

## Meeting Summary:

### Timber Regulation Enforcement Exchange:

- Central & Eastern Europe
- Furniture Sector
- Updates from Australia & Brazil

Vienna, Austria

September 16 – 18, 2015

## Introduction

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Held in Vienna, Austria from September 15-18, 2015, this workshop was part of Forest Trends' Timber Regulation Enforcement Exchange (TREE), an ongoing series of workshops supporting networking and information-sharing between US Lacey Act enforcement officials, EU Timber Regulation (EUTR) Competent Authorities (CAs), and Australian officials implementing Australia's Illegal Logging Prohibition Act (ILPA).

This report summarizes the presentations and discussions from the Vienna meeting. Notes were not taken during training sessions on September 15<sup>th</sup> covering forest sector risks and document systems in Russia, China, and Malaysia, so this document summarizes only the open sessions from the following days.

Several topics were covered throughout the week, including:

- a) a regional focus on Central and Eastern Europe, with presentations on EUTR implementation and domestic forest legislation, analysis of forest production data and trade trends, third-party certification, and regional illegality risks;
- b) a product focus on the furniture sector, with an emphasis on appropriate due care / Due Diligence when importing furniture and components from China, Vietnam, and Indonesia;
- c) an update on Australia's legislation and implementation plans; and
- d) a "substantiated concern" focus on Brazil, with government and industry perspectives on risks, due care / Due Diligence, and legal sourcing.

## Wednesday, September 16 - EUTR in Central and Eastern Europe

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### European Commission Update

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#### *Presentation*

**Svetla Atanasova** from the Directorate-General for the Environment (DG Environment) at the European Commission (EC), provided an [update on the EUTR review process](#) and discussed EUTR implementation and an awareness-raising initiative in the Western Balkan region. The purpose of the EUTR review is to evaluate the effectiveness, efficiency, coherence, and relevance of the EUTR, as well as to assess the value added by intervention at the European level compared with what could be achieved by Member States (MS) working independently at national or regional levels. Numerous sources of information are under consideration by the evaluation team, including biennial reports from EU MS, trade flow analysis, interviews with stakeholders, and consultant research. A comprehensive report is expected to be released later this year.

The EC is also organizing a workshop to raise awareness of the EUTR in the Western Balkan Region, which will allow participants to learn more about the EUTR, discuss compliance and implementation challenges, and reflect on how the regulation can be applied to address illegal logging challenges across the region. This event is tentatively set to take place before the end of 2015. The EC also plans to create an Environmental Accession Program to establish a network of experts familiar with the EUTR and Forest Law Enforcement, Governance and Trade (FLEGT) initiatives. The objective will be to foster closer relations between EUTR CAs and Western Balkan countries that are candidate countries or potential candidates to the EU.

#### *Discussion*

Ms. Atanasova was asked about the EU MS that have not fulfilled their obligations with regard to the EUTR, and she explained that the EC has entered into a structure dialogue (a “[Pilot](#)”) with four MS by issuing letters of formal notice. Regarding the exact date and location of the Western Balkan workshop, Ms. Atanasova explained that the Terms of Reference have been developed but the date has not yet been determined.

## **EUTR Implementation and Domestic Forest Legislation**

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#### *Presentations*

**Natalie Benešová**, from the Department of Forest Policy and Economy at the Ministry of Agriculture in the Czech Republic (CR), presented on [EUTR implementation and domestic forest legislation](#) in her country. EUTR Competent Authority responsibilities in the CR are divided between the Department of Forest Policy, which liaises with the EC, and the Forest Management Institute, which consists of approximately twenty controllers carrying out checks on Operators. Ms. Benešová explained that in addition to the EUTR, there are several laws and regulations relevant to forestry in the CR, including the Forest Law, the Act on Nature Protection, and the Act on Trading in Endangered Species, which result in varying levels of sanctions depending on the violation. Generally the fines resulting from EUTR violations (i.e., failure to maintain a Due Diligence System or appropriate records; or placing illegal timber on the market) are much higher than those from the other forest-related laws. In order to raise greater awareness of the EUTR, the Ministry of Agriculture has been organizing seminars for Operators, since many domestic forest owners and producers are not familiar with the regulation and are unsure how to comply. Ms. Benešová’s team is also in contact with the Timber Institute to utilize forensic testing technology as a part of enforcement efforts.

