



2.1 Interactions between the EU FLEGT and FSC forest regimes

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Introduction

In the absence of an internationally binding forest convention to set the benchmark for sustainable and legal forest management, various forest regimes have been gaining ground. They are characterized by principles, norms, rules and procedures for responsible forest use and conservation and by an institutional framework for implementing, evaluating and expanding the regime (Rayner, Buck and Katila 2010).

This fragmented forest regime complex includes both regulatory and voluntary approaches to governing forests (Rayner, Buck and Katila 2010). The two approaches differ in three main ways (Hinrichs and Van Helden 2012):

- Regulatory measures cover the entire forest sector in a country, while voluntary initiatives focus on a certified enterprise or forest management unit.
- Companies use voluntary standards to improve their market position compared to their competitors, while governments use regulations to create fair conditions and improve practices within the sector as a whole.
- Voluntary initiatives depend on the goodwill of actors. They are binding only on those who participate in the scheme, and companies can always opt out. Conversely, regulatory measures are compulsory and bring the force of law to bear on all actors within the sector.



REGIME INTERACTIONS
MAY TAKE MANY FORMS,
FROM COMPLEMENTARY
TO COMPETITIVE.

Due to differences in principles, norms and standards and in their organization, the two approaches may duplicate or even compete with each other; alternatively, they might support each other. Hinrichs and Van Helden (2012) urge the creation of practical synergies between the two approaches and indicate several options for creation of such synergies.

In spite of calls for interactive management (Oberthür and Stokke 2011; Visseren-Hamakers and Verkooijen 2013) there is still little insight into how regulatory and

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voluntary approaches might interact. Most studies on this subject (e.g., Visseren-Hamakers 2013) focus on assessing interactions between public institutions, and little attention has been given to public-private interactions.

This article describes the results of an exploratory study on the process of policy interaction between the EU FLEGT and Forest Stewardship Council (FSC) regimes. The EU FLEGT Action Plan is a regulatory approach to ensure the legality of exported timber. The FSC certification programme is a voluntary approach to certify that commercial timber is derived from sustainably managed forests.

Research approach

When considering regime interactions, it is important to take into account that governance is a multi-level process. Interactions between international regimes may take place at the international level where the policies are formulated and at the national level where they are enacted. Although both the FLEGT and FSC regimes involve the formulation of a set of integrated principles, rules and procedures



for responsible forest use and conservation at the trans-national level, they also involve national specifications: a FLEGT Voluntary Partnership Agreement (VPA) in the case of FLEGT and national indicators for certification standards in the case of FSC. During the development of such national standards the regimes are often adapted to local conditions (Bernstein and Cashore 2010; Wiersum et al. 2013).

The national implementation of international regimes is not a simple linear procedure, but rather a reiterative policy process in which new rules and/or procedures may be added to those formulated at the international level. This may include adopting elements of other international regimes that are relevant. Regime interactions can therefore occur not only during the process of formulation at the international level, but also during the process of negotiation and adaptation to national conditions.

Consequently, this article assesses FLEGT and FSC regime interactions at both the national and international levels. It is based on an explorative study that was carried out in 2011. The study consisted of a review of policy documents, followed by interviews with 14 forest policy experts in Europe and Ghana (Capiroso 2011).

Ghana provides an interesting example of how the negotiation of a FLEGT VPA resulted in an intensive review of national forest policy (Beeko and Arts 2010). It was the first country to negotiate a FLEGT VPA with the EU. The agreement included a definition of national timber legality standards. The national process of developing these standards included the identification of new principles that were added to the original FLEGT standards (Beeko and Arts 2010; Wiersum and Elands 2013). The country was also the seat of the regional African FSC bureau and was engaged in the formulation of a set of national indicators for FSC certification.

