



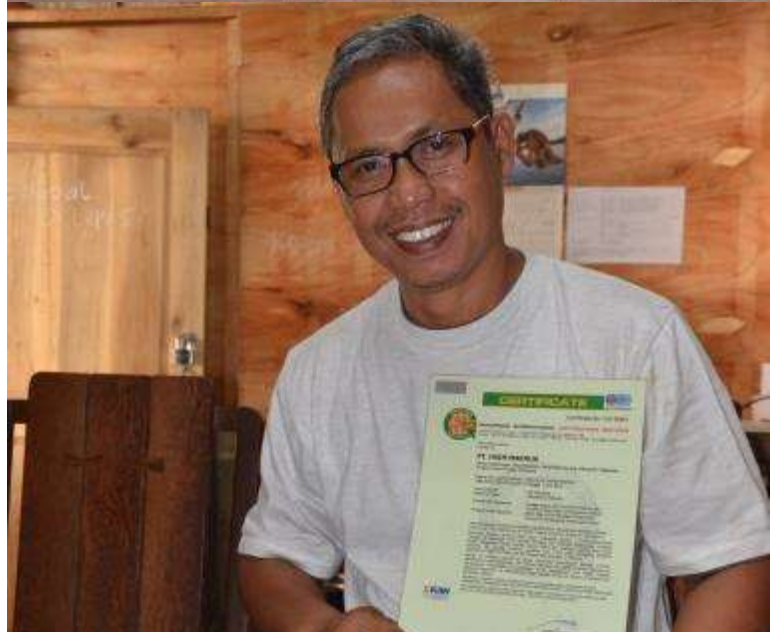
FINAL REPORT
Volume 1
(Main Report)

Evaluation of the
EU FLEGT Action
Plan
(Forest Law
Enforcement
Governance and Trade)
2004-2014

Final Version
27 April 2016



S-FOR-S



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Cover Photos

Wood tracking system used by logging company in Kumasi (May 2015, Ghana)

Credits: Ernst Paul Zambon

Logyard at local sawmill (May 2015, Ghana)

Credits: Marlen Arkesteijn

Sokoban wood market in Kumasi (May 2015, Ghana)

Credits: Ernst Paul Zambon

SVLK (Indonesian TLAS) certified SME owner (June 2015, Indonesia)

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ACRONYMS

AA	Action Area
ADB	Asian Development Bank
AFD	Agence Française de Développement
AfDB	African Development Bank
AM	Aide-Mémoire
AML	Anti-Money Laundering
AP	Action Plan
APG	Asia/Pacific Group on Money Laundering
ASEAN	Association of Southeast Asian Nations
ASEM	Asia Europe Meeting
ATD	Accounting and Transparency Directive
ATIBT	Association Technique Internationale des Bois Tropicaux
BCM	Bilateral Coordination Mechanism
BRICS	Brazil, Russia, India, China and South Africa
BV OLB	Bureau Veritas - Origine et Légalité des Bois
CA	Competent Authority
CAR	Central African Republic
CBD	Convention on Biodiversity
CBO	Community Based Organization
CBFP	Community Based Forest Programme
CIFOR	Centre for International Forest Research
CITES	Convention on International Trade in Endangered Species
DEVCO	Directorate General Development and Cooperation of the EC
CED	Centre pour l'Environnement et le Développement (Cameroon)
CFM	Community-based forest management
CoC	Chain of Custody
COMIFAC	Commission des Forêts d'Afrique Centrale
CSO	Civil society organization
CSR	Corporate Social Responsibility
COP	Conference of Parties
CPI	Corruption Perceptions Index
DC(I)	Development Cooperation (Instrument)
DEVCO C2	DEVCO Environment, ecosystems, biodiversity and wildlife unit
DD (S)	Due Diligence (System)
DFI	Development Finance Institution
DFID	Department for International Development
DG	Directorate General (of the European Commission)
DG-GROW	DG Internal Market, Industry, Entrepreneurship and SMEs
DG-ENV	DG Environment
DHTT	Double Helix Tracking Technology
DRC	Democratic Republic Congo
EBRD	European Bank for Reconstruction and Development
EC	European Commission
ECA	Export Credit Agency
EEAS	European External Action Service
EFFACE	European Union Action programme to fight environmental crime
EFI	European Forest Institute
EFTA	European Free Trade Area

EIA	Environmental Investigation Agency
EIB	European Investment Bank
EITI	Extractive Industry Transparency Initiative
ENGO	Environmental NGO
ENRTP	EU's Thematic programme on Environment and Sustainable Management of Natural Resources including Energy
EP	European Parliament
EQ	Evaluation Question
ETTF	European Timber Trade Federation
EU (D)	European Union (Delegation)
EUPP	European Procurement Policy
EUR	Euro (€)
EUTR	European Union Timber Regulation
F&I	Finance and Investment
FATF	Financial Action Task Force
FAO	Food and Agriculture Organisation
FBI	Forest Based Industries
FERN	Name of a Environmental NGO
FGMC	Forest Governance, Markets and Climate programme (UK)
FLA	Forest Legality Alliance
FLEG/T	Forest Law Enforcement Governance / and Trade
FM	Forest Monitor
FSC	Forest Stewardship Council
FSM	Forest Sector Monitoring
FTA	Free Trade Agreements
FTE	Full time equivalent
FW	FLEGT Week
GDP	Gross Domestic Product
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GFR	Global Forest Registry
GFTN	Global Forest & Trade Network
GTF	Global Timber Forum
GTS	Global Traceability Solutions
GTTN	Global Timber Tracking Network
GW	Global Witness
IA	Independent Auditing
IADB	Inter-American Development Bank
IFC	International Finance Corporation
IFM	Independent Forest Monitoring
IMM	Independent Market Monitoring (project)
IO	Independent Observation
ITTA	International Tropical Timber Agreement
ITTO	International Timber Trade Organization
JIC	Joint Implementation Committee
LCB	La Commerce du Bois
LEAF	Law Enforcement Assistance for Forest
LF (M)	Logical Framework (Matrix)
M&E	Monitoring and Evaluation
MO	Monitoring Organisation
MoU	Memorandum of Understanding
MS	Member State

NA	Not applicable
NFP	National Forest Programme
NRM	Natural Resources Management
NGO	Non-Governmental Organisation
ODA	Overseas Development Assistance
OECD	Organisation for Economic Cooperation and Development
OLB	Origine et Légalité des bois
OVI	Objectively Verifiable Indicator
PEFC	Programme for the Endorsement of Forest Certification
PAFC	Pan African Forest Certification
PC	Producer Country
PES	Payments of Ecosystem Services
PFI	Private Financial Institutions
PNG	Papua New Guinea
PPP	Public Procurement Policy
PS (I)	Private Sector (Initiative)
PSO	Private Sector Organization
PwC	PricewaterhouseCoopers
RECOFTC	Regional Community Forestry Training Centre for Asia and the Pacific
REDD+	Reducing Emissions from Deforestation and Forest Degradation
REM	Resource Extraction Monitoring
RMI	Raw Material Initiative
ROM	Result Oriented Monitoring
RPP	Responsible Purchasing Policy
SC	Steering Committee
SCS LHV	SCS Global Services - Legal Harvest Verification
SFM	Sustainable Forest Management
S-FOR-S	Sustainable Forest Services
SFWG	Sustainable Forestry Working Group
SGS	Société Générale de Surveillance SA
SME	Small and Medium Enterprise
SSI	Semi Structured Interview
STTC	Sustainable Timber Trade Coalition
SVLK	Indonesian TLAS
SFWG	Standing Forestry Committee Ad Hoc Working Group
TA	Technical Assistance
TFA	Tropical Forest Alliance
TEREA	Terre Environnement Aménagement
TFT	Tropical Forest Trust (formerly The Forest Trust, now just TFT)
TI	Transparency International
TIDD	Timber Industries Development Department
TLAS	Timber Legality Assurance System
TLTV	Timber Legality and Traceability Verification
TM	Team (of FLEGT APE)
ToR	Terms of Reference
TPAC	Timber Procurement Assessment Committee
TPPP	Timber Public Procurement Policies
TRG	Track Record Global Ltd.
TTF	Timber Trade Federation
TTAP	Timber Trade Action Plan
TTF	Timber Trade Federation

UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
UNFCCC	United Nations Framework Convention on Climate Change
UNFF	United Nations Forum on Forests
UNODC	United Nations Office on Drugs and Crime
UNREDD	United Nations REDD Programme
UNSC	UN Security Council
US(A)	United States (of America)
USAID	United States Agency for International Development
VLC	Verification of Legal Compliance
VLO	Verified Legal Origin (verification)
VNGO	Vietnamese Non-Governmental Organizations
VPA	Voluntary Partnership Agreement
WB	World Bank
WRI	World Resource Institute
WTO	World Trade Organization
WTS	Wood Tracking System
WWF	World Wide Fund for Nature



*Local activists (Ghana, May 2015,
Credits: Marlen Arkesteijn*

ABSTRACT

A team of eight experts has conducted an independent evaluation of eleven years (2004-2014) of implementation of the EU Action Plan on Forest Law Enforcement Governance and Trade (FLEGT), commissioned by the European Commission through the European Forest Institute.

The Evaluation Report comprises two volumes: Volume 1, the Main Report, presents the evaluation approach and methodology, gives an overview of the Action Plan, its genesis, objectives and structure, and documents the state of play of implementation in the seven Action Areas, against initial expectations. It then answers the ten evaluation questions around which the evaluation has been structured, which relate to the five OECD/DAC evaluation criteria (relevance, effectiveness, efficiency, impact, sustainability) and two criteria that apply to EC policies (coherence/complementarity and Community value added).

Volume 2 contains all supporting documentation, in particular Survey results and (24) Aide-memoires on FLEGT in EU Member States, VPA countries and other timber producer and consumer countries. It also presents a detailed report on VPAs, covering two key areas of the Action Plan in more detail: (1) Support to timber-producing countries and (2) Trade in timber.

The report draws lessons and conclusions and presents ten key messages and detailed corresponding recommendations to guide future EU efforts on FLEGT and, more broadly, on reversing the loss of forest cover and promoting sustainable management of forest resources.



Illegal chainsaw lumber being sold at the Sokoban wood market in Kumasi (May 2015, Ghana)

Note: chainsaw milling is illegal in Ghana; the picture clearly shows the chainsaw marks

Credits: Ernst Paul Zambon

EXECUTIVE SUMMARY

The key findings emerging from the evaluation are the following:

1. The EU FLEGT Action Plan continues to be fully relevant but needs to address new challenges, in particular with regard to deforestation and forest conversion.
2. The overall design is innovative, comprehensive and future-proof, but objectives and intervention logics need to be clarified. Main pillars and action areas should be retained, but FLEGT support to producing countries should be delivered in a more demand-driven and flexible manner, while bottlenecks affecting VPAs should be addressed and the private sector more involved.
3. The Action Plan has not been implemented in a sufficiently balanced manner; strategic direction and monitoring of FLEGT Action should be improved; management and outcome monitoring also need strengthening and require corresponding human and financial resources.
4. Communication has initially not been commensurate to the importance of the EU FLEGT Action Plan as an innovative and experimental policy initiative. More attention should be given to internal and external FLEGT communication at all levels.
5. While the Action Plan contributes to its specific objectives, effectiveness across action areas varies widely. Shifts in priorities and approaches within and between actions areas are required, notably with regard to VPA and EUTR implementation and private sector engagement.
6. While the direct FLEGT objective of decreased EU imports of illegal wood is being achieved, a shift in geographical focus to non-VPA countries and focus on international coalitions is required - if global illegal logging and trade is to be addressed.
7. The EU FLEGT Action Plan is resulting in improved forest governance in all targeted countries, both VPA and non-VPA. However, fundamental governance challenges persist, slow down progress and need more effective tackling.
8. FLEGT's contribution to the higher objective of Sustainable Forest Management is unclear and needs to be made more explicit. FLEGT has proven to have potential to make an important contribution to poverty reduction, but this requires more attention for domestic timber markets and support for the actors operating in them.
9. FLEGT is largely coherent with EU and international policies. While the principle of basing VPAs primarily on national legislation should be maintained, due attention should be given to obligations deriving from international conventions as well.
10. The FLEGT Action Plan has clear EU added-value through its market leverage and increased political weight. However, effective implementation requires broader political and financial support and promotion across EU Member States, as well as enhanced coordination.

Background and objectives of the evaluation

This report is the final output of the team of consultants in charge of the independent evaluation of the EU FLEGT Action Plan (hereinafter the 'Action Plan'). It synthesizes all information collected during the desk, the field and the synthesis phases and answers the ten questions around which the evaluation is structured, presented below.

The *Objectives* of the evaluation, as defined in the Terms of Reference, are threefold;

- (1) *Document and assess progress and achievements, as well as any possible shortcomings and/or gaps: what has been undertaken and achieved under the FLEGT Action Plan, and what have been the main challenges, limitations, gaps and shortcomings? What are the intended and unintended impacts so far and what are the indications that the Action Plan is producing changes that are likely to lead to a significant reduction of illegal logging?*
- (2) *Assess and analyse changes in the global context (including the evolution of global timber trade flows, international policies on forests, drivers of deforestation, changing governance challenges and other policy initiatives complementing the Action Plan) and how they affect the relevance and the implementation of the Action Plan.*
- (3) *Draw lessons and formulate recommendations that could guide future EU efforts on FLEGT and, more broadly, on reversing the loss of forest cover and promoting sustainable management of forest resources based on the findings under objectives 1 and 2.*

The *Evaluation scope* covers the first 11 years of implementation of the EU FLEGT Action Plan (2004-2014) and includes all actions undertaken by EU institutions, Member States and partner countries, including efforts of non-state actors and international organizations. It covers the seven Action Areas of the Action Plan and their interrelationships. Particular attention was given to the Voluntary Partnership Agreements (VPAs), which are at the heart of the Action Plan and have mobilized substantial resources by partner countries, the European Commission and some Member States.

The *Final Report* of the evaluation comprises two volumes: *Volume 1*, the Main Report, presents the evaluation approach and methodology, and an overview of the EU FLEGT Action Plan, its genesis, objectives and structure. It provides an overview of the state of play of implementation of the Action Plan in the seven Action Areas against initial expectations. This constitutes the basic material used in the analysis provided in the core part, chapter 5, which answers the evaluation questions. Volume 1 closes with a synthesis of the main conclusions and recommendations. *Volume 2* contains all Annexes supporting and completing the contents of the Main Report, including a more detailed report on VPAs.

Approach and Methodology

Chapter 1 presents the background to the evaluation, its objectives and scope, and explains how the report is organised. *Chapter 2* presents the *evaluation methodology*. In order to respond to the complexity of the FLEGT Action Plan evaluation, involving many stakeholders, achievements and challenges, changes in context, and the articulated need for the evaluation to be 'forward-looking', the team has employed a '*realist approach*'. A realist approach focuses on questions such as '*what works or does not work, for whom, in which context and why?*' and, based on this, '*how can FLEGT be improved?*' Besides collecting and analysing 'hard quantitative data', the team explicitly took the perspectives of different groups of stakeholders into account, at the level of the EU and its Member States as well as in producer (VPA and non-VPA) and non-EU consumer countries. Specific attention was given to emergent outcomes, both positive and negative, and the underlying causal pathways.

The evaluation process was conducted in four phases; during the *Inception Phase* (December 2014 - February 2015), the ten evaluation questions were formulated and a framework for answering them was developed. Most of the review of the extensive literature on FLEGT and related issues that has accumulated over the past eleven years was carried out during the *Desk Phase*. Surveys of EU Member States and all VPA countries were conducted, as well as an open public consultation, freely accessible on a website dedicated to the evaluation. The Open Public Consultation was also

published on the European Commission's website "Your Voice in Europe". In addition, the team has used inputs from the FLEGT Week 2015 and other FLEGT-related events.

During the *Field Phase*, visits were made to five VPA countries, two non-VPA producer countries, and China, a key consumer and processing country. Within the EU, visits were made to seven Member States. In addition, e-mail exchanges and teleconferences were organized with two VPA countries, four producer countries and four non-EU consumer countries. Hence, a total of 25 countries in seven categories have been subject to detailed analysis.

During the *Synthesis Phase* (August - October 2015), the Surveys and Aide Memoires were analysed, and findings combined with the initial findings presented in the Desk Report.

The EU FLEGT Action Plan

Chapter 3 presents the genesis, objectives and structure, the delivery architecture and the implementation timeline of the *EU FLEGT Action Plan*. It sets the Action Plan in its historical context, which helps to understand some of its features. Although called an Action Plan, FLEGT is really a policy framework, for implementation by the European Commission and its Member States. As a policy framework, the Action Plan does not have a single objective, as much as a hierarchy of loosely defined objectives and 'higher objectives'. The *overall objective* is fairly general: 'to support efforts to tackle the problem of illegal logging and related trade'.

The Action Plan was meant to be the start of a process designed to reduce the demand of illegally harvested timber in the EU, as a specific objective, and ultimately in major markets elsewhere in the world, as the global objective, while strengthening forest governance in producer countries. The *higher objectives* of the Action Plan are best expressed in the Council 'Conclusions'¹, which stressed the need for FLEGT 'to be addressed in terms of sustainable development, sustainable forest management and poverty reduction, as well as social equity and national sovereignty'. Explicit links to EU development priorities relating to good governance and poverty alleviation were also stressed. Member States were urged to provide funding and mainstream forest governance reforms in their development cooperation programmes.

The Action Plan set out a package of measures through which the EC proposes to achieve the FLEGT objectives, focusing on *seven broad areas* ('action areas'), as follows:

1. *Support to timber producing countries, including action to (1) promote equitable and just solutions to the illegal logging problem, (2) verification systems, (3) transparency measures, (4) capacity building and (5) policy reform;*
2. *Activities to promote trade in (legal) timber, including action to (1) develop the multilateral framework and pursue multilateral cooperation, (2) develop voluntary licensing of exports (through bilateral or regional FLEGT Partnership Agreements between the EU and timber exporting countries) and (3) review and develop additional legislative options.*
3. *Promotion of public procurement policies, including actions that guide contracting authorities on how to deal with legality when specifying timber in procurement procedures.*
4. *Support for private sector initiatives, including action to encourage private sector initiatives for good practice in the forest sector, including the use of voluntary codes of conduct for private companies to source legal timber.*
5. *Safeguards for financing and investment, including action to encourage banks and financial institutions investing in the forest sector to improve due diligence when making investments.*
6. *Supporting the EU FLEGT Action Plan with existing legislative instruments including (1) anti-money laundering legislation, (2) the CITES Convention and (3) other legislative instruments such as the OECD Convention on Bribery and Corruption.*
7. *Support work undertaken to address the problem of conflict timber*

¹ Council Conclusions on Forest Law Enforcement, Governance and Trade (2003/C 268/01)

The seven Action Areas of the FLEGT Action Plan reflect a *strategy* of developing voluntary, legally binding, bilateral trade agreements which prohibit the placing of illegal timber on the EU market, supported by collaborative actions by both producer countries and the EU consumer countries. The three main pillars of action include (1) *supply-side support* in producer countries to reduce the supply of illegal timber (through governance reforms and development of a licensing system), (2) *demand-side measures* in consumer countries to reduce the demand for illegal timber (through public procurement policies, private sector initiatives and finance and investment safeguards), and (3) *trade agreements* – supported by *dialogue and international collaboration* - to link the demand- and supply-side measures and incentivise both.

Implementation State of Play

Chapter 4 reviews the *Implementation State of Play*. The conclusion is that results and effectiveness in the various action areas vary widely. One Action Area in particular (Trade in Timber) is found to be less effective, due to the difficulties encountered in producing FLEGT-licensed timber. Some other areas have received little attention (AA 5, 6 and 7) and their effectiveness is more difficult to assess.

In terms of *Supply-side support*, *Support to producer countries (AA1)* has effectively contributed to ‘improved governance’, though the high variability between countries makes it difficult to generalise. ‘Equitable solutions’ has seen great achievements, particularly in the engagement of diverse national stakeholders in VPA processes but, at the same time, many SMEs are or risk being negatively affected by the implementation of VPA’s. ‘Transparency’ has, in most countries, seen good progress, but work on ‘Legality verification systems’ has been less effective. Capacity building of civil society and government has been relatively effective, but effective engagement of the private sector stakeholders has remained weak, despite a number of initiatives lead by organisations such as WWF, TFT, TRAFFIC, ATIBT, ETTF and the GTF. In many countries, first steps in ‘policy reform’ have been made, but a lot still needs to be done, particularly in terms of implementation of new legislation. To date, the supply-side measures have not resulted in the issuance of any FLEGT licences, although some countries are expected to issue licenses in the course of 2016.

In the *Dialogue and international collaboration* pillar (which includes Trade agreements), the bilateral dialogues with a range of countries are found to be effective, though better use could be made of them. In the area of *Trade in Timber (AA2)*, the *Voluntary Partnership Agreements appear less effective*. They provide, for countries that choose to do so, an opportunity to address systemic challenges, to result in the legal harvesting and associated trade of timber bound for all markets – not just EU. However, some of the forest governance challenges turn out to be deeply rooted and require sustained action over a long timeframe. Besides problems related to implementation, the effectiveness of VPAs has initially been constrained by a lack of market incentives. The EUTR partly addresses the problem by providing a green lane for FLEGT licensed timber on the EU market; however, in the absence of FLEGT licenses; the instruments have yet not become mutually supportive as expected.

Regarding *Demand-side measures*, the efforts made to develop and start implementation of relevant legislation and regulations (FLEGT and EUTR) have been effective, though full implementation is lagging behind. The ‘additional legislation’ foreseen under *Trade in Timber (AA2)* - and specifically the development and entry into force of the EUTR - and *Public Procurement Policies (AA3)* are likely to have contributed – among other factors – to a reduction of consumption of illegal timber in the EU; they are relevant for achieving the direct FLEGT objective. *Private Sector Initiatives (AA4)* saw a number of activities with limited success. Because of a lack of attention given to them, *Financing and Investment Safeguards (AA5)* have not produced any results attributable to FLEGT. Likewise, *the Use of Existing Legislation (AA6)* has not been particularly effective - with the exception of a synergetic CITES-EUTR relationship - mostly due to a lack of actions by Member States in this field. *Conflict Timber (AA7)*, lastly, has not seen any significant activities or achievements.

Answers to Evaluation Questions

Chapter 5 presents the answers to the ten Evaluation Questions, organised by evaluation criteria.

On relevance:

EQ1. *What are the objectives and overall strategy of the FLEGT AP and how were they set? To what specific problems did the AP respond and how were these problems identified? How were the objectives relevant to those issues and to stakeholder priorities, needs and interests in the EU MS and in producer countries, in 2003 and nowadays?*

It was found that the EU FLEGT Action Plan has responded in an innovative manner to the main concerns of the international forest sector at the turn of the century, and thus in 2003, the Action Plan was highly relevant. Despite slow progress on some fronts, there is still broad support for FLEGT across EU and VPA country government institutions, civil society and the private sector, and for maintaining Law Enforcement, Governance and Trade as its key pillars. Changes in the global context require some revision of the Action Plan's original strategies. Three developments stand out, namely a declining role of the EU in global timber trade while domestic and regional markets for timber and fuel wood have grown; a growing trend in the permanent conversion of forests to other land uses, in particular agriculture, be it legal or illegal; and a shift in EU and global commitments towards addressing climate change, global deforestation and forest degradation. FLEGT can contribute to addressing these challenges through the platforms, capacities and the systems it has built, but an effective combat of global deforestation will require broader action involving all sectors impacting on land use, including greater integration with REDD+ efforts.

On design:

EQ2. *How were the seven Action Areas and related actions and policy instruments designed and to what extent were they necessary and sufficient for achieving the objectives of the FLEGT AP? Were there any important omissions? Has the selection of partner countries been appropriate? In light of external developments since 2003 and current trends, is the design still appropriate today and likely to be appropriate in the future?*

Concerning the *design* of the Action Plan, it was found that the EU FLEGT Action Plan is based on an innovative and experimental design, combining demand and supply measures, development and trade actions. The intervention logics links the overall objective of "*reduction in illegal logging and related trade*", to three impact pathways or sub-objectives: (1) "*establishment of trade agreements that seek to minimise the availability of illegal wood-based products on the European market*", (2) "*demand-side measures to reduce the end-use of illegal timber and wood based products to and from within the EU*", and (3) "*improved forest governance to reduce the supply of illegal wood-based products*". This approach effectively engages the European Commission, EU Member States and third countries as well as a range of NGOs and private sector actors playing different roles in the combat of illegal logging and the related trade. The overall design is considered to be 'future-proof' provided that certain shifts in focus are made in the *operationalization and implementation* of the Plan.

However, if it had not been for the attention for the domestic market and for including 'exports to all countries', FLEGT might well have turned out rather irrelevant these days. Attention for domestic markets and exports to all countries together have made that FLEGT action could give a real impetus to forest governance. These two elements (domestic markets, export to all countries) were not included in the original design, but emerged around 2005 through pressure of the NGOs.

A crucial element that has received little attention, considering the magnitude of the initiative, is communication, both internal and external. This has contributed to confusion among stakeholders about objectives, strategies and instruments of the Action Plan, and has limited its effectiveness.

On effectiveness:

EQ3. To what extent have interventions and policy measures within the seven Action Areas led to the intended results (output and outcomes)? What mechanisms, actors and factors have influenced the levels of achievement, and how could the effectiveness of the action areas be increased?

The FLEGT Action Plan has contributed to improved forest governance globally and has probably contributed to the reduction of the European demand for and imports of illegal timber as well. The degree of effectiveness achieved in each of the Action Areas however, is very variable. The overall assessment is that there has been significant progress on support to producer countries and on public procurement policies. Voluntary Partnership Agreements have produced important improvements in the area of forest governance, and the EU Timber Regulation has been put in place, though not fully operational as yet. Private sector initiatives have received some support but could have seen stronger engagement on part of the EU (Commission and MS) and the private sector itself.

Progress on conflict timber, on finance and investment and on the use of existing legislation has lagged behind. Most serious bottlenecks are encountered in the action area of 'Trade in Timber' which includes the VPAs and the EUTR. While acknowledging the very ambitious objectives of this action area, the progress made in some countries and the impact which development of licencing systems has already had on behaviours and practices in advance of the introduction of licencing, the difficulties experienced in meeting the requirements of Timber Legality Assurance Systems and producing FLEGT-licensed timber make that many stakeholders have become sceptical about FLEGT. Furthermore, implementation of the EUTR, adopted as additional legislation to support VPA implementation has been weak. Careful rethinking of this Action Area is required.

On efficiency:

EQ4. Have the elements of the FLEGT Action Plan been implemented in a balanced manner, reinforcing each other and producing the expected synergy? Have there been any gaps or shortcomings in the implementation and management of the FLEGT AP, and how has this affected its overall effectiveness?

Structures for management and coordination of activities under the FLEGT Action Plan have been put in place but have not been sufficiently effective. There is no clear implementation strategy to guide activity planning, beyond what emerges from bottom-up processes in partner countries, or any indicators for outcome-oriented monitoring. As a result, the seven Action Areas have not been implemented in a well-balanced manner and the synergies produced between action areas could be stronger. Planning and monitoring systems for VPAs and related support actions have started to become operational, but it is unclear how they feed back into the FLEGT strategic processes. Meanwhile, human resources for management of FLEGT action, and VPAs in particular, have been over-stretched due to the unforeseen complexity of the VPA processes and the long-term obligations involved; a continuation of FLEGT/VPA action will require matching resources. While FLEGT has mobilised significant funding, there is no central function to keep track of FLEGT-related funding, projects and their costs and provide strategic guidance. This hinders monitoring of cost-effectiveness.

EQ8. To what extent have the various FLEGT actions, by the EC, by MS and by partner countries been cost-effective and commensurate instruments for achieving FLEGT objectives?

Many stakeholders in producer countries recognise FLEGT as a relatively cost-effective but long-term process, justifiable for numerous reasons, including wider governance benefits. There is a felt need for stronger private sector involvement and for simplification of procedures to comply with VPA/EUTR requirements in order to increase cost-effectiveness for forest-based businesses. At the same time, there are indications that FLEGT processes are human resource intensive and place a significant burden on public authorities, both in the EU and in producer countries.

As there is a lack of detailed information on FLEGT expenditure and benefits; therefore, the evaluation focused on analysis of costs and benefits based on estimates. Investments in the FLEGT

Action Plan for the period 2003–2014 are estimated at €900 M, including the different European Commission budgets, MS and partner country contributions. The main expenditure (> 73%) has gone into AA-1 (Support to producer countries). It should be noted, however, that a significant share of the support to producing countries has been to support trade and private sector initiatives. A total of 46 countries has received direct support (under AA1), among which 15 VPA countries. FLEGT support has been found to be very uneven between countries, and engaging in a VPA does not guarantee direct support from the European Commission or donors. Lastly, it was found that contributions, in terms of financial and human resources, vary significantly between Member States and partner countries.

On impact:

EQ5. To what extent have the objectives of the FLEGT AP been achieved or are they likely to be achieved? To what extent and how did FLEGT Actions contribute to these achievements and to what extent were achievements the result of other instruments and trends? What actors, factors and mechanisms are affecting FLEGT AP impact? Which stakeholders have benefited and which have not?

The EU FLEGT Action Plan is likely to have contributed to reduced demand of illegal timber. Assessments indicate that the round wood equivalent (RWE) volume of the EU's imports of illegal wood-based products decreased between 2003 and 2013. It is less clear how much difference the FLEGT Action Plan has made to the decline through public procurement policies, VPAs and the EUTR. FLEGT processes have also contributed to improved forest governance across all VPA countries. However, the achievement of the main objectives is slow due to persistent governance challenges, a lack of incentives and political will and/or difficulties in practical implementation of VPAs. While the EU FLEGT Action Plan contributed to reduced demand of illegal timber and improved governance, there is less progress on the overall objective of reducing Illegal Logging and Related Trade globally. Analysis undertaken for this evaluation concludes that most current VPA countries do not account for a substantial share of either (a) illegal round wood production or trade globally or (b) the EU's imports of illegal wood-based products. For the world's main consumer countries, however, half of illegal imports originate from VPA countries, while China and Russia are the other main sources. This implies that the Action Plan should not confine itself to VPAs, but increase its focus on influencing other countries' import and export practises, if it is to achieve the overall objective of reducing the illegality of timber production and related trade.

EQ6. What other emergent, unexpected outcomes, impact and side effects, either positive or negative, have FLEGT actions (including the EU-TR) brought about? Who benefitted and who did not, and through which mechanisms?

The EU FLEGT Action Plan has had impacts that go well beyond the initial objective of curbing illegal logging, and there is an overall positive perception of the FLEGT process and its emergent outcomes. They relate to developments that would probably not have happened without the implementation of the EU FLEGT Action Plan: the possibility for civil society groups to table issues that could not be discussed before, including the current discussions on conversion timber; the opportunity for the private sector to influence government forest policies; enhanced communication between ministries and levels of government in countries where information sharing is not common practice, and experience with multi-stakeholder dialogue has enabled communities to better deal with conflicts. At the same time, however, FLEGT seems to have contributed to a reduction in tropical timber imports, as it exposes and stresses illegality, rather than virtuous legal practice; this has negatively affected the competitiveness of the sector as a whole. There is a felt need for positive image building, marketing and publicity, supported by the EU, of legal and responsible timber, in line with VPA obligations. Another emergent outcome is increased confusion, among operators and producers, of Due Diligence requirements across buyer countries; there is a need for enhanced harmonisation. At the same time, while the impact of FLEGT on SFM certification globally is unclear, there is increasing convergence between private SFM certification schemes and EUTR/Due Diligence requirements, which can be built on further in order to enhance overall FLEGT effectiveness.

EQ7. To what extent has the FLEGT Action Plan contributed to its higher objectives in partner countries? Through what pathways have these benefits been achieved, and how could the FLEGT AP contribution to these objectives be enhanced? How could good practices from FLEGT inform work in other sectors?

The EU FLEGT Action Plan should contribute to the higher objectives of sustainable forest management (SFM) and to Development Cooperation objectives of poverty reduction in the context of sustainable development, but it is found that it does not make sufficient contribution to these goals. If legal compliance may pave the road toward sustainable forest management (certification) at the logging operation level, there is little indication that this mechanism is materialising at nation-wide level as well. Furthermore, challenges related to the informal timber sector linked to domestic markets, and to the SMEs and smallholders involved in these markets, have gained recognition, especially since most partner countries included domestic markets in the scope of their VPAs; several studies highlight the huge quantities of timber logged – largely illegally or informally - for domestic use, exceeding by far the quantity of timber exports in many of the VPA countries, and the absence of proper legal frameworks for a sector in which hundreds of thousands of local actors operate. VPA's are likely to have a negative impact on these people's livelihoods if illegalities in the domestic markets are not equitably addressed and alternative livelihoods not developed.

On sustainability:

EQ9. How likely are FLEGT mechanisms, systems and positive impacts to be sustained and over what time frame? To what extent do the issues addressed by FLEGT interventions continue to require action at the EU level, and what could be the consequences of stopping the EU interventions? What factors and conditions foster sustainability of FLEGT results? What are the linkages, spin-offs or synergies of FLEGT action with wider multi-lateral processes, such as UNFF, international initiatives such as the US Lacey Act or REDD+ processes?

The EU FLEGT Action Plan has already yielded some lasting changes in producer countries (e.g. governance, inclusive dynamics) and is starting to generate change in the timber trade as well (e.g. behaviour of EU importers, dialogue and cooperation among market actors globally). However, some of the gains have been only theoretical and still need to be implemented, while others are still at risk of reversal. A lot also remains to be done to make FLEGT effective in the first place, in particular making VPAs function fully, up to issuance of FLEGT licenses. Implementation of fully functional TLAS in VPA countries will still require continued investments to keep improving governance frameworks (institutions, laws, policing, judiciary, etc.), to strengthen capacities in all stakeholder groups and build operational systems. At the same time, FLEGT processes have generated long-term obligations. Sustainability of FLEGT success therefore hinges to a large extent on continued high-level political commitment to FLEGT in the EU. It will also depend on the EU's ability to exercise influence, despite its declining trade leverage, and motivate others to act as well, including key countries (China, Japan, Brazil, Indonesia) and institutions (WB, FAO, ITTO, ASEAN, INTERPOL, among others) and to incorporate forestry in free trade agreements. Linkages with other relevant international initiatives, such as UN-REDD+, creates many synergies and reinforces FLEGT.

On Coherence:

EQ10. How have coherence and complementarity for FLEGT been pursued, to what extent have FLEGT measures complemented, duplicated or contradicted other EC, MS and other donor policies, strategies and programmes, and how have interferences been handled? To what extent does the EU action under the FLEGT AP add value to what would have resulted from Member States' interventions in the same context?

FLEGT tends to be seen as a 'good example of policy coherence', by design and in relation to other EU and international policies and frameworks. However, the policy coherence of FLEGT is increasingly subject to discussion in view of the global debate on deforestation from forest conversion. While FLEGT instruments, in particular the VPAs, can help address challenges of illegal forest conversion through various levers and tools (governance, dialogues, legality definitions, TLAS, linkages with REDD+ processes, forest surveillance), subsidies for 'industries and activities that destroy forests' clearly undermine the public perception of FLEGT if it is unable to address such challenges. Another risk, in terms of vertical coherence, is that by entrusting definition of legality to national legislation in producer countries, the EU may not live up to its own international commitments. In the absence of an international law on forests, reference to the national laws for both EUTR and VPA has resulted from the fundamental principle of national sovereignty of the producing country in FLEGT. While this is a key value in the FLEGT approach, which contributes to national ownership, sustainability and more effective enforcement of FLEGT at local level, it also creates potential deficiencies, especially with regards to human rights and protection of indigenous communities.

On EU Added Value:

Lastly, the FLEGT Action Plan generates clear EU Added Value through EU market leverage, aid coordination, and increased political weight. While it has stimulated collaboration among initiatives and a harmonisation of national approaches, there appears to be a need for a more active participation on the part of a number of MS; the majority of Member States has not actively supported the Action Plan. There is also a need for more coordination across initiatives and for improved collaboration between Member States and the Commission.



*Community Forest Committee and interested community members (Ghana, May 2015,)
Credits: Ernst Paul Zambon*

1 INTRODUCTION TO THE EVALUATION

1.1 Background

This final report is the last and principal output of the independent evaluation of the EU Action Plan on Forest Law Enforcement Governance and Trade, hereinafter the 'EU FLEGT Action Plan', over the period 2003-2014. It synthesizes all information collected during the desk, field and synthesis phases, and aims to answer each of the ten evaluation questions around which the evaluation is structured and provide conclusions and recommendations for future policy action.

The contract for the assignment (Procurement Reference number F-2014-8.2-24) was awarded on 10th November 2014 by EFI, on behalf of the European Commission, based on the Terms of Reference for the assignment (Volume 2, Annex 1) and the approach and methodology originally presented in the Technical Proposal submitted in October 2014. The evaluation team was mobilised under the Terre Environnement Aménagement (TEREA) Consortium comprising TEREA, S-FOR-S and Topperspective as constituting companies. The assignment was carried out over a period of one year, from November 2014 to November 2015.

The team comprised the following eight independent experts: Egger Topper (evaluation and forestry specialist, team leader), Marlen Arkesteijn (sociologist and evaluation methodologist), Catherine Mackenzie (social anthropologist and forest governance specialist)², Paul Zambon (forest certification and conservation specialist), Yann Petrucci (forest policy and administration specialist), Antoine de La Rochefordière (timber industry and legality-traceability expert), James Hewitt (timber trade expert) and Giacomo Luchetta (legal and economic researcher and analyst).

1.2 Objectives

The objectives of the evaluation, as defined in the Terms of Reference, are:

1. Document and assess progress and achievements, as well as any possible shortcomings and/or gaps: what has been undertaken and achieved under the FLEGT Action Plan? What have been the main challenges, limitations, gaps and shortcomings? What are the impacts so far (intended and unintended)? What are the indications that the Action Plan is producing changes that are likely to lead to a significant reduction of illegal logging?
2. Assess and analyse changes in the global context (including the evolution of global timber trade flows, international policies on forests, drivers of deforestation, changing governance challenges and other policy initiatives complementing the AP) and how they affect the relevance and the implementation of the Action Plan.
3. Draw lessons and formulate recommendations that could guide future EU efforts on FLEGT and, more broadly, on reversing the loss of forest cover and promoting sustainable management of forest resources based on the findings under objectives 1 and 2.

The ToR goes on to specify that *'the evaluation will be an opportunity to (re)engage with key stakeholders and to compile, evaluate and summarize the expectations of different constituents in Europe and in EU partner countries regarding future action. It will be forward-looking, providing lessons learnt and recommendations. Its outcome will contribute to informed decisions on future action by the EU, Member States, partner countries and key stakeholders, based on a comprehensive, focused analysis of progress after 11 years of the FLEGT action plan'*.

1.3 Scope

As specified in the ToR, the evaluation covers the first 11 years of implementation of the FLEGT Action Plan (2004-2014). It covers all actions under the EU FLEGT Action Plan by EU institutions, Member States and partner countries, including efforts undertaken through various state and non-state actors and international organizations, and looks at the seven Action Areas of the Action Plan and their interrelationships. The evaluation considers relevant action in the EU and other consumer

² Participated in inception and desk phase only.

markets, and in producer countries (including VPA and non-VPA countries), as well as the development of a multi-lateral cooperation framework to fight illegal logging (including global initiatives such as REDD+, ITTO, FAO, UNFF).

Particular attention was given to the Voluntary Partnership Agreements (VPAs), which are at the heart of the Action Plan and have mobilized substantial resources by partner countries, the Commission and, in some cases, Member States. For this reason, the ToR included the preparation of a specific report on VPAs and support to producer countries (which would essentially cover areas 1 and 2 of the Action Plan). That report is presented as Annex 7 in Volume 2 of the Final Report.

In parallel with the present evaluation, a separate team of consultants conducted a mandatory review of the EU Timber Regulation, focusing on the enforcement of its provisions, as evidenced in the reporting by individual Member States. The two exercises were closely coordinated to ensure that information was exchanged and that analyses are consistent (Chapter 4.2).

1.4 The report

This final report follows the evaluation's Inception Report (February 2015) and a report on Main Findings of the Desk Phase (August 2015). It comprises two volumes; Volume 1 (the Main Report), and Volume 2 containing all the annexes including a special report on VPAs.

The Main Report presents the findings, the results of the analyses and the conclusions and recommendations arising from the evaluation. Following this introduction, Chapter 2 presents the evaluation methodology, including the overall approach, the three phases of the process, the timeframe and the selection of countries visited and studied. It discusses the primary and secondary sources of information used, including the various surveys, interviews and workshops carried out. It also discusses the appropriateness of the methods used, the constraints encountered and solutions applied. Chapter 3 then describes the subject evaluated; it gives an overview of the EU FLEGT Action Plan, in particular its genesis, its objectives and its structure. In order to visualise the structure and logic of the Action Plan, we also present our own reconstruction of an intervention theory. Finally, the delivery architecture for the Action Plan is presented and a recap of the timeline of its implementation, to date.

Chapters 4 and 5 constitute the core of the report; Chapter 4 provides an overview of the state of play of the Action Plan's implementation, across the seven Action Areas and against the initial expectations. This chapter is mostly descriptive in nature and provides the basic material, lessons learned and recommendations used in the analysis provided in Chapter 5. Chapter 5 deals with the ten evaluation questions, formulating answers, main conclusions and recommendations for each question in turn. In Chapter 6, the main conclusions and recommendations from Chapter 5 are summarised. Since, in a number of instances, the same issues and conclusions emerged under different evaluation questions - for example on the issue of communication - in this final chapter they are organised according to the main issues and translated into a single set of recommendations.

Volume 2 of the Final Report contains all the Annexes, namely the Terms of Reference for the Evaluation (Annex 1), the organisations and persons consulted (Annex 2), the evaluation methodologies and instruments (Annex 3), the results of the various stakeholder consultations, including the four surveys (Annex 4), the country Aide Memoires for the EU Member State visits, the VPA and other producer country visits, and for the consultations with other producer and consumer countries (Annex 5). Annex 6 presents a bibliography of the documents consulted in this evaluation. Finally, a special report on VPAs is provided in Annex 7.



Introduction of innovative technologies: digital loupe in combination with lap-top and “species-app” connecting to database with information on species anatomy, facilitating identification of timber species by non-expert staff, with low mistake margin (Colombia, July 2015)

Credits: Ernst Paul Zambon

2 EVALUATION METHODOLOGY

2.1 Overall approach, process and timeframe

2.1.1 Approach

The evaluation has deployed a ‘realist approach³’, asking ‘*what works or does not work, for whom, in which context and why?*’ and, based on this, ‘*how can FLEGT actions be improved if needed?*’

The EU FLEGT Action Plan can be seen as a ‘theory incarnate’; even if no theory of change is explicit, implementation of the Action Plan essentially tests a theory of what will produce the desired changes. A first task for the evaluation is therefore to make the ‘intervention theory’ more explicit.

Another important feature of a realist approach to evaluation is the exploration of ‘*who defines what is success or failure?*’. Different (groups of) actors can have different perceptions of what constitutes success or failure. Thus, besides searching for ‘hard quantitative data’, the team explicitly took into account the perspectives of different groups of stakeholders: governments, private sector, NGOs and CSOs, research institutes and think tanks, and independent observers, at the level of the EU and its Member States as well as in the producer (VPA and non-VPA) and non-EU consumer countries. Specific attention was also given to emergent outcomes, both positive and negative, and to their underlying causal pathways.

The adoption of a realist approach has also had implications for the selection of evaluation tools and methods. Besides more conventional methods like surveys and interviews, use has been made of ‘participatory’ methods (in both single- and multi-stakeholder groups), such as timelines (Van Mierlo⁴ et al, 2010) to capture progress, national intervention theories⁵, outcome harvesting (Wilson-Grau and Britt, 2012⁶), and mapping of mechanisms, actors and factors that make interventions work or not work. These methods were particularly employed during the visits to Member States and VPA and other producer countries. They were not only useful for obtaining different perspectives, but equally for (re-) engaging the various groups of stakeholders, as required by the ToR.

2.1.2 Process

During the ***inception phase (December 2014 - February 2015)***, the ten evaluation questions were formulated and a framework for answering them was developed, highlighting the range of different methods required. A first reconstruction of the Intervention Theory was made and discussed with several key informants. The countries to be studied in more detail (through visits or teleconferences) were selected and a first round of stakeholder identification was performed. In preparation for the desk and field phases, an information database (the evaluation matrix) was developed, in which team members compiled information distilled from literature and field visits for sharing with the rest of the team. An inception report was prepared and reviewed by the Steering Committee.

During the ***desk phase (February – April 2015)***, while reviewing existing FLEGT documentation, research and studies, five surveys were developed and tested: the EU Member State and EC survey (based on the FLEGT Review of 2010), the VPA Partner Country survey (including VPA negotiating and implementing countries), a Public Survey, and a specific survey for the Private Sector, in recognition

³ The term ‘realist evaluation’ is drawn from Pawson and Tilley’s work: Pawson, R. and N. Tilley (2004) *Realist Evaluation*. Paper funded by the British Cabinet Office. Pawson, R. and Tilley, N. (1997) *Realistic Evaluation*. London: Sage. See also: Westhorp, G (2014) *Realist Impact Evaluation. An introduction*. Methods lab, ODI, Better Evaluation and Australian Government, Department of Foreign Affairs and Trade.

⁴ van Mierlo, B, B. Regeer, Mariette van Amstel, Marlen Arkesteijn, Volkert Beekman, Joske Bunders, Tjard de Cock Buning, Boelie Elzen, Anne-Charlotte Hoes and Cees Leeuwis (2010). *Reflexieve monitoring in actie. Handvatten voor de monitoring van systeeminnovatieprojecten (Reflexive Monitoring in Action. Guide for the monitoring of system innovation projects)*. Boxpress, Oisterwijk, The Netherlands. Free downloadable from tinyurl.com/wurcispubs (in Dutch and English).

⁵ Andrea A. Anderson (2005) *The Community Builder’s Approach to Theory of Change: A Practical Guide to Theory Development*. Washington, D.C.: The Aspen Institute.

Vogel, Isabel (2012) *Review of the use of ‘Theory of Change’ in international development Review Report*. DFID, UK.

⁶ Wilson-Grau, R. and Heather Britt (2012) *Outcome Harvesting*. Ford Foundation. MENA Office.

of the need to make a special effort to reach out to this stakeholder group. The Member State survey was launched in April 2015. In preparation for the field phase, a ‘Tools for the Field’ manual was developed, setting out instructions for timeline preparation, stakeholder selection, the development of intervention theories, outcome harvesting, and the development of topic lists for semi-structured interviews with four key stakeholder groups. The team’s evaluation methodologist trained the other team members on use of the methods, to ensure consistency of approach across all countries visited.

During the desk phase, the team also started preparations for the country visits, by contacting the EU Delegations in the producer countries and the persons responsible for coordinating FLEGT activities in the Member States. With the assistance of key informants, stakeholder analysis and identification was carried out for each country. Where possible, briefings were arranged with relevant EFI and EC staff on progress in particular VPA and FLEGT countries. The team attended the FLEGT week, where it facilitated a number of sessions for the purpose of the evaluation, and visited the EFI and FAO, key institutions in the provision of support services for FLEGT. A Desk report was prepared and reviewed by the Steering Committee.

During the **field phase (May - August 2015)**, eight-day visits were made to five producer countries: Ghana, Cameroon and Indonesia (representing VPA implementing countries) and Ivory Coast and Vietnam (representing VPA negotiating countries). Although not originally planned, a fourth VPA implementing country, Liberia, was also studied in some detail through email exchanges and teleconferences. For practical reasons the field visit to Guyana (the third VPA negotiating country) was cancelled, and the evaluation pursued through email exchanges and teleconferences with stakeholders instead. The team made visits to two non-VPA producer countries, Colombia and Bosnia-Herzegovina and to China, a key consumer and processing country. Within the EU, visits were made to Finland, France, Germany, Italy, the Netherlands, Romania and the United Kingdom. In addition, e-mail exchanges and teleconferences were organized with four producer countries: Brazil, Chile, Canada and Russia; and four non-EU consumer countries: India, Australia, Japan and the USA. Thus, as summarised in Table 1 below, a total of 25 countries in seven categories have been subject to detailed analysis. During the field phase, the VPA, Public and Private Sector surveys also launched.

Table 1: Countries selected for detailed analysis, by Country Category

Country Category	Countries selected
VPA countries (implementation) (visits)	Cameroon, Ghana, Indonesia, and Liberia through teleconference
VPA countries (negotiation) (visits)	Ivory Coast, Vietnam and Guyana through teleconference
Non-VPA producer countries (visits)	Bosnia-Herzegovina, Colombia
Other producer countries (teleconferences)	Brazil, Canada, Chile, and Russia
Other consumer countries (teleconferences)	Australia, India, Japan and the USA
Processing & consumer country	China
EU Member States	Finland, France, Germany, Italy, Netherlands, Romania and the United Kingdom

During **the synthesis phase (August - October 2015)**, the four surveys and Aide Memoires were analysed, and findings were combined with the initial findings presented in the Desk Report. This resulted in the formulation of more balanced and detailed answers to the evaluation questions. A two-day team meeting in early September served to generate main conclusions and tentative recommendations. The draft main conclusions and recommendations were then presented to the Inter-Service Group on Forestry of the Commission, and the FLEGT/EUTR Expert Group in order to solicit feedback and to allow for further fine-tuning of recommendations.

2.2 Sources of information

The evaluation has made use of both secondary and primary sources.

2.2.1 Secondary sources

2.2.1.1 Review of literature.

Over the years, enormous volumes of white and grey literature, reviews and research papers have been published on the EU FLEGT Action Plan or FLEGT-related issues. This wealth of readily available information was systematically reviewed by the evaluation team before going into the field, and the initial results were presented in the desk report. For a list of the literature reviewed, see Volume 2 - Annex 6.

2.2.1.2 Trade data review and analysis

Trade data was analysed to a) understand changes in trade flows (due to external factors and possibly as a consequence of FLEGT Action) (change analysis), and b) explore whether the EU FLEGT Action Plan (including the EUTR) could be construed to have had any impact on the trade in illegal timber into the EU and in VPA and other countries.

For data on the trade in legal timber, use was made of official bilateral trade statistics⁷. For the EU Member States, this source is Eurostat (<http://epp.eurostat.ec.europa.eu/newxtweb/mainxtnet.do>). For many producer and consumer countries, comprehensive bilateral trade statistics are available (see footnote). Where a country does not publish bilateral trade statistics, use was made of data published by the countries to which it exports or from which it imports as a proxy, or of UN Comtrade data (<http://comtrade.un.org>). Where relevant, ITTO figures are used.

Finally, the charts analysing illegal trade (in chapter 5.5) are based on data compiled for Chatham House. For this evaluation, the methodology and the percentages of illegality adopted in the Chatham House assessments (Lawson 2014e, Hoare 2014b) have been extended to other countries (including all EU Member States). The methodology is simple – 1) statistics of a given country's annual bilateral trade in each major group of wood-based products have been abstracted or estimated from official sources, 2) estimates of these products' roundwood equivalent ("RWE") volume have been derived from those statistics - using necessarily imprecise standard or assumed factors; and 3) those RWE volumes are then multiplied by estimates for the percentage of illegal bilateral trade in each of those product groups. Those percentages derive from on insights about illegality at each node in typical supply chains based on literature review and surveys of experts' perceptions. For more detailed information on this methodology see appendix 1 Timber trade data.

2.2.2 Primary sources

2.2.2.1 Surveys

A total of five surveys were developed, four online: the EU Member State (governments) and the closely related EC surveys, the VPA Country Survey (government) and an open public consultation (for all stakeholders); and one paper-based: the Private Sector Survey. In April 2015, the online **EU Member State Survey** (English only) was launched on the EU Survey site (<https://ec.europa.eu/eusurvey/>) and the MS were invited to contribute via emails to FLEGT focal

⁷ For the EU member states this source is Eurostat (<http://epp.eurostat.ec.europa.eu/newxtweb/mainxtnet.do>). Up to date, comprehensive bilateral trade statistics are available directly for Brazil (<http://aliceweb.mdic.gov.br>), Canada (<http://www5.statcan.gc.ca/cimt-cicm/home-accueil?lang=eng>), also Canada (value only: <http://www.ic.gc.ca/eic/site/tdo-dcd.nsf/eng/Home?OpenDocument#tag>), Chile (<http://200.72.160.89/estacomex/asp/index.asp>), Hong Kong (<http://www.censtatd.gov.hk/hkstat/sub/sp230.jsp?productCode=B1020001>); Japan (http://www.customs.go.jp/toukei/info/tsdl_e.htm), Korea (<http://english.customs.go.kr/kcshome/trade/TradeCommodityList.do?layoutMenuNo=21032>), Mexico (<http://www3.inegi.org.mx/sistemas/biblioteca/ficha.aspx?upc=702825169138>), New Zealand ([http://www.stats.govt.nz/infoshare/\(X\(1\)S\(jrzb4zv3bm1xs03cd3v1blao\)\)/default.aspx?AspxAutoDetectCookieSupport=1](http://www.stats.govt.nz/infoshare/(X(1)S(jrzb4zv3bm1xs03cd3v1blao))/default.aspx?AspxAutoDetectCookieSupport=1)), Norway (<https://www.ssb.no/statistikbanken/selectvarval/Define.aspx?MainTable=VareLandMnd&SubjectCode=09&planguage=1&nvl=True&mt=1&nyTmpVar=true&checked=true>), Peru (<http://www.siicex.gob.pe/promperustat/>), Taiwan (prior to 2012/ <http://www.customs.gov.tw/StatisticsWebEN/IESearch.aspx>), or Taiwan 2013, Thailand (<http://search.customs.go.th:8090/Customs-Eng/Statistic/Statistic.jsp?menuNme=Statistic>), and the USA (https://dataweb.usitc.gov/scripts/user_set.asp). Other sources include India (<http://commerce.nic.in/eidb/icomcntq.asp>), Indonesia, Qatar, Saudi Arabia, and (for wood-based products only) Canada (volume), Philippines, and Australia.

points. For the **EC Survey**, a slightly modified version of the Member State Survey was developed and launched at the end of May.

These surveys aimed to collect information on three topics:

1. Contributions to budgets, management and implementation of the FLEGT Action Plan;
2. Perceptions of the achievements of the FLEGT Action Plan;
3. Expectations for future FLEGT action.

As requested in the evaluation ToR, the survey was based on the questionnaire developed for the EU FLEGT Action Plan Progress Review of 2010, in order to permit comparison. The questionnaire (including an excel file for collecting information on budgets) covered the period 2003-2014. A total of 23 of the 28 member states responded, and the EC filled out the questionnaire. Thirteen MS and the EC returned the file with budget information.

Analyses were conducted on budgets and comparing our results with those of the Progress Review of 2010. Results of the survey are presented throughout the report, as appropriate, and a report containing all results can be found in Volume 2 - Annex 4.

In May 2015, the English version of the **VPA Country Survey** was launched on the EU Survey site, and in June, French and Spanish versions followed. The survey was designed to cover all VPA countries and to better understand:

1. The VPA country governments' budgets for FLEGT and other in-kind contributions, and the nature of stakeholders participation in Action Plan implementation, with special attention to the VPA process and the development of the Timber Legality Assurance System (TLAS);
2. The VPA country governments' perceptions of achievements of the EU FLEGT Action Plan, with special attention to TLAS, and to the actors and factors that influenced achievements;
3. The VPA country governments' expectations for future FLEGT action.

A total of 11 out of 15 countries responded to the survey: all six *implementing* countries returned the questionnaire, either online or in a Word version. Five out of nine of the *negotiating* VPA countries also returned the questionnaire. Results of this survey are also used throughout the report, as appropriate, and a report containing all results can be found in Volume 2 - Annex 4.

A **Public Survey** was developed to reach those stakeholders who could not be reached during through field visits and/or teleconferences, such as national NGO staff, academics or consultants. This survey focussed on the same three issues as the MS Survey (see above). Versions were developed in English, French and Spanish, and all were posted on the evaluation website (www.flegt-evaluation.org). With the help of the European Forestry Institute, the Global Timber Forum and the World Resource Institute, the existence of the survey was communicated to a wide range of people, and all versions of it were accessible online for at least 12 weeks (EC requirement). A total of 88 people responded to the questionnaire. Sixty per cent of the respondents were people from national and international NGOs. For a compilation of results see Volume 2-Annex 4.

Lastly, a short **Private Sector Survey** was developed in view of the relative difficulty experienced in canvassing private sector stakeholder opinion through other means. The survey was paper-based, and introduced and administered to participants at the Global Timber Forum held in Shanghai, China in June, during a time-slot assigned to the evaluation team specifically for this purpose. In addition to the three issues covered in the other surveys, the survey also focused on the impact of the EUTR on the private sector and sought their views on the VPA process and FLEGT licenses. A total of 14 private sector actors attended the GTF session (Shanghai, June 2015) and completed the questionnaire. A compilation of the results is provided in Volume 2 - Annex 4.

2.2.2.2 Semi-structured interviews

Semi-structured interviews were the main data-gathering tool used during the field phase visits. Topic lists, structured loosely around the ten evaluation questions, were developed for stakeholders

in VPA/FLEGT countries, EU Member States, and other producer countries and consumer countries, including China. They are provided in Volume 2 - Annex 3 (refer 'Tools for the Field').

In total, the evaluation team has consulted 815 persons either through individual or group-wise semi-structured interviews, face-to-face or through skype/teleconferences. Of the 815 persons consulted, 120 were partner government staff, 210 NGO staff (International and national), and 182 Private sector. For all 25 country visits or teleconferences, Aide Memoires were prepared in which the outcomes of the interviews were analysed and reported. Annex 5 in Volume 2 presents the Country Aide Memoires for EU MS, VPA and other producer and consumer countries. The results of the Aide Memoires and the interviews are used throughout the report.

Table 2: Categorization of stakeholders interviewed

Category	Number of interviewees	Share
Private Sector Organizations	182	22.2%
International Civil Society Organizations, Institutes & Think-Tanks	134	16.5%
EU institution, including EU Delegations and EU-funded personnel	122	14.9%
Non-European Country Institutions	120	14.8%
NGOs operating at national level (in either EU or non-EU countries)	76	9.4%
Member States Institutions	65	8.0%
Service Providers and Experts	59	7.3%
International and Regional Institutions	29	3.6%
Other European Country Institutions	25	3.1%
Other (e.g. Support Services, Communication)	3	0.4%

2.2.2.3 Single and multi-stakeholder workshops

In the countries visited, whenever possible and relevant, teams conducted single and/or multi-stakeholder meetings, either at the kick-off meeting, to do a first round of outcome harvesting, or at the end of a country visit, for a joint reflection on findings of the mission. Through these meetings, the team was able to access larger groups of stakeholders and get richer inputs, than through semi-structured interviews alone. Single and/or multi-stakeholder workshops were also conducted at FLEGT Week (March 2015) and at the Global Timber Forum (June 2015).

A number of EU Member States organized their own multi-stakeholder meetings to review FLEGT. The United Kingdom convened six stakeholder meetings to gather input on a range of issues. One or more members of the evaluation team attended all of these meetings. The Netherlands, partly in preparation for assuming the Presidency of the European Council in the first half of 2016, organised a one-day multi-stakeholder consultation in September 2015, which was attended by one team member. Sweden did the same in July 2015.

A total of more than 30 workshops were conducted. Results of these are incorporated in individual Country Aide Memoires (Volume 2-Annex 5).

2.2.2.4 Moderated web-based forum

On the evaluation website (www.flegt-evaluation.org), a page to encourage forums was created to invite ideas and inputs from stakeholders on all seven Action Areas, but this did not generate inputs.

2.2.2.5 Unsolicited input

The evaluation team received - either through email or through personal contacts – a total of 21 papers and documents from eight International NGOs, two VPA-country NGO-networks, and one consultancy firm as unsolicited inputs for the evaluation. An overview of the unsolicited input is presented in Volume 2 Annex 4.

2.3 Reflections on the methodology

2.3.1 Review of methods used

Strengths and limitations of the methods

The combination of quantitative and qualitative methods (i.e. surveys, trade analyses, semi-structured interviews, (multi-) stakeholder workshops and literature review), provided sufficient triangulation of information for the team to be confident of its findings. Whenever findings were ambivalent, additional sources of information were sought to resolve the issue, and, if needed, the team went back to the original key informants for verification.

In the team's view, a particular strength of the evaluation was the balanced engagement of the different stakeholder groups. While engagement with the private sector was initially relatively limited, special efforts were made to reach out to this group, enabling the evaluation team properly to assess and analyse their experience and views. The outcome harvesting method used during field visits ensured that an open space was provided for all stakeholders to share their diverse expected, unintended and emergent outcomes.

The lack of reliable data on illegal logging and trade has been an obvious and fundamental constraint on this evaluation. As far as possible, we have worked with the data and figures generated by Chatham House, which is the only institution that has made serious efforts to systematically research the magnitude of and trends in illegal logging and trade. Since 2006, their researchers have been working to monitor illegality in the forest sector and to assess the effectiveness of the responses of governments and the private sector to address the problem.

Nevertheless, *Chatham House figures on illegal logging and trade and the extrapolations made, should be seen as indicative rather than precise*. The implication of this is that reliable baseline data from the beginning of EU FLEGT Action Plan and periodic impact data are missing, making it difficult to determine to what extent illegal logging and related trade have changed and to what extent the EU FLEGT Action Plan has contributed to any change.

2.3.1.1 Surveys

The surveys provided a wealth of information, both qualitative and quantitative, and when possible, information was double-checked either during field visits or with findings from the field visits. However, the surveys also posed a number of challenges:

1. **Response rates:** Not all member states and VPA countries returned the questionnaire and/or the excel file with budgetary information. Of the 28 MS, 23 (82%) submitted the questionnaire and 13 (46%) submitted the excel sheet with budget information. Of the 15 VPA countries, 11 (73%) responded (all implementing VPAs and four of nine negotiating VPAs). Nevertheless, this response rate was found to be satisfactory and the answers provided valuable inputs for the evaluation.
2. **Incompleteness:** The questionnaires filled in by the member states were not always complete. At the time of the evaluation, several other EU reviews were taking place, like the EUTR review, the European Court of Auditor's (ECA) and the thematic evaluation of the EU support to environment and climate change in third countries (2007-2013) (DG ENV). This may have caused confusion and some survey fatigue.
3. **Imprecise financial data:** The data on the budgets of both MS and the VPA countries were not complete. The countries that filled the budget part of the questionnaire found it difficult – despite the guidance – to distinguish between *direct FLEGT activities* and *indirect FLEGT activities*⁸. Where possible, the team triangulated the data on budgets with the data presented

⁸ To prevent this confusion, the questionnaire had defined FLEGT Action Plan programme, projects, actions and interventions as follows: Programmes, projects, actions and interventions are considered FLEGT AP programmes, projects, actions and *interventions if and when*

in the ECA review and with data obtained during field visits. Nevertheless, the financial figures presented here should be treated as indicative rather than precise.

4. **Bias:** The *Public Survey* received 88 responses, but 60% of these were from NGOs (both international and national/local NGOs). This implies the possibility that the overall results of this survey reflect an NGO-bias.

2.3.1.2 Field visits

Generally speaking, the *'Tools for the field'* guide (Volume 2, Annex 3) was found to provide good guidance during country visits, enabling different teams to adopt a unified and systematic approach to data collection, while allowing them to adapt methods to the specific country context. Due to time constraints at the end of country visits, however, some teams did not use the VPA impact tool aimed at synthesizing VPA outcomes in the sphere of trade and governance. Since this tool is an important source for answering Evaluation Questions 5 (Objectives of EU FLEGT Action Plan) and 7 (Higher Objectives), a separate study of the Aide Memoires was made during the synthesis phase, to compile findings in the various outcome areas and, thereby reach an understanding of the degree of success of a particular VPA.

2.3.2 Quality control, triangulation and mitigation measures

A number of internal and external quality control measures were taken to ensure high quality information and to mitigate biases.

2.3.2.1 Internal quality control

General In addition to the triangulation methods discussed above, the team used internal peer mechanisms to ensure data quality. Each evaluation question and focus country was assigned one team member as the "lead", working together with one or more other members in a sparring role, i.e. challenging the lead's assumptions, checking data and ensuring findings followed logically from it.

Surveys One of the measures to check robustness of the MS survey data was to compare results with those of the 2010 Progress Review. For all surveys, data were checked whenever possible during the field visits and compared to findings from literature. For the analysis of the surveys' open questions, two team members analysed the data independently from each other and then compared results.

Field visits (semi-structured interviews and workshops) For the field visits, the methodologist on the team prepared 'Tools for the field' and trained the team members in the data gathering methods to ensure all team members would approach the field visits and the data collection in a similar fashion. In the field use was made of the above mentioned internal peer mechanism.

