the Competent Authorities (CA) implementing the EU Timber Regulation

June - August 2018

### EARTHSIGHT REPORT ON ILLEGAL LOGGING AND CORRUPTION IN THE UKRAINE TIMBER INDUSTRY

On 14 July, **EarthSight published findings** from a two-year investigation into illegal logging and timber corruption in Ukraine. The report detailed extensive corruption throughout the timber supply chain from the government-owned State Forestry Enterprises (SFEs) to their superiors within the country's forest administration. An extrapolation from field investigations indicates that ~40% of timber being produced is illegally cut, through misuse of a loophole designed to prevent the spread of disease. Court records reveal numerous investigations against SFEs for forging documents, receiving bribes from timber companies and causing losses to state revenues by illegally undervaluing timber at auctions. Earthsight also detailed evidence of direct sales of logs to the largest overseas buyers, in contravention of regulations. The European Union is the largest buyer of Ukraine's wood exports, with numerous EU imports suggested to be in breach of EUTR.

Ukrainian Prime Minister, Volodymyr Groysman responded on 18 July by **announcing** a crackdown on illegal logging and timber smuggling, initiating multi-agency inspections of SFEs and instructing the Prosecutor General to verify the facts of violations. Prime Minister Groysman also asked that EU partners provide information on timber imports from Ukraine.

### ENFORCEMENT OF EUTR



#### German CA provided updates on actions taken to enforce the EUTR (June-July 2018)

The German CA reported that they had conducted meetings with a monitoring organisation and the representatives of a timber certification scheme Germany with the goal of improving understanding of how the EUTR is implemented. They also participated at the International Key Trade Fair for Forestry and Forest Technology (INTERFORST) in Munich, where they informed participants about the aims and obligations of the EUTR.

#### German CA issued a **press release on teak imports from Myanmar (June 2018)**

Currently, there is a high risk that Myanmar teak that is placed on the EU market has been illegally harvested. So far, no mitigation measures have been found to effectively reduce this risk to a negligible level. Germany's Federal Office of Agriculture and Food (BLE) informed German operators about this in March 2017. Some operators continued to import Myanmar teak. During onsite inspections, the BLE concluded that key elements of required information was missing in the respective Due Diligence Systems and that the various risk mitigation measures conducted were not adequate to mitigate the risk of illegality to a negligible level. In the press release of June 2018, operators were reminded that shipments originating in Myanmar, even if they are imported through other countries, can be seized in accordance with article 2 paragraph 3 of the national timber trade securing regulation (Holzhandels-Sicherungs-Gesetz). The BLE stresses that such imports may be returned to the country of origin, if a negligible risk of illegality cannot be proven within one month of seizure.

#### Dutch court **ruled against a company importing Myanmar teak (July 2018)**

A Dutch court has ruled in a preliminary ruling that the Netherlands Food and Consumer Product Safety Authority (NVWA) can take enforcement action against an operator who imports teak from Myanmar for the purpose of yacht

building. The company was found not to have exercised due diligence when placing Myanmar teak on the European market, by failing to produce all the required documentation for a consignment of 19.680 m<sup>3</sup> imported on 7 June 2017. Furthermore the company did not carry out adequate risk assessment and risk mitigation measures. If the company fails to exercise adequate due diligence within two months, the NVWA was authorised to levy penalty fines of EUR 20 000 per cubic metre of timber, up to a maximum of EUR 800 000, if the imports continue. The company requested that this measure be suspended to allow more time to implement mitigation measures, however the NVWA responded that no such measures are currently possible to demonstrate compliance with EUTR due diligence obligations for Myanmar teak. This ruling follows a **series of preventative measures** imposed by the NVWA in recent months on timber imports from Brazil, Gabon, Myanmar and the Republic of Congo.