Following Ms. Benešová’s presentation, **Jan Doubal**, from the Forest Management Institute (FMI) at the Ministry of Agriculture in the Czech Republic, discussed the [process for conducting EUTR checks in the CR](#). The FMI is responsible for checking both domestic producers and importers. Forest production is a significant industry in the CR, and there is forest legislation that applies to official forests and trees in town parks and around highways/roads. Controllers at the FMI use a risk-based approach to determine how to allocate resources for regular checks, and they also respond to substantiated concerns, including concerns of suspected domestic illegal logging. For example, there are limits on annual allowed logging volumes, and if it is suspected that a producer has exceeded these limits, an inspector from the FMI would visit the logging site and examine stumps to estimate harvesting volume. Even if it is difficult to prove suspicious timber is illegal, or remove it from the market, the EUTR can still be applied and the Operator could be punished for failure to conduct Due Diligence.

#### *Discussion*

Every forest owner in the CR is required to have a forest management plan or complete a voluntary EUTR template – either of these documents can serve as the primary source of information concerning a forest owner’s Due Diligence System. The template is provided by the Ministry as a guideline and it only takes one to two hours to complete. Many forest owners are still not aware of the EUTR so they are not fulfilling DDS requirements, but in most cases it does not stem from illegal intentions. However, Czech enforcement officials are beginning to be tougher on producers who do not carry out DD, since the EUTR has been around for several years now, and a number of sanctions have been issued. Since the authorities imposing EUTR sanctions on domestic producers are usually foresters with deep

knowledge of domestic forest laws, there were initially more checks on domestic producers than on importers. However, enforcement efforts are now divided more evenly between domestic producers and importers, and a few import-related cases have been referred to regional authorities.

## EUTR in the EU

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### *Presentation*

**Hannes Krehan** and **Jasmin Putz** from the Federal Forest Office of Austria gave a joint presentation on the [import of EUTR-related goods from Eastern European countries to Austria](#). From January 1, 2014 to August 23, 2015, Austria imported 29,260 consignments covered by the EUTR from Eastern European countries (Albania, Bosnia and Herzegovina, Belarus, Kosovo, Macedonia, Moldova, Montenegro, Russia, Serbia, Turkey, and Ukraine). Each week, the Federal Forest Office receives customs data to track Operators and the imports of goods. This data includes: country of origin; country of dispatch and destination country; CN code; description of goods; consignee, shipper, and declarant; net mass; invoice and customs value; and customs office. Using statistical software the data is then analyzed by a) product type, b) country of harvest, and c) species, to determine a risk level rating of 1 (low risk), 2 (medium risk), or 3 (high risk) within each category. The main forest products entering Austria from Eastern Europe are logs, fuel wood, sawnwood, and packing materials, and by mass, Ukraine and Bosnia are the main suppliers. One of the analytical challenges they face, however, is that customs data often lack species information, and without knowing the species it tends to be harder to assess risk.

### *Discussion*

A participant noted that a significant volume of timber enters the EU through port countries such as the Netherlands, is declared as an import there, and then continues to be traded within the EU Single Market. This would not be reflected in the customs data being analyzed by Austria or other EU MS, and it leads to a serious information gap. It was noted by a number of participants that more proactive sharing of confidential customs data by DG TAXUD — particularly sensitive information such as company names— would facilitate a better understanding of EU trade flows and links between the companies that operate in more than one MS.

Another participant mentioned that Ukraine recently enacted a log export ban which will become operational in late 2015. Austria has been importing significant quantities of roundwood from Ukraine, so it is important to be aware that there is set of documents that will soon be required as proof that exported Ukrainian wood was sawn and kiln dried in the country before export.

