

A close-up photograph of a person's legs and hands as they lift a barbell. The person is wearing purple sneakers and black lifting gloves. The barbell is positioned across their knees. The background is a blurred gym floor.

LIFT IT UP

**HOW TO MAKE THE EU TIMBER REGULATION
EUTR "FIT FOR PURPOSE"**

WWF is one of the world’s largest and most experienced independent conservation organisations, with over five million supporters and a global network active in more than 100 countries.

WWF’s mission is to stop the degradation of the planet’s natural environment and to build a future in which humans live in harmony with nature, by conserving the world’s biological diversity, ensuring that the use of renewable natural resources is sustainable and promoting the reduction of pollution and wasteful consumption.

The European Policy Office contributes to the achievement of WWF’s global mission by leading the WWF network to shape EU policies impacting on the European and global environment.

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Brazil 2008: Environmental crime police IBAMA and Brazilian Army operation on suspicious illegal logs floating on river. In 2003 the “Plan for Protection and Combatting Deforestation in the Amazon” (PPCDAM) started based on strong political support and a multidisciplinary approach, tackling forestry crime on a large scale. This approach is seen as large successes achieved in the area of environmental crime. Deforestation decreased during that period before it increased again in recent years.



INTRODUCTION

Environmental crime is the third largest crime sector in the world and amounted to USD 110–281 billion in 2018. Forestry crime and illegal logging accounted for the largest share with USD 51–152 billion¹. The EUTR-revision 2021 is a unique chance to close loopholes and to make the EUTR an effective tool to stop illegal wood entering the EU market.

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Back in 2010, the EU took a major step forward in the fight against illegal timber by adopting the **EU Timber Regulation (EUTR)**, which has been in force since 2013. The EUTR was a landmark piece of legislation and was seen as a model and inspiration for potential new laws addressing deforestation and forest degradation.

Nevertheless, due to disparate and inadequate implementation and legal loopholes², **the EUTR has not been able to stop or significantly reduce imports of illegal timber products or illegal logging within the borders of the EU.**

In a context where deforestation, forest degradation and **biodiversity loss** are linked to **climate change** and the rise of **pandemics**^{3,4,5}, the upcoming review of the EUTR in 2021 is a unique opportunity to address the shortcomings and inconsistencies of the EUTR, including the ones identified during the previous review in 2015.^{6,7}

Indonesia 2019: Illegal clearing of the rain forest, Indonesia, Sulawesi, Halmahera. According to the World Resources Institute (WRI), in 2013 66% of all Indonesian GHG emissions were from land-use change and forestry (LUCF). For comparison, these 1.4 Gt GHG emissions from LUCF are equivalent to 45% of EU GHG emission in 2013.



BACKGROUND AND CONTEXT

According to a feasibility study financed by the European Commission in 2018, **the EU was responsible for around 10%⁸ of global deforestation between 1990 and 2008.**

Romania: Clear cuts in the Iezer-Păpușa Mountains in the central Southern Carpathians. The whole region is part of the Munții Făgăraș Natura 2000 area. Because of the remoteness of many valleys such interventions can happen almost unnoticed by the public. Comparisons of satellite images show that between 2009 and 2012 there were several hundreds of hectares of clear cuts. Still visible stump suggest that there were large several hundred years old forests and most probably interspersed with pockets of virgin forests. There have been no signs of reforestation.

A recent study⁹ estimates that the EU had the highest exposure to deforestation reflected in imports of any consumer region at nearly 300,000 hectares per year from 2005 to 2013. Specific drivers include the EU's consumption of commodities (and of products derived from them) such as palm oil, soy, timber and beef, but also coffee, cocoa and rubber.

Also, there is a close link between **biodiversity loss** and the rise of **pandemics**¹⁰. It is deforestation and degradation of natural habitats that can trigger 'new' zoonotic diseases, as they can bring pathogens in closer contact with humans and livestock. Land-use changes, including deforestation and changes in natural habitats, are held responsible for nearly half of emerging **zoonoses**¹¹. These pandemics do not just have consequences from a health perspective, they have massive implications for the economy, as the current COVID 19 pandemic shows. **Deforestation is the second largest source of CO₂ emissions globally**, accounting for 10% of total emissions¹². Delaying climate change mitigation and adaptation responses across sectors would lead to increasingly negative impacts on land and diminish the prospect of sustainable development.

The EU took a major step forward in the fight against illegal timber and driving the change towards more responsible timber producing and sourcing practices by adopting the EU Timber Regulation (EUTR) that came into force in 2013.