#### **Portuguese CA organised an EUTR workshop for Mediterranean Member States in Lisbon on 5-6 June 2018**

The workshop was funded and supported by the EC TAIEX-EIR PEER 2 PEER programme, with the objectives jointly designed with the involvement of the Spanish CA. Participants shared information and experiences on the methodologies used by various CAs for planning and implementing checks, their risk assessment methods and EUTR enforcement mechanisms. The workshop outcomes were to work on a common framework of cooperation among CAs in the Mediterranean region to harmonise check procedures and to continue sharing information and experiences on EUTR implementation.

#### **UK CA provided updates on actions taken to enforce the EUTR (August 2018)**

The UK CA audited two monitoring organisations located in the UK and submitted their findings to the EU Commission.

#### **New Timber Legality Forum on LinkedIn (August 2018)**

**The Timber Legality Forum<sup>1</sup>**, created by the UK CA, provides a platform for all businesses that are required to comply with the EUTR, along with CAs. Members can use the forum to communicate among themselves and ask questions and share solutions to enable them to remain up to date with EUTR. The UK CA has additionally organised a series of regional sector-specific workshops between September 2018 and March 2019, focusing on risk identification and mitigation.

## **ILLEGAL LOGGING & TRADE**



#### **Commission called upon Polish government to uphold environmental obligations (August 2018)**

Following the **ruling** made on Poland's logging of the Natura 2000 Puszcza Białowieska site in April 2018, the European Commission has sent a **letter of formal notice** to the Polish government, requesting compliance with EU nature legislation for protected forests under the Habitats Directive and Natura 2000. Recent changes to Polish law have introduced exemptions for some forest management activities such as logging, placing inadequate safeguards on protected forests. Poland must respond within two months or the Commission may send a reasoned opinion.

#### **Research article on 'Fake legal logging in the Brazilian Amazon' (August 2018)**

Researchers **published** evidence indicating deliberate overestimation of timber volumes in logging permits across Pará state, compared with estimated volumes from the national forest inventory, generating a 'surplus' of licensed timber that facilitates the extraction and sale of illegal timber. This discrepancy between timber volumes from 427 valid logging permits and timber volumes observed in plots established by the government was significantly greater for the more valuable timber species, such as ipê (*Handroanthus* spp.). Only 61% of the 152 trees identified as ipê in logging permits were confirmed during field assessments, with three low-value species most frequently 'erroneously' identified as ipê; the diameter of real ipê trees was also frequently overestimated. The authors stress the importance of field checking logging plans in preventing fraud. They suggest introducing a timber moratorium, so that the Brazilian Environmental Agency could revisit logging permits and check for inconsistencies. They also advocate for changes to the logging control system to prevent overexploitation of Amazonian timber species.

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<sup>1</sup> Hyperlink requires users to be signed in to LinkedIn

### **Global Witness released a report on illegal logging operations in Papua New Guinea (July 2018)**

Global Witness reports that systemic illegal logging operations have been taking place in Papua New Guinea (PNG). Research into four different types of logging and forest clearance projects in PNG found that there was large scale illegality, including the repeated breaking of PNG's Forestry Act. Global Witness note that 29% of Chinese tropical log imports in 2016 came from PNG, making it China's single largest supplier. Given the risk of illegally-sourced timber entering China's supply chain, Global Witness express concern that this could damage China's trade relationships with EU and US buyers. They consider timber from PNG to be 'high risk' and caution that buyers cannot rely on paperwork alone to ensure that timber has been produced legally. Global Witness calls on the Chinese government to establish a mandatory requirement for timber from abroad to be sourced legally and to require their timber importers to carry out due diligence, including investigating and verifying the conditions under which timber is produced in source countries.

### **Forest Trends released a policy brief on China's log imports from countries with log export bans (July 2018)**

Forest Trends has published a policy brief exploring China's log imports from 31 countries with full or partial log export bans (LEBs) over the period 2005-2016. They found that imports totalled 46 million m<sup>3</sup> at a value of USD 16 billion. As many of these imports were considered to violate LEBs, Forest Trends warned that Chinese timber companies and their North American and European buyers are at risk of importing illegal timber.

