

3.1 Introduction to FLEGT, VPAs and the EU Timber Regulation

The FLEGT Action Plan and its Voluntary Partnership Agreements

In 2002 the European Commission (EC) started work on an action plan to tackle illegal logging. The resulting 2003 Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan has six components:

- development cooperation;
- negotiating Voluntary Partnership Agreements (VPAs) with timber-producing countries;
- reviewing options to control the trade in illegally-harvested timber;
- guidance on timber legality in public procurement policies;
- encouraging private sector initiatives for good forest sector practices; and
- encouraging financial institutions to take account of environmental and social impacts in forest sector lending.

The 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 provide a mechanism to exclude illegal timber products from EU markets.

They also commit exporting partner countries to develop a Timber Legality Assurance System (Box 1).

Box 1. Timber Legality Assurance System

- 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.
- The issuance of FLEGT licences validate the results of legality verification and allow for customs clearance of the timber products in the EU.
- Independent monitoring of the functioning of legality assurance system guarantees its credibility.

VPAs have been signed with Ghana, Cameroon, Liberia, Congo Brazzaville, the Central African Republic and Indonesia. These VPAs are in the process of ratification and implementation; four more VPAs are under negotiation. Implementation of the VPA

includes putting the timber legality assurance system in place. This will enable 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 EC presented a proposal for a regulation that would minimize the risk of illegally harvested timber reaching the market. Regulation (EU 995/2010) was adopted by the Council and the European Parliament in October 2010 and will become operational in March 2013.

The regulation consists of two key obligations: 1) it prohibits illegally harvested timber and 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 minimize the risk of putting illegally harvested timber, or timber products containing illegally harvested timber, 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 the information identified above.
- 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 supplier.

The regulation covers a broad range of timber products, 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 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 European Commission. These private organizations will provide EU operators with operational due diligence systems. Operators can thus 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 that apply in case of non-compliance.

This development in the EU is in line with similar policy developments 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.

Adapted from: http://ec.europa.eu/environment/forests/pdf/EUTR_Leaflet_EN.pdf.