



EUTR News – September to November 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 September to November 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 launched legal proceedings for the first time against a Member State for not enforcing the EUTR properly. The legal action sends a clear signal to all Member States to step up action and enforce the EUTR. In addition, the Commission held two Expert Group meetings on the EUTR to share information and resources amongst representatives from Member States (plus Norway and Iceland) and the European Commission.

European Commission launches legal action against Belgium

For the first time, the [European Commission has taken legal action](#) against an EU Member State for not enforcing the EUTR properly. In October, the Commission began legal proceedings against Belgium for not carrying out enough checks on wood placed on the Belgium market. Belgium now has two months to take action, and if they do not, the case could go to the European Court of Justice where they may face financial penalties. This legal action by the Commission sends a signal to all Member States that it is not enough to have the EUTR on paper, but that they also need to enforce the law.

In March, ClientEarth sent a complaint to the Commission because Belgium had only carried out 26 checks since 2013. Belgium is an important entry point for tropical timber into the EU, so lack of proper enforcement jeopardises efforts made by other countries.

Another infringement procedure is still [ongoing against Slovakia](#) for non-compliance with the EUTR. Since April 2017, this has been at the stage of 'reasoned opinion', which is the last stage before a potential referral to the European Court of Justice.

European Commission holds FLEGT / EUTR Expert Group meetings

The Commission [Expert Group on the EUTR and FLEGT Regulation](#) held its 15th (20 September) and 16th (23 November) meetings in Brussels, bringing together representatives from Member States (plus Norway and Iceland) and the European Commission. At the 15th meeting, Member States gave updates on checks, fines imposed and ongoing court cases. Recent EU enforcement cases involving Burmese teak also raised discussions on what constitutes 'sufficient information' regarding the origin of timber. Specifically relating to the Burmese teak cases, members of the Expert Group agreed that documents from Double Helix do not provide operators with enough information to enable them to carry out a full risk assessment for due diligence. Resources and meeting notes from the 16th meeting are not yet online, but will be posted along with [those from the 15th meeting](#), on the European Commission website soon.

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 fourth briefing note on [developments in the implementation and enforcement of the EUTR](#), covering the period from August to October 2017.

2. Member State enforcement of the EUTR

In the past three months, a number of Member States have stepped up enforcement efforts against non-compliant operators. The Swedish competent authority has applied for their administrative courts to hand down an unprecedented penalty to a company that has failed to take measures to comply with the EUTR following an earlier injunction. In the UK, the first British company has been fined for breaching the EUTR, and in the Netherlands, two companies have been found guilty of placing teak from Myanmar onto the European market without sufficient due diligence. These decisions signal an increasingly positive application of the EUTR.

Swedish companies in court for breaching the EUTR

The Swedish competent authority has [filed a case](#) against an operator that has failed to take action after receiving an injunction for breaching the EUTR. The competent authority has requested that the administrative courts apply an 800,000 SEK (approx. €80,000) fine to the non-compliant operator.

In addition, the competent authority issued a prohibition decision against an operator importing teak from Myanmar. This follows a [series of legal proceedings in the EU](#) since 2016, in relation to teak imports from Myanmar.

UK competent authority fines company for breaching the EUTR

Furniture seller, Lombok, has become the first UK company to be [fined for breaching the EUTR](#) in the UK. In November, a criminal court fined Lombok £5,000 for placing a sideboard on the market which was imported from India without carrying out the required due diligence assessment.

This decision sets an important precedent for the UK timber industry and shows the UK remains committed to the principles in the EUTR. This is not the first time that Lombok has breached this obligation, receiving warnings and requests to take action in 2015.

Dutch timber company in breach of EUTR

Following evidence submitted by the Environmental Investigation Agency (EIA) in October 2016, the Dutch competent authority (NVWA) has found Dutch timber company, Boogaerdt Hout, to be [in breach of the EUTR](#). In November 2017, along with another unidentified company, Boogaerdt Hout was found guilty of placing teak from Myanmar onto the European market without carrying out sufficient due diligence.

They now have two months to comply, before they will be fined €20,000 per cubic metre for any further non-compliant teak from Myanmar that they place on EU markets. NVWA is also investigating [two further cases submitted by EIA](#) to the Dutch authorities.

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. Internationally, China has begun developing a system to address illegal logging in consultation with the Chinese forest industry, and Australia has published reforms to its Illegal Logging Prohibition Act.

The Court of Justice of the European Union upholds emergency ban on Białowieża Forest logging

In November, the Court of Justice of the European Union [upheld an emergency ban on logging in Poland's Białowieża Forest](#), saying it will impose fines of at least €100,000 a day if Poland's Environment Minister continues to ignore the Court's decisions. ClientEarth, together with six other NGOs, [filed a complaint](#) to the European Commission in 2016 pointing out that the Polish Environment Minister's decision breaches EU nature laws. Consequently, the Commission started an infringement procedure, which has been fast-tracked at every stage.