In this sense, the EUTR was and remains a landmark piece of legislation which should play an important role in addressing deforestation and forest degradation. As described in the Commission Staff Working Document from 2016¹³: "The Regulation is regarded by many stakeholders as adding significant value to the international efforts to halt deforestation and forest degradation".

It also establishes a clear link and complements other international or national initiatives to tackle the trade in illegal timber or deforestation in a context where the protection of forests is at the centre of the global environmental agenda more than ever before. **Nevertheless, due to inadequate implementation and legal loopholes, the EUTR has not lived up to the intended purpose to date: to stop imports of illegal timber products or illegal logging within the borders of the EU.**

Using the five criteria of the better regulation toolbox¹⁴: effectiveness, efficiency, relevance, coherence and EU added value, we present our analysis of the EUTR as well as a number of aspects that we **consider important to address in the upcoming review.**



Russia Far East 2014: Illegal logging operation found by Siberian Tiger anti-poaching patrol. In 2016, US parquet trader “Lumber Liquidators” payed 13 million USD penalty because of illegal oak from Russia Far East.

© IMAGO/Ardea

RELEVANCE

The EUTR has raised awareness of forest destruction due to a lack of governance and corruption. A broader discussion has started but has not yet permeated society.

In general, it is WWF’s perception that the problem of illegal logging is widely underestimated in society as a whole, starting with policymakers all the way down to consumers. A recent study says: “Illegal logging and deforestation for agricultural expansion have probably become the **single greatest threat to life on the planet**”¹⁵.

In a context where the **EU is increasingly a key destination for tropical and non-tropical timber with a high risk of illegality**^{16,17}, the EUTR remains more relevant than ever.

Illegal logging as an environmental crime

Environmental/forest crime is a growing problem with links to organised crime and corruption. In financial terms, **environmental crime is the third largest crime sector in the world** after counterfeiting and drug trafficking and amounted to USD 110-281 billion in 2018. **Forestry crime accounts for by far the largest share of environmental crime with USD 51–152 billion**¹⁸. Illegal logging accounts for as much as 10–30% of total logging worldwide, with some estimates as high as 20–50%¹⁹ when laundering of illegal wood is included. Closely associated with the worst instances of corruption and organised crime, forestry crime and illegal logging also **deny governments tax and other revenue and undermine the rule of law, principles of democratic governance and respect for human rights**²⁰.

Forestry crime and conflicts

Forestry crime has a significant negative impact on government revenue and economic stability.

In some cases, it is also associated with violent conflict. Profits from the illegal exploitation of forests and other natural resources are used to fund and prolong wars²¹, while terrorists and armed groups use illegal logging as a source of income²².

Organised crime

A significant proportion of forestry crimes and illegal logging is now carried out by organised criminal networks. Addressing forestry crime and therefore illegal logging is closely linked to promoting economic viability, political stability and improving public health and national security.

Forestry crime and illegal logging is also a pervasive and critical issue inside the EU, for example in Bulgaria, Romania and Slovakia.

In a survey commissioned by WWF of over 10,000 people in nine EU countries, it was shown that 85% of European consumers want stricter measures in place to make sure they cannot unintentionally buy products made from illegally logged timber, and 82% think that the European Commission should take action to ensure that the regulation is applied fully and consistently across all EU countries²³.

Due to the increased profitability of wood and its by-products, the activities of organised crime in the forest sector have been growing.

EFFECTIVENESS

WWF believes that some progress has been made towards achieving the objective of the EUTR, but that the effectiveness is still being undermined by mainly inadequate implementation²⁴ and loopholes. This is because the problem is widely underestimated, resulting in insufficient pressure from law enforcement.

A recently published report on illegal logging says: “Forestry crimes may involve the **greatest mismatch of government and intergovernmental resources** spent on combating them relative to the crime profits that they generate”²⁵.

WWF raises the question of why there are several relevant court cases in the US based on the Lacey Act with fine of up to USD 13.5 million and no comparable case in Europe. Some answers may be provided in the following findings:

Trader-operator problem

The EUTR – as it is currently written – is legislation that focuses on operators, who are defined in the Regulation as “any natural or legal person that places timber or timber products on the market”, and, to a much lesser degree, traders. The EUTR defines traders as “any natural or legal person who, in the course of a commercial activity, sells or buys on the internal market timber or timber products already placed on the internal market”. While operators are required to carry out a risk assessment and, if necessary, risk mitigation, traders are only required²⁶ to guarantee traceability by documenting buyers and customers. Practice has shown that this approach has failed and has drastically lowered the effectiveness of the EUTR.

