

Forest Law Enforcement, Governance and Trade

– the European Union approach

EFI Policy Brief 2

EFI FLEGT Team



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The FLEGT Action Plan complements the natural resources management agenda and the governance agenda, two key issues for development and for the European Union. The Voluntary Partnership Agreements are an excellent illustration of our vision for development cooperation as it represents a joint commitment from EU and developing countries to fight against illegal logging and promote good governance. It also represents a renewed political dialogue on those strategic issues, respecting the key principles of ownership, as the agreement is of voluntary nature, and partnership, a set of supporting measures jointly agreed, and, from the EU side, an excellent collaboration between the Commission and the Member States. With this publication, you will have a better understanding of FLEGT and its value to development.

Stefano Manservigi
Director General DG Development, European Commission



What is EU FLEGT?

Illegal logging is having a devastating impact on some of the world's most valuable remaining forests. Its environmental effects include deforestation, the loss of biodiversity and the emission of green house gases. Its direct impacts on people include conflicts with indigenous and local populations, violence and human rights abuses, the fuelling of corruption and exacerbation of poverty. The World Bank has estimated that the governments of some of the poorest countries in the world lose over \$15 billion per year as a result of illegal logging – money that should be spent improving the lives of their people.

In light of this, the European Commission published the Forest Law Enforcement, Governance and Trade Action Plan in 2003, setting out a range of measures available to the European Union and its Member States to tackle illegal logging in the world's forests.



Environmental Investigation Agency



Marc Parren / Tropenbos International Congo-Basin Programme

Local community at the Tano Offin Forest Reserve, Ghana.

Logs from Russia at a Timber Depot in Suifenhe, China.
A high percentage of of the logs are reported to be illegal.

For the first time, the Plan explicitly recognised that the EU is a major consumer of wood products from regions where levels of illegality and poor governance in the forest sector are most serious, potentially providing valuable markets for illegal wood. European demand was seen as a significant driver of illegality, and as a result, the European Commission was encouraged to align its traditional forestry approach

with a parallel focus on controlling markets for potentially illegal wood within the EU.

The FLEGT Action Plan was a response to high level political commitments made by the EU, Member States and partner country governments as part of the G8 Programme on Forests, and the regional Forest Law, Enforcement and Governance (FLEG) Ministerial Conferences, facilitated by the World Bank.¹

The aim was not simply to reduce illegal deforestation, but to attempt to tackle poverty by supporting good governance in countries selling wood to the EU. Ensuring that responsible companies in Europe prefer to buy wood from producers that comply with local law, pay for the timber they fell and act responsibly towards local poor people and the environment can start to help address these problems.

¹ For more information see the following: East Asian Forest Law Enforcement and Governance Ministerial Declaration (Bali, 2001); African Forest Law Enforcement and Governance Ministerial Declaration (Yaoundé, 2003) and Europe and North Asia Forest Law Enforcement and Governance Ministerial Declaration (St Petersburg, 2005)

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The FLEGT Action Plan could do much to reverse the terrible effects of illegal logging, as long as the EU maintains the political will to use it to tackle the negative social, environmental and economic aspects of the timber trade. The first step must be to open political space for those hit hardest by the miseries linked with illegal logging such as corruption, bad governance and poverty. Ensuring a genuine national dialogue must be at the heart of these initiatives. If successful the FLEGT approach could become the first action to address key underlying causes of forest destruction.

Iola Leal
FERN – the Forests and the European Union Resource Network

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The FLEGT Action Plan offers importing companies within the EU a sensible, pragmatic and robust system to ensure the legality of any, but principally tropical, wood that they bring into the Union. This plugs a gap and will augment existing voluntary measures designed to do the same. Compliance with licensing rules will also set many exporting companies well on the road to achieving the necessary changes to their businesses to move to what is the ultimate goal of sustainable sourcing and supply. It is also encouraging to see the breadth of countries that are covered by FLEGT, although we would like to see more, as providing a level playing field means that competition for products will be based on quality and service and a fair price; not on a price undermined by illegal wood entering the supply chain.

John White
Chief Executive, UK Timber Trade Federation

So the Plan aims to develop markets in Europe for legal products, encouraging businesses and consumers to pay the real cost of producing legal wood, rather than searching only for the cheapest price which risks sacrificing social and environmental concerns.