Types of interactions

Regime interactions may take many forms (see also article 2.2). Capiroso (2011) used the framework developed by Gehring and Oberthür (2009) to systematically assess what type of interactions had occurred. Gehring and Oberthür identify interactions as influences that travel from one regime (the “source”) to the other (the “target”). They identified both potential and actual interactions. Gehring and Oberthür identified four types of interactions:

- Interaction through commitment occurs when agreements entered into in the source regime induce actors to modify their outputs regarding issues related to target regime. This presupposes that international obligations create a binding force whereby actors will constantly be aware of and restrained by their commitments in one regime while negotiating in the other. This can include jurisdictional overlap — when two regimes address the same issues, and decisions need to be made on whose rules prevail — and nested institutions in cases where the actors of the source and target regimes overlap.
- Cognitive interaction occurs when information, knowledge and institutional innovations developed within the source regime affect the decision-making or actions of actors in the target regime. This may involve policy model interaction (in cases when the target regime voluntarily or unintentionally uses institutional innovations or ideas developed within the source regime as policy models); exchange of information (when the target organization uses information from the source regime); or requests for assistance (when specific source institution actions draw the attention of target institution actors).
- Behavioural interaction occurs when the source regime triggers changes that affect implementation by the target regime. Usually, the source regime produces outputs (policies, prescriptions, etc.) that change the behaviour of actors relevant to the target regime. For behavioural interaction to occur the goals of the two regimes must be closely linked. In addition, the source institution must exert pressure on those carrying out implementation (to execute its provisions) and on those affected by those provisions (to change their behaviour accordingly).
- Impact-level interaction results from the interdependence of the stakeholders in the interacting regimes. Such interaction may occur in cases where the target and source regimes are functionally linked due to the significant overlap in the issue areas.

Interactions between FLEGT and FSC

The differences between the regulatory and voluntary approaches of the FLEGT and FSC regimes include a) the principles of sustainability versus legality; b) issues related to membership and political orientation, political scope, and the decision-making process; and c) standard setting, verification/auditing, accreditation and certification/licensing. Notwithstanding these differences, 25 specific forms of interactions were identified (Table 1).

Table 1. Interactions between FLEGT and FSC regimes

| Type of interaction | Influence of FSC on FLEGT | Influence of FLEGT on FSC |
|------------------------|---|---|
| International level | | |
| Commitment interaction | <p>Jurisdictional delimitation: The EU decided that in developing the Timber Legality Assurance System (TLAS) it would not use FSC Principle 1 as a template for defining legality, but would instead devolve the responsibility to VPA country partners to develop a set of standards to define timber legality based on their national laws</p> | <p>Jurisdictional delimitation: FSC is interested in supporting and engaging with the EU to harmonize legality standards so that they complement and support each other's objectives</p> |
| Cognitive interaction | <p>Policy model: The sustainability aspects (i.e., environment, social, and economic) of FSC standards were considered as major requirements for defining timber legality</p> <p>Policy model: FSC multi-stakeholder consultation and consensus-based decision-making were integrated in requirements for developing the TLAS</p> <p>Policy model: The FSC/certification third-party auditing process was considered when developing a system for timber legality verification</p> <p>Exchange of information: Complaints on the lack of effectiveness and the voluntary scope of the FSC programme were among the triggers for the EU to develop a tool at the international level to address illegal logging</p> <p>Exchange of information: The difficulties in complying with the comprehensive FSC criteria regarding sustainability helped the EU decide to limit the focus of FLEGT to legality</p> <p>Request for assistance: The EU asked FSC to conduct a gap analysis on the legality standards of FSC and VPA in Cameroon</p> | <p>Policy model on standards: FSC integrated relevant issues from the FLEGT legality requirements and considerations in the revised FSC principles and criteria at the General Assembly July 2011</p> <p>Policy model on accreditation: FSC will consult with its certification bodies to align their systems with the VPA requirements on third-party monitoring</p> |