2.3.2.2 External quality control

Surveys Before a survey was launched, it was tested internally and with a relevant 'external' actor (e.g. with the MS NL focal point and colleagues) and, where necessary, it was revised. For the MS survey, the team contacted one of the consultants involved in the Progress Review of 2010, and specifically solicited their lessons learned and advice on how to improve approaches.

Field visits At the end of each country visit, the team prepared draft Aide Memoires, which were shared with the relevant EU Delegation and EFI staff member - or in case of a visit to a Member State with the FLEGT focal person to verify the facts and figures.

Final report The overall conclusions and recommendations from the evaluation were extensively discussed with the Steering Committee for the evaluation, presented to the EC Inter-Service Group

they are designed to tackle illegal logging and support the FLEGT AP with explicit reference to the FLEGT AP in its title, objectives or in its logical framework.

on Forestry and the EU Member States FLEGT EUTR Expert Group. Their comments have been taken into consideration during the revision of the Draft Report.



*Plantation of rubber trees installed on a territory ancestrally owned by Baguiely Pygmies (Cameroon, May 2015)
Credits: Yann Petrucci*

3 THE EU FLEGT ACTION PLAN

3.1 Genesis of the Action Plan

The EU FLEGT Action Plan ‘Proposal’ was officially communicated by the EC to the Council and Parliament in May 2003 and the Council of Ministers published its ‘Conclusion’ in November of the same year. However, the Action Plan had its genesis in two years of intensive background and design work, which itself built on two (or more) previous decades of bilateral and multilateral experience, actions and development in international forestry arena. The genesis and background of the EU FLEGT Action Plan, with special attention to the key features and approaches, are outlined below.

FLEGT as a set of **bilateral** actions in forestry between the EU and timber producer countries is seen by many as having its starting point in the failure of the Rio Earth Summit of 1992 to deliver a global (**multilateral**) legally binding convention on forestry – comparable to the Convention on Biodiversity (CBD). Agenda 21, the Rio Forest Principles, the UN Intergovernmental Panel on Forests, which are non-binding multilateral instruments, put the objective of combating deforestation at a high priority on the international agenda.

FLEGT as a **market/demand driven mechanism** finds antecedents in the lack of tangible results from years of Overseas Development Assistance (ODA) efforts to improve forest management and other commodity production from the supply side. As a response to the vacuum created, forest certifications and fair trade standards arose, using consumer awareness to generate demand for sustainable harvested timber and timber products, coffee and other products. The first organization for forest certification, the Forest Stewardship Council (hereinafter the "FSC"), was established in 1993 while the organisation designed to support fair trade standards, Fair Trade Labelling Organisations International, was established in 1997.

FLEGT as a coordinated **Action Plan** to combat illegal logging had its forerunner in the four-year *Action Programme on Forests* adopted at the Birmingham G8⁹ Summit in 1998. The G8 Action Programme, which aimed to accelerate the actions proposed by the UN Intergovernmental Panel on Forests in 1997, consisted in five issues of particular importance: 1) monitoring and assessment; 2) national forest programmes; 3) protected areas; 4) private sector; and 5) illegal logging. The objective then was to promote sustainable forest management and address the important issue of illegal logging at the international level.

Under the G8 initiative, the US, UK and the WB funded a regional symposium on “Strengthening Cooperation for Forest Law Enforcement in Mekong Basin Countries” in Cambodia in 1999, as well as some seminal investigative reports on illegal logging in Cambodia (Global Witness) and Indonesia (EIA/Telapak), and then the ground-breaking regional East Asia FLEG initiative. Another notable antecedent was the 2002 Memorandum of Understanding between UK and Indonesia on Illegal Logging and Associated Trade, the first bilateral agreement endeavoured to tackle illegal logging and associated trade, which indicated the high-level political support in both countries¹⁰.

FLEGT as a **forest governance initiative** is built upon the broader governance agenda in international development assistance that was emerging in the mid-late 1990s. Project-based support was giving way to sector-based programmes and budget support, all of which looked to improved governance as a route to success. In the forest sector, support was organised around National Forest Programmes, funded by groups of donors. This governance agenda also included decentralisation. These approaches respected and promoted national sovereignty and aimed to reform the workings of government institutions and build the capacity of government officials to perform their duties.

FLEGT as a **multi-stakeholder initiative** has antecedents in participatory approaches to development in general, and National Forest Programmes in particular, which sought to bring together government, civil society and the private sector with the aim to achieve consensus-based reforms. DFID in Indonesia initiated a “Multi-stakeholder Forestry Programme” in 2000, although in the first

⁹ USA, Canada, Japan, Russia, France, Germany, Italy and the United Kingdom (EU has special status)

¹⁰ It was signed for the UK by Hilary Benn as Development Secretary and Michael Meacher as Environment Secretary.

phase the Programme focused on the poverty alleviation agenda through community forestry, rather than on governance.

FLEGT as a collaborative initiative **of producers and consumers** of forest products for curbing illegal logging, perhaps its most innovative feature, emerged from the East Asia Ministerial Conference on FLEG in Bali held in September 2001. There, “Governance” joined “Law Enforcement” and in the aftermath of 9/11, challenging issues such as corruption were admitted for open debate. In Bali, producer countries signed a regional declaration of political commitment and called for action at the highest level. Consumer countries acknowledged their responsibilities for the problem and committed to their own actions.

EU officials attending the Bali conference returned to Brussels full of ideas and, riding on strong mandate from the **international commitment** to control illegal logging, began to design an Action Plan on Illegal Logging. The process was highly participatory, including a workshop in Brussels in 2002 with a group of international stakeholders, amongst them representatives of potential partner countries. A small team based in the European Commission drafted the Action Plan, and it was then subject to stakeholder consultations within and outside the EC. Subsequent international meetings, including the World Conference on Sustainable Development and the 6th Conference of the Parties of the CBD, reiterated commitment to promoting forest law enforcement and addressing timber trade, but fell short of a coherent formula for doing so.

The “T” (Trade) was the final element of FLEGT. **Voluntary Trade Agreements** provided the leverage of EU market access in order to incentivise partner government action to address illegality and aimed to curtail the “market failure” through which illegal logging could be profitable. The rationale for the use of voluntary trade agreements was that any *voluntary* agreement could not be considered as discriminatory under WTO regulations. This aspect of the FLEGT represented the other very innovative element of the Action Plan, besides the collaboration between producers and consumers.

It is important to realise that the ‘genesis’ of the EU FLEGT Action Plan has continued. Although called an Action Plan, FLEGT is really a **policy framework**, for implementation by the EC and EU Member States. It is loosely defined, drawing on the development practice of “process projects” which set the broad outlines of play, and rely on implementers to work creatively and experimentally to tailor it to local circumstances and stakeholders. This is further discussed in chapter 5.2 (design).

3.2 Objectives, strategy and structure

As a policy framework, the FLEGT AP does not have a single objective, as much as a hierarchy of loosely defined objectives, for Action Areas and for the overall Action Plan, and the so-called ‘higher objectives’.

The **overall objective**, around which the EU FLEGT Action Plan is organised, as expressed in the action plan itself, is rather general: *‘to support efforts to tackle the problem of illegal logging and related trade’* (EC, 2003, Proposal for an EU Action Plan). The Action Plan was meant to be the start of a process designed to reduce the consumption of illegally harvested timber in the EU, as a **specific objective**, and ultimately in major consumer markets elsewhere in the world.

Another specific objective is the improvement of forest governance in producer countries (as well as the establishment of trade agreements). These objectives were reiterated by the Council in its “Conclusion” (Nov 2003), through which the proposal was officially adopted into law. The EU FLEGT Action Plan was welcomed as: *‘a first step to tackle the urgent issue of illegal logging and its associated trade in a collaborative and coordinated way with consumer and producer countries, the private sector and other stakeholders’* (para 4).

The **higher objectives** of the Action Plan are best expressed in the Council ‘Conclusions’, which stressed the need for FLEGT: *‘to be addressed in terms of sustainable development, sustainable forest management and poverty reduction, as well as social equity and national sovereignty’* (para 6). Member States were urged to provide funding and mainstream forest governance reforms in their development cooperation programmes.

The Action Plan sets out a package of measures through which the EC proposes to achieve the FLEGT objectives, focusing on seven broad areas with their respective fields of action – henceforth referred to as **Action Areas** - as follows:

1. **Support to timber producing countries**, including actions to (1) promote equitable and just solutions to the illegal logging problem, (2) verification systems, (3) transparency measures, (4) capacity building and (5) policy reform;
2. Activities to promote **trade in (legal) timber**, including actions to (1) develop the multilateral framework and pursue multilateral cooperation, (2) develop voluntary licensing of exports (through bilateral or regional FLEGT Partnership Agreements between the EU and timber exporting countries) and (3) review and develop additional legislative options.
3. Promotion of **public procurement** policies, including actions that guide contracting authorities on how to deal with legality when specifying timber in procurement procedures.
4. Support for **private sector initiatives**, including action to encourage private sector initiatives for good practice in the forest sector, including the use of voluntary codes of conduct for private companies to source legal timber.
5. Safeguards for **financing and investment**, including actions to encourage banks and financial institutions investing in the forest sector to improve due diligence practices when making investments.
6. Supporting the EU FLEGT Action Plan with **existing legislative instruments** including (1) anti-money laundering legislation, (2) the CITES Convention and (3) other legislative instruments such as the OECD Convention on Bribery and Corruption.
7. Support work undertaken to address the problem of **conflict timber**

The seven Action Areas of the EU FLEGT Action Plan reflect a **strategy** of developing voluntary, legally binding, bilateral trade agreements, which prohibit the import of illegal timber into the EU market, supported by collaborative actions by both producer countries and the EU consumer countries. The three main pillars of action include (1) **supply-side support** in producer countries to reduce the supply of illegal timber (through governance reforms, development of a licensing system), (2) **demand-side measures** in consumer countries to reduce the end-use of illegal timber (through public procurement policies, private sector initiatives and finance and investment safeguards), and (3) **trade measures (VPAs and additional legislation)** – supported by **dialogue and international collaboration** - to link the demand- and supply-side measures and incentivise both.

Different roles were foreseen; for country governments to lead action on policy and legal reform, for the private sector to initiate actions to change their practices and for civil society organisations in awareness raising, capacity building and monitoring.

The evaluation team reconstructed a 'FLEGT Intervention Theory (2003)', in Figure 1 below, which represents the evaluators' analysis of how, in 2003, the Action Plan and Action Areas (AA) in the three main pillars were intended to contribute to the main objective 'to reduce illegal logging and related trade'. The core intervention logic can be summarised as follows: the overall objective of the Action Plan is "*reduction in illegal logging and related trade*", reached through three impact pathways or sub-objectives: (1) "*establishment of trade instruments which seek to minimise the availability of illegal wood-based products on the European market*", (2) "*demand-side measures to reduce the consumption of illegal timber and wood based products within the EU*", and (3) "*improved forest governance to reduce the supply of illegal wood-based products*".

This intervention theory is discussed in further detail under in chapter 5.2 (Design of the Action Plan).

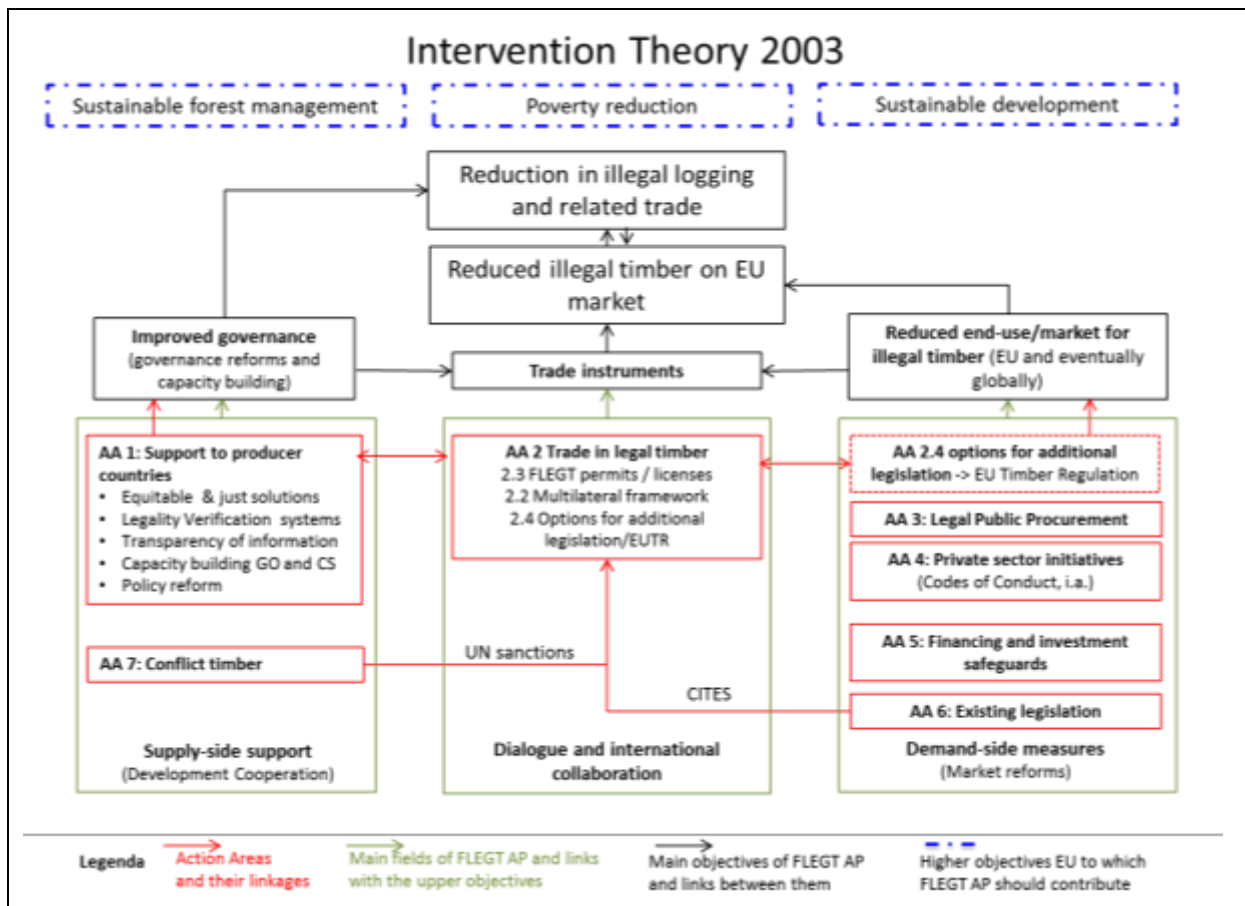


Figure 1: Intervention Theory of the EU FLEGT Action Plan 2003 – reconstructed

3.3 Delivery architecture

The FLEGT Action Plan is **implemented jointly** by the European Commission (EC), EU Member States and partner countries. The EC leads the implementation and has a political mandate from EU Member States to negotiate Voluntary Partnership Agreements (VPAs) with selected countries. This responsibility is assumed jointly by the Directorate General of Development and Cooperation (DG DEVCO) and DG Environment (DG ENV), and EU Delegations in partner countries are responsible for the on-going management of concluded VPAs. Other DGs are involved more marginally, both in terms of staffing and budget, on the basis of need. The European External Action Service or EEAS (formerly DG RELEX) also supports FLEGT implementation, notably through participation in High Level Dialogues with other countries that import or produce wood-based products relevant to FLEGT, and cooperates with the Commission on FLEGT as on any issue related to EU's foreign policy.

DG DEVCO's responsibility is (i) to lead the negotiation of VPAs with countries in Africa and in part of Latin America, (ii) to assist EU Delegations in the implementation of VPAs in Africa, (iii) to mobilise and manage development cooperation to support producer countries to minimise the production and trade of illegal wood-based products, (iv) to contribute to coordination between EU Member States and key stakeholders by leading the FLEGT Expert Group (formerly the FLEGT Ad Hoc Working Group) (v) to contribute to policy development and communication concerning the FLEGT Action Plan. DG ENV is responsible (i) to lead the negotiation of VPAs with countries in Asia and part of Latin America, (ii) to ensure proper implementation of the EC's Regulation 995/2010 (the EUTR); (iii) to lead on the FLEGT and EUTR Committee, and (iv) to lead on demand-side measures and the dialogue with China and other consumer markets.

A small number of EC staff is engaged full time on the FLEGT Action Plan. Currently, five people are working full time on FLEGT within DG DEVCO, another four within DG ENV. The head office focuses primarily on VPA negotiations and, for DEVCO, cooperation programs, while the Delegations manage

VPA implementation with the support and steering from headquarters, and administer cooperation programs at national level.

EU coordination on FLEGT is complex and requires coordination both at the level of the Action Plan and at the level of individual measures such as VPAs and EUTR. To this end, an **Inter-Service Group** was initially established within the EC to help develop the FLEGT Action Plan and coordinate related activities across sectors and stakeholders. While this group has since been disbanded, the Inter-Service Group on Forestry regularly includes FLEGT on its agenda. Other groups, with EU Member States, help coordinate FLEGT action: (1) the *Council Working Party on Forests*, where FLEGT is regularly discussed (2) the *FLEGT Committee*, which assists the EC in implementing the FLEGT and EUTR regulations; and (3) the *FLEGT/EUTR Expert Group*, which has a specific focus on VPAs, EUTR and FLEGT cooperation issues.

The **FLEGT Committee** deals with all comitology issues. It reports to the EC and comprises representatives from both EU Member States and the EC’s DGs, particularly those which contribute most to the FLEGT Action Plan.

The **FLEGT Expert Group** was established in line with the Lisbon treaty, and deals with non-comitology matters - as opposed to the FLEGT committee which deals with all comitology issues. It is a merger of the former FLEGT Ad-Hoc meeting - established by the Council Working Party on Forestry – and the EUTR Enforcement Group. A separate FLEGT and REDD Group used to function under the FLEGT Ad-hoc meeting, but this group was merged into the FLEGT/EUTR Expert Group as well. The original structure (the FLEGT Ad Hoc Working Group) reportedly met frequently, initially, up to eight times in 2005, to prepare and coordinate work on the Action Plan. Later it convened on average twice yearly, and even less since the FLEGT expert group was established as a new structure.

Other fora contributing to coordination of actions under the FLEGT Action Plan are the FLEGT Week, an annual gathering of global FLEGT stakeholders held in Brussels, and the European Tropical Forestry Advisors Group. In addition to contributing to interventions led by the EC and fulfilling their obligation to implement the EUTR, **EU Member States** also can and do support development cooperation aspects of the FLEGT Action Plan. Reporting between EU Member States and the EC is formal, for example through the FLEGT Committee.

The main EU Coordination mechanisms for FLEGT are summarised in below table:

Coordination structures up to 2014	Coordination structures since 2015
Council Working Party on Forestry (WPF); FLEGT is regularly on the agenda of meetings (e.g. for Evaluation of the FLEGT Action Plan)	Council Working Party on Forestry
FLEGT committee (established under the FLEGT regulation): assists the European Commission to implement the FLEGT regulation and the EUTR	FLEGT Committee: Focuses on comitology issues
EUTR Enforcement group: Expert group on EUTR enforcement	FLEGT/EUTR Expert Group: Deals with all non-comitology matters, in line with the Lisbon Treaty (which introduced new rules for Comitology and the use of expert groups) such as policies and enforcement
FLEGT Ad-hoc meeting (established by the WPF): Strong focus on VPAs and development cooperation	
FLEGT and REDD group: Sub-group of the FLEGT Ad-hoc meeting dealing with FLEGT - REDD synergies	
Other fora contributing to coordination and providing space for more informal discussions: European Tropical Forestry Advisors Group, FLEGT Week, inter alia.	Unchanged

3.4 Implementation timeline

Implementation of the FLEGT AP commenced in 2003/2004. A significant amount of work has been invested in the development of two major pieces of legislation namely (1) the **FLEGT Regulation** (Council Regulation (EC) No 2173/2005) - which establishes a FLEGT licensing scheme in producer countries for imports of timber into the EU and calls the Commission to negotiate VPAs with producer countries; and (2) the **EU Timber Regulation** (Regulation No. 995/2010) – which (a) prohibits the placing of illegal timber on the EU market and (b) lays down the (due diligence) obligations of operators who place timber and timber products on the market. These regulations were adopted in 2005 and 2010 respectively and are integral components of the EU FLEGT Action Plan. In 2013, the EU Timber Regulation came into force.

Since 2005, a process to develop **Voluntary Partnership Agreements** has been started and first steps towards the import-licensing scheme have been made. Consultations with major wood producing countries (Ghana, Cameroon, the DRC, COMIFAC, Malaysia, Indonesia and Vietnam; see EuropeAid/ENV/2006-124886/TPS) had already started in 2004, and these identified the needs for guidance of the negotiations, and for technical assistance to implement the licensing scheme.

In this context, two programmes dedicated to supporting implementation of the FLEGT Action Plan are worth mentioning. With funding from the EC and some of the EU Member States, two complementary entities were created, external to the EC and MS Institutions, namely the EU FLEGT Facility in the European Forest Institute and the EU FAO FLEGT Programme. They do not have a specific mandate and are not part of the formal delivery architecture, but deliver two important support programmes, in complementarity with other EU funded FLEGT related projects. The EU FLEGT Facility provides specialist expertise and communication support, primarily for the **VPA** component of the FLEGT Action Plan. The EU FAO FLEGT programme provides technical and financial assistance to any partner countries (whether or not these are engaged or interested in VPAs) in the form of direct assistance and small grants for FLEGT-related projects.

In 2009, the first **VPA** was signed with Ghana and over the next two years, four other countries followed suit: Cameroon and Republic of Congo in 2010, and Liberia and the Central African Republic in 2011. The pace of countries signing VPAs then slowed, with Indonesia signing in 2013. By that time, nine more countries had entered into VPA negotiations: Malaysia (2006); Gabon, the DRC, Vietnam (2010); Guyana and Honduras (2012); and Cote d'Ivoire, Laos and Thailand (2013) (EFI, 2014). Since 2014, no new countries have been admitted to the VPA negotiation phase, in order to focus on the considerable challenges emerging with the implementation of the six signed VPAs, and to get the VPAs signed with the nine other countries (EC, 2014).

The following figure summarizes the main events in the implementation of the EU FLEGT Action Plan.

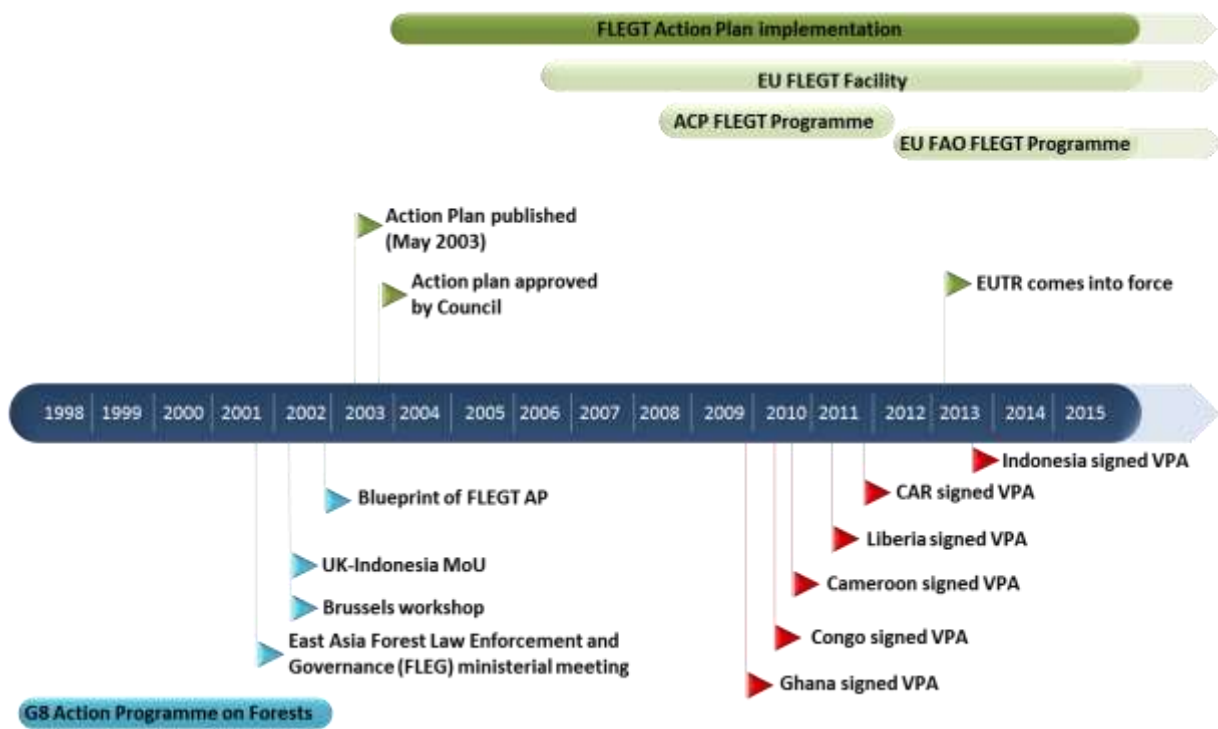


Figure 2: A Global FLEGT timeline - Source: compiled by the evaluation team, from various sources.



*Logs on the way to Kumasi (Ghana, May 2015)
Credits: Ernst Paul Zambon*

4 IMPLEMENTATION STATE OF PLAY

This chapter discusses progress and achievements in the seven Action Areas (AA1 to AA7) of the FLEGT Action Plan against initial expectations as reflected in the Action Plan itself. This implies that this assessment takes the Action Plan very literally – when in fact it is found to be more of an organically developing process. However, unforeseen developments are also described, and one of the evaluation questions (EQ6) explicitly examines the so-called emergent outcomes.

The findings in this chapter provide the evidence base for some of the answers to the evaluation questions presented in chapter 5, in particular for Evaluation Question 3, concerning effectiveness of the Action Plan.

For further details, findings and evidence concerning VPA and other producer countries, reference is made to the Special Report on VPAs (Annex 7 in Volume 2 of the Final Report).

4.1 Support to timber producing countries

First, we note that some of the issues raised in this section could be raised in section 4.2 as well, as they refer to both design of the VPAs (AA2) and EU support (AA1), as overlapping Action Areas.

Assuming that illegal harvesting of timber takes place primarily in developing countries, the FLEGT AP had a strong focus on providing support to these countries using development cooperation mechanisms. Such support was provided by the EC as well as individual MS, through a range of programmes, notably the EU ENRTP, the EU FLEGT Facility, the EU FAO FLEGT programmes, the UK-funded Forest Governance and Trade Programme (now Forest Governance Markets and Climate Programme), the German Governance Program and other GIZ bilateral programmes in countries negotiating and implementing VPAs, and other MS-supported programmes.

Results from the MS survey indicate that 8 out of 23 responding countries are active in Action Area 1, namely Germany, UK, Netherlands, France, Finland, Belgium, Denmark and Slovenia, see Figure 3. Since the mid-term review in 2010 (Hudson and Paul, 2010), the degree of involvement of MS in this area has not evolved. UK and Germany are the two major contributors to the VPA and non-VPA countries (see Chapter 5.8 on cost effectiveness). There is clearly room for broader support among Member States to producer (developing) countries, particularly from those MS that import (tropical) timber.

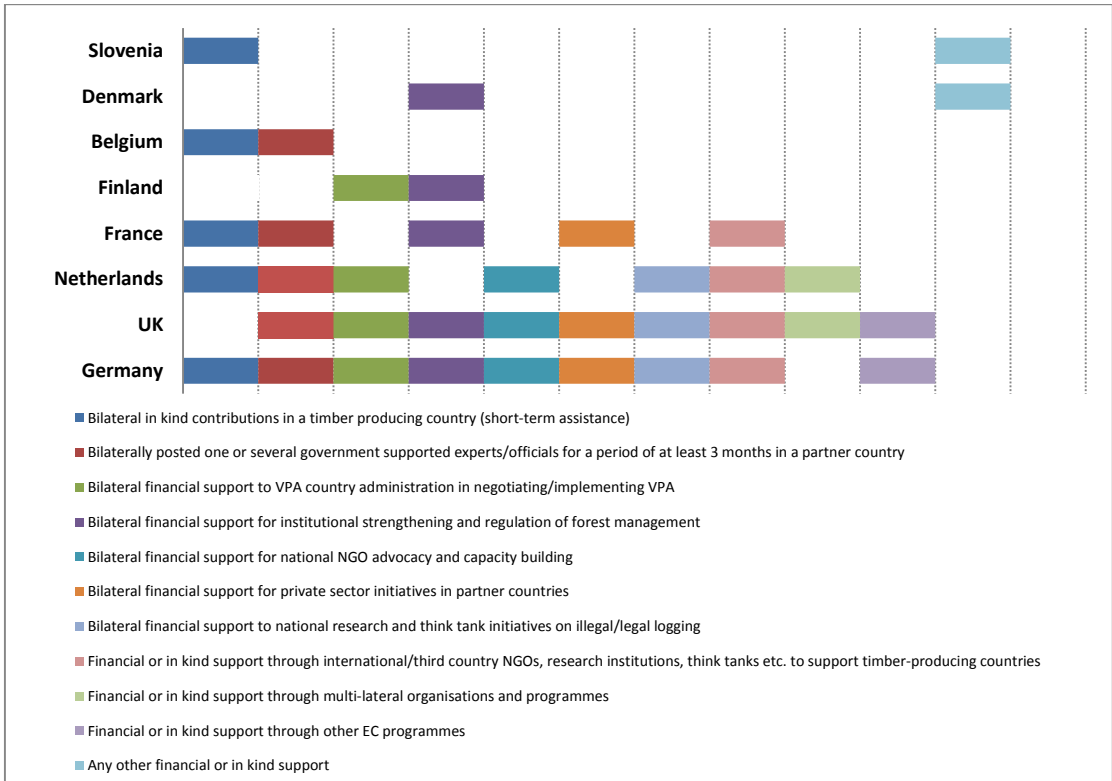


Figure 3: MS support to producer countries

Support to producer countries includes assistance to the preparation, negotiation and implementation of the VPAs, to broader FLEGT issues in those countries, and, to a lesser extent, on other non-VPA countries' efforts to combat illegal logging and improve forest governance. It included support to different stakeholders and on different themes (e.g. support to private sector, to NGO monitoring, technical assistance to governments).

The Commission information on FLEGT related projects in timber producing countries identifies various categories of FLEGT-related action: support to country administrations in negotiation/implementation of VPAs, institutional strengthening and regulation of forest management, NGO advocacy and capacity building, private sector initiatives, research / think tank, independent observation, monitoring of trade flows, support to community-based forestry development and governance systems, and forest monitoring. The three main categories of support are 1) institutional strengthening and regulation of forest management (34%), 2) support to community-based forestry development and governance systems (25%) and 3) support to country administrations in negotiation/implementation of VPAs (20%). Support to administrations in VPA countries includes a large range of activities such as multi-stakeholder consultations and dialogue, regulatory reforms, implementation of transparency requirements, development of traceability systems etc. There is significant overlap between the different categories and further breakdown of support cannot be easily made; the FLEGT mid-term review faced the same challenge.

Between 2005 and 2014, approximately €650 million were spent on this Action Area by the EU and EU MS. Based on a review of projects of at least € 5 million, it is estimated that one third of this amount has been dedicated to Africa, one-sixth to Asia (see Figure 4). The countries that were allocated most funding include Cameroon, Ghana, Honduras and Indonesia, followed by Brazil. According to the information provided by the EC, 99% of the support to Brazil was made by the EU to support resource management in Amazonia, but not in the framework of the FLEGT Action Plan itself.

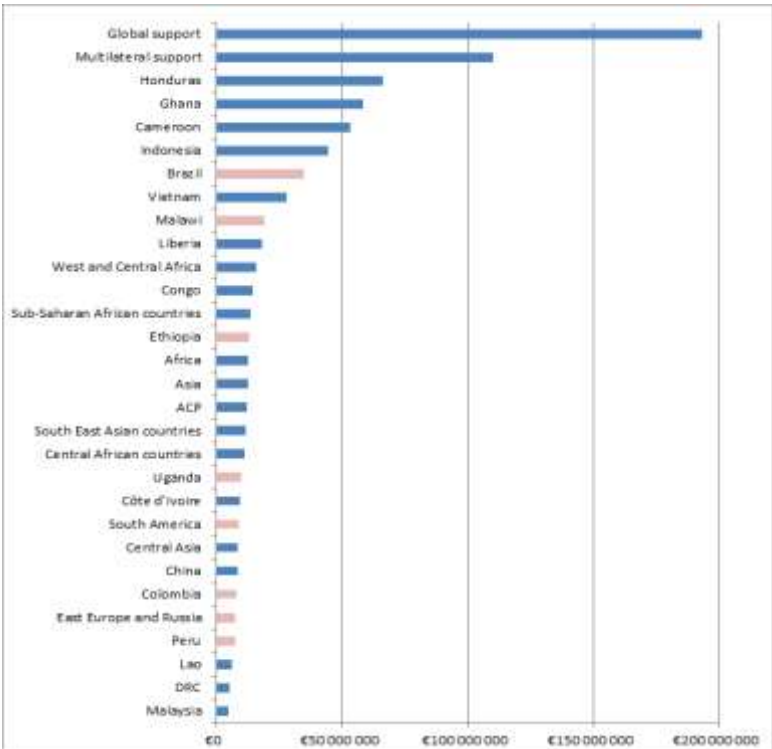


Figure 4: Indicative amounts allocated by the EU and the MS to Action Area 1 per country, 2003-2014 - Source: Surveys analysis. Note: Only support above 5 M€ is reflected. In red: Non VPA countries or regions

While the support has mainly targeted VPA countries - and additional support through the FLEGT Facility also focuses on the same countries - several countries have received support without being engaged in a VPA process (Brazil, Malawi, Ethiopia, and Uganda)¹¹. Some countries engaged in a VPA have received little direct support, such as the Central African Republic - partly as a result of the political situation in the country - or Guyana, whose involvement in the VPA process is more recent than in many other VPA countries. A significant difference in the amount of support received is perceived as unfair, by some countries, and may require clearer communication (refer Ivory Coast Aide-memoire).

The EU-FAO FLEGT Programme has gradually widened the range of countries it supports. It shows that, over the years, support to producer countries and the pursuit of FLEGT objectives have spread across countries that have limited timber trade with the EU, such as Mozambique.

For countries such as Russia and China, which are not eligible for Development Cooperation funds, bilateral cooperation takes place through other instruments in support of FLEGT, such as the ENPI FLEG Programme for Russia and the EU-China Bilateral Coordination Mechanism (BCM) on FLEG.

Lesson learned: *FLEGT has become an important channel for development assistance in the forestry sector. Support to producer countries has been channelled primarily to VPA countries, some of which have received large amounts of FLEGT funding. But FLEGT support for processes in non-VPA countries is increasingly considered to be equally relevant for improving forest governance globally, and non-FLEGT funds are also used in support of global FLEGT processes.*

Figure 5, below, presents a general framework for analysis of the support to producer countries, both globally and with a specific focus on the VPAs.

¹¹ This information was provided by DEVCO in July 2015 to the request of the FLEGT Action Plan Evaluation team. This information does not make the distinction between FLEGT support and all forestry support

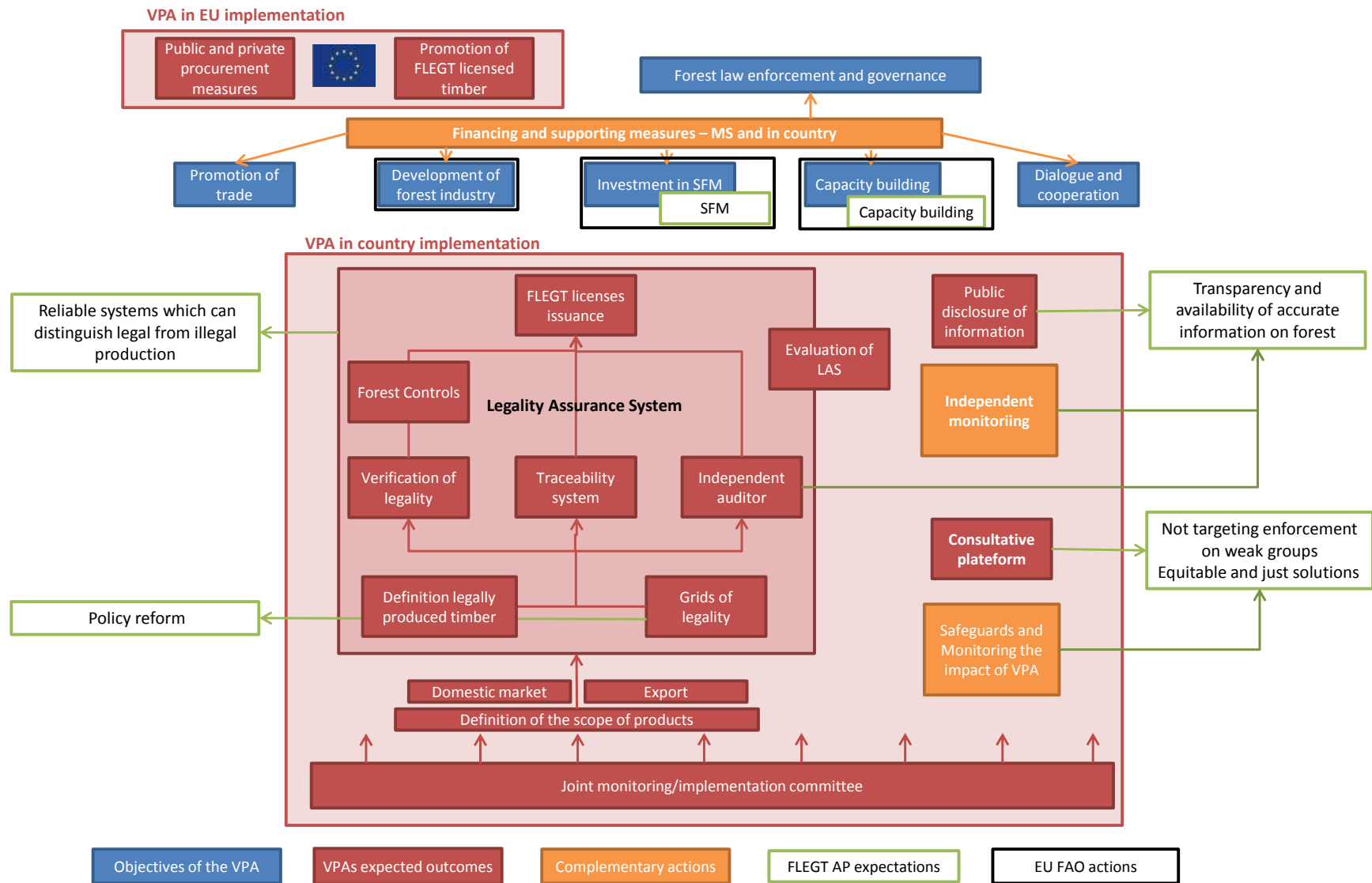


Figure 5: A framework for analysis of FLEGT in a VPA country

The framework includes the following elements:

- The EU FLEGT Action Plan expectations (green boxes) are the “vertebrae” that link the overall producer country support with VPA implementation;
- The objectives of the VPA are shown in blue;
- The activities and outputs are in red; they constitute the building blocks of all VPAs and aim to respond to the VPA objectives. They include EC engagement on public procurement measures and promotion of FLEGT licensed timber;
- Some complementary activities are coloured orange; they are not necessarily enshrined in the VPAs but some countries decided to undertake them as supplementary measures towards transparency and improved governance;
- EU FLEGT Facility support is mainly focused on in-country VPA support (red boxes)
- Areas of EU-funded support through the FAO FLEGT Programme are highlighted (dark lines).

The EU FLEGT Action Plan identifies (a) *Equitable and just solutions*, (b) *Verification systems*, (c) *Transparency*, (d) *Capacity building* and (e) *Policy reform* as main areas in which producing countries would need support. The following section discusses the results of such support, for each of these elements.

4.1.1 Equitable and just solutions

Under this heading, the Action Plan mentions three main objectives:

1. Ensuring that actions to address illegal logging, particularly enhanced law enforcement, do not target weak groups

Overdest and Zeitlin (2015, p 164) point to the important role that transnational NGOs like FERN and others, with EU financial support, have played “*not only in mobilizing pressure for unilateral action by the EU to combat illegal logging, but also in ensuring that the proposed measures did not simply seek to enforce existing forestry laws in developing countries, without engaging indigenous communities and civil society organizations in an inclusive, participatory process of legal review and reform to correct historic injustices. Transnational NGOs have played a no less crucial role in the development of the FLEGT VPAs, by supporting the involvement of domestic civil society platforms in their negotiation and monitoring stakeholder participation in their implementation, as well as in using their ties to local partners to draw the attention of the Commission and national Competent Authorities to violations of both the VPAs and the EUTR.*”

A first observation is that enhanced law enforcement has not been effective in most countries studied. Yet, while civil society actors have, generally speaking, been well engaged in processes of legal review, the revision of laws and regulatory frameworks has, in most cases, not (yet) resulted in equitable and just solutions for most vulnerable stakeholder groups either. This is partly due to lack of application of the reformed laws and regulations (Cameroon Aide Memoire).

Also, in the course of the negotiation and implementation phases, as domestic markets were being included in most of the VPAs (except for the CAR), it became increasingly apparent that local producers and traders are directly affected by the development of new legal frameworks to fight illegal logging. It appeared that formalizing a sector that has been operating informally for decades, without impacting on the livelihoods of tens of thousands (145,000 in Cameroon, 650,000 in Ghana, at least 5,000 in Liberia) (CIFOR, 2012) would be a formidable challenge and a long-term process requiring a cautious approach.

In *Ghana*, according to our information, the ban on chainsaw milling has been better enforced due to the VPA. But, while a considerable group of producers was affected by this measure, little attention was given to supporting them to find alternative livelihoods. There is concern that the loss of livelihood by the illegal loggers, and limited access to resources and financial means to invest in alternative livelihoods may force these people to continue - or go back to - engaging in illegal

practices. Numerous small and family-based enterprises involved in forestry risk going out of business unless they are supported in complying with legal requirements (Ghana Aide Memoire, 2015).

In *Liberia*, on the other hand, a regulation developed in 2010 has enabled the formalisation of informal activities such as chainsaw logging and the country included it in its legality definition. Such legal framework adapted to the knowledge and understanding of the local producers should foster their integration into a formal forestry sector and reduce the risk of engaging in illegal practice. This, however, seems to only be possible where enough forest resources are available for the allocation of new permits, which does not seem to be the case in Ghana or Ivory Coast.

In *Vietnam*, a recent Livelihood Impact Assessment funded by the EC (ENRTP) and carried out by the Network of Vietnamese Non-Governmental Organizations (VNGO) on FLEGT network analysed the likely impacts of the VPA on vulnerable stakeholders (Vietnam Aide Memoire, 2015). Many households and small enterprises are likely to be able to comply with the need to obtain the required legal documentation (Land or Forest Use Right certificates, business licenses, and tax compliance); however, the majority would not be able to meet other legal requirements, such as trading invoices, packing list of timber, or labour safety and hygiene standards. As a result, woodworking and processing households are likely to lose jobs, especially women. For small-scale timber growers and processors, the cost of compliance could significantly reduce their income and make their livelihoods more vulnerable.

Several recent initiatives have drawn increased attention on the impacts of VPAs on forest dependent communities: in 2010, Liberia started to review the legal framework to include pit sawyers and saw milling; in 2011 CIFOR started its analysis of the domestic market in the Congo Basin Countries; in 2013 a Livelihood Impact Assessment happened in Vietnam; in 2014 the review of the Congolese forest law was conducted. However this has not yet led to a systematic mitigation of adverse impacts in the VPAs.

The EU FLEGT Facility is developing an Impact Assessment Analysis in Cameroon, which is expected to contribute to an understanding of the extent to which the VPA modifies the livelihoods of local actors, and provide tools to mitigate the impacts (Cameroon Aide Memoire, 2015).

***Lesson learned:** In order to achieve equitable and just solutions to illegal timber production and trade, it is necessary to focus on all local actors managing the timber resources. In many countries, the volumes of timber exported are lower than those supplied by SMEs to the domestic markets; yet, until recently, this sector has received little attention or assistance. Assistance should therefore be directed to these domestic markets, where most illegal logging takes place and the main challenges in terms of awareness, technical knowledge and capacity, development of new regulations, or improvement of community livelihoods - are located.*

2. Participation of civil society in the management and protection of forests

CSOs in most of the VPA countries have actively participated in negotiations alongside governments and the private sector. The results of all surveys are clear: all respondents (public survey, VPA administrations and Member States alike) mention **improved stakeholder participation** as the principal achievement of the FLEGT Action Plan, see Figure 6 below.

Stakeholder participation is generally considered to be a major success of the FLEGT support, since it has deeply changed the relationships between the various actors in the forest sector; a relationship that, historically, hardly existed in many of the partner countries and was usually government led and controlled. Among the positive impacts cited is a 'de-compartmentalization' within and outside the administration, an involvement of all stakeholders, including some community representatives, the pursuit of a common goal, improved collaboration, and enhanced policy cohesion. In several

producer countries not engaged in a VPA (Russia, Bosnia aide-memoire), stakeholder participation is considered to be much weaker than in VPA countries although in some, like Colombia, FLEGT support has given an important impetus to stakeholder engagement in the forestry sector.

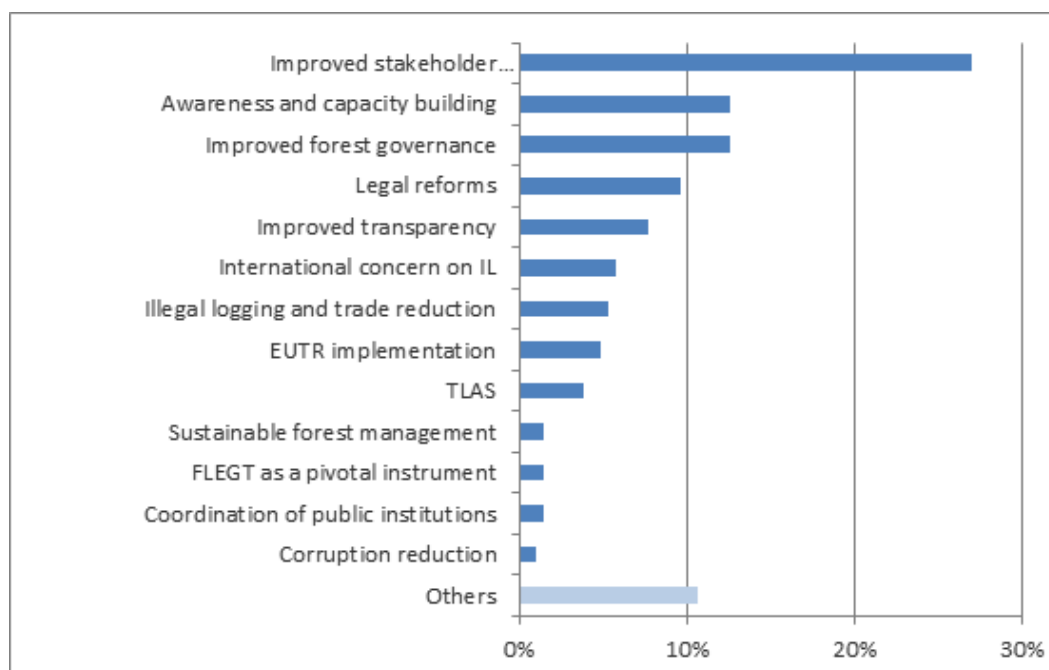


Figure 6: Public survey - Main achievements of the FLEGT action plan (85 respondents)

FLEGT Facilitation support has played a major role in ensuring that all stakeholders are committed to working together on better forest sector governance. It had the clear objective of facilitating the involvement of non-government stakeholders in the dialogue and consultations relating to the negotiation and the implementation of the VPA, particularly local civil society groups, representatives of community platforms and – to a lesser extent - the private sector. Nonetheless, the appointment of FLEGT Facilitators has proven to be an effective means to mobilize stakeholders, both during the negotiation and the implementation phase, and to help maintain the momentum that sometimes risks getting lost due to limited achievement of results.

In Guyana, the appointment of a facilitator from another VPA country (Ghana) has reportedly given a boost to the process; in Congo, the facilitator is helping to achieve consensus in the implementation phase, while in Vietnam, the facilitator helps build confidence between the parties. In Cote d’Ivoire, the VPA process has allowed the NGO community to become organized for coordinated participation in the process and to receive capacity building. EU experts (involved in facilitation, technical assistance, or NGO coordination, or overall management) are invited to provide support without imposing views from the outside.

A weakness identified is the limited involvement of the private sector. Some facilitators admitted that, in spite of their formal mandate to engage with all stakeholders, it appeared to be more complex to engage with the private sector representatives and especially with SMEs (Ghana, Congo...) than with NGOs. Furthermore, decision on appointment of a facilitator does not seem to follow clear criteria; some countries never received direct support for facilitation. Furthermore, the facilitation support has not been consistent; some countries have received continuous support from the early stages of the FLEGT Action Plan (Ghana, Indonesia, Liberia) while others have received no

support (CAR) or short-term support (Cameroon). The countries that have received the longest facilitation support are also the ones that are the more advanced in the VPA process.

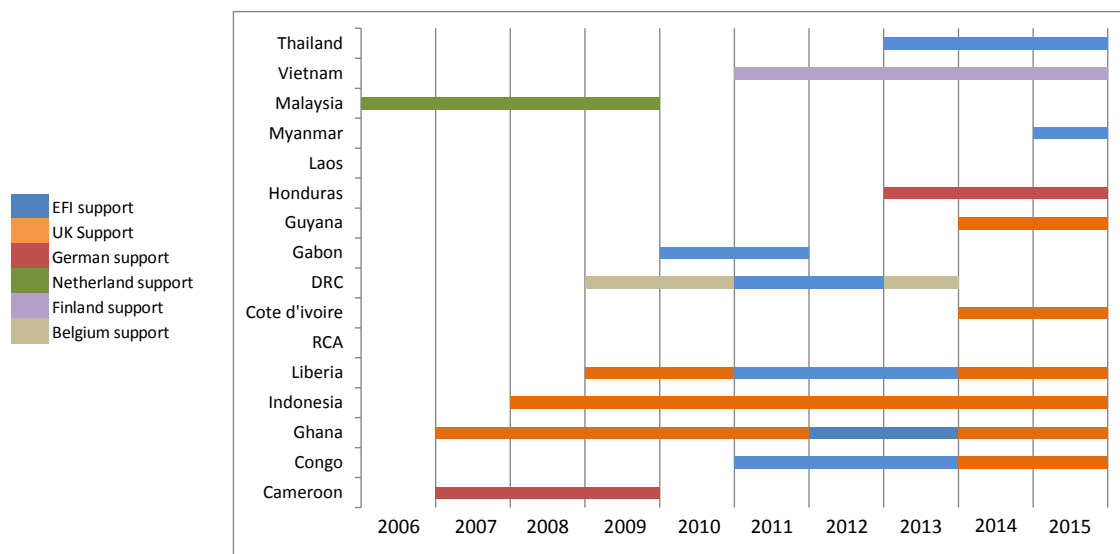


Figure 7: Facilitation support in VPA countries (EFI data)

Some partner countries have created or acknowledged a role for independent observers to monitor forest law enforcement and governance, as part (or not) of a VPA. This may take several forms, ranging from international consultancy-based support funded by the forest administration (as in Cameroon) or civil society-based monitoring (Honduras, Indonesia), to independent observation by (inter-)national environmental NGOs, built into the VPA framework (Congo).

Lesson learned: *FLEGT experience demonstrates that participatory processes, supported by in-kind facilitation, can effectively mitigate harmful impacts of VPAs, provided stakeholders are relatively well organised and the processes are supported by the national administration. Providing FLEGT assistance without this, on the other hand, has proven to be ineffective.*

3. Community-based forest management (CFM)

In the FLEGT Action Plan CFM is presented as a “key ally in the drive to reduce illegal logging”. The rationale behind this statement is that by empowering local communities to manage forests sustainably, their livelihoods can also be significantly improved, which in turn will encourage them to resist engaging in illegal and unsustainable activities.

CFM appears to have benefited Latin American and South East Asian countries - where community forest management is well established (ENRTP, 2014) – more than Central Africa countries, where convincing results are still lacking, after more than a decade of effort and where the feasibility of forestry communities participating in VPAs is questionable. A study in Cameroon (*Bois et Forêts des Tropiques*; 2013), for example, showed that none of the community forests’ timber products could comply with the grid of legality of the VPA, because the procedures are too complex and the cost of compliance is too high. Similar situations in other countries, such as Ghana (Chatham House, 2014), point to the need to clarify, simplify and reform laws and regulations related to the underpinnings of CFM: tenure and use rights, small-scale commercial extraction and processing, and access to sustainable investment. Forest communities may also need technical support for the establishment of legal and management structures, of technical, legal and marketing capacity, as well as provision of affordable finance.

CFM typically feeds into either the informal timber sector or into Small and Medium Enterprises serving domestic timber markets. However, in most VPA countries, the legality challenges related to domestic markets have not been as thoroughly tackled as those related to the export markets, despite the inclusion of domestic markets in the scope of FLEGT TLAS systems. One reason for this limited attention and support may relate to the complexity of the task, which involves hundreds of thousands of actors and demands major revisions to the regulations.

Some countries, such as Liberia, Ghana and Guyana, have been working on this challenge. In Ghana, for example, domestic consumption of illegal chainsaw timber by government and local buyers used to constitute 70% of total timber production. Anticipating the possible adoption of a new Public Procurement Policy, contractors are now being made aware that the government only procures from sources whose legality can be verified. This single act is reportedly working powerfully to 'clean up' practices of actors in the domestic market.

A Chatham House study (Saunders, 2014) reports that some countries not involved in VPA and with little or no direct export markets in Europe, are interested in developing another (non-VPA) kind of trade framework, including domestic markets and the engagement of communities. The report further suggests that broadening the scope and commercial viability of community forestry could be of interest to producer countries in Latin America.

***Lesson learned:** While increasing attention is being paid to addressing the challenges posed by FLEGT to community forests and domestic markets - in particular through the EU FAO FLEGT Programme, in line with FAO's internal strategy - much remains to be done. Few CFM operations are commercially viable and sustainable, and specific technical support is needed, particularly to develop sufficiently high value markets for CFM products.*

4.1.2 Verification systems

The FLEGT Action Plan refers to Verification systems as “reliable systems which can distinguish legal from illegal production will be essential in order to provide credible guarantees to the market that timber has been legally harvested”. They are usually referred to as Timber Legality Assurance Systems (TLAS)¹² and are a core element of VPAs. As such they have constituted a main area for funding by the EU and MS. In addition, the EU FLEGT Facility has been a major provider of technical assistance, putting considerable efforts into developing procedures, systems and capacities, initiating field-testing and participating in database design.

Generally speaking, the TLAS projects have met with little success. Out of 200 responses to the Public Survey, less than 5% consider the TLAS to be a major achievement of the FLEGT Action Plan. Responses to the VPA-country survey indicate that countries implementing a VPA still consider the TLAS to be a challenge. The reasons vary from country to country: in Cameroon, Congo and CAR the Wood Tracking Systems (WTS) development and acquisition projects have so far been difficult to manage and expensive; in Vietnam, there have been disagreements between the partners on approaches to TLAS development, including the scope of verification; in Malaysia the need for capacity building to run the TLAS has been underestimated.

At the same time, however, there is also general recognition that VPA negotiation and implementation, strongly supported by EFI, the EU and other MS, have helped to sharpen the legality definition, and this has been valuable, even if no functioning TLAS has been produced. Malaysia seems to be a case in point. The VPA Survey revealed that three VPA implementing countries acknowledge the positive effect of the legality definition process on the development of

¹² The TLAS are made of several components: one legality definition and the elaboration of grids of legality, a Wood Tracking System, a verification of compliance system, the issuance of FLEGT licenses and an independent Audit of the whole system.

the TLAS. Despite the challenges, some countries with better governance (Ghana, Indonesia) have been developing systems that, although imperfect, are close to operational.

In *Ghana*, the WTS has been developed based on the existing regulatory framework and related tools, but with limited participation from civil society and the private sector, because the Forestry Commission considered this to be a “rather technical issue”. However, in 2014, a Joint Assessment concluded that some technical issues still needed to be solved and earlier involvement of stakeholders could have made the process more efficient. On the contrary other less technical issues (legality definition, grid of legality) were elaborated with a strong involvement of all stakeholders.

Some alternative approaches to the legality grids and WTS under the VPAs are needed. These could include: legality grids that distinguish different levels of infractions and have different ways to verify compliance; phased implementation of legality requirements; and phased development of the WTS (ref. Aide-memoire Ivory Coast, and Vol. 2 – Annex 7, Special report on VPA and other producing countries).

Most producer countries are interested in receiving some market incentive in return for their engagement in the VPA process. This approach needs to be assessed, taking into account phased implementation, linked to targets and capacity building needs and adapted to the local context (VPA survey and public survey). While national concerns and priorities are supposed to guide all VPA negotiations, most VPA countries do not find the negotiation framework flexible enough and feel different alternative ways of developing legality and verification systems could be followed - outside of the components of the TLAS - in function of the country context (Country visits and VPA Survey - Malaysia, Vietnam, and Cameroon). Colombia, a non-VPA country, has decided to move on with FLEGT-like activities without engaging in a VPA process in order to better match the national context and maintain its sovereignty.

A more in depth analysis of how each of the components of verification systems are being dealt with is presented below.

1. Wood tracking systems (WTS)

Several projects of differing scales have been implemented, with varying degrees of success. In Central and West Africa, the EU has directly supported the development of national traceability systems, using advanced technologies suggested in the EU FLEGT Action Plan (“*a range of technologies can help to monitor harvesting operations and track timber*”) that may not always be appropriate in the local context if they are not introduced gradually and accompanied by proper capacity building. Generally speaking, the burden of developing a traceability system, in terms of time, technology, project management, human capacity and funding has been underestimated. In three VPA countries, the complexities surrounding WTS were cited as one reason for the failure of the TLAS to date. Limited commitment of key stakeholders and the technical complexity of the proposed systems, combined with overly complicated legal provisions have made oversight difficult (Public survey and VPA survey, 2015) and have resulted in delays in implementation of the TLAS¹³.

The success of a WTS also appears to be linked to a country’s governance capacity. In countries such as Indonesia, with higher governance scores (according to worldwide governance indicators¹⁴) the ground foundations appear to be better prepared for the introduction of nation-wide wood tracking. In countries with weaker governance, on the other hand, it has been found that the WTS developed often do not match realities on the ground. All VPA countries (10 out of 10 respondents) expressed

¹³ Competitive tendering processes to select IT [Information Technology] solutions’ providers for VPA TLAS have often been designed in a way that has constrained their interventions or created space for contractual loopholes or legal disputes; this has resulted in lost opportunities to have operational TLASs ready more rapidly and has undermined the initial expectation that private sector operators can bring extra efficiency in government management of the sector (Interviews with IT system providers - see VPA Special report

¹⁴ <http://info.worldbank.org/governance/wgi/index.aspx#home>

interest in implementing a simplified process, better adapted to the local context and less complex technologically (Public survey and VPA survey, 2015).

Lesson learned: *Simpler WTS, better adapted to local contexts, are needed. These should be developed based on a thorough analysis of the strengths and weaknesses of existing traceability systems, including their use by forest companies, and with direct involvement of the future users of the system (forestry administration officials and private logging companies). Reform of national verification systems takes time, as it touches upon sensitive issues involving vested interests and requires full transparency of the activities of all actors involved, both in the administration and the private sector.*

2. Compliance verification

The elements for the verification and monitoring of legality are defined in the VPA: the global outline of the system relies on administrative procedures defined in the existing regulatory framework and followed by the authorized bodies. Some countries, such as Congo, Ghana and Liberia, have chosen to provide additional levels of verification (Cellule de la Légalité Forestière et de la Traçabilité in Congo; Liberia Verification Department in Liberia; Timber Validation Department in Ghana) to enhance the consistency of the verification system. These systems and procedures, however, require additional funding that is not always incorporated in the national budgets.

A study conducted in Congo (EFI, 2013) suggests that most of the verification costs are, however, the routine responsibility of the producer country but that 28% of costs can be considered to be 'additional' to regular verification costs, as they relate to WTS software, independent auditing, and secondary levels of verification or FLEGT licensing. The additional recurrent costs, as well as disagreement with the EU on the financing of the Traceability Systems, appear to have contributed to certain reluctance on part of some national authorities to pursue their involvement in developing the system, causing further delays in implementation.

Vietnam considered these additional costs, particularly the FLEGT licensing, as irrelevant since the forest administration (VN Forest) thinks its national TLAS is robust enough to respond to the EC requirements. This has led to some disagreement during the negotiation phase and raised the question of the added value of issuing consignment-based FLEGT licenses.

3. Independent auditing and assessment of the system prior to FLEGT licensing

Independent Auditing (IA) of TLAS systems, as defined by EFI¹⁵, is *"a compulsory feature of all Voluntary Partnership Agreement (VPA) TLAS. Independent audits underpin the credibility of the TLAS of a VPA partner-country and the VPA as a whole. Audits provide independent evidence that a TLAS is working. The auditor's role is not to find evidence of illegality, but to assess whether a TLAS is functioning properly"*.

An independent auditor worked in Cameroon from early 2013 until the end of 2014, before the TLAS was fully developed and operational, hence the IA could not fulfil his original mandate. The parties involved decided to engage the auditor in an assessment of compliance of documents associated with permit allocation, in order to develop a baseline for seized timber. One conclusion of the Audit was that none of the enterprises (big or small, certified or not) is actually operating legally, as many documents required for legal verification are not available. This result suggests that, if the TLAS agreed under the VPA is strictly applied, all timber produced in Cameroon and sold on the international market should be considered illegal¹⁶. It goes to show how gaps in availability and conformity of documentation – sometimes pre-dating the adoption of the VPA – due in particular to

¹⁵ <http://www.euflegt.efi.int/independent-audit> and <http://www.euflegt.efi.int/independent-auditing>

¹⁶ However some verifiers agreed under the VPA where not all mandatory at the time of the issuance of the permits assessed by the independent auditor

archiving problems, can pose serious challenges to legal compliance (ref. Aide Memoire Cameroon). At the same time, it could also be questioned whether the independent auditing activities started too early.

In Ghana, in 2014 (prior to the independent Audit), a joint assessment was conducted and it was concluded that work remained needed in a number of areas and that these could be separated into issues relating to the development of the system (e.g. the completion of the 'mill module') and issues relating to non-compliances (e.g. the need to ensure that all production reserves had up to date forest management plans). The Joint Review of the TLAS also showed that only 4% of all timber delivered complies with the VPA legality definition, while in the actual sense of the law (including the non-removed older laws that are still in force), a much larger percentage of the timber is legal. So there is a difference between "VPA compliance" and "legality" according to the current legal context. Meanwhile, the Timber Industries Development Department (TIDD) is prepared for its task of issuing FLEGT licenses and an independent auditor has been contracted and prepared for independent monitoring of the TLAS.

In Indonesia, a joint EU and Indonesian team recently undertook an assessment of the SVLK system (the national TLAS) to evaluate whether it was "fully operational under the terms of the VPA". This first stage of the assessment identified areas where the SVLK needs changing. An action plan was drawn up to tackle this.

4. FLEGT licensing (see also Chapter 4.2)

At the time of the evaluation, only two countries appear to be approaching the FLEGT licensing stage, Indonesia and Ghana. It is believed that Ghana may be able to issue FLEGT licenses as early as 2016 (VPA survey). According to a report by ITTO, the country has made progress in implementing its legality verification system and "just a few issues need to be addressed before the country can secure approval to issue FLEGT licenses"¹⁷ but, according to others, the issues are fundamental (ref. Ghana Aide Memoire).

The structure of Indonesia's TLAS (SVLK) is considered by most stakeholders to be robust. There is quite broad consensus that FLEGT licensing should start as soon as possible, yet some stakeholders want certain preconditions to be met and/or guarantees given that certain issues will be addressed adequately within a given timeframe before licensing starts (ref. Indonesia Aide Memoire). Before setting a date for the start of FLEGT licensing, the Joint Working Group intends to reach agreement on the outstanding issues and how to address them within a set time frame and with support of all relevant stakeholders.

The inclusion of domestic timber markets in most of the TLAS has made issuance of FLEGT licenses more complicated, for several reasons: it has broadened the scope of products, widened the geographic distribution of actors, and introduced the constraint of limited technical and financial capacities among predominantly informal loggers, producers and traders. These challenges are sometimes compounded by administrators' lack of interest in regulating a system that allows for unlawful transactions.

In certain countries, like Cameroon, the inclusion of the domestic market has led to (informal) suggestions of the possibility of having two separate VPA processes; one for the external market and one for the domestic market, with different timeframes for compliance with the verification system (ref. Aide Memoire Cameroon). Other countries, such as Vietnam, consider FLEGT licensing an added EC requirement only applied to export timber, which would be addressed later. These ideas could be used for development of a stepwise and phased process.