## Production and Trade Data Review and Analysis

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### *Presentation*

**Eve Richer** of Forest Trends presented an analysis of [timber production and trade data in Central and Eastern Europe](#). Poland is the top timber producer, importer, and exporter in this region, followed by the Czech Republic and Romania, which also have significant forest product sectors. Import data indicates that some of the top products being imported are particleboard, sawnwood, and logs going to Poland and the Czech Republic (likely to feed these countries' growing furniture sectors), with also significant volumes of sawnwood being imported into Slovenia and Hungary. Excluding EU countries, the top timber suppliers to Central and Eastern Europe are Ukraine, Belarus, East Asia, and Bosnia & Herzegovina (it is important to note that Russia was not included in the dataset and Russian trade is therefore not reflected here).

Analysis of export data reveals that wood furniture from Poland is the top product being exported from the region. Other top furniture exporters are Romania, Slovakia, and the Czech Republic, listed in order of 2014 export volumes. Many countries in the region also export logs, sawnwood, and particleboard. The vast majority of these timber products stay within the EU Single Market, but some is also exported to Africa, East Asia, non-EU Europe, and North

America. Poland is the fourth largest furniture exporter in the world, with the top three destinations being Germany, the UK, and the US. According to US import data, approximately 2% of total US wood furniture imports come from Poland, which is small compared to the trade with China and Vietnam but still statistically significant.

## Certification in Central and Eastern Europe

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### *Presentation*

**Dirk Teegelbekkers** from the Programme for Endorsement of Forest Certification (PEFC) presented on the PEFC endorsement process, [certification in Central and Eastern Europe](#), and how PEFC aligns with EUTR requirements. In the Eastern European region, PEFC certification is most prominent in Poland and Belarus. The core part of the endorsement process for PEFC is based on a national standard developed by a multi-stakeholder process. PEFC has designed a DDS to avoid controversial sources, such as illegal harvesting, GMO use, conversion, and conflict timber. The steps to undertake DDS involve gathering information, assessing risk, and ultimately mitigating risk, a process which is guided by a risk assessment matrix and corresponding indicators. If substantiated concerns emerge, one must re-undertake risk assessment. The final step, risk mitigation, requires further research into the supply chain, additional collection of information, on-site inspection, and corrective actions. Mr. Teegelbekkers concluded his presentation by outlining how several articles of the EUTR align with PEFC requirements.

### *Discussion*

Operators often tell EUTR CAs that they would like to source more certified products, but they sometimes find it very difficult to identify suppliers for the exact product and species they are looking for. Mr. Teegelbekkers acknowledged that this is a challenge and PEFC hopes to improve its database, but he also noted that certification is a market-driven instrument and he would encourage Operators to proactively request that their non-certified suppliers get certified, in order to create more supply to meet the demand.

A participant also raised some questions and concerns regarding PEFC's risk assessment matrix, asking whether the provision of certain documents (e.g., transport or delivery document) could automatically indicate legality. Mr. Teegelbekkers confirmed that the presentation of certain sets of documents can lead to an assessment of negligible risk, and this was followed by some discussion about the extent to which PEFC investigates the validity of documents, particularly in countries which are known to have high levels of corruption and fraud.

## Regional Illegality Risks and EUTR Compliance Challenges

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### *Presentation*

**Alexander von Bismarck** provided an overview of illegality risks in Central and Eastern Europe and a recent investigation conducted by his team at the Environmental Investigation Agency (EIA), a non-profit organization based in Washington DC. The investigation focused on Romania, home to two-thirds of Europe's remaining virgin forests. Through desk and field research, EIA concluded that there have long been extremely high rates of illegal logging in Romania, resulting in illegal timber being processed by some of the biggest companies in Europe and sold in large amounts throughout Europe and beyond. The largest company purchasing Romanian wood is based in Austria, and EIA alleges that this company agreed to knowingly purchase illegal wood, and continues to purchase illegal wood from many of its suppliers. In Romania, the most common types of illegalities include: cutting more than allowed; acquiring land illegally for the purposes of harvesting wood; and violating basic forest laws that determine where timber can be harvested, which permits are needed, etc.

