Controlling the trade in illegal timber: enforcement developments
• Forest Trends surveyed government agencies in the EU, Australia and the US about enforcement activity during the previous 6 months (September 2015 – March 2016).
• Responses were collected from fourteen EU Member States, three US Lacey enforcement agencies and the Department of Agriculture and Water Resources in Australia.
• Of those that responded, all but one is a regular participant in TREET meetings.
• The survey will be repeated and data published biennially.
• Bulgaria, Czech Republic, Denmark, Finland, France, Germany, Ireland, Latvia, Luxemburg, Malta, the Netherlands, Sweden, the UK, and one Member State that prefers not to be identified.
• Privacy/ data protection laws represent a significant challenge.
RESULTS:

• 495 company site inspections
• 955 Due Diligence Systems reviewed
• An average of 33 inspections and 64 reviews / Country
• 396 Corrective Action Requirements
• 4 injunctions / ‘Cease and Desist’ letters
• 55 sanctions
• China, Brazil, Cameroon, Myanmar, and the Republic of Congo most frequently identified in relation to non-compliance
Fig 1. Source Countries Implicated in Non-Compliance Actions

Fig 2. Changed buyer Behavior Affecting Source Countries
• Swedish Operator: Retlog
• Imports of flooring made in Thailand with teak from Myanmar.
• Skogsstyrelsen issued an injunction demanding it cease trading in the product until risk mitigation can be demonstrated
• Bureau Veritas responsible for DDS on the teak – Thai office concluded that 1000m³ was lower threshold for ‘negligible risk’.
• 3 month period to demonstrate robust DDS or face fines, cost of storing product falls on the company
• Last week the company reported that BV had been contracted to undertake retrospective ‘field audits’ in Myanmar to show the source of the logs and compliance with national law.
• TBC...

• UK competent authority (formerly NMRO, now Regulatory Delivery, Department for Business, Innovation and Skills)
• ‘Project’ approach – coordinated with other enforcement agencies
• Risk assessment using official IFM reports
• 19 importers from Cameroon identified, who had not been subject to previous checks (2014 imports, HS codes 4403/4407)
• DDS requests, reviews and 15 site inspections
• Only 2 were fully compliant, additional 3 faced no further action
• All others issued written warnings and Notices of Remedial Action
• Sanctions for those that have not met the terms of the NRAs when follow up checks take place
• TBC...
• Dutch Competent Authority – NVWA: food and consumer product safety authority
• Reaction to Greenpeace research/report – vente de coups
• Fibois BV was instructed by regulators to stop placing wood from Cameroon on the Dutch market
• Company appealing, supported by VVNH (Timber Trade Federation)
• Case of wood previously sold referred for criminal sanctions (decision pending)
• Criminal prosecutors could issue a straight fine based on equivalent regulations, or go to court to seek a higher fine
• Administrative sanction process ‘suspended’ by interim ruling in Court
  • Cameroonian law deemed “too complicated” for companies to understand
  • However, the CA plan to challenge the ruling on absence of mitigation in DDS
Lessons learned...

• The majority of enforcement happens ‘under the radar’
• Timescales surprisingly long
• The ‘public interest test’ is sometimes as important as the evidence base – global coordination / coherence
• Commission Guidance and working groups key to EUTR

Challenges:
• Looking beyond the paperwork is fundamental to risk assessment, but how?
• Third party audits recommended, but what happens when third parties fail?
• Advocacy NGOs have important information but it isn’t always taken seriously by prosecutors/judges
• Collaboration with producer country Governments remains critical
The ‘perfect’ law?

• The *International Statement on the Seriousness of Illegal Logging Act*

• Broad scope of ‘legality’ explicit

• Requirements on *all handlers* of forest products... (rather than ‘first placement’)

• ... to have systems in place to assess and mitigate the risk of buying illegal wood (rather than having to prove breach of foreign law — technical and diplomatic challenges)

• Strict liability clause — if you are found to be trading in illegal timber then your system is *de facto* inadequate

• Declaration requirement for species and country (sub-region, concession?) of harvest

• Detailed guidance based on DDS descriptions and LL Lacey Compliance Plan
Thank you

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