¹⁷ Source: <http://gtf-info.com/news/market-legality-requirements>

4.1.3 Transparency

Transparency is another important pillar of governance, together with equity and accountability. Huge efforts have been made in this regard, under the FLEGT Action Plan, mostly through multi-stakeholder participation and publication of information. In many VPA countries, processes started with organizing civil society and local communities, and establishing platforms where they could gather and talk to each other and with the administration, in an open and often unprecedented manner. The Public Survey indicates that NGOs consider Transparency one of the main FLEGT achievements. In all VPA countries, there are examples of success. In Honduras, a country in the negotiation phase, for example, indigenous people have recently engaged in the VPA negotiation process, demanding that their concerns be openly addressed.

VPA negotiation and implementation processes have created opportunities for countries to approach transparent communication in different ways. Congo, for example, included a communication strategy in the VPA and developed a web-based mechanism, as did Cameroon more recently. In Indonesia all stakeholders agreed on a joint communication strategy for the Joint Implementation Committee. In Cote d'Ivoire, one of the three thematic working groups put in place is charged with the "*Stratégie de communication et Informations à rendre public*". However, other cases indicate that implementing a process transparently is still a challenge that requires the acceptance of the official administration. In Indonesia, for example, transparency still remains a major challenge.

Other initiatives contributing to increased transparency throughout VPA and sometimes non-VPA countries include the Central Africa Forest Transparency Initiative, which has developed an online platform to monitor the legality indicators with FAO / WRI support. It provides access to anyone wishing to see the available legal information for any industrial company.

4.1.4 Capacity building

The EU FLEGT Action Plan clearly states that capacity building should include not only the public sector, but also include civil society and the private sector. Considerable donor effort has gone into increasing the capacities of FLEGT stakeholders in different ways. Respondents to the Public Survey considered capacity building to be one of the three main achievements of the FLEGT Action Plan. However, in most VPA countries, awareness raising and capacity building (in the various phases of the VPA process) have mainly reached stakeholders at the central level and much less those at local levels (local administration, local communities, indigenous people). In Vietnam, for example, people felt that support was mainly targeting NGOs and CSOs, and much less the central authorities and hardly any provincial or local authorities.

The EU provides technical assistance and capacity-building support to the VPA partner countries through different support programmes, in particular the EU FLEGT Facility. The Joint Evaluation of this Facility (EuropeAid, 2014) concludes that it has made some contribution to targeted capacity building of country stakeholders, but has not undertaken sufficient knowledge management – needed to share and capitalise on experience to improve its own as well as the beneficiaries' performance. The evaluation also concludes that, while the Facility supports important processes related to capacity building, there have been no capacity needs assessments on which to guide investments in this area.

The degree to which capacity building is seen as a core activity of the FLEGT Facility has changed since the inception of the Facility in 2007. The initial narrow focus, in particular in the FLEGT Asia Regional Programme, on 'customs and trade', was broadened first to include 'LAS implementation' and, only in 2013, to comprise the more general task of 'building the capacity of in-country partners as well as other like-minded organisations supporting FLEGT processes'. The shift in focus seems to reflect the evolving perception that capacity building is not only required in relation to technical

aspects of the TLAS, but also for long-term sustainability of VPAs. It is also an essential element in an exit strategy for EFI that sees a declining role for the Facility, as in-country capacity is built.

In all VPA countries, NGO involvement has been particularly valuable in mobilizing and strengthening the capacities of other civil society actors, for example to participate in independent forest monitoring, and has encouraged transparency and accountability in the forest sector (RRI, 2015). However, there has been relatively little capacity building of private sector actors and organisations, despite their involvement in FLEGT VPA processes from the very start. In Ghana, private sector actors have participated in VPA-awareness workshops but very few have been involved in the first roll-out of the Wood Tracking System. One reason for the private sector's limited involvement in capacity building sessions is that many understood that the Private Sector would fund its own activities and not be eligible for ODA funding. A lack of motivation from companies may also be explained by the low priority given to legal compliance, especially when they also struggle with many other issues and are in a 'survival mode' (refer TTAP layman's report¹⁸). Furthermore, some companies appear to have lost faith in a process that is taking much time without producing tangible results, and not keen to spend time on activities that do not generate short-term financial returns.

On the other hand, the private sector and its many exponents are still relatively unknown to other FLEGT actors. This is mainly due to the difficulty to get a full understanding of a sector that is multiple (SMEs, multinational companies, national companies, exporting companies, processing companies...) with actors who sometimes have opposite interests and are difficult to mobilize. Only very recently, studies have started providing more in-depth analysis of the private sector, e.g. in Cameroon (FAO, 2015). These studies can provide a basis for better engagement with the private sector and targeted capacity building actions.

***Lesson learned:** In all countries benefiting from FLEGT action, there is a need for continued stakeholder-wide capacity building support based on capacity needs assessments. Given that the private sector is diversely organised, often divided and thus hard to reach for capacity building, priority should be given to vulnerable producing country actors who are affected by FLEGT/VPAs.*

4.1.5 Policy reform

The need for policy reforms, simplification of procedures, and the promotion of good governance is clearly stated in the Action Plan. However, reviewing forest-related laws to identify weaknesses and, where necessary, introducing legislative and policy reforms is an ambitious objective, requiring strong political will. Even though governments tend to resist external pressure to modify laws and regulations (which are considered to be sovereign issues), engagement in VPAs has provided good opportunities for addressing sensitive policy issues and promoting legal reform.

- In Liberia, the EU FLEGT Facility provided external expertise to develop five pieces of draft regulation to complement the regulatory framework revision that followed the end of the UN sanctions, and to remove contradictions in the forest sector's legal framework.
- In Congo, with the support of AFD, the legislation on forests has been completely revised through a fully participatory and transparent process. All forest actors have been able to provide inputs and express their concerns over the new forest law project. A final workshop gathering the entire forest sector community approved the last draft. However, the draft text has not yet been approved by the parliament and regulatory texts remain to be produced.
- In Cameroon, the revision of the Forest Code and its implementing regulations, though included as a priority activity and initiated in 2008, has not significantly advanced. Some regulations have

¹⁸ COMBATING ILLEGAL LOGGING. Timber Trade Action Plan 2005-2013

been developed, but no draft law has yet been produced, and some stakeholders are concerned that this may be rushed through later, without proper stakeholder engagement (CED, 2012).

- In Ghana, policy reform processes have started, but in some areas have stalled again. While there was a focus on the development of “technical solutions” for wood tracking systems, important political issues were neglected and only once the technical issues have been more or less solved, people seem to realize the extent of the political challenges (largely out of the foresters’ control) that remain. One of the main concerns is that there is no proper legal reform, which would address, among others, the issue of conversion of old leases into Timber Utilization Contracts and the Special Permits. A “lack of political will” and the challenge to the constitutional review have been mentioned as other obstacles (Ghana Aide Memoire).
- In Ivory Coast, the lack of regulations to implement the new Forest Code is blocking the VPA process and could cause significant further delays.

Many stakeholders see *legal reform* as one of the ‘top-five’ achievements of the FLEGT Action Plan (Public Survey, 2015 and VPA Survey). At the same time, however, they consider the same as a main remaining challenge for the future. Lack of political will, inertia of national administrations and, in some cases, vested interests and corruption, are among the issues mentioned that prevent effective law enforcement. Most stakeholders, particularly the NGOs, in most countries consider corruption and lack of political will to be the main challenges for the FLEGT Action Plan (Public Survey, 2015).

Some international NGOs have expressed concern that VPAs have prioritized national laws over international and customary laws, which could have provided a better recognition of the customary rights and livelihoods of indigenous people and traditional forest users. This concern was born out during a field visit in Cameroon, where forest conversion had forced the displacement of indigenous people (see also EQ10 on Coherence). Land tenure is also a major issue in every VPA countries such as Guyana, Cameroon, and Indonesia. While some countries have seen positive changes regarding land tenure and access to forest resources (VPA survey) tackling more generally this topic in the framework of the VPAs is also considered to go far beyond the EU FLEGT Action Plan.

Lastly, it was found that law enforcement and capacity building under FLEGT reached out beyond the forestry services and administration, to include other public authorities involved in controls and verification, in particular police, customs, and the judiciary. These corps are often involved in the VPA process as members of the Joint Committees. However, while the EU FLEGT Action Plan explicitly refers to “*raising awareness of environmental law within the police, the legal profession, public prosecution services and the courts; training of customs officials*”, these bodies are rarely actively involved as target groups of VPA activities. Yet, some results have been achieved, for example through training of public prosecutors in Indonesia, under the Illegal Logging Response Centre project. Still, during the visit to Indonesia, it was found that better coordination with the police and military would be needed, in order to strengthen law enforcement and ensure effective law enforcement. Other observers are wary of this, as they think these forces are ‘part of the problem’.

Lesson learned: *Policy reform - as an element of improved governance - remains one of the main challenges that FLEGT action has to address. This includes not only the development of the legal framework - a process that is well on the way in many VPA countries - but also the enforcement of the laws that, so far, has been weak, resulting in concern and scepticism among many stakeholders. The time required for reform processes to deliver results, in countries with poor governance, has been under-estimated.*

4.2 Trade in timber

Under the Trade in Timber Action Area the Action Plan refers to three actions namely to (1) *develop the multilateral framework and international cooperation*, (2) *develop voluntary licensing of exports*

(through bilateral or regional FLEGT Partnership Agreements between the EU and timber exporting countries) and (3) review and develop additional legislative options. They are discussed below.

A. Multilateral framework and international cooperation

An important element of the trade-related measures set out in the Action Plan and previously highlighted by the G8, is to engage with other major timber consuming countries and explore ways of working together towards a more comprehensive framework to prevent illegally harvested timber entering their markets.

The 2010 FLEGT Progress Report (Hudson and Paul, 2011) concluded that 11 EU governments and the EC were engaged in multilateral, regional or bilateral initiatives with non-EU timber consumer countries to advance a multilateral framework to improve forest law enforcement, governance and associated trade. Eight fora are mentioned in this context, some of them pluri- or multilateral, others regional: the G8 Summits (now G7), the International Tropical Timber Agreement (ITTA), the United Nations Forum on Forests (UNFF), the World Bank Forest Law Enforcement and Governance (FLEG) regional initiatives including ENAFLEG (Europe & North Asia), the Association of South-East Asian Nations (ASEAN) work on forests, the Congo Basin Forest Partnership, the Forest Europe Ministerial Conference and the Baltic Sea Initiative.

The MS Survey 2015 reveals that 21 of the 23 responding MS are involved in one or more multilateral frameworks - a significant increase since 2010. Individual MS differ in the extent of their involvement, from the UK, which is involved in all the above mentioned initiatives, to Austria, Estonia, Finland, France, Italy, Slovenia, Germany and the Netherlands, involved in three or more, then Luxembourg and Romania, involved in only one, and Cyprus and Lithuania which are not involved in any.

In the EU FLEGT Action Plan, the European Free Trade Area (EFTA) is identified as another mechanism through which FLEGT action can be pursued. Additionally, Europe is negotiating Free Trade Agreements (FTAs) with different economic blocks and these are increasingly used as an instrument to address FLEGT concerns. These are discussed further below.

Bilateral FLEGT dialogues between the EU and timber exporting countries

An important channel for FLEGT policy work is bilateral dialogue. The Action Plan alludes to exchanges amongst major consumer blocks such as Japan and USA, and also stresses the need for efforts to engage with China. Meanwhile, bilateral dialogues on the EU FLEGT Action Plan with both developed countries and BRICS (Brazil, Russia, India, China and South Africa) have been pursued over the years, as part of a broader political agenda, mainly through the High Level Environment Dialogues coordinated by DG ENV/E1 and the EEAS, and/or through the Trade dialogues/negotiations led by DG Trade. Starting dates and progress made depend on the specific political and trade context. Below, progress in the dialogue with the main partners mentioned explicitly in the EU FLEGT Action Plan is summarised, based on information provided by the EC. Actions with other countries are briefly mentioned.

After the US, China and the EU, **Japan** is the world's fourth largest timber importer, with a relatively high level of consumption (for a rich consumer country) of wood-based products that are likely to be illegal. As such, it is important for any global action on illegal logging to seek cooperation with Japan. The Government of Japan included wood products in its public procurement policy, and the Forestry Agency developed the *Goho*-wood system to promote legally produced wood and wood products, as well as guidelines for checking the legality of wood products. Associations for wood, wood products or timber importers are by and large following the guidelines for *Goho* wood.

Still, Japan's interest in addressing illegal logging has remained relatively low, focusing on voluntary measures, including the *goho-wood* system, rather than on binding legislation. Environmental NGOs

have been promoting FSC certified wood and also "Fair Wood". A need for introducing stronger measures to combat illegal logging has been raised by the EC in its bilateral environment dialogues. It is unsure if the EU FLEGT Action Plan has directly affected trade, law enforcement or forest governance in Japan.

Since 2013, concerns about illegal timber have been increasing, as illustrated by the announcement in July 2015, of illegal logging legislation to strengthen Japan's policy. Such legislation would require private companies, in particular importers, to verify the legality of foreign produced timber prior to placing it on the Japanese market; it should be enacted by the end of 2015. This legislation is in part based on the EUTR, and political dialogue and technical exchanges facilitated by the EU FLEGT Facility in Asia over the past six years have at least partly contributed to this important achievement.

Though initially sceptical about FLEGT, the **USA** has been quite cooperative on illegal logging issues since the 2008 adoption of Amendments to the Lacey Act made to incorporate plants in its scope. Cooperation has been in the form of pushing for strong positions on illegal logging in multilateral forums and through practical collaboration with US-funded projects such as the Forest Legality Alliance or the Responsible Asia Forestry and Trade (RAFT) project. The USA has also initiated a dialogue on illegal logging with China. The American Hardwoods Export Council (AHEC) has been supportive of the EUTR, despite the increase in administrative burden it implies for US producers.

There is considerable liaison - through six-monthly meetings and teleconferences - between Competent Authorities in some EU MS and their counterparts in the USA concerning implementation of the EUTR and the amended Lacey Act, facilitated under a grant from the UK, and Australia is now also participating. In the context of the Free Trade negotiations (Transatlantic Trade and Investment Partnership - TTIP), statements on cooperation on illegal logging and CITES enforcement are reportedly under discussion. The support of the USA has gone surprisingly far: in Bosnia and Herzegovina a project was financed by USAID to promote private sector compliance with the EUTR (FIRMA project; 2009 – 2013).

Engagement with **China** on FLEGT has received attention, albeit - according to some – insufficient (see China Aide Memoire); China has participated in all the regional FLEG conferences since the Bali FLEG Conference in 2001 and wishes to be seen as a responsible producer of forest products. In 2007, DG Environment held an EU-China Conference on Forest Law Enforcement and Governance (FLEG) in Beijing, and established formal cooperation in this field through a specific instrument, the Bilateral Coordination Mechanism (BCM) on FLEG. Subsequently a MoU document signed by the Commissioner and the State Forest Administration, which has the formal lead on issues concerning illegal logging, formalised the mechanism, and annual meetings of the BCM have been held since 2009. While the BCM focuses on policy dialogue, the Chinese Ministry of Commerce has also been involved in some MS supported activities (mainly the UK, currently through the InFit Programme), such as the production of Guidelines for overseas Chinese operations and support to the development of the Chinese Timber Legality Verification System (CTLVS) and supporting legislation).

The BCM is generally considered to be a constructive instrument for engagement with China on FLEGT issues. Newly agreed joint studies on supply chains from the Russian Far East and Myanmar, for example, will allow strengthening global FLEGT action. There is also hope that China would develop its own EUTR type of mechanism. For this to happen, the EU should sustain its leadership in this field and continue to motivate China to move in the same direction.

The FLEGT Asia Regional Programme¹⁹ also provided good opportunities for identifying and implementing actions with China. The EFI, within the framework, has established a small office in

¹⁹ The FLEGT Asia Regional Programme was funded by EuropAid (€6 M) and implemented by EFI (2008 – 2012) with the aim to strengthen regional cooperation in forest governance and to promote and facilitate international trade in verified legal timber, with special focus on China, India, Myanmar, Cambodia, Vietnam, Laos and Thailand (EU, 2010).

Beijing to build trust with Chinese counterparts and help raise awareness on the EUTR. UK and Germany are supporting complementary action on forest legality and certification, respectively, and are providing some assistance for a domestic system of timber legality assurance.

Regarding the other **BRICS** countries, the political dialogue with Brazil on FLEGT has not gone very far, despite several attempts, and FLEGT action in the country is limited to a number of relatively small projects involving private sector actors. The environment dialogue with Russia has been regular since 2007 and includes FLEGT themes, supported materially by the ENPI-FLEG programme. The FLEGC²⁰ sub-group reportedly allows for an active exchange of information with the Russian forestry authorities, and awareness of EUTR requirements has been raised. The current Ukraine conflict affects also this EU-Russia dialogue. With India, exchanges on FLEGT are in an initial stage. India is still a small timber exporter, but it is a huge and fast-growing timber importer and consumer, which makes it a potentially important country for FLEGT demand-side measures. A report for the EC (HTSPE, 2011) concerning the forestry sectors of a number of eastern and southern African countries concluded that little would be gained from a VPA with South Africa, as almost all production of industrial roundwood in South Africa derives from FSC-certified plantations.

Besides these countries, there are environment or trade dialogues with other emerging economies, which allow for dialogue on FLEGT, in particular with Korea and Mexico. There are also dialogues with other developed economies, notably Canada, and Australia, whose own Illegal Logging Act is considered to support EUTR implementation indirectly as it targets the same cause.

B. Develop voluntary licensing of exports

The Voluntary Partnership Agreements (VPAs) are at the core of the FLEGT Action Plan and are, in the view of many producer or non-Member State importer countries, what FLEGT is all about. The VPAs try, amongst other things, to establish timber legality assurance systems (TLAS) that apply to products and market destinations that the VPA country chooses to include within the scope of its VPA²¹. Exports to all destinations (including China), as well as production for end-use in the given VPA country are within the scope of all VPAs that have been ratified to date, except for the CAR. Typically, under VPAs, export permits confirming compliance with the TLAS should accompany all exports. For exports to the EU, those permits are referred to as FLEGT licences.

Most of the benefits from the VPAs, especially those related to trade, foreseen in the EU FLEGT Action Plan, have not really materialised after the negotiation and implementation of the VPA:

- *“increased market confidence for timber from participating countries”* – Many VPA countries feel that the EU market is now less confident than before about tropical timber (see Chapter 5.6 on emergent outcomes);
- *“increased revenues from taxes and duties – indications are that these will more than cover the expenses associated with running a system to verify legality of harvesting and tracking”* – Only one VPA country (Congo) mentions an increase of government revenues as a reason for its engagement in the VPA process. It is also the only country that recognized that the VPA has had an impact on government revenues, even though there is no fully functional VPA yet. Furthermore, revenues from forestry go to the central budget and are not necessarily passed on to the forestry administration;
- *“Once established, the mechanisms could be upgraded to support the tracking and verification of certified timber from sustainably managed forests”*. Available data suggest that the systems

²⁰ For Forest Law Enforcement, Governance and Conservation.

²¹ However, those products must include logs, sleepers, sawn wood, veneer, and plywood as a minimum.

under development²² are not necessarily enhancing more sustainable forest management (SFM) or SFM certification, and that this is neither envisaged by many stakeholders in VPA countries;

- *"priority for EC development assistance for FLEGT-related support measures, to be decided in the context of programming of the relevant country strategies"*. It is unclear to what extent country development strategies have effectively incorporated FLEGT support measures, and to what degree FLEGT support has prioritized VPA countries (see Chapter 4.1 - Support to producer countries and chapter 5 - cost-effectiveness).

However, *improved access to the EU market* is not the only reason for countries to engage in a VPA. According to the VPA Survey conducted as part of this evaluation (see Volume III), *"sustainable management of national forest resources"* and *"improved forest governance"* have been equally important objectives for all VPA countries, right from the start. In this regard, some foreseen benefits did materialise, following VPA implementation, in particular:

- *"additional enforcement tools to combat illegal activities in the market of origin of the wood"* - Many tools have been and are being developed to tackle illegal logging (improved legal framework, increased stakeholder participation, independent monitoring, improved monitoring and control systems,...) and there are indications that VPAs start to result in a sustainable reduction in illegal logging (e.g. in Ghana and Indonesia),

In line with the EU FLEGT Action Plan, EC legislation has been established to receive FLEGT licensed products. Unlike EC Regulation 995/2010 (the 'EUTR'), EC Regulation 2173/2005 ('the FLEGT Regulation') is a border control measure and Member States are understood to be ready to receive such products.

There is a general concern, however, about the level of implementation of the EUTR in Europe, which might reduce the incentives for VPA countries to issue FLEGT licenses. One comment made in the context of the Public Survey conducted in the context of this evaluation concludes *"the slow implementation of the EUTR decreases incentives for VPA countries to commit"*. Moreover, VPA countries find it hard to accept the lack of recognition of their efforts to enhance their broader governance framework (in the absence of FLEGT licenses they are treated like any non-VPA country). This has led several countries (Vietnam, and Congo) to propose a phased application of the TLAS, while in Cameroon such is being suggested by stakeholders.

Strictly speaking, the flow of *FLEGT licensed products* cannot commence until a legality assurance system covering the full range of products subject to the VPA is operating satisfactorily across all relevant supply chains. Consequently, FLEGT licensing should not be expected until exports to non-EU countries and production for domestic markets is sufficiently compliant with the TLAS. In spite of perceived delays and the fact that no FLEGT licenses are available yet, many MS are expecting a lot from these licenses in terms of improved governance. At the same time, some stakeholders in VPA countries question the strong focus on these licenses. They fear that a focus on the technical aspects of licensing (such as Wood Tracking Systems) might divert attention from the very purpose of the VPA - which they perceive more in terms of improved governance.

In many VPA countries, the *inclusion of the domestic market in the VPA* has been expressed as an intention rather than a strict requirement. For example, Art. 13 of the Ghana VPA states that *"Ghana shall endeavour to verify the legality of timber sold on domestic markets and of imported timber, using, where possible, the systems developed for the implementation of this Agreement"*. Liberia's VPA has similar wording. Cameroon and Congo, on the other hand, include the domestic market more explicitly. The Congo VPA Art.9 specifies that *"Application of the system for verifying*

²² Indonesia has added SFM criteria to its SVLK (TLAS) system (PHPL standard) for certain categories of producers; however some stakeholders do express doubts on the level of sustainability and the way compliance ratings are dealt with (see AM on Indonesia).

the legality of all timber and derived products produced in Congo shall use the system for verifying the legality of timber and derived products in respect of all timber and derived products irrespective of the intended market". Yet the fact that VPA countries have included the domestic market in the VPA and in their actual strategies and endeavours focussing on TLAS development and -compliance means enormous tasks, which require significant investments, manpower and (unforeseen) additional time.

In a number of VPA countries (in particular in Cameroon and Ghana²³), progress towards FLEGT licensing has been delayed due to difficulties in establishing the necessary traceability systems. At the same time, forecasts of when the routine flow of FLEGT licensed products would commence have proven too ambitious; there are no such flows to date. Some stakeholders have suggested that regional VPAs, permitting economies of scale for the WTS, could help. However, there have been no proposals to establish such regional variants, reportedly due to concerns relating to sovereignty over data and data management.

C. Review and development of additional legislation

EU Regulation No. 995/2010, better known as the European Timber Regulation (EUTR) was prepared to prevent the placing of illegally produced wood-based products on the EU market, thus supporting and complementing the VPAs. The scope²⁴ of the EUTR is defined in its Definitions (applicable legislation) and Annex (products²⁵). The EUTR also lays down the obligations of so-called "operators", those parties who place products (either imported from outside or produced within the EU) that fall within the scope of the EUTR for the first time onto the EU market, and presents obligations for "traders", further down the chain. The EUTR was adopted in December 2010.

The EUTR establishes three key obligations as follows:

1. It **prohibits the placing on the market of illegally harvested** timber or timber products derived from such timber;
2. It requires **operators** who place timber products on the EU market for the first time to **exercise 'due diligence'** (DD).
3. It requires **traders** in timber and timber products after the first placement on the market to **keep records** of their suppliers and customers.

The EUTR was followed by two additional regulatory acts relating to its monitoring: (a) Commission Implementing Regulation (EU) No 607/2012 of July 2012, detailing the rules for Monitoring Organizations (MOs) with respect to their Due Diligence System (DDS) and the frequency and nature of checks on MOs; (b) Commission Delegated Regulation (EC) No 363/2012 of February 2012 on the procedural rules for the recognition and withdrawal of recognition of MOs.

The EUTR came into application on March 3rd 2013 and has to be implemented by all MS. As it was issued at the end of 2010, quite some time was allowed for authorities and private sector to prepare. The mere fact that such an innovative legislation, covering all the current 28 MS, was developed and adopted is considered an achievement in itself.

²³ Annual Report 2011 - Implementing the Ghana-EU VPA. JMRM (Ghana and EC) (04 2014)

²⁴ The Regulation covers a broad range of timber products including solid wood products, flooring, plywood, pulp and paper. Not included are recycled products, as well as printed papers such as books, magazines and newspapers.

²⁵ The scope of the EUTR covers the main categories of wood and wood products, but excludes others such as printed paper products, wooden furniture, wooden coffins and musical instruments (and charcoal).

Design

The EUTR prohibits that illegally produced wood-based products are placed on markets within the EU. To avoid discrimination between countries, which would be in violation of the WTO, the EUTR applies to wood-based products that are either imported from outside the EU or produced within the EU.

Companies trading in products within the scope of the EUTR need to be registered in at least one of the MS so that they can legally operate, and so Competent Authorities (CAs), the organizations that shall monitor compliance of operators with the requirements of the EUTR, have them within their legal reach. This facilitates both control and prosecution, where applicable. “Operators” (see above) must take appropriate steps in order to ascertain that illegally harvested timber and products derived from such timber are not placed on the internal market. To that end, operators shall exercise “due diligence”. As the onus is put on them, the operators will assure that their suppliers comply with the legality requirement. The requirement for legal compliance refers to the legal context in the country of origin (or the countries of origin if the product is made of wood raw material deriving from more than one country) i.e. where the wood was harvested.

The EUTR requires operators actively to assess the risk that their prospective purchases derive from illegal sources, by applying a due diligence system (DDS). The DDS includes three elements inherent to risk management: access to information, risk assessment, and mitigation of the risk identified. It shall provide access to information about the sources and suppliers of the timber and timber products being placed on the internal market for the first time, including relevant information such as the country of harvest, compliance with the applicable legislation, species, quantity and, (where applicable), sub-national region and concession of harvest.

On the basis of this information, operators must carry out a risk assessment. Where there is a non-negligible risk that the wood raw material has been illegally produced, the operator shall take mitigating measures, enabling him to limit such risk. The EUTR creates a “green lane” for FLEGT licensed wood products (from VPA countries) and for products which are listed on a CITES Appendix. Although there are no “green lanes” for other evidence of legality, in practice elements of DD used thus far, in the absence of FLEGT licenses, include the provision of (a) certificates for sustainable forest management such as FSC and PEFC, (b) statements of legality verification systems such as Certisource, OLB, TLTV, VLC or (c) all relevant documents from the producer countries’ national context that provide evidence of legality. Checks of legal compliance include the right to harvest timber, payment of taxes and harvest fees, compliance with relevant forest legislation, dealing with third party legal rights and compliance with trade and customs regulations.

Operators can either develop their own DDS or seek the services of a Monitoring Organization. In the latter case, the MO develops a DDS that can be used by all the operators they support. The operators must apply the DDS of the MO correctly and the MO exercises controls to ensure this. In turn, the functioning of the MO is to be controlled by the CA.

“Traders” (companies further down the chain, who purchase, for commercial purposes, products subject to the EUTR that have already been placed on the market i.e. by operators) are required by the EUTR to register both the companies from which they source their wood-based products and the companies to which they sell their wood-based products. This enables the CAs to perform checks on chains of custody (CoCs) and eventually trace any operators who supplied allegedly illegal timber products.

The EUTR requires three actions by MS: (1) designation of a Competent Authority, responsible for effective implementation and control at MS level; (2) enactment of the necessary legislation to support effective implementation (i.e. to adopt effective, proportionate and dissuasive penalties for infringements); and (3) implementation of effective control and prosecution. The EC has to ensure

that the MS are informed about the Regulation and implement it accordingly. To ensure the effective implementation of the EUTR in all the 28 MS, the EC can refer to the aforementioned Regulation (EU) No 995/2010 of the European Parliament and of the Council d.d. 20 October 2010 (which are therefore EU law), inform MS on possible ways to deal with it, promote exchange of experience among MS, or provide guidance to MS and stakeholders, through documents, websites, seminars, etc. If this were not to result in effective implementation, the EU has the option to start an infringement procedure against a non-complying MS, which may lead to substantial fines. Although this is generally considered too costly and time-consuming (it may take many years) and undesirable as it may strain internal relations, in the course of 2015 the EC initiated pre-infringement procedures against a few MS and, according to the EUTR Review (2015), this proved successful in rapidly bringing the majority of MS to compliance.

According to EC sources, important positive aspects of the design of the EUTR are that it respects EU values like transparency, non-discrimination and equity and that the text is short and clear. Further, and most importantly, the direct link between the demand side, expressed by the EUTR and the supply side (VPAs) is considered to be a major potential strength of FLEGT. It is believed that effective implementation of the EUTR will have a reinforcing effect on VPA implementation and will thus add value to FLEGT.

Yet certain issues are still subject to debate of stakeholders, notably:

- There is a perceived lack of a “green lane” for legally verified or SFM certified timber, while the latter is generally considered to meet higher sustainability standards than FLEGT licensed timber. The EUTR considers the role of certification systems however as elements that can be used in risk mitigation for due diligence
- The MS have to implement the EUTR within their national context. This means that - although the EUTR is supposed to be implemented evenly by all the 28 MS - there will inevitably be differences in legislation, in capacity of CAs, in levels of control, in ways of dealing with non-compliance and corrective action, or in prosecution and levels of penalties, among other things. This will lead to uneven levels of implementation and enforcement in MS and, consequently, to a situation in which operators might target the laxest MS (“the back doors”) to import their timber. To avoid such situations and provide for a so-called “level playing field”, the implementation and enforcement needs to be harmonized as much as possible.
- When designing the product scope, it was agreed to include certain products and leave out others (notably printed paper and wooden seats), in order to keep implementation manageable. While this is understandable from the point of view of implementing organizations, it carries a risk of showing incoherence and leaving certain streams of illegal wood-based products untouched. There should be a calendar for enhancing the scope.
- The “applicable legislation” also defines restrictions in the scope, for example leaving social rights aside.

Implementation

All MS were obliged to enforce the EUTR as of March 3rd 2013. To promote effective implementation, the EC and EUTR Expert group have organised official meetings with Competent Authorities, civil society (including NGOs like Forest Trends) and the private sector (e.g. ETTF). Online communication platforms have been established and a guidance document prepared in September 2013 and periodically updated as a “living document”²⁶. Inspection formats have been developed to assist CAs and a harmonization strategy document has been developed.

²⁶ <http://ec.europa.eu/environment/forests/pdf/Final%20Guidance%20document.pdf>

In 2014, the EC introduced a “score board” on its website²⁷, comparing compliance of the 28 MS on the three implementation requirements. This appears to have been quite an effective tool. In July 2013, 18 MS still had problems, but by February 2015 only seven MS required further action to finish compliance. According to “The State of Implementation of the EUTR” (EC, 2015), out of 28 MS, work remains on the following issues: (a) CA designation (4); (b) Penalty legislation (6); and (c) Control mechanisms (5). The MS concerned were Greece, Hungary, Latvia, Malta, Poland, Romania²⁸ and Spain.

Challenges and concerns identified by stakeholders (FLEGT Week 2015; MS visits; MS Survey; interviews with representatives of government, private sector, civil society and the EC; EUTR Review 2015²⁹) include:

- Although effective implementation of the EUTR has been a priority, implementation to date has generally been perceived as slow, rather weak and uneven. MS were all given ample notice of the EUTR, yet most were unprepared for its implementation when it came into effect. While advances have been made, there have been major differences between front-runner countries and slow followers. This has resulted in unfair competition between MS, inconsistent market requirements for the private sector in producer countries and a risk that VPAs would lose their value and the EC some of its credibility.
- There have been problems with the designation of Competent Authorities. According to the list of nominated CAs for implementation of the EUTR (2013), some MS had lengthy internal procedures to designate a CA and had therefore provided preliminary information only. By October 2015 only Spain had yet to designate a CA. According to the EUTR Review 2015 the position, power and status of the CAs vary between MS.
- The capacity of most CAs is considered rather limited, in terms of staff numbers, budgets and training. In important timber-importing countries, such as the Netherlands and Belgium, only three and half a full-time equivalent staff, respectively, has been assigned to the CAs. Only Malta, with one staff member during one month per year, has less capacity. Countries with important numbers of private forest owners and considerable forest areas (e.g. Finland, Germany, France, and Romania) have more inspectors available, but then training may be a challenge (e.g. France, Romania). Staff, in reality, tends to be scattered over the country, to be charged with this as an extra workload, and to have to adapt to methodologies (system audits) that are new and unusual to them (vs. field inspections).
- According to the EUTR Review (2015) the annual budgets available to CAs varied considerably and were in several MS insufficient. While there is increasing cooperation among CAs (workshops, official meetings, day-to-day contact, cooperation on specific topics, such as illegal timber from Brazil, or exchanges with authorities in the USA and Australia), there is still a felt need for more common understanding of details, for clear guidance documents at EU level and for agreement on how to deal with specific issues, such as confiscated timber. To solve some of these problems, an EUTR Enforcement Group³⁰ has been established at the end of 2014, with (only) members from Public Authorities (mostly CAs or related ministries) of the MS. Its aim is to assist the EC to enhance harmonised implementation of the EUTR over the MS.
- There has been a slow start in the official approval of MOs (two in 2013; another two in 2014; in total twelve had been approved by the end of 2015); the quality of the process was considered

²⁷ <http://ec.europa.eu/environment/forests/pdf/EUTR%20implementation%20scoreboard.pdf>

²⁸ At the time of the team’s visit to Romania, most of the required legislation was in place, two CAs (with clear distribution of tasks) were functioning since early 2015 with considerable capacity and the first results of control actions could be shared.

²⁹ http://ec.europa.eu/environment/forests/pdf/eutr_review/Statistics.pdf

³⁰ <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3085>

more important than its speed. The assessment process is quite detailed and takes considerable time, as several assessment rounds (3-6) are usually needed before applicants fully understand and comply with the requirements. In 2014, the EC contracted a service provider to carry out the assessments and this has significantly speeded up the process. Yet, some applicants complained about waiting lists or extended periods during which they did not receive any updates on progress. Another applicant was surprised by a request from DG-ENV to translate and resubmit its original application (in an official EU language) in English, in order to “speed up the process”. Some interviewees expressed surprise and concern over the fact that different MOs have been approved on the basis of significantly different methodologies, which would not yet have been publicly recognized as “approved methodologies”. According to the Commission however a standard recognition methodology and procedure for recognition are used and an Interservice group has been established to decide on recognition. The list of approved MOs is presented on the web-site of DV-ENV³¹.

- Other constraints include the very low number of clients of MOs. According to the EUTR Review (2015) this is partly an effect of the reluctance of companies based on the fear that the MO will inform the CA, if their DDS is not in order. Also, the limited enforcement of the EUTR by CAs does not push the companies to implement a DDS. Some private sector stakeholders mentioned that cost would be an aspect.
- While big EU companies started developing DDSs at an early stage - which had sometimes resulted in a significant reduction in their number of suppliers - and were ready to exercise DD when the EUTR came into force, the vast majority of companies across the EU applied a “wait and see” mentality. Unless there is effective implementation, control and prosecution on the one hand, and sufficient and clear guidance on the other, especially the SMEs seem unlikely to change their practice. According to the EUTR Survey 2015 setting-up and maintaining DDS are generally considered to be the main additional obligations and burdens for EU businesses.
- As EUTR requirements are indirectly transferred to / imposed on suppliers in producer countries³², there is a need that these, especially Small and Medium Enterprises (SMEs), are actively supported, through training programs, to comply. The EC and some MS (including Germany, the United Kingdom and The Netherlands) have developed such support programs.
- In the absence of FLEGT licensed timber, among the alternatives to comply with DD requirements (or, like some stakeholders call it, “to show EUTR compliance”), the option of certified and/or verified timber seems to be most feasible (CITES only refers to certain forms of product made from specific species, often in limited volumes, whilst the provision of “other proof or elements for DD” might be costly and time consuming for operators to obtain, and beyond capacity and too risky for CAs to deal with in a responsible way). Active promotion of verification/certification would therefore be a valid strategic choice but little is happening with FLEGT funding. Nonetheless, in some countries, the private sector has recognized and embraced this opportunity e.g. in Bosnia-Herzegovina, where due to the EUTR, the certified forest area and the number of companies with a CoC certificate has increased significantly.
- The timing of the introduction of the EUTR has been criticized in different ways. Some think it came too late and that the EUTR should have been in place much earlier effectively to support the development of VPAs. Others argue that it came too early as many suppliers, including especially non-certified SMEs in producer countries, were not sufficiently prepared and, consequently had to opt for alternative markets with less stringent requirements. Others are of the view that the EUTR undermines VPAs since it already provides access to the EU market.

³¹ <http://ec.europa.eu/environment/forests/mos.htm>

³² According to the EUTR Review (2015) more than 50% of the sampled operators had been requiring their suppliers to get certified, in order to minimise risk in view of the EUTR requirements.

- Experience of the German CA indicates that (a) DDS are very demanding, especially for SMEs; (b) there is unfair competition from other importing countries outside the EU; (c) some of the suppliers have been replaced, leading to lower traded volumes, and higher unit costs; and (d) there is a clear change in behaviour of operators in the sense that they are trying to avoid risk. Some companies confirmed that they had changed part of their suppliers.
- Although the EC provided guidance to companies on EUTR implementation in September 2013, this came late, namely six months after the EUTR had come into force. Also, according to several Private Sector stakeholders, the guidance was rather limited and unclear. As a result, Timber Federations have experienced difficulty in providing proper information to their members. From the EUTR Evaluation 2015 it appears that there is a need to create more awareness with operators and traders on EUTR requirements, DD requirements, services of MOs and ways to access EC Guidance documents and information of CAs.
- The MS Survey and the MS visits also sought information on the progress and challenges of implementation. Although almost half of the MS do not see changes yet (in some cases due to lack of implementation), *positive changes* identified include: (a) increased awareness on risk of illegal timber; (b) increased import of certified timber and a push to certification in some producer countries; (c) positive influence on legislation in producer countries; (d) benefits for legal producers by excluding low priced illegal timber from the market; (e) increased export based on legal compliance (e.g. Indonesia, Bosnia); (f) improved implementation of laws and regulations relating to forest management and labour by legally compliant companies in producer countries; and (g) law enforcement tools for NGOs.
- *Negative changes* identified (MS Survey and MS visits) by MS and MS stakeholders include: (a) increased cost and administrative burden; (b) withdrawal of SMEs in PCs from export markets; and (c) confusion and concerns in producer countries due to the lack of harmonized implementation across MS. According to the EUTR Review 2015 (Public Survey) the most important EUTR related aspects identified by respondents as additional obligations and burdens for the private sector in MS are (in decreasing order of importance): 1. setting up a DDS (80%), 2. maintaining a DDS (80%); 3. using a MO DDS (48%); 4. changing suppliers (42%); and 5. changing geographical supply area (40%). Regarding aspects 4 and 5 similar percentages of respondents did explicitly not consider these aspects as additional burden. In the same survey 31% of the respondents agreed with the statement that the EUTR has caused direct benefits for the MS businesses in general; however, 47% disagreed or strongly disagreed. The effects on producer countries depend on the nature and extent of their trade with the EU. As may be expected, where there is a weak trade link (e.g. Colombia), there is less awareness, less perceived relevance and there is less impact on trade (although some actors identify the EUTR as a new opportunity for them to access to the EU market). Where trade links are more significant, there is more awareness and a clear stimulus to VPA implementation (e.g. Ghana, Indonesia) and/or certification (e.g. Bosnia, Ghana³³).

Enforcement

By early 2015, 22 MS had laws in place, but the degree of implementation varies between MS and there have been challenges. Corrective Action Requests (CARs) are issued by CAs in cases when non-compliance with the EUTR is identified. The EUTR Review identified that by early 2015, 19 MS had applied remedial actions and/or penalties to non-complying companies.

³³ Larger exporting companies in Ghana indicated that the EUTR stimulated them to achieve FSC Controlled Wood and FSC Chain of Custody certification, enabling them to access the EU market, whilst the FLEGT licensing is still under way.

- The approach to enforcement applied by many MS has been to focus during the first year of implementation on providing information; from the second year there is an increased focus on enforcement. In this way, companies are stimulated to learn and react positively to CARs. For example, the Dutch CA used the following steps in the first year: (a) market analysis to identify relevant operators; (b) awareness raising and capacity building on EUTR for the target group; and (c) use of warnings to increase companies' interest in compliance. This approach also avoided overburdening the national prosecution office.
- The German CA introduced compulsory registration of operators. Registration includes information on products, species, volumes, countries, use of own DDS or MO, and certification (FSC, PEFC). This information supports the CA to assess risks and facilitates communication with the operators. The CA was surprised by the increase in registrations (up from 350 in 2013 to 2,200 in 2014). The CA set itself a target of checking 10% of the registered operators (220) in 2014. They managed to check 184 (8%), of which 25% were not compliant. 10% received a CAR notification and 2% were charged with severe offenses and sanctions are pending. Similar checks by the Dutch CA in 2014 returned 25% of companies as non-compliant explained by a lack of information as well as a wait-and-see mentality, often due to a claimed lack of financial resources. According to the EUTR Review (2015), the inspection of 20 companies in Sweden resulted in the full approval of only one company and the filing of 13 minor and six major violations.
- Although many stakeholders stress the need for harmonization and improved coordination among the MS³⁴, they also make more positive observations. The EUTR and Lacey Act are significantly changing the legality of supply chains, but enforcement agencies need to use available information more efficiently and strategically. A need for a global approach, including main players like China, is felt by several stakeholders, in order to undertake more focused and strategic action.
- According to the EUTR Review (2015), approximately one third of the interviewed companies reported a change in their sourcing of wood and wood products, from tropical to temperate countries. Countries identified as suffering particular impacts included Congo, Malaysia, Brazil and China. During the country visits, Indonesia and Bosnia-Herzegovina³⁵ reported increases in exports to the EU since EUTR implementation and this was confirmed by the EUTR Review (2015).
- The MS visits (mid-2015) confirmed that in Finland, France, Germany, The Netherlands and the United Kingdom, systems are in place and functioning, but identified various issues still to be addressed: (a) limited staff numbers (4x); (b) staff training level (1x); (c) high staff turn-over (1x); and (d) significant numbers of domestic SMEs to inspect (2x). In Romania, the system has been in place and functioning since early 2015, yet a supporting law is needed to confirm the specific competence of one of the CAs for controlling compliance with DD requirements, which is relevant to cover importers of timber products. In Italy (MS visit), the legislation is in place but not yet implemented, the CA has been designated, but is not yet functioning properly³⁶, no resources have been allocated and no capacity has been built, while there are many SMEs waiting to be dealt with.

34 For example, there are considerable differences in sanctions. In Germany, these include: (a) confiscation of products, (b) a fine of up to €50,000, (c) up to one year of detention. In the Netherlands: (a) confiscation, (b) a fine up to €72,000 and (c) up to two years of detention. In Romania newly adopted (August 2015) penalties include: (a) confiscation; (b) penalties up to €4,456; (c) up to 7 years of detention; (d) withdrawal of operation license. In two MS (Greece and Hungary), penalties had not yet been set by October 2015.

35 According to the EUTR Review (2015) the export value to the EU-28 of Bosnia-Herzegovina increased from €299 M in 2012 to €372 M in 2014 (Source: IMM Analysis of COMEXT).

36 http://ec.europa.eu/environment/forests/pdf/list_competent_authorities_eutr.pdf

4.3 Public procurement

4.3.1 Public procurement in the EU FLEGT Action Plan

Public Procurement is the purchase of goods or services on behalf of a public authority. In developed countries public procurement on average represents 12 % of GDP (Brack, FW 2015). The EU FLEGT Action Plan includes the development and implementation of Public Procurement Policies (PPP) for wood-based products as one of its seven Action Areas. The EC proposed to (a) use the Handbook on Green Procurement to show that it is possible under Public Procurement directives to take into account legally harvested timber and products and environmental aspects of SFM; and (b) draw the attention of MS governments to the fact that illegal logging can be addressed through the adoption of PPP.

According to the EC Standing Forestry Committee Ad Hoc Working Group IV on Public Procurement of Wood and Wood-Based Products - SFWG - (2010), Timber Public Procurement Policies (hereafter referred to as TPPP) can support governmental action to combat deforestation and forest degradation, especially in tropical countries, by reducing illegal and unsustainable production of wood and related trade. TPPP would also help the EC meeting its obligations and commitments under international agreements, such as the Convention of Biological Diversity, the UN Declaration on Rights of Indigenous Peoples and to fight illegal logging directly. As 85% of the wood and wood-based materials consumed in the EU originate domestically, TPPP are also a tool to improve transparency on the domestic EU market.

4.3.2 TPPP in EU Member States

Within the EU, TPPP is a matter of MS competence. Originally, discussions were held on the possibility of a common EU TPPP, but no agreement was reached. Nevertheless, the EC has tried to encourage MS to adopt broad green TPPP since 2008, and began a programme developing common Green Procurement Policy criteria, the adoption of which will be voluntary for MS (Brack, 2014).

MS have engaged to varying degrees on TPPP. At the start of the FLEGT AP, the United Kingdom and Denmark had already enacted a TPPP (SFWG, 2010). By 2008, eight MS had an operational TPPP at central government level (Austria, Belgium, Denmark, Finland, France, Germany, The Netherlands and the United Kingdom), effectively favouring legal and/or sustainable timber, and another five were considering or developing one (EC SFWG on Public Procurement, 2010). By July 2014, 19 MS had adopted a TPPP at central government level (Brack, 2014).

Results of the MS Survey conducted for this evaluation, in combination with previous research (Brack, 2014), lead to the conclusion that by the end of 2014, 22 MS had a PPP on timber and/or wood products in place³⁷. This means that early 2015 there are still six MS without a TPPP: Greece, Hungary, Poland, Portugal, Slovakia and Romania³⁸. According to Martin & Haji Ghazali (2015), PPP on wood and wood-based products tend to get absorbed in broader green procurement policies.

According to EC staff, monitoring of TPPP is difficult since the MS have no obligation to report; there are no official statistics and the EC fully depends on external studies to maintain some overview.

³⁷ Out of 22 responding MS, 16 indicated they had a TPPP in place (Austria, Belgium, Cyprus, Croatia, Denmark, Estonia, Finland, France, Germany, Ireland, Italy, Latvia, Luxembourg, Slovenia, The Netherlands, and United Kingdom). Of the other six responding MS, three are known to have a TPPP in place (Bulgaria, Czech Republic, and Lithuania) (Brack, 2014). In addition, three of the six non-responding MS have a TPPP in place (Spain, Malta, and Sweden) according to Brack (2014).

³⁸ During the MS visit to Romania it became clear that the country has a general PP law in place (without any reference to timber or timber products) and that a proposal for a Green PP law is being discussed in parliament. A more specific PP tool is considered to be relevant for Romania.

MS have developed very different TPPP. Some are voluntary, others are compulsory. Most TPPP only focus on the central level (ministries and central government services), but encourage lower levels (provinces, municipalities) to adopt as well. Some countries require only legal compliance, others accept legal compliance but prefer SFM-certified timber, and still others only accept SFM-certified timber. Some MS have explicitly added the possibility of accepting FLEGT licensed timber, while others have explicitly chosen not to accept this³⁹. Another important difference is the product scope of the policy: many TPPP cover all products, others focus only on specific product categories like furniture (Czech Republic), paper (Bulgaria) or a combination of these (Slovenia, Spain, Italy), or rather exclude certain product categories like paper (Germany, Belgium).

In addition, there are significant differences in the way MS establish compliance based on diverse sets of criteria. A limited group of countries (Belgium, Denmark, Luxembourg, the Netherlands, and United Kingdom) apply a "comprehensive" policy, defining their own criteria for legality and sustainability. The United Kingdom and the Netherlands have independent commissions that assess compliance of certification systems on a regular basis. Other countries follow simpler policies, requiring purchasers to acquire 'legal' or 'sustainable' timber, without setting out detailed definitions, as well as 'recycled' for product categories like pulp and paper (e.g. France). Most of these countries accept a wide range of legality and SFM certificates or even simple self-declarations by industry.

As mentioned above, many TPPP apply only to central governments. In many countries regional and local governments are encouraged and assisted - though not required - to follow central governments' policies (Brack, 2014). In some countries, lower level governments have set more stringent requirements than the national TPPP, sometimes in response to the absence of a more comprehensive one, such as in France or Spain (cf. Green Public Policy Case Studies⁴⁰). This is also the case in Germany, partly as a result of its federal structure.

4.3.3 TPPP in non-EU Countries

Although not specifically targeted by FLEGT Action Area 3, a number of VPA and non-VPA producer countries also has started to work on TPPP (e.g. Indonesia, Ghana and Colombia) or expressed their interest to do so during the evaluation field missions⁴¹ (Bosnia-Herzegovina). The main arguments advanced for doing so are to: (a) establish transparent and equitable procurement rules; (b) ensure sustainable (and legal) sourcing; (c) support national timber sector; and (d) stimulate SMEs that are particularly active on the domestic market to work legally by providing them with the competitive advantage of access to the government market. In some producer countries, the government's share in domestic consumption is considerable for the wood sector (e.g. in Indonesia 30%, according to government estimates) or for specific subsectors (e.g. in Ghana the formal furniture sector estimates that government represents 60% of their market). In Bosnia-Herzegovina, government staff suggests that a TPPP tool would be very relevant in the promotion of SFM certification (FSC) for those companies not involved in export. It was, however, indicated that such a policy would never work ("too open-ended"), but that an amendment to the existing general PP Law could be effective. This suggests that in certain countries, PP laws may be more effective instruments than TPPP.

Other countries with TPPP in place include Australia, Japan, Mexico, New Zealand, Norway and China (Brack, 2014). In the latter case, a TPPP has been in place since 2010; it concerns furniture, panels,

³⁹ Of the 16 MS that confirmed having a TPPP in place, 10 TPPP will accept FLEGT licenses (e.g. with the argument that this would do right to the efforts made by VPA countries), while the TPPP of the other six (France, Germany, The Netherlands, Belgium, Denmark and Estonia) will not (with main argument that their TPPP target is SFM, rather than legality).

⁴⁰ Available at <http://www.greenpublicprocurement.ie/case-studies/>

⁴¹ Other countries visited during the evaluation (Cameroon, Ivory Coast and Vietnam) did not explicitly express their interest in developing a TPPP; nonetheless the evaluators consider that it would be a helpful tool for these countries as well.

floors and paper and requires sustainability for imports and compliance with Chinese forest related laws and regulations for the domestic market. There are, however, no clear requirements for determining legality and sustainability of products, and enforcement is limited to document verification. According to the stakeholders interviewed during the field mission to China, the list of overall products of this Green Procurement Policy is too limited, and there is little enforcement of the policy. Therefore, it is considered to be a beneficial measure in theory rather than in practice.

4.3.4 Effectiveness of the TPPP

The use of TPPP to source legal and sustainable timber was one of the first measures adopted by consumer country governments attempting to exclude illegal timber from their markets. In many cases, that could be done fairly easy, without a need for new laws. With the implementation of the EUTR, TPPP requesting only *legally verified* timber may seem redundant (as under the EUTR, timber has to be legal anyway); however, as long as not all product categories are covered by the EUTR, TPPP generally remain relevant. In addition they may send a strong signal to suppliers and can be mutually reinforcing, particularly when they explicitly recognize FLEGT timber. While the EUTR requires *legal* compliance, many TPPPs require *sustainable and legal* timber. Such TPPPs seem not to directly support VPAs/FLEGT licensed timber, but do have a clear added value to *promoting sustainable forest management*.

According to Oliver (ITTO, 2015), TPPP in EU and other industrialised countries have only had minor influence on forest practices in the tropics, involving only the large-scale state companies and retailers, whilst the majority of smaller consuming companies has hardly been involved. Oliver also argues that the market effect of TPPP is lost in the dominant tidal effects of global economic expansion and contraction. According to Brack (2014) however, some market studies support the conclusion that TPPP have had a positive impact. In the United Kingdom, for example, the certified share of timber and panels went up from 55% in 2005 to over 80% in 2008. Similarly, in The Netherlands, the certified share went up from 13% in 2005 to 34% in 2008, 68% in 2011 and in 2014 87.7%⁴² (see website NTTA⁴³). The TPPP and big buyers are thought to be the main drivers generating demand for certified timber.

SFM certified timber is by far the easiest way to show compliance with TPPP requirements. Brack concludes that "*in those countries that have implemented comprehensive timber procurement policies over several years, the evidence points to a clear impact in terms of the increasing penetration of certified timber into the national market*". TPPP are also said to have a broader impact on national and consumer timber markets, even where public procurement accounts for only a small proportion of the total market volume. The mechanism is that suppliers' preferences for relatively simple supply chains magnify the effect of public sector preferences. In other words, if they need to supply sustainable timber for public institutions, they tend to prefer to supply the same products to their other customers too, as it is simpler and more cost-effective to avoid mixed stockyards. In the United Kingdom, estimates of impact, including such "knock-on" effects, varied from 20-40% compared to 10-12% for direct purchases.

In the MS Survey, countries were asked whether they consider that they are achieving results or not in this Action Area. Out of the 23 MS that responded to the survey, 13 responded this question with "yes" (representing 57%), while none indicated that there were no achievements⁴⁴. Reasons mentioned included the creation of awareness and changes in the timber sector, both in consumer

⁴² According to the Netherlands AM (2015), the Netherlands Timber Trade Association imported a volume of 1.8 M m3 of wood and panels in 2014. The SFM certified percentages were as follows per category: a. hardwood 56.3%; b. plywood 89.2%; c. softwood/conifers: 96.2%.

⁴³ <http://www.vnh.nl/>

⁴⁴ MS that did not mention to consider achievements are: Bulgaria, Czech Republic, Greece, Hungary, Ireland, Italy, Lithuania, Latvia, Luxembourg and Slovakia.

and producer countries. Finland used its TPPP to highlight the issue of legality and promote sustainable timber, which is said to have caused changes in the sector and the general public. In the United Kingdom, the TPPP supported setting new standards for the broader industry, in cooperation with some other MS, like Denmark and The Netherlands. The ten countries that did not respond positively include several countries without any PPP in place (Greece, Hungary and Slovakia) or with a TPPP of limited scope (Bulgaria, Czech Republic, Italy, Luxembourg). This seems to suggest that more comprehensive TPPP might be more effective and provide more impact.

Those respondents with a TPPP in place were specifically asked for the observable achievements of the policy. Four countries reported an increased demand for certified timber import and use (Germany, Slovenia, and Belgium) or a reduced risk of using illegal timber (Cyprus). Others pointed to broader spin-offs, like an increase of the domestic market and the national sector (Croatia), inspiration for criteria for other products like wood chips and biomass pellets (Denmark) or setting the standard for industry as well (United Kingdom). Many countries, however, could not yet clearly indicate observable achievements; monitoring is still on-going and information is not yet available.

4.3.5 Challenges

Martin and Haji Ghazali (ITTO, 2015) consider that the ability of tropical suppliers to meet requirements and costs of TPPP depends on their capacities and ambitions. Well-organised (mostly bigger) firms get certified (FSC, PEFC). The public effort to provide a sector-wide approach (FLEGT VPA) - and thereby enable SMEs and smallholders to participate - has proven to require considerable skills, capacity and technical resources, which are, in most cases, not directly available. External support is needed to enable these smaller suppliers to comply with legality requirements set in the context of VPAs, EUTR and TPPP. Consequently, and in the absence of functional VPAs delivering FLEGT licensed timber and timber products, increased use of TPPP may favour the certified players in producer countries at the expense of smaller players with limited financial and technical capacities. For example, in Ghana, large and medium timber processing and exporting companies got FSC-CW and -CoC certified over the last few years, while SME companies just stopped exporting to the EU market. Such a risk, induced by FLEGT, would - once VPAs deliver FLEGT licenses - continue to apply for TPPP that do not recognize FLEGT licences, unless the FLEGT timber could be accepted as the legally sourced part of sustainable "mixed sources" timber (e.g. FSC mixed sources, PEFC mixed sources).

Other challenges mentioned by various sources, with respect to the implementation of TPPP in the EU include: (a) the need for increased promotion, uptake and reporting across all levels of the public sector; (b) a need to introduce a risk-based approach to enable wood from non-certified smallholders to access the market (SFWG; 2010); (c) a lack of compliance monitoring in MS (Brack, 2014; comments FW 2015); (d) the setting of soft targets (no obligations) and lack of enforcement (EC staff, pers. com.); and (e) the lack of implementation (WWF, 2014).

The MS visit to France revealed that (a) there is no obligation to comply, whereas (b) criteria are often not clearly defined in tender procedures; and (c) there is limited implementation and (d) there is limited monitoring. This is partly due to a lack of awareness and training. Similar problems were identified in Italy, and to a lesser extent Germany, the Netherlands and the United Kingdom, where especially effective implementation and compliance monitoring is an issue. The MS Survey confirms that implementation can be an important issue (Denmark, United Kingdom). In the case of Denmark, weak implementation even led to the issuance of binding laws (like suggested above for Bosnia-Herzegovina). Further, the lack of consistency at EU level on policies, criteria and FLEGT recognition has affected implementation of TPPP, causing confusion in certain MS; some MS have changed their TPPP several times over the last few years. According to EC staff, even though a common EU TPPP, may be legally feasible, it is still far away due to the complexities of defining criteria and dealing with these issues at EU level and the current decision to leave the issue to the competence of the MS.

Finally, an issue brought up during both the FLEGT Week (March 2015) and the MS visits to France and the Netherlands, is that due to the negative focus (on risks of illegalities, deforestation, etc.) of communication around FLEGT, there have been overall negative effects on tropical timber trade in MS, with (tropical) timber being replaced by timber from other zones and often ecologically less sustainable products like metals or plastics. Private sector representatives call for an awareness campaign to promote legal and sustainable timber as environmental friendly construction material.

4.3.6 Ways forward

Of the countries that responded to the MS Survey that had a TPPP in place (16), two thirds indicated that they are planning to maintain or develop future measures in this Action Area.

A voluntary group of MS (Belgium, Germany, Denmark, Luxembourg, The Netherlands, and the United Kingdom) is reviewing options for the harmonization of TPPP. Recently, this has resulted in Luxembourg and Denmark establishing policies that basically follow the standards of the United Kingdom. In Belgium, it is not yet clear whether the Flemish Government will apply the federal government policy. In the United Kingdom and the Netherlands, the comprehensive policies and assessments are the responsibility of a Central Point of Expertise on Timber (CPET) and a Timber Procurement Assessment Committee (TPAC), respectively. Both systems have been subject to critical assessment processes and proven their added value in improving the standards and procedures of both FSC and PEFC. Options for harmonization include the adoption of common standards and assessment methods by the United Kingdom and The Netherlands, which could then provide a model for other MS to adopt. Alternatively, a set of experiences and/or "building blocks" could be delivered to help MS to develop their own standards.

Arguments that might encourage MS to harmonize their TPPP are: (a) suppliers in producer countries get confused by the different views and requirements of MS that form part of one and the same EU market; (b) suppliers lose time and money, as they have to deal with all these different views, systems, criteria and procedures (a comparison could be made with the demand for improved donor coordination and streamlining of related administrative procedures and approaches); (c) MS could be more efficient by applying the same set of criteria and assessments as a wider group of MS.

According to resource persons, since TPPP are under the competence of the Member States, the EC can only exercise limited pressure on them; still, enhanced dialogue can be promoted as well as the organisation of half-yearly joint meetings. The EC can also promote best practices, prepare guidance documents on how to buy green, and use the EC website to disseminate relevant messages.

Oliver (ITTO, 2015) recommends the following for future action on TPPP: (a) partnerships of EU buyers that support producers in PCs; (b) realistic timescales for recognising progress; (c) innovative mechanisms to facilitate participation of SME and other smallholders; (d) backing of TPPP through active promotion of certified timber; (e) ensuring consistency of TPPP in the EU and other industrialised countries; (f) promotion of TPPP in producer countries for public projects, including those financed by donors; (g) encouragement of tropical timber importing countries to apply EUTR-like Due Diligence requirements; (h) inclusion of smallholders in legal schemes by improved tenure rights and simplified regulations, reducing transaction costs.

The last recommendation seems to point to a need for continued complementary FLEGT/VPA work on governance, as improved tenure rights and simplified regulations are not easily brought about.

4.4 Private sector initiatives

A. FLEGT Action Plan expectations

Action Area 4 focuses on measures for the EU to “*encourage private sector initiatives (PSIs) for good practice in the forest sector, including the use of voluntary codes of conduct to source only legal timber*” (EU FLEGT Action Plan, p.3). The private sector⁴⁵ is clearly identified as one of the key stakeholder groups, which in the run-up to the FLEGT Action Plan “*expressed agreement on the need to work together to tackle illegal logging*”. Examples of pre-FLEGT action by MS are the support to implement codes of conduct on legal and responsible purchasing in France or incentives for “*private procurement of independently certified timber*” in Germany (p.26).

The Bali Declaration (2003) annexed to the Action Plan stated that the private sector has the capacity to “*prevent, detect and suppress forest crime*” and has “*a key role to play in combating illegal logging*”. It can “*exert a direct and positive influence through a network of business relationships extending from the forest to the market place*” (pp.16, 32). The Action Plan also encourages “*the private sector in the EU to work with the private sector in timber-producing countries...*” (p.16) and specifies that the latter should benefit from “*additional capacity building and institutional strengthening*” for the setting up of verification systems.

The Action Plan also alludes to the “*principles of corporate social responsibility (CSR)*”, whereby “*companies integrate social and environmental concerns in their business operations and in their interactions with stakeholders, on a voluntary basis*”. It is worth noting that, with the CSR concept, the Action Plan aims beyond legality, to voluntary commitments to sustainability principles. The Commission would “*draw lessons from new initiatives*” for CSR, and “*examine ways of applying these lessons in the forest sector*” (p.17). The Action Plan refers to “*a number of initiatives*” and gives the example of the Tropical Forest Trust⁴⁶ (TFT). It also encourages the private sector to work “*according to voluntary codes of practice for timber harvesting and procurement, supplemented by rigorous voluntary independent audit of the supply chain*”. In fact, this approach has been piloted through the Timber Trade Action Plan (TTAP) Project implemented by TFT.

Initiatives outside the forest sector (“*also currently pushing forward the boundaries of corporate social responsibility*”) are mentioned, including Extractive Industries Transparency Initiative (EITI). Since the EITI was formed in 2003, the EU has issued and later updated the EC Accounting and Transparency Directives⁴⁷, which are said to be modelled on EITI. Directive 2013/50/EU on the disclosure of payments to governments specifies that ‘the initiative is also complementary to the EU FLEGT Action Plan and to the provisions of EUTR’. As to whether EITI in fact “*establishes interesting principles for cooperation between the private sector and producer and consumer countries which could be applicable in the context of the FLEGT programme*” (p.17) depends on whether these principles are indeed incorporated in the scope of VPAs and EUTR as verifiers of legal compliance.

As part of support to PSIs, the Commission proposes also to (p.18):

- “Support the establishment of coordinating bodies, the adoption of high standards in codes of conduct, transparency in private sector activities, and independent monitoring”. The

⁴⁵ “Private sector” is not defined in the FLEGT AP but reference is made to companies operating in the timber trade sector and *suppliers*, implicitly including producers, processors and traders as well as their professional organisations. It remains a wide concept.

⁴⁶ TFT (then: Tropical Forest Trust) is mentioned as an example of “European businesses working in the forest sector, developing initiatives to introduce more socially and environmentally responsible approaches into their business practices”.

⁴⁷ Directive 2013/50/EU of 22 October 2013, on the disclosure of payments to governments; detailed requirements defined in Chapter 10 of Directive 2013/34/EU of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings. Directive 2014/95/EU on disclosure of non-financial and diversity information by certain large undertakings and groups amends the Accounting Directive 2013/34/EU.

accreditation and standard setting bodies running forest certification schemes (e.g. FSC, PEFC) – which can be at least partly seen as industry-driven initiatives⁴⁸ -, and independent monitoring organizations (like Global Witness, Forests Monitor, Resource Extraction Monitoring (REM) and SGS, now joined by CSOs as well, in Congo and elsewhere), have indeed received EU or MS support, directly or through projects. An example of direct support is that France supported the creation (2009) and first five years of operation of PEFC France (see France Aide-memoire).