One major problem is that the checks carried out by the competent authorities target only the first supplier/operator. Once illegal timber has been placed on the market by the operator, the possibilities for filtering out illegal wood later on in the CoC (Chain of Custody) are very limited. “Traders” are not required to verify the origin and species of the wood, but only to provide documentary evidence supplied by the “operator”. It is common practice for “traders” to source wood from “operators” engaged in fraudulent activities or to set up fake companies that exist only on paper in other MS. This disregards the role that traders can play in illegal activities²⁷.

Practice has also shown that the current system is not able to guarantee traceability throughout the supply chain as described in recital 15. A prominent example is the case of the German navy sailing boat “Gorch Fock”²⁸.

Implementation

In late 2019, WWF published the EUTR enforcement review²⁹ that identified a **generally low implementation level** in the MS evaluated. It also highlighted the significant discrepancies between the different Member States in terms of sanction regimes and resources. National legislation varies. Generally, the penalties imposed have remained well below the maximum limits – and are very likely not dissuasive (Article 19; EUTR). More than half of the MS responded they do not systematically carry out checks on both due diligence (Article 4(2), Article 6) and the legality of the timber (Article 4 (1)). Which means that they generally implement **only one of the EUTR’s two central provisions**. Here as well, a prominent example is the case of the German navy sailing boat “Gorch Fock”, where the competent authority only applied Articles 4(2) and 6 despite evidence that the teak wood was exported with no export tax imposed by Myanmar³⁰.

Another challenge with implementation is the focus on efficiency by the competent authorities, coupled with lack of resources or enforcement, as well as a lack of coordination between EU Member States. Theoretically, EUTR has to be implemented with a similar level of quality in all MS. Practice has shown relevant differences in implementation (quality of checks, amount of the fines). This creates a major loophole for illegal wood entering the EU market as companies engaged in fraudulent activities can easily relocate to other MS (with a weak level of implementation) if they want to import wood suspected of being illegal³¹.

Competent authorities, police and judiciary are often significantly understaffed and underfunded. On average, one full-time equivalent (FTE) staff member is responsible for 1,200 to 5,000 operators. Based on experience with how many companies can be checked by one officer at a competent authority annually, it would take more than 100 years before all operators could be checked once. A German senior public prosecutor describes the situation in a book as:³² underfunding of the judiciary and the police, deplorable technical equipment and hopeless overloading of the courts.



© Environmental Investigation Agency (EIA)

Myanmar 2017: 1,000 tons of Myanmar teak logs with suspicious background offered to EIA (Environmental Investigation Agency). According to WWF Myanmar, teak never fulfilled EUTR requirements but imports into the EU continue until today.

The described loophole and weak implementation result in a systematic effect that can be described as “**race to the bottom**” in terms of quality. All MS fear that implementing the EUTR more stringently could push companies to relocate to neighbouring countries. The result is that each MS is waiting for the other MS to implement the EUTR more stringently before it follows suit. This effect leads to a **dilemma** that hinders effective implementation. It is sand in the gears of efficiency and effectiveness. This mechanism was described by a competent authority in a discussion with WWF and seems to be a major hidden reason of weak implementation.

Scope

The annex of the EUTR lists all products covered under the EUTR. Unfortunately, many wood-based products are not listed here. This means that companies that deal with unlisted products do not have to assess the risk and validate the legal status of the products. WWF conducted several market surveys and showed that companies often knew nothing about the species or origin. For example, Europe imports about 750,000 tonnes of charcoal annually (as much as six million m³ of wood is needed to produce this amount). More than 50% of the imported charcoal originates from the tropics. The main sourcing countries are high-risk countries like Nigeria and Paraguay, or the Ukraine as one of the non-tropical countries. There is a very high probability that the wood is illegal. Since charcoal is not covered by the EUTR, there is no oversight at all (German customs quote: “if charcoal from Nigeria arrives, it is legal by definition because it is not listed under EUTR”). At the moment, the effectiveness of the EUTR is limited merely by the fact that **many wood-based products can be placed on the market without any checks at all because they are not listed in the annex of the EUTR**³³.

Transparency

According to the current version of the EUTR, there is no requirement to make information about the species and origin publicly available (as is successfully practiced in Switzerland). This information would help customers and the public to make conscious consumer choices and procurement decisions and to verify whether this crucial information is robust. It should go without saying that European consumers are entitled to know what they are buying.

