

Findings, conclusions and recommendations of the workshop

**TAIEX EPPA 2nd Regional workshop on Best
practices in managing illegal timber
Webinar
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FINDINGS, CONCLUSIONS AND RECOMMENDATIONS BY TOPICS

Topic 1. Systems and/or programs of EUTR controls by Competent Authorities (CAs) from EU countries, with particular attention to operators placing the wood and wood products from the Western Balkans countries and Turkey on the EU market, and experiences in the controls with special focus on problems in assuring due diligence requirements.

1. EU MS **Competent authorities** provide controls of EU operators based on their **annual programmes** which are based on **risk assessments**, including:
 - **quantity and/or value** of (imported, exported) **timber products**,
 - **type of timber products** (final products as highly risky),
 - **countries of origin** of timber products and their **level of corruption** (Western Balkans and Turkey considered as pretty risky, with CPIs between 35 and 40) and
 - other specific indicators.

2. **Main shortcomings** in fulfilment of EUTR/DDS requirements by **EU operators / importers** of timber products from the Western Balkans and Turkey identified:
 - **Lack of documents or other information indicating compliance of the timber and timber products with the applicable legislation** (the compliance assessments not provided before supplies of timber);
 - **Lack of access to information on operator's supply of timber products for each consignment placed on the market** (the information does not accompany the timber products and are being assured post-festum, possibly based on **consequent creation of the documents** through corruption and bribery);
 - **Lack of operators' knowledge** of relevant forest legislation and systems in the countries of timber origin,
 - **Insufficient or missing risk assessments**,
 - **Insufficient or missing risk mitigation measures.**

Thus, there is **high share of (checked) operators** which placed the imported timber products from the Western Balkans and Turkey on the EU market **against the EUTR requirements**. Consequently, there is **high number of fines imposed** on the operators.

3. **Key needs** for more effective fulfilment of EUTR/DDS requirements by **EU operators / importers**:
 - to provide **trainings** to operators concerning EUTR, particularly the ones dealing with complex supply chains;
 - to use **DDS** and appurtenant services of **Monitoring organisations**;
 - to strengthen the **cooperation** between the EU operators and non-EU companies concerning EUTR requirements;



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- to ask the Competent authority for prior information before importing from regions with high illegality risk,
- 4. Key needs for more effective control function of EU MS Competent authorities:**
- standing connection with **Customs** and other relevant institutions;
 - cooperation with **monitoring organizations**,
 - strengthened cooperation with **non-EU “Competent” authorities** in field of the forestry, the customs and other relevant sectors,
 - **training** of own staff regarding the implementation of the EUTR,
- 5. Other issues / challenges to be addressed:**
- **training** of non-EU “Competent” authorities and forest and wood industry “operators” regarding the implementation and requirements of EUTR;
 - **raising awareness** about EUTR requirements, involving **authorities, operators and other stakeholders** (in EU in non-EU countries);
 - assuring **more information on legally required documents** to become publicly available - useful for all actors in the supply chains (EU MS and non-EU Competent authorities, EU MS and non-EU operators, EU monitoring organisations);
 - **better availability and exchange of forest and timber related information**, particularly through public registers (in EU MS and non-EU countries) which support prevention of illegal harvesting and fulfilment of EUTR requirements;
 - carrying out **periodic analyses of imported timber**,
 - elaboration and/or updating of corresponding **EUTR country profiles or studies** for timber origin / exporting countries (to be supported by EC);
 - **clarification** on how the **certification schemes** intend to identify, address and mitigate effectively the risk of entry of illegal timber into supply chains;
 - considering the possibility to **require (legally)** that the **import documents** contain information on **origin and traceability of timber products**, as well as a declaration that the timber product is not from **illegal sources** (Hungarian example);

Questions for consideration:

- 1) Could we really expect that the **EU operators could assure** also successful implementation of EUTR/DDS requirements, i.e. controls of their suppliers (in terms of legality and traceability), as the requirements actually present their **market barriers**? Is this concept not against the basic principle of separation of the control and the commercial functions, i.e. to avoid **conflict of the interests**?
- 2) Why the **timber export** from the Western Balkans and Turkey (and from other non-EU countries) to EU does **not decline after beginning of the EUTR implementation** (as EUTR restrictions should present considerable market barrier)?



Topic 2: Experiences in criminal investigations of operators suspected of placing illegal wood and wood products on the EU market, with particular attention to the Western Balkans and Turkey

1. Main conclusions of the EU TREES project (2015 - 2016) related to EUTR and forest crime, related to the **Western Balkans**, were:
 - **the due diligence system** has some "**grey areas**" that can be exploited by criminal organisations to get illegal gains from the timber sector, by minimising the risks of being punished;
 - gathering information on **compliance of harvesting with applicable legislation and evidence of illegal origin of timber** were amongst **the greater challenges; these obviously remain also after 5 years**, meaning that not much progress has been made in that context;
 - there is a **risk that legal framework enable system corruption and illegal conduct** in the timber supply chains, and
 - there is **insufficient institutional capacity** (of law enforcement authorities) and **low corporate responsibility** (of operators) related to combating illegal timber trade.
2. Key recommendation (based on Slovak experience): **Establishing of a Multidisciplinary Expert Coordination Body for fight against illegal harvesting and forest crime** could be very efficient in that context.