- “Provide support for capacity building in developing countries to initiate PSIs, for example in forest monitoring”. Besides independent monitoring, inspection companies (such as Bureau Veritas and SGS) have been involved in comprehensive Forest Sector Monitoring (FSM) projects in various countries (e.g. DRC, Ecuador, Liberia, and PNG), though not through EU/MS funding; funding came from the partner Governments, private sector operators or other donors⁴⁹ paying service fees.
- “Encourage active private sector participation [...]”. In this context, the support from European Timber Federations to the TTAP Project, the guidance and operational work by NepCon, Proforest, Rainforest Alliance, SGS, TFT, WWF’s Global Forest Trade Network (GFTN), among others, and B2B work between buyers and suppliers are worth mentioning.

The combination of activities described in this Action Area of the Action Plan can also be understood as the main components of corporate responsible purchasing policies (corporate RPPs), typically implemented by large pulp and paper and furniture companies (not to be confused with RPPs implemented by TTFs), whereby large corporations implement internal policies and programmes to avoid illegal logging in their own operations (through internal auditing), and in their suppliers (through technical assistance and second-party auditing, by the customer), supplemented by independent third party validation, and by public reporting, to which ‘submission to public scrutiny (by local communities and NGOs) and to stock market control’ could be added⁵⁰.

B. Private sector initiatives undertaken

Action Area 4 can be summarized as aiming to encourage initiatives of the EU private sector to *source only legal and, where possible, sustainable timber*, both *within* and from *outside* the EU, with a focus on the tropics and Russia⁵¹. Private sector initiatives in *producing* countries are not directly targeted, but related interventions are foreseen under other action areas of the Action Plan, in particular: Support to producing countries (capacity building), Trade (VPAs) and Additional legislative options (EUTR).

⁴⁸ “Concerned about accelerating deforestation, environmental degradation and social exclusion, a group of timber users, traders and representatives of environmental and human rights organizations met in California in 1990” (<https://ic.fsc.org/our-history.17.htm>). “Founded in 1993 through the collaborative efforts of more than 100 participants representing economic, social, indigenous and environmental interests” (<http://www.greenpeace.org/international/en/campaigns/forests/solutions/alternatives-to-forest-destruc/>). The FSC for example has three chambers – Environmental, Social or Economic. “The Economic Chamber includes organizations and individuals with a commercial interest in forest management and forest products. These include industry associations, wholesalers, retailers, manufacturers, traders, and certification bodies” (<https://ic.fsc.org/membership-chambers.77.htm>). “FSC is an international membership association, governed by its members. (...) Members apply to join one of three chambers (...). Each chamber holds 33.3% of the weight in votes (...)”. “FSC Board of Directors is (...) made up of twelve elected representatives, with four elected from each of the chambers (...)” (<https://ic.fsc.org/governance.14.htm>)

⁴⁹ This was before VPAs were signed and the EU eventually financed projects with more limited mandates, mostly for technical assistance. The UK DFID is currently financing SGS in Liberia.

⁵⁰ Where implemented, this model can have significant impact due to the size of the companies involved, in a typical “20/80” ratio (where 20% of companies make 80% of the volume). However it is more difficult for SMEs to apply it, and it predominantly has been used in the Northern hemisphere (i.e. in temperate and boreal forests), typically for saw logs and pulpwood from Russia to Finland.

⁵¹ As per the “key regions and countries within the scope of the Action Plan”

In practice, relevant *sourcing methods* for businesses have included: (a) using independent third-party certification; and/or (b) implementing codes of conducts and due diligence systems internally, ideally with independent verification, to ensure traceable supplies from legal sources. Hence, relevant PSIs in the context of FLEGT include those *collective* initiatives that private sector or broader multi-stakeholder organizations have developed to support the use of such sourcing methods, but *individual* initiatives of large corporations (i.e. corporate RPPs mentioned above and below) can also be considered for EU support or commendation. Below, the main categories of initiatives undertaken are outlined, and some examples given:

1. Initiatives designed to demonstrate responsible sourcing:

- (a) **Certification to sustainable forest management (SFM)** and associated chain-of-custody (CoC) standards, under the Forest Stewardship Council (FSC), the Programme for the Endorsement of Forest Certification (PEFC) and other (inter-/) national sustainability certification schemes. SFM certification makes CoC systems mandatory to ensure that the sustainability claim is transferred throughout the supply chain and that timber is monitored and segregated to prevent mixing with uncertified i.e. potentially illegal/unsustainable timber;
- (b) **Private certification to legality** and CoC standards, by schemes⁵² that have been developed to demonstrate legality only (legal compliance is Principle 1 of the FSC FM Standard, for example, i.e. one and the first of the 10 principles; sustainability covers, but also looks beyond legality⁵³). At the time the Action Plan was launched, legality standards, as such, did not exist. Responding to the requests of EU buyers for certified *legal* timber, and under NGO pressure, certification bodies developed the first legality (VLO and VLC) standards and local verification checklists in China, Brazil, Guyana and Suriname (TTAP, 2013). All these schemes promoted legality certification as a first step in a stepwise approach towards SFM certification; *this is to a large extent attributable to the FLEGT initiative's focus on legality*. Legality certification also makes CoC systems mandatory. It should be noted, though, that most of these schemes are being phased out and replaced by, or transformed into, programmes of services that are more geared towards EUTR compliance;
- (c) Responsible Purchasing Policies (RPPs) based on codes of conducts, operated by some timber trade federations (TTFs) in the EU (UK, the Netherlands, among others);
- (d) Corporate purchasing policies (corporate RPPs) and supply chain management systems, of international groups of companies (Danzer, DLH, Kingfisher, IKEA, Olam, Rougier, Saint-Gobain, Stora Enso and others).

2. Initiatives facilitating the use of responsible sourcing methods and the establishment of responsible supply chains:

- (e) Professional associations, such as the 'Association Technique Internationale des Bois Tropicaux' (ATIBT) and private sector or multi-stakeholder platforms, such as WRI's Forest Legality Alliance, the Global Timber Forum (GTF), the Sustainable Tropical Timber Coalition (STTC), whose roles include representation of members, provision of technical expertise and promotion;

⁵² Such as Bureau Veritas' Origine et Légalité du Bois (OLB), Rainforest Alliance / SmartWood's 'Verification of Legal Origin' (VLO) and 'Verification of Legal Compliance' (VLC), SCS's 'Legal Harvest Verification' (LHV), DHTT's Certisource system and SGS's Timber Legality and Traceability Verification (TLTV).

⁵³ Insofar as the relevant sustainability principles have not been incorporated in the law.

- (f) Technical assistance organisations or projects (such as the Timber Trade Action Plan, TTAP) and membership organisations that build closed networks of suppliers and buyers, such as the WWF's Global Forestry and Trade Network (GTFN);
- (g) Local or regional certification support and training initiatives (e.g. Pan African Forest Certification (PAFC), regional FSC programs, training courses by the Central African Network of Forestry and Environment Training Institutions (*Réseau des Institutions de la Formation Forestière et Environnementale en Afrique Centrale - RIFFEAC*) developed in producing countries, some of which may be government-led;
- (h) Technological initiatives, covering species identification, biochemical (e.g. genetic, isotopic) tracking, remote sensing etc., by institutes, such as the *Thünen Institute*, and service providers such as the Double Helix Tracking Technology (DHTT) in alliances with networks such as the Global Timber Traceability Network (GTTN). These initiatives are likely to have received EU or EU MS funding to their work, development or projects, in direct or indirect relation to FLEGT⁵⁴.

3. Other initiatives designed to facilitate implementation of the EUTR:

- (i) Due Diligence (DD) information resources on legality and sustainability of timber sources, e.g. ETTF-ITTO web portal project, Forest Legality Alliance's 'Risk Tool' project, Forest Trends' Supply-change.org platform, FSC National Risk Assessments for FSC controlled wood, the Global Forest Registry (GFR), Transparency International (TI)'s Corruption Perceptions Index (CPI));
- (j) Production, by NGOs and private sector organisations, of guides to legal compliance (like that of ClientEarth⁵⁵;
- (k) Recognition of Monitoring Organisations (MOs) – currently nine have been recognized⁵⁶;
- (l) Private Due Diligence systems and services, including by some monitoring organisations and by e.g. Global Traceability Solutions (GTS), and Track Record Global Ltd (TRG);
- (m) Ad-hoc assistance with implementation of EUTR requirements as provided by a large number of consulting firms and individual experts to their private sector clients.

Comments on the main initiatives undertaken

Apart from the EUTR MOs and for some EUTR-earmarked services, most of these initiatives are demand-driven and have no direct link to the EU FLEGT Action Plan, i.e. they have not or not only been triggered by FLEGT. However, they do provide direct responses to challenges or seize business opportunities that have been created or enhanced by the FLEGT Action Plan (spin-offs).

(a) "SFM Certification" schemes (i.e. forest certification to SFM standards, by accredited bodies widely recognized by the market) have been the most successful (at least partly industry-driven) initiative so far, for sourcing legal/sustainable timber. It had started well before the FLEGT Action Plan was adopted, but has indeed been boosted by Timber Public Procurement Policies (TPPPs) and - though unevenly and inconclusively at this stage – in a number of cases by the EUTR; the schemes

⁵⁴ The EC funds the ongoing ITTO-CITES programme, for which DHTT were contracted to implement DNA traceability systems for *Prunus africana* and *Pericopsis elata* (Project ref. for both was PP-A/39-162A). For DHTT, there seems to be a lot of interest around this from several EC DGs, the CITES Secretariat, and the participating country governments seeing obvious application to FLEGT. DHTT are also a contractor on a German Government funded ITTO project (Large scale genographic mapping of African Congo Basin forests).

⁵⁵ The independent environmental law organisation ClientEarth has produced a guide for quick comparison of the timber market legality requirements of Australia, the EU and US.

⁵⁶ <http://ec.europa.eu/environment/forests/pdf/mos.pdf>

have undertaken revision in an effort to align their methodology with the new EUTR requirements (see Aide-memoire France).

Based on discussions held at the 2015 Conference of the Sustainable Tropical Timber Coalition (STTC)⁵⁷ and on other inputs, certification is regarded by private sector and other stakeholders as having both positive and negative aspects in relation to FLEGT, which are summarised in Box 1 below. There are also views in the trade sector that alternative or complementary approaches to certification must also be researched or further pursued⁵⁸ (refer Aide-memoire France).

Box 1: Some Positive and Negative Aspects of SFM Certification in relation to FLEGT

On the **positive side**, with regard to FLEGT, Sustainable Forest Management (SFM) certification:

- i. aims to certify SFM⁵⁹, a higher objective of the FLEGT Action Plan – “*There is no better way to save tropical forests than to buy certified sustainable tropical timber*” (as opposed to conservation) (STTC meeting, Valencia, February 2015);
- ii. provides reasonable SFM assurances to authorities and markets.
- iii. Because in most certification approaches, ‘sustainability’ covers ‘legality’,⁶⁰ it avoids - at least in theory - illegal logging and associated trade, the main objective of the FLEGT AP; and
- iv. it brings consignment-based supply chain control (through Chain of Custody), which might not be included in annual EUTR risk-assessments.

With regard to EUTR Due Diligence (DD) and VPAs:

- v. A recognized certificate is broadly considered in common EUTR DD practice to be the best way of complying, surpassing other due diligence methods in terms of credibility and cost-effectiveness, especially in high-risk countries;
- vi. Certification addresses some inherent implementation challenges of EUTR, in terms of providing reliable evidences of legality (i.e. validating legality claims) and of low-risk sources; however, valid FSC/PEFC certificates are not *per se* accepted as evidence of negligible risk in EUTR Due Diligence; they may form part of it, as is the case in France⁶¹;
- vii. VPA and certification can be mutually supportive (R. Oliver, STTC 2015), or complement each other: while certification can help demonstrate legality in VPA countries, VPAs helps establish preconditions for certification (like good governance, legal compliance – aspects that certification practice does not focus on); VPAs provide continued market access for small-holders that would often struggle to achieve certification⁶².

Certification, by its principles, also contributes to key Areas of the Action Plan, such as capacity building in producer countries, trade, public procurement, private sector, and conflict timber.

⁵⁷ STTC is a recent initiative aimed at increasing the demand for tropical timber from sustainably managed forests.

⁵⁸ It is worth mentioning, in this context, ‘Beyond certification’, TFT’s Scott Poynton’s book arguing the case for a new approach to solving social and environmental problems and introducing an alternative model called VT-TV, based on Values, Transparency, Transformation and Verification.

⁵⁹ Note : certification merely records the SFM status of a forest at the time of appraisal; it records history but does not adapt the future.

⁶⁰ In the eyes of others, sustainability and legality are distinct but overlapping concepts and is legality not a sub-set of sustainability.

⁶¹ “An FSC or PEFC certificate, or a certificate of legality, may allow considering that the risk is negligible” (Technical instruction DGPAAT/SDFB/2014-992 of 08/12/2014, section 2.1.2 defining the procedure for checking on operators (p.6).

⁶² In practice, however, VPA and certification tend to develop in different geographic areas, with certification being more in demand in non-tropical forests therefore in non-VPA countries (a clear example is Bosnia-Herzegovina, ref. Aide Memoire).

On the **negative** side, SFM certification faces many challenges, especially for tropical timber:

- i. Only a limited portion (12%) of the global timber market volume is covered, and only 6% of all productive tropical forests are certified, so it has limited impact (whereas together the VPA countries cover 80% of tropical timber trade);
- ii. Mismatching market demand and industry supply (in volumes, species, grades, dimensions) with resulting under- and over-supply in specific cases;
- iii. Certification is considered economically unviable without additional revenues and benefits from: price premium (not just market share, not just for a fraction of the production)⁶³, further processing to use lower grades and lesser-known timber species (LKTs), non-timber forest products (NTFPs), forest carbon credits (REDD+), other Payments of Ecosystem Services (PES)⁶⁴, ecotourism etc.
- iv. Domestic markets for certified products are needed in order to recover investments made. This is unlikely to develop much in response to consumer demand in partners countries, but to some degree this can be fostered by local TPPPs and corporate RPPs (whereas in many VPA countries FLEGT also covers domestic timber);
- v. More value needed for forest products and services, and therefore to forest land, also to attract (public/private) investment and reduce land use conflicts, which will require a more active market, more value added to products, and the removal of cheap illegal products;
- vi. Need for more support to scientific research (into e.g. forest management, uses of LKTs, NTFPs), technical developments (into e.g. wood processing technologies), communication, promotion and marketing (in favour of certified wood) in both producing and consumer countries;
- vii. Governance issues, where the certification process relies on credible government control;
- viii. Need to further expand certification to community forests and small forest owners and permit holders (through group certification) to increase areas and volumes and obtain economies of scale.

Certification also has inherent limitations:

- i. While a VPA covers a whole country, a certificate only covers a forest management unit. This limitation of certification in its ability to achieve deep, sector wide transformation must be stressed (while the VPA process by comparison does provide a mechanism to support such transformation), unless certification is promoted as part of a TLAS, which may include its use as a way of demonstrating regulatory legal compliance (see Vol.2, Annex 7);
- ii. Obtaining (and maintaining) a certificate remains a long, difficult, and costly process – this is particularly true in the tropics, where it is most needed (and where most FLEGT partner countries are located);
- iii. The desire to “keep on up-grading the standards” has caused “certification fatigue” with certified companies voluntarily withdrawing from certification schemes, especially FSC;
- iv. Traceability is not readily available from certificates, therefore back-to-source traceability is very difficult to establish or check for buyers and authorities (it requires step-by-step supply chain investigation). Experience suggests that reliable information on the source country or forest unit, as EUTR requires (to assess the risk) is hard to obtain through certification mechanisms; In this regard, certification schemes claim that a certificate should be enough to

⁶³ A significant price premium was a promise of SFM certification when it started developing. It seems to rarely be the case under current market conditions.

⁶⁴ PES represents an emerging market, still to be organised and developed.

- prove the low/negligible risk of the supply; meanwhile, certification mechanisms are not – strictly speaking - providing the information that is requested under EUTR;
- v. False claims (there is – as admitted by the schemes - fraud on invoices, but the extent of this is unknown) and absence of volume reconciliation between Forest Management and CoC certificates down the line, may cast some doubts for buyers and authorities whether the product bought is actually covered by the certificate mentioned on the invoice. As a result, more certified volume is traded than could actually exist.

(b) Private legality certification schemes (as identified under B.1 above) have been criticized for their lack of independence in terms of ownership of the standards and governance of the overall scheme and the absence of formal accreditation for the scheme owner as certification body. Some of them (developed by FSC/PEFC accredited SFM certification bodies) have however gained public and private market acceptance, internationally, for their robustness. In some VPA countries and also with regards to the EUTR, these schemes are aligning their standards to make sure they at least meet the minimum requirements of the VPA or EUTR Due Diligence and adapting their methodologies. Legality verification under these schemes is more thorough than that under SFM certification schemes like FSC or PEFC or their subsets for the mixing with non-certified wood like FSC Controlled Wood⁶⁵. The issues of articulation between these two categories of certification services (i.e. legality vs. sustainability), proliferation of different schemes and harmonization and mutual recognition among similar schemes have so far not been sufficiently addressed; this still creates confusion in the market and generates extra burden and costs for companies that have to adopt several auditing schemes in order to respond to different requests from different buyers.

(c) Responsible Purchasing Policies (RPPs) – as introduced above under B.1 c) - operated by some timber trade federations (TTFs) in the EU, such as Le Commerce du Bois (LCB) in France or the UK TTF, have also undertaken to *align RPPs with the FLEGT Action Plan's objectives and EUTR requirements*. TTFs provide technical support and guidance for members to implement the RPP, *and nowadays the EUTR*. On the EUTR, the European Timber Trade Federation (ETTF) has developed a framework for EUTR Due Diligence systems and checklists that many national TTFs in the Union are using. Some TTFs (e.g. in France, Germany, Italy) have also established EUTR MOs.

On the RPP, not all TTFs make compliance with the policy a condition for membership. The robustness of a system depends on each RPP's requirements⁶⁶ and on measures for implementation and reporting by members, for monitoring by internal or external auditors, and for enforcement of sanctions by the TTF. TTFs risk having an inherent conflict of interests due to the fact that their main *raison d'être* is the defence of their members, unless they use a strictly independent mechanism to enforce the RPP and a clear separation of functions within the TTF⁶⁷. TTFs tend to require certification and to rely on certification mechanisms to play that independent monitoring role; in that regard, RPPs *per se* do not add much value to certification as a compliance tool in the context of FLEGT (i.e. they do not create a separate mechanism). The ETTF and national TTFs, directly and through ATIBT or STTC for example, actively promote certified timber (roadshows, active exclusion of unsustainably produced wood, campaigns on the generic promotion of ALL wood as a sustainable material, etc.).

65 A programme aimed to assess the risk of illegally sourced timber entering the supply chain, among other criteria.

66 Targets of TTFs are indeed set at national level; e.g. in NL these point towards 100% sustainable, with a phased approach for different types of products (e.g. softwood already applicable, tropical timber x% now, a higher % later...).

67 In the Netherlands, the (VVNH) Code of Conduct is publicly available on the Internet, all members have to comply, and those who do not are cancelled as members and 'denounced' on the website (this obviously pushes members to comply).

(d) Corporate responsible purchasing policies and supply chain management systems have been successfully implemented, and lessons can be learned and replicable “models” or guidelines derived from them (see previous footnote on corporate RPPs). The *Due Diligence* approach, which used to be commonly applied in voluntary RPPs, has in fact been incorporated as mandatory practice in the EUTR, focusing on legality. The line between voluntary and regulatory measures is indeed no longer as clear as it was in 2003. While in 2003 the Action Plan referred to *voluntary* private sector initiatives, today’s PSIs still are voluntary and additional tools but they may be seen rather as compliance or facilitation tools linked to regulatory frameworks (EUTR) or PPP; they are no longer used in purely voluntary frameworks as a marketing tool or for corporate reputation purposes in the face of ENGO criticism as they used to be before FLEGT (and EUTR in particular).

In current EUTR Due Diligence practice, a CoC certificate is now used by most private sector actors as the easiest way to meet the EUTR requirements and rate timber sources as of “negligible risk”⁶⁸. Russian FSC-certified respondents also reported increased due diligence by their certified buyers: 32% of buyers reported additional requirements from their EU counterparts, compared to 5 % for non-certified companies; and 29 % reported that EU operators introduced additional field legality checks, compared to 14 % of non-certified respondents – who face the same requirements. The finding that certified buyers tend to ask for additional Due Diligence (additional requirements and field checks on top of CoC certificates provided) more than their non-certified counterparts, suggests that certification strengthens EUTR compliance.

The identification of the aforementioned options raises the question whether, and to what extent, all compliance monitoring, verification and demonstration approaches, models and tools derived from Private Sector Initiatives, notably Forest Sector Monitoring (refer section A, above) and mandatory Due Diligence, have been sufficiently put on the VPA negotiation tables for consideration as part of the design of TLAS, as possible alternative options to the current TLAS models.

C. Challenges and ways forward

There is a clear call from the private sector (PS) for *strengthened collaboration* with it, as it constitutes a key stakeholder group, and for *increased support* from EU/FLEGT to relevant PS initiatives (FLEGT Week, 2015). Representatives of PS actors in the EU were consulted during the design of the regulations and their early implementation. Since then, there has admittedly been some reluctance on part of the EU, for some time, to engage with the PS, mostly motivated by prudence or initial distrust (personal communication). At the same time, in initial years, there was also initial distrust among private sector actors towards NGOs and governments, a fear for increased government control and/or a lack of interest in dedicating time and effort beyond the core business.

Other obstacles for collaboration with the PS are that (i) public funds cannot generally be used to finance projects of for-profit PS organisations/initiatives (funding rather goes to PS associations or federations, which usually are not-for-profit bodies) and (ii) ODA cannot be used to support European actors. But, in general, PS actors in MS now express an interest in being more involved and listened-to regarding the practical and economic feasibility of proposed instruments and tools. The same is true in VPA countries. In producer countries, feedback from the country visits indicates that domestic private sector actors have not been sufficiently involved in VPA negotiation and implementation processes so far, for example in the development of wood tracking systems.

Strategies to increase PS engagement in FLEGT are therefore needed, taking into consideration the different typologies of PS actors, the roles they play in the change processes and the timing of

⁶⁸ As reflected in many, if not all, DDS’ checklists, in EUTR Guidance (with some precautions), and in the procedures of the CA in France stating that a certificate allows to consider the risk negligible (see France Aide-memoire), for examples. This does however not prevent additional checks as necessary to confirm this claim.

engagement. Recently, probably in response to EU (Communication of 2014) and MS requests for an increased focus on the private sector, a renewed and strengthened engagement with the PS is being observed, as reflected in the plans of the FAO and EFI work plans for 2015/2016. The EU-FAO FLEGT programme is developing a new PS support programme, including SMEs and domestic markets, with linkages to combating corruption. ATIBT and EFI are developing similar schemes.

Efforts by the EU and MS to encourage PS engagement in FLEGT should take into account that businesses particularly need enabling conditions for their activities and are primarily concerned with regulatory compliance. They want clear, stable and workable rules and safer business environments, and would therefore welcome faster VPA and EUTR implementation. They also need improved access to local financing and improved security of investments and operations. Possible *financial* support tools include subsidies to core initiatives/schemes, such as the PEFC certification in the case of France or to their development projects, and incentives for companies/projects to get verified or certified. Giving forestry operators the opportunity to use the national Wood Tracking System for their own operations, for example, would be a real benefit. *Other types of support* to the PS could involve communication on problems and solutions, promotion of wood as an environmentally compatible construction material, promotion of labels and labelled products or trade facilitation.

Given the range of different certification schemes, standards and procedures, the lack of *harmonization among them* is a major handicap for the PS globally. There is a felt need to address this issue, to facilitate benchmarking against a global common standard and, where possible, to achieve mutual recognition. EU FLEGT support to these efforts or to the development of a common framework could be welcomed (See 5.3, AA4).

Reconciling legality and sustainability in national producer country laws, through incorporation of basic SFM principles, would also allow the streamlining of assessment processes; ideally, there would be only one standard to be assessed, by either authorities or independent third parties, or in Due Diligence by private sector companies, for legality and core sustainability. Such review of forest laws or codes is envisaged in the EU FLEGT Action Plan (Ch. 3, para. 4) – and would also aim to improve them in many possible aspects - but may not have received enough attention to date, even though VPA processes seem to have the required leverage to support the revision of laws. However, *“While in many VPA countries, the VPA has triggered some law reform, such reforms are major undertakings; while VPAs can and do stimulate the revision of laws, stakeholders have been cautious not to overload VPA agendas and delay processes”; “It is also recalled that the main purpose of VPAs is the enforcement of existing laws, rather than legal changes”* (EC comments).

A particular request of some PSOs (STTC Event, FLEGT Week, and Global Timber Forum) is that (authenticated) *official documents should be relied upon* and respected by Competent Authorities in Due Diligence practice, as a matter of principle, whereas NGO investigations often generate and maintain suspicion and therefore “high risk” ratings, and may ultimately contribute to a decline in the trade in tropical timber, as operators struggle to source demonstrably low-risk timber⁶⁹. For them, the actual trustworthiness of government documents, where the issue or a doubt exists, is primarily a governance issue that needs to be addressed in its own way. Some EU Operators will act upon this type of NGO information, incorporating it into their risk assessments and implementing mitigation measures (including field audits); however it may be difficult for a buyer or an auditor to investigate into potentially criminal cases; the decision will more often be to renounce to the purchase. A recommendation from this evaluation is the creation of official response centres in

⁶⁹ It can be referred to the recent case of imports from Brazil to Europe challenged by Greenpeace. See: http://www.illegal-logging.info/sites/default/files/Daniela_Montalto_Presentation.pdf. On this issue, the NGO ClientEarth has issued a guide ‘The use of official documentation in the context of the EU Timber Regulation-due diligence obligation’, ClientEarth, 28.01.2015.

exporting countries to inquiries from potential buyers into the validity of government documents, copying the EU Competent Authority on the reply. (See also 5.9, point B).

Lastly, following the application of the EUTR, there is a felt need and interest in *promoting the legality of wood-based products with consumers*, in order to re-balance competition with other materials that are generally not submitted to similar legality requirements.

4.5 Finance and investment safeguards

4.5.1 Introduction

The fifth Action Area of the FLEGT Action Plan deals with finance and investment safeguards, that is, the behaviour of institutions financing the forest industry. The Action Plan does not specify the financial institutions and tools to be focused on, but it can be reconstructed that the targets include commercial banks and other private investors, as well as national and international Development Finance Institutions (DFIs), including the European Investment Bank (EIB). In terms of financial tools, it can be inferred that the main focus is on the provision of loans, equity capital or credit guarantees for investment projects in the forest sector, including both logging operations and the downstream processing industries (e.g. the pulp and paper segment). No mention is made of any geographical focus, though most of the text refers to forest-rich producer countries.

The immediate result to be delivered in this area is ensuring that banks and financial institutions take social and environmental risks into account when considering the provision of loans, equity capital or guarantees to investment projects in the forest sector. The desired outcome is that such investments result in or contribute to the reduction or elimination of illegal logging. Three main actions are identified in the Action Plan: (a) encouraging private banks and financial institutions to conduct a proper social and environmental due diligence; (b) promoting environmental and social due diligence for forest projects by Export Credit Agencies (ECAs), the EIB and other public institutions; (c) ensuring that ECAs, the EIB and other public lending bodies obtain sufficient information on prospective forest investments.

All sources consulted and stakeholders interviewed for this evaluation largely agreed that this Action Area has seen less activity than other parts of the FLEGT Action Plan. However, at the time the Action Plan was being drafted, financing and investment was considered particularly topical for at least two reasons. Firstly, an attempt was being made by the EU and its MS to improve the due diligence of private and public financial institutions investing in projects concerning the wood or paper value chain⁷⁰ (also linked to the application of the Anti-Money Laundering (AML) legal framework)⁷¹; secondly, there was concern about deforestation attributable to the pulp and paper industry in Indonesia, which had been receiving financial support from both public and private European financial institutions (FLEGT Action Plan Progress Reports 2003-2010).

4.5.2 Outputs and outcomes achieved

All available information indicates there have been very few interventions in this area by the EC or MS. The 2003-2010 FLEGT Action Plan Progress Report mentions that Latvia, the Netherlands and the UK carried out some work, together with the EC; Germany was also active.⁷² Based on our MS Survey, covering the period 2003-2014, only one MS mentioned activities under this AA: the UK. Two

⁷⁰ See . Par. 4.5.1 of the FLEGT AP

⁷¹ Following the FLEGT Action Plan, AML is dealt with as part of Action Area 6, in chapter 4.6 below.

⁷² In 2004, the German and Dutch government organised a workshop on 'Illegal Logging and Measures to Combat Money Laundering', where possible strategies were explored. At the same time, Germany also consulted with and informed national stakeholders, both private sectors and NGOs, concerning possible risks of money laundering connected with illegal logging activities. However, this stream of activities was later discontinued for reason of constraints discussed below.

MS considered it to be a 'private sector domain' where limited public intervention is possible, and five MS did not know how to deal with this AA. As for perceived results, six MS recognised some achievements, though these related more to awareness-raising than to tangible results. One MS asserted that the FLEGT Action Plan is not an appropriate instrument for work in this area. The UK's activity in this AA has come under the FGMC programme, which supports advocacy addressed at financial institutions, inter alia, concerning their impacts on forests.⁷³ In particular, the programme seeks to raise awareness of the role banks and financial institutions can play in minimising the production and related trade of illegal wood-based products. A recent report on UK projects states that a number of financial institutions have changed their practices as a consequence of those efforts (Meissner Pritchard, 2014).

4.5.3 Development Finance Institutions

As far as DFIs (both multilateral institutions and national operators) are concerned, most of them have included standards and criteria for sustainable investments in the forest industry within their policies (Speechly, 2015; Hoare, 2014). The blueprint in this field is the Sustainability Framework of the International Finance Corporation (IFC, part of the World Bank Group), which is explicitly or implicitly referred to by many other institutions. The IFC Policy on Environmental and Social Sustainability requires that all investment activities, both direct and indirect, undergo social and environmental due diligence, as an integral part of their overall due diligence process. The due diligence is carried out against a set of Performance Standards covering various environmental and social risks (IFC, 2012a; b). No explicit mention of FLEGT is made in the IFC Framework, though the monitoring report acknowledges that the Bank cooperates with other institutions to support forest-related instruments "such as EU FLEGT" (WB Independent Evaluation Group, 2013).

Another DFI considered in the context of this evaluation is the EIB, which is the EU financial institution supporting development cooperation.⁷⁴ The EIB has an annual investment volume of about €77 bn, of which €8 bn is allocated to third countries. The forest sector accounts for a small part of the EIB budget, with an annual volume of about €800-850 m, largely spent in EU countries and China. Within the forest industry, the EIB finances projects throughout the whole value chain, through both direct loans and equity funds - the latter being ever more significant.

When considering investments in the forest sector, the EIB applies three main criteria: (a) exclusion of critical habitats (as defined in line with the IFC policy); (b) social and environmental sustainability; and (c) exclusion of commercial logging projects in natural forests in tropical areas. The latter criterion has been criticized by several stakeholders, questioning whether the EIB should not use its leverage to improve logging governance in tropical countries rather than pulling out of these investments altogether. However, the EIB has reported that "*the lack of sufficient resources to undertake an in-depth due diligence in risky projects led to this 'better safe than sorry' approach*"⁷⁵.

Initially, FLEGT requirements were included in EIB-funded forest projects in tropical regions on a case-by-case basis; subsequently, the forest specialists in the EIB considered it more appropriate to subsume FLEGT within its sectoral policy on forests. The FLEGT Action Plan has been explicitly included within the EIB forest policy guidelines for the last few years, and references to FLEGT have then been operationalized through specific contractual undertakings between the EIB and the investment promoter. Two investments in equity funds in the forest sector have been disbursed by the EIB since FLEGT requirements became part of the Bank's standards.⁷⁶ So far, there has been no

73 Aide Memoire on UK.

74 In compliance with of Articles 208 and 209 of the Treaty on the Functioning of the European Union.

75 Personal Communication, FLEGT Week.

76 European Investment Bank (2009) The EIB Statement of Environmental and Social Principles and Standards, available at: http://www.eib.org/attachments/strategies/eib_statement_esps_en.pdf

resistance by fund managers to including FLEGT requirements, as they also have an incentive to avoid problematic forestry situations.

4.5.4 Export Credit Agencies

The role of ECAs in promoting sustainable logging was explicitly acknowledged by the Action Plan. This was probably a response to the involvement of EU ECAs in the expansion of the Indonesian paper sector in the '90s, which led to considerable deforestation and widespread negative publicity (Brack, Marijnissen & Ozinga, 2002; Matthew and Van Gelder, 2011). However, subsequent reports and contributions collected in the framework of this evaluation suggest the role apparently played by ECAs is not as significant as initially believed. In particular, the direct involvement of EU ECAs in logging or timber trading activities is minimal (FERN, 2008). Besides, most of EU-based ECAs have adopted policies on environmental and social standards in the context of the Export Credits Group organised by the OECD. No documentary evidence could be found that FLEGT played a role in this OECD-led process because the forest sector is, as discussed, a marginal target for ECA support.

OECD commitments for ECAs are spelled out in the 'Arrangement on Officially Supported Export Credits', to which the EU as well as many MS are part.⁷⁷ The OECD commitments require an *ex-ante* screening of projects based on locally applicable and international standards, such as the IFC's Performance Standards or EU legal requirements. EU MS must report yearly on their national ECAs' activities, including the disclosure of how environmental risks are taken into account. In the last summary report by the EC, it is acknowledged that all EU ECAs also assess credit/investment applications from an environmental perspective.⁷⁸

4.5.5 Private Financial Institutions

A lot has changed with respect to Private Financial Institutions (PFIs) since the FLEGT Action Plan was adopted in 2003. Environmental Due Diligence already existed in 2003, but is now much more sophisticated. International initiatives such as the Principle for Responsible Investment, the UN Global Compact, and the Equator Principles have contributed to its general improvement.

Over the evaluation period, however, the significance of EU investors in the forest sector has diminished, and other finance sources are currently tapped into. Forestry operations in tropical countries now may be supported through operating cash flows (i.e. internal financing), local banks, or operators from non-EU countries, such as China, rather than European PFIs. In 2014, China developed guidelines on sustainable forest product trade and investment for Chinese enterprises operating and investing abroad. However, these guidelines are voluntary and non-binding, their effectiveness is yet to be assessed, and no data exist on their application by Chinese companies.⁷⁹ Anecdotal evidence concerning Chinese financing of a pulp mill in Sumatra (Indonesia) shows that investors are now starting to ask questions about timber legality and sustainability, and this seems to point to an increasing awareness of the issues discussed in this framework.

Several international commercial banks have established policies concerning investments in the forest sector; Box 2 below discusses the case of HSBC. Several documents and contributions from NGOs, however, express concern about the fact that good policies on paper are often not properly implemented on the ground (Hoare, 2014).⁸⁰ Hence, good policies seem to be a pre-requisite but not necessarily an indicator of good outcomes.

77 This Arrangement is mandatory for EU ECAs through Regulation (EU) No 1233/2011 of the EP and the Council on the application of certain guidelines in the field of officially supported export credits and repealing Council Decisions 2001/76/EC and 2001/77/EC.

78 European Commission (2014), Annual Review of Member States' Annual Activity Reports on Export Credits in accordance with point 3 of Annex I to Regulation (EU) no 1233/2011, COM(2014)123.

79 See Aide Memoire on China.

80 See also interviews.

Box 2: HSBC Forestry Policy

HSBC has been one of the most active financial institutions in the area of forestry. However, though HSBC's policy has been considered international best-practice on paper, the bank has been accused of supporting projects leading to deforestation in Malaysia. Consequently, HSBC reviewed its practice, publishing an updated version of the HSBC Forestry Policy in 2014. The main aim of the new policy is to prevent HSBC from financing 'unacceptable impacts in this potentially high-risk sector'. Prohibited business practices include 'illegal logging; wood logged in violation of traditional and civil rights; wood logged in forests where high conservation values are threatened by industry; or forests being converted to plantation or to non-forest use'. In operational terms, for High Risk countries, including countries exporting tropical timber, operators in the forestry supply chain must be certified by the FSC or the PEFC to enter into a business relationship with HSBC; in Low Risk countries, it is sufficient that an operator have no track record or credible allegations of unacceptable impacts (HSBC, 2014; PwC, 2014; ProForest, 2014).

The role played by the FLEGT process in driving bank policies is, however, uncertain; while it may be fair to assume that it has been one of the cultural drivers, no more solid causal links have so far been found. In particular, interviews with private banks excluded any active role of FLEGT in the policy design process. One of the reasons is, again, that forestry is only one of many sectors relevant to PFIs, and that environmental and social risks, and hence due diligence, have a considerably wider scope than illegal logging alone.

The main cultural drivers seem to be other banks' policies, international standards, and, interestingly, NGOs and the risk of damage to corporate image from their investigations. This is especially the case when single banks are fingered by reports claiming that specific instances of deforestation were helped by EU financing (e.g. Global Witness, 2012; 2013).⁸¹ The likelihood of damage to a PFI's image from investments in a sector that is, after all, of secondary importance, is effective in halting financing operations in risky projects.⁸²

In operational terms, using FLEGT as a benchmark for determining the legality or the sustainability of investments in the forest sector is problematic, because there is no clear-cut documentary proof, especially as no FLEGT licensed wood has been traded in the market. For this reason, PFI policies rely upon certification schemes rather than on linking policies to the FLEGT framework. A private bank stated that, before relying on certification, any scheme is reviewed and its capacity to follow the chain of custody and to certify legality is verified, including the presence of third party certification.

4.6 Use of existing legislative instruments

4.6.1 Introduction

The sixth Action Area addresses the use of other existing legislative instruments to directly or indirectly support the fight against illegal logging. While this report does not try to evaluate whether these other instruments are useful or effective for their original purpose *per se*, we aim to assess whether they are useful and effective in achieving the FLEGT objectives. This chapter also provides information about the gaps, loopholes or overlaps between FLEGT actions and these other tools and policies, and discusses the coherence of the FLEGT Action Plan with some related parts of the EU legal framework.

The EU FLEGT Action Plan pays specific attention to two related legislative areas: Anti-Money Laundering (AML) legislation and the Convention on International Trade in Endangered Species

⁸¹ This evaluation report is not concerned with or supposed to take any stance on the substance of the accusation.

⁸² See e.g. "Greenpeace UK Action: Santander's Lending Policy, Specifically with Regards to Deforestation" Santander website (September 2015)

(CITES).⁸³ These are dealt with first, then, a series of international initiatives against illegal logging, in which the EU and/or MS play a part, are discussed, including: (a) those undertaken by the United Nations Office against Drugs and Crimes (UNODC); (b) the Global Programme for Combating Wildlife and Forest Crime; (c) the International Consortium on Combating Wildlife Crimes; (d) the Financial Action Task Force (FATF); and (e) Interpol. Finally, this chapter addresses two other EU legislative initiatives that can support FLEGT, and for which the FLEGT Action Plan has played a role in the design phase, notably the Accounting and Transparency Directive (ATD)⁸⁴ and the Raw Materials Initiative (RMI).⁸⁵

MS perceptions of the effectiveness of this Action Area are not as positive as those for other AAs. Only two MS see the FLEGT Action Plan delivering results in this area, while five noted no achievements; the remainder of the respondents did not provide an opinion. Despite this, many MS claimed to be working in this AA, though it remains unclear what policies and interventions are relevant. In many cases, MS mentioned reviewing (their own) national forestry laws as an intervention under this AA, though this is probably not exactly in line with the spirit and the letter of the FLEGT Action Plan. Several MS also mention AML legislation, which is discussed further below in detail. Overall, this AA, together with the one on conflict timber, is considered to be the least effective.

4.6.2 Anti-Money Laundering

AML legislation can be used to fight the enjoyment, both in-kind and monetary, of criminal activities, including illegal logging.⁸⁶ If timber is illegally logged in the origin country and/or illegally received in the destination country, anti-money laundering legislation would be invoked before a court or by an enforcement agency. In technical terms, illegal logging, as well as any related criminal activity (e.g. corruption, forgery) would be a predicate offence tackled by anti-money laundering legislation and the related law enforcement powers.

The scope of application AML legislation, both at EU and national level, can be defined using two different dimensions (i) type of crime, i.e. a list of crimes which are considered predicate offences; and/or (ii) magnitude of sanctions, i.e. all crimes, regardless of their nature, whose sanction exceeds a pre-determined seriousness.⁸⁷ In most MSs, based on its scope, AML legislation is indeed applicable to illegal logging and trading; however, it remains unclear whether it can be effectively

83 In addition, the MS legislation on stolen goods and the OECD Convention on Bribery and Corruption are also briefly mentioned. Finland reported to have investigated the use of stolen good legislation for FLEGT purposes (cf. Aide Memoire on Finland).

84 Directive 2013/34/EU of the European Parliament and of the Council on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings; Directive 2013/50/EU of the European Parliament and of the Council amending Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading and Commission Directive 2007/14/EC laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC

85 Communication from the Commission, The raw materials initiative — meeting our critical needs for growth and jobs in Europe, COM (2008)699; Communication from the Commission, Tackling the Challenges in Commodity Markets and on Raw Materials, COM (2011)25; and Communication from the Commission, On the review of the list of critical raw materials for the EU and the implementation of the Raw Materials Initiative, COM (2014)297.

86 The most recent piece of EU legislation on AML is the Directive (EU) 2015/849 of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. This Directive is still in its transposition period. The former Directive, now repealed, is Directive 2005/60/EC of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

87 See art. 3(5) of Directive 2005/60/EC and art. 3(4) of Directive 2015/849/EU.

used across all EU MSs to prosecute criminals logging or trading illegal timber. As reported by Brack (2012):⁸⁸

An analysis of member state legislation [...] revealed a general belief that money laundering laws could be used to target the proceeds of illegal logging, whether in the case of the illegal products themselves entering the EU or in the case of the financial proceeds of the criminal activity being deposited in the EU. However, there are a number of important factors influencing the possibility of prosecuting such cases, which do differ from country to country.

Little follow-up action was undertaken over the years (2003-2014). As reported in the MS Survey, seven MS have carried out work to see whether domestic AML legislation is applicable to FLEGT. While most of them acknowledged that legislation is potentially applicable, no instances of enforcement were reported. Two MS stated that application of AML to illegal tropical timber was *de facto* impossible, mentioning the problem of retrieving court-proof evidences from origin countries as one of the main reasons.⁸⁹ Only one Member State, Belgium, provided technical assistance to timber producing countries on AML with respect to illegal logging.⁹⁰

All interviewees and documentary sources confirm that using MS AML legislation against legal logging is possible in theory, but is unlikely to be effective (Hudson and Paul, 2011; Brack, Marnijssen and Ozinga, 2002).⁹¹ Two reasons are given; first, to sanction money laundering, EU courts must have sufficient evidence that a specific timber shipment/product has been harvested illegally, and such evidence may be hard to collect in the producing countries, especially when there no trial has been initiated there. Secondly, the AML legislation has been drafted and reinforced to address two main areas of supranational crime: drug trafficking and terrorism; enforcement agencies give higher priorities to these activities, while illegal logging is of limited relevance to them.⁹² Nevertheless, AML has been used recently in association with a successful conviction concerning an affiliate of one of Indonesia's two large pulp and paper groups – though it concerns British Overseas Territories rather than the EU *sensu stricto*.⁹³

4.6.3 Convention on International Trade in Endangered Species

CITES is an international convention that entered into force in 1975 to monitor and regulate the international trade in specimens of endangered wild animals and plants, to ensure that trade is *legal, sustainable and traceable*. Currently, 181 countries and other sovereign entities are party to CITES, including the EU and all of its MSs (Cooney *et al.*, 2012). CITES is thus wider than FLEGT in four dimensions: (a) geographical coverage; (b) species coverage; (c) product coverage (i.e. not only timber products, but also any plant specimen); and (d) the explicit inclusion of sustainability among its requirements.

Species included in CITES are listed in three annexes: (a) Appendix I, listing plants, animals, and specimens thereof prohibited from commercial trade, if harvested in the wild; (b) Appendix II, listing plants, animals, and specimens thereof that can be internationally traded if legality and sustainability are certified; and (c) Appendix III, listing plants, animals and specimens thereof for

88 See also EU Expert Workshop on “Illegal Logging and Measures to Combat Money Laundering” Sept 30th/Oct 1st 2004, Berlin (Germany); cf. Aide-Memoire Germany. The UK mentioned the organisation of a workshop between the Financial Intelligence Units of Indonesia and British Overseas Territories concerning the application of AML and the retrieval of evidences (cf. MS survey).

89 See MS Survey and Aide-Memoire on Finland.

90 See MS Survey.

91 Summary Report of the Berlin Workshop on AML; interviews; contributions during the FLEGT week.

92 The same rationale applies *mutatis mutandis*, to the non-use of the national legislation on stolen goods against illegal logging.

93 See Aide Memoire on UK and <http://www.theguardian.com/world/2014/may/10/asian-logging-giant-tax-labyrinth-british-virgin-islands> (accessed on September 2015).

which at least one CITES party requires trade control measures.⁹⁴ Six hundred tree species are covered by the CITES convention, mostly under Appendix II. While some of them are of commercial interest (African teak, ramin, bigleaf mahogany, African cherry, rosewood species), the overall volume and value of CITES-listed trees remain limited in the context of the FLEGT Action Plan, and the product forms which are covered by many CITES-listings tend to have the lowest export value per unit of weight only, for example logs but not furniture.

CITES contributes to fighting illegal and unsustainable logging of species covered therein, by setting up a verification and control system to prevent illegal timber from these species from entering into the EU. The acknowledgment that CITES objectives are aligned with FLEGT led to the inclusion of an exception under the EUTR. Indeed, timber from species covered by EU regulations implementing CITES and legally imported according to this framework are explicitly considered by the EUTR as harvested legally.⁹⁵ The underlying reason is that CITES trade mechanisms, and in particular the requirements of obtaining both a valid export permit in the country of origin and an import permit in the EU country of destination, ensure legality (according to the origin country norm) and sustainability (according to international scientific standards), thus fulfilling the EUTR objectives. In at least one country (Italy), CITES and the EUTR are enforced by the same police corps.⁹⁶

Obviously, the green lane foreseen in the EUTR relies on the trust of CITES documents and verifications. While CITES mechanisms have been accused of being flawed in some instances,⁹⁷ there seems to be no valid reason to consider them as generally inferior to the EUTR, and hence to consider CITES a shortcut into the FLEGT/EUTR legal framework.⁹⁸ In addition, since in February 2015 an amendment to the EU act transposing CITES has introduced the possibility for the EU destination country to question valid CITES export permits when there is ground for suspicion that the shipment is of legal origin.⁹⁹ Hence, even valid CITES shipments that may not meet the EUTR requirements can be stopped at the frontier in case of justified claims.

One persisting legal loophole concerns CITES Appendix III species. Trade in Appendix III species is not subject to the CITES verification of legality and sustainability, but only to a verification of legality in the country which requested the inclusion of the species in CITES Appendix III, and the simple issuance of a certificate of origin in other exporting countries. However, Appendix III shipments may still benefit from EUTR exemption as if legality and sustainability were verified. The EC acknowledges that the relation between EUTR and Annex III of CITES is not fully clear and is currently investigating solutions. However, no concerns on the ground related to this specific loophole could be reported so far.

94 CITES is transposed into the EU legal system via Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein; the EU regulation is, in some parts, stricter than the CITES convention, e.g. in the listing of species among Annexes and in the entry mechanisms of CITES species.

95 See Art. 3 EUTR. The EU FLEGT Regulation too exempts CITES timber from FLEGT licensing; however, current VPAs foresee that all timber, including CITES timber, must be covered by the origin country legality assurance system (Cooney et al., 2012)

96 See Aide Memoire Italy.

97 See Greenpeace, CITES failing to adequately protect endangered Afrormosia tree, at: <http://www.greenpeace.org/international/en/press/releases/CITES-failing-to-adequately-protect-endangered-Afrormosia-tree/> (last accessed on April, 2015).

98 Apparently, the Lacey Act in the US does not give an automatic presumption of legality to CITES-compliant timber; however, a CITES permit is very likely to be considered a valid proof of legality under the Lacey ACT, making the EU and US legal frameworks *de facto* similar (Cooney et al. 2012).

99 Commission Regulation (EU) 2015/56 amending, as regards the trade in species of wild fauna and flora, Regulation (EC) No 865/2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97

4.6.4 Other International Actions against Illegal Logging

MS are not only involved in FLEGT activities, but also in other international programmes and institutions active against illegal logging. From the MS Survey, it emerged that 20 MS out of 22 respondents are engaged in at least one international programme, and eight in three or more programmes. Below, several legislative or judiciary initiatives in this area are reviewed.

UNODC is an organisation within the UN system whose objective is to assist nations to fight illicit drugs, crimes and terrorism with transnational dimensions. In particular, the UNODC work programme foresees technical cooperation and assistance to enhance the capacity of states, research and analytical work on drugs and crime issues, and normative work concerning the drafting and implementation of national legislation and international treaties.¹⁰⁰

One of the themes tackled by UNODC concerns forest crime, in particular through the UNODC Global Programme for Combating Wildlife and Forest Crime, launched in 2014¹⁰¹. It has also started to work on the link between forest crime and money laundering, in partnership with other international organisations. Together with CITES, Interpol, the World Bank and the World Customs Organisation, they are part to the International Consortium on Combating Wildlife Crime. This consortium, launched in 2010, tries to unify various efforts to prevent and combat illegal trade in wild animals and plants, by delivering multi-agency support and bringing together expertise. The EU is a major donor to the consortium. In particular, a wildlife and forest crime analytical toolkit has been prepared, to support national law enforcement agencies in assessing – and enhancing – their capacity to prevent and tackle these crimes. Recently, these commitments have been reaffirmed in the Resolution 23/1 approved in 2014 by the UNODC's Commission on Crime Prevention and Criminal Justice.¹⁰²

The *Financial Action Task Force (FATF)* is also active in the area of AML and illegal logging. The FATF is an international organisation, to which the EU is a party, set up to fight against money laundering and terrorism financing, by building capacity and spreading international best-practices. The Asia/Pacific Group on Money Laundering (APG) is a regional organisation associated with FATF, which has been established to ensure the adoption, implementation and enforcement of FATF recommendations on AML within the region. Given the importance of illegal logging activities in South East Asia, the Group has drafted a "Typologies Report" concerning money laundering and illegal logging.¹⁰³ The report aims at sharing information and supporting a better understanding of money laundering in relation to specific problems, drivers and predicate offenses, in view of improving investigation and prosecution. Therein, the 'red flag indicators' are listed, that may signal a possible money laundering case in this area. The APG also recommends a set of measures to improve the effectiveness of prosecuting forestry-related money laundering.¹⁰⁴

Interpol is an international organisation whose role is to promote information exchange among national and territorial police corps; 190 countries are currently part to it.¹⁰⁵ Interpol cooperates

100 Cf. <http://www.unodc.org/unodc/en/about-unodc/index.html?ref=menutop> (accessed on September 2015).

101 The Global Programme for Combating Wildlife and Forest Crime is a four-year programme whose objective is to link existing regional efforts in this area, and to enhance capacity building and law enforcement mechanisms. The programme has six specific targets: (i) strengthening national legal frameworks; (ii) strengthening national law enforcement, prosecutorial and judiciary capacity; (iii) reducing supply and demand through alternative livelihoods; (iv) data gathering analysis and reporting; (v) strengthening international cooperation among law enforcement agencies; and (vi) raising awareness and civil society empowerment.

102 Commission on Crime Prevention and Criminal Justice, Resolution 23/1, Strengthening a targeted crime prevention and criminal justice response to combat illicit trafficking in forest products, including timber

103 Asia/Pacific Group (2008) Typologies Report: Illegal Logging and Money Laundering Issues

104 See also the aide-memoire on Vietnam.

105 See <http://www.interpol.int/About-INTERPOL/Overview> (accessed on September 2015).

with several other organisations active in the fight against forest crime, such as the World Customs Organisation, the UN Environmental Programme, the CITES and Basel Convention Secretariats.¹⁰⁶

One Interpol programme specifically concerns environmental crime, encompassing the illegal exploitation of wild flora. Since 2012, illegal logging has been among the areas in which this programme is most active; in that year, 'Operation Lead' was the first operation against large-scale forest crimes. Since then, several operations have targeted such crimes in Central and South America and in West Africa.¹⁰⁷ Also in 2012, Interpol launched, in cooperation with the UN Environmental Programme, the Project LEAF (Law Enforcement Assistance for Forest), specifically targeted at enhancing police capacity to fight forestry crime, including illegal logging and timber trafficking.

4.6.5 Accounting and Transparency Directives

The ATD¹⁰⁸ regulate what kind of information EU companies must disclose in their annual reports. In 2014, the ATD package was amended to introduce the so-called country-by-country requirements, i.e. further disclosure duties for large companies (listed or exceeding certain criteria including having more than 250 employees) active in the extractive industry and logging of primary forests. According to the 2011 Impact Assessment, 26 EU companies active in the logging sector will be covered.¹⁰⁹ As from 2017 at the latest, these companies will have to disclose, in a publicly available annual report, all payments submitted to governments. The disclosure duty covers individual payments larger than €100,000, regardless of the payment type, with details of country and project.

These requirements are comparable to those included in the US Dodd-Frank Act; however, the US framework imposes them only on the extractive industry. In addition, the US act is not yet applied by companies due to delays at the level of the US Securities and Exchange Commission in adopting a final rule. The EU opted to include logging industries as well because they represent a large share of GDP in several African countries, and because of synergies with other EU policies, such as FLEGT and the EUTR. Complementarities with FLEGT are explicitly accounted for in the Impact Assessment and in the recitals of the Directives.

The objective of the ATD is to enable civil society to make companies and governments accountable with respect to the exploitation of natural resources. It also fosters the adoption of the Extractive Industry Transparency Initiative (EITI), a global standard for the transparency and accountability of natural resource exploitation. The EITI, launched in 2003 by the UK government, is a voluntary initiative to which resource-rich countries can accede; once a country is party to the EITI, all extractive companies active therein, regardless of their home country, have to comply with it.¹¹⁰ According to EITI standards, all payments made by relevant companies to government bodies - and conversely all payments received by government bodies from relevant companies - must be disclosed on an annual basis, and published in an aggregate form. While the EITI's focus is on extractive industries, in several African countries it also includes the logging sector.

106 See Duncan Brack (2005) EU FLEGT Initiative: Assessment of 'Additional Measures' to Exclude Illegal Timber from EU Markets, Chatham House.

107 See <http://www.interpol.int/Crime-areas/Environmental-crime/Operations> (accessed on September 2015).

108 It actually consists of two directives, one for all companies with limited liability and one for issuers of securities traded in regulated markets.

109 Commission Staff Working Paper - Part II, Impact Assessment for financial disclosures on a country by country basis, SEC(2011)1289

110 Ibidem.

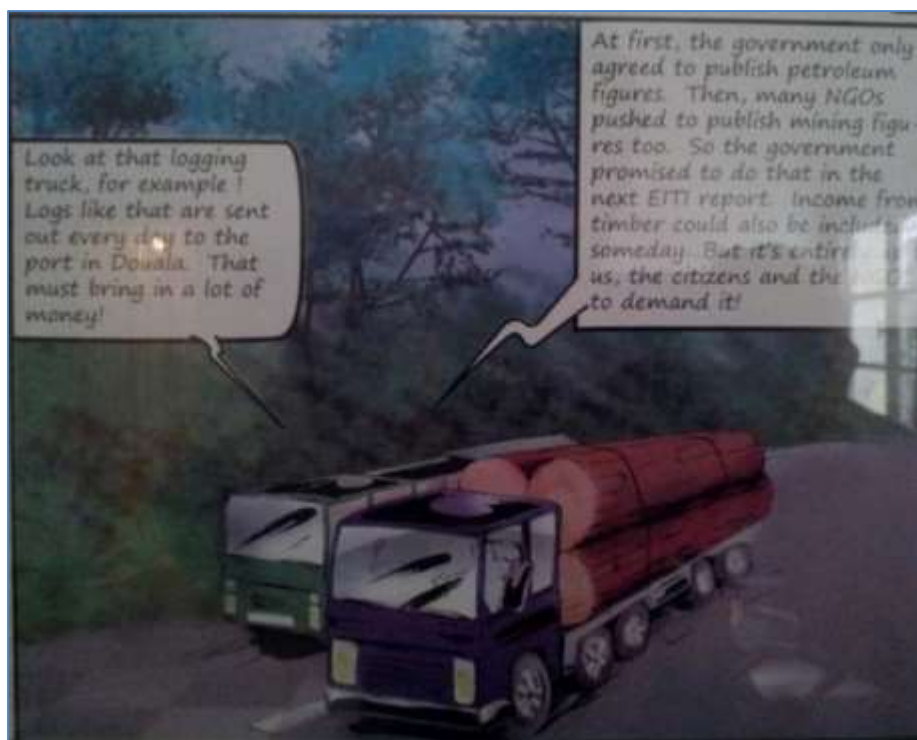


Figure 8: Poster on the wall of an environmental NGO in Cameroon

As to the question whether EITI principles are indeed incorporated in the scope of VPAs as verifiers of legal compliance, the evaluation has not been able to make a comprehensive analysis. It was found, however, that as part of the REDD+ initiative, Guyana has been encouraged to engage in a process to apply to the Extractive Industries Transparency Initiative (EITI). Progress in this area was included as one of the Indicators for continued payments under the Guyana Norway Agreement. This has helped Guyana prepare an EITI scoping study, giving an overview of the extractive industries in Guyana and a roadmap for the adaptation of EITI and an EITI implementation work plan. This goes to illustrate how REDD action can generate synergy with FLEGT.

Also concerning the duty to disclose, a Directive on the disclosure of non-financial information was approved by the European Council and Parliament and entered into force in December 2014.¹¹¹ Covering certain large companies, it requires, among other aspects, the disclosure of information on environmental and social policies, risks, and outcomes. It encompasses the largest listed EU logging companies as well (with more than 500 employees).

4.6.6 Raw Materials Initiative

In 2008 the Commission launched the "Raw Materials Initiative" (RMI) which established an integrated strategy to respond to the different challenges related to access to non-energy and non-agricultural raw materials. The RMI is based on three pillars: (a) ensuring a level playing field in access to resources in third countries; (b) fostering sustainable supply of raw materials from European sources, and (c) boosting resource efficiency and promoting recycling.

The RMI is not a legislative intervention, but a policy framework whose aim is to ensure the sustainable supply of raw materials to the EU industries. 'Non-energy non-agriculture raw materials'

¹¹¹ Directive 2014/95/EU of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups.

are covered by the RMI; while initially only metals and minerals were covered by this definition, wood has subsequently been added,¹¹². The 'Blueprint for Forest-Based Industries',¹¹³ which accompanied the EU Forest Strategy¹¹⁴, and the EU Expert Group on the Forest-Based Industries, only marginally deal with the issue of tropical, or in general extra-EU, timber supply and supply conditions.

The EC acknowledges that further contributions to FLEGT by the RMI can be explored and expanded, 'in a proportionate way'.¹¹⁵ At the same time, the EC is also aware of the development of a number of trade barriers affecting EU imports of wood, and thus the EU industry; these barriers are 'under observation' to verify whether a level playing field in access to wood resources can be ensured.

Recently, the EC has proposed a draft Regulation on conflict minerals¹¹⁶ to prevent financing armed groups through trade of tin, tantalum, tungsten and gold. The proposed legal framework is based on the self-certification by EU importers of these metals, which have to exercise due diligence in compliance with the OECD principle along their value chains. The due diligence obligations includes strengthened management mechanisms, a chain of custody or supply chain traceability, information disclosure, risk management and risk mitigation measures. The 'responsible' smelters, i.e. those opting for voluntary compliance with the Regulation, will be listed in a public database. While this approach does not (currently) cover timber products, it represents a different approach compared to the FLEGT approach and can thus be relevant for its future revision. It is worth mentioning that the Communication from the EC and the High-Representative accompanying the draft Regulation does mention timber among the natural resources whose governance needs to be improved.¹¹⁷

4.7 Conflict timber

On conflict timber, the Action Plan undertook to work on **four specific actions**, discussed below. An overall objective for these actions was not provided, but the 2010 FLEGT Action Plan Progress Report (Hudson and Paul, 2011) formulated one as: "*A framework for addressing the issue of conflict timber is set up*". In this section, the work conducted under each action and its effectiveness is examined.

According to the 2010 FLEGT progress report, only the EC and five MS (Denmark, Germany, The Netherlands, Sweden and the United Kingdom) reported having carried out or somehow supported work on conflict timber from 2003-2010. The MS Survey, administered in the course of the current evaluation, covering the period 2003-2014, surprisingly indicates that conflict timber relevant work has been done only by three MS (Croatia, Slovenia, and United Kingdom). This suggests that two new MS have got involved in the issue over the last five years and that the involvement of Germany, The Netherlands and Sweden has come to an end and/or has been of limited significance. A session on conflict timber was held at FLEGT Week on 18 March 2015, but yielded little information on FLEGT-initiated work. The MS Survey indicates that the United Kingdom has been involved in work with the UN Security Council (UNSC) on Liberia Sanctions and afterwards on the monitoring of the forest sector in Liberia. No details were provided on the type of involvement of Croatia and Slovenia.

¹¹² A particular class of raw materials covered by the RMI is that of 'critical raw materials', i.e. those with (i) economic importance and (ii) considerable supply risk. Softwood, roundwood and pulpwood were considered for inclusion in this list, but they were eventually rejected.

¹¹³ Commission Staff Working Document, A Blueprint for the EU Forest-Based Industries, SWD(2013)343. FLEGT is mentioned twice therein.

¹¹⁴ Communication from the Commission, A new EU Forest Strategy: for forests and the forest-based sector, COM(2013)659.

¹¹⁵ Contributions to the FLEGT week.

¹¹⁶ Proposal for a Regulation of the European Parliament and of the Council setting up a Union system for supply chain due diligence self-certification of responsible importers of tin, tantalum and tungsten, their ores, and gold originating in conflict-affected and high-risk area, 5.3.2014, COM(2014)111. The proposal has been referred back from the European Parliament plenary to the responsible Committee in the May session.

¹¹⁷ JOINT COMMUNICATION from the EC and the High Representative of the EU for foreign affairs and security policy, Responsible sourcing of minerals originating in conflict-affected and high-risk areas. Towards an integrated EU approach, 5.3.2014, JOIN(2014)8.

In the 2015 MS Survey, the MS that had not been involved in this Action Area (20 out of 23 responding MS) gave as main reasons that: (a) the issue is unknown and they do not know how to deal with the subject; (b) they have little contact with countries in conflict; (c) the issue should be dealt with rather at a higher political level (EU, UN). Other reasons mentioned were (d) no resources or (e) no interest.

The lack of information and guidance on how to deal with the issue were confirmed during visits of the evaluation team to selected MS. During the MS consultation meeting in the Netherlands, for example, the issue was among the topics addressed during the “World Café” exercise held with more than 50 FLEGT-involved participants from government, private sector and civil society, but there were no inputs on this issue. This suggests that the issue does not “live” among FLEGT stakeholders in MS, possibly due to a lack of information or to different prioritisation - probably with the exception of specific NGOs, such as Global Witness. Finally, the survey conducted among VPA countries revealed that three out of ten responding countries (Indonesia, Liberia and Congo) had developed activities in the field of conflict timber. However, none of them specified which measures were developed or how effective these were. This suggests that conflict timber may be an issue in some VPA countries, but that there is a general lack of information and/or understanding of the topic and how to deal with it, and certainly a lack of monitoring and reporting.

The four specific actions for conflict timber are:

1. Support work to define conflict timber - a necessary starting point for any further action to be taken at the international level

It was the expert panel on the illegal exploitation of natural resources and other forms of wealth in the Democratic Republic of Congo (UN Security Council document S/2002/1146, 16 October 2002) that recommended that an international definition of conflict timber be developed. Presumably, such a definition is needed to facilitate UN Member State support for sanctions, which, in the past, has proved difficult to secure in light of their commercial interests.

Based on its investigations of the situations in Cambodia and Liberia, Global Witness (2002) proposed the following definition of conflict timber:

“Timber that has been traded at some point in the chain of custody by armed groups, be they rebel factions or regular soldiers, or by a civilian administration involved in armed conflict....either to perpetuate conflict or take advantage of conflict situations for personal gain.”

The FLEGT Action Plan (2003) sets out a working definition¹¹⁸ of conflict timber:

“Timber traded by armed groups, the proceeds of which are used to fund armed conflicts. It is usually unauthorised by the relevant government agencies and therefore illegal, but can sometimes be “legal” if authorised by the government and taking place in an area under its control.”