There is still a serious **lack of transparency from the competent authorities** when it comes to public reporting on the actual status of EUTR implementation/enforcement. The way competent authorities act after non-compliances are found is unclear, and what is considered a violation of the regulation varies significantly from one EU Member State to another. First-time violations of the due diligence obligation are often perceived as minor violations and handled too leniently. This lack of transparency hinders comparability between MS and limits public pressure.

On the other hand, in some cases, there is too much transparency as the competent authorities often inform companies of checks ahead of time or tell them which business sectors will be under special scrutiny the following year. This behaviour likely decreases the effectiveness of checks by the authorities. From WWF’s perspective, random and **unannounced checks combined with a risk-based approach** are a necessary element to foster the EUTR’s effectiveness.

EFFICIENCY

Overall, police, prosecutors and judges are often not familiar with the specifics of the EUTR and the timber sector. In many countries, they are regularly overworked and not aware of the scale of the forest crime problem. This general baseline situation decreases the efficiency and effectiveness of the EUTR’s implementation.



Madagascar 2005: Illegal stockpile and export of rosewood in Antalaha, Madagascar. In 2012 the US Guitar company Gibson got 600,000 USD fine after buying illegal wood from Madagascar via German wood trader.

EFFICIENCY FROM THE PERSPECTIVE OF THE COMPETENT AUTHORITIES

Penalties

From WWF’s perspective, **dissuasive penalties are a key factor in the EUTR’s effective implementation.** Ten years after the EUTR’s adoption and seven years since it went into force, a relevant number of operators are still not aware that this regulation exists. Companies are slow to change things on their own because they know the competent authorities have fairly limited resources to perform checks. And even when problems are found, companies are not really motivated to make lasting change because the fines are negligible. Penalties that are truly dissuasive – such as those stipulated in the US Lacey Act – would quickly raise awareness of the EUTR in the industry and would motivate companies to implement the regulation properly. This would in turn reduce the workload of authorities considerably. Article 19 of the EUTR, which already now requires dissuasive remedies, should be amended so that it specifies dissuasive monetary penalties and requires the competent authorities to impose such fines in all but minor cases. This is the approach followed by other recent EU regulations, e.g. the General Data Protection Regulation (GDPR)³⁴. A future EUTR with more detailed sanctions could and should contain similar requirements and criteria as Article 83 of the GDPR.

Operator/trader loophole

As described under “Effectiveness”, the original intention of the EUTR was to increase the efficiency due diligence for wood at the first step when wood is placed on the market and to guarantee traceability by requiring traders to document buyers and customers later on in the CoC. But there are clearly cases where it would be more efficient to focus on the trader rather than on the operator. WWF followed a case in Romania over the years where a big sawmill – a trader – received wood from several hundred suppliers. Most of the suppliers are “operators”. Some of which were very small, often only 1- or 2-person operations. The trader was accused

of buying illegal wood in several instances. But according to the EUTR, the competent authority has to check several hundred small companies, which is a massive undertaking. Small traders are blamed for not knowing the EUTR’s rule-book instead of putting the focus on one large trader who has the ability to deal with EUTR requirements easily. In some cases, practice even blurs the boundaries between operators and traders when, for example, a large trader in Romania gives loans and machinery to a one-person operation for the purpose of cutting wood and supplying it to the trader. Also, the question could be asked of whether a trader is not a de facto operator and should be treated as an “operator” as defined by the EUTR. For instance in Germany, court cases have established that the person who is considered an operator (in a generic, not EUTR-specific sense) and who is bound by legal obligations under environmental and regulatory law must not be determined “solely according to formal legal aspects, but taking into account the legal, economic and factual circumstances of the individual case”³⁵. While this case law must, in WWF’s view, already be transferred to the application of the EUTR now, it is still important to explicitly state in the EUTR that an entity can be considered an operator if it, by virtue of its economic or other influence, exerts control over logging or import processes.

Article 4 (1)

Between March 2015 and February 2017, 14 of the 16 Member States assessed in the EUTR enforcement review checked only 0.33% to 3.1% of the operators importing timber annually.

Checks were often limited to due diligence systems (Article 6), while the obligation to not place illegal timber products on the internal market (Article 4 (1)) is scrutinised much less frequently. Even though this approach by the competent authorities appears to be efficient, **it does not sufficiently implement the principles of the EUTR.**

Peru 2004: Illegal logging in the lowland rain-forest along the Rio Las Piedras. Workers of a private rainforest conservation reserve discover illegally cut highly valued mahogany tree (*Swietenia macrophylla*) within the reserve.