### **Investigation uncovered systemic illegal logging by Norsudtimber in the DRC (June 2018)**

Global Witness has published **findings** that the Liechtenstein-based company Norsudtimber is conducting illegal logging in 90% of its Democratic Republic of Congo (DRC) rainforest timber concessions, with the suggested complicity of the DRC government. Global Witness details how Norsudtimber is breaking key requirements of DRC's Forest Law, including failure to implement management plans within required deadlines and/or logging outside of authorised perimeters – claims which the company denies. In 2017, Norsudtimber, through its subsidiaries, controlled almost 60% of DRC's international timber exports and owns rights to log an area of over 40 000 km<sup>2</sup>. Europe accounts for ~11% of Norsudtimber's exports, with the majority destined for Viet Nam or China.

### **EIA condemned a policy position paper by the 'Large Yacht Industry Cluster' on EUTR and Myanmar teak (July 2018)**

The industry position paper (featured in the **ETTF summer newsletter**) calls for international, national and regional support of Myanmar in their effort to create a sustainable teak value chain and cautions against a ban on Myanmar teak. However, the Environmental Investigation Agency points to a number of **factual errors and substantive mischaracterisations** in the paper, including that certification schemes can replace the need for operators to conduct due diligence obligations under EUTR and that Myanmar has already begun VPA negotiations with the EU. Furthermore, EIA notes that whilst it is not currently possible to legally place teak from Myanmar on the EU market, this does not constitute a 'ban' on Myanmar teak. It is merely a consequence of the current impossibility to adequately mitigate the risk of illegality, when sourcing timber from Myanmar.

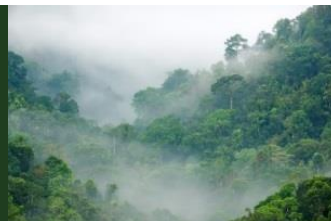
### **FLEGT Independent Market Monitor launched Trade Dashboard (August 2018)**

The EU FLEGT Trade **Dashboard** allows users to access, explore and download statistical data on EU imports of timber, cork, pulp, paper and wood-based furniture from the 15 countries that are either supplying FLEGT-licensed timber or engaged in or negotiating FLEGT VPAs (as of May 2018). The Dashboard also provides data from other leading suppliers of tropical timber into the EU. The data, derived from Eurostat COMEXT, have been compiled and validated by the IMM.

### **Workshop on 'Developing DNA-based Chain of Custody Systems for Legally-Sourced Teak', 25-26 September**

The Australian Centre for International Agricultural Research in collaboration with the University of Adelaide and Double Helix Tracking Technology is organising a closing workshop for the project 'Developing DNA-based Chain of Custody Systems for Legally-Sourced Teak'.

# LEGISLATION & POLICY



## European Union

The **FLEGT/EUTR Expert Group** met in Brussels on 19 June 2018. The Expert Group noted recent NGO reports from the Amazon Basin in Brazil relating to overestimated tree densities and links between illegal timber harvesting and violent crimes. They advised that ‘Market operators importing from Brazil’s natural forests in the Amazon basin should therefore take mitigation measures and not rely only on document checks.’ Following meetings with a Delegation from Myanmar, the Expert Group welcomed recent developments towards increasing transparency and accountability in the supply chain including the **Chain of Custody (CoC) dossier** and steps taken towards establishing independent third-party verification mechanisms. The level of risk for timber harvested prior to 2017 remains very high, and the Expert Group stresses the continued impossibility to adequately mitigate the risk of illegality when sourcing from Myanmar, due to the very specific circumstances in that country [see **Summary Record** for full conclusion of the Expert Group]. Among other items on the agenda, the COM biennial EUTR report will be published soon, the COM FLEGT annual synthesis report for the year 2016 is now **available**, a draft guidance document on conflict timber was discussed, the outcome of the second meeting of the Central-European EUTR Enforcement Group was presented and there were updates on VPA negotiations with Honduras and Lao PDR and VPA implementation in Indonesia.