Global Witness (2006) expanded this into a definition of conflict resources more generally:

“Natural resources whose systematic exploitation and trade in a context of conflict contribute to, benefit from, or result in the commission of serious violations of human rights, violation of international humanitarian law or violations amounting to crimes under international law”.

A major study on conflict timber, undertaken through USAID (2004), inventoried and analysed conflicts involving timber in Asia and Africa, and produced a definition recognising two distinct types:

118 This definition is more in line with the French translation of the name of this Action Area : Bois de la Guerre

TYPE 1: conflicts that are financed or sustained through the harvest and sale of timber;

TYPE 2: conflicts that arise as a result of competition over timber or other forest resources.

No attempt appears to have been made through FLEGT to build on these contributions to work towards an *agreed definition of conflict timber* for use in future international action, and for further work on FLEGT. This despite the fact, for instance, that the USAID study found Type 2 conflict timber in countries that are VPA partners for FLEGT (e.g. Indonesia, Viet Nam).

The text of the EUTR (2010) indirectly refers to conflict timber as follows:

Article 6 (Due diligence systems)

The due diligence system referred to in Article 4(2) shall take into account among other information “sanctions imposed by the UN Security Council or the Council of the European Union on timber imports or exports”

This gives a hint on how the EUTR proposes to approach the concept of conflict timber, i.e. as an issue related to countries for which specific sanctions have been issued by the UN or the EC. In practice, Operators (and Competent Authorities) could make reference to information of the UNSC or use the up-dated EC list on countries for which sanctions have been imposed¹¹⁹.

2. Follow-up in relevant international forums any recommendations in this regard which the UN Security Council may make

UN sanctions are typically overseen by an “Expert Group” for the country in question that comments on the implementation, impact and follow-up of the sanction(s) and determines when it can be lifted. The UNSC can also appoint “Commissions of Inquiry” to investigate a global security issue. Review of the UNSC website reveals that after Liberia, no sanctions were issued by the UN for other producer countries having relevance to logs, timber and/or timber products.

Yet, the EC is going beyond the level of merely follow-up of UN recommendations. Review of the (up-dated) EC list of sanctions in force reveals that the following timber-related sanctions have applied during the period of review:

- Council Decision 2010/232/CFSP on Myanmar (concerning provision of services and technology for forestry sector and the import or transport of round logs, timber and timber products from Myanmar into the EU, inter alia), repealed by Council Decision 2013/184/CFSP.
- Council Regulation (EC) No. 234/2004 on Liberia (concerning the import of round logs and timber products originating in Liberia), repealed by Council Regulation No. 1819/2006.
- Council Decision 2010/788/CFSP on the Democratic Republic of Congo (freezing the funds and economic resources of among others individuals or entities supporting armed groups in the DR Congo through illicit trade of natural resources); still in force.
- Sanctions for other countries relevant in the context of the FLEGT Action Plan (like Central African Republic, Ivory Coast) did not target timber or the forestry sector.

3. Work to recognize and address in its development co-operation programmes the role forests play in the context of conflicts, and address relevant issues including local and indigenous peoples’ rights to the forests they depend on for a living, and good governance in remote, sparsely populated forest areas.

¹¹⁹ http://eeas.europa.eu/cfsp/sanctions/docs/measures_en.pdf

This action essentially calls for work to avoid the development of conflicts, precipitated by forest resource access and control issues. The 2010 Progress Report mentions that Denmark, Sweden and the United Kingdom supported activities related to the rights to forests of local and indigenous communities. The UK and Sweden, with the US and other non-EU donors, also support the 'Rights and Resources Initiative' (2007-2012). Although this is not focused on 'timber from conflicts countries', it can be considered to be related to 'conflict over resource rights' – the Type 2 conflict timber identified in the USAID study. Denmark was actively involved in supporting indigenous communities' forest rights, although not in VPA partner countries.

In Myanmar, the link between VPA and conflict resolution is a main component of the FLEGT-induced bilateral dialogue and said to be much related to resource access of ethnic minority groups. A significant part of the export volume of Myanmar is thought¹²⁰ to come from natural forest concessions in post-war conflict zones (that may not yet be politically and/or socially stable) and is typically mixed with timber from state managed forests and plantations.

4. Initiate discussion with Member States, other donors and forested countries on the role of forests during conflicts and in pre- and post- conflict situations, and how this can best be taken into account in work related to forest law enforcement and governance.

This action seeks to inform FLEGT work in terms of conflict avoidance, peace-building and conflict sensitive development. The 2010 Progress Report noted work in this general area by the EC, DG Relex and the European Council, but was not specific; this may include the useful Global Witness document "Lessons UN Learned: How the UN and Member States must do more to end natural resource-fuelled conflicts" (2010), which was funded by the EC, and makes several recommendations.

DFID support for FLEGT, via the Chatham House Illegal Logging group, led to the production of a paper on the role of FLEGT VPAs in post-conflict peace-building in Liberia (Brack 2012). Brack points out that a VPA can provide a useful framework for the kinds of forest reform and peace-building needed in post-conflict situations, particularly through the creation of multi-stakeholder forums for debating national governance issues. He reflects that the FLEGT initiative was "never designed as an aid to peace-building and that the issue has never been discussed systematically, within the EU or elsewhere". However, this fourth action appears intended to specifically stimulate this kind of strategy in FLEGT efforts.

Efforts are being made in (non-VPA country) Colombia, where the EU Delegation, together with MS and other donors has been involved in FLEGT activities, including in discussions on FLEGT issues in the foreseen post-conflict situation. The FLEGT activities undertaken in Colombia have led to improved cooperation and coordination between stakeholders, leading to the development of a conference on this theme in 2015¹²¹. Access to forest resources may be an issue during the peace negotiations. A concern is that once peace has been brokered, limitations of access to certain zones in the country will disappear and interests to convert forest areas in other land use may increase, resulting in (illegal) deforestation.

In addition to the above-mentioned four actions, there are no references to conflict timber in the minutes of the FLEGT Committee meetings (2007-2014), nor in the Ad Hoc Committee meetings; work appears to have focused primarily on FLEGT regulation and VPAs. In the FLEGT week reports, conflict timber gets only one or two short mentions.

120 Woods, K. 2013; Timber Trade Flows and Actors in Myanmar: The Political Economy of Myanmar's Timber Trade (Forest Trends, UK-Aid); http://www.forest-trends.org/documents/files/doc_4133.pdf

121 In August 2015 a conference was organized on "*Bosques y construcción de Paz; una oportunidad para el postconflicto*", co-funded by the EU Delegation in Bogotá, EFI-FLEGT and FAO-FLEGT, with more than 250 participants (total cost 85,000 €, of which 30 % for publication support, a priority area to be strengthened).

Internet search has yielded a steady stream of publications on conflict timber and the role of resources in post-conflict peace-building from the late 1990s onward (Global Witness 2010; UNEP 2011; Vlaskamp 2014) but little of this originates with the FLEGT programme or has been consolidated by FLEGT into an output for this Action Area.

During the visit to MS Romania, imports from neighbouring Ukraine were discussed and it was asked whether there were any restrictions in place due to the conflict situation in that country. According to the Romanian Ministry of Economics and Trade the import value of logs, sawn timber and firewood from Ukraine to Romania has increased from approximately €60 Million in 2013 to €81 Million in 2014, an increase of 35%. Romanian Competent Authority officials indicated that there are no import restrictions in place, as “the EUTR refers to the UN list of countries at war, but in the case of Ukraine there has been no official war declaration, so there are no sanctions in place”. Although this description may not correctly reflect the mechanisms and facts (e.g. there are EC sanctions in place with respect to Ukraine¹²²) it is clear that the actual EC sanctions do not cover imports of timber and/or timber products, while there may be an increased risk regarding conflict timber. DG Trade, the EC partner of the Ministry of Economy and Trade, was reported as having discussed trade in *conflict minerals* with their Romanian partners, but not to have ever touched upon the issue of *conflict timber*. The above suggests there is a need to deal with risk of conflict timber and room for improved coordination of the FLEGT implementing DGs with DG-Trade on the issue, in order to enhance awareness on and integration of conflict timber as a standard concern of DG-Trade

Conflict timber issues have become relevant in other countries as well, over the past years, such as in Senegal¹²³, where illegal logging and export of rosewood logs from rebel-held areas via Gambia to China has become a serious problem (with 95% of the logs being considered as conflict timber). This called for interventions including adjustment of the forest law, improved control, military intervention, tough retaliation and severe punishment; actions that seem to have been developed without FLEGT involvement.

Although conflict timber has not been dealt with extensively, it remains a major issue especially when a conflict emerges in a VPA country, such as recently in Central African Republic (CAR). No VPA provides any clear guidance on how to deal with such a situation nor have any measures for avoidance of conflict timber been discussed during the negotiation phase. The CAR context¹²⁴ and the way stakeholders address the issue may help to reflect on and develop a clearer strategy.

Above examples suggest that new cases of (risk of) conflict timber may arise and that it would be necessary to have a clearly defined approach to dealing with such situations, in order to avoid major damage, and to be prepared for the instant that new cases arise.

A. Effectiveness

The MS surveys of 2010 and 2015 asked which action areas had achieved results and which had not (beyond the MS own experiences). In 2010, out of 23 respondents, two MS considered that conflict timber achieved results, while 13 considered that no results were being achieved. In 2015, out of 21 respondents, these numbers were one and five, respectively, which may either suggest a relative

¹²² http://eeas.europa.eu/cfsp/sanctions/docs/measures_en.pdf

¹²³ Illegal logging and trade in rosewood: a case study from Senegambia (June, 2015); [http://www.illegal-logging.info/sites/files/chlogging/Babacar Presentation /SENEGAL/CHATHAMHOUSE.pdf](http://www.illegal-logging.info/sites/files/chlogging/Babacar%20Presentation%20/SENEGAL/CHATHAMHOUSE.pdf)

¹²⁴ Between 2011 and 2014 CAR exported approximately 90,000 m³/yr of logs and sawn timber (representing an export value of 30 M US\$) of which one fifth was destined to the EU and the rest to China. The conflict did not lead to increase of export volumes, but rather to some decrease (-15%). Logging companies continued to export, but had to pay “protection money”. Global Witness in its report “Blood Timber” presents heavy allegations regarding the payment by logging companies of millions of euros to rebels guilty of mass murder, kidnappings, rapes and forced recruitment of child soldiers. The companies consider that continuing their operations during the conflict (2013-2014) avoided serious damage to the forest.

improvement in the perception of MS or illustrate that more MS are unaware of what is happening on the theme. Reasons mentioned for non-achievement include: (a) too complex; (b) beyond our competence; (c) the issue lacks coordination and planning. According to one MS, a clear, simple and transparent management structure with a work plan and priorities is needed. Another MS indicated that it does not see much added value in the implementation of this action area. When asked about future involvement, none of the respondents indicated they were planning action on conflict timber.

According to the indicative data collected on expenditure per action area (2015 MS and EC surveys), a total of 6 Million Euros out of 741 Million Euros (spent directly on AAs 1-7) was spent on AA7, equivalent to approximately 0.8%. It is not clear on which activities this amount has been spent and to what results it has led. This in itself is a finding, which may point to a lack of monitoring and/or a lack of obligations to report. Anyhow, there is insufficient basis to judge the effectiveness of the outcomes.

The relative lack of attention to conflict timber, particularly in comparison to VPA work, is admitted by the Commission. It is attributed, in part, to the lack of resource-fuelled conflicts in FLEGT target countries to stimulate attention; especially from 2005 to 2010 when other work on the Action Plan, particularly on VPAs, got seriously underway. Still, the evaluation team is of the opinion that more rigorous and result-oriented management of FLEGT, with clearer allocation of responsibilities and budgets, and regular planning and reporting obligations, could have remedied this situation.



*Improved working conditions at furniture factory in Central Java (Indonesia , June 2015)
Credits: Ernst Paul Zambon*

5 ANSWERS TO THE EVALUATION QUESTIONS

5.1 Relevance of the Action Plan

EQ1: What are the objectives and overall strategy of the FLEGT AP and how were they set? To what specific problems did the AP respond and how were these problems identified? How were the objectives relevant to those issues and to stakeholder priorities, needs and interests in the EU MS and in producer countries, in 2003 and nowadays?

5.1.1 FLEGT Objectives

In Chapter 3, the objectives and strategy of the EU FLEGT Action Plan were outlined and – to some extent – reconstructed. They can be summarised as follows: the overall objective of the Action Plan is “*reduction in illegal logging and related trade*”, to be reached through three impact pathways or sub-objectives: (1) “*establishment of trade instruments which seek to minimise the availability of illegal wood-based products on the European market*”, (2) “*demand-side measures to reduce the consumption of illegal timber and wood based products within the EU*”, and (3) “*improved forest governance to reduce the supply of illegal wood-based products*”.

The process through which they were set was as sound as practicable. They emerged from years of experience in international collaboration on forest management and forest sector reforms and, more directly, from focused research and a series of international conferences, initially on forest law enforcement, then on forest law enforcement and governance, and finally on forest law enforcement, governance and trade. In addition, in the early 2000s, illegal logging was rampant; studies showed that for several of the major timber producing countries, over 50% of total production was estimated to be illegal (Scotland, 2002).

Multi-stakeholder conferences involving representatives from producer country governments, bilateral and multilateral donors, international research organisations and international and national NGOs, and the private sector promoted broad participation in the debates. This was essential in ensuring the general relevance of the objectives and strategy to the majority of stakeholders, and a spirit of shared commitment and ownership.

Still, there remains some disagreement amongst stakeholders regarding the *relative importance of the various objectives* of the Action Plan. For some people involved in the original design, *improved forest governance* in producer countries was always the main objective of FLEGT. For them, the *illegal logging* issue was effectively an entry point and a lever for action on forest governance, but this was not very explicitly stated. For others, notably those involved in trade, FLEGT was primarily about *assuring supplies of legal timber on the EU market*. For others again, the Action Plan was about stopping deforestation and about sustainable forest management.

5.1.2 Historical Relevance of FLEGT (2003)

At the *global level*, in 2003, the problems FLEGT was proposing to address were incontrovertible. A mass of publications described and analysed illegal logging and proposed solutions for the related problems¹²⁵, and these tallied with many practitioners’ first-hand experience in the forest. Years of work in international forestry had had little measurable success in addressing these problems. For the bilateral and multilateral development donors, environmental and social NGOs, the objectives and strategy represented a new opportunity to address the ‘old’ intractable problems.

The specific objectives of FLEGT were primarily relevant to the interests and priorities of *EU stakeholders*, notably the EC and select Member State administrations engaged in international development. At the time the FLEGT Action Plan was being designed, however, the EU comprised 15 MS only, essentially Western Europe. But between May 2004 and 2013, thirteen additional countries

¹²⁵ such as degradation of resource, loss of revenues, loss of livelihoods of forest dependent people, loss of biodiversity, among others

joined the Union bringing the total to 28 MS. None of the newer MS have had input into the original planning of FLEGT and few of them had foreign assistance programmes on which to base their concerns. Overall, the initial level of awareness and commitment to the objectives of the Action Plan amongst them was understandably low, as results of the MS Survey confirm: out of the initial 15 MS – members at the time the FLEGT Action Plan was designed – ten responded that they were *very aware* of the FLEGT, two that they were *somewhat aware*, three did not respond. Out of the 13 new Member States - joining the EU after 2004 - only three reported they were *very aware* of the EU FLEGT Action Plan, eight '*somewhat aware*' and two did not respond.

The main reasons for *producer country governments* to engage in FLEGT and in VPAs in particular, are *improved forest governance* and *improved access the European market*. According to the VPA Country Survey data, presented in Figure 9, 'sustainable management of the national forest resources' is the third most mentioned reason, before even the combatting of illegal logging and trade. Obviously, other stakeholder groups (private sector actors, community representatives, NGOs) will have had different opinions on the relevance of FLEGT, depending on the extent to which they benefited from "business as usual" on one hand, and their interests in forest sector reforms and a move towards responsible business practices, on the other.

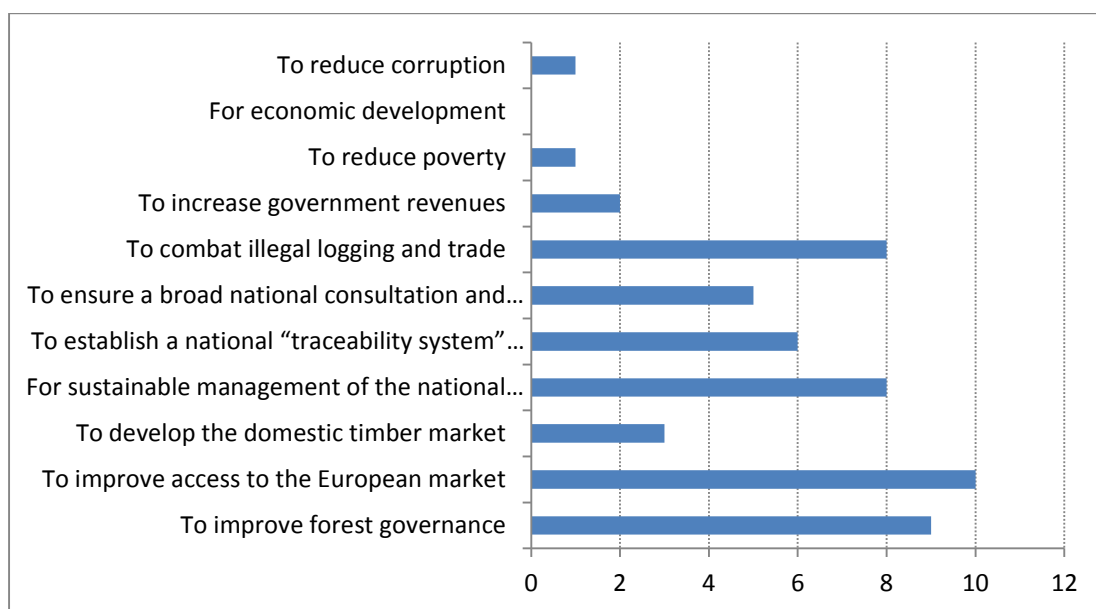


Figure 9: Partner Country reasons for engaging in VPAs (Source: VPA countries Survey)

5.1.3 Present Relevance of FLEGT (2015)

The surveys conducted among EU Members States and VPA countries, as well as the Public Survey, reflect different perspectives on the current relevance of FLEGT objectives. All **EU Member State** respondents believe that the objectives and actions of the FLEGT Action Plan are still highly relevant. Many MS frame this in terms of contributing to *improved forest governance to fight deforestation*, and to *sustainable forest management* rather than just *reducing illegal logging and/or trade*. The responses also refer to an ever increasing pressure on forests since 2003 and particularly to new threats like the conversion of forests to agriculture and to the emergence of new markets like China and India. A question raised by one MS is whether these require a separate new action plan or can be accommodated by the existing FLEGT Action Plan.

The survey responses from ten **VPA country** governments indicate that FLEGT objectives remain relevant, not only since illegal production and trade persist and FLEGT strengthens national efforts in this regard, but also in view of the role of forests in fighting climate change. But VPA partners feel

that actions and approaches to achieve FLEGT objectives should be reviewed in order better to match FLEGT ambitions with realities on the ground. This seems to point to FLEGT communication challenges as well. Greater recognition is needed that VPA implementation requires, among other things, strong institutions, human and financial resources, as well as capacities to implement and enforce the relevant laws and legislation included in the TLAS. Most of these are weak or lacking in VPA countries. Respondents also stress that actions should not be standardised, but tailored to the specific economic and social needs, conditions and legislation in each country; particular reference is made to wood tracking systems. Specific suggestions for the improvement of VPA processes have been presented in Chapters 4.1 and 4.2 and are discussed in more detail in Annex 7, Volume 2.

Results from the open **Public Survey** point to improved stakeholder participation in FLEGT-related processes as by far the most important achievement (based on >200 responses). Further details on results are discussed in chapter 5.3 (Effectiveness). In reply to the question what respondents would like to see in a future FLEGT Action Plan, the three most cited issues include ‘starting to address deforestation and sustainability – rather than only legality’ (58%), ‘increased linkage with other processes and initiatives such as REDD’ (56%), and ‘simplification of the processes’. It is also noteworthy that International NGOs recommend a stronger focus on demand-side measures (as non-NGOs respondents do) while national NGOs wish that FLEGT is better linked with other processes and that the VPA process is simplified.

The results of the **Private Sector Survey** indicate that the majority of Private Sector respondents (78%) think the FLEGT Action Plan is still relevant. They appreciate the fact the illegal logging is on the international political agenda and that efforts are made to consult with all relevant stakeholders. The two main recommendations to improve the relevance and effectiveness of the EU FLEGT Action Plan include are (1) ensuring an even implementation and enforcement of the EUTR, and (2) a simplification of requirements for EUTR and VPA/FLEGT licenses, including fast-tracking of VPAs. Other recommendations include (3) strengthening of the role of the private sector in FLEGT and (4) provision of support to SMEs. Other remarks made are that private sector capacities to comply with requirements need to be built; that support to producer nations is very helpful (something that is missing in the USA Lacey Act); and that, despite an absence of FLEGT licenses, *‘a lot has been gained in terms of awareness of the private sector’*.

5.1.4 Changes in the Global Context

Although in many countries illegal logging has reduced in recent years, globally speaking it remains an issue and is expected to remain so into the future (refer Chapter 5.5). Forest governance – and governance generally – also remain important issues in timber producing countries. However, many evaluation respondents stressed that the global context in which FLEGT operates has changed significantly since 2003. Three changes are considered to be most relevant:

First, illegal logging is no longer the main cause for deforestation, and the sources of illegal timber destined for European markets have shifted since the adoption of the EU FLEGT Action Plan. Research indicates that around 75% of all deforestation¹²⁶ now comes from the **conversion of natural forests** for agriculture and that nearly 50% of all conversion is illegal (Lawson, 2014). This problem is not explicitly addressed in most VPAs; the legal frameworks that are the subject of Timber Legality Assurance Systems (and hence of VPAs) are typically not fit to address broader land governance challenges. Or, as one resource person met during a field missions put it: *‘VPAs will not save the forests’*.

126 According to "The impact of EU consumption on deforestation" study, the EU is a major consumer of so-called ‘embodied deforestation’ (http://ec.europa.eu/environment/forests/impact_deforestation.htmxxx).

Still, as legal frameworks change and views and positions evolve, there appears to be space to address some of these challenges within VPA contexts. In several VPA countries, the phenomenon of forest conversion and deforestation is now clearly on the table, partly thanks to FLEGT action. Issues of land rights and land use planning have started to be considered in ongoing negotiations or even within the context of concluded VPA's. Legality grids can be used to verify the legality of timber coming from forest conversion, or be revised to include 'upstream issues', such as, amongst other things, laws on land allocation and acquisition, on traceability of conversion timber or on the preparation of land use plans. In other words, boundaries of legality can be redefined.

Cameroon, for example, is one of the countries where forest conversion for development (such as a harbour or storage dam construction or the establishment of palm oil plantations) poses challenges to the VPA, if only for the large amounts of timber generated by these projects. The experience shows that the VPA process can provide a framework for dialogue and negotiation among stakeholder groups about conversion. Civil society groups and the Joint Monitoring Committee have questioned the procedures issued by the Forest Commission for salvaging the timber (through so-called *Ventes de Coupe* and public auctions) that comes from land allocated to development projects, arguing that the adopted procedures are not in line with what was foreseen in the legality grid. In response, the Forest Commission has committed to clarifying the rules to be applied in such cases.

If, however, forest conversion and the related timber extraction and trade follow the relevant laws and regulations, there is little more that can be undertaken in the framework of FLEGT. The FLEGT/VPA multi-stakeholder fora can – and do - provide a useful platform to discuss the conversion and deforestation issues but, in the end, the challenges would need to be tackled through proper land use planning and land governance, involving the various ministries dealing with land use. This is typically an area of intervention for REDD+ action, although REDD+ often builds on structures and good practice established by FLEGT VPAs, which typically involve inter-ministerial and formal processes (See Aide-memoires Cameroon, Guyana).

Secondly, the **global timber trade** has changed. The reduction in EU MS import of tropical timber and timber products and the continuing rise of China as the world's major importer these products, is shown in Figure 10¹²⁷. At the time of the global financial crisis in 2008, EU and Chinese imports were comparable by volume, although imports by both had been steadily declining since 2000. Following the financial crisis, EU imports dropped precipitously and have never recovered, but China's imports recovered quickly and have returned to pre-crisis levels. Theoretically, this reduction in trade with the EU weakens the leverage of bilateral voluntary trade agreements - but does not eliminate it.

¹²⁷ The figure (9) on tropical timber does not reflect total timber imports, but is illustrative of the trade that FLEGT Action has, thus far, mostly focused on. Chapter 5.5 presents more detailed data on global timber trade, including temperate and boreal forests.

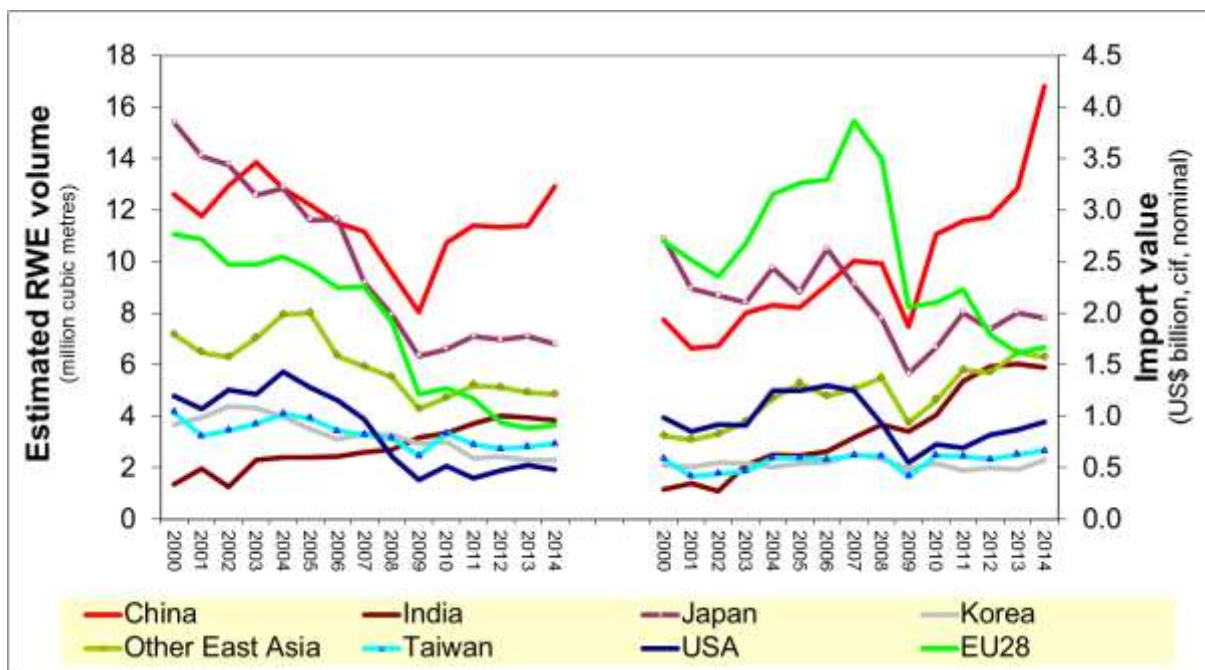


Figure 10: Direct imports of "tropical timber" (excluding China's imports of rosewood)

Source: China Customs, Trade Statistics of Japan, Korea Customs Service, Customs Administration (Taiwan), USITC Trade Data Web, Eurostat, UN Comtrade and others

Note 1: "tropical timber" is defined here as the sum of logs, sawn wood, mouldings, veneer and plywood supplied directly from tropical countries and of species unlikely to derive from plantations

Note 2: roundwood equivalent ("RWE") volume is estimated here by multiplying source data in units of volume by (in m³/m³) 1.8 (sawn wood), 1.9 (mouldings and veneer), and 2.3 (plywood)

Note 3: the multiple of 1.8 m³/m³ for sawn wood is much less than the industry suggests in the Congo Basin (typically 3.0 m³/m³).

The rise of imports by **China** and other Asian countries, notably *Viet Nam*, reflects the emergence of these countries as major export processing hubs. Much of the timber consumed by their industries is thought to be illegal (refer Chapter 5.5 and Appendix 1), and Europe and the US are major destinations for the final products derived from those countries' wood-based industries. In other words, the route by which most illegal timber is reaching Europe has changed. This calls for new approaches. The EUTR was conceived partly with such triangular trade in mind. The trade to and through China is already part of the political dialogue and actions under the Bilateral Coordination Mechanism, and some FLEGT projects have included activities in China. The TTAP2 project, for example, verified a total of 16 supply chains in China between 2010 and 2013, using various standards such as the FSC Forest Management/COC and Rainforest Alliance's VLC and VLO standards.

Furthermore, many timber producing and FLEGT partner countries experience strong economic growth. This growth is expected to continue in the coming years, while it tends to decline in mature economies. This is accompanied by an increase in the role of small-medium forest sector producers and processors and implies that domestic and regional markets for timber and fuelwood are becoming more important and in some places exceed export markets.

Part of the decline in EU tropical timber imports has resulted from a conscious market shift to less controversial products. This is, in part, because of the EUTR legislation, but the shift is also facilitated by the rise of new softwood timber technologies and development of alternative products. Indeed, some observers now advocate the active marketing of tropical timbers in order to restore the leverage lost, and promote legal timber as a way to foster maintenance of the forests.

Thirdly, the **global political agenda** is also changing. While Illegal logging is still on the global agenda, *climate change* and the promotion of the role of forests in mitigating and adapting to it through REDD+ has displaced FLEGT as the most prominent international forestry initiative. REDD+ is better funded than FLEGT and may bring bigger incentives to producer countries to change land use practices¹²⁸. However, REDD+ also faces substantial governance challenges, which are not always approached through truly participatory stakeholder discussions. Further, REDD+ is largely dependent on the legal reforms and regulatory frameworks that the FLEGT Action Plan helps establish.

Generally speaking, more attention is now being paid to *deforestation* and to trade in commodities that drive the *conversion of forests for agriculture*. In this context, there are new international and EU commitments to halving deforestation by 2020 and ending it by 2030. Notably the 7th Environment Action Programme (2013) - which guides EU environment policy until 2020 - states:

The Union should also leverage its position as one of the largest markets in the world to promote policies and approaches that decrease pressure on the global natural resource base ... Other policy options to reduce the impacts of Union consumption on the global environment, including deforestation and forest degradation, will also be explored. and commits to ‘Assessing the environmental impact, in a global context, of Union consumption of food and non-food commodities and, if appropriate, developing policy proposals to address the findings of such assessments, and considering the development of a Union action plan on deforestation and forest degradation’ (paras 103 and 106 (vi)).

Lastly, alliances between donors/CSO and the private sector to *address global deforestation and forest degradation* are also on the increase, as the New York Declaration on Forests (2014) and the Tropical Forest Alliance, among other initiatives, suggest. This may be seen as part of a more general increase in political support for a stronger role for the private sector in achieving inclusive and sustainable growth in Developing Countries¹²⁹, over the past 10 years. At the same time, *Corporate Social Responsibility* has become more important to companies operating in the forest sector – indeed all sectors – for pursuing their core commercial interests.

5.2 Design of the Action Plan

EQ2: *How were the seven Action Areas and related actions and policy instruments designed and to what extent were they necessary and sufficient for achieving the objectives of the FLEGT AP? Were there any important omissions? Has the selection of partner countries been appropriate? In light of external developments since 2003 and current trends, is the design still appropriate today and likely to be appropriate in the future?*

A. The overall design of the Action Plan

The overall objective of the Action Plan is “*reduction in illegal logging and related trade*”, reached through three direct objectives and impact pathways, with their related measures and instruments: 1) *improved forest governance to reduce the supply of illegal wood-based products*, through supply-side support; 2) *reduction of the end-use of illegal timber in the EU and globally* through demand-side measures, and 3) *the establishment of trade instruments* supported by dialogue and international collaboration that link the demand- and supply-side measures.

Furthermore, the Action Plan is expected, ultimately, to contribute to the higher objectives (goals) of *sustainable forest management*, as well as the overarching Development Cooperation objectives of

¹²⁸ Still, current REDD+ incentives cannot compete with the incomes from timber trade or palm oil (estimated at 10 billion USD for the Indonesian timber trade, for example (<http://www.globaltimber.org.uk/indonesia.htm>)).

¹²⁹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2014.

poverty reduction in the context of sustainable development. The various objectives, ‘pillars’ and action areas are illustrated in below ‘Intervention Theory 2003’ of the EU FLEGT Action Plan, as reconstructed by the evaluation team (see Figure 11).

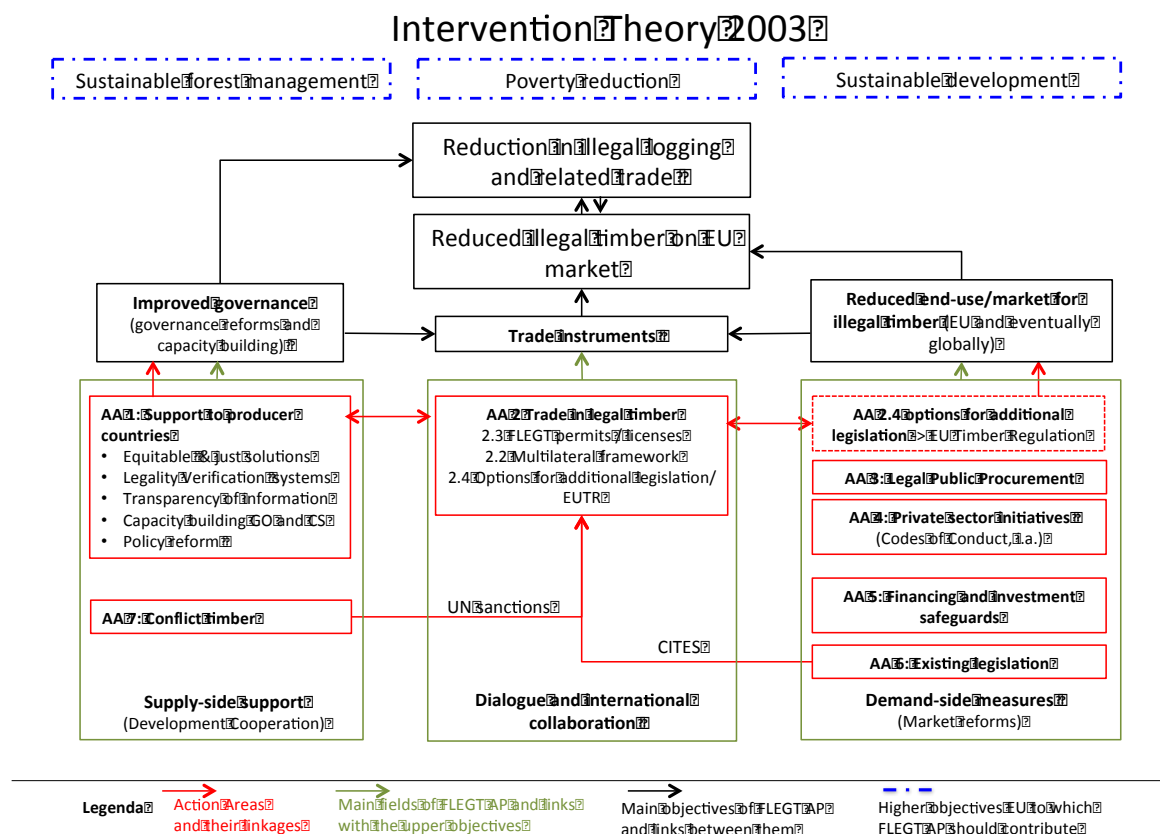


Figure 11: Intervention Theory of the EU FLEGT Action Plan 2003 – reconstructed

The seven **Action Areas** were intended to generate synergies between practices in consumer and producer countries, and between various stakeholder groups. An example of how this worked in practice - to some extent - is the Timber Trade Action Plan, where the use of EU-based buyer support and pressure has been effective for trust-building, moral support and commitment of suppliers in producer countries. Collaboration with Timber Trade Federations in both buyer and producer countries has helped to gain trust and access to ‘insider’ sector information (TFT, 2013 - Timber Trade Action Plan 2, Final Evaluation report).

With reference to **Figure 11**, the various Action Areas under *demand-side measures* were intended to support each other and contribute to reduced consumption of illegal timber in the EU. An example of this is the Public Procurement Policy in the Netherlands, which resulted in an agreement with (part of) the private sector to aim for high percentages of certified timber in their traded volumes. Likewise, the EUTR (designed only in 2010 and implemented since 2013) was meant to support the

functioning of VPAs¹³⁰ and the FLEGT licensing, while multilateral and bilateral frameworks were supposed to provide space for dialogues and collaboration with a broader range of consumer and producer countries (*dialogue and collaboration*). The various actions under *supply side support* were intended to eventually enhance forest governance in producer countries and contribute to a reduction in illegal logging and trade.

Furthermore distinct roles were foreseen; for both producer and consumer country governments to lead action on policy and legal reform, for the private sector to initiate actions to change their practices and for civil society organisations to support awareness, capacity building and monitoring.

Perceptions of the design and the Action Areas

In general the overall design has been well received and appreciated in various publications and by various stakeholders.

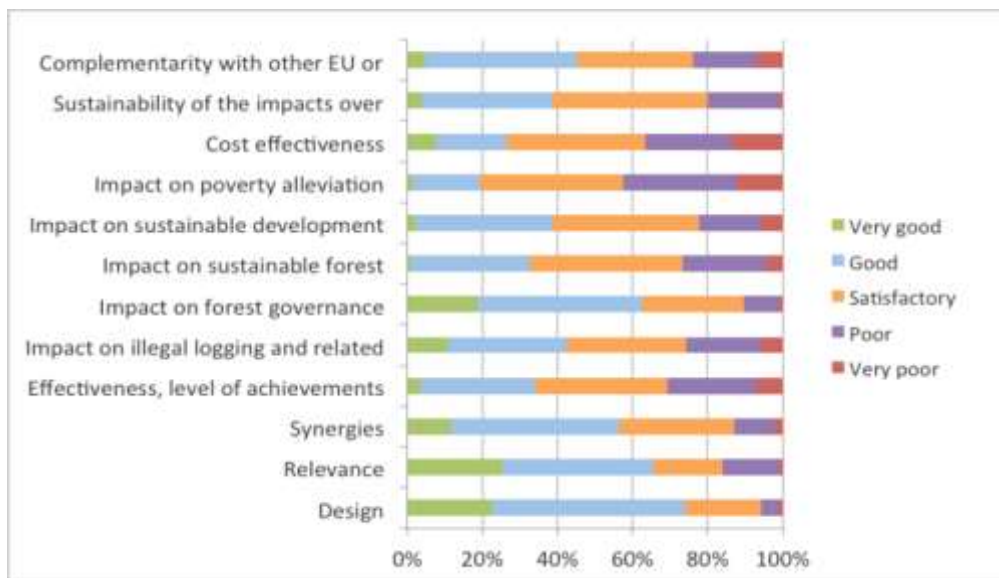


Figure 12: Rating of different characteristics of the EU FLEGT Action Plan (Public Survey 2015)

The Public Survey revealed that the design is the best-rated characteristic of the overall Action Plan: 74% of all respondents (n= 84) rated the design as very good/good, 20% as satisfactory and only 6% rated it as poor/very poor. In the MS Survey and in interviews, respondents added that the overall design was innovative, especially the combination of demand and supply side measures, and the multi-stakeholder approach.

OverdeVest and Zeitlin (2015) call the FLEGT Action Plan ‘an experimentalist design’ that ‘*can be understood as a response to strategic uncertainty: policy makers’ realization that they do not know precisely how to define their goals or how best to achieve them ex ante, and must therefore organize an open-ended process of joint exploration*’. According to them, this uncertainty is especially evident in the multi-stakeholder engagement in the formulation of legality definitions, and in the multiple overlapping procedures for monitoring implementation. They claim that an experimentalist design provides the ‘*best hope for continued progress towards its ambitious goals despite the initial difficulties and delays experienced in implementing both the VPAs and the EUTR*’ (p 32).

¹³⁰ Even though in the legal documents like the FLEGT Regulation (No 2173/2005), and the FLEGT Implementing Regulation (No 1024/2008) they are not mentioned, there are two important issues that have been included in most of the VPAs: (1) Inclusion of all export markets (not only exports to the EU), and (2) inclusion of the domestic market, both instrumental for the strengthening of forest governance. In Briefing Notes from the EC, these issues have been mentioned though.

Another advantage of the rather 'open' design was that it provided space for engagement of countries and stakeholders. As one interviewee put it *'the open design was also an advantage for engagement. Stakeholders engaged since there was space and openness to discuss and re-determine the path. In general people do not like embarking on things that are already fully developed by others since it takes away the ownership. Our main objective in those days was to let governments embark on the agenda, we needed political buy-in and therefore the openness was good.'*

Unsworth (2014), in her review of the genesis of FLEGT concluded that success is about 'people, processes and context', thus thinking politically, taking iterative and stepwise approaches to problem solving, effective and committed local leadership, long-term donor commitment and an enabling political and bureaucratic environment within the EU and selected Member States.

Hudson and Paul (2011), in the FLEGT Action Plan Progress Report 2003-2010, conclude that *'The Action Plan is more than a statement of policy but, in the absence of milestones and targets, it is less than a strategy. ...the Action Plan is more of a political process than a traditional aid programme. While that permits intelligent adaptation to a range of very different, and changing, circumstances it also makes such work more difficult to plan and to monitor'* (p 34). With this remark, Hudson and Paul summarise the advantages and disadvantages of an open-ended approach: flexible and adaptive, but difficult to plan, implement and monitor (see also 5.3 - AA1 and AA2).

This disadvantage was confirmed during the evaluation, especially with regard to the VPA process: in the surveys and during field visits to the VPA countries, people complained about the complexities of, notably, the VPA process (see also Private Sector Survey, Public survey, VPA Survey, Aide Memoires Côte d'Ivoire, Vietnam, inter alia). In the Public Survey, half of the respondents (51%) asked for the VPA process to be simplified and 39% asked for more precise guidelines to reach objectives.

Another disadvantage of the 'open' design that was exposed during the evaluation is the wide range of interpretations of what the EU FLEGT Action Plan entails; the design was found to create confusion. In documentation and interviews, the team came across the following questions:

- Is it about timber only or does it include other wood-based products?
- Is it geared at combatting illegal logging in developing countries only or does it include illegal logging in EU or non EU European and other countries as well? (Russia Aide-memoire, GTF session with traders)
- Does it aim at combatting tropical timber or is temperate timber included as well?
- Is it geared at timber from natural forests and/or plantations as well? (Vietnam Aide-memoire)
- Does it aim specifically at those producer countries that export to the EU or all producer countries?
- Does it aim at producer countries or at processing countries as well?

These questions point to a lack of explicit choices, in the Action Plan, regarding objectives, priorities and pathways to achieve objectives, further compounded by a lack of clear communication.

Lesson learned *An open and experimental design can be very useful, especially when venturing off the beaten track. It requires a strong mechanism to capture and communicate lessons learnt – such as through peer-to-peer learning - and avoid re-inventing the wheel. Eventually, however, the open and experimental design should be followed by simple and precise operational plans and guidelines for specific Action Areas and actions; the complex needs to be translated into the simple.*

Another disadvantage of an open design is that it leaves space for diverse interpretations that includes misunderstanding and confusion of what the EU FLEGT Action Plan entails to achieve. To counter this confusion, strong communication mechanisms could be helpful.

B. Relevance of the design for achievement of FLEGT objectives

Reduced end-use of illegal timber in the EU

In the early years of the FLEGT Action Plan (2003 and later), the main share of illegal timber entering the EU was estimated to come from African countries (Cameroon, Gabon, Ghana, Ivory Coast, Liberia) and Indonesia (together estimated to be around 40% of all illegal timber entering the EU), Russia (estimated 40%) and other countries¹³¹ (mainly from countries around the eastern periphery of Europe and estimated to account for 20%, see Figure 13).

Currently, with the changing trade flows (see Figure 13) and the shares coming from Africa and Russia strongly reduced, the main share of illegal timber imported into the EU comes from African countries (estimated 20% mainly coming from Ivory Coast and Cameroon), China (estimated 20%), and Russia (estimated 20%). The volume coming from the other countries (and possibly from Europe's eastern periphery) has not changed much and accounts in 2013 for an estimated 40%. From these data it would seem that countries that are not eligible for official (EU) development assistance supply the great majority of the EU's imports of illegal wood-based products. In contrast, VPA countries supply the great majority of the EU's imports of tropical timber.

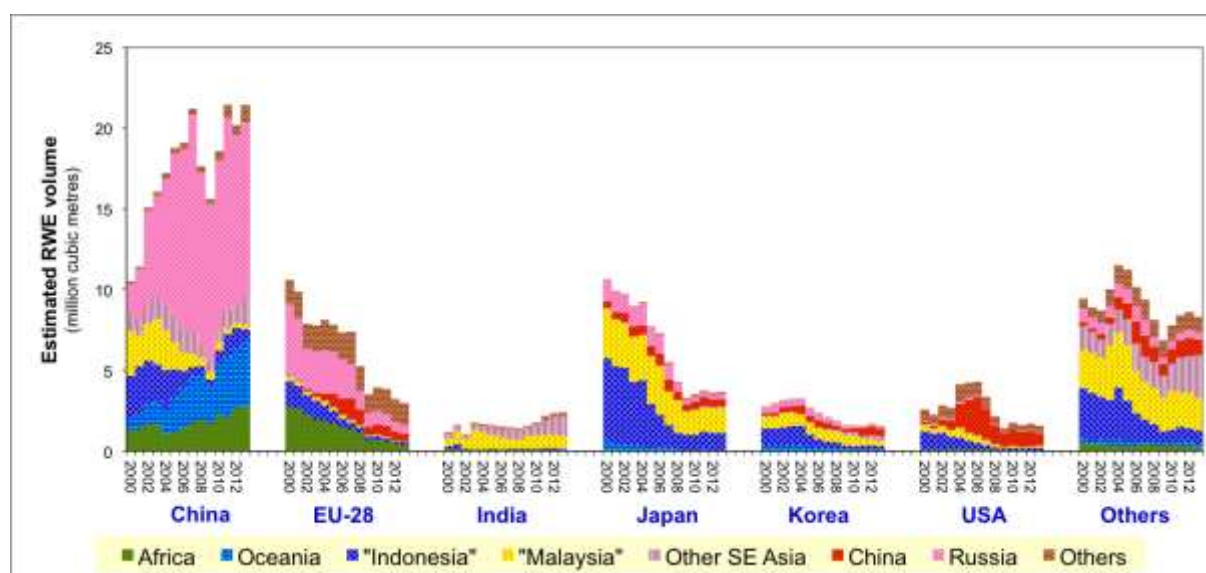


Figure 13: Estimates of the "illegal" imports of Annex II products by leading importing countries. The estimates are based on the same source data, methodology and assumptions of illegality adopted in Chatham House's recent assessments.

In order to enhance relevance of combatting the end-use of illegal timber in the EU, there needs to be a stronger focus on the most relevant non-VPA (non-tropical) producer and/or processor countries involved in these practices, such as Russia and China. More even and effective implementation of the EUTR should increase the demand for proper legality assurance and limit the risk of laundering of illegal timber. Strengthened bilateral and multilateral policy dialogues and cooperation with these countries need to complement these efforts.

In other words: although AA1 (Support to producer countries) and AA2.3 (VPA processes) are still relevant for the developing producer countries, AA2.4 (EUTR) and AA2.2 (Dialogue and international

¹³¹ Rest category containing more than 20 source countries

collaboration) - with producing countries like Russia, and possibly the countries around the eastern periphery of Europe and processing countries like China - have gained relevance.

Reduced end-use of illegal timber at a global level

In the early years of the FLEGT Action Plan the main **consumers** of illegal timber included China, Japan, the EU and 'other countries'¹³². In 2013, while in most countries the import of illegal timber was strongly reduced, in China the import of illegal timber is estimated to have increased (see Figure 13). For working with the consumer countries, the main instrument (AA2.2 Dialogue and international collaboration) was relevant then and now. The urgency to strengthen the dialogue and cooperation with China –as a main consumer of illegal timber- has become more apparent.

With regard to the main **exporters and/or producers** of illegal timber (and paper) at a global level, in the early years of the FLEGT Action Plan, Russia, Indonesia, China and Malaysia were the main players. In 2013, the estimated export had significantly reduced in many countries except for Russia and China (and to a lesser extent Myanmar, PNG and the Solomon Islands - see Figure 14). In the early years AA1 Support to producer countries and AA2.3 VPA process to Indonesia, Malaysia was very relevant, as well as dialogue and collaboration with China and Russia. Now the balance has shifted to Russia and China, and the urgency for AA2.2 Dialogue and international collaboration with China and Russia has become stronger.

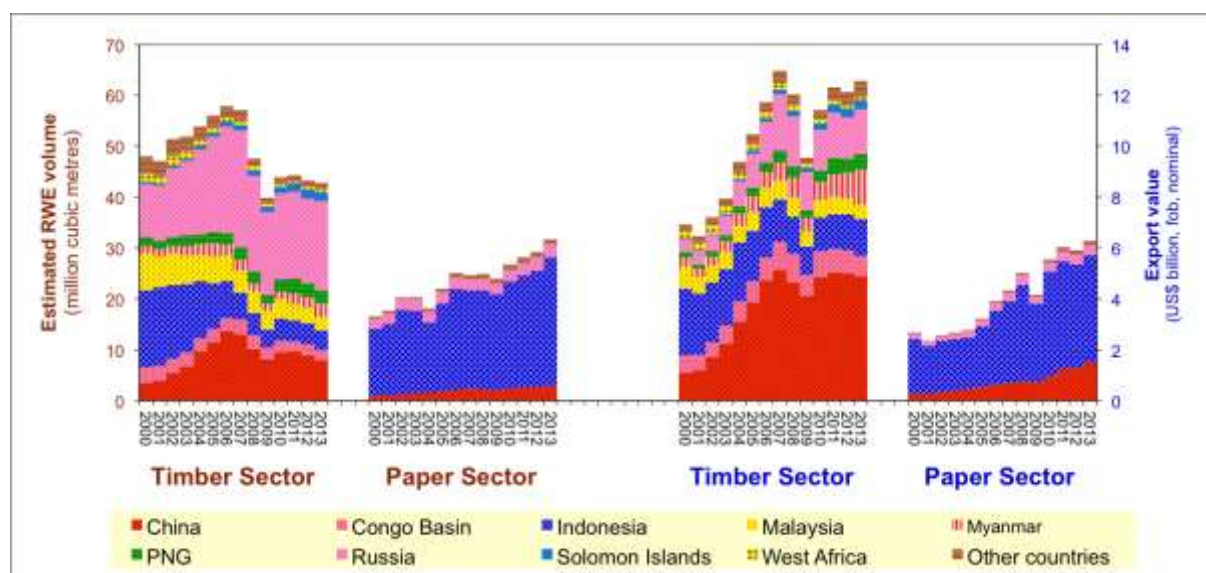


Figure 14: Selected countries' exports of "illegal" timber sector and paper sector products - estimates (based on analyses carried out for Chatham House)¹³³

¹³² Rest category including Taiwan, South Africa, Morocco, Thailand, Turkey, Singapore, Canada, Indonesia, Malaysia, Vietnam, Australia, the Philippines, Egypt and Mexico.

¹³³ Source: official statistics for importing countries (including Eurostat for EU) multiplied by notional percentages of illegality varying by product group source of supply importing country and year. Note 1: roundwood equivalent volume has been estimated by multiplying volume by (in m³/m³) 1.4 (particleboard), 1.8 (sawn wood and fibre board), 1.9 (veneer and mouldings), 2.3 (plywood) and weight by (in m³/tonne) 1.6 wood chips and residues, 2.8 (wooden furniture), 3.5 (paper and joinery), 4.5 (wood-based pulp), etc Note 2: anomalous source data have been revised and volume has been estimated where necessary (including by assuming 1.4 m³/tonne) Note 3: "Other countries" includes Brazil, Lao PDR, Singapore, Taiwan, Thailand, Ukraine and Vietnam

Improved forest governance

To improve forest governance, AA1 (Support to producer countries) and AA2.3 (VPA processes) seem relevant and one of the most effective action areas. AA1 is linked to development cooperation and only developing countries are eligible for receiving assistance. In 2003, many 'source' countries of illegal timber were developing countries; however, many have transited towards middle income countries, not or less illegible for DC funding. Therefore, other instruments and funding are needed to complement AA1 Support to producer countries.

Other Action Areas

Some of the Action Areas have not been mentioned in the discussion above. Several Action Areas lack operationalization and implementation like AA5 Financing and Investment Safeguards, AA6 Existing Legislation, AA7 Conflict Timber, and to a lesser extent AA4 Private Sector Initiatives. A number of demand side measures in the MS countries is likely to lose some of their relevance as measures to reduce the demand for illegal timber, due to the EUTR. However, some of the Action Areas could still be relevant for the producer countries, like AA3 (Public Procurement), AA4 (Private sector initiatives) and AA5 (Financing and Investment).

As regards the AA2 -Trade agreements (EUTR and FLEGT licensing), the timing of implementation did not facilitate the expected synergies. The Voluntary Partnership Agreements (AA2.3) and the EUTR (AA2.4) were designed to be mutually supportive, but the scope of products, implementation and timing of the two instruments in practice did not facilitate this (see Chapter 5.3 on effectiveness).

Lesson learned

The design of the seven Action Areas is sound, but the implementation of some of them has seen either a lack of operationalization and implementation, or poor timing of implementation.

Some action areas contribute more to the EU FLEGT Action Plan objectives than others. Of special importance are the AA1 Support to producer countries, AA2.2 Dialogue and international collaboration with other consumer countries and the EUTR (AA2.4). Due to the EUTR, a number of the demand side measures may have lost some of their relevance for contributing to the objective of reduced demand for illegal timber. However, AA3 Public Procurement, AA4 Private sector initiatives, and AA5 Financing and Investment could be of relevance for the producer countries.

Currently, the largest share of attention, support and funding goes to AA1 Support to producer countries (see paragraph 5.8), while the role of countries -like Russia and China- not (or less) eligible for ODA has grown. In the light of this, shifts in focus are required, to ensure the Action Plan remains relevant in terms of combatting illegal logging and trade. In particular, AA2.2 (Dialogue and international collaboration) with other consumer and producer countries needs strengthening.

C. Selection of (partner) countries

For the reduction of import of illegal timber into the EU, in 2003, Russia, Cameroon, Gabon, Ghana, Ivory Coast, Liberia, 'other countries (mainly on EU's eastern periphery)' and Indonesia were relevant (partner) countries, while in 2013 – though the overall volume of import of illegal timber into the EU has significantly reduced - the 'other countries', Russia, China and Cameroon and Ivory Coast are of importance (see Figure 13).

When taking a **global view**, China's role in importing illegal timber has grown significantly, while the import of allegedly illegal timber of all the other main consuming countries has reduced (see Figure 13). The main exporters and producers/processors of allegedly illegal timber shifted from Indonesia and Russia in 2003 to Russia and China in 2003 (see Figure 14).

As regards **producer and processing countries**, the EU is working with 15 VPA countries, which include some of the countries –Indonesia, Malaysia, Congo Basin countries- that are relevant in terms of exports to the EU and to other consumer countries. The EU FLEGT Action Plan is also

working, through a bilateral coordination mechanism, with China, although at a rather low level of cooperation. Of both EU and global importance (in particular in connection with China) is Russia, a country that has received relatively limited attention of FLEGT and is not eligible for ODA. Other instruments besides the EUTR and VPAs, such as a dedicated political dialogue, need to be explored to try and influence illegal logging and trade there.

In terms of **collaboration and dialogue with other consumer countries**, the EU FLEGT Action Plan is working with China, Japan and the USA, but considering the growing role of China, more collaboration should be sought with China to encourage import legislation, and to partner with China to influence Russia's export of illegal timber.

D. External developments and the design of the EU FLEGT Action Plan

As has been described in chapter 5.1 on Relevance, three major external developments have taken place that influence the relevance and effectiveness of the EU FLEGT Action Plan: (a) Roughly half of the tropical timber now comes from the conversion of forests into agricultural land (Lawson, 2014; Chatham House, 2015); (b) China and other East Asian countries are now the main importers and consumers of timber (both legal and illegal); (c) Domestic markets in producing countries have gained importance and visibility. No changes have been made to the design in light of these changes; the question is whether any such changes are needed.

As regards deforestation and forest conversion, in 5.1 it was concluded that changes to the Plan, as well as complementary action - are required to be able to address this huge challenge.

With regard to the changing trade patterns, in the view of the evaluation team, the design provides sufficient space for bilateral, regional and international collaboration (besides multilateral collaboration) to address issues relating to the ascendant timber importing and exporting countries. In the Action Plan, the EC states it will *'widen this dialogue (with Japan and the US) to include other major markets for timber and key timber producing countries, and seek to build consensus amongst importing and exporting countries on the best way to tackle the problem (of illegal logging and trade)'* (EU FLEGT Action Plan, 2003, 21). Again, it is a matter of dedicating explicit and sufficient resources to develop a more explicit strategy for collaboration with China and Russia.

With regard to the growing domestic markets, addressing the related challenges was not foreseen in the design- since domestic markets were included voluntarily in the scope of most of the VPAs (Ghana, Cameroon, Republic of Congo, Indonesia and Liberia). This is highly relevant to the objective of combating illegal logging, when considering the size and the widespread "informality" of (and hence illegalities in) the domestic market in many countries. Rather than re-design, effective implementation of actions addressing these challenges is required. This would include a shift in attention to for solutions for supplying the domestic market with legal timber and alternative livelihood development for the small, informal producers and (see also 5.7).

It should be noted that if VPA countries had not voluntarily included the domestic market and export to all countries, in the scope of VPAs, the FLEGT Action Plan would probably have lost much of its relevance these days, since the share of import of illegal timber from VPA countries to the EU has been reduced significantly (see chapter 5.5 for possible explanations). These two elements (domestic market/export to all destinations) were not included in the original design, but emerged around 2005 under pressure of international NGOs. Together they make that VPAs can give an impetus to forest governance, since in most countries the number of companies exporting to the EU is rather limited.

Lesson learned: *Except for the challenge of deforestation, the design of the EU FLEGT Action Plan can accommodate recent developments and may prove flexible enough to respond to other changes in the future. However, a number of changes in implementation approach will be required.*

E. Omissions in the Design

Besides weaknesses mentioned in earlier paragraphs, some other omissions in the design of the Action Plan were identified in the literature, by key informants and during fieldwork as well:

- Communication –as stated earlier- is an important missing element of the EU FLEGT Action Plan; as an EU Flagship programme, FLEGT needs a proper communication strategy and corresponding means, but until recently, there was no explicit ‘strategic’ communication strategy in place. That said, there have been many *ad hoc* communication activities, briefing documents and publications of varying depth and breadth on FLEGT by, among others EFI and the EC. The EC has also taken part, in a prominent way, in relevant international fora on FLEG/FLEGT (including ITTO, Chatham House and World Forestry Congress), which has helped promote global awareness of FLEGT and, since 2014, elements of proper a communication strategy have been developed.

Two other themes that have not been well communicated include the benefits attributable to the EU FLEGT Action Plan (such as legislative reforms, transparency and multi-stakeholder engagement) and their relevance to other sectors like commercial agriculture and mining. The spin-off of FLEGT work on other sectors is therefore below its potential and overall impact is limited.

- Secondly, the work done under FLEGT, which requires significant investments from private sector stakeholders, would need to be accompanied by a campaign promoting FLEGT achievements and contributing to an improved image for the timber sector (especially tropical timber) - which has suffered from negative publicity around illegal timber. To date, little has been done to remedy this situation. Recently, however, the Global Timber Forum began (amongst other things) promoting the use of timber as a green and climate-friendly building material. Finland has taken similar action at national level (see Aide-mémoire Finland).

5.3 Effectiveness of the FLEGT Action Plan

EQ3: To what extent have interventions and policy measures within the seven Action Areas led to the intended results (output and outcomes)? What mechanisms, actors and factors have influenced the levels of achievement, and how could the effectiveness of the Action Areas be increased?

This chapter assesses the overall effectiveness of the three main pillars and the seven Action Areas. It is based on the findings and analysis concerning the interventions in each of the Action Areas -and their linkages – as presented in Chapter 4 (Implementation State of Play). Achievement of the EU FLEGT Action Plan objectives themselves will be discussed in Chapter 5.5, while the contribution of the EU FLEGT Action Plan to the higher objectives (Sustainable Forestry Management, Poverty Reduction and Sustainable Development) will be discussed in Chapter 5.7.

Figure 15, below, presents an overview of the effectiveness of the EU FLEGT Action Plan and of its components, following the reconstructed intervention logic presented in Chapter 3, based on the collective expert judgement by the evaluation team, using findings from the surveys, the desk study, field visits and all tools used (refer chapter 2 – methodology) .

The outline colours of the boxes reflect the degree of effectiveness achieved in each Action Areas and its constituent elements. A **green** lined box indicates particularly good results or high effectiveness. For example, transparency has produced very good result. **Yellow** boxes indicate satisfactory to good results or effectiveness. Several Action Areas are coloured in yellow, and at the level of direct objectives (improved governance, reduction of illegal timber on the EU market, and reduced demand for illegal timber), overall results are considered to be satisfactory to good. **Red** boxes indicate poor performance. One component in Action Area 2 (*Trade in Timber*) is found to be

problematic, essentially due to the difficulties encountered in producing FLEGT licensed timber. **Blue** boxes, finally, indicate insufficient data. This is the case particularly for those Action Areas that have received little attention (AA 5, 6 and 7). The colours of the arrows reflect the contribution of an Action Area to an objective or its interaction with another Action Area. An **orange** arrow, for example, indicates a problematic relation between Action Areas or their components. **Blue** coloured arrows are used where a causal linkage between elements cannot be demonstrated, for example, between the reduced demand for illegal timber and the actual reduction in imports of illegal timber – which seems much linked to the economic downturn (refer Chapter 5.5).

EU FLEGT Action Plan 2014: What works, what does not?



Legend for boxes and arrows:

Very good Good Weak Very weak No data/ unknown

Figure 15: EU FLEGT Action Plan 2014: What works and what does not?

In terms of **supply-side measures**, *Support to producer countries (AA1)* contributes to ‘improved governance’ (see FERN, 2013; Chatham House, 2015; and Chapter 5.5), but the different actions have been effective to different degrees; also, the high variability from country to country makes it difficult to generalise. ‘Equitable solutions’ has seen great achievements, particularly in the engagement of diverse national stakeholders in VPA processes. However, at the same time, many groups of SME are or risk being negatively affected by the same processes. ‘Transparency’ has, in most countries, seen progress (see Annex 7), but work on ‘Legality verification systems’ has been less effective. Capacity building of civil society and government has been effective, but private sectors stakeholders have been relatively neglected. In many countries, first steps in ‘policy reform’ have been taken, but a lot still needs to be done, particularly in the implementation of new legislation. *Conflict Timber (AA7)* has not seen any significant activities or achievements.

To date, the supply-side measures have not resulted in the issuance of any FLEGT licences, although Indonesia and Ghana are expected to start issuing licenses in the near future.

Regarding **demand-side measures**, the efforts made to develop relevant legislation and regulations (FLEGT and EUTR) and start their implementation have been quite effective. The ‘additional legislation’ under *Trade in Timber (AA2)* - and specifically the development and entry into force of the EUTR - and *Public Procurement Policies (AA3)* are likely to have contributed – among other factors – to a reduction of consumption of illegal timber in the EU (refer Chapter 5.5) and both Action Areas are considered to be relevant for achieving the direct FLEGT objective. Because of the lack of attention they have received from EC and MS, *Financing and Investment Safeguards (AA5)* and *Use of Existing Legislation (AA6)* have not been effective. *Private Sector Initiatives (AA4)* saw a number of activities with limited success.

As regards **trade-related measures**, the boxes related to Trade in Timber (EU-TR and FLEGT licensing) have been reflected in orange and red colours respectively, as they represent the most challenging elements, in terms of effectiveness of the Action Plan. Besides problems related to implementation, their effectiveness has also been constrained by a lack of synergy. Due to the timing of the EUTR and the absence of the FLEGT licenses; the instruments did not get the chance to become mutually supportive (orange arrow).

Recommendations for enhanced effectiveness of the Action Areas are made in chapter 6.

5.4 Implementation and Management of the Action Plan

EQ4: Have the elements of the FLEGT Action Plan been implemented in a balanced manner, reinforcing each other and producing the expected synergy? Have there been any gaps or shortcomings in the implementation and management of the FLEGT Action Plan, and how has this affected its overall effectiveness?

The reconstructed intervention theory for the FLEGT Action Plan (described in Chapter 4.2) highlights seven areas of action, which (if pursued collectively) were expected to be sufficient to achieve the objectives of the Action Plan. Although the FLEGT Action Plan is not a project, it nevertheless requires strategic management. Under this evaluation question, we first examine how action under the FLEGT Action Plan has been planned, managed, coordinated and monitored, and assess the balance between activities in the different areas and the degree to which synergies have been produced. Questions related to funding are discussed in Chapter 5.8.

