

## Briefing Note for the Competent Authorities (CA) implementing the EU Timber Regulation February – May 2020

### BRAZIL RELAXES ITS TIMBER EXPORT REGULATIONS, WEAKENING ITS ABILITY TO CONTROL THE LEGALITY OF SHIPMENTS

In March 2020, Reuters news agency **revealed** that the federal environment agency IBAMA had failed to properly authorise up to half of all wood exported out of the Amazon state of Pará in 2019, exporting thousands of shipments at risk of originating from illegal logging. After customs officials in Europe and the United States alerted Brazil of the issue, the president of IBAMA changed the regulations. An order was reportedly signed on 25 February 2020, removing the requirement for IBAMA to authorise the majority of timber exports (authorisation is still required for threatened species and in other special circumstances). The rule change overruled a technical opinion of five IBAMA analysts. Brazil's Environment Minister reportedly **dismissed** one government analyst who opposed relaxing the rules.

The current EUTR Expert Group **conclusion** that the risk of illegally-harvested timber entering the supply chain in Brazil is not negligible was agreed on 7 December 2018 and upheld in subsequent meetings.

## IMPLEMENTATION & ENFORCEMENT OF EUTR



### The FLEGT/EUTR Expert Group met in Brussels (February 2020)

At the meeting on 19 February 2020, the Commission **presented** on its actions to establish a Multi-Stakeholder Platform on Protecting and Restoring the World's Forests, including the EU Timber Regulation and the Forest Law Enforcement, Governance and Trade (FLEGT) Regulation. A call for applications of stakeholders was open 29 January – 10 March 2020. Group sessions were held for Member States to discuss key successes and challenges of relevance to the upcoming Fitness check of the EUTR and FLEGT Regulation. Member States were updated on simplifications to the DECLARE online reporting template for implementation and enforcement of the EUTR and reminded of the 30 April deadline for the 2019 national reports. UNEP-WCMC presented on the FLEGT annual report for 2018, summarising implementation challenges encountered by Member States and noting the importance of data quality. Romania provided a general update on its fight against illegal logging, noting government plans to put the digitised traceability system back online. At the informal EUTR enforcement group meeting, DG OLAF (European Anti-Fraud Office) presented an overview of ways in which they could support Member States' enforcement actions. Conclusions on Myanmar from the **26<sup>th</sup> FLEGT/EUTR Expert Group** on 12 December 2019 and from previous meetings were upheld, meaning that at present it still is not possible to come to a negligible risk of illegally harvested timber from Myanmar, in particular due to a lack of sufficient access to the applicable legislation and documentation from governmental sources. The summary records for FLEGT/EUTR Expert Group meetings are available from the EC **Register of Commission Expert Groups**.

The Expert Group meeting foreseen for 21 April 2020 was cancelled due to circumstances and restrictions caused by the global outbreak of COVID-19.

### European Commission confirms the correct application of Union law remains a priority (May 2020)

The EC has confirmed to Competent Authorities that the EU Timber Regulation legislative framework does not foresee derogations that could be invoked to respond to the COVID-19 crisis. Whilst acknowledging there may be significant challenges for private parties and public authorities alike. It is therefore important to note that even in the context of

the COVID-19 crisis, no automatic recourse to the notion of *force majeure* can be made in the case of the EU Timber Regulation, including “negligible risk” before placing on the market timber and timber products.

### **European Commission urges Romania to take urgent action against illegal logging (February 2020)**

The Commission sent a **letter of formal notice** to Romania on 12 February 2020, urging them to properly implement the EUTR. The national authorities in Romania have been unable to effectively check operators and apply appropriate sanctions, with inconsistencies in the national legislation not allowing them to check large amounts of illegally harvested timber. In addition, the Commission found that the Romanian authorities manage forests, including by authorising logging, without evaluating beforehand the impacts on protected habitats, as required under the Habitats Directive and Strategic Environmental Assessment Directives. Protected forest habitats have also been lost within protected Natura 2000 sites, in breach of the Habitats and Birds Directives. Romania must take the necessary measures within one month to address shortcomings, otherwise the Commission may decide to send a reasoned opinion to the Romanian authorities. The announcement follows an **official complaint** by environmental groups against the Romanian authorities for logging inside protected areas without undertaking a proper impact analysis<sup>1</sup>.