During the legislative procedure for the EUTR, some have argued that a violation of Article 4(1), which prohibits placing illegally harvested wood on the market, could hardly be proved by authorities. According to WWF's legal experts, this is not true given the comprehensive obligations of operators under Article 4(2) and Article 6 of the EUTR to demonstrate conformity with the applicable legislation in the country of harvest. Where operators fail to provide proof under the DD (Due Diligence) provisions that they comply with certain categories of applicable legislation, such as export taxation, the burden of proof when applying Article 4(1) of the EUTR may either shift from the competent authority to the operator or, alternatively, **the threshold for the competent authority to meet its burden of proof may be lowered**. This principle applies in the administrative law of some Members States where consumers have stricter requirements to preserve and produce evidence related to events occurring in foreign countries (such as in cross-border taxation cases). Despite the fact that this principle already exists, it would be very helpful to ensure coherent application of the principle if the EUTR was reworded to reflect this.

→ **Example:** An export tax is imposed on wood exports in a country from which wood was imported into the EU. The operator did **not** provide the competent authority with a document or proof that the tax was paid as due (failure to comply with Art. 4(2) and Article 6 of the EUTR). However, there is **no direct proof** that the tax was not paid, but a number of circumstances make it more likely than not. The proposed reduction of the threshold for the burden of proof would mean: if the operator ultimately does not produce evidence that the tax was paid (or that it was not due contrary to the prima facie legislation), the competent authority may assume that the export taxation law of the country of origin was not complied with and, therefore, Article 4(1) of the EUTR was or would be violated.

Transparency

The WWF's recommendation for a requirement to **publicly declare the species and origin** would also increase efficiency noticeably. Firstly, companies would immediately take the EUTR more seriously because their customers could ask questions. Also, the public would be able to identify substantiated concerns in the case of incorrect declarations. The result would be less work for the competent authorities as they would be given information. The efficiency would even be higher if the competent authorities accepted lab results (forensic methods) linked to substantiated concerns submitted by third parties.

While there is a certain degree of collaboration between competent authorities, this cooperation is not formalised, resulting in delayed communication between countries and among officials in the enforcement chain within countries.

Also, while competent authorities often take substantiated concerns of third parties (Art. 10 para. 2 cl. 2 of the EUTR) into account, competent authorities of different Member States follow very different approaches when it comes to following up on these concerns. In WWF's view, the EUTR, in a revised version of Article 10 (2)(2), should explicitly **require competent authorities to initiate checks in case of substantiated concerns submitted by third parties**.

Weak implementation – forensic methods

One of the core requirements of the EUTR is that operators need to know the species and origin of the wood they want to place on the market. Incorrect declarations are considered strong indicators of illegal wood, and the operator can no longer state that the risk is “negligible” if they do not know the species or origin. Especially in cases of complex products or supply chains, it is very difficult to verify the species or origin based on shipment papers. New **forensic methods**³⁶ have evolved over time and were first mentioned by the EU in the EC guidance document of February 2016. Forensic methods are extremely effective to verify the species and origin and thus very efficient tools for the competent authorities to verify the due diligence or the legality of wood. WWF conducted various market surveys based on forensic methods and can confirm their advantages. Unfortunately, many competent authorities are not aware of forensic methods, and they are not widely in use as a result. The competent authorities need to be better informed about existing forensic technologies and be given sufficient funds to acquire them. WWF is convinced that this approach would increase the efficiency and effectiveness of the competent authorities and the implementation of the EUTR noticeably.

Monitoring organisations

The initial idea of **monitoring organisations** was to give companies the opportunity to meet EUTR requirements more efficiently. WWF has not assessed whether this goal has been achieved. But we found a conflict of interest in case of wood trade organisations, which are responsible for their own members. This approach also seems to be less transparent. An example from Germany explains this conflict: the CEO of the German wood importer WOB is a board member of the “foreign wood trade section” of the German wood trade organisation GD-Holz. At the same time, the German wood trade association formed their own monitoring organisation (GD Holz Service GmbH). In 2020, EIA published a report that claimed WOB undermined the EUTR's obligations by importing Myanmar teak via Croatia³⁷. WWF considered it unlikely that a monitoring organisation operated by the wood association would ever thoroughly investigate possible wrongdoings committed by their own members – especially if they are board members of the wood trade association. This is a typical conflict of interest.