The Austrian company identified by EIA has publicly stated that the EUTR does not apply to their activities because their Romanian suppliers are technically the "first placers" on the market. Those suppliers, however, consist of many smaller criminal groups, and Mr. von Bismarck argued that a large company buying from criminals should be held to account under other laws, even if it is not defined as a "first placer" in EUTR terms. The EUTR was designed with the

understanding that some countries inside the EU face challenges enforcing their own laws, and there is a moral duty on other EU MS to reinforce the laws of a state with weak forest governance. Mr. von Bismarck also expressed concerns about third-party certification, explaining that the suspected Austrian company points to its FSC and PEFC sources to claim its supplies are legal, but EIA research suggests that the paperwork used to earn this certification can be forged or fraudulently acquired, or cover only a minimal portion of a company's supply base.

#### *Discussion*

There was an in-depth discussion concerning the complexities of this case, the limited tools the EUTR offers to address illegal logging inside the EU, and the challenges of operating legally in Romania. As long as a large powerful company controls the Romanian timber market and drives down prices by buying significant quantities of illegal wood, it is almost impossible for legal Operators to compete. Mr. von Bismarck noted that EIA's priority is to support enforcement officials and provide them with any information that would be helpful. The EUTR's traceability requirement represents one legal avenue being explored, but other suggestions were invited. There may also be other legal options beyond the EUTR, such as laws around money laundering and dealing in stolen goods, as discussed in the next presentation.

#### *Presentation*

**Diane de Rouvre**, a lawyer from ClientEarth, gave a [presentation on enforcement challenges](#), with a focus on potential loopholes in the EUTR and legal mechanisms which could be utilized in complex supply chains or legally ambiguous cases. The EUTR definition of "first placer" is not always straightforward and there can be situations—such as the case presented by Mr. von Bismarck—where an Operator is not the key player in a given trade and therefore not the most strategic target for enforcement action. The EUTR includes a traceability obligation requiring traders to keep records of their suppliers, and although limited in scope, this is one tool which could be used when the primary culprit involved in large-scale illegal activities is a trader rather than an Operator. While the legal power of the traceability requirement is limited, there can be reputational and commercial consequences for companies associated with controversial suppliers. There is also a question about whether timber could be seized from a trader if it was first placed on the market by an Operator in breach of the EUTR (even if the Operator was never penalized). The EUTR is unclear about this issue, so national implementing laws are likely to differ. The UK, for example, has opted for a broader interpretation, so in theory, it could be possible to seize timber from a trader if there is strong evidence that the timber is illegal.

Beyond the EUTR, Ms. De Rouvre suggested a few alternative legal options. For example, in most EU MS it is illegal to buy goods from illegal sources, so if a trader knowingly purchases illegal wood from an Operator or another trader, this could be criminally punished. There are also laws against false advertising, so, for example, if a company publicizes untrue statements about selling only certified timber or excluding wood sources from protected areas, these violations can be subject to fines. There is a mechanism under EU law which enables prosecution for misleading advertising not only in the MS where it takes place but also in other MS where consumers are affected. However, only a restricted circle of actors can initiate such a prosecution (such as competitors or consumer protection bodies). Although EUTR CAs would not be directly involved in using non-EUTR legal tools, it would be interesting if they could share information with one another, liaise with judges or prosecutors, or collaborate with consumer protection bodies in cases where this type of engagement is appropriate.

#### *Discussion*

Participants expressed interest in collaborating with one another across the EU, US, and Australia to tackle complex supply chain cases, but they also acknowledged there are challenges when trying to coordinate with other domestic agencies, prosecutors, and judges, especially when interfacing with entities that lack resources and/or experience with timber and illegal logging issues.

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## **Thursday, September 17 – Furniture Sector Analysis and Due Diligence/care**

## Chinese Furniture Industry Data Review and Analysis

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### *Presentation*

**Sofia Ryder**, an independent consultant from Source Responsible, presented on the export-oriented furniture sector in China, with a focus on legality risks, traceability, and common species used in furniture and components. Overall, the top countries importing furniture from China are the US, Japan, UK, Germany, Australia, and Canada. Trade data is a useful tool for understanding differing levels of risk in the furniture sector, and Ms. Ryder shared information on how the Harmonized System (HS) codes for furniture break down into categories such as office, kitchen, and bedroom. These different categories typically use different types of components; the higher value components tend to be at a higher risk of illegality, whereas lower grade MDF or particleboard components carry less risk but create tremendous challenges in terms of traceability.