### **German CA provided updates on actions taken to enforce the EUTR (May 2020)**

Due to the COVID-19 related travel restrictions, the German CA has been conducting mainly paper-based inspections. Even under these special circumstances, it appears that the EUTR remains a high priority for operators, as most have reacted in time.

### **Hungarian CA enables confiscated timber to benefit the poor (February 2020)**

In 2019, as a result of investigations carried out during EUTR inspections, the volume of timber confiscated in Hungary increased tenfold compared to the previous year. In accordance with the EUTR, illegally harvested and confiscated timber shall not be placed on the market. However, the Hungarian Forest Act provides for the utilization for public purposes. Accordingly, the ownership of this timber can be transferred for free to local governments, NGOs and churches to facilitate their performance of public responsibilities. Applications can be submitted online free of charge through the **website** of The National Food Chain Safety Office (Nébih) since January 2020. During the first phase of the program, 1300 m<sup>3</sup> of firewood can be applied for. Utilization of confiscated timber will be of multiple benefits in terms of the environment and social needs, including its usage as firewood for heating purposes by those in need.

### **Irish CA provided updates on actions taken to enforce the EUTR (March 2020)**

Ireland has introduced timber testing into its EU Timber Regulation enforcement programme. Microscopic identification testing and stable isotope origin testing has been performed on samples collected in 2019, with further timber testing planned in 2020.

### **Swedish CA provided updates on actions taken to enforce the EUTR (May 2020)**

Three physical inspections were made during January and February. Since then, due to the COVID-19 distancing policy, six Skype inspections of operators have taken place and four traders have also been inspected online. So far, one injunction with a fine and one application for a fine (to the administrative court) have been sent for inspections made this year. For inspections from last year, one prohibition decision and three injunctions with fines have been filed between February and May.

## **ILLEGAL LOGGING & TRADE**



### **Rise in deforestation and illegal logging in Brazil (April 2020)**

Reuters news agency **reports** that deforestation in Brazil continues to rise, indicating that illegal loggers and land speculators continue their activities despite the outbreak of COVID-19. In the first three months of 2020, deforestation was up 51% from the previous year, leading to **concern** that forest fires in the dry season could be larger and more destructive than those faced in 2019. **Latest data** from Brazil’s national space research institute INPE reveals 5606 km<sup>3</sup> of forest have been lost since the ‘deforestation year’ began on 1 August 2019, the highest on record for this time of year. Leading researchers fear that **reduced environmental enforcement** during the outbreak and an expected economic recession will lead to an increase in environmental crimes.

<sup>1</sup> Featured in the **September-November 2019** EUTR briefing note.

### **EU timber firms seek to circumvent the EUTR by changing supply routes (May 2020)**

The EIA have **revealed** that some EU importers are attempting to evade the EUTR due diligence requirements of operators and avoid EUTR enforcement, by importing illicit teak from Myanmar via a Croatian company. Of the six companies named in the report, five are based in Member States where there have been crackdowns on the trade in teak from Myanmar, and three have themselves been found trading teak which did not comply with the EUTR. In February 2020, the Croatian Ministry of Agriculture conducted a check on the Croatian company's due diligence system for four shipments and found it to be inadequate. In their own investigation of documents relating to 10 shipments, the EIA concluded that documentation was inadequate in all cases, hence timber placed on the market from these shipments would have been in contravention of the EUTR.

