Substantiated concerns: how can competent authorities use them?

First experiences in Germany

Forest Product Legal Trade Legislation Workshop

Rom

28-29 October, 2014

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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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