Questions for further consideration:

- 1) Which are **weaknesses of EUTR** regulation, particularly in terms of assuring due diligence, identified by CAs and MOs, which don't enable **efficient prevention** of illegal timber trade?
- 2) Which **changes to EUTR**, or to **national legislation** implementing the EUTR, would be helpful in that context (for instance that assessment of compliance of harvesting with legislation should be carried out before supplying the timber and that the required documents and information on timber products must accompany each shipment)?



Topic 3: Examples of due diligence systems (DDS) of EUTR monitoring organisations (MOs) and experiences in implementation of their DDS with particular attention to importers of wood products from the Western Balkans countries and Turkey. Special focus on risk assessments and conclusions on “negligible” risk.

1. Based on DDS of MO Conlegno (Italy), **lack** of the following documents has been identified per **Western Balkans’ countries and Turkey**:
 - 1) **Forest cut authorization (B&H, Serbia, North Macedonia);**
 - 2) **Transport documents (B&H - sometimes, Serbia, Montenegro, Albania, North Macedonia);**
 - 3) **Proof of the timber origin (Montenegro);**
 - 4) **Supply chain mapping, e.g. identification and role of various subjects involved (Montenegro, Albania, Turkey).**
 - 5) **Evidence of exception concerning forest cut and export ban of wood products (Albania)**
 - 6) **Commercial contracts and invoices (B&H - sometimes);**
 - 7) **Original timber sale documentation (Serbia);**
 - 8) **Authorization for silvicultural and woodworking activities (Montenegro);**
 - 9) **Woodworking and export authorizations (Serbia);**
 - 10) **Other authorizations (B&H).**

Question for consideration:

Which are specific ways of risk assessments and consequent conclusions on “negligible” risk by MOs?



Topic 4: Examples of certification standards for assuring legality and traceability of wood products and experiences in their implementation in the Western Balkans countries. Consideration of certification schemes in the context of due diligence according to EUTR. Differences in consideration of legality and traceability within the certification and the EUTR DDS approaches.

- 1. Common issues found during forest certification audits in the region (Bulgaria, Romania, Serbia) were:**
 - **Harvesting - without legal permits, outside the legal boundaries of the harvesting sites,**
 - **Felling of unmarked trees (in some cases are marked after the felling to cover the breach);**
 - **Fake hammer marks; 'Legal' hammer marks are not properly placed and identification elements are unrecognizable**
 - **Inaccurate determination of the volumes during tree marking**
 - **Intentional inaccuracies in the assortment sizes**
 - **Actual harvested volumes do not correspond to those specified in transport documentation**
 - **Sanitary fellings used as an excuse to cover illegal logging**

Common issues in case of CoC were:

 - **False claims**
 - **Mixing of certified and non-certified timber.**
- 2. According to evaluation of FSC and PEFC certification scheme by NepCon (2017), both of the schemes lack in the following two issues: (a) validation of volumes of FSC-certified material transferred from FSC sellers to purchasers and (b) ensuring that mixing of non-certified wood is not taking place in the supply chains. Consequently, Chain of Custody (CoC) certification is not a due diligence «green lane», but can be relevant in terms of lowering the risk and as a risk mitigation measure.**
- 3. In practice, operators may rate credibly certified timber products as products of negligible risk, i.e. suitable for placing on the market with no further risk mitigation measures, if other risk assessment results (based on defined criteria) don't contradict such a decision.**



Topic 5. Status and needs for EUTR approximation of forest legislation of the Western Balkans countries (examples of Serbia, Montenegro and North Macedonia), with special attention to assuring due diligence by forest operators when placing the wood on the EU market for the first time

1. The forest laws of the analysed Western Balkans countries (Serbia, Montenegro and North Macedonia) are already **quite well approximated** to EUTR requirements - as far as **main pre-accession needs** are concerned; the performed approximation includes, in particular:
 - **Prohibition** on placing on the market of **illegal timber** according to the **forest law criteria** (not also according to other legislation, required by EUTR definition);
 - **Provision of EUTR-required information on supplied wood assortments** (not also for other timber products according to EUTR timber classification);
 - **Provision of EUTR-required documents proofing compliance** of harvesting and extracted wood assortments **with forest legislation** (while documents indicating compliance with the other legislation could also be obtained);
 - **Obligation on keeping** the above information / **records on wood assortments placed on the market or supplied to primary processors**;
 - **Obligation on keeping the specific information on traded wood assortments and general information on other timber products** (according to trade law).
2. Main conclusions from the above could be **drowned also for other Western Balkans countries**.
3. For **better prevention of illegal harvesting and trade in timber** on domestic markets of the Western Balkans and **more efficient implementation** of the EUTR by the EU operators – which are placing the timber and timber products from the selected West Balkans countries on the EU market - the following **additional approximation** of national legislation could / should be made in **the pre-accession stage**:
 - (Possible) **Extension of the ban** on placing on the market of **wood assortments** which are considered as **illegal** according to forest law to the ones considered as illegal according to **all legislation** required by EUTR definition;
 - (Possible) **Extension of the scope** of the law from **wood assortments to other timber products**;
 - (Possible) **Introduction** of an obligation to **use and maintain a simple due diligence system to local timber exporters**, including **risk assessment and mitigation**, in order to adequately prepare them for future EU market (when they became the operators), while indirectly facilitate the fulfilment of the current **EU importers' / operators' obligations**.
4. For **full implementation of EUTR after accession**, the aforementioned **designation of competent national authorities** and eventual **other authorised institution**, and **laying down the penalties for infringements** of EUTR provisions shall be adopted – best through a special law (to be endorsed sometime before the accession).