| Type of interaction | Influence of FSC on FLEGT | Influence of FLEGT on FSC |
|-------------------------|---|--|
| National level (Ghana) | | |
| Commitment interaction | <p>Jurisdictional delimitation of goals: Timber legality is considered as a first step in the process toward sustainable forest management</p> <p>Nested institutions: In joint policy workshops it was agreed that sustainable forest management requires further integration of the VPA legality standards and FSC national indicators</p> | <p>Jurisdictional delimitation: The VPA legality definition supports the FSC national indicators related to the FSC Principle 1 on legality</p> <p>Nested institutions: FSC Ghana participated in VPA working groups/multi-stakeholder consultations</p> |
| Cognitive interactions | <p>Policy model regarding goals: Since certification is expected to complement FLEGT VPA requirements, the FSC certificate could potentially be an alternative FLEGT licence, which would reduce administrative and procedural work.</p> <p>Policy model on standards: The FSC national indicators served as a model during the development of FLEGT standards for timber legality</p> <p>Policy model on auditing: Participants decided to establish a multi-stakeholder supervisory FLEGT body outside the government administration</p> <p>Policy model in auditing: An independent party monitor was recruited</p> <p>Policy model on accreditation: Participants discussed whether the FLEGT VPA could make use of the FSC accreditation body in establishing an Independent Party Monitor</p> <p>Request for assistance: The FLEGT VPA organization invited FSC staff members to take part in a multi-stakeholder consultation in drafting Ghana's TLAS</p> | <p>Policy model on standards: The general VPA standards for legality may be included in the FSC national indicators</p> <p>Policy model on standards: The VPA timber legality definition served as a model for strengthening Principle 1 of the FSC national indicators</p> <p>Exchange of information: The VPA legality definition is expected to improve the legitimacy/validity of FSC national indicators</p> <p>Exchange of information: The VPA may potentially increase interest in certification</p> |
| Behavioural interaction | | The VPA legality licence has the potential to influence forest enterprises to apply for certification |

A total of 10 interactions at the international level and 15 at the national level were recorded. The FSC was the source of influence in 15 cases; FLEGT was the main source of influence in 10 cases. Cognitive interactions were most important. They concerned policy model interactions (12), exchange of information (4) and requests for assistance (2). The commitment interactions concerned cases of jurisdictional delimitation (4) and nested institutions (2). There was only a single case of behavioural interaction. In 13 cases the interactions involved actual effects; 12 involved potential effects. Except for three potential negative interactions, in the form of competition between the FLEGT VPA legality standards and license and those of FSC, all interactions — whether triggered by FSC or FLEGT VPA — generated or are expected to generate positive/synergistic influences.

Conclusion

This article illustrates two important features of regime interactions. First: considering their different principles and related standards, as well as the different organizational contexts in which they were developed, the FSC and FLEGT regimes seem to be typical examples of the fragmented international forest policy context. However, data indicate that during the development of both regimes, reciprocal interactions may evolve as a result of each body's growing understanding of the significance of the respective regime standards.

The FLEGT regime was initiated when it was recognized that there was scope to supplement the voluntary market-based FSC regime with a more formal regulatory regime. It is not surprising that the experiences gained by the FSC regime can serve as a policy model for FLEGT. However, the FLEGT model also influenced the FSC regime. This demonstrates that the “old” FSC regime is subject to continuing policy development.

Cognitive interactions prevailed, notably in the form of policy model interactions. Interaction through structured forms of exchange of information and requests for assistance was a relatively minor component. This suggests that increased collaboration between actors could benefit from further harmonization of legislative requirements, legality standards and control measures. Such collaboration could involve the development of effective tools for joint knowledge management and communication; these could make use of the specific contributions of each regime to the various elements of sustainable forest management.

The findings also demonstrate that regime interactions occurred at both the national and international level. The development of specific regimes does not involve a simple linear policy process from problem identification to formulation at the international level and implementation at the national level, but is rather a reiterative learning process in which regimes may be further adapted and influenced by other regimes. This adaptation results not only from informal or conscious interaction between the regimes at the international level, but from interactions at the national level where the regimes are enacted.

The development of a national forest policy requires various principles, norms and procedures of the fragmented forest governance context to be integrated into a coherent set of national policy actions. These national experiences can subsequently inform the international forest policy process. The data illustrate that national-level interactions are

likely to occur in cases such as Ghana. There, regime interactions are stimulated by the presence of a well-structured network of forest policy actors that consciously strive for the democratic development of an integrated national forest policy that incorporates the various elements of the fragmented international regime complex.

This national process of regime interaction in Ghana also included interactions between the FLEGT and REDD+ regimes (Ochieng, Visseren-Hamakers and Nketiah 2013). Such national-level interactions are less likely to occur in countries that treat the implementation of international policies into national policies as a linear process. When assessing interactions between international forestry regimes, it is important to consider whether they occur at the national or international level, and whether interactions at the national level subsequently inform the international level.

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