China's furniture sector is characterized by a large number of small companies, a lack of vertical and horizontal integration, and little consolidation compared to many other industrial sectors. Typically there are many players involved and very long supply chains, which makes full traceability extremely difficult. China has several furniture production hubs (including the Provinces of Fujian, Zhejiang, Shandong, and Guangdong), which together export the largest quantities of products to Australia, the EU, and US. Jiangsu, Guangdong, Shandong, and Zhejiang are major production areas for wood-based panels, which are important components of bedroom, kitchen, and office furniture.

The major components of furniture products are: wood-based panels (MDF, particleboard, plywood and sometimes blockboard); hardwood logs, lumber and veneers; softwood logs, lumber and veneers; metal, plastic, glass, bamboo, rattan; and paper/foils. Particleboard is cheaper than plywood and logs/lumber and it tends to be used for less expensive products. Such board materials tend to be relatively low-risk, but establishing traceability for them can be exceptionally challenging since raw material is usually collected from many (hundreds) of sources.

Next, Ms. Ryder discussed common species used in furniture and the associated species risks. Pine is widely used in furniture in multiple ways, such as solid pine and veneers for higher end furniture, and also in panel production. Korean pine is a major species used in Chinese furniture production, yet there is very little Korean pine coming from China's forests anymore. The vast majority of products made from Korean pine are likely to be using Russian wood. About 84% of China's radiata pine log imports come from New Zealand, and the most likely use for this timber is the production of panels due to its low grade characteristics. If a high-grade solid wood furniture product is labeled as New Zealand radiata pine, there is a significant risk that it may actually be Mongolian or Korean pine from natural forests. Products claiming to use Chinese oak or ash would also represent risks that are worthy of future investigation, as these species are generally not being cut in China anymore and in all likelihood would be coming from areas of the Russian Far East with a significant prevalence of illegal logging. Tropical woods such as meranti and merbau are often sourced from Malaysia and Papua New Guinea, where high rates of illegal logging also exist.

### *Discussion*

Given that most products are traded under HS codes which do not identify their species, there was a question about the extent to which importers can obtain details on species and origin from their suppliers. However, it was concluded that although customs data often lack species information, importers and traders should be able to request that information from a responsible supplier.

## Vietnam Furniture Industry Data Review and Analysis

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### *Presentations*

**Eve Richer** of Forest Trends presented an [overview of Vietnam's import and export data](#), with a focus on furniture exports to the US, EU, and Australia. Vietnam's wood sector can be compared to China's in many ways, since Vietnam has a large, export-oriented wood manufacturing sector coupled with a very limited supply of domestic wood,

meaning the industry is very dependent upon imports. Vietnam primarily imports sawnwood, logs, plywood, and other wood-based panels. These less processed materials are then transformed into furniture (Vietnam's top forest product export by value), wood chips, paper, and other products. Vietnam's furniture exports to the US have increased steadily over the last decade, with a particularly big increase in the last few years. Furniture exports to the EU are also significant, but volumes have remained relatively flat since the global economic downturn in 2008. The top EU destinations for Vietnamese furniture are the UK, Germany, France, the Netherlands, and Italy. After China, Vietnam is the second most important furniture supplier to both the US and EU.

**Phuc Xuan To**, also from Forest Trends, [presented](#) via Skype, again emphasizing that Vietnam's furniture industry is very dependent on imports (especially from Mekong countries) and the export market is heavily driven by demand in the US, EU, and China. One of Vietnam's top timber-supplying countries is its direct neighbor Laos; timber from Laos tends to be very controversial due to research indicating that much of it comes from converted forestland that was clear-cut illegally or in violation of community rights. Using Vietnamese customs statistics at the 8-digit level, Mr. To highlighted some of the higher risk species and product codes which have recently been exported from Vietnam to the US, EU, and Australia. Exports from Vietnam to each of these regions increased from 2013 to 2014, and it is expected that these markets will continue to grow.