EFFICIENCY FROM THE INDUSTRY'S PERSPECTIVE:

Implementation

As described above, there is currently not enough pressure from competent authorities on companies that violate the EUTR and penalties are too weak. The idea behind the EUTR is not to just file more documents and otherwise carry on trading wood suspected of being illegal. The idea is to encourage companies to really assess the risk of the wood's illegality before they put it on the market and put effective due diligence systems in place. In case of high-risk products, there are two possibilities for operators to react. One option is for the operator to guarantee transparency, traceability and **mitigate risks with effective measures** down to a “negligible” level. Alternatively, companies could begin **substituting high-risk products** with low-risk products. However, due to insufficient enforcement pressure, these effects are not perceptible as of yet. If a company does not want to put much effort into risk mitigation, the company could save time and money (efficiency) by moving away from high-risk sources.



Austrian saw mill giant Schweighofer lost his FSC-sustainability certificate 2/2017 because “being involved systematically and over an extended period of time, directly and indirectly, in the trade of timber which has been harvested and/or handled in violation of existing laws and regulations.” (recommendation to the FSC Board of Directors from the complaints panel; 10/2016). To the knowledge of WWF there is no investigation from CAs against the company although WWF brought up two substantiated concerns.

COHERENCE

WWF considers coherence to be moderate to high in many of the key policy areas, such as the European Green Deal objectives, agriculture, climate change and wildlife policies as well as in international laws and policy objectives, such as the CITES or the Convention on Biological Diversity.

Still, EUTR and FLEGT focus on **legal** forestry practices, but we can see that biodiversity in EU and global forests is in decline. Not focusing solely on legality would ensure even more coherence (the overall goal of the EUTR/FLEGT is sustainable forestry).

Also, coherence is lacking in some aspects as the EU Member States do not provide efficient financial resources to implement

the laws to reflect the commitment (acceptance of the regulations) they made to address trade in illegal timber – with resources and appropriate sanctions – as outlined above.

The European Commission also undertook little action to ensure uniform coherent implementation of the regulation across EU Member States despite the outcome of the 2015 review.



Vietnam's illicit trade switched to Cambodia during the 2016–17 harvest season following stricter enforcement of logging and export bans in Laos. Vietnam is a major supplier of garden furniture to Europe and under VPA (Voluntary Partnership Agreement) negotiation with the EU.

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Gabon 2012: Eco-guards inspect a Chinese ship loaded with uncut timber. It is illegal to export timber from Gabon without processing it in the country. China is a major supplier of products e.g. furniture to Europe.

EU ADDED VALUE

The EUTR has led to more **awareness** of the problem of illegal timber and its underlying causes and has the potential to contribute to the EU's international obligations, while increasing the level of engagement by timber exporting countries

The EUTR is the only legislation that is linked to timber products banning illegal timber and related products from the European market. The EUTR addresses the fundamental need for products on the EU market to be legal.

By providing a clearer framework to operate in and a basis for a regulated market, the regulation ultimately leads to a more streamlined and competitive industry in the EU, supports comparable approaches to legality in a globalised market environment, helps to preserve the resource base for European industry and ensures that there will be viable qualities and amounts of timber in the future.

Comments on FLEGT

Experience with FLEGT is not extensive, but it has now become clear that the FLEGT approach is even **less transparent** than the EUTR (see above). Moreover, the **level of ambition seems to be lower** compared to EUTR, e.g. there is no need to declare all wood species or to declare the precise place of origin (FMU) in case of high risks. WWF is concerned about the fact that in several of the countries with Voluntary Partnership Agreements (VPAs), NGOs cannot speak or act freely. Some are even at risk if they shed light on illegal logging. The EU does not run a whistleblower programme comparable to the US, which could strengthen the position of civil society. Even inside Europe, foresters were killed in recent years when they investigated suspected illegal logging. It is perhaps not enough to “invite” local NGOs and journalists to participate in a stakeholder process in VPA countries if they don't feel safe.

From an industry perspective, FLEGT-licenced wood might be most efficient because operators do not have to assess risks or to conduct due diligence. The EU should ensure a comparable level of ambition and transparency of FLEGT-licenced wood compared with EUTR, e.g. all wood species and origins need to be declared and publicly available. If applicable, a separate WWF document on FLEGT will follow at a later date.