## International

### **CITES international workshop on verification of legal acquisition (13-15 June 2018)**

The European Union hosted an international workshop to help design guidelines for the making of CITES legal acquisition findings. Concepts such as the burden of proof, chain of custody, due diligence and risk assessment were discussed during the deliberations. The resulting guidance, in the form of a **draft resolution**, will be considered by the CITES Standing Committee, at its 70<sup>th</sup> meeting in October 2018. The aim of the guidance is to provide a common ground for the understanding and application of this key requirement for the issuance of CITES documents authorising international trade in specimens of CITES-listed species.

### **Honduras and the EU concluded negotiations on first Latin American VPA (June 2018)**

The initialling of the VPA text on 14 June 2018 marked the formal end of negotiations between Honduras and the EU. The VPA must now be signed and ratified by Honduras and the EU before it can enter into force. In order to implement the VPA, Honduras will develop verification systems to ensure that all timber and timber products for international and domestic markets fulfil relevant legal requirements.

### **Lao PDR and the EU held second round of VPA negotiations (June 2018)**

Negotiations between Lao PDR and the EU took place in Vientiane on 4-7 June 2018. Since the first meeting in April 2017, Lao PDR has produced a timber legality definition and discussed supply chain controls and verification processes. The EU and Lao PDR reviewed this progress and agreed to field-test parts of the timber legality definition. They also agreed upon a roadmap for further developing the timber legality assurance system. Work is now ongoing to further define legality in a range of areas.

### **Thailand and the EU held second round of VPA negotiations (July 2018)**

The negotiations, held on 19 July 2018, coincided with constitutional reforms in Thailand affecting the forestry sector. The meeting focused on the legal wording of the VPA, the products that will be covered, supply chain controls and the continued development of Thailand’s approach to verification of compliance with legal timber requirements. The participants also agreed upon a roadmap of joint activities and technical meetings to prepare for the third round of negotiations, scheduled for June-July 2019.

### **Eighth meeting of the Republic of Congo-EU Joint Implementation Committee (JIC) held in Brazzaville (June 2018)**

The JIC met on 7-8 June 2018 to review progress towards VPA implementation. It adopted a number of recommendations on the deployment of a Computerised Legality Verification System (SIVL) and on strengthening stakeholder participation in improving the implementation of the Forest Law. The meeting included a review of the

formalisation of the legality and traceability control procedures, a discussion on capacity building of companies in the forest sector and a note of the need for a revision of certain parts of the VPA as a result of changes in the forest legal framework.

#### **Liberia-EU JIC briefed new Liberian government on VPA progress (June 2018)**

The JIC met on 13-14 June 2018 in Monrovia where representatives of Liberia's new government were briefed on the current status of the VPA and to re-launch formal talks on VPA implementation. The meeting discussed progress towards implementation of the VPA and improving capacity building for a range of stakeholders. Liberia is currently developing a verification system to ensure legality of timber products from harvest to export.

#### **Joint Monitoring and Review Mechanism (JMRRM) held technical session for Ghana-EU VPA (July 2018)**

The JMRRM technical session was held in Accra on 17 July 2018 to discuss progress towards Ghana-EU VPA implementation. The session included an agreement over VPA annex changes, discussion over import protocols, an update on the process of the conversion of extant leases and an update on the status of Ghana's Legality Assurance System (GhLAS) roll out. The meeting also covered a FLEGT license shipment test, the process of joint assessments of the GhLAS and communications strategies.

#### **Responsible Asia Forestry and Trade (RAFT) partnership published a timber identification toolkit to restrict illegal logging (July 2018)**

As part of the RAFT partnership, TRAFFIC, WWF and VN Forest have produced a timber identification and handling toolkit to support law enforcement to tackle the illegal timber trade in Viet Nam. The toolkit includes information on Viet Nam's legislative framework, a timber identification guide, relevant contacts and guidance on handling regulated timber species.



Developed by UNEP-WCMC as a consultant of the European Commission in close cooperation with the EU Member States Competent Authorities.

For further information, please email [will.chadwick@unep-wcmc.org](mailto:will.chadwick@unep-wcmc.org)

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