### *Discussion*

Currently Vietnam does not have a law in place that specifically prohibits the import of illegal timber. Any wood product with the correct tax forms and import documents can be "legally imported" into Vietnam. This has become a controversial issue in the context of Vietnam's VPA negotiations, since Vietnam imports timber from a number of countries where a high level of illegality has been documented.

Regarding a question about acacia furniture from Vietnam, Mr. To explained that there can be some problems with acacia, but for the most part it is considered low-risk. Vietnam produces significant volumes of acacia on plantations managed by smallholders or State Forest Enterprises who usually have documents proving legal title to the land.

## **Furniture Supply Chain Due Care and Due Diligence**

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### *Presentations*

**Roger Jones**, Vice President of Global Logistics at Century Furniture, provided a US company's perspective on [due care in the furniture sector](#). Century is a high-end furniture manufacturer that is relatively large compared to its peers, but small compared to a global corporation like IKEA. They source wood from around the world and the supply chain for a particular piece of furniture can be quite complex. When the US Lacey Act was amended in 2008, Century began working with the Rainforest Alliance to develop a Responsible Purchasing Policy (RPP). This policy outlines a commitment to purchase wood only from known sources, with a preference for FSC-wood when available and particularly when buying from high-risk regions. This policy has influenced Century's product development and buying practices, since risk and availability of species are now factored in when designing a product line. Since 2009, all of Century's suppliers have been required to report species, origin, and risk category through an online platform. Suppliers were hesitant to do this at first, but now most are quite comfortable with it. Over time, there has been a steady increase in Century's use of FSC-certified and non-controversial wood, and a decrease in use of wood from unknown sources. The pressure is being exerted down the supply chain so that as Century's supply chain gets "cleaner," so too does that of its suppliers. It is not cheap to implement this due care system but the company considers that the costs are not exorbitant. Although the investment in the system has not been proven to make Century more competitive, it is seen as one of the costs of protecting the brand and considered important to the company's core values.

Next, **Niels Madsen** from Bettenwelt GmbH shared an EU Operator's perspective on furniture sector Due Diligence. Bettenwelt is a German company operating in almost all countries in Europe. When the EUTR was announced, Bettenwelt began an intensive preparation phase to build its DDS. The DDS is designed to detect any order that includes

an HS code within the scope of the EUTR. Once this happens the supplier is asked to provide basic information on a standardized document, including wood origin, quantity, etc. and then follow up with relevant supporting documents such as licenses, permits, etc. The next step is risk evaluation which leads to one of three outcomes: a) product can be imported, b) product is rejected, or c) external risk mitigation and analysis is needed. Bettenwelt also works with The Forest Trust (TFT) to support its legal sourcing efforts and ensure it is in compliance with the EUTR.

### *Discussion*

There was a question about why Bettenwelt does not employ the services of a Monitoring Organisation (MO) and Mr. Madsen explained that this is because Bettenwelt would need to put it in a lot of work with or without an MO, and either way the responsibility still falls on the company. Bettenwelt had already been working with TFT for 15 years and they offer many services that an MO would offer.

## **Indonesia SVLK and the furniture sector**

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### *Presentation*

Andy Roby then concluded the day's meeting with a Skype presentation from Indonesia where he is based. Mr. Roby works for the UK's Department for International Development and has been involved in Indonesia throughout the negotiation and implementation of Indonesia's VPA, which was signed and ratified in April 2014. The VPA has not yet been fully implemented to the point of exporting FLEGT-licensed timber, but Indonesian wood products are being exported as SVLK-certified with a "V-Legal" label, which is the country's verified legal status. The government runs an online system called SILK which has a complete list of all SVLK auditors and allows enforcement officials to check whether a license has come from an accredited auditor.