WWF IS CALLING ON THE EUROPEAN COMMISSION TO REVISE THE EUTR:

1. Extend due diligence obligations to include traders and to identify stakeholders working actively to undermine the spirit of the law, such as those actively exploiting loopholes to circumvent the goal of the EUTR, including those inciting and aiding in violations
2. Ensure stringent and harmonised implementation with a special focus on strong and congruent national laws and dissuasive penalty regimes
3. Expand the scope of the EUTR to include all products containing wood
4. Ensure more transparency with a special focus on publicly available information about the species and origin, statistics and case information from the competent authorities; monitoring organisations need to eliminate conflicts of interest

WWF CALL FOR CHANGE



RECOMMENDED IMMEDIATE ACTION

- Address shortcomings and loopholes identified in the previous **review of the EUTR in 2015**
- Carry out an **assessment** of whether the **penalties** set by MS are effective, proportionate and dissuasive (Article 19 of the EUTR³⁸) and whether penalties are equally dissuasive in all MS
- Strengthen and sharpen the **wording** of the EUTR/add guidance to avoid grey areas
- Encourage EU Member States to rely regularly on **forensic methods** to increase effectiveness and efficiency
- Appoint environmental crime/**forestry crime experts** at EU level
- **Encourage more judges** and (environmental) **prosecutors**, (environmental) **police and staff of competent authorities** across the EU, including regular training
- Prepare a **guidance paper** for competent authorities about critical counties or specify criteria for checks to analyse and better evaluate the risk level of products; example: according to WWF Myanmar teak did not meet EUTR requirements from 3/2013 onwards but continued for many years; imports continued and only some countries began to stop imports from Myanmar after 10/2016; but other MS still allow imports
- Develop **EU-wide guidance/criteria** for when a company should be given a notice of remedial action or a penalty
- Discuss and define with MS, the police, representatives from the judicial system and the public what is **acceptable evidence proving the illegality** of timber or demonstrating deliberate evasion of adequate due diligence, possibly by using **case studies**
- Discuss and define with MS, the police, representatives from the judicial system and the public what is **acceptable evidence and proof** linked to **substantiated concerns**, possibly by using **case studies**; in some cases, proof was not accepted in the past
- Define which **information** should be published about enforcement activities, checks performed and the main violations found **to become more transparent** (Article 11 of the EUTR³⁹)

REFERENCES

1 Nellemann et al. 2018. World atlas of illicit flows; www.rhpto.org; www.interpol.int

2 WWF 2019; WWF Enforcement Review of the EU Timber Regulation (EUTR); https://wwf.panda.org/discover/knowledge_hub/?357123/WWF-Enforcement--Review-of-the-EU-Timber--Regulation-EUTR

3 IPCC 2020; Climate Change and Land; https://www.ipcc.ch/site/assets/uploads/sites/4/2020/02/SPM_Updated-Jan20.pdf

4 WWF 2020; The loss of nature and rise of pandemics; The loss of nature and rise of pandemics | WWF (panda.org) <https://wwf.panda.org/?361716&fbclid=IwAR1GBMEUIrmKvIkXeAIUdhZkbqX5qpOwpmw4MEnjUFgNnQza7QCwhj6MzVI>

5 Loh et al. 2015. Targeting Transmission Pathways for Emerging Zoonotic Disease Surveillance and Control. Targeting Transmission Pathways for Emerging Zoonotic Disease Surveillance and Control – PubMed (nih.gov) <https://pubmed.ncbi.nlm.nih.gov/26186515/>

6 EC 2016; Report from the commission to the European Parliament and the Council; <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016DC0074>

7 EC 2016; Commission staff working document – Evaluation; <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016SC0034&from=EN>

8 EC 2019; Stepping up EU Action to Protect and Restore the World’s Forests; <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1565272554103&uri=CELEX:52019DC0352>

9 Pendrill et al. 2019; Deforestation displaced: trade in forest-risk commodities and the prospects for a global forest transition; <https://iopscience.iop.org/article/10.1088/1748-9326/ab0d41>

10 WWF 2020; The loss of nature and rise of pandemics; The loss of nature and rise of pandemics | WWF (panda.org) <https://wwf.panda.org/?361716&fbclid=IwAR1GBMEUIrmKvIkXeAIUdhZkbqX5qpOwpmw4MEnjUFgNnQza7QCwhj6MzVI>

11 Loh et al. 2015. Targeting Transmission Pathways for Emerging Zoonotic Disease Surveillance and Control. Targeting Transmission Pathways for Emerging Zoonotic Disease Surveillance and Control – PubMed (nih.gov) <https://pubmed.ncbi.nlm.nih.gov/26186515/>