### **Independent forest monitoring reveals alleged illegal logging in Cameroon (March 2020)**

Two cases of alleged illegal logging activities were reported to the Minister of Forests and Wildlife (MINFOF) and its regional delegations in March 2020. Namely a **mission** carried out by Ecosystèmes et Développement (ECODEV) in the Upper Sanaga Division<sup>1</sup> (Centre Region) and a **mission** carried out by Centre pour l'Environnement et le Développement Local et Alternatif (CeDLA) in the Ocean Division<sup>2</sup> (South Region) [reports in French]. The cases were documented through independent forest monitoring (IFM) activities, using the Standardized External Independent Monitoring System (SNOIE), based on international quality standard ISO 9001: 2015. A **summary** of these IFM reports details the alleged offences, including non-compliance with logging standards and unauthorised logging activities in community forests and National Estate Forests. In November 2019<sup>2</sup>, two logging companies in Cameroon were suspended from logging activities by MINFOF, in response to earlier denunciation reports by FODER and ECODEV.

### **IDEF investigation into timber legality in Côte d'Ivoire (February 2020)**

Civil society organisation IDEF produced an **assessment** of six of the key legality documents required for the exercise of any logging activity in the forestry managements units (PEFs - *périmètres d'exploitation forestières*) of Côte d'Ivoire's rural domain. Based on a sample of ten of the main forest operators exporting to the EU, they discovered that one key document - the simplified management plan - did not exist for any PEF, despite it being a document required prior to logging. Amongst other dysfunctions relating to compliance with the regulations in force, they found indications that cutting permits were being granted without approval from PEF advisory committees and that a lack of access to the specifications (*cahier des charges*) may hinder effective control. IDEF also **published** the first external independent observation report of a PEF, detailing illegalities and dysfunctions at the level of the forest administration and the operator, as well as an **assessment** of risk factors for wood traceability along the supply chain. The reports [in French], produced in collaboration with non-profit organisation REM, **call for strengthened EUTR due diligence** for timber from Côte d'Ivoire, together with recommendations for improved forest governance.

### **Illegal logging in Romania connected to the political system (March 2020)**

In an **online interview** by Euronews, an investigative journalist who is part of the RISE project (a community investigating organised crime and corruption in Romania) describes how illegal logging is a systemic problem in Romania, connected directly to political system. He reports of large volumes of timber logged each year in excess of the annual allowance, known by State officials, and how this wood reaches the European market. He welcomes the letter of formal notice sent to Romania by the European Commission in February 2020 (featured above).

### **Romanian government release updated version of their Forest Inspector website (April 2020)**

The **EIA** reports that the release of the newly updated **Forest Inspector website** marks a significant step forward in the involvement of Romania's people in the fight against illegal logging. Originally released in 2016, the updated website contains many additional features, together with significant amounts of data that had previously been locked.

### **Indonesian timber auditors to probe allegations of faked oil palm permits (February 2020)**

In December 2019, a **joint investigation** by The Gecko Project and news outlet Mongabay revealed the alleged falsification of plantation business permits for seven oil palm concessions, underpinning a multi-billion dollar plantation project in a remote region of Papua province. Whilst permits bear the signature of the former head of Papua province's investment agency, he apparently reported in writing in 2013 that his signature was forged, an allegation that was raised formally within the government on numerous occasions. Approximately 83 km<sup>2</sup> of rainforest has reportedly been cleared on the basis of the permits. In a **separate allegation**, Indonesian NGO Pusaka claimed in November 2019 that an environmental permit for a large sawmill complex that processes timber from the plantations was also fake.

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<sup>2</sup> Featured in the **September – November 2019** EUTR briefing note.

In February 2020, Earthsight<sup>3</sup> **reported** that two auditing firms which previously certified companies against the mandatory SVLK scheme would review the certifications. Earthsight notes that the auditor probes will be closely watched by legal, environmental and trade policy observers as a key test of the credibility of Indonesia's timber legality scheme.