In general, wood furniture exported from Indonesia tends to be relatively low risk since most of it is made from plantation-grown wood in Java, such as plantation teak, mahogany, and white wood. In Java these woodlots are usually legal and well-managed. It is more challenging to assess the legality of Indonesian products made from imported wood, since it will probably take some time for Indonesia's new due diligence requirements to be properly implemented by importers. It was concluded that extra due diligence should be conducted for high-risk species that were imported into Indonesia from, for example, Asia or Africa.

## **Friday, September 18 – Country Updates: Australia and Brazil**

### **Australia: Scope of Legislation and Implementation Plans**

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#### *Presentation*

Andrew Lieschke and Wayne Terpstra from the Department of Agriculture in Australia gave a [joint presentation](#) to discuss Australia's implementation of the Illegal Logging Prohibition Act (ILPA). The Department of Agriculture is the lead agency responsible for ILPA compliance, including a team of 20 investigation staff appointed as inspectors. Compliance assessments began in March 2015, with an initial focus on the top 500 importers representing about 80% of the trade by value. The Government recognizes that it will take time for businesses to adjust to the regulation, so although the Department has asked about half of the assessed business to modify their Due Diligence systems, penalties for non-compliance will not be applied until the next stage of enforcement in May 2016 (however, serious breaches of the act can be prosecuted now). Many of the companies that are already fully compliant are those that are reliant on FSC and PEFC certification. Australian officials also utilize information technology tools to analyze customs data in order to manage compliance assessments and develop a targeting policy. Within the Enforcement Division, there was a recent conviction of Moxon and Company, which had been falsifying export certifications for timber products. Investigations revealed that the company was involved in deliberate organized criminal activity between Australian and US elements of the company, involving tens of millions of dollars.

The presenters then discussed [some similarities and differences](#) between Australia’s regulation and the US Lacey Act and EUTR. Because the ILPA came later, it was largely designed to align with Lacey and the EUTR. Australia’s prohibition clause applies to importers, domestic producers, and “first placers on the market,” which is similar to the EUTR but different from Lacey which applies to every link in the supply chain. The expectation is that first placers are responsible for gathering information on species/origin, conducting a risk assessment, and mitigating risk.

### *Discussion*

A participant asked about the role NGOs play in Australia, and the respondent explained that Australian NGOs are consulted on public policies and have influence on political debates. Some factions of government and industry have a strained or guarded relationship with NGOs, but there is general awareness that NGOs have legitimate concerns and many of the large industry players are beginning to improve their relationships with them. Australia’s Department of Agriculture has a stakeholder engagement strategy for the ILPA, involving road shows to raise awareness among the private sector and discuss how decisions will be made around compliance. The aim has been to strike a reasonable balance between the “soft start” approach and gradual transition to a more mature enforcement regime.

## **Brazil: Timber Supply Chains and Due Care / Due Diligence**

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### *Presentations*

The Brazil session opened with a presentation from an EUTR Competent Authority discussing the case of an EU Operator that was linked to a controversial Brazilian supplier in a recent Greenpeace report. In order to demonstrate that certain shipments did not link back to this suspect source, the Operator provided the EUTR CA with a set of transport documents and other formal paperwork. While the documents appeared to be legal and could be checked in Brazil’s official online systems, mapping the documents geographically showed a route that was unlikely to be commercially viable, since it suggested a very indirect transport route from concession to mill to export. This raised serious red flags about the legality of the wood and the robustness of the importer’s DDS.

Next, **Bruno Valente**, a Public Prosecutor from Brazil, further discussed [the challenges of taking Brazilian documents at face value](#), due to predatory actors that are known to be exploiting the State and Federal systems in the country. Since 2006 Brazil has operated a computerized system to control the logging and transport of timber. The system was designed to combat environmental crime, but unfortunately, it has actually ended up facilitating criminal practices by making it easier to launder timber quickly and on a large scale. Timber launderers use various fraudulent techniques to circumvent the system and obtain credits to sell illegal timber under the guise of legality. Illegally logged wood in Brazil is frequently accompanied by official legitimate documents. It is difficult to estimate the size of the problem, but it would not be unrealistic to say that about half of Brazilian wood sold is illegal, and this has devastating effects on the environment and economy. Companies operating legally find it impossible to compete, which has led many of them to shut down, ultimately increasing the level of illegality across the sector. The Federal Prosecution Service of Brazil is developing initiatives to fight illegality, but more pressure is needed at high levels within the Brazilian government to address the loopholes in the system.

