

Info-brief: EUTR enforcement in the Netherlands

The EU Timber Regulation (EUTR) is implemented in each Member State via national legislation and enforced by national authorities. This means that differences exist in penalty regimes and enforcement practices. It also means that the opportunities for EU (and non-EU) civil society to support enforcement differ. Here, we provide summary information on the EUTR in the Netherlands as of September 2015. This document is designed as a first point of reference – not a comprehensive source of information. It will be updated as new information becomes available.

Implementation status

- Implementation by Decision 671 (2012) of 7 December 2012 (*Besluit uitvoering Europese houtverordening*) which entered into force on 3 March 2013, based on the *Law on Flora and Fauna*. Work on a new law on the protection of nature (*Wet natuurbescherming*) is ongoing.
- The penalty regime is regulated by the *Act on Economic Offences*.
- The *Netherlands Food and Consumer Product Safety Authority* has been designated as the competent authority (CA).

Resources

- Currently, to our knowledge, three full-time staff members are working on issues related to illegal timber at the CA.

Penalty Regime

- For offences committed intentionally 1) by operators in relation to the prohibition or due diligence obligations or to measures ordered by the CA in a notice of remedial action; or 2) by traders in relation to the traceability obligation: criminal sanctions may be applied by criminal court - including imprisonment (maximum two years) or pecuniary penalties (up to €20,250).
- If the judge finds no intention, a maximum of six months imprisonment or pecuniary penalties of up to €20,250 can be applied.
- If the value of illegally imported timber is higher than €4,875, higher pecuniary penalties (up to € 81,000) may be applied.
- Timber may be seized and/or trade may be suspended by the CA, as an administrative sanction targeting a particular shipment or consignment. These sanctions may also be applied by a criminal court.

Checks by the competent authority

- As of July 2015, 101 checks have been carried out on operators, as well ten follow-up checks. Also, 29 written warnings have been issued to operators. Checks are usually carried out unannounced.

Substantiated concerns

- No prescribed format exists for SCs, but it would be advisable to submit them as an

'enforcement request'.

- May be submitted by an NGO registered in the Netherlands whose statutes and actual activities include the fight against illegal logging.
- CA must, in principle, make a formal decision, including reasons for its actions, within a reasonable time, and within eight weeks at the latest.
 - Objections to a decision by the CA may be submitted within six weeks of the decision.
 - If an objection is rejected or the response is not satisfactory, an administrative appeal may be lodged.
- In the case of inaction by the CA, a notice of default can be addressed to the CA which may 1) request the payment of a fine by the CA and 2) indicate that after a time limit of two weeks an administrative appeal may be lodged. These notices can be combined or addressed successively to the CA.

Possibilities to challenge operators in criminal legal proceedings

- Civil action against operators may be filed in the district court, on the basis of a violation of the EUTR. This may result in a declaratory judgment, an injunction or the threat of a non-compliance penalty.
- Criminal proceedings may be initiated by submitting a formal complaint to the public prosecutor or to the police.
- NGOs, in principle, have access to courts. The rules on standing are the same as for submitting SCs.

Key implementation/enforcement strengths

- The CA has a legal obligation to respond to SCs.
- Clear appeals procedures exist to challenge inaction or a decision of the CA on a SC.

Key implementation/enforcement weaknesses

- So far, to our knowledge, no penalties have been imposed based on the EUTR.

Other key elements

- If the CA does not respond in a timely manner to a SC, it may have to pay a fine.

Resource information

Law:

[Besluit van 7 December 2012, houdende voorschriften ter uitvoering van verordening \(EU\) nr. 995/2010 \(Besluit uitvoering Europese houtverordening\), Staatsblad 2012, No. 671](#)

[Wet van 22 juni 1950, houdende vaststelling van regelen voor de opsporing, de vervolging en de berechting van economische delicten \(contains rules on penalties\)](#)

CA contact details:

Nederlandse Voedsel- en Warenautoriteit (NVWA) <https://www.nvwa.nl/onderwerpen/regels-voor-ondernemers-dier/dossier/keuringen/aanvragen-keuringen-via-een-digitaal-formulier> for information on substantiated concerns | T: +31 (0)900 03 88 | E: info@nvwa.nl

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