This formal warning sets a new precedent – previously, financial consequences have not been applied at this stage of the procedure, before the Court of Justice.

One-year anniversary of FLEGT VPA in Indonesia

It has now been a year since Indonesia, one of the world's largest timber exporters, became the [first country to issue FLEGT licences](#). Indonesian timber products covered by the FLEGT licensing scheme must now have a FLEGT licence to access the EU market. EU companies buying timber with a valid FLEGT licence can consider it legal for the sake of compliance with the EUTR.

Since then, Indonesia has exported more than [€1 billion](#) worth of FLEGT licenced timber and timber products to the EU. Indonesia and the EU are now working together to address some practical implementation issues that have been identified, and to further strengthen the licensing system.

China is developing systems to address illegal logging

The Chinese government and forest industry are [developing a policy framework for timber legality and a Chinese Timber Legality Verification System \(CTLVS\)](#). While the CTLVS is likely to be voluntary, the Government plans to create laws with mandatory compliance obligations that will require companies to demonstrate that their timber imports are legal.

As the world's largest importer and consumer of timber products, China has a critical role to play in reducing the trade of illegal timber internationally.

Australia reforms illegal logging law

In October, the Australian government [announced reforms](#) to the Illegal Logging Prohibition Act (ILPA) to streamline and clarify its due diligence requirements. This includes amendments to the 'deemed to comply' arrangement, which now also covers products certified under FSC and PEFC

schemes. The amendments also remove timber with FLEGT licenses from the ILPA's scope, meaning FLEGT licensed timber is treated as legal for the sake of the ILPA.

The reforms clarify that non-commercial importers and processors do not need to provide business related information as part of their due diligence, and that conclusions of risk must be reasonable and supported by evidence gathered as part of the due diligence process.

As of 1 January 2018, the introductory 'soft-start' compliance period will end. Businesses and individuals who import regulated timber products into Australia, or who process domestically grown raw logs, may now face penalties for failing to comply with the due diligence requirements.

Chatham House publishes Illegal Logging Update and Stakeholder Consultation Meeting report

In June, Chatham House hosted the [27th Illegal Logging Update and Stakeholder Consultation Meeting](#), bringing together over 250 participants from civil society, industry and governments from around the world. The meeting summary report is now available for [download in English, French and Mandarin](#).

NEPCon training on risk assessments and tools for EUTR due diligence

During October and November, NEPCon held [free training courses](#) on new tools and risk assessments that make due diligence simpler, aimed at small to medium-sized enterprises across 12 Member States. The trainings included sessions on:

- Compliance with the EUTR's due diligence requirement, using Vietnam and China as case studies;
- Practical issues related to legality verification;
- NEPCon's due diligence tools and online [Sourcing Hub tool](#); and
- The relationship between different timber certification schemes and EUTR requirements.

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.

ClientEarth publishes EUTR / Lacey Act / ILPA / Clean Wood Act comparison table

ClientEarth has developed a [short comparison table](#) with key information comparing different illegal logging laws across the world. The table provides an overview of the key requirements of the Japanese Clean Wood Act, US Lacey Act, Australian Illegal Logging Prohibition Act and the EUTR. This comparison of the four import regulations may be particularly helpful for timber operators, to understand the different requirements of the laws in each jurisdiction.

World Resources Institute launches Open Timber Portal

The World Resources Institute (WRI) has launched a new online portal to improve access to country-specific information about forest management and harvesting. The [Open Timber Portal](#) (currently in beta testing) compiles information from official concession boundaries and the list of registered forest operators from governments; documents uploaded by forest operators to demonstrate compliance; and observations by third party monitors.

Earthsite launches Timberleaks

Earthsite has developed a new online resource, [Timberleaks](#), with information on suspect timber in international supply chains. In addition to the online resource, Earthsite will send information to relevant enforcement officials, wood product importers, and large retail stores in the US and the EU. Stories will also be shared with industry groups, sustainability bodies, and the press.

BVRio publishes practical guide to conducting due diligence of tropical timber products

BVRio has developed a '[Practical guide to conducting due diligence of tropical timber products](#)' for companies importing timber into the US and EU. The guide focuses on timber coming from Brazil and Ghana, and summarises the regulatory regime in each jurisdiction. It also provides a list of essential documents that need to be collected, a guide to how to analyse the documents, and a summary of the main risks associated with timber legality that importers need to consider for due diligence.

BVRio launches due diligence tool

BVRio has launched a '[Due Diligence and Risk Assessment system](#)' to help companies evaluate the supply chain of timber imports from Brazil and Ghana in order to facilitate compliance with the EUTR and the US Lacey Act. The tool cross checks official documentation, external data sources, and satellite imagery to assist companies conducting due diligence.



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