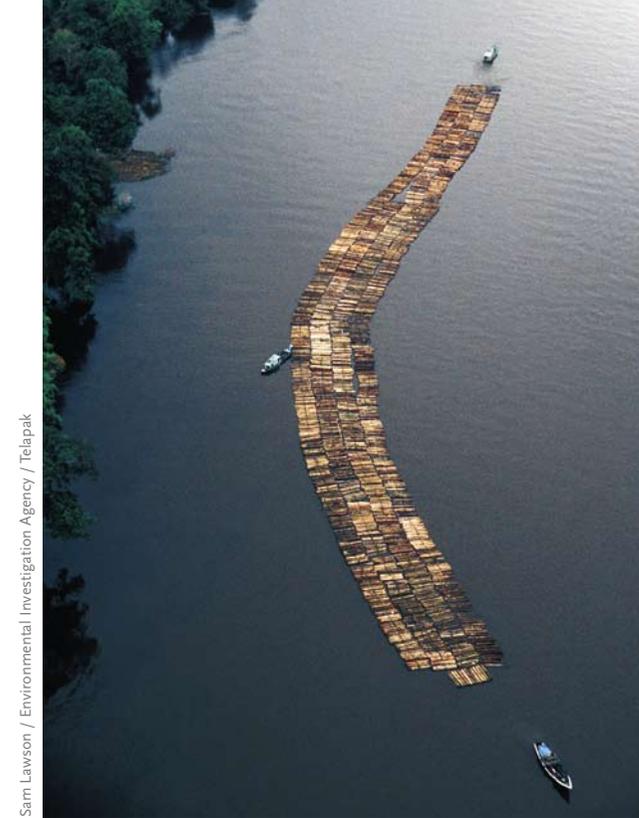
The FLEGT Action Plan does this by focusing on trade policies that are under the control of the EU, and responsible purchasing by governments and timber importers in Member States:

EU trade policies:

- Developing partnerships with countries that want to tackle illegality in their forest sectors and demonstrate that the wood products they export to the EU are legal;
- Developing legislation to encourage importers to take responsibility for the provenance of the wood they buy; and,

Member State buyers:

- Encouraging European governments to purchase legal and sustainable paper, construction timber, office furniture and other forest products.
- Making companies in the EU aware of their responsibility to buy legal and sustainable wood, and helping them develop tools to do it easily.



Sam Lawson / Environmental Investigation Agency / Telapak

A raft of illegal ramin (*Gonystylus* spp.) logs on the Seruyan River near Tanjung Puting National Park, Indonesia.



Commercial logging has resumed in Liberia after four years of thorough reform. Our National Forestry Management Strategy now calls for forests to be managed to bring benefits to local communities, conservation, and commercial forestry (the “three Cs”). In 2006, we passed a reformed Forestry Law and since then the FDA has adopted international standards in forest management, including timber tracking systems operated by SGS Group. We welcome the assistance of Europe and the FLEGT framework in creating a vibrant forest sector and supporting responsible markets at this critical moment for our forests.

*John T Woods
Managing Director, Forestry Development Authority, Liberia*



This very high resolution image of northern Republic of Congo was captured on June 27, 2002, by the commercial satellite Ikonos. The wider-area view at top shows dirt logging roads (orange lines) and different types of forest in the area around the border of the Sangha and Likouala regions. The lower view is a close-up image that shows not only part of a logging road, but also felling sites (clearings where trees are cut down) and skid trails (paths where trees are dragged toward the road.) Individual trees or sections of trees stacked on the road at left look like matchsticks. Text and image courtesy of NASA.

Developing partnership with producer countries

The EU is developing bilateral agreements with countries that export wood products to the EU. These partnership agreements are voluntary for exporting countries and commit the EU to help them improve the stewardship of their forests: introducing systems to regulate forest practices effectively; track forest products and license their exports to EU. Once a country has entered into an agreement it will have an agreed time period to implement the necessary systems, af-

ter which only licensed timber from that country will be accepted at the EU border.

Export licensing will be based on national standards for forest management, rooted in the national laws and regulations of individual partner countries. These cover environmental protection, logging rules, payment of fees, timber trade and transport regulation and property rights, especially those of communities who depend on forests for their livelihoods.

The institutions that form the core of these partnerships will help ensure the rule of law in

the forest sector, and should enable responsible timber companies to more readily achieve certified sustainable forest management by reducing the risk of competition from cheap illegal products. And by purchasing licensed timber products companies reduce their risk of handling illegal products.

However, the agreements, and the transparent systems that back up national legality licenses, are not quick fixes. In some cases they may take a several years to negotiate and implement. Despite this, many hope that this mechanism



The Cameroonian forestry sector has seen a major increase in transparency, greatly due to the collaboration of the government with an independent monitor of forest law enforcement and governance. The government allows an external monitor to scrutinize its activities and to publish the results of its investigations. Key outcomes include a reduction in illegal practices by logging companies to avoid appearing on the public record, a recent official investigation on corruption in the Ministry of Forests, and the review and cancellation of controversial logging permits and law enforcement systems. Comparable benefits are expected to follow in Republic of Congo, where a similar collaboration has recently become operative.

*Andrea Vincent
Independent Forest Monitor, Resource Extraction Monitoring (REM), Cameroon*

for combining trade and aid has the potential to be a significant step towards protecting endangered forests and sharing the benefits of a legal and sustainable forest management in partner countries.