## LEGISLATION & POLICY



### Indonesia **revokes** plans to relax the need for V-Legal licences for timber exports (May 2020)

As part of a package of measures to alleviate the administrative burden of business in the context of a response to the economic fallout from COVID-19, Indonesia had **issued** legislation lifting the obligation that exporters would need to obtain licences verifying that timber and timber products came from legal sources, unless FLEGT licences or V-Legal licences were required by the importer (Regulation No 15/2020, issued by the Ministry of Trade on 27 February 2020, which was to become effective from 27 May 2020). There were concerns that this change of legislation would be in contradiction to the EU-Indonesia Voluntary Partnership Agreement (VPA) on Forest Law Enforcement Governance and Trade, which requires FLEGT licences for the import of legal timber into the EU and V-Legal licences to denote the legality of timber exported to non-EU countries. Concerns were raised from many stakeholders in Indonesia and consultations were undertaken by the EU. Eventually Indonesia issued a new regulation (Regulation No 45/2000) that revokes Regulation No 15/2020, which reinstates the previous legislation. The news was **welcomed** by the Environmental Investigation Agency (EIA) and Indonesian partner Kaoem Telepak, noting that safeguarding the existing standards reinforces Indonesia's commitment to fighting illegal logging and deforestation.

### Evaluating the VPA process in the Republic of Congo - views from civil society (March 2020)

This independent study reports how the VPA process is regarded by civil society as an integral part of achieving forest governance improvements in the Republic of Congo. It highlights improvements such as: the recognition of civil society organisations as credible partners for the development and implementation of forest legislation; major legislative reforms carried out in an inclusive manner; the formalisation of independent forest monitoring carried out by civil society; and increased transparency in the forestry sector. Ongoing governance challenges identified included the impact on forests by large-scale agriculture, mining and oil, with insufficient coordination between ministries resulting in land conflicts and illegal conversion timber.

### Evidence of VPA impacts: Cameroon, Ghana and Indonesia (March 2020)

The Center for International Forestry Research (CIFOR), supported by the FAO-EU FLEGT Programme, has **released** a report assessing impacts of the VPA process so far, across a sample of three countries at different stages of implementation and four thematic areas. This cross-country study uses a broad range of indicators and a similar approach across countries, which could be replicated to assess VPA impact more globally. Overall, the VPA contribution to indicators was found to be positive, contributing most to the thematic areas of i) sustainable forest management and forest conditions and ii) governance, law enforcement and compliance.

### EU FLEGT Facility **briefing** exploring the recognition of Indonesian V-Legal Documents in China (February 2020)

Under its VPA framework, Indonesia issues V-Legal Documents for timber shipments to non-EU markets. A study by the Research Institute of Forestry Policy and Information at the Chinese Academy of Forestry (CAF) aimed to identify steps China could take to recognise these documents as proof of legality for timber and timber products imported from Indonesia. The study was foreseen in the 2018 workplan of the Bilateral Coordination Mechanism (BCM) between the EU and China and was conducted before China amended its Forest Law in 2020<sup>4</sup>.

<sup>3</sup> Earthsight's 2018 report '**The secret deal to destroy paradise**' also focussed on the controversial Tanah Merah project.

<sup>4</sup> Article 65 of China's revised Forest Law prohibits the purchase, transport and processing of illegal timber (as featured in the **December 2019 – January 2020** EUTR briefing note).

# OTHER NEWS, RESOURCES & PUBLICATIONS



## **ClientEarth congratulate the Congolese parliament for passing the new forest code (April 2020)**

ClientEarth **cautiously welcome** the Republic of Congo passing a new law hoped to promote more sustainable management of the countries forest resources. Presidential approval will be needed for the law to enter into force and they await the legal details to be made public.

## **TRAFFIC investigation into the economic and environmental sustainability of the Namibian timber industry (April 2020)**

This assessment highlights that whilst Namibia produces little domestic timber, it is an important conduit of timber harvested in Angola, the DRC and Zambia, for export to China, including illicit trade in mukula rosewood (*Pterocarpus tinctorius*) from Zambia<sup>5</sup>. The report provides an overview of the policy and legislative frameworks in Namibia and neighbouring Angola and Zambia, concluding that “lack of capacity and resources are seriously hampering the implementation of procedures and controls over harvest, movement and export of timber”. The need for transboundary collaboration in the management of forest resources and the timber trade is highlighted. TRAFFIC calls for the finalising and signing of an MoU between Angola, Namibia and Zambia so that collaborative actions can be implemented, as well as the alignment of policies to counter the illegal trade in timber.