12 IPCC 2020; Climate Change and Land; https://www.ipcc.ch/site/assets/uploads/sites/4/2020/02/SPM_Updated-Jan20.pdf

13 EC 2016; Evaluation; <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016SC0034>

14 EC 2020; Better regulation “Toolbox”; <https://ec.europa.eu/info/sites/info/files/better-regulation-toolbox.pdf>

15 Nellemann et al. 2020; The wicked problem of forest policy

16 Daniela Kleinschmit et al. 2016; Illegal Logging and Related Timber Trade – Dimensions, Drivers, Impacts and Responses; Quantifying Illegal Logging and Related Timber Trade – CIFOR Knowledge, <https://www.cifor.org/knowledge/publication/6311/>

17 Earthsight 2018; Complicit in corruption; <https://www.earthsight.org.uk/news/investigations/complicit-in-corruption-report>

18 Nellemann et al. 2018. World atlas of illicit flows; www.rhpto.org; www.interpol.int

19 Nellemann et al. 2016; The Rise of Environmental Crime; The Rise of Environmental Crime: A Growing Threat to natural Resources, Peace, Development and Security – World | ReliefWeb. <https://reliefweb.int/report/world/rise-environmental-crime-growing-threat-natural-resources-peace-development-and>

20 EU 2006; Combatting illegal logging and related trade in developing countries; <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:r12528>

21 EC 2003; Forest Law Enforcement, Governance and Trade (FLEGT): proposal for an EU action plan [COM(2003)251]; <https://www.eumonitor.eu/9353000/1/j9vvik7m1c3gyxp/vikqh0dwg3yb>

22 Nellemann et al. 2018. World atlas of illicit flows; www.rhpto.org; www.interpol.int

23 WWF 2015; https://wwfeu.awsassets.panda.org/downloads/wwf_briefing_eutr.pdf

24 WWF 2019; WWF Enforcement Review of the EU Timber Regulation (EUTR); https://wwf.panda.org/discover/knowledge_hub/?357123/WWF-Enforcement--Review-of-the-EU-Timber--Regulation-EUTR

25 Nellemann et al. 2020; The wicked problem of forest policy

26 EC 2016; Regulation EU/995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (the EU Timber Regulation); <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016DC0074&from=EN>

27 EIA 2020; The Croatian Connection Exposed – Importing illicit Myanmar teak through Europe’s back door; <https://eia-international.org/wp-content/uploads/The-Croatian-Connection-Exposed-FINAL.pdf>

28 WWF 2021; www.wwf.de/gorch-fock-case

29 WWF 2019; WWF Enforcement Review of the EU Timber Regulation (EUTR); https://wwf.panda.org/discover/knowledge_hub/?357123/WWF-Enforcement--Review-of-the-EU-Timber--Regulation-EUTR

30 WWF 2021; www.wwf.de/gorch-fock-case

31 EIA 2020; The Croatian Connection Exposed – Importing illicit Myanmar teak through Europe’s back door; <https://eia-international.org/wp-content/uploads/The-Croatian-Connection-Exposed-FINAL.pdf>

32 Ralph Knispel 2021; The rule of law at an end: A senior public prosecutor sounds the alarm; <https://www.tellerreport.com/news/2021-02-28-%0A---%E2%80%9Crule-of-law-at-the-end%E2%80%9D--call-for-help-from-berlin-s-chief-public-prosecutor-knispel-%0A--.BJgN8TytGO.html>

33 WWF 2020; Analysis of the EU Charcoal Market; https://www.researchgate.net/publication/346569778_2020_Analysis_of_the_EU_Charcoal_Market

34 <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32016R0679>


35 The Bundesverwaltungsgericht (German Federal Administrative Court), for example, ruled in a decision of 22 July 2010 (7 B 12/10) on waste law (margin no. 15): “The question of who is the operator in an individual case [is] not to be assessed solely according to formal legal aspects, but taking into account the legal, economic and factual circumstances of the individual case.” According to the court, this definition of operator (of a landfill) is not limited to waste law but extends to other areas of environmental law.

36 Dormontt et al. 2015; Forensic timber identification: It’s time to integrate disciplines to combat illegal logging; <https://www.sciencedirect.com/science/article/abs/pii/S0006320715300033>

37 EIA 2020; The Croatian Connection Exposed – Importing illicit Myanmar teak through Europe’s back door; <https://eia-international.org/wp-content/uploads/The-Croatian-Connection-Exposed-FINAL.pdf>

38 EU 2010; <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32010R0995>

39 EU 2010; <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32010R0995>



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IN WHICH HUMANS LIVE
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