Developing legislation to encourage importers to take responsibility for the provenance of the wood they buy

Because they are bilateral and voluntary, the partnership agreements and the licensing sys-

tems that will be developed under them, face a number of challenges. It may be possible, for example, to continue to export illegal wood to the EU via countries which choose not to enter into Partnership Agreements. The EU cannot tackle this directly because of international trade rules set out by the World Trade Organisation (WTO), but it is working hard to encourage recognition of FLEGT legality licenses and support acceptance of the scheme more broadly by Governments and the private sector.

In order to increase recognition among Eu-

ropean companies, the European Commission has been exploring legislative options premised on the due diligence principle. This would mean that timber traders will be obliged to implement procedures to give them reasonable assurance that the products – be they imported into the EU or domestically produced – were legally harvested. Although the proposed measure would not explicitly make proof of legality a condition of sale, they are likely encourage buyers to source verified/certified wood. If passed, the legislation would also align the EU market with a recent re-

Eric Gevaert / Fotolia.com



The word orangutan is derived from the Malay and Indonesian words *orang* meaning “person” and *hutan* meaning “forest”. Orangutans are critically endangered in Sumatra and endangered in Borneo, according to the IUCN Red List of mammals.



REM



The Voluntary Partnership Agreement (VPA) between the EU and Malaysia under the FLEGT ACTION PLAN is a positive policy in response to changing consumer concerns in the EU. It will ensure continued market access for legally-produced Malaysian timber products into the EU market. It will provide the consumers in the EU with the assurance that only legally produced timber products with a FLEGT License enter the EU market.

*Mr. Lee Ley Yew
EU Timber Trade Action Plan (TTAP) private sector partner, Bortim, Malaysia*

Joint mission between the Republic of Congo Ministry of Forests (MEF) and the REM Independent Monitor, to investigate logging activities in the Abala concession, granted to the company SOFIA, Département des Plateaux, Republic of Congo, November 2007.

vision of the Lacey Act in the USA which makes the import or sale of illegal wood products a federal offence.

Government procurement of timber products

Many countries have green public procurement initiatives, which include standards for purchasing a wide range of products and services. This includes several EU member states – and

a number of other countries – that have policies requiring them to buy only legal and/or sustainable timber and wood products.

It is estimated that government purchasing accounts for up to 20% of any given market, and although the policies have been implemented very recently, evidence in the EU suggests that they are already stimulating the market for legal and sustainable timber, both within and outside of the public sector. In addition to direct demand from governments, companies that serve public

contracts often decide to move their whole supply chains over to responsible products in the interest of efficiency, increasing the total market impact.

The European Commission recently issued guidance to European national governments on green purchasing, including timber. It recommends that governments buy legal timber as a minimum requirement, and give preference to sustainable timber if available.



Dense understorey in the rainforest of Bako National Park, Sarawak, Malaysia.



Villagers making matting for their houses, Manggroholo, West Papua.

Corporate responsible purchasing

The European Union has supported a wide range of projects, often delivered through national trade associations, which encourage timber importers to know the source of their wood, understand the law in the countries from which they buy wood and ensure that their products are legal.



Corruption-free, legal and sustainable forest governance is essential for higher levels of economic development, poverty reduction and environmental protection. The Voluntary Partnership Agreements promote a serious commitment in both demand and producer countries to stem illegal logging and the trade in associated timber products. Transparency International commends the European Commission's pursuit of agreements with key producing countries and looks forward to their effective implementation and, as importantly, their independent monitoring. Transparency International hopes to see the agreements tackle the threat of corruption as both a cause and effect of illegal forest activities.

*Pascal Fabie
Regional Director for Asia Pacific, Transparency International*



Fred Hoogervoort / Panos Pictures

Chainsaw logging in a forest concession in East Kalimantan, Borneo.

FLEGT Glossary

Independent Monitoring

Independent monitoring refers to a range of activities undertaken by organisations that are not involved in regulating forestry practices or logging, with the aim of identifying and eliminating forest crime. There might be monitoring, for example, of the initial allocation of logging concession permits, the management of these concessions and related logging activities, as well as the subsequent processing and trade in forest products. A number of the principles of independent monitoring will be incorporated into voluntary partnership agreements to en-

sure that legality assurance schemes function effectively.

Legality Assurance Systems (LASs)

Systems to control and independently audit production forests and the supply chains of timber bound for the European market.

Public Procurement Policies (PPPs)

Also known as Government procurement policies. Member State policies setting out requirements for officials and government agencies with purchasing power. It is estimated that gov-

ernments represent up to 20% of the market for forest products. Under the FLEGT Action Plan Member States are encouraged to develop criteria for all relevant forest products, which ensure that they are independently verified as legal and/or sustainable.

Voluntary partnership agreements (VPAs)

Legally-binding agreements between partner countries and the European Union, which support trade in legal timber that is produced according to standards of legality defined through a multistakeholder dialogue, and subject to independent audit.

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