5.4.1 Management and coordination

FLEGT is an innovative EU policy to tackle illegal logging, which goes beyond traditional aid, promoting coherence between actions in the EU and in producer countries. It addresses governance and law enforcement issues through a combination of supply- and demand-side measures and instruments, political engagement and development cooperation. As such, it concerns many stakeholders in different sectors, in countries, institutions and organisations across the globe; management and coordination of the processes and of the actors involved is a major challenge.

The different **structures** created for guidance, coordination and oversight have been described in Chapter 3.3 (Delivery Architecture of the FLEGT Action Plan). Seen together, they comprise a rather diffuse picture of information flows and decision-making. Day-to-day management, however, lies with small head office teams within DG DEVCO and DG Environment working full- or part-time on the FLEGT Action Plan. The EC (Head Office) focuses on VPA negotiations and contract management. DG DEVCO uses its ties to developing countries and DG ENV maintains links with EU Member States.

Staff in EU Delegations manages VPA implementation once VPAs have been signed, and other FLEGT-related activities, such as the BCM in China. A major challenge - identified both by the leading DGs and by a number of EU Delegations, such as those in Indonesia and China - relates to the limited allocation of human and political resources to FLEGT work, both in the head offices and EU Delegations.

The evolution of VPAs has been more demanding than anticipated in terms of human resources. The FLEGT Action Plan was conceived as a political process involving trade agreements. It also generated long-term obligations linked to the FLEGT and EUTR regulations and the VPAs, such as participation in the VPA Joint Implementation Committees. The absence of criteria for selecting countries as partners for VPAs, the preference of those partners for the scope of their VPAs to be broad in terms of products and markets, and the complexities of the VPAs will have compounded the need for sufficient resources to optimise management of the FLEGT Action Plan. Although awareness of that need has grown, the EC's in-house administrative resources allocated to the FLEGT Action Plan have not and, according to sources in the EC, are unlikely to in the future. The EC needs to establish priorities for the allocation of its limited human resources and funds.

At the same time, wherever the EC has made a political commitment to FLEGT action, there should be a commensurate allocation of human and financial resources. This is insufficiently the case. In the few countries where forestry is a focal sector for EU co-operation – Honduras, for example – political will and provision of EU resources are sufficient to work on FLEGT activities. In most other VPA countries, however, the evolution of VPAs and forest management are regarded by the EC as additional to the regular portfolio. This is reflected in the limited amount of human resources allocated to those VPAs. FLEGT is thus dependent on getting financial or other support from one or more MS – and this may or may not be forthcoming. The perception that the FLEGT Action Plan is an additional burden without corresponding resources reportedly creates tension and points to a need for enhanced commitment to FLEGT from within the EC and from MS.

5.4.2 Work Planning, Monitoring and Adaptive management

As pointed out in Chapter 5.2 (Design of the Action Plan), the experimentalist and rather open approach to FLEGT design has generally been appreciated. When it comes to implementation, however, more (country-) specific problem analyses should be conducted, and objectives, processes or time-bound indicators should be defined, in order to focus efforts, inform stakeholders and allow for evaluation and amendment of the work, especially in case of shifts in context (see chapter 5.1.)

First, implementation of the Action Plan requires proper understanding of the **baseline situation(s)** in the various Action Areas and MS/partner countries. Strategic decision-making and planning should be supported by focused and objective research, especially concerning flows of wood-based

products, the extent and nature of illegality along supply chains, as well as in-country capacities and issues of political economy. For some countries, particularly in the Asia region, such studies have been conducted, although not in great detail. For the African partner countries, there are few examples of baseline studies on which programmes could be constructed. The recent report of the independent auditor concerning permits in Cameroon is an example, albeit rather late in the evolution of the VPA. With regard to the EUTR, a supporting study¹³⁴ was undertaken by an external project team and published in July 2011.

As a result, the justification for working on certain themes or in certain countries rather than others is often unclear. There are no accounts of the nature and extent of the problems to be resolved in specific countries, or the sequencing, interdependence and likely effectiveness of the interventions available as solutions. The absence of baseline studies has obviously also rendered the tasks of process and impact monitoring complicated.

The overall planning and implementation of FLEGT action concerning producer countries is, instead, largely **demand-driven** and, concerning VPAs, tends to be driven by the EU's partner country through the VPA's Joint Implementation Committee (or similar). The identification of what requires support in VPA countries starts in these countries, in a process coordinated by DGs DEVCO and ENV. Annual expectations for support are prepared by national stakeholders in consultation with in-country facilitators and the EU Delegations, and then forwarded to the Steering Committee. The European Commission then supplies the EU FLEGT Facility a broad overview of the state of play on the implementation of the FLEGT Action Plan and "annual expectations" for the support to be provided by the Facility during the next 12 months. These constitute the basis for annual work planning by the EU FLEGT Facility, whose remit is to respond directly to the EC. Likewise, the EU FAO FLEGT Programme's work planning is also shaped by demand and responds through its Call for Proposals and direct assistance, and there is evidence that the two support programmes coordinate their work.

In recent years, steps to **monitor the impact** of a number of components of the FLEGT Action Plan have commenced. Reflecting the voluntary nature of VPAs, the VPA Joint Implementation Committees in each country are responsible for deciding what to monitor and how to do it¹³⁵. Consequently, while the output of that monitoring effort responds to country-specific VPA-related needs, it might contribute only marginally to any monitoring and evaluation of the FLEGT Action Plan as a whole, which the EC or MS might make.

The UK, one of the leading contributors to the FLEGT Action Plan, has commissioned annual reviews of its own programme. This has helped to clarify how best to quantify or otherwise assess progress. Those (external) reviews have been complimentary. The management of the UK's contribution is flexible, and well able to adapt to changing circumstances. This is to a large part due to the commitment and openness of both its staff and the staff of its grantees. External support concerning some aspects of the management of that programme is now being provided, and it remains to be seen whether this will affect the programme's responsiveness¹³⁶.

The EC, with support from the EU FLEGT Facility, has also developed its own tool for monitoring progress and achievements on the various dimensions of governance, across the various VPA countries. This information is primarily for internal use¹³⁷. Also, the tool has been too recently

134 "Support study for development of the non-legislative acts provided for in the Regulation of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market"
http://www.efi.int/files/attachments/projects/timber_regulation/eutr-final_report.pdf

135 <http://www.euflegt.efi.int/vpa-monitoring>

136 See. Aide mémoire on UK.

137 <https://www.deepdyve.com/lp/elsevier/proposing-an-indicator-framework-for-flegt-voluntary-partnership-2oPJRNTHYo>

introduced to have had discernible impact on management in the period covered by this evaluation. The EU FAO FLEGT Programme has also devised system to monitor the overall impact of the multitude of its small grant FLEGT projects worldwide – but information about its use has not been published.

It therefore appears that strategically important information on progress and obstacles does flow from stakeholders on the ground to national authorities and managers within EU Delegations and the EC, including through the FLEGT Steering Committee. That information primarily concerns VPAs, and some of it is available in the public domain¹³⁸. However, overall progress on the **implementation of the Action Plan** against the seven Action Areas, and the specific and higher FLEGT objectives, is not being systematically monitored.

In the dynamic context in which the FLEGT Action Plan operates, the generation and use of information for strategic decision-making and **adaptive management** is crucial. This is especially relevant when seeking high-level EC support to overcome difficulties that cannot be addressed in isolation, when deciding how changing circumstances in the FLEGT external context should be taken into account, and when advocating the FLEGT Action Plan to other parts of the EC. This lack of strategic management has limited the potential of the FLEGT Action Plan and reduced its cost-efficiency.

For example, between 2012 and 2014 there was a surge in the export to China of (probably illegal) rosewood logs from many West African countries, including two VPA countries (China Customs data). However, strategies and activities for delivering the FLEGT Action Plan did not take the information on this trade into consideration, despite the potential of supporting stakeholders - even if only through formal recognition of this trade - in some countries. Likewise, the China mission revealed (refer Aide-memoire-China) that in VPA countries, Chinese companies receive training and guidance from various NGOs on the Chinese guidelines for overseas investors. However, during visits to the VPA countries, the team found no evidence of such initiatives. It seems the China-led activity is rather isolated from the VPA processes in the VPA countries. There is scope for strengthening exchanges between Chinese and VPA country actors by connecting Chinese overseas investors with the in-country VPA platforms and processes, in order to enhance synergies and mutual understanding. Where appropriate, VPA countries could invite senior Chinese officials to participate in their VPA Joint Implementation Committees (or equivalent) meetings, at least as observers.

While constraints or challenges, such as the EU's declining share in partner countries' wood product exports or problems of deforestation, have become ever more apparent and urgent, over the years, the FLEGT Action Plan has not been adapted to reflect these changes. Likewise, the outcome of research focusing on the deforestation caused by consumption in the EU, whether commissioned by the EC (VITO, CICERO, and IIASA, 2013) or - more recently – by others¹³⁹, does not appear to have resulted in any change in approach or strategies.

5.4.3 Balance and synergy between elements

Not all elements of the Action Plan have received equal attention during implementation. As there is only limited coordinated oversight of activity planning across all Action Areas, resources tend to be allocated to the options perceived to be most effective or the actions most in demand, and this leads to imbalances.

Besides cooperation and the EUTR, **VPAs** have become one of the most prominent components of the Action Plan, partly as a consequence of the financial and human resources that have been

138 <http://www.euflegt.efi.int/vpa>

139 <http://www.fern.org/campaign/EU-drivers?page=1>

devoted to them. This support was possible thanks to the availability of Official Development Assistance for Action Area 1 (Support to Producer Countries). These funds have helped stimulate governance reform, clarification and improvement of legal frameworks, capacity building and the promotion of multi-stakeholder decision-making, transparency and accountability. However, the countries that have sought to negotiate VPAs with the EU have widely differing characteristics and their reasons for entering the negotiation differ – from satisfying the pre-conditions for REDD+ payments (Guyana), to breaking from past practice (as in Indonesia, Honduras or Liberia).

Many observers think that VPA work has over-emphasised **legality assurance systems**, and specifically their technical aspects. While this emphasis has provided a strong incentive for engagement and a lot of initial momentum, this momentum has sometimes outpaced the work needed on legal frameworks and/or national capacities to administer and monitor the VPA implementation (Ghana VPA Survey; Liberia Aide Memoire). VPAs, as currently conceived, will not be feasible in all countries, and they should be carefully considered against other options (outside a VPA context) for targeted FLEGT-related support (refer Special Report on VPAs, Annex 7, Volume 2).

Within VPAs and in FLEGT action more generally, **law enforcement** is an area that has received little attention despite contributing the “L” and “E” of FLEGT. Efforts to strengthen the independence of courts and the police, for example, have been confined to a small number of workshops and consultancy reports, and little support has been offered to improve customs services, including the development of more accurate trade statistics that can help minimise fraud.

Synergies have been successfully developed between some FLEGT instruments. For example, the EUTR (‘additional option’) and public procurement have spurred on private sector initiatives, in particular certification. However, more could have been done. Chapters 4.1 and 4.2 discussed the potential synergy between the **VPA and EUTR** instruments; considerable leverage over VPA and other countries (including those, like China and Vietnam, which supply products made at least partly from imports) could be achieved through strategic use of the EUTR. Although the subsidiarity has been part of the problem, it is also the case that the EUTR is being implemented in relative isolation from other FLEGT actions.

As pointed out in Chapter 4.4, **Private Sector Initiatives** have received relatively little attention, at least partly because of a lack of overall coordination and monitoring of the FLEGT Action Plan. Looking ahead, private sector initiatives are an Action Area that needs strengthening, as well as a shift in focus to producers and traders in producing countries. Under the Action Plan, efforts to address illegal logging have initially focused on supplies from large, long-term concessions – presumably on account of their production capacity and export focus. However, much of the timber imported by EU Member States does not come from such concessions. Also, the scope of most VPAs includes products for domestic end-use, most of which is likely to be supplied by SMEs. Recognising this, efforts to support SMEs under the Action Plan have now started. This will help redress the initial imbalance and, provided that a suitable regulatory framework is in place, may significantly increase momentum towards the objectives of the FLEGT Action Plan.

5.4.4 Communication

The evaluation has brought out one main gap in the implementation of the FLEGT Action Plan. The initial delivery architecture did not include an explicit communication strategy, despite the supposed prominence of the FLEGT AP and its innovative, political nature (Chapter 5.2). In 2013, a specialist communication team was established in the EU FLEGT Facility, but this is too soon to permit an evaluation of its contribution to the Action Plan. It is primarily focussed on VPAs, and providing some additional strategic, knowledge management and media services, on demand. Further, it is unclear whether the EC and MS will give the unit sufficient stature for it to be influential, particularly with external stakeholders like multilateral organisations, other countries, diplomatic services, and across the EC.

Some EU stakeholders recognise the need for a specialist communication unit, and this recognition seems particularly timely given: (a) the sensitivities surrounding the progress of FLEGT licensing; (b) the need to clarify if and how FLEGT action can address the threats to forests and forest peoples posed by commercial agriculture, and (c) good forest law enforcement and governance are increasingly recognised as a pre-condition for carbon offsets (REDD+ or otherwise).

5.5 Achievement of FLEGT objectives

EQ5: *To what extent have the objectives of the FLEGT Action Plan been achieved or are they likely to be achieved? To what extent and how did actions under the FLEGT Action Plan contribute to these achievements and to what extent were those achievements the result of other instruments and trends? What actors, factors and mechanisms are affecting the impact of the FLEGT Action Plan? Which stakeholders have benefited and which have not?*

5.5.1 Different FLEGT objectives

In Chapter 5.2 a reconstructed intervention theory for the EU FLEGT Action Plan is presented and the “hierarchy of objectives” discussed. To recap, the overall objective of the Action Plan is “*reduction in illegal logging and related trade*”, reached through three impact pathways and sub-objectives: “*establishment of trade instruments which seek to minimise the availability of illegal wood-based products on the European market*”, “*demand-side measures to reduce the end-use of illegal timber within the EU*”, and “*improved forest governance to reduce the supply of illegal wood-based products*”. In this Chapter, each of these objectives is reviewed in turn to assess the extent to which it has been achieved or is likely to be achieved and the extent to which the FLEGT Action Plan has contributed to its achievement. Key constraints preventing the achievement of each objective are identified as well as actors and factors that explain success or failure (refer Figure 15 in chapter 5.3).

As indicated in Chapter 2 (Methodology) answering part of this evaluation question is hindered by the lack of reliable data on illegal logging and related trade. This is a fundamental constraint for the evaluation. Information gathered for the evaluation tends to confirm that, with the exception of the UK, neither production nor trade in illegal wood-based products is being monitored. However, a number of Aide Memoires suggest that monitoring should be a precondition for: (a) revising either the FLEGT Action Plan or the EUTR (Finland); and (b) negotiating a VPA (Vietnam). One Aide-Memoire (Indonesia) suggests major decreases have occurred in several components of export-related illegality. The evaluation’s surveys suggest that Action Plan achievements of the FLEGT related to illegal logging and trade have been modest, and that the amount of illegal logging and related trade has declined only slightly.

A recent assessment of the EUTR and the FLEGT Action Plan, concludes “*(we) cannot yet say that the policy measures have reduced illegal logging in suspected source countries, although they could have*” (Jonsson *et al*, 2015). An Independent Market Monitor has been commissioned to monitor the EU market for FLEGT-licensed products, but its remit does not include monitoring the EU’s imports of illegal wood-based products (Oliver, 2014)¹⁴⁰. Further, the data provided by the IMM may mislead users by equating wood from tropical forest with that from plantations in tropical countries (Oliver, 2015b). This absence of strategically relevant, unambiguous data is a handicap to diligent Competent Authorities and for monitoring the effectiveness of the Action Plan.

The lack of other relevant sources justifies the use for this evaluation of the methodology and data which Chatham House has adopted as a contribution to the FLEGT Action Plan, albeit not under contract to the EC. That work has been peer-reviewed and is based on surveys of experts’

¹⁴⁰ Further, that remit does not require progress in the EU to be compared with that in markets elsewhere. (ITTO 2004; Oliver 2014, 2015)

perceptions and assessment of the literature. For this evaluation, that work has been supplemented in order to generate estimates of illegal production and trade of wood-based products for a more comprehensive set of countries. Charts and an introduction to the methodology and data are presented in Appendix 1 below.

5.5.2 Overall Objective: Reduction in Illegal Logging and Related Trade

End-use of wood-based products in markets across North America, Europe and Asia (particularly in the timber sector) declined substantially during the second half of last decade. This reflects factors independent of the FLEGT Action Plan, notably the bursting of a global financial bubble and increases in tariffs applied to Russia's exports of logs (both during 2008). Consumption in many countries has not rebounded – China is a notable exception. The decline is apparent in the EU's imports from VPA and non-VPA countries alike (irrespective of the probability of those imports being illegal). Although that decline in imports contributes greatly to the achievement of this overall objective (assuming that the illegality of those imports has not greatly increased), it will not necessarily have led to a reduction in the percentage of a given country's production and trade that is illegal.

The estimates summarised in the uppermost chart in Appendix 1 indicate that, by the end of the period covered in this evaluation, China had probably become the destination for more than half of the roundwood equivalent ("RWE") volume of illegal logs, sawn wood, veneer and plywood (as a group) being imported worldwide. Eastern Russia and to a lesser extent Oceania and Africa supplied most of the quantity imported by China. One might conclude from this that a focus on supplies to China and China's subsequent exports is also crucial to the FLEGT Action Plan. That conclusion is particularly significant given that China is the initial destination for much (often most) of the RWE volume of many countries' exports of "illegal" wood-based products.

It is unlikely that the shift in exports of tropical timber to China shown on that chart (whether legal or not) is an (unintended) consequence of the FLEGT Action Plan. China's market has been more buoyant than the EU's – which helps explain why the import value per unit of volume of China's imports of tropical logs from some VPA countries exceeds that of the EU's.

That same chart indicates that India's illegal imports of that group of products also tended to increase (albeit more slowly) during the period covered by this evaluation by India. Sarawak and Myanmar will have supplied almost all of those imports by India.

The second chart in Appendix 1 indicates that China and Indonesia are leading sources of supply for illegal wood-based products. In the case of Indonesia, this reflects legacy issues (concerning illegalities in the paper sector which allegedly took place several years ago). The chart also supports Chatham House's assessment that world trade in "illegal" wood-based products has increased since 2009, despite the EUTR and the amended Lacey Act, and indicates that this growth is mainly attributable to China (most of which is due to rosewood logs).

On that second chart, the decline in illegal imports by the EU is attributable not only to a decline in the size of the EU market but also to the response of that market to the FLEGT Action Plan, which will have led to an increase in the share which is certified (or verified as legal) – including from VPA countries. That chart suggests that China is probably the EU's leading supplier of illegal wood-based products, followed by Russia, Indonesia and other countries. Although not displayed on that chart, most of the quantity supplied from those other countries derives from countries around the eastern periphery of Europe. It would seem from this that countries which are not eligible for bilateral development assistance from the EC supply the majority of the EU's imports of illegal wood-based products. In contrast, VPA countries supply the great majority of the EU's imports of tropical timber.

The Aide Memoires for Bosnia-Herzegovina and Romania tend to confirm that production of illegal industrial roundwood in Eastern Europe is or has been substantial during the period covered by this evaluation. However, the prevalence of some forms of illegality has probably reduced, particularly

when tenure has been restored after occupation (as in the Baltic States)¹⁴¹ or during conflict (as in the Balkans).

The third chart in Appendix 1 presents rough estimates for the volume of “illegal” industrial roundwood which is produced in tropical countries and Russia and subdivides this according to whether that roundwood is destined for export or end-use within the country of production. This indicates that roughly half the total is destined for export and that, with the exception of Indonesia, non-VPA countries account for most of the total. It also indicates that, if one excludes Indonesia, illegal industrial roundwood production in those countries has tended to increase during the period covered by this evaluation (albeit largely based on the assumption that illegality has declined less than production).

5.5.3 Sub-Objective 1: Trade Instruments

The FLEGT Action Plan currently includes two trade-related instruments: VPAs and the EUTR. To date six countries have signed a VPA, and another nine countries are negotiating VPAs. Furthermore a number of bilateral agreements have been signed between the EU and China, Japan, and other main consumer countries (see EQ3) to align efforts to combat illegal logging and related trade.

VPAs are central to the overall strategy of the FLEGT Action Plan. Each VPA is a form of trade agreement. Now that the EUTR is in force, a VPA would help a country gain or sustain access to markets for wood-based products in the EU if its exports of those products to the EU have a non-negligible risk of being illegal. The incentive would depend partly on how rigorously the EUTR is implemented.

The FLEGT Action Plan has been designed not to conflict with World Trade Organisation rules. It does this in part by institutionalising the “voluntary” nature of the agreements, and in part by providing assistance to countries in order to help them sufficiently transform and then license their timber and paper sector products to maintain access to markets in the EU.

An ultimate aim of a VPA is to fully implement a legality assurance system (“LAS”) whereby a shipment of wood-based products to the EU, which is deemed legal by the VPA country, can be issued with a FLEGT-licence, though in the case of Indonesia, the system is company based. Of the six countries that have signed VPAs with the EU, none has sufficiently implemented its LAS and, consequently, no FLEGT-licensed products have yet been placed on the EU market. As mentioned in Chapter 5.3, target dates for the start of FLEGT-licensing in a number of VPA countries have been repeatedly presented without caveats and missed.

The extent to which the EUTR (see Chapter 4.2) is being implemented as intended varies widely amongst MS. The EC is beginning to take steps to remedy this weakness. Potential loopholes are also being monitored, mostly by civil society, independently of either the EC or MS. Analysis of statistics for MS monthly imports from outside the EU indicates that Operators are not exploiting differences in EUTR implementation between MS. However, Competent Authorities report that some Operators believe such arbitrage might happen. Competent Authorities are increasingly working with each other and with their counterparts in the USA and Australia, and meet periodically at events referred to as Timber Regulation Enforcement Exchanges¹⁴².

Bilateral agreements have in some cases contributed to a reduction in illegal logging and related trade, notably the 2002 Memoranda of Understanding (MoU) between Indonesia and the UK. A number of other timber importing countries have signed MoUs with VPA countries (see Indonesia

¹⁴¹ See for example <http://www.wwf.se/source.php?id=1249027>

¹⁴² <http://www.forest-trends.org/event.php?id=1176>

Aide Memoire) and elsewhere, concerning illegal logging and/or related trade. Their impact on reducing illegal logging is unclear.

Efforts by the EU (including with the World Bank) to engage other countries to minimise their production, exports or imports of “illegal” wood-based products have not been prominent. These include the Europe and North Asia FLEG that has now evolved into a Neighbourhood Partnership Instrument¹⁴³, with a focus on sustainability.

5.5.4 Sub-Objective 2: Decrease in use of illegal wood-based products in the EU

Detailed estimates by the evaluation team suggest that, since 2003, there has been an overall decline in the EU’s imports of “illegal” wood-based products (see **Appendix 1**). That decline in “illegal” imports is likely to be attributable to several factors. In addition to TPPPs and the EUTR, those factors include: (a) perceived risk (leading to substitution by timber of other species or other materials); (b) recession in the EU; (c) increased price (due for example to (i) other countries – such as China - whose markets have been more buoyant than the EU’s, and (ii) a decrease in illegality and forest exhaustion); (d) corporate social responsibility policies; and (e) competition from products made in China and elsewhere¹⁴⁴. Since 2013, the decline in the volume of various forms of wood-based products imported into the EU (whether legal or illegal) has tended to slow, cease or reverse (except for tropical logs). It is unclear whether the illegality of those imports has changed.

The assessment also indicates that: (a) together, China, Russia and non-EU European countries supply a large majority of the RWE volume of “illegal” wood-based products that are placed on the EU market; (b) VPA countries only supply an estimated 19% of the illegal timber reaching the EU market; and that, (c) Indonesia accounts for almost half of the proportion supplied by VPA countries.

The EC does not seem to monitor the nature and extent of illegal logging within the EU. However, illegal logging is thought to be significant in some countries (especially Romania [EIA-Global 2015, Der Spiegel 2015] where a recent case exposes weaknesses in legality verification)¹⁴⁵, and less significant now than in the past in others (notably Latvia and Estonia (Kuresoo K, 2009)). Fraud remains a concern.

5.5.5 Sub-objective 3: Improved forest governance to reduce the supply of illegal timber

Appendix 2 presents a summary, in table format, of the evaluation team’s findings on the FLEGT-attributable improvements in forest governance in the seven VPA countries assessed. A constraint to such analysis lies in **defining forest governance**; the FLEGT Action Plan does not define forest governance, analyse problems to be addressed or consider how best to address them. However, several analytical frameworks for forest governance have been proposed (Mayers et al 2002; FAO/Profor 2011; WRI, 2013; van Bodegom et al, 2008; Tegegne et al, 2014).

Based on the framework developed by Tegegne et al (EFI), combined with inputs from the other frameworks, the evaluation team developed a simple tool for assessing changes in forest governance. Six aspects of governance that were common in most of the frameworks mentioned above were assessed: (a) Effectiveness of stakeholder involvement, (b) accountability and transparency, (c) institutional effectiveness and efficiency, (d) forest legislative reforms including land rights, (e) law enforcement and compliance, and (f) illegal logging estimations (see Appendix 2).

¹⁴³ The existential threat of climate change might warrant the refinement of some WTO rules

¹⁴⁴ In terms of roundwood equivalent volume, the EU’s imports of timber sector products from China increased steeply during the middle years of last decade, those from Russia declined steeply in 2008 and the EU’s imports of non-tropical timber from other major sources has either changed little or tended to increase.

¹⁴⁵ <http://eia-global.org/blog/pefc-dismisses-romanian-government-findings-clears-austrian-company-despite>

The review indicates that forest governance has improved in all the countries, but that fundamental challenges remain. Below, findings concerning the main criteria used are summarized. For a more detailed description reference is made to the Special Report on VPAs in Annex 7 of Volume 2.

Effective stakeholder involvement - In most assessed VPA countries, this was mentioned as one of the main achievements of the Action Plan. In all countries assessed, the capacities of stakeholders were strengthened, whatever their starting point had been. The level of involvement varies from country to country and stakeholder to stakeholder. Three different patterns of involvement emerged from the data: a) consultation of stakeholders, b) formal technical involvement and c) formal political involvement. When comparing the involvement of CSO/NGO representatives with private sector representatives, the CSO/NGO representatives are less frequently involved in the formal technical bodies and even less frequently in the formal political bodies. This is especially the case in Asian countries. Valuable lessons can be learned from those countries that show strong formal involvement of all stakeholders.

In general, it can be concluded that the involvement of stakeholders leads to better outcomes (added value). Issues that need attention include the capacities of the private sector and the formal involvement of CSOs, indigenous and forest dependent people, and local and regional stakeholders.

Accountability and transparency - Global Witness¹⁴⁶ work on transparency, used a scorecard approach, and in the seven countries studied (Cameroon, Ghana, Liberia, Peru, Ecuador, Guatemala, and DRC) reported considerable progress in making forest sector information available. However, the 2012 evaluation of the project cautioned: *“Over four years, the report cards have shown that positive-sounding agreements, commitments and initiatives do not necessarily result in effective implementation across the sector. The ‘business as usual’ model of forest resource exploitation can find ways around the best laid laws”* (Buchy, Holey and Mendoza 2013). Similar concerns are raised in other reports (Ongolo and Karsenty, 2015).

Fern (2013) reported that while all the VPAs include annexes stipulating the kinds of information that should be made available, only two of six countries have laws which guarantee freedom of information. These findings were confirmed during the field visits of the evaluation team. Independent Monitors have successfully used a *Freedom of Information Act* to oblige the Government of Indonesia to grant it access to the documentation which they need to carry out their work (Indonesia Aide Memoire).

Institutional effectiveness and efficiency - The VPA processes very likely contributed in most VPA countries –either negotiating or implementing VPA countries- to enhanced performance of governmental institutions, clarity of roles and to improved coordination (see table Annex 2). The baselines of the countries, although not available, may have shown though significant differences in starting positions. Ghana, Indonesia and Vietnam, likely already had good performance levels when they started with the VPA process. In Ghana, Indonesia and Vietnam coordination between the various ministries (or equivalent) involved in FLEGT, and coordination with the other stakeholders is satisfactory, while for Cameroon, Liberia and Ivory Coast the coordination mechanism was weak. The capacities of the leading ministries need to be or are being strengthened (Cameroon and Liberia), while an issue in Ivory Coast is limited availability of the leading ministry.

In Ghana, Indonesia and Vietnam improvements seem lasting, due to relatively stable political situations. In other countries like Liberia political conflict stalled improvement (and other non-visited countries like Malaysia, DRC, Thailand, Central African Republic, see Annex 7) In Ivory Coast political will and commitment seem to stall performance. So although the VPA processes could be promising

¹⁴⁶ <http://www.foresttransparency.info/about-us/the-project/>

for institutional effectiveness, we see the process smothered in some countries by conflict and lack of political will.

Forest legislative reforms including land rights - VPAs, both signed and in negotiation, are largely acknowledged for their potential impact on legislative reform, in two ways. First, they are a push factor for countries, especially those with less modern legislation, to review their forestry code and address (some) different challenges, such as forest economic exploitation, social impacts, or SFM. At the same time, keeping firm the pre-eminency of national legislation, VPAs also steer reform towards making national framework more compatible, with concepts contained in the FLEGT Action Plan.

Although in all the countries visited steps have been taken either to define the legal reforms needed or to start the reform process, the main work on legal reform remains to be done. In most of the VPA countries visited there are still issues regarding land allocations, old permits/licenses, and land rights. The literature provides similar findings: VPA processes have yielded little progress in obtaining “substantive rights” for communities, despite considerable progress with “procedural rights” (like participation) (Duffield and Richards, 2014).

CSOs have participated very actively in planning VPA legality assurance systems and the identification of gaps, inconsistencies and omissions in the legal framework. However, the actual legal reform process is unlikely to be as transparent and inclusive: “VPAs have not been able to push for land code reforms which legally recognise customary tenure regimes, and hence are limited in addressing wider land conflicts that arise from competing and overlapping land uses. In most of the VPA countries, the economic importance of the forestry sector is much smaller than that of the agriculture or mining sectors, which contributes to the VPAs not being able to address wider land-use planning policy.” (Bollen and Ozinga, 2013).

Law enforcement and compliance - The assessment of VPA impacts on law enforcement and compliance is not positive. Actual work has not started in most of negotiating countries; as for VPA implementing countries, work has either not started or progress has been limited. The field missions undertaken collected anecdotal information on specific improvements, but either there is still a long way to go to achieve significant results, as in the case of Cameroon, or the system works satisfactorily because it relied on pre-existing national frameworks and institutions. Obviously, law enforcement and compliance are wide themes, linked to other factors such as the level of development, institutional capacity, or corruption, and not only to forest management and the forestry legal framework. It still remains a crucial element to make sure that VPAs are effective in delivering results in terms of reduced illegal logging and / or promotion of SFM.

Estimates of illegal logging - In both Ghana and Indonesia illegal logging is estimated to have decreased between 2010 and 2013¹⁴⁷ (from 59 to 49%, and 60 to 40% respectively). In Vietnam, the import of supposedly illegal timber has increased slightly. In Cameroon, Liberia and Ivory Coast no significant changes are noted. Efforts to reduce the illegality of timber production for end-use in the country of production will be particularly challenging where forest resources are largely exhausted, especially in isolation from efforts to reduce demand, reduce waste, decrease exports, increase imports, plant suitable trees, and substitute wood with other materials.

¹⁴⁷ Chatham House, 2014 reports/Expert perception Survey

5.6 Emergent outcomes of FLEGT action

EQ6: What other emergent, unexpected outcomes, impact and side effects, either positive or negative, have FLEGT actions (including the EU-TR) brought about? Who benefitted and who did not, and through which mechanisms?

This chapter synthesises findings collected throughout the evaluation, starting with a session dedicated to this theme during the FLEGT Week 2015, complemented by findings from the surveys and country visits in the EU MS and in producer countries.

5.6.1 Damaged image of tropical timber and shifts in trade

An important unintended side-effect of FLEGT action is that all tropical timber products are being perceived as high-risk. This point was raised during the FLEGT Week 2015 and in the Public Survey, where one respondent stated “FLEGT contributes to the EU tropical wood market going down”. The difficulties tropical timber from many producer countries pose for operators in complying with the EUTR (in terms of documentation required by DD systems and the perceived vagueness surrounding legality of timber) are perceived as a cause for the gradual decrease in the demand for tropical hardwoods. While some studies describe the decline in tropical timber imports as driven by a loss of competitiveness with temperate timber and alternative materials (ATIBT, 2012¹⁴⁸; FAO 2010¹⁴⁹), others also point to the uncertainty and ambiguity around the EUTR that could “become detrimental for tropical timber exports” (Giurca, 2013).

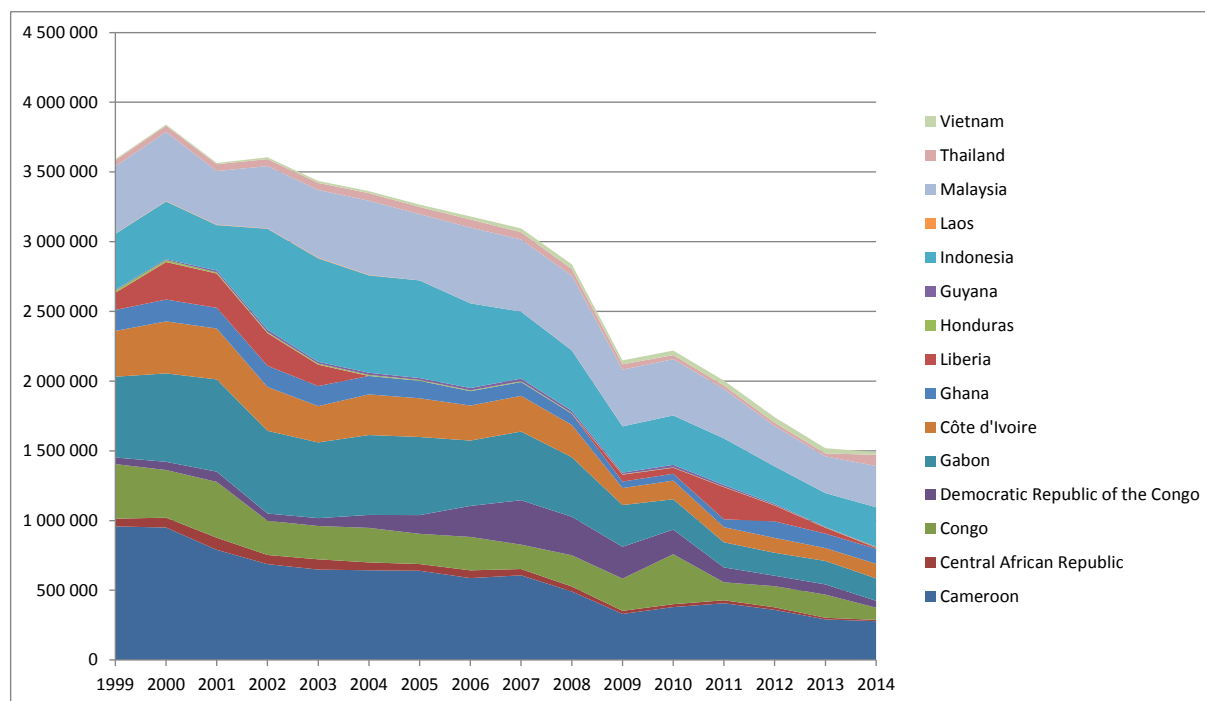


Figure 16: Tropical wood imports (VPA countries) to the EU from Chapter 44 of the Harmonised System (Eurostat) – in tons

148 ATIBT, 2012 - Etude de marchés des débouchés des bois tropicaux certifiés sur le marché Européen. Projet ECOFORAF

149 FAO, 2010 Competitiveness of Tropical Timber Products at Major International Markets; Trends and Opportunities for small and medium scale producers in developing countries

Eurostat data indicate a reduction in tropical timber imports of 60%, from 3.4 million tons in 2003 to 1.5 million in 2014. In terms of value, the drop is 43%¹⁵⁰. This trend is shown in Figure 16. As this reduction also concerns imports from suppliers with complex supply chains (such as for many products imported from China), some observers think this could potentially favour EU manufacturers and lead to the EUTR being viewed as a trade barrier (China Aide Memoire). Such an unintended impact could also reduce FLEGT's very impact, as it would weaken the leverage of trade with the EU as an incentive for forest sector reforms in producer countries.

During EU MS visits, some processing companies that have historically used tropical timber confirmed their shift to temperate timber, because, amongst other reasons, it makes for easier compliance with the EUTR. Some MS stated the same thing (MS Survey, 2015): "*Without [functioning] VPAs, importers avoid tropical timber*" (Netherlands) and "*Small importers are not importing timber anymore*" (Greece). A recent study confirms that importing countries are shying away from use of tropical wood as "*small firms avoid to import tropical timber in order to escape obligations of due diligence associated with initial entry into Europe*" (CIRAD, 2014).

Importers stress that the decline in tropical timber imports worsened with the entry into force of the EUTR (CIRAD, 2014). The CIRAD study also emphasizes that, certified or not, tropical timbers have a "bad reputation" and are associated in the public's mind with deforestation and illegal logging. This risk had already been identified in a paper stating that "*there is also a danger that the reputational effects will be negative; that is, the attempt to establish a legality assurance system will succeed only in confirming the western buying public's view that all tropical timbers are suspect*" (Verifor, 2006). The evaluation team concludes that no clear actions has been undertaken in the framework of the EU FLEGT Plan to mitigate this risk in spite of the EU engagement (see Article 18 on Market incentives in all VPAs: "*Taking into account its international obligations, the Community shall strive to promote favourable access to its market for the timber products covered by this Agreement*".)

China is also responding to the EUTR and other import legislation by purchasing wood from low-risk countries such as the USA, Canada and New Zealand and by shifting to low-risk species. China's imports (by volume) of wood from Russia have decreased from 65.8% in 2007 to 22.7% in 2013, while imports from the USA, Canada and New Zealand have increased by, respectively, >1300%, >1200% and 500%, between 2008 and 2013 (CAF, 2014). In the case of composite products, however, the question remains how companies can make sure the timber from low-risk countries is not mixed with timber from high-risk countries.

Beside the impact of the EUTR on the tropical timber market, there is a lack of understanding of the EU policy regarding support to this specific market. Several respondents to the Public Survey question the long-term commitment of the EU in promoting legal imports of timber, as they sense some FLEGT fatigue in the EU as the process slows down. "*Why is the EC not collaborating more efficiently with MS to avoid this [decline]*" (Public Survey, 2015) is a question asked, while another respondent thinks more straightforwardly that "*FLEGT has been facilitating the action of extremist NGOs that wish to stop any kind of logging activities*". Another respondent wonders if European buyers are still willing to purchase legal tropical timber.

Lesson learned: *While the reduction in tropical timber imports cannot be clearly attributed to the EUTR or to the FLEGT Action Plan, there is a clear need to explain the objectives and mechanisms of the EUTR to consumers and producers, in order to avoid ambiguities that cause further declines in tropical timber imports into Europe - which could in turn, contribute to increased illegal logging as tropical timber trade shifts to less discerning countries.*

150 Eurostat Tropical wood imports to the EU from chapter 44 of the Harmonized System - <http://appsso.eurostat.ec.europa.eu/nui/show.do>

5.6.2 Confusion surrounding consumer countries' legal requirements

A number of countries (USA, Australia, possibly Japan, in a near future) have developed timber import legislation, some of them inspired by the EU's approach (EUTR). Countries such as the USA, Australia, China, Korea, Japan, or Switzerland have or are developing their own legality assurance systems or supply side systems each variously different from the EUTR. All this different import legislation has contributed to confusion among traders and producers. A respondent to the Public survey suggests that "the FLEGT Action Plan should have synergies with Lacey Act and Australian Act: preferably one global system". The key features of different systems are described below:

Australia - In 2012 Australia enacted its 'Illegal Logging Prohibition Act', which was made fully operational through a secondary regulation, the 'Illegal Logging Prohibition Amendment Regulation 2013 (No. 1)'. While the prohibition on importing illegal wood has been effective since 2012, the overall framework, including due diligence requirements, only entered fully into force in November 2014. Hence it is very recent and little information is available concerning its effectiveness. One characteristic of the system is the recognition of certification schemes (FSC, PEFC, and, whenever issued, FLEGT licences) as fulfilling due diligence requirements.

USA - In 2008, the US Congress revised the Lacey Act to include timber. This made it unlawful to import any plant taken or traded in violation of the laws of the US, a US State, or relevant foreign laws. One of its components is the ban on illegally sourced wood products. The revision was possibly instigated by developments with FLEGT, which encouraged US environmental activists (Overdevest and Zeitlin, 2015) and in turn helped to build momentum for the passage of the EUTR.

The Lacey Act was designed to be simple and flexible - to adapt to the needs of individual businesses. It requires US buyers to avoid importing illegally sourced timber, but how best to accomplish that goal is left to the buyers themselves. The approach is not document-based and there is no requirement for certification or verification of legal origin or for documents that would be accepted as proof of legality. It is noteworthy that some countries, such as Honduras which exports mainly to the USA and has been under strong international pressure, benefit from support under the FLEGT Action Plan better to respond to requirements under the US Lacey Act.

Japan - In July 2015, the Japanese government's forest policy committee announced illegal logging legislation to strengthen Japanese illegal logging policy, which is expected to be enacted by the end of 2015. The draft legislation seems to be based on the EUTR and some EUTR concepts can be found in it. Main elements of the proposed legislation are: (a) it will be mandatory for importers to exercise due diligence of timber origin and harvest information; and (b) no financial penalty, but a penalty by public identification of company name, if due diligence is not properly implemented.

Lesson learned: *Traders in producer countries find the variety of legality systems in different importing countries confusing; Due Diligence systems, the role of Customs Services, documentation requirements, recognition of certification schemes; and penalties vary from country to country. Private sector actors in several countries suggested this has had a negative impact on compliance and hence on the implementation of the EUTR. It may have contributed to an increase in high-risk timber entering non-regulated countries that have less stringent standards for legality than the EU.*

5.6.3 Effects on SFM certification

The impact of FLEGT on certification is very complex and opinions are strongly divergent: various sources (survey results, interviews, documentation) suggest that FLEGT action is stimulating the use of certification schemes and cite an increase in certified timber imported into Europe. According to a recent IMM study (Rupert, 2015), there has been a growing market expectation, particularly amongst large retailers and buyers in the public sector, that timber products should be either FSC or PEFC certified. Others argue that the EUTR and FLEGT action have a negative impact on sustainable forestry certification.

Private sector stakeholders in Guyana support the first view. They are increasingly interested in certification schemes because the production of FLEGT-licensed timber is taking more time than expected; meanwhile the operators look for alternatives to meet the new market requirements. Buyers, including from the EU, seem to look for FSC timber, above all, and may well continue doing so even after FLEGT-licensed timber would come onto the market. In response to such demand, there is an increasing supply of FSC certified timber. In Ghana, FLEGT may have given a boost to FSC certification (but CoC and controlled wood) since FSC certified timber is, in the eyes of the larger companies, the best option to show compliance with Due Diligence requirements.

Timber Public Procurement Policies in EU MS have had a positive impact on the demand for certified timber and the market’s willingness to pay the associated price premium (MS Survey). Based on the TPPP in the Netherlands, for example, the industry made an agreement with government and set goals for the use of certified timber by all members of the major timber traders’ organisation (NTTA). At the same time, according to the MS survey, the main importing MS (Germany, France, Netherlands, and Belgium) have not included FLEGT licences in their policies as they consider that they comply with legality but not with sustainability.

Concerns about possible negative impacts of FLEGT on forest certification were raised during the “*Forum International sur le développement durable de la filière bois du Bassin du Congo*” held in Brazzaville in October 2013. Several concessionaires exporting both unprocessed and processed timber in Europe mentioned a drop in their certified tropical timber sales in the last 12 months. In Cameroon, the export companies said that their clients were demanding legality certification rather than an SFM certificate. One respondent to the Public Survey identified the need to build a bridge between certification/private legality audits and VPAs.

The perception that forest certification is declining is contradicted by a recent survey of concessionaires and importers, which found no significant drop in the demand for FSC certified tropical timber in Europe (CIRAD, 2014). Figure 17, below, shows that exports by FSC certified companies active in Africa have actually increased. To illustrate the two opposing views, the CIRAD study cites two certified concessionaires, one saying “... *Before the EUTR, our share of FSC was increasing, but now it is the opposite...*” and the other stating that “*large final clients still require FSC-certified timber*”.



(Only a fraction of the timber exported is FSC certified)

Figure 17: Exports of timber by FSC certified concessions in Africa (CIRAD, 2014)

The recent IMM study (Oliver, 2015) gives another perspective indicating that the EU market is partially moving away from "sustainable" products covered by specific product labels towards due diligence and legality verification of the entire supply base.

Lesson learned: *The few available data concerning the impact of EUTR on forest certification do not show any measurable decrease or increase in demand for certified wood in Europe. Rather, importers and customers emphasize that the situation may change once wood with a "FLEGT licence" becomes available.*

Another important outcome is the linkage between private certification and FLEGT licensing. There is a general demand, from private sector actors, for certification to be recognized by the VPAs and the FLEGT licences. Meanwhile, certification schemes, in particular FSC and PEFC, have adapted their standards to incorporate EUTR legality and Due Diligence requirements. At the same time, certification schemes are improving their legality standards and, as in the case of Cameroon, private certification standards can be recognized as fulfilling VPA requirements (Cameroon Aide Memoire).

5.6.4 FLEGT processes in non-VPA countries

In South and Central America, only a few countries (Guyana, Honduras) are involved in VPA processes and, before implementation of the EU FLEGT Action Plan, timber legality was not a major concern. However, other countries (Guatemala, Colombia, Peru, Bolivia, Suriname), some reportedly stimulated by negotiations in neighbouring VPA countries, have now started to engage in their own, nationally-driven processes to develop systems to reduce illegal logging and improve governance, often with EU FLEGT funding.

In Guatemala, a high level round-table and multi-stakeholder forum on forest governance issues to combat illegal logging in the country was established, involving 18 actors from civil society, the private sector, government, communities etc.). In Colombia, an Inter-sectoral Voluntary Pact for Legal Timber, which includes communities and private sector actors as signatories, was established, based on FLEGT awareness. The Pact, led by the Ministry of Environment and the Presidential Office for Environmental Management, aims to ensure that the extracted, transported, processed and marketed wood comes exclusively from legal activities (See also Colombia Aide Memoire).

This initiative also inspired a similar initiative to address illegal timber in Peru. The Colombian administration is also working together with the academic world to further define legality and contribute to combating illegal logging. This has led to a revision and adaptation of the curriculum of forestry schools better to tackle these issues, which previously were poorly documented. Likewise, there are initiatives to combat illegal logging in Costa Rica and Guatemala, and consumer initiatives to increase the demand for verified legal wood in Colombia, Mexico, and Nicaragua.

Though not explicitly foreseen in the FLEGT Action Plan, the dissemination of FLEGT ideals even in countries that are not major timber producers or importers to the EU can be considered a success, as was stated during FLEGT Week 2015: *"Panellists from non-VPA countries outlined how the global interest in legality, led by the EU and the buzz around FLEGT have prompted change in their own countries. Even if VPAs will not be the mechanism their countries turn to, it seems the lessons FLEGT is producing are as applicable for their country as those that are engaged or interested to engage in a VPA".*

Lesson learned: *The EU and MS should pursue their efforts to support the dissemination and implementation of FLEGT principles globally. At the same time, they should present various alternatives than can be developed in producer countries, VPA being one but not always the most appropriate approach, considering countries' contexts and capacities. Specific "à la carte" support is needed for developing traceability systems, supporting multi-stakeholder dialogues, providing targeted training, among other actions.*

5.6.5 Other positive outcomes

There are numerous examples of positive emergent outcomes concerning conflict management, good governance, and cooperation across institutions and legislative reform in other sectors.

In Indonesia, like in many other VPA countries, people reported an increased and enhanced cooperation between the various ministries and also between national and local administrations, as an important benefit from FLEGT action, not least as local administrations are often not fully part of governance reform processes. This collaboration benefits other sectors as well.

In Guyana¹⁵¹, stakeholders of a Tropenbos-led FLEGT project mentioned reduced levels of conflict as a very important project benefit, mostly attributable to the regional-level Multi-Stakeholder Dialogue (MSD) instituted under the project. Communities involved in chainsaw lumbering expressed their great satisfaction with the fact that, since the MSD experience, a different, non-confrontational approach to conflicts is used, not just in forestry matters, but in other spheres as well.

In Honduras, indigenous people (FLEGT week, 2015) reportedly use the negotiation phase of FLEGT to address broader land tenure and land use issues and push for a revision of the legislation.

It is sometimes claimed that FLEGT has the potential to contribute to developments in other sectors, notably the mining sector, in terms of legislation review, good governance and broad stakeholder consultation processes. For instance, the public consultation in China for drafting Chinese Due Diligence guidelines¹⁵² for responsible mineral supply chains (aimed at ensuring Chinese companies can identify and mitigate risks contributing to conflict, human rights abuse and misconduct around the world) was claimed to be inspired by the EUTR, but the evaluation team found no evidence of this.

5.7 Achievement of higher objectives of FLEGT

EQ7: To what extent has the FLEGT Action Plan contributed to its higher objectives in partner countries? Through what pathways have these benefits been achieved, and how could the FLEGT AP contribution to these objectives be enhanced? How could good practices from FLEGT inform work in other sectors?

The EU FLEGT Action Plan is expected, ultimately, to contribute to the higher objectives (goals) of *sustainable forest management*, as well as the overarching Development Cooperation objectives of *poverty reduction* in the context of *sustainable development*. This chapter discusses to what extent the Action Plan actually contributes to these goals.

A. Sustainable Forest Management

The EU FLEGT Action Plan states that:

“This Action Plan adopts the same approach taken in the Africa and Asia regional processes, and deals only with the question of legality, but it should be noted that the EU’s wider objective is to encourage sustainable forest management. Since in many countries forest legislation is based on the premise of sustainable forest management, better law enforcement will in general lead to more sustainable forest management. Where this is not the case the EU should encourage a review of the legal framework” (p.11).

151 Mid-term Evaluation Report of the Project ‘Supporting the integration of legal and legitimate timber markets into Voluntary Partnership Agreements’, Tropenbos, February 2015

152 The Chinese Chamber of Commerce for Metals, Minerals and Chemicals Importers and Exporters (CCCMC) led the development of the guidelines in association with Chinese and international partners, including Global Witness” (<https://www.globalwitness.org/countries/china/promising-chinese-guidelines-mineral-supply-chain-checks-public-consultation-begins>)

According to some of the stakeholders consulted, particularly in the private sector, there is a paradox: while considerable efforts have been made to manage the tropical forests sustainably, resulting in 30% increase in the area of natural forest under sustainable management between 2005 and 2010, and a 63% increase in certified forests of all kinds (ITTO, 2011), the support to producer countries in the framework of the Action Plan has not distinguished between poorly performing logging companies and those operating legally and responsibly.

For example, the results of the “test à blanc” in Congo (2012), whose objective was to assess the extent to which each of the private companies has complied with the grid of legality, have never been published in detail, leaving an impression that the entire private sector was not complying, including the FSC certified companies. As a result of lack of distinction between responsible and less responsible producers, under FLEGT, timber from tropical countries is generally seen as high risk, and traders and importers have to undertake proper mitigation action to verify that the timber has been legally produced. There is a sentiment in the private sector that more efforts should be made to recognize and reward companies that are certified and facilitate their access to FLEGT licenses.

An analysis by the evaluation team of certification schemes in African VPA countries indicates that SFM/FSC certified forest areas have not increased since 2010, while *Origine et Légalité des Bois* (OLB) certificated forest areas (a legality certification) have increased since 2013, when the EUTR entered into force. This suggests an interest of producers in legality rather than sustainability¹⁵³. This is particularly the case in Ivory Coast, where three companies were legally certified between 2013 and 2014, probably to comply with EUTR requirements. Another conclusion that can be drawn is that legality certification does not always lead to SFM certification - which is commonly seen as requiring a commitment to higher standards than ‘just’ complying with the laws.

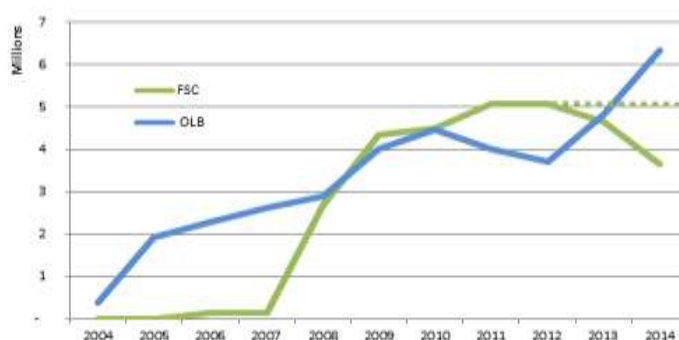


Figure 18: Areas of FSC and OLB certified forest in the African VPA countries (Cameroon, CAR, Gabon, Congo, DRC, Ghana, Liberia and Ivory Coast)

Note: One concession FSC certified in Congo was suspended in 2013 and recently re-associated with FSC, hence the dotted green line. (Sources: ATIBT, 2011; FSC facts figures 2012, 2013, 2014; Bureau Veritas, 2014)

Out of ten VPA countries responding to the VPA Survey, seven consider ‘Sustainable Management of the resources’ as one of the main reasons for engaging in the VPA process (this answer was given more often than ‘combatting illegal logging’). Amongst MS, the United Kingdom is the only country strongly supporting the focus on timber legality (rather than sustainability) as legality was supposed to “ensure that the process has national ownership”. However, this position does not appear to be fully shared by the VPA countries, nor is the national ownership by producing countries always manifest in spite of increased involvement of all stakeholder groups (see also Chapter 5.9).

¹⁵³ TLTV (Timber Legality & Traceability Verification) certification is not considered, as SGS decided to phase the service out in early 2012.

Several MS stated that the development and promotion of sustainable forest management is the most important objective of the FLEGT Action Plan. In Germany, several stakeholders strongly supported the view that focusing on legality is diverting attention away from the main goal, which is Sustainable Forest Management. A conclusion emerging from interviews with French stakeholders is that, even though a focus on legality may initially seem more feasible, it does not reach the same level of stakeholder consensus among, nor would it achieve the same results as a focus on SFM would have done.

The Timber Public Procurement Policies in the MS (see Chapter 4.3) are also indicative of differing views between the MS: the UK TPPP recognises FLEGT licences, while those of Germany, France, Netherlands and Belgium do not, arguing that *“Legality is not the same level as sustainability”*. *“FLEGT licensed has been excluded [from the TPP] as it is regarded as not sustainable”* and *“the political objective for and decision on public procurement of timber was to ensure sustainable timber”* are some of the other comments returned through the MS survey.

Thirty percent of the respondents to the Public Survey rate the impact of the FLEGT Action Plan on SFM as good, and 28% rate it as poor or very poor. Respondents to the Public Survey mention the *“Lack of focus on concerns about sustainability”* and *“the need for a fully integrated approach with sustainability as the end goal rather than just legality”* as challenges for the future. *“Going beyond legality and moving towards sustainability”* is another concern, and *“Addressing deforestation and sustainability issues”* and *“Linking with REDD+ and certifications”* are the two future actions for FLEGT mentioned most frequently in the Public Survey

In producer countries not engaged in a VPA process, on the contrary, there has been a strong growth of SFM certified areas especially since the introduction of the EUTR (see Annex 7 in Volume 2).

There is also an interest, among Public Survey respondents, in focusing more on SFM for smallholders, communities and SMEs, as major suppliers of timber to domestic markets. These local producers often operate informally and apply unsustainable practices. Helping them to develop legal and sustainable practices to supply the domestic markets would also have a direct impact on the higher objective of poverty alleviation (see below), by establishing more appropriate regulations and a more secure context.

B. Poverty alleviation

The EU FLEGT Action Plan is expected, ultimately, to contribute to the higher objective of *poverty reduction*. However, it does not provide any guidance on how this should be done, and it is generally acknowledged that this objective is well beyond the scope of control of the FLEGT Action Plan. Yet, a wide range of stakeholders live in or interact with the forest and any programme that deals with forestry and forest governance necessarily has an impact on these people.

Other challenges related to assessing the impact of FLEGT on poverty are the lack of baselines – there are no examples where such study assessment was done before starting any FLEGT action - and the question of attribution of effects to FLEGT. For this reason, the assessment is highly qualitative, based on perceptions expressed in the various Surveys and during country visits.

The Public Survey indicates that (i) the FLEGT Action Plan has not achieved much in terms of alleviating poverty (only 20% of respondents think that it has had a good/very good impact on poverty alleviation) and (ii) the respondents are not expecting any major results in this area in the future. Except for some global programs implemented by SIDA and DFID, MS did not mention poverty alleviation amongst the major topics to be tackled.

Very few studies have been conducted on this subject of poverty alleviation and FLEGT. The most comprehensive study on impact of FLEGT VPAs on poverty was conducted by Hopley and Buchy (2013). It arrived at the following conclusions:

- The *understanding of poverty* as reflected in VPAs and FLEGT actions is weak;
- There is a need for *systematic attention to poverty issues* from preparation of VPAs to their negotiation to implementation;
- The three key issues for promoting poverty reduction are:
 - Secure access to livelihood assets;
 - Human agency – capability to have a voice and influence decisions in appropriate forums;
 - Changes to the rules of the game (laws, policies, decision-making processes) to support poor people’s livelihoods.

During the FLEGT Week (2015) session on poverty reduction, links between poverty alleviation and the FLEGT Action Plan implementation and the three aforementioned key issues were discussed. The findings presented below are based on this session, complemented with information derived from the evaluation’s surveys and the country visits.

Access to livelihood assets

The effects of the EU FLEGT Action Plan on access to livelihoods and livelihood assets are very diverse and both negative and positive. Amongst the negative impacts, the implementation of the EUTR and related Due Diligence has been found to have led to the elimination of some countries’ timber from EU supply chains. Smaller enterprises and pit sawyers are typically active in the informal sector and are the first to lose business if they cannot meet the legal requirements of either the VPAs (TLAS) or the EUTR.

Strict enforcement of existing laws in the framework of the VPAs may have negative consequences for local population’s livelihoods. In Ghana (see Chapter 4.1) illegal loggers lost their livelihood after the VPA led to restrictions on chainsaw milling being better enforced; they had no alternatives. This risk has been seen in other VPA countries including Cameroon and Vietnam. In Vietnam, a recent Livelihood Impact Assessment (SRD 2013) analysed the likely impacts of the VPA, and predicted that most households would be unable to meet the documentation requirements of the VPA (trading invoices, packing list of timber, labour safety and hygiene) and loss of market access would have a significant impact on their livelihoods.

Outside VPA contexts, such as in China, impacts of the EUTR can also be of a major concern. Smallholders involved in timber production are affected by the changing market requirements, as buyers tend to favour low-risk supplies and exclude the complicated supply chains involving tens or hundreds of small producers (TTAP2 evaluation, 2013). This points to a need to develop and apply social safeguards.

In other countries, the VPAs have had a more positive impact on forest communities’ livelihoods through the development of mechanisms for sharing revenues from logging and trade with them. In Liberia, a bottom–up process facilitated under the VPA, led to the establishment of a National Benefit Sharing Trust, which manages a fund into which 30% of forest concession fees collected by Government is paid. The money is available for small community projects proposed through Community Forestry Development Committees. The Trust Board reviews funding applications and disburses the money to these committees for approved projects. A similar system is being implemented in Congo.

People’s voice

Examples from a range of VPA countries demonstrate that community participation and involvement in VPA processes has been one of the main successes of the Action Plan. In Liberia, strengthening of stakeholder participation has given communities a recognized voice and increased their capacity to

negotiate. In Honduras, Indigenous Peoples were able to use the VPA negotiation platform to stand up for their customary rights. However, better and more sustained involvement of local communities and civil society will be needed in any future FLEGT Action Plan (Public Survey), particularly for poor people in more remote areas.

The effectiveness of community stakeholder representation¹⁵⁴ in the VPA processes has also been questioned (FAO, 2013). The representation of Indigenous Peoples has generally been less effective; their voice has been recognized only recently, for example in Cameroon, or not at all, in most other VPA countries. Likewise, the private sector has had more difficulty in speaking with one voice. In cases where local labour is not well structured in any professional association – as is the case in many VPA countries - they do not have a voice at all. The Republic of Congo is a rather emblematic example: the larger foreign enterprises, which are often certified and based in the north, are organised and have a voice in revisions of the national regulatory framework through their association. Small national companies based in the Republic of Congo typically did not, until recently when they received support of an EU-FAO FLEGT project.

The question of how to make VPA negotiation processes more inclusive, particularly of traditionally marginalised groups, remains difficult to answer. Local administrative institutions, civil society and community-based groups have a critical role to play. There is a need, in VPA negotiating countries, to develop a bottom-up rather than the more commonly practised top-down approach to avoid local actors feel excluded from the process (Tropenbos, 2014b). In Vietnam and Cameroon, the necessity to involve actors at provincial and district level during the VPA negotiation and implementation phases was stressed. In Guyana, Indigenous People's organisations are pressing the newly installed administration for greater involvement in the VPA negotiations. At the same time, in some countries the inclusion of indigenous communities in VPA processes has been addressed; in Cameroon, for example, representatives of the Aka people have participated in meetings of the VPA Joint Implementation Committee.

The need for a comprehensive legal framework

In all VPA countries, the revision of laws defining community rights and ensuring social benefits, is a key activity. Social safeguards have to be clearly integrated in the legal frameworks; if not (or if the instruments are of poor quality) forest-related conflicts could increase and possibly compromise SFM and the successful implementation of the FLEGT/VPA.

The VPAs provide scope for the adaptation of policy frameworks and incorporation of social safeguards, but the new provisions are not always properly implemented. In Cameroon, for example, there are important gaps in the dissemination of the information regarding the VPAs and related legislation between the administration at national and local level, but also between CSO representatives and local communities. Despite the recognition of the rights of indigenous people in the texts, the information often fails to reach the communities themselves.

In Congo, the VPA process was inclusive and created space for civil society to participate in the revision of the legal framework. The draft code reportedly took most of their comments into account, after a long and fully participatory approach. In most countries, however, there is still a long way to go to make sure the legal framework creates an enabling environment for livelihood enhancement and poverty alleviation. In Liberia, for example, it remains unclear when the new Liberian legal regulation will be enforced. Even where the legal framework is implemented and local communities are granted rights that promote better livelihoods, as in Guyana, there is still need to simplify administrative procedures that, if not properly followed, could easily criminalize people.

¹⁵⁴ Community representation means speaking or acting on behalf of others

Lastly, in response to the expansion of forest conversion, there is growing expectation, especially among NGOs, for the development of a more comprehensive legal framework, beyond that of the forestry sector, which takes land tenure issues and human rights more explicitly into account. *“Clarity of tenure and usage rights over forest resources allow SMEs, smallholders and community forest enterprises to gain more control over a sustainable future income, encouraging investment of labour and capital, and accrual of long-term assets”* (Hobley and Buchy, 2013). Some of the NGOs that provided unsolicited inputs to the evaluation team and respondents to the Public Survey would also like to complement the Grids of Legality with references to international law that - in their opinion - *“provides more protection to Indigenous and community rights”*¹⁵⁵. The focus on national legislation as a basis for legality definitions is considered to be a ‘coherence’ issue, discussed in Chapter 5.10.

C. Sustainable development

Sustainable development is an overall goal of EU Development Cooperation efforts and hence of the EU FLEGT Action Plan. Actions in many of the Action Areas contribute to sustainable development, though few explicitly refer to it as their rationale. The activities cited in the sections on poverty alleviation and sustainable forest management, for example, ultimately contribute to sustainable development. Recently published public procurement policies of the EU and some MS refer explicitly to green and sustainable development such as the Agenda 21. Support to improved governance and to developing a more efficient national timber sector (economically and socially) is another element in the FLEGT Action Plan that contributes to sustainable development. The domestic market that was not initially included in the original design is becoming more and more prominent for partner country and those stakeholders participating in the process. In this perspective, a proper inclusion of the domestic market in the EU FLEGT Action Plan deserves a particular attention that goes beyond a pure technical issue. It is necessary to make sure that an impetus is given to forest governance and sustainable development.

With regard to FLEGT, the General Union Environment Action Programme to 2020 states that *‘The Union will continue to promote sustainable development through the negotiation and implementation of dedicated provisions in its international trade agreements and the bilateral Forest Law Enforcement, Governance and Trade voluntary partnership agreements, which ensure that only legally harvested timber enters the Union market from partner countries. In this context, the European Union Timber Regulation serves as a legal basis for the Union to address the global problem of illegal logging through its demand for timber and timber products. Other policy options to reduce the impacts of Union consumption on the global environment, including deforestation and forest degradation, will also be explored’*.