Following Mr. Valente, **Pedro Moura Costa** from BV Rio Environmental Exchange presented on [a new timber trade platform](#) designed to help connect timber traders to legal suppliers. The system was developed at the request of legal forest producers in Brazil who are tired of competing against illegal actors and find themselves penalized because it is difficult for importers to distinguish between legal and illegal wood in Brazil. On the surface, the BV Rio Platform is like any traditional trading platform, but there are also robust verification tools built into it, such as internal validation of documents, cross-checking with external databases and remote sensing data, as well as the capacity to establish field audits. By collecting, analyzing, and cross-checking such vast amounts of data, the system is able to detect and evaluate risk better than any individual can. The risk rating system assigns different color categories for individual timber consignments, with green representing no indication of impropriety, yellow representing minor irregularities,

orange representing a significant level of risk, and red representing an illegal operation which lost its license. BV Rio also has a supervisory board which was created to ensure credibility and the integrity of the system. Various stakeholders are involved including WWF, Imaflora, and Amata. A test phase of the system has been initiated with a launch date planned for later this year; funding has also been secured to adapt the system to countries in Africa.

#### *Discussion*

Although the system was designed for buyers and sellers, enforcement officials commented that the data could be valuable to them as well. Mr. Costa explained that BV Rio was exploring the possibility of an online tool which could be used by enforcement officials implementing Lacey, the EUTR, and Australian ILPA. (Update: Following the Vienna meeting, BV Rio confirmed that a public consultation module has been developed and it will be freely available for enforcement officials in desktop and mobile app formats by late 2015.)

#### *Presentation*

The next presentation was given by **Robbie Weich**, a Group Compliance Manager at Tradelink Wood Products Ltd. Tradelink has been sourcing Brazilian timber for over two decades, and Mr. Weich discussed [how his company conducts Due Diligence](#) with regard to sourcing raw material for their Brazilian factory near Belém and also when buying products from other local Brazilian third-party exporters. When importing high-risk hardwoods it is very important to get to know your suppliers and visit them regularly. It is also crucial to understand the laws and regulations of the source country, which will often require the help of local consultants, a strong legal team, and relationships with or affiliation to trade associations. Importers must be aware of the legal loopholes that fraudulent actors are known to exploit, in order to ensure that questionable sources do not enter your supply chain. In Brazil the forest management system is based on volumes and credits. A recovery rate is applied within the system, and if there is a surplus it must be reported back. However, a common illegal practice is to sell these virtual surplus credits on an illegal “credit market” —this happens frequently so companies must have systems in place to try to identify and guard against such abuses of the system. Recordkeeping is also fundamental, and an Operator should be able to show a consistent and transparent system for risk assessment and mitigation. Tradelink conducts frequent checks on its suppliers and archives all the relevant details. A high risk species like Ipé demands enhanced due diligence and a very robust purchasing policy; then, when risks are identified, proper mitigation must be carried out that could include field audits to truly understand what is happening on the ground. This is why Tradelink employs their own Forest Technician / Engineer to carry out such field audits.

#### *Discussion*

There was a question about how old an official Brazilian timber document could reasonably be, and Mr. Weich explained that an AUTEF that is one or two years old could be reasonable, but anything from three or more years ago would be a red flag requiring further questions. The key is to identify where the lag is in the supply chain. It would be unlikely for more than two years to go by from the forest to the saw mill or from the saw mill to the producer, since the wood could deteriorate in that time. But once a product has been turned into flooring, for example, it could reasonably sit in a warehouse for more than seven years if the market isn’t demanding it at the right price.

#### *Presentation*

The meeting concluded with a short presentation by Meriam Wortel, from the Food and Consumer Product Safety Authority in the Netherlands. Ms. Wortel showed the audience some of the official Brazilian web sites for checking timber documents, explaining how the various databases can be utilized in enforcement efforts.