



1.1 FLEGT, VPAs and the EU Timber Regulation

FLIP VAN HELDEN and EMILIE GORANSSON

The FLEGT Action Plan

In 2003, the EU Council of Ministers and the European Parliament adopted the EU Action Plan on Forest Law Enforcement Governance and Trade (FLEGT). The Action Plan was proposed as a first step to tackle illegal logging and its associated trade in a collaborative and coordinated way with consumer and producer countries, the private sector and other stakeholders.

The FLEGT Action Plan set out a process and a package of measures to tackle both demand (EU market) and supply (producer countries) issues. It places particular emphasis on governance reforms and capacity building in producer countries, supported by actions to develop multilateral cooperation. It also focuses on complementary demand-side measures designed to reduce the consumption of illegally harvested timber in the EU and ultimately, in major consumer markets elsewhere in the world.



THE FLEGT VPAs

PROVIDE SUPPORT FOR
IMPROVED GOVERNANCE
IN THE FOREST SECTOR OF
PRODUCER COUNTRIES.

The proposed measures are structured in seven areas:

1. support to timber producing countries;
2. trade in timber;
3. public procurement;
4. private-sector initiatives;
5. financing and investment;
6. supporting the Action Plan with existing legislative instruments; and
7. conflict timber.

Flip van Helden is Coordinator of International Affairs, European Directorate, Ministry of Economic Affairs, The Hague. **Emilie Goransson** is Policy Officer with the Forest Sector, Climate Change, Environment, Natural Resources, Water Unit, Directorate General for Development and Cooperation, European Commission.

Voluntary Partnership Agreements

The Voluntary Partnership Agreements (VPAs) between timber-producing countries and the EU form the centerpiece of the action plan. The agreements provide support for improved governance in the forest sector of producer countries and are a mechanism to assure the legality of the timber products that enter the EU market.

The VPAs also commit exporting partner countries to develop a Timber Legality Assurance System, or TLAS (Box 1).

Box 1. Timber Legality Assurance System

The main tool for guaranteeing legality in VPAs is the Timber Legality Assurance System (TLAS).

The participatory development of a **definition of legally produced timber** sets out all the laws and regulations that must be complied with.

A secure **chain of custody** tracks timber from the forest where it was harvested to the point of export.

Verification procedures provide assurance that the requirements of the legality definition have been met for each export consignment.

FLEGT licences validate the results of legality verification and allow for customs clearance of the timber products in the EU.

An **independent audit** of the functioning of the TLAS guarantees its credibility.

VPAs have been signed with Ghana, Cameroon, Republic of the Congo, the Central African Republic, Liberia and Indonesia. These VPAs are in the process of ratification and implementation; nine more VPAs are under negotiation.¹ Implementation of the VPA includes putting a TLAS in place, ensuring that forest related documents are in the public domain, and some type of law reform. This will allow a producer country to begin issuing FLEGT licences.

The EU Timber Regulation

In October 2008, as part of its commitment under the FLEGT Action Plan, the European Commission (EC) proposed a regulation that would minimize the risk of illegally harvested timber reaching the market. It was adopted by the Council and the European Parliament in October 2010 and became operational in March 2013.

The regulation consists of two key obligations: 1) it prohibits illegally harvested timber and the products derived from such timber from being put on the EU market; and 2) it requires EU traders who put timber products on the EU market for the first time to exercise due diligence.

The core of the due diligence notion is that operators have to undertake a risk management exercise so as to prevent illegally harvested timber, or timber products containing illegally harvested timber, from being put on the EU market. The due diligence system has three key elements:

- **Information:** The operator must have access to information describing the timber products, country of harvest, quantity, details of the supplier and information on legal compliance.
- **Risk assessment:** The operator should assess the risk of illegal timber entering the supply chain, based on this information.
- **Risk mitigation:** When there is a risk of illegal timber entering the supply chain the operator should mitigate that risk by requiring additional information and verification from his or her supplier.

The regulation covers a broad range of timber goods, including solid wood products, flooring, plywood, pulp and paper. It does not address recycled products, rattan, bamboo or printed papers such as books, magazines and newspapers.

The regulation applies to both imported and domestic (i.e., within the EU) timber and timber products. Timber products that are covered by valid FLEGT licences or Convention on Trade in Endangered Species (CITES) licences are considered to comply with the due diligence requirements of the regulation.

The regulation provides for monitoring organizations to be recognized by the EC. These private-sector organizations will provide EU operators with operational due diligence systems. Operators can develop their own system or use one developed by a monitoring organization.

Each EU Member State will designate a competent authority that will coordinate enforcement of the regulation and determine the penalties for non-compliance.

This development in the EU is in line with comparable policy initiatives elsewhere. The U.S. has amended the *Lacey Act* to make trade in illegally harvested timber a criminal offence. Similar policies are currently under consideration in Australia.

Acknowledgement

This article was adapted from: http://ec.europa.eu/environment/forests/pdf/EUTR_Leaflet_EN.pdf.

Endnote

1. They are Ivory Coast, Democratic Republic of Congo, Gabon, Guyana, Honduras, Lao PDR, Malaysia, Thailand and Vietnam.