5.8 Cost-effectiveness of FLEGT

EQ8: To what extent have the various FLEGT actions, by the EC, by MS and by partner countries been cost-effective and commensurate instruments for achieving FLEGT objectives?

A. Lack of accurate data

The costs related to the FLEGT Action Plan originate primarily from EU and MS funded projects and programmes. The effectiveness of this spending is the primary focus of this evaluation question. However, we also examine the cost-effectiveness of *investments made by other stakeholders*, like

¹⁵⁵ Contribution to the evaluation of the EU FLEGT Action Plan, Rights and Resources Initiative (August 2015);

Comments and inputs to EU FLEGT Action Plan evaluation (2003-14), Forest People’s Programme (August 2015)

those made by law enforcement agencies, both in partner countries (forest services, customs services) and in MS (e.g. Competent Authorities) and the *costs and benefits to the private sector*, including small and medium enterprises, both in consumer and producer countries. Finally, we put the costs and benefits of FLEGT action into a wider perspective, comparing *cost and benefits of FLEGT to other past and present approaches and development programmes* with similar objectives.

Although many sources have been consulted, the figures presented here must be considered *indicative*, as: (a) information is often based on a limited number of respondents; (b) information gathered through the evaluation surveys is incomplete. The section on “external support received” in the 2015 VPA countries Survey was filled out in detail by only five of the eleven responding countries, which complicated cross-checking with information from the EU and MS Surveys.

The Commission and EU MS maintain registers of their own FLEGT related funding, but no central register of all FLEGT projects¹⁵⁶ exists; project lists have therefore been compiled from several different sources, including review of literature, information obtained through the EC-, MS- and the VPA country surveys conducted as part of this evaluation and information gathered from interviews. Although a definition had been established for “FLEGT activities”, it is not clear to what extent it has been used correctly by respondents to the surveys. Furthermore, in many projects, FLEGT-related activities constitute only a minor element and it is impossible to determine the proportion of the budget spent on FLEGT. With these caveats, the spending estimates below were obtained. Details of the calculations are provided in *Appendix 3*.

B. Total investments in FLEGT action 2003-2014

Investments in FLEGT action during the period 2003 - 2014 have included investments from the EC and EU MS, through individual and multi-country projects. Data on funding from “*other sources*” (government, civil society and private and public enterprises) has also been compiled. Sources include the EC and MS Surveys implemented in the context of this evaluation and the data of the Court of Auditors Evaluation of FLEGT (2015)¹⁵⁷.

Table 3 below summarizes the **total investments in the FLEGT AP for the period 2003 – 2014** made by **EU, its MS, and other sources (producer country governments, civil society and private sector)**; they amount to an **estimated total of nearly € 935 M**. Details on the calculations - and where necessary estimations - are presented in Appendix 3.

Table 3: Summary of total investments in the FLEGT Action Plan for the period 2003 – 2014

Source	€ (x Million)
EC and MS	882.4
Producer country governments, civil society and private sector	53.1
GRAND TOTAL	935.5

¹⁵⁶ In the Surveys conducted in the context of this evaluation FLEGT activities have been defined as follows: “Programmes, projects, actions and interventions are considered FLEGT AP programmes, projects, actions and interventions if and when they are designed to tackle illegal logging and support the FLEGT AP with explicit reference to the FLEGT AP in its title, objectives or in its logical framework.”

¹⁵⁷ The CoA Review 2015 provides data on EC spending through 3 management modes: a. implementation by MS; b. implementation by international organizations and c. implementation by others (including governments, civil society and private sector) for the period 2003-2013, so one year less than the period covered under the actual evaluation. The average amount spent per year during the period 2003-2013 was added to the 2003-2013 figures to estimate the additional investments for 2014.

C. Distribution of funding by group of countries (all Action Areas)

As indicated above, three groups of countries have been distinguished within the context of this evaluation: a. countries with a signed VPA (6 countries); b. countries negotiating a VPA (9 countries) and c. non-VPA/non-MS countries¹⁵⁸ (31 countries). Table 4 below presents an overview of the estimated average amounts invested in FLEGT for the period 2003-2014 in these countries for all Action Areas. Details on the calculations – and, where relevant, estimations – are presented in Appendix 3.

Table 4: Distribution of funding by group of countries (all Action Areas but not including Global activities or multi country activities)

Country group	VPA signed	VPA negotiation	Non-VPA/non-MS
<i>Total per funding category</i>			
EC/MS	206.1	140.1	223.2
Other sources	24.9	12.64	15.6
Total per country group	231.0	152.7	238.8

Table 4 shows that there have been differences on FLEGT investments for the three distinguished groups of partner countries outside the EU.

The reason for these differences may partly be due to a generally longer involvement of the first group in FLEGT action than the second group. In addition it may reflect the advance towards implementation of the TLAS elements. The non-VPA/non-MS countries have received support for FLEGT related actions considered relevant and of priority, without going through the processes that characterize the VPA.

It is also observed that, where there is more investment in FLEGT by EC and MS, there is also more support from other sources, including the national government, civil society and public and private sector enterprises.

In total, in the six VPA signed countries, an amount of 231.0 M€ was invested in FLEGT, while in VPA negotiating countries the total investment amounted to €152.7 M€. In non-VPA/non-MS the total investment in FLEGT was 238.8 M€. The total investments for the three categories of countries amount to €622.5 M. This would imply that the remainder of the total expenditure on FLEGT (935.5 M€), i.e. an amount of €313.0 M, would have been spent within the EU. In percentages of total FLEGT spending, the distribution would be roughly as follows: VPA-signed countries (25%); VPA-negotiating countries (16%); non-VPA/non-MS countries (26%) and EU (EC and MS level) (33%).

Table 4 also indicates that the total amount invested by the EC and its MS in specified producer countries amounted to € 569.4 M. In addition another € 193.4 M was spend on “Global” activities while € 110.2 M was invested in “Multi” activities (see Appendix 3 for more details), resulting in an overall amount spend by the EC and its MS of € 882.4 M in the period 2003 – 2014.

D. Distribution of funding by Action Area

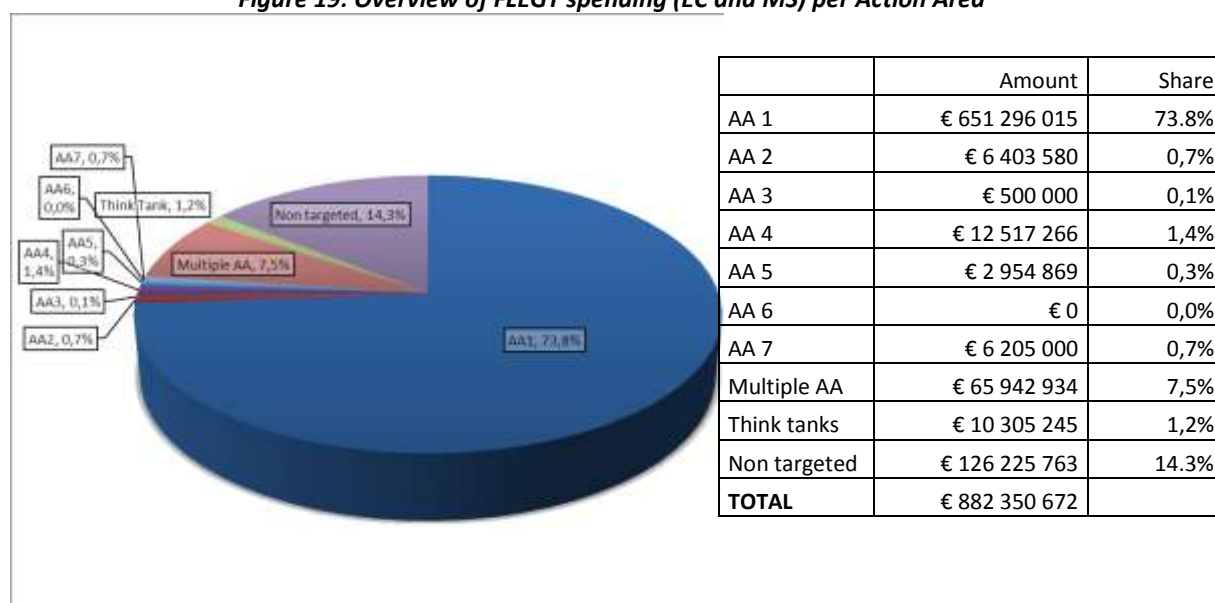
The distribution of EU and MS funding over the seven Action Areas has been rather uneven, with the major part of the EU and MS expenditure (more than 73.8 %) invested in AA-1 (Support to Producer Countries), followed by AA-4 (Private Sector Initiatives) 1.4%, AA-2 (Trade and EUTR) 0.7% and AA-7 (Conflict Timber) 0.7%; other Action Areas received negligible direct funding. Part of the funding is

¹⁵⁸ To avoid confusion the term “non-MS” has been added to the category of “non-VPA” countries that received support, as no MS has received support.

related to more than one AA (7.5% for “Multiple AA”) or to another category (“think tanks” with 1.2% and “non-targeted” with 14.3% that include general support such as EFI, FAO FLEGT, FGMC...).

The share of targeted funding to each Action Area is shown in the last column of the table in Figure 19.

Figure 19: Overview of FLEGT spending (EC and MS) per Action Area



Source: EC and MS Surveys 2015

The uneven distribution of support between the different AAs is explained, in large part, by the fact that support to producer countries consists essentially in the funding of projects, whereas the implementation of other AAs does not necessarily entail significant budget allocations, but more human resources inputs. It should be noted that a significant share of the funds spent under AA-1 (Support to Producer Countries) contributes to other AAs, in particular AA-2 –through funds allocated to support VPAs for example- and AA-4, considering that part of the support to producer countries was in favour of private sector initiatives in those countries.

Funds spent under AA1 have covered a wide range of actions, supporting not only VPA processes, but also broader FLEGT issues, such as support to improved transparency, civil society participation, reinforcement of timber producer – in particular SMEs - capacities, development of legality assurance systems etc. It must also be understood that AA1 covers multi country and regional support

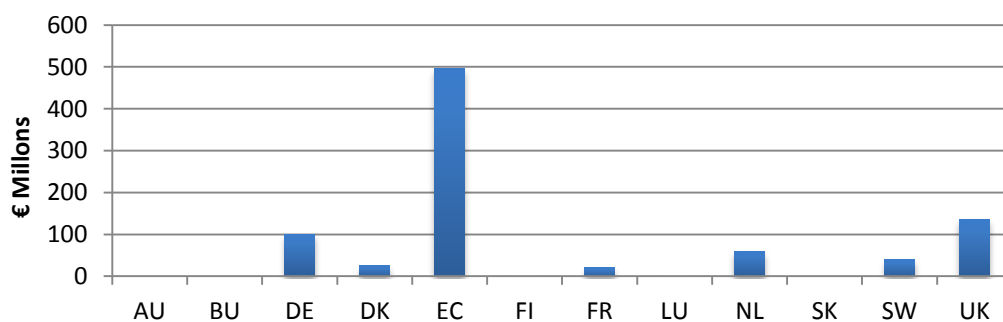
It is noted that there seems to have been neither targeted funding nor shared “non-targeted funding”¹⁵⁹ of any significance for AA-6.

E. Distribution of support by MS

A limited number of MS has been providing significant support for the implementation of the FLEGT AP either with funding and human resources. This funding has been largely allocated for the implementation of AA-1 (Support to Producer Countries).

¹⁵⁹ In this context “non targeted funding” refers to funding that does not specifically target a specific Action Area, but rather a broader theme like REDD+ or forestry, yet has a clear link to FLEGT.

Figure 20: Distribution of FLEGT budget, according to contribution by EC and MS



Source: EC and MS Survey 2015

According to this information, FLEGT support by MS has been limited to essentially eight countries, with the United Kingdom providing the largest contribution, followed by Germany, The Netherlands, Sweden, Denmark, France, Finland and Luxembourg.

F. Cost Benefits analysis

Cost and benefits of the FLEGT AP to governments

For recipient governments, there is an increased level of organization, improved control and better trained, better equipped and sometimes even better paid, allowing for attracting more qualified and motivated staff. This should make governance more effective and contribute to avoiding illegal logging and trade, and where there is trade in illegal timber, increase the chance of detecting and confiscating it.

Government benefits other than increased governance leading to avoided loss of resources due to illegal logging include increased income through a. payment of permits, registration fees, etc, b. increased tax payment (VAT, income tax), c. payment of fines for infractions; d. confiscated timber. The costs of permits are often limited, so increased benefits related to these are generally limited. VPA country Congo is the first country that mentions that tax revenue is increasing as an effect of FLEGT action. It is not clear how much the increase is and how that compares with the €21.1 M invested in FLEGT so far in the country (see Table 1, Appendix 3. Fines for infractions can be high. Fines issued early 2015 to companies in MS Romania amounted €0.6 M. The amounts collected through fines by governments however, do not always flow back to the forestry budget. Although Romania just started controlling compliance with Due Diligence requirements, they have already confiscated more than 60,000 m³, representing a value of €2.2 M. Confiscated timber is partly sold through public auctions, partly used for social projects (see AM Romania). In non-VPA/non-MS country Colombia, modern technology (use of applications, data bases, digital microscopes connected to laptops) is employed to enable inspectors of the responsible environmental institutions, policemen, military and others to control volumes and tree species without the need for specialist skills (e.g. in recognising tree species). This approach allows for more effective and more frequent controls and affects the volumes confiscated.

Costs and benefits of the FLEGT AP to businesses

Information obtained on costs and benefits of the FLEGT AP to businesses is fragmented and highly qualitative. The EUTR Review 2015 conducted a survey among 20 private sector operators in MS.

Information was also gathered during missions to MS and producer countries and at several international events.¹⁶⁰

Private sector investments in FLEGT were found to differ greatly, according to the type and size of the company and according to the country. Some companies considered the “cost of going / being legal” as part of the “cost of doing business”. Others see the provision of documents to buyers or the application of DD as an unnecessary burden and cost. Companies may be able to pass on these costs to buyers, as some of them suggested, but no data are available. Companies that are not willing to pay these costs are operating “illegally” or “informally” and will have to face the consequences when detected by authorities.

Companies in producer countries

- Companies in VPA countries generally have to comply with the TLAS and wood tracking system requirements. For many companies, the more rigorous application of legality frameworks has involved the adjustment of their standard operating procedures, adjustment of and/or investment in software and/or technology, rescheduling of positions and responsibilities in the organization chart or even addition of new staff. Compliance with TLAS may also include compliance with legislation that covers health and safety in companies, social security, contracting conditions, so that additional investments have to be made in personal protection and safety equipment, higher salaries and related allowances in accordance to the law. In some cases it meant that companies that had been operating informally for many years had to get registered or obtain environmental permits.
- Exporting companies in producer countries have been affected by the introduction of the EUTR indirectly, through requests from EU operators for DD related information. Companies had to invest time in providing the requested “documentation”. Some that did not comply soon lost their EU clients. In other cases, mostly where companies already had FSC or PEFC certification, no questions were asked at all.
- In many VPA countries, private sector actors do not have high expectations of increased economic returns, based on a price difference for FLEGT-licensed timber or timber products. Rather, most expect that benefits will come from improved market access for FLEGT-licensed timber, possibly leading to increased trade volumes and turnover. In Indonesia, for example, export volumes to the EU are already increasing based on the SVLK (Indonesian TLAS) certificate, compulsory for companies that produce process and/or export timber and issued only to companies complying with the law. Even companies that are not yet involved in export anticipate greater opportunities in the future, from enhanced EU market access, once the FLEGT licensing has started. There are, however, concerns about EUTR implementation; companies wonder whether they really will get privileged access to the EU market once the FLEGT licenses are issued and whether, in hindsight, their investments in TLAS compliance will be justified.
- Larger and medium-size companies in Ghana tend to focus on private certification (mostly FSC, in some cases PEFC) as long as VPA processes are still on-going without FLEGT licensing starting. The same happens in some non-VPA producer countries, for example 290 companies in Bosnia have become certified in recent years, to facilitate access to the EU market. Producer country stakeholders suggested the introduction of the EUTR had stimulated such certification in order to comply with the Due Diligence requirements for EU operators (certification is seen by many companies as the best way to show compliance with the EUTR). Certification, of course, comes with costs, which are not compensated by the payment of a higher price (“bonus”), but has the

160 (a) 2nd Sustainable Tropical Timber Coalition (STTC) Conference, Valencia, February 2015; (b) EU FLEGT Week, Brussels, March 2015; (c) Global Timber Forum (GFT) Summit, Shanghai, June 2015; (d) Chatham House Illegal Logging Up-date, London, June 2015.

advantage (compared to a FLEGT license) that, once the EU market is reached, there can be a competitive advantage due to TPPP and consumer preferences in EU MS.

- Companies that had private sector certification before TLAS and/or EUTR generally do not have to make major adjustments. Some VPAs recognize such certifications. In Indonesia, where SVLK certification is obligatory for most companies, FSC-certified companies had to invest additionally in SVLK certification, at a cost of €2,000 - €3,000 every two years.
- In Ivory Coast and Indonesia, the private sector reports having had to put safety measures in place. Investments were high, but have resulted in fewer accidents, a more efficient workforce and overall, in lower costs.
- Companies in Ghana report that the new wood-tracking system improves their efficiency. In Indonesia companies also value the TLAS-certified status for the increased client trust it brings. They also recognize that improved working conditions lead to more motivated staff and workers and fewer health problems. Artisan millers in Ghana (former illegal chainsaw millers) seem to be convinced about the importance of following the new legal path. Although it provides them with peace of mind, taking away the feeling of being chased by police, they are still struggling to cope with the increased costs.
- Although many company representatives met are positive about the improvements due to TLAS and accept the related investments and changes as necessary, they were concerned that many groups of (informal) actors are not convinced (e.g. Ghana, Liberia) or even to be informed (e.g. Cameroon).

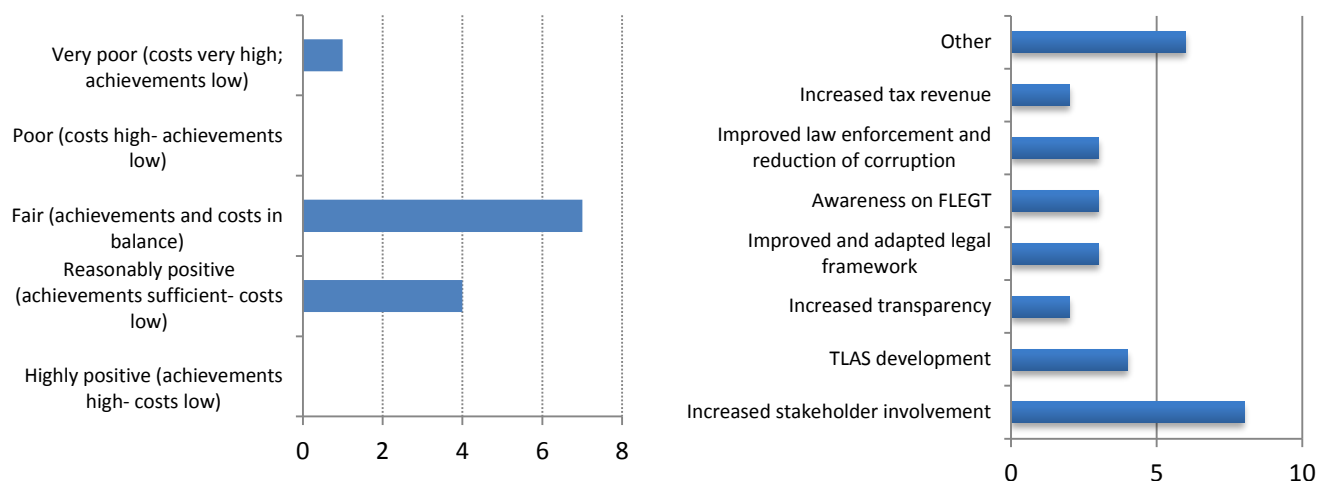
Companies in EU MS:

- Cost changes for EU operators have come mainly as a consequence of the Due Diligence requirements of the EUTR. The EUTR Review (2015) revealed that development costs for DD systems varied from €5,000 - €90,000 per MS Company (average unit cost €2/m³); operating costs of DD systems varied between €10,000 and €50,000 per year (average unit cost €1/m³).
- Larger numbers of supply chains and more complex supply chains imply higher costs for practicing Due Diligence; some companies (e.g. The Netherlands) indicate that they have made moves to limit the number of their suppliers.
- The relative burden of the cost of DD depends on the size of the company. There are concerns that, due to the costs for DD on either side of the supply chain, operators might cease to procure from SMEs in (tropical) producer countries. This was confirmed during country visits to Ghana and Vietnam. At the same time, some SMEs in MS (e.g. The Netherlands) have stopped importing directly and instead source tropical timber from larger importers or focus on temperate timber.
- The reduced availability of illegal timber may stimulate better prices both on the domestic and international markets. In Romania, where measures have been put in place to combat illegal logging, private sector representatives report that prices of timber and timber products are rising. This was also the case in Colombia, where due to FLEGT activities the level of control is improving.
- Overall companies in MS have not yet been convinced on the direct benefit for their businesses caused by the EUTR. According to the EUTR Review (2015) only 31% acknowledged overall direct benefits, while 47% did not.

G. Costs and benefits of FLEGT in a wider perspective

The MS Survey 2015 rates the overall cost-effectiveness of the FLEGT AP as “fair”. The Public Survey 2015 gave a similar result. The VPA Survey 2015 was slightly more positive: many stakeholders in

producer countries see FLEGT as a relatively cost-effective but long-term process, justifiable for numerous reasons; including wider governance benefits (see Special Report on VPA countries in annex 7 in Volume 2).



Source MS Survey, 2015; VPA Review 2015

Figure 21: MS perception of the level of efficiency of the FLEGT AP (N=12) (left) and VPA country perceptions of the main FLEGT achievements (N=11) (right)

The relative costs and benefits of the FLEGT AP and the comparison of it with other past or on-going sustainable forestry initiatives, was discussed in various fora (e.g. FLEGT Week, Chatham House Meeting). The following observations have been registered:

- The cost of the VPA process in terms of time is substantial, but most stakeholders recognised that this is a necessary consequence of its complex and comprehensive nature. In Congo, however, people thought the process was too long because too many issues were included, and greater focus was needed.
- While there is still no FLEGT-licensed timber, most stakeholders still think the process has been very useful particularly in leading to changes in cooperation, transparency and governance that are here to stay. Although there is a clearly felt need for FLEGT licensing to start, some stakeholders think that even if it never happens, the governance benefits have been worth the effort.
- There are many perceptions on the benefits caused by FLEGT, from those related to “raising the bar internationally” against illegal logging and improving forest governance in a general way, to increasing involvement of civil society, improving transparency, enhancing the use of codes of conduct by trade federations and forest certification systems by companies.

Cost-benefit relations will differ significantly by country and do not only depend on the investments made, but also on the baseline situation and the local context. For the cases of Romania (an EU MS) and Indonesia (a VPA country), the evaluation team collected more detailed data. Figures are based on data provided by stakeholders, and are only indicative. Romania has focused primarily on the implementation of the EUTR and its related tools, while Indonesia has focused on the development and implementation of its TLAS (SVLK). In the case of Romania, presented in *Appendix 3*, costs of FLEGT are estimated at €63.9 M/year, while benefits are estimated €236.4 M/year. This comparison suggests that benefits are a factor 3 to 4 higher than costs, implying that the collective investments by the stakeholders in the sector can be cost-effective. The case of Indonesia is presented below.

Case of Indonesia

The EU Delegation considers that the FLEGT process in Indonesia is cost-efficient for the EU, because the Government of Indonesia (Gol) has also made enormous investments in it. In the early days of FLEGT (2003–2008) the EC-financed a project for €12 M, of which only €9 M was actually spent. Additional EC funding has included support from EFI (TA, staff time, missions), EC involvement (staff time, missions), two projects through FAO-FLEGT facility for Indonesia and some EC funded projects for civil society including Indonesia (e.g. a WWF project directed at capacity building of CS). So far, the total FLEGT investment in Indonesia through these EC programmes is estimated to have been around €20 M (EC/MS Survey 2015).

In addition, the UK provided about €60 M for three phases of a Multi-stakeholder Forestry Programme: for £25 M (MFP-1; 2001 – 2006), £10 M (MFP-2; 2008 - 2014) and £ 10 M (MFP-3; 2014 – 2017). Of this, €50 M was expended during the period considered in this evaluation (2003-2014). However, the data provided in UK's response to the MS Survey adds-up to only €18.8 M.

Rough estimates by the Ministry of Environment and Forests provided during the field mission indicate that Gol contributions amount to an annual input of approximately 20 Billion Rps,¹⁶¹ equivalent to €1.5 M¹⁶², which would give a total investment, since 2002, of approximately €20 M. Like the UK, the data Indonesia returned in the VPA Survey totalled only €0.8 M, which seems low considering the investments made for SVLK certification of SMEs, among others.

The direct costs of SVLK certification (compulsory for most companies) are approximately Rps 30 – 40 M¹⁶³ per company; a company has to be re-audited every 1-2 years (at similar costs)¹⁶⁴. A group certification scheme has been introduced to manage costs for SMEs (at least 5 SMEs sharing a group). So far approximately 1,000 big companies have been certified and 2,350 SMEs (Gol subsidises certification of SMEs), with a **total estimated cost of €5 M**. Provided that another 10,000 SMEs would be certified using the group certification scheme, this would require an **additional €5 M every 1-2 years**. Indirect costs for SVLK certification are estimated to be at least another €10 M for these companies.

The cost for certification of concessions is estimated to be 300 M Rps/concession of 100,000 ha. Based on distribution of concession size an estimated **€15 M has been invested in certification of natural forest and an additional €10 M might be needed every 2 years for certification of plantation forest**. The above mentioned *direct certification costs* only refer to the audit costs. *Indirect certification costs* (i.e. cost for preparation of the company in order to reach a certifiable level) are generally estimated to be at least as high as the direct costs. There would thus have been required an **additional (one time) €25 M for indirect certification costs**.

Another issue with respect to funding is the Independent Monitoring system. The evaluation team estimates provisionally that a **few million euro** might be needed on an annual basis to allow for **effective Independent Monitoring**, in addition to funding needed to set-up the system.

The Anti-Corruption Unit (KPK) of Gol is working in a highly efficient way; although it has a limited number of staff dedicated to the timber sector, it works through a network of more than 200 local NGOs, increasing the number of informants in the field exponentially. In 2014 KPK focussed on the mining sector; considerable amounts of money were recovered from outstanding tax payment and fines issued to companies, due to which the national revenue increased with US \$ 3.4 billion, approximately equivalent to **€2,650 M**. In 2015, KPK focus is on the timber sector and expectations for national revenue recovery are high. Despite the KPK's relevance, there does not seem to be any formal cooperation between KPK and those who are representing the EC in delivering the FLEGT AP.

The export value of Indonesian wood-based (products) was US\$ 10 billion in 2013. Based on SVLK recognition and FLEGT licensing the Gol expects to increase that by US\$ 3 billion (equivalent to approximately **€2,500 M**). Another considerable increase in national revenue may be achieved due to KPK operations, provided its powers are not weakened.

In absence of more precise data, when comparing inputs provided to date and recurrent input required (for certification, system management and independent monitoring) with the size of potential output, investment in FLEGT can be rather cost-efficient.

161 In 2015 a total investment of Rps 30 Billion is foreseen by Gol.

162 Data from the VPA country survey should enable for a more precise cost estimation.

163 Equivalent to approximately € 2,000 to € 3,000 per company.

164 Large company: annual surveillance, certificate valid 3 years, smaller companies: certificate validity longer (6-10 years) and every 2 years surveillance.

H. FLEGT compared to other approaches

The following perceptions were shared by FLEGT stakeholders:

- According to FAO most funds for global forestry (from multiple sources) go into REDD+, with FLEGT in second position. REDD+ expenditure at FAO also exceeds that of FLEGT, followed by the remainder of the forestry related topics (many of which are reportedly rather underfunded and poorly addressed nowadays, partly due to the attention for REDD and FLEGT). The main contribution to FLEGT comes from the EU, but this has a strong forest governance improvement focus. REDD+ and FLEGT need improved governance conditions for achieving their objectives. Compared to REDD+ initiatives the achievements of FLEGT seem to be more significant so far.
- The FAO-FLEGT program has a broader scope and a particular focus on forest governance. The programme is flexible and fit to support governments and civil society to develop concrete solutions to specific FLEGT related problems. The new phase (III) will also pay attention to SMEs and is therefore considered to be of particular relevance. This funding mechanism is considered useful to enable concrete FLEGT related action on specified issues against a limited cost.
- There is an EC commitment to long-term support for the FLEGT/VPA processes, as long as there is commitment of the partner country, which is considered beneficial to the sustainability of the process. In comparison: “normal” forestry projects last 3-5 years, with a possibility of extension, but have to be “renegotiated”. The negotiation and implementation of “normal” trade agreements easily take 10 years as well, but they are generally less inclusive and transparent.
- It is difficult to compare a FLEGT investment of approximately €936 M over 12 years in 28 MS, 15 VPA countries and 31 non-VPA/non-MS countries with other investments like: (a) the WB Forest Investment Program, spending €420 M for eight pilot countries in four years on REDD+ projects (b) the Forest Carbon Partnership also spending €600 M since 2008 for development of a REDD+ system in 37 (sub)tropical countries (Readiness Fund) and assisting a smaller number of these countries with performance based emission reductions (Carbon Fund); (c) the Green Climate Fund counting with € 10 B in pledges. Although amounts may have a similar size, the problem is that the objectives and outcomes can hardly be compared. Yet these programs may differ with respect to e.g. co-financing strategies; the FIP for example has a budget of \$785 M for 22 countries of which it has assigned \$208 M to twelve (12) on-going country projects for which it expects a co-financing amount of \$742 M. This makes quite a difference with the FLEGT approach where co-financing seems to have been less Appendix 3.
- In DRC, Danzer reports (FLEGT Week, 2015) spending €1-2 M/year on certification of large concessions, for production of 70,000 m³ of timber (i.e. €14.3 - 28.6/m³) of which 10,000 m³ is destined for the EU market. The total EU import of tropical timber amounted to 3.5 M m³ in 2013¹⁶⁵. Based on their experience this volume could be FSC certified (SFM) at a cost of € 50 - 100 M/yr. In comparison, the costs of FLEGT (legal compliance) have been estimated at € 936 M, without FLEGT license so far. This comparison is based on certification costs for large-scale companies and does not take into consideration the sustainability of the wider governance effects achieved, considered by many the main achievements of FLEGT. Real costs would be higher as it would include many more clients than only one company. When the average annual costs would be taken as reference (€75 M/year x 12 years = € 900 M) and a factor 2 would be applied to cater for additional cost due to higher numbers of companies, total cost for SFM certification would be estimated at € 1.8 B, roughly twice as much as the cost for FLEGT.

¹⁶⁵ ITTO, 2015. “Baseline report of the Independent Market Monitoring Initiative”.

- A rate of return on investment of 25% is achieved in certification of big concessions in DRC, through healthier and better work force (PS, DRC).

5.9 Sustainability of FLEGT action

EQ9: How likely are FLEGT mechanisms, systems and positive impacts to be sustained and over what time frame? To what extent do the issues addressed by FLEGT interventions continue to require action at the EU level, and what could be the consequences of stopping the EU interventions? What factors and conditions foster sustainability of FLEGT results? What are the linkages, spin-offs or synergies of FLEGT action with wider multi-lateral processes, such as UNFF, international initiatives such as the US Lacey Act or REDD+ processes?

A. Sustainability of the FLEGT Action Plan

The FLEGT Action Plan has no timeline, no deadlines and no end-date; it states an ambition and is the starting point for a set of processes that are not well defined in time. It is worth noting that, in 2003, the FLEGT Action Plan was welcomed as *‘a first step to tackle the urgent issue of illegal logging and its associated trade in a collaborative and coordinated way with consumer and producer countries, the private sector and other stakeholders’* and was subordinated to higher objectives of ‘good governance’, ‘sustainable forest management’ and ‘sustainable development’.

After almost twelve years of implementation of the Action Plan, the sense of urgency that prevailed at the time has made way for more realism; there would not be any “quick fixes”. There were indeed expectations, at the time, that effective, technology-based solutions were at hand and would drive *ad hoc* improvements in legal and operative frameworks. In reality, it has taken ten years to only get many of the FLEGT processes properly on track. For some instruments, in particular the VPAs and the EUTR, implementation is only just starting. The early expectations were inspired in good part by the experience of monitoring mandates executed by private operators (inspection companies such as SGS) on behalf of governments¹⁶⁶; however, transposition of the concepts into ill-prepared public institutions proved to be an enormous challenge.

For an assessment of sustainability, it is useful to remember that (a) the EC was only authorised to start negotiating VPAs in 2005, (b) the first VPA (with Ghana) was signed in November 2009, (c) the EUTR was adopted in 2010, and (d) EUTR implementation began in 2013. There is wide realization, now, that such time-scale is relatively short, when compared to other political processes. The apparently slow progress of FLEGT can also be explained, in part, by the fact that the Action Plan was conceived as a political process that involves bilateral trade agreements. These inevitably take time to be concluded. A study of the process of negotiating new forestry laws¹⁶⁷ showed that, on average, almost a decade elapsed between when negotiations started and when the laws were finally approved. Likewise, it is common for even “standard” trade negotiations to take five to ten years to conclude, and at least as many more to achieve full effect.

FLEGT agendas, however, may well be less straightforward than “simple” trade agreements; some of the processes involved (in e.g. governance, technical and social matters) have turned out to be much more complex and demanding than anticipated, requiring considerable political will (lacking in some instances), capacity building, facilitation and institutional development. Some countries have openly

¹⁶⁶ Initially derived from Customs’ verification programmes applied to timber (export monitoring contracts in Cameroon (started 1994), PNG (1994), Congo (1995), and Central African Republic 1996) – which involved the tracking of barcoded logs, and from pilot projects (Indonesia, 2003) and broader forest monitoring mandates (Ecuador, 2003) that would later be followed by other mandates in Liberia (2008) and DRC (2010).

¹⁶⁷ In Bolivia, Costa Rica, Cameroon, and Indonesia (pers.comm.)

expressed their perception that they thought they had engaged in a trade agreement, but subsequently have been asked to address many governance as well as technical issues. Related to this, some countries – in particular in Africa – rushed into these agreements without having addressed some of the more fundamental issues underlying illegal logging and trade. There is not always full realization of the need to improve governance frameworks to some extent before enforcing them (a challenge that a phased approach to VPA implementation can help mitigate).

At the same time, long-term obligations have been generated in relation to the FLEGT and EUTR regulations and to the VPAs, such as participation in VPA Joint Implementation Committees - something that may not have been explicitly foreseen at the time of the conception of the Action Plan – which make the question of sustainability of FLEGT/VPA's all the more relevant. Findings of this evaluation suggest that implementation of the Action Plan should indeed be regarded as a long-term process that must be given more time, in order to consolidate initial promising outcomes while improving its overall effectiveness, performance and, eventually its sustainability.

The reform processes, development of institutions and build-up of people's capacities that are required for the proper functioning the VPAs – including FLEGT licensing - are long-term processes. For this reason, the evaluation points to a need for alternative strategies that would allow for achievement of more tangible results on a shorter term. Such strategies may include initial simplification through phasing, delegation or subcontracting of public services with long-term transfer of capacity, and other alternative models like combining government control and private certification. Otherwise, sustainability of the VPA processes (i.e. of the corresponding efforts, before tangible outcomes are even obtained) seems to be at risk.

Internal (EU) sustainability of the process is also essential. On the part of the EU, such commitment is expressed in the General Union Environment Action Programme to 2020 (GUEAP) 'Living well, within the limits of our planet'¹⁶⁸. With regard to FLEGT, Priority Objective 9 states that '*the Union's effectiveness in addressing international environmental and climate-related challenges is to be increased*'. The GUEAP also commits the EU and MS to long-term support for the implementation of VPAs and the EUTR.

Lastly, other factors such as a stronger forestry sector and greater competitiveness of wood as a raw material, by increasing the market share of wood-based products against other materials, the sector's attractiveness for investors, the good image of wood in the public, and ultimately the value of forest land against competing land uses, will also enhance the sustainability of the FLEGT process. Increased and clearer institutional promotion of wood as a renewable, sustainable fuel, and of timber as a (economically, technically, socially and environmentally) competitive material is needed (for example the use of timber as a green and climate-friendly building material), in a fair competition with other materials (that are not submitted to the same legality constraints and whose image has not suffered from the type of negative publicity on illegal timber that has surrounded some FLEGT/VPA actions).

B. Sustainable and unsustainable outcomes

FLEGT appears to have already resulted in several transformations, in both timber producer and consumer countries as well as globally, some of which are likely to be sustainable (unlikely to be reversed) even in the absence of continued EU FLEGT action, though always requiring continued enforcement or activation to maintain momentum. The Trade element in FLEGT also links progress to trade mechanisms and procedures, rendering progress less subject to the vicissitudes of political will. Improvements in forest governance - like in some countries making forest concession and permit allocation processes more transparent - can never be taken for granted, however they tend

¹⁶⁸ <http://ec.europa.eu/environment/action-programme/>

to form a general positive trend on the long-term, as the levels of transparency and accountability increase. “Things that work” more easily become good habits. Many examples of backsliding¹⁶⁹ have in fact proved to be reversible.

Developmental elements of FLEGT have – alongside other factors, in many instances started having effects on people, organisations and societies in developing and emerging countries – this is a clear outcome of multi-stakeholder processes in VPA countries, in particular, generating an appetite for more ethical and responsible behaviour and creating virtuous momentums that are likely to be sustained with or without external (EU) support. The natural allies of reform include forest communities, the media, spiritual leaders, and environmental and development NGOs, as well as reform-minded bureaucrats. In this regard, it is considered essential for the EU to maintain and strengthen its support to domestic reformers, through funding, capacity building and other support.

In the international arena, the EU has sent out clear signals that it takes issues of forest legality and governance seriously. These signals were sufficient to bring many countries to the table and engage in unprecedented negotiations. FLEGT has thereby given an important momentum to international processes – reaching a “critical mass” of followers through action on multiple fronts - of putting illegal logging (previously a taboo theme) on political agendas in various fora, including UNFF (non-legally binding instruments to including forest governance and trade) and ITTO; the latest International Tropical Timber Agreement 2006, entered into force in December 2011, explicitly agreeing on promoting Trade in tropical timber from sustainably managed and legally harvested forests. The EU is funding the ENPI FLEG Programme in Russia and 6 other countries (see Russia AM). At the same time, linkages with other international initiatives such as the US Lacey Act or the REDD+ (UN and WB) mechanism have been successfully promoted.

Action undertaken at the multi-lateral level, such as the Asia Europe Meeting 2012 (ASEM), has also helped include illegal logging as a key topic on the agenda. Equally importantly, FLEGT has been mainstreamed into the agenda of many bilateral high-level dialogues, including those with major producer and consumer countries such as Russia, Japan and China. These countries have all started to take steps in favour of FLEGT, and a sustained commitment of the EU will be required to arrive at more substantial, tangible and sustainable action and impacts. Acknowledging that VPAs, as ‘ad-hoc instruments’ have high transaction costs, FLEGT concerns are being integrated in FTAs as well. VPAs and specific FLEGT tools - traceability, legality verification - can be used to strengthen the forestry components of a FTA and play a role in showing that the forest sector is well “under control”; however political processes have their vicissitudes, and there is likely to be reluctance of some of the parties in the negotiation of trade/multilateral frameworks to adopt measures that may harm commercial business interests, resulting in a preferences for voluntary measures.

Despite sustainable achievements on several fronts, some key expected ‘outputs’ have not been achieved yet, especially in VPAs and under the EUTR. Also, many of the gains have so far been “on paper” only, or still represent “procedural” rights, and need to be implemented in current practice.

The first table below presents examples of FLEGT outcomes (mechanisms, systems and impacts) in the various Action Areas and related initiatives that are likely to be sustainable, and identifies factors and conditions that foster their sustainability.

¹⁶⁹ E.g. the Russian Forest Code 2007, abuse of PUP permits in Liberia (2012), Indonesia’s relaxation plan for the timber legality verification system (SVLK) certification on 15 downstream products of timber including furniture (October 2015 - www.thejakartapost.com/news/2015/10/13/relaxing-timber-rules-raises-fears-forest-governance.html).

Table 5: Factors and conditions supporting sustainability of FLEGT processes and outcomes

Sustainable outcomes of FLEGT and related initiatives	Fostering factors and conditions
<p>Overall EU FLEGT Action Plan implementation in progress (incl. VPAs, EUTR) and EU leadership and influence in this field</p>	<p>High-level political commitment of EU has been sufficient to bring many countries to the table and engage in unprecedented (VPA) negotiations.</p> <p>There is an urgent need of “success stories” in VPAs, or failing VPAs risk undermining EU leadership. Well-planned phased implementation seems to be a possible way forward.</p> <p>For China and other major consumers to develop an EUTR type of mechanism, it may be necessary for the EU to sustain its leadership in this field and strengthen alliances.</p>
<p>Improvements in general governance induced by FLEGT, leading to more stable and functioning institutions, laws, regulations and procedures, including to judicial system</p>	<p>Efficient, inclusive and transparent reform processes, national consensus</p> <p>Political will</p> <p>Political and social stability</p>
<p>Forest governance processes in place, for allocating titles and collecting revenues, among others</p>	<p>As above, under specific FLEGT action</p>
<p>FLEGT outcomes in specific action areas: Public procurement, Private sector initiatives, Finance and investment safeguards, Use of existing EU, MS or international legislative instruments</p>	<p>Self-sustained mechanisms</p>
<p>EUTR: prohibition to place illegally harvested timber on the EU market, implementation of EUTR Due Diligence systems by operators; legality becomes more a reflex for operators</p>	<p>Regulation (EUTR), guidance</p> <p>Effective implementation, balanced across MS.</p>
<p>Linkages or synergies with bi-/multi-lateral processes: inclusion of Illegal Logging as a key topic in international fora; FTAs (where VPAs, TLASs, recognized as enabling conditions)</p>	<p>EU engagement (“global FLEGT”) and action at multilateral level, (e.g. Asia Europe Meeting);</p> <p>Use of high-level bilateral dialogues on environment, with China, India, Japan, Korea, among others ;</p> <p>Mainstream FLEGT agenda in FTAs; integrate VPAs with FTAs (reducing high transaction costs of ad-hoc instrument)</p>
<p>Linkages or synergies with international initiatives: other countries’ legality verification systems (US Lacey, Australia Illegal logging prohibition Act, Japan Goho Wood, China</p>	<p>Experience sharing, harmonisation of approaches;</p> <p>Common trade intelligence data platforms;</p> <p>Ensuring that international processes and initiatives reinforce FLEGT, do not weaken it or</p>

LVS...); UN-REDD+, ...	divert attention away from it (climate change/REDD+, use of biomass, land conversion and deforestation, rights to land and resources); Coordination between the FLEGT and REDD communities and interfacing of data systems
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The second table identifies FLEGT outcomes (mechanisms, systems and impacts) in the various Action Areas that are not (yet) considered to be sustainable - and would be compromised if EU FLEGT support action stopped - and the factors and conditions that could foster their sustainability. Possible consequences of a discontinuation of support would be the absence of FLEGT licenses, a loss of VPA momentum and gains, a collapse of TLAS systems, and a decrease in support for FLEGT/T action globally, among others.

Unsustainable outcomes of FLEGT and related initiatives	Fostering factors and conditions
Non-functioning or malfunctioning TLAS, or specific components of TLAS, in some VPA and other FLEGT countries	No-longer such a holistic approach to Legality and Traceability (as currently followed) Phased implementation of VPA, with clear milestones and timeframe Development of workable tools involving future users Access to systems for all (esp. private sector) users
VPAs, if FLEGT licensing is not put in place or not envisaged within a set timeframe	Creating and maintaining momentum: tangible incentives, political will, national consensus among key stakeholder groups, improved governance (i.e. institutional / legal / policing / enforcement etc.) frameworks
Trade – Weak implementation and circumvention of EUTR	Effective, consistent enforcement in EU MS Online EUTR Due Diligence information resources Official response centres in producing countries (to EUTR Due Diligence) on the validity of government documents, copying EU CA on reply
Trade – Multilateral frameworks (linkages, synergies with UNFF, ITTA, FTAs) due to general reluctance to adopt measures that may harm commercial business interests; preference for voluntary measures	Maintaining momentum for legal and sustainable timber trade, and keeping it high on political agendas Addressing informal domestic market issue across policy areas; Pursuing legally binding agreements in UNFF meetings Use of FTAs and PCAs (e.g. with Russia) for increased cooperation on illegal timber production and trade Use of TLAS-like tools to strengthen FTAs in forestry sector

5.10 Coherence and EU value added

EQ10: How have coherence and complementarity for FLEGT been pursued, to what extent have FLEGT measures complemented, duplicated or contradicted other EC, MS and other donor policies, strategies and programmes, and how have interferences been handled? To what extent does the EU action under the EU FLEGT Action Plan add value to what would have resulted from Member States' interventions in the same context?

A. Coherence

FLEGT is considered by many stakeholders as an outstanding example of EU policy coherence, of collaboration and of added-value between participating MS and the Commission, and also of complementarity between geographic and thematic instruments. This derives from FLEGT's integration of development and environmental policies, its cross-sectoral approaches and the use of trade mechanisms in support of these policies and actions. A unique and innovative aspect of FLEGT coherence is the importance of "domestic" action. Indeed, FLEGT largely grew out of recognition that European consumers, companies, banks, and governments had, either consciously or inadvertently, become directly complicit in illegal activities. Europe itself has been called into question and had to change. Hence, FLEGT is not only about environment, development and trade, but is also concerned with issues like procurement, money laundering, lending for illegal activities, and public awareness in Europe, issues that cannot simply be dealt with through development cooperation only.

The analysis below is structured as follows: first, a general assessment of horizontal and vertical coherence is made (horizontal coherence concerns the relation between FLEGT and other EU policies and principles; vertical coherence assesses the relation between FLEGT and international frameworks against illegal logging). Then three specific relevant issues are looked into in more detail: deforestation from land conversion, REDD+ and the trade dimension. The subsequent section then deals with the question of Community Added Value. Finally, conclusions and recommendations based on the previous analysis are presented.

Vertical and horizontal coherence

With respect to coherence with other EU policies, the FLEGT AP is considered to be in line with EU higher objectives and high-level policies, and largely coherent with other EU and international policies and principles as well. Other high-level EU policies consistent with, and in some cases mutually supportive of FLEGT include:

1. Sustainable development in third countries, whereby FLEGT has made use of the 10th (now 11th) European Development Fund (EDF) which includes Sustainable Development provisions¹⁷⁰. FLEGT is also in line with EU's involvement with the UN Sustainable Development Goals (SDGs)¹⁷¹.
2. Environmental protection, including the fight against climate change. In this respect, the 7th Environmental Action Plan¹⁷² explicitly refers to FLEGT VPAs and EUTR, and to the EU Responsible Business Initiative¹⁷³ for forest logging companies, and it considers the

¹⁷⁰ For 10th EDF: Art. 1 of Council Regulation (EC) No 617/2007; for 11th EDF: Recital 15.

¹⁷¹ Among the 17 SDGs, approved on 25 September 2015 by the UN General Assembly, is Goal 15: *Sustainably manage forests, combat desertification, halt and reverse land degradation, halt biodiversity loss* (Website: www.un.org/sustainabledevelopment/sustainable-development-goals/). The EU is an observer state at the UN. It itself does not have voting rights but it is represented alongside its 28 members, two of which are permanent members of the Security Council (France, UK) and have veto rights.

¹⁷² Annex to DECISION No 1386/2013/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet'.

¹⁷³ Actually referring to the EC Accounting and Transparency Directives.

development of an EU action plan on deforestation and forest degradation¹⁷⁴. As for EU climate change policies, FLEGT is broadly consistent with them, especially considering synergies that can be obtained with REDD+ (see below). However, it is sometimes questioned whether EU is giving enough priority to forests, in view of the role tropical forests play in addressing pressing environmental problems, especially climate change, and in the context of a crucial year for global environmental action (The Prince Charities, 2015);

3. Promotion of fair trade and a social market economy, in line with the broad Europe 2020 Strategy for smart, sustainable and inclusive growth.

Weaknesses in terms of horizontal coherence concern a more effective integration of FLEGT with:

1. Green Public Procurement policies, at EU, national and local levels;
2. Free Trade Agreements (FTAs), as far as they cover, or should cover, the forestry sector;
3. EIB action (as foreseen in the FLEGT AP, at p.18); as far as its resources are not invested in natural forests in tropical countries.

It is also fair to mention that, even though the assessment of horizontal coherence is broadly positive, aspects of implementation and coordination could still be improved.

In terms of coherence with the international frameworks, FLEGT also has a good track record of acting as a model and a push factor for international policies against illegal logging, as has been found in several examples (latest UN declaration against illegal logging¹⁷⁵, UN REDD+ (see further below), and development of other national anti-illegal logging regulations such as Australia's Illegal Logging Prohibition Act (2012) or Japan's draft legislation that are said to be built around the EUTR).

A particular weakness, in terms of vertical coherence, is that by entrusting definition of legality to national legislation in producer countries for both EUTR and VPA, the EU may not keep up with its own international commitments. In the absence of an international law on forests, reference to the national laws has resulted from the fundamental principle of national sovereignty of the producing country in FLEGT. While this is a key value in the FLEGT approach, which contributes to national ownership, sustainability and more effective enforcement of FLEGT at local level, it also creates potential deficiencies, especially with regards to human rights, labour rights and, in particular, to the protection of indigenous communities. Such deficiencies contravene EU policy and legislation¹⁷⁶ and the FLEGT AP's own commitments¹⁷⁷.

The situation of the integration of human rights in VPAs is diverse *as the experimentalist design of FLEGT allows for tailor-made approaches and adaptation to local needs*. However *"concluding a VPA (...) may pose a problem to the credibility of the EU as a human rights actor if the resulting VPA were not to adequately address some existing human rights concerns"*. *"...explicit language making*

¹⁷⁴ Though this is under the angle of the environmental impact of EU food consumption, which is outside FLEGT's perimeter.

¹⁷⁵ Resolution 23/1 - Strengthening a targeted [...] response to combat illicit trafficking in forest products, including timber, by The Commission on Crime Prevention and Criminal Justice established by the UN Office of Drugs and Crime

¹⁷⁶ "The Lisbon Treaty (...) made it a legal requirement for all relevant EU institutions and bodies to ensure that *trade and development* are a positive force for human rights. (...) Human rights are channelled into trade policies through two types of instruments: unilateral and bilateral. Unilateral trade measures ... (ii) place restrictions on the trade in certain goods that have been detrimental to human rights. (...) recent measures relating to (...) international forest management have been increasingly silent on this issue". (FRAME, 2014, Report on the integration of human rights in EU development and trade policies, in: Executive Summary.).

¹⁷⁷ "Mindful of its commitment to sustainable development (...) the EU intends to put forward 'equitable and just solutions to the illegal logging problem which do not have an adverse impact on poor people (...)'. The reason behind this commitment is explicitly grounded in the EU's proclaimed intent to promote human rights. Indeed, almost a decade before the all-encompassing Strategic Framework for Human Rights would be adopted, the EU had already acknowledged that 'in some forest-rich countries, the corruption fuelled by profits from illegal logging has grown to such an extent that it is undermining (...) respect for human rights'. (Ibid, in (a) Forest Law Enforcement, Governance and Trade (FLEGT), p.50)

respect for human rights (...) an 'essential element' - (...) so that human rights violations of a certain scale (...) could amount to a material breach of the treaty and justify suspension or other counter-measures" - is not included in the VPAs.¹⁷⁸

The situation is worse when, in principle, the national legal framework does recognise certain rights but these are not applied in practice. In such case, a VPA legality grid may be in contrast with both EU international commitments and national legislation. In such situation, though, it would still be possible to use FLEGT to promote respect of human rights without changing its basic approach.¹⁷⁹ The exclusion of the respective matter from the current definition of the 'applicable legislation' in EUTR (Art. 2, para. h) may increase the lack of consistency with VPAs¹⁸⁰.

In that regard, there is a case for "a fully integrated and systematic approach (...) to legality in timber (...) supply chains entering the EU", as an international NGO suggested (see France AM). At the same time, however, such comprehensiveness of legality standards for FLEGT would speak in favour of using a phased approach to implementation of the VPAs, instead of a comprehensive legality standard risking to become an obstacle to progress in VPA processes (as is already the case with complex approaches to legality definitions – see Cote d'Ivoire AM and Vol. 2).

Deforestation from land conversion

As described in Chapter 5.1 (Relevance), there is increasing concern over the perceived contradiction between pursuance of FLEGT's environmental objectives and other EU policies, in particular with regard to the phenomenon of *deforestation*. The concern is mostly over the clearance of tropical forests for the industrial production of agricultural commodities (e.g. soy, beef, leather, oil palm, sugarcane for biofuels), which is partly driven by consumption in the EU. The issue of forest conversion was not explicitly addressed in the original design of FLEGT and is now undermining some of its progress and changing perceptions of its relevance.

The conversion of forest to agriculture can be legal or illegal. By design, FLEGT cannot do much about deforestation from *illegal* conversion. At best, the TLAS in a VPA country can prevent associated illegal timber from reaching the market, but this will not prevent the illegal land clearing and conversion, as the perpetrators can just burn the trees. *Legal* conversion, on the other hand, cannot be so easily addressed through FLEGT, because the law of the VPA country is the basis for the TLAS, and approval of conversion projects is a sovereign matter¹⁸¹. Furthermore, these issues relate more specifically to agriculture and land use, while in most countries FLEGT's mandate is not perceived as reaching beyond the forest sector. One thing FLEGT could do better, to reduce deforestation, would be to add charcoal – the production of which is an important cause for deforestation and forest degradation (through the overexploitation of small trees) - to the scope of products subject to the EUTR (whereas fuel wood is included).

A lack of coherence may also come from conflicts of ministerial agendas in the producing country like "agriculture vs. forestry" (ref. Ivory Coast Aide Memoire). This calls for increased coherence and coordination of governmental action, which the EU may be in a position to help promote, including

¹⁷⁸ Ibid., p.53, p.64.

¹⁷⁹ E.g. in Indonesia, the Constitutional Court ruling that the state has no authority to allocate land which is subject to customary rights might generate further progress if implemented with robust safeguards nationwide (particularly in the most autonomous regions). Until recently, most land subject to logging or clearance had not been gazetted. A number of donors (including from the EU, implicitly under the FLEGT Action Plan) are contributing to efforts to map and gazette indigenous people's land across Indonesia.

¹⁸⁰ The rights of indigenous communities, however, are in fact represented in the 'applicable legislation' through "third parties' legal rights concerning use and tenure that are affected by timber harvesting".

¹⁸¹ In some cases, however, official approval of conversion projects may be "legally" obtained though in contradiction with the law or for alternative land use projects that will never materialize and are only excuses for obtaining logging rights. Significant volumes of timber are said to originate from that "grey area", where approval may give rise to illicit facilitation payments to corrupt officials. In this regard, the application of the EC Accounting and Transparency Directives can increase policy coherence.

through FLEGT and other donors' action across interlinked policy areas (forestry, environment and climate, agriculture, mining, economy, urbanisation etc.). This might require an overarching national policy on land and natural resource management.

Still, FLEGT/VPAs may contribute to addressing forest conversion challenges in different ways:

1. FLEGT helps improving governance in general, through bilateral and multi-stakeholder dialogues on forest sector issues, encouraging forest sector policy and law reforms that may - or otherwise should - address illegal conversion practice;
2. In VPA negotiation processes, depending on the legality definition agreed by VPA stakeholders, the legality system may or may not include indicators and verifiers that can identify the illegal conversion of forests. If not, legality definitions are not static and can be reviewed/ amended to incorporate additional issues;
3. Traceability and field checks, as part of the TLAS, can detect transport and delivery of timber from illegal conversion to the export and domestic markets;
4. FLEGT action/VPAs can strengthen REDD+ processes, which may be a more appropriate instrument to address deforestation challenges (see next section). FLEGT and REDD+ processes are interdependent, complementary and generate mutual benefits. Also, because a TLAS currently only 'controls' forests in relation to logging activity, *via* the trade element, a new area for FLEGT action in VPA countries could be to contribute to objectives of forest and environmental surveillance (through relevant field checking activities deployed under the TLAS), including in relation to reforestation plans under REDD+;
5. Lastly, better-governed forest sectors, thanks to FLEGT, producing better-valued timber and other possible "benefits from forests", result in increasing profits, revenues and public/private investment. The promotion of forestry as a more competitive form of land use, with fair redistribution of benefits to communities, can help reduce pressures for forest conversion.

Some NGOs call for inclusion of other commodities in FLEGT, or for an EU Action Plan on deforestation. Indications, however, are that the agricultural sector may not easily accept subjecting agricultural products to licensing schemes (VPAs) or to a regulation adapted from the EUTR; this might also confuse the FLEGT message and introduce a lack of focus.

REDD+

Reduced Emissions from Deforestation and Forest Degradation (REDD+) is an international climate change mitigation instrument developed under the UN Framework Convention on Climate Change (UNFCCC). REDD became formal at the UNFCCC COP13 in Bali in 2007 and acquired its "+" (relating to the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries) at COP 16 in Cancun in 2010. Thus, its development has overlapped with FLEGT Action Plan implementation. In some countries, the advent of REDD+, which counts with considerably greater funding, has somehow steered away attention from the government and civil society stakeholders from FLEGT VPA processes, and delayed progress.

An overview of VPA countries and REDD+ activities is provided in a table in **Appendix 4**. It shows how all of the 15 countries with a VPA or negotiating with the EU also have some major REDD+ funding.

There is broad agreement on the convergence of interests and potential synergy between FLEGT and REDD+, although the two policies actually originate from very different contexts and follow different approaches; they also both rely on (timber / carbon credit) market incentives. While FLEGT aims to ensure that timber is produced in accordance with the laws of a country, using access to the international market as an incentive, REDD+ uses performance-based payments that reward verified reductions in rates of deforestation and forest degradation (it is worth noting that obtaining REDD+

finance also requires attention to aspects such as credibility, traceability, social and governance safeguards, as well as independent verification, that are relevant to FLEGT).

Experience in recent years suggests that the two approaches are indeed complementary. The initial attempts to implement REDD+ have shown that it is practically impossible to make progress on REDD+ without addressing issues of property rights, conflict, and rule of law, in other words 'legality and governance' issues, that are among the main (expected) achievements of FLEGT – in that sense FLEGT actions can be regarded as prerequisites to REDD+. In some cases the VPA is in fact meeting a pre-condition and adding value to REDD+ development and related payments, to the point that EU FLEGT is essentially seen as a 'REDD+ enabling activity' (Guyana). On the other hand, REDD+ re-emphasises the fact that timber is only a minor part of the story of forest destruction and land conflict in forested regions and that agriculture is often a more important driver of deforestation than logging. To increase coherence, any new forest initiative would therefore need to take both agricultural development and climate-related issues into consideration to a greater extent than the EU FLEGT Action Plan does. New, more integrated approaches should be considered, however this is an area that largely remains to be explored.

In terms of operational linkages, there is a case for linking the information systems operating respectively under FLEGT (the forest sector monitoring and wood tracking system in TLAS) and REDD+ (the National Forest Monitoring Systems - NFMS - which countries that implement REDD+ are requested to establish), with a view to supporting the generation of verified, legal and traceable carbon credits¹⁸² under REDD+. Such linkage would create synergies between the two initiatives, in countries that both enter into a VPA and establish a national REDD+ programme. In Guyana, such synergy is already being created, to some extent. Linkages between TLAS and NFMS implementation are possible in relation to many areas, such as institutions, policy development, legislative and regulatory frameworks, operational implementation for reporting and control (i.e., methodology, data gathering and processing), and compliance. Operational linkages can be established in several components: national inventory, monitoring, verification and reporting. A potential benefit from integrating TLAS and NFMS is that "reduced emissions could be traced back to their source, just as timber is traced to its place of harvest for FLEGT. This would help validate these emission reductions and qualify them as tradeable carbon credits, where relevant"¹⁸³.

On the ground, the REDD+ activities in all VPA countries already create synergies between TLAS and NFMS, especially given the importance that most major funders of REDD+ place on the system-wide effects of REDD+ implementation. EFI, for its part, already has an integrated FLEGT and REDD unit that is pursuing the integration of the two mechanisms at the policy level for REDD+.

An example of concrete REDD action against deforestation has been observed in Cote d'Ivoire where a system of compensation in the form of payments for ecosystem services (PES) to farmers for conserving the trees on their land is being developed¹⁸⁴.

Trade dimension

Another coherence dimension concerns the levers that the Commission uses to promote sustainable trade. FLEGT, like forestry in general, seems to be in a relatively weak position due to limited visibility and the absence of an international convention against illegal logging. An international NGO

¹⁸² I.e. tradable credits from greenhouse gas (GHG) Emission Reductions through avoided deforestation and forest degradation or enhanced removals of emissions from forests (for example, by increasing carbon stocks through sustainable management). The measurement protocols are determined by the country but the UNFCCC decisions and IPCC Guidelines shape the general design. (Source: ETFRN News issue 55, 'Linking FLEGT and REDD+ to improve forest governance', 2014)

¹⁸³ ETFRN News issue 55, 'Linking FLEGT and REDD+ to improve forest governance', 2014

¹⁸⁴ The national REDD+ Coordination unit and the EFI REDD Facility responsible for this development are also working with all sectors involved in the "consumption of forests" in liaison with the national FLEGT Coordination unit and the Forest & Water Ministry.

notes: “though elements could be incorporated in trade agreements, forestry is often excluded from FTAs”. This would be due to challenges such as integrating the significant informal timber sector prevailing in many producer countries, making the inclusion of forestry a potential problem. As a case in point, the VPA is only marginally regarded as a “positive element” in favour of a bilateral trade agreement with Indonesia¹⁸⁵. Probably for similar reasons, a global agreement on forests under UNFF is being resisted by some countries.

B. EU Added Value

As recently restated by the Commission in the new Better Regulation Guidelines¹⁸⁶, assessing the EU added value means identifying changes which are due to EU intervention, as opposed as to other factors, such as (factual or counter-factual) national policies or market mechanisms. In practice, it requires verifying whether the EU intervention is the only way to get results (effectiveness); whether it offers the best value for money (efficiency), and whether it create synergies compared to other interventions (coherence). The EU FLEGT Action Plan adds value in the three following dimensions, with some reservations or under certain conditions:

1. In the context of the ‘T’ for ‘Trade’ in FLEGT (i.e. using legality as a condition for market access under VPA/EUTR), the Union has much greater tropical timber market leverage than any individual MS. Still, the EU market for timber must remain attractive, or trade flows may be diverted to less demanding markets, a concern of the FLEGT Action Plan itself. To defend EU market share and prices, measures in support of a strong forestry sector and a competitive timber material must be promoted more strongly in the EU (for example, timber as a green and climate-friendly building material), in fair competition with other materials (that are not submitted to the same legality constraints and whose image has not suffered from the same negative noise about legality issues).
2. FLEGT provides a platform for better coordination of EU and MS development aid to the forest sector in tropical countries. This generates efficiency gains, due to coordinated action, synergies between programmes and economies of scale, centralized management, reduced duplication and pooling of resources. For these gains to materialise, good coordination and proper implementation are required at all levels and among all programmes and donors. However, some negative feedback emerged in a few examples from the surveys and field visits¹⁸⁷. In particular, EU Added value is limited by the reported fact that not all, if not few, MSs, do participate actively in implementation of the FLEGT Action Plan (apart from the EUTR, which is indeed a binding instrument).

The Member State Survey found that few MS are active in Action Area 1 (Support to producing countries) - seven of the responding MS. This may raise concern about the ‘punching power’ of the Action Plan in producing countries. This is however considered to be “quite a lot”, by some, when considering the limited number of MS that finance ODA. The involvement in Action Area 5 (Finance and Investment) is very low, mainly due to not knowing how to deal with the topic. Action Area 7 (conflict timber) is another area that has not seen much involvement, again, since – as the responding MS indicate – they do not know how to deal with this topic. The overall picture of involvement shows a rather

185 Personal communication, European Commission.

186 Commission Staff Working Document, Better Regulation Guidelines, 19.5.2015, SWD(2015)111. See in particular the Better Regulation Toolbox annexed to the Guidelines, and pp. 274 and ff.

187 E.g. duplication of studies (Bosnia); donor coordination not maximal (Ivory Coast); lack of coordination between DGs on a conflict timber issue (Liberia?); Competent Authority in France located within ministry of agriculture but DG Agriculture in Brussels is little involved in FLEGT (France); a complaint that some MS work on their own (survey).

scattered involvement and raises the question whether it is a full-fledged EU Action Plan or more of an Action Plan of some of the MS.