## **NEPCon publishes an evaluation of the Myanmar Chain of Custody Dossier and MTLAS (February 2020)**

NEPCon provides an evaluation of the extent to which the documents in the CoC Dossier and the material certified under the Myanmar Timber Legality Assurance System (MTLAS) standard can be used to meet EUTR due diligence requirements. Whilst acknowledging that these are steps towards greater transparency and integrity in the supply chain, NEPCon identifies gaps and issues which would require the additional collection of information and verification on the ground, at all stages of timber harvesting, transport and processing. For example, regarding the CoC Dossier, NEPCon note the importance of on-site verification of documents, that documents in the Dossier do not provide indication of legality related to all legal categories included in the EUTR and that it is not possible to access all the required documentation externally. Gaps were also found in the MTLAS standard, which does not fully incorporate all relevant legal requirements for harvesting and based on the current traceability system there is significant risk that material of unknown origin could enter the supply chain.

## **Overcoming threats to Mekong’s forests and people (May 2020)**

RECOFTC – The Center for People and Forests provides an **overview** of efforts to improve forest governance in five countries of the Mekong region, including through the United Nations REDD+ initiative, developing FLEGT VPAs with the EU, as well as national steps and regional initiatives. Changes underway include cracking down on illegal logging and associated trade, an increasing role of civil society groups in the decision-making process, a shift towards community control over forests and capacity building among non-state actors. The cross-border flow of illegal timber remains an important issue, with Viet Nam developing import controls modelled on those of the EUTR and Lao PDR and Thailand reported to be moving in the same direction. China’s revision to its Forest Law in December 2019 is welcomed<sup>6</sup>, noting it remains to be seen whether, in implementation, the law will cover imports as well as domestic timber.

## **Transparency of forest revenues in the Republic of Congo (April 2020)**

The Republic of Congo has been implementing the Extractive Industries Transparency Initiative (EITI) since 2008, with the forest sector integrated into its national EITI report since 2016. The EITI provides public access to information on income generated through logging and improves transparency in the forest sector. A **briefing** [in French] published by national NGOs the Congolese Human Rights Observatory (OCDH) and the Meeting for Peace and Human Rights (RPDH) provides recommendations to the Congolese government and technical and financial partners to ensure that the EITI contributes to better governance of natural resources and the transparency efforts lead to increased accountability.

## **Continued EU imports of teak from Myanmar (March 2020)**

Using trade data from the Eurostat Comext database, Forest Trends explore how **EU imports of timber from Myanmar** have changed since 2017, when the EU first formed a common position that the risk of importing teak from Myanmar

<sup>5</sup> See EIA’s 2019 report ‘**Mukula Cartel**’, featured in the **December 2019 – January 2020** EUTR briefing note.

<sup>6</sup> Featured in the **December 2019 – January 2020** EUTR briefing note.

was not negligible. By 2019, whilst annual imports of timber products from Myanmar into the Netherlands, Germany and Belgium had dropped substantially (noting the strong enforcement activity in these countries), this was offset by significantly increased volumes imported into Italy, Greece and Croatia.

**Article from the Ethical Corporation on pressures to reform forest certification schemes (March 2020)**

The overview, focusing primarily on FSC certification, considers credibility of the auditing process, market demand for sustainable timber, evidence for environmental and social benefits, incentives to certify and challenges of operating in countries with high levels of illegal logging or weak governance.

**FAO and UNEP release The State of the World's Forests 2020 (May 2020)**

The **State of the World's Forests 2020** assesses progress to date in meeting global targets and goals related to forest biodiversity and calls for urgent action to safeguard forests amid alarming rates of deforestation and degradation. It draws on the results of FAO's Global Forest Resources Assessment 2020, which will also be published in 2020.

**ClientEarth release annual edition of their EUTR newsletter (March 2020)**

The **latest edition** of EUTR News covers the period March 2019 – March 2020, and provides an update on activities regarding implementation and enforcement of the EUTR, as well as broader work within the EU and internationally to address the issue of illegal logging.



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

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