

Substantiated concerns: how can competent authorities use them?

First experiences in Germany

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Structure

1. Approach of competent authority (CA) on checks
2. Different kinds of substantiated concerns
3. First experiences
4. Lessons learnt: How can substantiated concerns be used by the CA?
5. Conclusion and open questions

1. Approach of competent authority

For imports: Federal office for agriculture (BLE)

(For national forest owners: forest-authorities of the Länder)

- ❖ BLE controls following a risk based approach:
 - Esp. products, timber species, countries
- ❖ Control plan is set up every three months: list of operators to control
- ❖ Usually control officers are free to decide when to control whom (within three months)
- ❖ With each operator 10 cases are checked in detail
- ❖ Check reports are analysed in the central office of BLE

2. Kinds of substantiated concerns

1. General concerns about situation in specific countries
 - If plausible („substantiated“): countries can be ranked higher for (1) checks and (2) control plan
2. Concerns about specific shipments or suppliers
 - If concerns are concrete enough the shipments can be checked directly
3. Concerns about specific operators
 - extraordinary checks

3. First experiences in Germany

- ❖ Two substantiated concerns on specific countries:
 - Myanmar: ranked higher but no results so far
 - Brasil: specific operators had been named, all but one have been checked already but no suspicious products have been found

- ❖ One substantiated concern on specific shipments (Wengé from DRC)
 - Timber is seized, case is ongoing

3. First experiences in Germany cont.

- ❖ Two substantiated concerns on specific operators (based on hidden purchase and subsequent check of the species):
3 operators (furniture stores) were controlled and found to not have sufficient DDS
 - Notice of remedial action
 - Second check 4 weeks later
 - Cases are ongoing, sanctions are intended

4. Lessons learnt

For optimal effect a substantial concern should be

- ❖ concrete and contain a short summary with central points
 - main offence? proofs?
 - connection to certain shipment or operator?
- ❖ checkable in the EU MS (e.g. Germany)
 - e.g. based on documents or decisions of judicial authorities in the producer country
- ❖ directed not only at CAs but also at operators
 - They have to consider this in their DDS

My conclusion

- ❖ Substantiated concerns are important
- ❖ NGOs are crucial allies of CAs:
 - can obtain information that CAs can't get on their own
 - keep pressure on countries and operators
- ❖ CAs have to exchange about their approach

Open questions

- ❖ Should COM or CAs inform operators about substantiated concerns?
- ❖ Do we need a common guideline how to act on substantiated concerns?

Questions?

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