3. The EU has a heavier political and diplomatic weight than any individual MS in the international forestry and timber trade arena. Furthermore, some MSs might not have been very vocal against illegal logging, if not because of FLEGT/EUTR. Still, the EU can exercise a stronger political influence on other key countries like China. This 'would also depend on EU institutions capacities to be "more than the sum of their components" .



Photo 1: Timber products (chonta dura) confiscated at a road block of environmental authorities, for reason of lack of supporting transport documents (Colombia, July 2015)

Credits: Ernst Paul Zambon

6 CONCLUSIONS AND RECOMMENDATIONS

In this final chapter, we present the main conclusions and recommendations, based on a synthesis of the conclusions and recommendations as they have emerged in the course of the evaluation and described in previous chapters. They are presented by evaluation criteria and evaluation questions.

For the purpose of formulating recommendations, all partial recommendations emerging in different sections of the report were grouped, and the common denominators identified. This would allow for formulation of the main recommendations emerging from the evaluation.

Some recommendations are specifically linked to an evaluation question or action area; others are crosscutting recommendations that emerge from various parts of the analysis, across evaluation questions and Action Areas. This is e.g. the case for communication, or for involvement of the private sector. Other recommendations again have emerged from the separate analysis of VPA and other Producer Countries, as presented in Annex 7 (in Volume 2).

In the presentation of the recommendations, a distinction is made between policy level and operational level recommendations. While the first set of recommendations primarily target the policy makers and the general public, the second set more specifically target those involved in FLEGT implementation or in the design of future FLEGT action.

6.1 Conclusions

On relevance of the EU FLEGT Action Plan

FLEGT responded in an innovative manner to the main concerns of the international forest sector at the turn of the century, and thus in 2003, the Action Plan was highly relevant. Despite slow progress on some fronts, discussed in chapter 5.3, there is still broad support for FLEGT across EU and VPA country government institutions, CSOs and the private sector, and for maintaining Law Enforcement, Governance and Trade as key pillars.

At the same time, developments in FLEGT's global context argue for some revision of the Action Plan's original strategies. Three developments stand out, namely: (a) EU's role in timber trade has declined and domestic and regional markets for timber and fuel wood are increasingly important; the EU's trade leverage has declined; (b) the problem of illegal logging has been overtaken by the growing trend in the permanent conversion of forests to agriculture or mining – developments which are sometimes considered to be illegal; (c) EU and global commitments have shifted towards addressing climate change, global deforestation and forest degradation, and there is increasing recognition of a role for the private sector.

FLEGT can make an important contribution to global actions to reduce deforestation (and forest degradation) through the platforms for dialogue, the capacities and the systems built under FLEGT, but cannot solve these challenges alone; broader action involving all sectors impacting on land use, including greater integration with REDD+ efforts, would be required to effectively combat global deforestation.

On Design of the FLEGT Action Plan

The design is considered to be 'present and future-proof', provided that a number of shifts in focus is made in *operationalization and implementation* of the Plan, with a more balanced distribution of attention and support to those countries that are relevant in the combat against illegal logging and related trade, including some VPA countries and non-VPA countries like Russia, China and countries at the EU eastern periphery. This means that besides AA1 - Support to producer countries and AA2.3 - VPA processes, more attention is needed for AA2.2 - Dialogue and international collaboration and for the use of non-ODA instruments to support these (non-VPA) countries in their efforts to combat illegal logging and trade.

VPA-specific issues that deserve more attention include the inclusion of timber coming from illegal conversion, and the inclusion of the domestic markets and exports to all countries in VPA scopes.

An element that has received little attention, considering the importance of the initiative, is strategic communication. This has contributed to confusion among stakeholders about objectives and strategies of the Action Plan and about its instruments (notably FLEGT licenses, the VPA and its process, and the EUTR and its requirements) and limited the Action Plan's impact, both within and beyond the forestry sector.

On Effectiveness of FLEGT Action

The FLEGT Action Plan is effective in terms of some of its direct objectives: it has contributed to improved forest governance globally and probably contributed to a reduced European demand for and imports of illegal timber. The degree of effectiveness achieved in each of the Action Areas however, is highly variable. One Action Area in particular (Trade in Timber) is found to be less effective, essentially due to the difficulties encountered in producing FLEGT-licensed timber. Some areas have received little attention (AA 5, 6 and 7) and their effectiveness is more difficult to assess. Hereafter, based on the analysis provided in chapter four, conclusions and recommendations related to each of the Action Areas are made, aimed at enhancing overall effectiveness of the EU FLEGT Action Plan.

AA1: Support to producer countries

The initiatives developed to support producer countries have, overall, produced good results, especially in terms of increased transparency. The pursuit of equitable and just solutions and capacity building are also effectively contributing to improved governance. Results are clearly less convincing in the field of policy reform, which often lacks implementation, and of legality verification.

The space provided under FLEGT-VPAs for multi-stakeholder participation processes and platforms, is particularly successful and this has contributed to general recognition – by all stakeholder groups - that illegal logging is a real issue; a weakness is the limited involvement of the private sector, in particular in producer countries. It is partly due to the difficulty to deal with a sector that does not have one single interest and is generally speaking weakly organised. In some cases, efforts to reach out to this sector have been minor as the PS was expected to engage in the process by itself.

In most VPA countries, at least the larger companies were very supportive and sometimes pushed governments to engage in the VPA process. However, the perceived lack of consideration of their own traceability systems for national Wood Tracking Systems and the repeated delays in due dates for delivery of FLEGT licenses have reduced their interest. At the same time, smaller industrial companies have often been left outside VPA processes; in Congo, for example, the small national industrial companies started to be targeted by the EU-FAO FLEGT programme in 2014 only. Successful implementation of VPAs will require more targeted support for weaker actors involved in managing timber resources (smallholders, SMEs, independent operators in the “informal” sector) and for the development of appropriate verification systems (including WTS, compliance verification and independent audit). The role of in-country facilitation in producer countries was found to be crucial and such support should be provided more consistently across VPA countries.

Since improved forest governance is considered to be a specific FLEGT objective, and is an area that has received most attention and funding, a more detailed account of what has been achieved is given in chapter 5.5 (achievement of FLEGT objectives), based on analysis of findings of the country visits.

AA2: Trade in Timber

Overall, over the implementation period evaluated, the initiatives developed with regard to trade in timber have not been very effective, with the exception of the development and introduction of the EU Timber Regulation and – to some extent - the development of bilateral dialogues.

International cooperation activities and bilateral dialogues in particular, are effectively contributing to important outcomes, such as support for EUTR-like legislation in other major timber-consuming countries. Still, stronger collaboration and effective partnerships of the EU with major timber consuming countries, including China, Japan, South Korea and India, are required for more effective reduction in the trade in illegal timber at the global level. It should be kept in mind that some of these countries are influential players in the region and worldwide, with large scale direct imports from VPA countries such as Malaysia and Indonesia. During the last decade, activities in a multilateral context have received little attention, due to a lack of global political support for multilateral agreements on legal timber and trade. However, it seems that a critical mass is gradually building up that may allow moving forward in this direction.

FLEGT licensing systems have been developed as part of the VPAs, but thus far have not resulted in a flow of FLEGT licensed timber from any VPA country. This is unsurprising - because the problems of forest governance in the VPA countries are complex and deeply entrenched. In addition, most VPAs have only recently been signed. Further, at the request of the EU's VPA partner countries, the scope of VPAs tends to include the supply of most wood-based products which are supplied in substantial quantity both for export and for end-use within the given VPA partner country.

Because of the required credibility level of any FLEGT licensing system from the start (using a flawed system would trigger a lot of criticism), FLEGT-licensing (which is required only for exports to the EU) cannot commence until the VPA country's legality assurance system is sufficient in design and implementation. Obtaining the support and engagement of large groups of stakeholders, and developing the necessary capacity have been a major challenge, requiring substantial time and funding. In addition, the development, testing and rolling out of Wood Tracking Systems has caused delays. Even Indonesia and Ghana, countries closest to starting licensing, have been affected by such challenges and delays. Stakeholders in several countries suggest that a phased approach to licensing might help increase momentum for the changes needed if legality assurance is to be effective for all products and markets in the scope of a given VPA.

The EUTR is considered to be the most important achievement under Action Area 2. Its existence *per se*, its design and the fact that the legislation is mandatory for all MS, are widely valued by stakeholders. By the end of 2014, nearly two years after the EUTR came into force; implementation was underway in the majority of MS. However, in four MS, two of the three basic elements were still not in place and in a further three countries the EUTR was not yet actively being implemented. In other MS, such as Denmark, Germany, The Netherlands and the United Kingdom, commendable effort had been made towards effective implementation and the first EUTR-related control actions had taken place.

There is a commonly felt need among stakeholders interviewed (MS Survey, FLEGT Week, MS visits, VPA country visits) for additional guidance and more effective and harmonized implementation. Major challenges to effective implementation, resulting in an uneven enforcement and unlevelled playing field (EUTR Review, 2015) include (a) insufficient human and financial resources allocated to Competent Authorities; (b) varying types and levels of sanctions across MS; (c) differing understanding and application of the Regulation across the EU. Stakeholders also consider that the scope of the EUTR should be expanded, especially in order to include printed paper and wooden seats, not least in order to eliminate the competitive advantage which the EUTR gives suppliers which export those products to the EU.

The strategic support which the EUTR can provide for the FLEGT Action Plan, particularly in relation to non-VPA countries (especially those whose exports to the EU derive at least partially from wood-based raw material which they have imported from VPA countries) was found to be far from optimal. With support from the concerned Member States, some of the Competent Authorities have themselves chosen to co-operate with each other and with their counterparts outside the EU, especially in the USA. This is helping them to minimise duplication and maximise the exchange of information, including about the probable scale and origin of the "illegal" wood-based products being placed on their markets.

A number of substantiated concerns have been brought by civil society under the EUTR. Two separate cases, concerning CITES and Brazil, have exposed limitations in the scope for action by Competent Authorities. Nevertheless, there are early indications that the EUTR is having a positive impact, especially on large-scale supply chains. Such an instrument would be helpful in VPA countries; especially those which (like Indonesia) import substantial quantities of wood-based raw material and/or which seek to establish public procurement policy.

In South America there are initial discussions on the development of an EUTR-like mechanism to minimise imports of illegal timber by a group of Andean countries or possibly the Mercosur¹⁸⁸. The EUTR Review (2015) concluded that the EUTR has increased awareness on the problem of illegal logging by: (a) creating an incentive for producer countries to start the development of timber legality verification systems, including through VPAs; (b) encouraging, together with the US Lacey Act, consumer countries to develop similar legislation (Australia, Switzerland) or start considering measures with similar objectives (China, Japan, Korea); (c) inspiring similar legislative proposals in other sectors (e.g. conflict minerals) in the EU; (d) influencing relevant amendments to CITES.

AA3: Public Procurement

Overall, the initiatives developed with regard to public procurement had a clear positive effect on the market. The European Commission has promoted the development and adoption of Timber Public Procurement Policies (TPPPs) by Member States through discussions, different documents and guidance on Green Procurement Policies. However, TPPPs are a matter of MS competence, which limits the tools available to the EC to promote their adoption, harmonization and reporting. Some MS had established their TPPPs before the FLEGT Action Plan commenced and the number of MS with operational TPPP has significantly increased since; almost 80% of MS now have TPPPs, which is a significant achievement.

There are major differences, however, between TPPPs with respect to their scope (all products vs. some product categories), their requirements (legal, sustainable, legal and/or sustainable, sustainable or FLEGT license), their level of applicability within government (central only vs. several administrative levels) and their implementation. The perceptions of suppliers tend to be favourable, but exporters in producer countries consider that the lack of a harmonised approach is confusing and therefore a burden.

The monitoring of implementation of TPPPs has started late and has been weak; hence there is still a lack of information on their effectiveness. There are indications that more comprehensive TPPPs may be more effective, in part by exerting positive influence on the quality of certification systems. The same may apply for TPPP with wider scope, which are expected to have greater impact. TPPPs have tended to pull through improvements in certification systems and have helped boost the market for certified wood-based products, including those from natural tropical forest. In advance of the EUTR, TPPPs have sensitised the market to the need for robust chain of custody back to - at least

¹⁸⁸ A sub-regional trading block, comprising Argentina, Bolivia, Brazil, Paraguay, Uruguay and Venezuela as full members, and Chile, Peru, Colombia and Ecuador as associate countries.

- a legal source. Besides direct positive effects of TPPP, there are also indirect positive effects on overall consumer markets (“knock-on effect”) and on sustainable forest management in producer countries.

TPPPs are now also being designed or implemented in many producer countries, mainly as a tool to support development of the domestic market and more specifically, as an incentive to promote legal compliance of SME’s active on the domestic market (by giving compliant companies the competitive advantage of public market access).

Although the FLEGT Action Plan states that the EC will draw the attention of MS governments to the importance of TPPP, it was not clear to what extent MS governments have in fact been influenced by it to develop TPPP or whether they would have done so anyway. In some MS, design and/or implementation commenced before the EU FLEGT Action Plan started (United Kingdom, Denmark, Germany, and the Netherlands) while in other MS the evolution of TPPP has been influenced more by other policies of the EC (for example Green PPP) than by the EU FLEGT Action Plan (France, Italy). A number of MS have worked together to harmonise their respective TPPPs and optimise their implementation. In any case, the EU FLEGT Action Plan has at least enhanced attention and focus on TPPPs, and facilitated an exchange of views between the MS that were first to implement TPPPs.

TPPPs have not been made redundant by the EUTR. The latter only requires due diligence while the former have increasingly required sustainability. Reflecting their support for VPAs, some MS (notably the UK) have chosen to regard FLEGT-licensed products as equivalent to certified products under their TPPPs. It is unclear what impact this would have if and when FLEGT-licensed products - from supply chains that are not currently certified - compete under TPPPs with products from certified supply chains (particularly if the former have been black-listed by major certification schemes).

The MS Survey, discussions with stakeholders during FLEGT Week (2015) and the MS visits indicate that (a) further harmonisation, (b) training and awareness raising, (c) the promotion of tropical timber as a building material and (d) the monitoring of implementation of TPPPs would be desirable.

AA4: Private Sector Initiatives

As detailed under 4.4, a large number of different Private Sector Initiatives (PSIs) has evolved, to a varied degree, in response to the FLEGT Action Plan, around the themes of illegal logging and SFM. A list of the initiatives and organisations mentioned under this section is provided in Appendix 5 to this report. Despite limited financial or institutional support, overall, for PSIs, many of these have somehow benefited from FLEGT. A number of private sector actors have also developed and implemented new ways of ensuring legality throughout the supply chain - as foreseen by the Action Plan, including corporate schemes - without any prospect of EU or MS funding.

There is an interest, on the part of the EU and partner country private sector actors, to reduce illegal logging. Opportunities exist for an increased involvement of the private sector in the operational design and implementation of FLEGT tools. Most critically, timber producers also need a stable and enabling business environment and a strong forest sector with competitive products. Strategies are needed to promote all of these. Relevant and eligible PSIs should receive increased EU/MS support, based on their respective merits and needs, with priority given to those initiatives that have been designed to demonstrate responsible sourcing. Businesses have a culture of self-financing, and PSIs are not so much dependent on external financial support, at least where these can be enshrined in commercial services; however, financial support is helpful for initiatives of general interest.

The most prominent PSI is SFM certification, but a number of challenges limit its usability for legality verification (see 4.4). There is a clear need for better harmonisation and articulation between different legality and sustainability standards and schemes. Other voluntary PSIs, such as Independent Forest Monitoring, provide only partial verification of legal compliance. Still others

provide useful support and guidance, such as the Responsible Purchasing Policies of Timber Trade Federations, but they are questionable as legal compliance verification instruments, unless they require certification from their members, in which case they don't add much value (see 4.4).

As interviews with several importers and retailers clearly indicate (see France Aide-memoire), the combination of the PSIs deployed to date and the implementation of the EUTR is leading to a much-reduced number of suppliers and to fewer, shorter, and vertically-integrated supply chains involving big players: this is because, especially in the absence of FLEGT licensed timber, FLEGT tends to favour certification or sophisticated corporate RPPs, which are not easily accessible to the smaller players; and, in addition, the EUTR requires full transparency of supply chains and mitigation of any associated risks. Larger companies can adapt¹⁸⁹, but many SMEs and micro firms may find the EUTR difficult and/or costly (though not impossible) to apply and may be reluctant to disclose commercial information on their supply sources (France Aide-memoire); they may try to circumvent the system, which would limit the impact of FLEGT (EUTR). It is necessary to give more attention to the challenges faced by the smaller producers, especially in terms of capacity building, in particular to identify and control their supply chains and/or implement the necessary system and provisions in their operations, such as that provided under the TTAP.

AA5: Finance and Investment Safeguards

The 'Financing and Investment' Action Area has received comparatively less attention by Member States than other Action Areas;¹⁹⁰ only the UK has been active in this area. A noteworthy exception has been the EIB's incorporation of FLEGT's principles and requirements in its due diligence process. This limited attention has meant that FLEGT achievements in this area have also been limited. Though many financial institutions, including Development Finance Institutions, Export Credit Agencies, and Private Financial Institutions, have improved their policies in the forest sector over the last decade, the FLEGT Action Plan is, at best, only one of the drivers of this process, and with limited impact. At the same time, both ECAs and the EIB are very minor players in tropical forests (and ever less so given the reputational risk); as for private institutions, other entities, in particular Chinese, are more and more important compared to the European ones.

The forest sector is a small market for large financial institutions; hence, attention is limited. Some international banks have put in place pro-forest policies, which look good on paper, though claims of violations are regularly reported by NGOs. This seems to be the only effective constraint other than banks' 'self-regulation'. The kind of leverage EU and MS have on institutions that finance investments in the forest sector and downstream industries in third countries is uncertain. So far, legally binding constraints on them have not been included in the EU framework. Indeed, as discussed in Chapter 4.6, Anti Money Laundering legislation has not been effective in the forest industry.

AA6: International Legislative Instruments

Activities under this Action Area have been limited, and scarcely noticed by stakeholders. The relation between CITES and FLEGT, and in particular the EUTR, is important and was reciprocally beneficial. There are clear synergies between CITES and the EUTR, and at the same time, risks of loopholes persist, both in the legal texts and in their implementation. Overall, CITES is well coordinated with the FLEGT framework. The relationships between FLEGT, the EUTR and CITES are spelled out in legal texts and enforced by customs and competent authorities; reportedly, CITES has benefited from the 'raise-the-bar' effect triggered by EUTR, and CITES provides FLEGT with learning-

¹⁸⁹ Interestingly, this was foreseen by the Action Plan as "likely to be particularly effective in cases where the trade is dominated by relatively few suppliers and importers into the EU" (p.16).

¹⁹⁰ At EU level, the adoption of the Accounting and Transparency Directives is to be mentioned.

by-doing experience in several countries concerning the systems for the verification of legality and traceability. Activities, such as understanding whether illegal timber logging and trade could be covered by national legislation and how to ensure enforcement were also undertaken, by a limited number of MS. In the area of Anti Money Laundering (AML) legislation and illegal logging, few results were achieved, because the practical difficulties in using the AML legislation against illegal logging have limited its effectiveness.

At the same time, other international and EU initiatives that were not foreseen in the FLEGT Action Plan have been undertaken. In particular, the Accounting and Transparency Directive (ATD) package and the EU Directive on Disclosure of Non-Financial Information (DDNF) do complement the FLEGT Action Plan, and their interactions are explicitly accounted for. Indeed, the inclusion of logging of primary forests within the ATD is a global level best practice inspired by FLEGT and will trigger a positive accountability feedback that can eventually reduce corruption and illegality in the logging sector. A key point is the limited geographical scope of these initiatives, applying only to EU companies that may not be the most important industry players, especially in the Asian landscape. Other international actors, such as the UN Office on Drugs and Crimes, and Interpol, are active in combatting illegal logging, and in this way complement FLEGT efforts, in particular by building capacity in third countries, and by directly tackling forest crimes in a supra-national scheme.

AA7: Conflict Timber

Relatively little work has been done through FLEGT on the topic of conflict timber. There has been no clear leadership for taking action, monitoring, or following-up on this Action Area specifically, or pursuing coordination amongst relevant DGs of the EC.

The 2010 Progress Report authors suggested that the concept of conflict timber should be forgotten, although the relationship between timber and conflicts should not. This may help explain why little work has been done since then. On the other hand, MS seem to have limited knowledge, focus on and interest in the issue, and there is still no harmonised understanding on the concept of conflict timber or expressed intention to change this.

However, from the work done under the FLEGT Action Plan – such as the link between the VPA and conflict resolution in the case of Myanmar - and the new situations arising – such as the recently emerged conflict in Central African Republic (CAR) - it is clear that conflict timber remains a relevant issue to deal with opportunely, proactively and once there is a conflict situation. In order to avoid major damage to forest resources, the existence of protocols and awareness on how to handle in such cases seems to be of continued relevance. Based on the experiences with the issue, lessons could be learned and shared between MS and other stakeholders in order to come to “general guidelines” for an international approach on how to deal with the issue in conflict and post-conflict situations, and possibly about avoiding conflict in the first place, through actions that help clarify forest rights of different stakeholder groups.

On Implementation and Management of FLEGT

Management and implementation of FLEGT action, involving numerous actors across diverse sectors, countries and stakeholder groups, are a real challenge. Structures have been put in place to coordinate and manage different elements of the Action Plan, but overall management has not been clearly organised. No explicit intervention or implementation strategy has been developed to guide activity planning, or any indicators for a results-oriented monitoring progress at the level of the Action Plan. Planning and monitoring systems for VPAs and related support action have started to become operational, but it is unclear as yet how they feed back into the FLEGT strategic processes. Meanwhile, political and human resources for management of FLEGT action, and VPAs in particular, have been over-stretched due to the unforeseen complexity of VPA processes and the long-term obligations involved; a continuation of FLEGT/VPA action will require matching resources.

The various Action Areas of the Action Plan have not been implemented in a well-balanced manner and the synergies produced between action areas could be stronger. The involvement of Private Sector stakeholders has not been very effective, especially in producer countries, and there has been limited recognition of what the Private Sector has done to contribute to FLEGT objectives; this has hurt motivation and reduced overall effectiveness. Furthermore, in the area of trade in timber, the foreseen benefits from the EUTR for VPAs – and vice versa - have not yet materialised. An element that has received little attention, considering the importance of the initiative, is FLEGT external communication, mostly for lack of a clear strategy (see chapter 5.2). This has contributed to confusion among stakeholders about objectives and strategies, and limited FLEGT linkages to other sectors and initiatives. The recent establishment of a dedicated communication team, hosted by EFI, is helping to remedy this situation.

On achievement of direct FLEGT objectives

Although the EU's share of global timber trade has declined (and with FLEGT partner countries in particular) long-term relationships have been retained and the EU's leverage through trade has given a positive impetus to the VPAs of a number of countries. Detailed assessments indicate that the RWE volume of the EU's imports of illegal wood-based products decreased between 2003 and 2013. Although some of the decline is attributable to a reduction in illegality, much of the decline is due to other factors. It is not clear how much difference the FLEGT Action Plan (particularly the EUTR, VPAs and public procurement policies) has made to the decline.

For this evaluation, a wider assessment of illegal industrial roundwood production and related trade has been carried out than that conducted by Chatham House. It concludes that currently, with the exception of Indonesia, VPA countries do not account for a substantial share of a) the EU's imports of illegal wood-based products and b) illegal industrial roundwood production and related trade globally. China and Russia are currently the EU's and the world's leading suppliers of illegal wood-based products. The assessment tends to confirm that – by a wide and increasing margin - China has for many years been a leading importer of illegal wood-based products [Toyne P, 2002]. This implies that the FLEGT Action Plan should focus more on China's imports and exports, and not confine itself to VPAs, if it is to achieve the overall objective of reducing the illegality of timber production and related trade. Similarly, the EC should seek to increase the success of its engagement with other countries in Asia, notably India, Japan, and Republic of Korea (which account for much of some VPA countries' exports of illegal wood-based products).

Forest governance has improved to some extent in all VPA countries. Valuable processes have started in all producer countries targeted by FLEGT action, but achievement of the main objectives is slow due to persistent governance challenges, a lack of incentives and political will and/or difficulties in practical implementation of VPAs (re. EQ3). *If improving forest governance is to remain one of the major objectives*, the EU should seek to engage with those countries that have shown political will to improve their forest governance and minimise their domestic use of illegal wood-based products. At the same time, linkages of FLEGT Action with other initiatives aimed at improving governance and addressing wider land use challenges should be strengthened.

On Emergent Outcomes of FLEGT

The EU FLEGT Action Plan has had impacts that go well beyond the initial objective of curbing illegal logging, and there is an overall positive perception of the FLEGT process and its emergent outcomes. They relate to developments that would probably not have happened, or not to the extent observed, without the implementation of the EU FLEGT Action Plan: the possibility for civil society groups to table issues that could not be discussed before, including the current discussions on conversion timber; the opportunity for the private sector to influence government forest policies; enhanced communication between ministries and levels of government in countries where

information sharing is not common practice. In some cases, multi-stakeholder dialogue practice has enabled communities to better deal with conflict situations.

At the same time, however, FLEGT seems to have contributed to a reduction in tropical timber imports, as it exposes and stresses illegality, rather than virtuous legal practice. This has negatively affected the competitiveness of the sector as a whole. There is a felt need for positive marketing and publicity, on part of the EU, of legal and responsible timber, in respect of VPA agreements.

Another emergent outcome concerns an increase in confusion, among operators and producers, of Due Diligence requirements across buyer countries. There is a need for enhanced harmonisation. At the same time, while the impact of FLEGT on SFM certification globally is unclear, there is increasing convergence between private SFM certification schemes and EUTR and Due Diligence requirements, which can be built on further in order to enhance overall FLEGT effectiveness.

In addition, FLEGT has brought about important processes in non-VPA partner countries, on a larger scale than foreseen and in different ways from those in VPA countries, producing different outcomes. This points to a real demand for a more varied range of options for FLEGT support, to respond to specific country needs and capacities.

On achievement of higher Objectives of FLEGT

To date, implementation of the FLEGT Action Plan has much focused on the legality of export timber as a first priority, and invested most efforts in development of proper TLAS systems, FLEGT licensing and governance reform. Less emphasis has been placed on pursuing the higher objectives of Sustainable Forest Management, poverty alleviation and sustainable development.

Even if SFM is considered to be the objective of the FLEGT Action Plan by all stakeholders, there is no consensus among MS, whether to see it as a tool to help achieve the FLEGT Action Plan objectives (in terms of improved forest governance) or as a more direct goal. If legal compliance can pave the way to sustainable forest management (and certification) at the level of logging operations, there is doubt whether this mechanism can be extended to the national level, where legality is a much more complex and diffuse concept. Thus far, the focus on legality does not seem to have yielded the best results in terms of improved EU market access or response to stakeholder concerns.

Over the past years, challenges related to the informal timber sector linked to domestic markets, and to the SMEs and smallholders involved in these markets, have also gained importance and attention; several studies (CIFOR, 2011, 2012, 2013) highlight (a) the huge quantity of timber being logged, mostly illegally, for domestic use, exceeding by far the quantity of timber exports in many of the VPA countries, (b) the absence of proper legal frameworks for a sector in which hundreds of thousands of local actors operate and (c) the negative impact that the VPAs could have on these people's livelihoods if the domestic market were not addressed as thoroughly as the export market.

The challenges related to the domestic market and informal logging and trading activities sit at the cross-road between poverty alleviation and Sustainable Forest Management – two of FLEGT's higher objectives; Human and social rights, benefit sharing, land tenure and improved livelihoods are important elements of Sustainable Forest Management, with a direct bearing on poverty; they should therefore receive increased attention.

On cost-effectiveness of FLEGT

There is a general lack of information on expenditure under FLEGT; major efforts had to be made to collect the indicative data provide in Appendix 3 and the evaluation had to focus on a qualitative analysis of costs and benefits.

Investments in the FLEGT Action Plan originating from EC budgets, MS and partner country contributions for the period 2003–2014 are estimated at approximately €882 M. Private sector investment and additional support by civil society bring the total to €936 M. By far the greatest

expenditure (81%) has been on AA-1, 'Support to producer countries'; within this action area, 46 countries have received direct support, 15 of which are either negotiating (9) or have signed a VPA (6). The biggest part - *direct investments* made by EC/MS – on average have been a factor 2.3 bigger for VPA signed countries than for VPA negotiating countries; similarly, direct investments for the latter have been a factor 3.2 higher than those for non-VPA/non-MS countries.

In general, where there is more investment in FLEGT by EC and MS, there is more support from "*other sources*", including the national government, civil society and public and private sector enterprises. Yet FLEGT support has been very uneven between countries; embarking on a VPA does not guarantee direct support from EC or donors, which may suggest a lack of strategic coordination. On the other hand, it reflects the fact that a VPA is a trade agreement without funding attached to it, and that EU/MS support in practice depends on the needs and the resources of the partner countries. The remainder of the expenditure has been on AA-4 private sector initiatives (1.5%), AA-2 trade (0.8%), AA-7 conflict timber (0.7%), AA-5 finance & investment (0.3%), and AA-3 public procurement policies (0.2%). The rest has been spent on "multiple AA" (7%), "non-targeted" (7.4%) and "think tanks" (1.2%). Direct funding to AA-6 (other legislative instruments) has been negligible. Much action related to AA-2 and AA-4 has probably been included under AA-1, however. There is a need for better categorization criteria.

Significant inputs, in terms of financial and human resources, have been provided over the last 12 years; however, with different levels of spending per year and different levels of ownership and financial support per MS, per action area and per partner country. A lot has been achieved, especially in terms of improved forest governance, which provides a basis for the fight against illegal logging and trade. However, FLEGT licenses are not yet available, to the frustration of many stakeholders who have invested in the process. For the trade leverage to start working (enabling financial benefits and improving cost effectiveness of the investments so far), FLEGT licences have to start entering the EU market. Thus, there is considerable urgency to finalise the licensing system, particularly in the front-running countries, Indonesia and Ghana. On the other hand, issuing licenses when conditions are not met would risk fierce criticism and loss of credibility. It is therefore that some countries plead for a phased approach to VPA / TLAS implementation.

The MS Survey 2015 rates the overall cost-effectiveness of the FLEGT AP as "fair". The Public Survey (2015) gave a similar result. The VPA Survey was slightly more positive and many stakeholders in producer countries recognise FLEGT as a relatively cost-effective but long-term process. To increase cost effectiveness for forest-based business, greater private sector involvement is needed, in addition to the simplification of VPA/EUTR compliance procedures. FLEGT processes are considered human resource intensive and place a significant burden on public authorities, both in the EU and in producer countries. Approximately half of the respondents of the EUTR Review (2015) does not yet recognize overall benefits for businesses in the EU due to EUTR. Estimations made for cost-effectiveness of FLEGT in the case of a VPA country (Indonesia) and an EU Member State (Romania) suggest that FLEGT, collectively, investments can be cost-effective.

Finally, even though FLEGT involves significant funding from diverse sources and for diverse purposes, there has not been sufficient coordination to keep track of funding and provide strategic guidance. This hinders monitoring and evaluation, especially of cost-effectiveness and is likely to affect cost-effectiveness as well.

On Sustainability of FLEGT action

With regards to sustainability of the FLEGT process itself, the EU FLEGT Action Plan is a relatively open-ended policy initiative that has had a longer gestation period than expected, prior to delivering outcomes. However, simpler or more rushed political processes may ultimately have taken as much time or more. A long-term commitment is required to address the complex issue of illegal logging and underlying factors, in order to achieve sustainable results.

FLEGT is already yielding some potentially lasting (and replicable in other areas) deep-rooted changes in producer countries (e.g. governance, inclusive dynamics) and in the timber trade as well (e.g. behaviour of EU importers, dialogue and cooperation among market actors globally). Still, many of the gains have been only theoretical and still need to be implemented. A lot also remains to be done, in particular to make VPAs function properly. Implementing fully functional TLAS in VPA countries will require continued investments to keep improving governance frameworks (institutions, laws, policing, judiciary, etc.), strengthen capacities in all stakeholder groups, and build operational systems. More effective implementation and enforcement of EUTR will also require additional resources in EUTR Competent Authorities and improved access to due diligence information and services in the Union.

At the same time, FLEGT processes have generated long-term obligations. Sustainability of FLEGT success therefore hinges to a large extent on continued high-level political commitment to FLEGT in the EU. It will depend on the EU's ability to exercise influence, despite its declining trade leverage, and motivate others to act as well, including key countries (the US, China, Japan, Brazil, Indonesia) and institutions (WB, FAO, ITTO, ASEAN, INTERPOL and others) and to increase synergies between FLEGT and trade agreements. Linkages with other relevant international initiatives, such as REDD+, create synergy and reinforces FLEGT but are still weak. Further strengthening of multi- and bilateral partnerships with FLEGT allies and strengthening of FLEGT-related knowledge and capacities in the various regions are considered to be equally essential. Forests are typically affected by various sectors and it is important to make sure FLEGT becomes more visible in the wider political and government landscapes.

At the same time, limited technical and financial capacity in VPA countries means that further *preparatory work* will maintain their dependence on external support. But the financial means and human resources required for sustaining the current high levels of support are not necessarily guaranteed in future. Budgets in the EU institutions and governments tend to go down rather than up. More than ever, money must be well spent and create real and durable value.

Keeping momentum in the VPA/TLAS implementation processes is crucial. In a number of countries, home-grown development of systems has resulted in a high sense of ownership of the process, although other ministries than forestry/environment have not always shown the same degree of ownership (for ex. Indonesia). But in several other countries, there are clear indications of fatigue in the process, of demotivation, and of loss of confidence in a successful outcome within a foreseeable timeframe; several issues and risks that compromise the efficiency of FLEGT investments have been identified (see Aide Memoire Ivory Coast) and will need to be addressed in a pragmatic way, breaking broad issues down into reachable targets.

Limited capacity for actual implementation of systems, finally, also questions the heavy reliance of FLEGT/VPAs on local institutions. Where these are weak, such capacity can only grow as a result of a long-term development process. Sustainability of the VPAs, in particular, is therefore questionable and alternative, technically and financially self-sustaining elements must be considered. This calls for realism and pragmatism in the definition and pursuit of attainable goals. Lack of delivery on the key instrument of FLEGT-licensed timber, in particular, is leading to increasing pressure for more of a phased approach with clearer benchmarks and timeframes.

Meanwhile, a healthy and economically strong forestry sector is necessary to bring about more means for action.

On policy coherence

FLEGT tends to be seen as a 'good example of policy coherence', by design, as a piece of EU legislation, and also with other EU policies and with the international framework. It addresses the issue of illegal logging across transnational supply chains, although a lot still remains to be done, and

it is driving tangible and durable governance improvements in producer countries and in the international timber trade, focusing on legality.

However, the policy coherence of FLEGT is increasingly subject to discussion in view of the global debate on deforestation from forest conversion. FLEGT instruments can help address challenges of illegal forest conversion through various levers and tools, in particular the VPAs (governance, dialogues, legality definitions, TLAS, linkages with REDD+ processes, forest surveillance) and EUTR (due diligence on legal origin), subsidies for 'industries and activities that destroy forests' clearly undermine the public perception of FLEGT for forest protection. Coherent EU policies in that regard, better coordination of government and donor action across different policy areas (notably agriculture), consideration of reduced-impact logging, measures to reduce pressure on forest land, adding charcoal to the scope of the EUTR, and anti-corruption measures related to illegitimate conversion projects, all seem necessary actions.

Another risk, in terms of vertical coherence, is that by entrusting definition of legality to national legislation in producer countries, the EU may not live up to its own international commitments. In the absence of an international law on forests, reference to the national laws for both EUTR and VPA has resulted from the fundamental principle of national sovereignty of the producing country in FLEGT. While this is a key value in the FLEGT approach, which contributes to national ownership, sustainability and more effective enforcement of FLEGT at local level, it also creates potential deficiencies, especially with regards to the integration of human rights and protection of indigenous communities in some VPAs. This poses the question how to reconcile the principle of national sovereignty with the need for the EU to ensure the coherence of FLEGT with its own policies.

FLEGT and REDD+ approaches, despite different origins and objectives, have been converging and are increasingly seen as complementary and mutually reinforcing. They share many common values and needs (good governance, data requirements, among others) that are reasons for close operational linkages and creation of synergies, while avoiding overlaps and antagonistic competition for funds.

On EU Added-Value

The FLEGT Action Plan generates EU Added Value through EU market leverage, aid coordination, and bigger political weight. While it has stimulated collaboration among initiatives and a harmonisation of national approaches, there appears to be a need for a more active participation on the part of a number of MS; the majority of Member States has failed to actively – not to mention financially - support the Action Plan. There is also a need for more coordination across initiatives and for improved collaboration between MS and the Commission.

6.2 Recommendations

6.2.1 POLICY LEVEL RECOMMENDATIONS

Relevance of the EU FLEGT Action Plan

Key message 1 The FLEGT Action Plan continues to be fully relevant but needs to address new challenges, in particular with regard to deforestation and forest conversion, and increase its focus on international coalitions that can bring about the envisaged change.

Recommendation 1

To continue the FLEGT Action Plan, for it to fully deliver on expected outcomes and to produce the envisaged impacts in terms of reduced illegal logging and related trade and sustainable forest management. In order to **sustain the initial results and impacts**, it is essential for EU institutions to keep FLEGT high on the international agenda and to show broad, high-level political commitment and support.

Particular attention is required for **addressing illegal forest conversion** and deforestation, within existing multi-stakeholder FLEGT/VPA dialogues and systems. This would require explicit inclusion of timber coming from illegal conversion. An Action Plan on Deforestation, as alluded to in the EU's 7th Environmental Action Programme, should address the wider forest conversion and deforestation challenges that are beyond the scope of FLEGT. In the absence of such Action Plan, it is recommended to explore how FLEGT can better address these challenges and to adjust the Action Plan accordingly.

Given the **EU's declining trade** leverage (a declining share in most producer countries' exports of illegal wood-based products), the EU should step up international dialogue and diplomacy with other major consumer countries of timber and commodities that cause deforestation (particularly in Asia), for them to adopt binding legislation against illegal logging, and strengthen its technical cooperation with these countries - particularly for the exchange of experience and data. Coalitions and cooperation with likeminded countries should be strengthened, and the scope for action in a multilateral framework needs to be re-assessed.

Design of the EU FLEGT Action Plan

Key message 2 The overall design is innovative, comprehensive and future-proof, but objectives and intervention logics need to be clarified. Main pillars and action areas should be retained, but FLEGT support to producing countries should be delivered in a more demand-driven and flexible manner, while bottlenecks affecting VPAs should be addressed and the private sector more involved

Recommendation 2

To retain the **overall design** of the Action Plan, including the main pillars (supply and demand-side measures linked through dialogue, international collaboration and trade instruments) and revise individual Action Areas in light of their performance. For future adaptation or re-design of FLEGT Action, three points are of particular relevance:

1. A more **flexible** approach to producing country support; besides VPAs, a more varied range of options for FLEGT support for legal timber market development and improved forest governance needs to be offered in order to respond to specific country needs and capacities.
2. Greater and more targeted involvement of **Private Sector** actors; Private Sector Initiatives in both MS and producer countries and SMEs and smallholders operating in domestic markets in producer countries should receive better support;
3. A **phased approach** to VPA implementation.

For each of the Action Areas, detailed operational-level recommendations that take these specific concerns into consideration are presented under Recommendation 10.

Greater efforts are necessary to **clarify** FLEGT objectives and strategies (Intervention Theory) instruments and processes and to communicate these consistently across FLEGT stakeholders, in order to enhance a shared understanding of FLEGT (refer Recommendation no. 9). In particular, common understanding as to whether FLEGT is primarily about global reduction of illegal logging and related trade or about improved forest governance is required, as strategies and focus for achievement of both objectives differ significantly.

Achievement of Global FLEGT objectives

Key message 3 While the direct FLEGT objective of decreased EU imports of timber is being achieved, a shift in geographical focus to non-VPA countries is required - if illegal logging and trade is to be addressed globally. This will also require increasing use of 'other' instruments.

Recommendation 3

In order to enhance effectiveness of the EU FLEGT Action Plan and its Action Areas, there is a need to enhance **focus on non-VPA**, non-tropical timber producing and processing countries, including Russia, China and countries at the EU eastern periphery. Actions should include bilateral and multilateral dialogue and international technical cooperation, as well as use of non-ODA instruments - besides a sustained support to relevant and motivated VPA countries.

Given the role of Russia in illegal logging and trade, towards the EU and globally, the EU should seek continued engagement with Russia and increased support to its combat of illegal logging, using the various political and financial instruments available. Bilateral Coordination Mechanisms on FLEGT, such as that with China, can provide a useful structure for such dialogue and action but need to include all relevant actors. In the absence of ODA funding, EU and other **Trade Regulations** may provide the appropriate focus for a range of support activities and the delivery of tangible outcomes

In addition, more **even and effective implementation of the EUTR** should increase the demand for (and provision of) proper legality assurance and limit the risk of laundering of illegal timber.

Key message 4 The FLEGT Action Plan is resulting in improved forest governance in all targeted countries, both VPA and non-VPA. However, fundamental governance challenges persist and are slowing progress. They need more effective tackling.

Recommendation 4

Assuming that improving forest governance remains an important objective of the FLEGT Action Plan, the EU should seek to engage with those countries that have shown political will to improve

their forest governance and focus on addressing **fundamental land-use and governance challenges**, including corruption, which is preventing progress in FLEGT/VPA action in several partner countries.

In non-VPA countries, FLEGT action and programmes also need to explicitly identify and address the **broader governance issues** underlying illegal logging (possibly as part of Action Area 1 ‘Support to producing countries’). At the same time, better linkages to complementary actions that address broader governance constraints and challenges affecting the forest sector need to be established. This requires increased engagement with non-forestry institutions involved in law enforcement, in particular, as well as enhanced ‘mainstreaming’ of FLEGT into political dialogues and international cooperation activities, using the various EU foreign policy instruments, such as the Instrument for Pre-accession Assistance (IPA) or the European Neighbourhood Instrument (ENI), among others.

Achievement of Higher Objectives of FLEGT

Key message 5	FLEGT’s contribution to the higher objective of Sustainable Forest Management is unclear and needs to be made more explicit. FLEGT has proven to have potential to make an important contribution to poverty reduction, but this requires more attention for domestic timber markets and support for the actors operating in them.
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Recommendation 5

The higher objective of **Sustainable Forest Management (SFM)** should be pursued more prominently in the Action Plan. Existing SFM standards and tools should be increasingly recognised as supportive of FLEGT, in FLEGT licensing schemes and in the context of risk management under the EUTR.

Efforts to address the challenges that producer countries’ **domestic timber markets** pose to FLEGT and VPA implementation should be stepped-up; they require increased attention for informal actors, SMEs, community and smallholder forestry, livelihood and revenues, and national public procurement policies. While SMEs have not been neglected, they represent a segment of the market that is hard to reach, and ways of working with large numbers of SMEs efficiently at the scale required need yet to be identified. Particular attention should also be given to (a) developing and enforcing legal frameworks that tackle domestic markets challenges and (b) strengthening of the contribution of legal and sustainable domestic timber markets to national economic development.

Inclusion in the **scope of VPAs** of domestic timber markets and of ‘exports to all countries’ is recommended, in order to ensure full relevance of VPAs. Apart from contributing to reduced poverty, addressing of the challenges in domestic markets is also expected to facilitate the conclusion of international agreements (UNFF, FTAs) and contribute to a reduction in levels of illegal logging.

Policy coherence

Key message 6	FLEGT is largely coherent with EU and international policies. While the principle of basing VPAs primarily on national legislation should be maintained, due attention should be given to obligations deriving from international conventions as well.
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Recommendation 6

National legislation of producer countries should remain the initial reference for discussions about the legality of wood harvesting in FLEGT (VPAs and EUTR), leading on to a process of consensus

building and improvement. In this process, the EU should assist producer countries to transpose obligations deriving from international agreements they have ratified into their national legislation. In addition, partner countries should be encouraged to incorporate relevant voluntary principles or procedures from international standards in their legality definitions – based on consensus of all stakeholders – Consistency across the different frameworks (e.g. national legislation and legality definitions) and the standards of legality certification schemes recognized by the countries should be ensured.

The EU should also pay due attention to the **coherence of FLEGT instruments** (VPAs and EUTR) with EU-endorsed international agreements, policies and standards. The sovereignty of a VPA process should be reconciled with the need for the EU to set minimum requirements reflecting EU stakeholders’ expectations, particularly on human and labour rights and for recognition of customary laws and rights on land tenure of forest communities.

Bearing in mind the overall recommendation for phasing of VPA processes (refer Recommendation 10), Joint Implementation Committees (or equivalent) should consider when and how best to operationalise requirements deriving from international law and agreements laid down in the VPAs. Meanwhile, the EU should enforce the ‘applicable legislation’ in the EUTR more strictly with regards to third parties’ legal rights.

EU Added-Value

Key message 7	The FLEGT Action Plan has clear EU added-value through its market leverage and increased political weight. However, effective implementation requires broader political and financial support and promotion across EU Member States, as well as enhanced coordination.
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Recommendation 7

More active and careful coordination of FLEGT action at MS and EU level, as well as creation of EU added value are required in order to:

1. Ensure that more MS actively support FLEGT, beyond the EUTR, in all action areas; There is scope for enhanced labour division between MS, for example in leading on FLEGT Action Areas and/or countries;
2. Ensure that available communication channels are used more effectively for the EU to exercise its political influence in the international arena (refer Recommendation 1);
3. Increase coherence and integration with forest conversion and REDD+ challenges;
4. Support measures in support of a strong and competitive forestry and timber sector.

B. OPERATIONAL LEVEL RECOMMENDATIONS

Implementation and Management of FLEGT

Key message 8	The Action Plan has not been implemented in a sufficiently balanced manner; strategic direction and monitoring of FLEGT Action should be improved; management and outcome monitoring also need strengthening and require corresponding human and financial resources
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Recommendation 8

Following a decade of experimental approach, the EU FLEGT Action Plan can and should now be implemented in a **more balanced and result-oriented** manner across Action Areas, putting lessons learned into practice. FLEGT technical and financial support should be better targeted based on clear criteria. Such criteria could include the role countries play with regard to illegal logging and trade (within the EU and globally), the importance of domestic markets, political will (as may be reflected in duration of VPA negotiation processes) or needs for support to improve forest governance.

Specific attention should be given to:

1. Thorough analysis of (country) **baseline** situations and the constraints to be addressed;
2. Development of an outcome and impact **monitoring** system for the overall FLEGT initiative, to facilitate strategic use of information coming from the operational level; lessons from the EU-funded LIFE programme may be useful in this regard;
3. Establishment of a mechanism to coordinate and monitor **FLEGT expenditure** and implementation through all channels. Such mechanism should include tracking of funding, lobbying for MS support - where relevant - and provision of strategic guidance;
4. Strengthening of **management capacities** for delivery of the Action Plan, especially at the central level, reaching out to related sectors, multi-lateral fora and across the EC;
5. **Communication** as a strategic management tool (re. Recommendation 9, below).

Key message 9	Communication has initially not been commensurate to the importance of the EU FLEGT Action Plan as an innovative and experimental policy initiative. More attention should be given to internal and external FLEGT communication at all levels.
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Recommendation 9

Communication should be explicitly included in the design of FLEGT action, as a strategic and cross-cutting action that can help address various implementation challenges. It should aim to:

1. Foster a **common understanding** of FLEGT objectives, instruments and processes among relevant stakeholders at all levels, including those most affected; in particular, ensure that understanding and expectations at the start of VPA processes are well aligned.
2. Strengthen the (legal) forestry sector and **promote timber** as an economically, technically, socially and environmentally viable building material, both in the EU and worldwide. In particular, the EU should promote - in MS and beyond - the use of legal tropical timber, in line with VPA Articles regarding market-related incentives (“The Union shall strive to promote favourable access to its market for the timber products covered by [the VPAs]”).
3. Widely **share FLEGT achievements** and lessons, especially with regard to stakeholder dialogue and engagement and forest governance, to the benefit of other sectors facing similar challenges.

Effectiveness of FLEGT Action

Key message 10: While the Action Plan contributes to its specific objectives, effectiveness across action areas varies widely. Shifts in priorities and approaches within and between actions areas are required, notably with regard to VPA and EUTR implementation and private sector engagement.
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Recommendation 10

In order to enhance effectiveness of the FLEGT Action Plan, FLEGT action should be conceived in a more flexible and demand-driven manner, implementation bottlenecks should be solved and the private sector more involved (refer Recommendation 2). For each of the seven Action Areas, detailed recommendations are provided, which address these key concerns into account. They are primarily addressed to those involved in FLEGT design and implementation.

AA1 - Support to producer countries

Maintain ‘Support to producer countries’, as the key Action Area for improving forest governance, creating the foundations for legal timber production and trade, and promoting VPA implementation, particularly FLEGT licensing.

Continued support to those VPA countries that are relevant to FLEGT objectives and display political will is recommended, with more attention for systematic support by in-country facilitators.

In both VPA and non-VPA countries, support should include a more varied range of options for legal timber market development and improved forest governance, to respond to specific country needs and capacities. Support should increasingly target those producer countries that express a genuine interest in improving particular aspects of forest governance and/or minimising illegal logging, outside a VPA framework. This could include political and technical support to initiatives aimed at improved due diligence and timber supply chain control, in order to enhance EUTR implementation.

Increased support for multi-stakeholder processes and for increased accountability and transparency towards stakeholders (esp. civil society) and the general public in the forestry sector – outside VPA frameworks – is recommended. Lessons learned in VPA countries and Colombia and China could be of great value to (other) non-VPA countries.

Within the Action Area, to enhance support to private sector actors in producer countries that have significant trade links with the EU, to help them comply with the EUTR through TLAS implementation (VPA countries), certification (non-VPA countries) or otherwise. More detailed recommendations on private sector support are made under AA4.

Particular attention must be given to reaching smallholders, SMEs and independent operators in the “informal” timber sector in order to fully engage them in the VPA process – which has not been the case thus far. Specific areas for support identified are (1) development of appropriate legal frameworks for domestic markets and formalisation of ‘informal’ activities (2) support for professional organizations to ensure better and relevant representation in the VPA negotiation and implementation processes and (3) capacity development for sustainable forest management.

For non-VPA countries, in order to avoid undesired effects of FLEGT on small producers, the development and promotion of mechanisms, such as group certification, through which (smaller) producer companies that cannot afford individual certification could still meet EUTR legality requirements at a reasonable cost, must be encouraged.

AA2 - Trade in Timber

EUTR

Within the EU, focus on effective and harmonized implementation of the **EUTR** and provide more guidance for EU operators. Enhance the level of cooperation and exchange and thus collaboration between CAs. Where necessary, support and/or increase pressure on slowly advancing MS. It is also recommended for the EU to explore ways to promote a more globally harmonised approach to legality across main importer countries.

VPAs

With respect to VPA implementation, a **phased approach** is recommended, with well-defined actions and corresponding funding placed within a realistic timeframe, marked by a number of milestones and related incentives - before the ultimate 'reward' of FLEGT-licensing. Flexibility to adapt VPAs to country-specific contexts should be enhanced but all VPAs should eventually converge on common minimum requirements to ensure harmonization and a level playing field among VPAs.

A phased approach should distinguish steps, defined by a progressive inclusion (enforcement) of elements of the entire scope, based on criteria to be determined. The phasing should allow for prioritization of key needs and a strategically focused preparation of frameworks and actors.

Initially, a phased approach could focus on key 'legal origin' criteria (e.g. licenses to operate, titles to harvest) to be verified. At later stages, key requirements may still require specific verification of compliance (such as payment of taxes and forest management and timber harvesting requirements), while other compliance areas could be simply covered by statutory evidence, such as annual certificates of compliance issued by the relevant authorities.

Accomplishment of each of the levels would be decided by the Joint Implementation Committee of the VPA country, based on independent assessment of compliance with the level requirements. Upon achievement of one level, a timeframe would be defined for achievement of the next.

At the same time, better alignment of requirements of VPAs and the EUTR must be pursued, i.e. progress on levels could be linked to the EUTR Due Diligence practice. It is recommended that, in the intermediate phases of a phased implementation process, the EU recognize the progress made by identifying rewards related to the different steps (upon compliance with the corresponding basis of legality). Competent Authorities (and their counterparts in non-EU countries) would need to be kept informed of the level of achievement of the various countries.

Should a phased approach be pursued, a feasibility study -to explore practical and legal implications, and to define criteria and minimum requirements for each of the levels, would be necessary. Phasing criteria could include:

- scope of the legal requirements retained within each phase;
- timber sources (national timber vs. import timber, natural forests vs. plantations, different types of forest management regimes / forest permits);
- size of enterprises (large companies vs. SMEs);
- categories of products by HS Code;
- Geographical region of production (country, region, province...);
- Markets (EU/non-EU, regional, domestic markets).

Such study should also consider the idea of a phased approach to FLEGT licensing in which the licensing system is applied to groups of complying stakeholders or complying sub-sectors. This would allow the VPA to start functioning, and facilitate complying stakeholder groups and/or subsectors the envisaged access to the EU market, without necessarily waiting for parties that are not yet ready.

The above ideas are graphically represented in the following Figure 22:

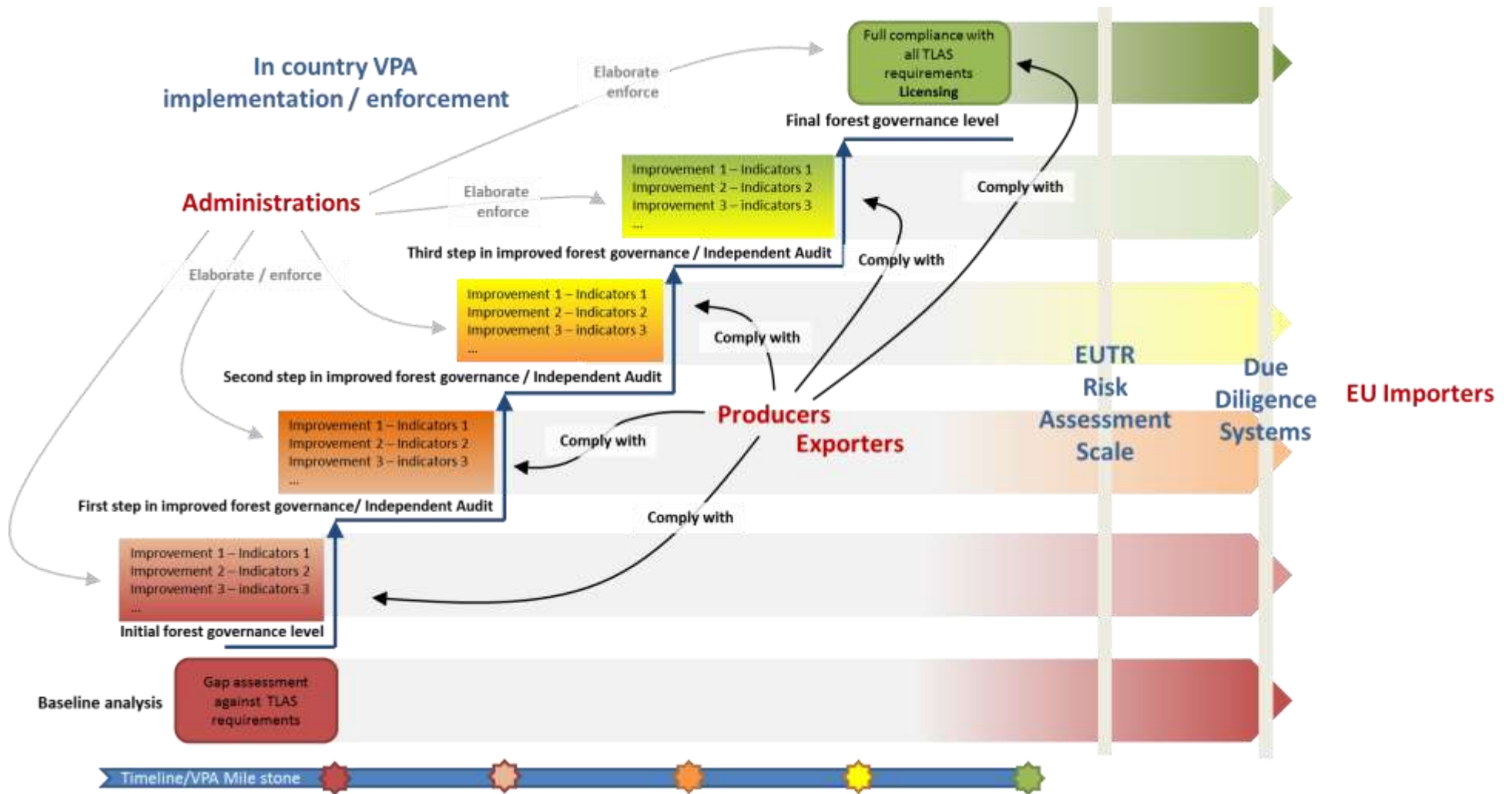


Figure 22: Illustration of the idea of a phased VPA approach and possible linkages to the EUTR

AA3 - Public Procurement

The European Commission should continue to promote Timber Public Procurement Policies (TPPPs). Member States (MS) should, if reasonable, broaden the product scope of their TPPPs, and extend their TPPPs to cover more parts of the public sector. MS should also strengthen the adoption, effective implementation (including correct publication of tender requirements and transparency on procedures and outcomes) and monitoring of the implementation of MS TPPPs, and promote harmonisation - or at least improved coordination - between MS in order to avoid confusion of suppliers in PCs and to increase cost-effectiveness of TPPP implementation.

Promote an expert discussion on the issue of accepting FLEGT-licensed products in TPPPs as equivalent to their certified counterparts, and seek to harmonise agreement on this issue across MS.

Promote and support the development of TPPPs (or where relevant PP laws) in producer countries, using access to the public market as an incentive to stimulate SMEs active on the domestic market to comply with legality and/or SFM requirements.

Promote the use of (tropical) wood as an environment-friendly construction material.

AA4 - Private Sector Initiatives

1. In order to ensure that the private sectors in both EU and producer countries are able to rely on operational VPAs and in a position to comply with the EUTR on a short-medium term and without too much additional burden and costs, it is recommended to:
 - (a) Improve analysis and understanding - currently lacking - of Private Sector actors (through typology development and corresponding needs analysis) aimed at improved targeting of support; do so in coordination with private sector support programmes being developed by FAO, ATIBT and EFI and possibly drawing on previous work¹⁹¹;
 - (b) Identify successful PSIs and promote their use, with EU and MS institutional and financial support. Develop strategies to increase the role of private sector actors in EU and VPA and other producer countries in developing workable solutions, including the development of wood tracking and legality verification systems, and encourage targeted capacity building;
 - (c) Support the promotion of both legal and sustainable wood in the marketing of wood-products, through communication campaigns and labelling, and trade facilitation for certified timber (in EUTR Due Diligence, trade agreements, and other trade control processes). Besides legality, the quality of the processed products exported should get increased attention.
 - (d) Give more emphasis to ensuring that companies can operate within stable and enabling environments (access to local finance, improved business security) and use the national wood tracking system for their own operations.
 - (e) Encourage the creation of a centralized EUTR Due Diligence information resource (electronic platform) on the legality and sustainability of timber sources and, in timber exporting countries, the creation of official response centres to inquiries from potential buyers into the validity of official documents.
2. Enhance synergies between SFM certification and FLEGT Action Plan instruments, as complementary approaches to sustainable forest management, improved forest governance and responsible markets. This requires increased engagement with the main certification schemes and their promoters (professional associations, stakeholder alliances, ENGOs), with a view to addressing current limitations and challenges of both legality and SFM certification mechanisms.

¹⁹¹ E.g. Typologie des acteurs du secteur privé forestier [Challenges et opportunités dans le soutien auprès du secteur privé dans le cadre de l'APV UE-Cameroun], Groutel E., Fumey S., FAO, 2015

As a possible approach to be further explored¹⁹², this may require a global framework under a relevant international institution (like ISO, IAF, or IFIA¹⁹³), providing a meta-standard and guidelines with minimum requirements for accreditation and certification standards and procedures, also coherent with broader frameworks like SDGs¹⁹⁴ and SFM principles¹⁹⁵. This would enable: (a) an articulation of legality and SFM certification mechanisms in a robust two-step process; (b) the harmonisation, alignment and benchmarking of standards and procedures; (c) the mutual recognition of different schemes allowing the mixing of products certified under various schemes under any CoC certificate; (d) closing of the gaps for effective use of the certification tool in VPA and EUTR frameworks (providing thorough verification or validation of both legality and sustainability); (e) trade facilitation for certified timber; and, possibly (e) the adoption of a common database for the registration of transactions and the confidential transfer of information on origins and species for EUTR DD risk analysis. It is suggested that the political and market leverage of EU-FLEGT can provide a critical impetus to these important evolutions.

3. Focus support for private sector initiatives on SMEs, in particular in producer countries, in order to encourage SMEs to use (legality) certification, to facilitate their access to Due Diligence information and to identify solutions to protect the confidentiality of commercial information on the chain of suppliers, through CoC certification¹⁹⁶ or other mechanisms.
4. Drawing on compliance monitoring, verification and demonstration approaches, models and tools used in different PSIs, to develop alternative models for design of TLAS – for discussion with candidate VPA countries. Such models could include:
 - (a) existing VPAs models (including the Indonesia SVLK approach of company-based system audits, vs. all other VPAs based on conventional government control);
 - (b) a combination of government control and certification (governments relying on certification for part of the TLAS work);
 - (c) independent validation of government control by a third party, following an approach that has been effectively implemented already in some legality certification standards; this could include implementation of supplementary audits, where deemed necessary, and the delivery of an independent opinion whether or not to issue FLEGT-licenses; similar to the existing independent auditor function;
 - (d) mandatory Due Diligence (to be applied by exporters in producing countries); and
 - (e) independent country-wide monitoring of traceability and legal compliance, as developed experimentally in SFM projects by international inspection companies in various countries; these follow an approach of long-term capacity building in national institutions, through

¹⁹² A relevant initiative has been initiated in Sept. 2013 when members of ISO approved a project to develop an ISO Chain of Custody (CoC) standard for timber products, for launch in 2017. It has raised a lot of debate, positive and negative. FSC and PEFC opposed the project through a joint letter (<https://ic.fsc.org/technical-updates.325.914.htm>). Positive follow-up was being provided, notably by the UK 'Mirror Committee for the ISO CoC Standard' (ATIBT newsletter, September 2014) and ISO Product Committee ISO/PC 287 was developing the future ISO 38001 standard (www.iso.org/iso/news.htm?refid=Ref1887).

¹⁹³ IAF is the International Accreditation Forum, the world association of Conformity Assessment Accreditation Bodies (...). Its primary function is to develop a single worldwide program of conformity assessment (...) (www.iaf.nu); IFIA is the trade association for inspection agencies and other organisations that provide inspection, testing and certification services internationally (www.ifia-federation.org).

¹⁹⁴ The 17 UN Sustainable Development Goals (SDGs) approved on 25 September 2015, by the UN General Assembly. The SDGs replace the eight Millennium Development Goals (MDGs) adopted in 2000. Unlike the MDGs, the SDGs commit both developed and developing countries to attaining these goals. Among these is Goal 15: *Sustainably manage forests, combat desertification, halt and reverse land degradation, halt biodiversity loss*. Website: www.un.org/sustainabledevelopment/sustainable-development-goals/.

¹⁹⁵ Including, at global level, the Criteria and indicators (C&I) framework which the UN "Forest Instrument" and FAO's global forest resources assessment use to define SFM, and the UN Forum on Forests (UNFF) and the International Arrangement On Forests (IAF) (www.un.org/esa/forests/); also including the ITTO SFM policy guidelines. At regional level, e.g. FOREST EUROPE and the legally binding agreement on forests in Europe (www.forestnegotiations.org), and the Tarapoto process on C&I for the [SFM] of the Amazonian forest. Beyond forestry, e.g. the Global Landscapes Forum.

¹⁹⁶ Unless a mechanism is developed to ensure that such information is confidentially transferred throughout the chain, the main certification schemes suggest that the EUTR requirement to pass the information on supplier, species and sources throughout the chain should be dropped for certification. It is not currently complied with by these schemes (see France Aide-memoire).

temporary delegation or subcontracting of government control services to an independent third party (a condition for NGO acceptance) and gradual transfer of the operational capacity to a national institution.

AA5 - Finance and Investment Safeguards

It is recommended to consider a new approach to Action Area 5 - Financing and investment safeguards – since the current one has failed to mobilise Member States and financial institutions and to deliver results and, at the same time, the context has changed so that many institutions' policies have indeed improved over the period reviewed (2003 – 2014). An alternative avenue would consist in financing a programme for monitoring investments by EU banks in the forest sector in tropical countries, managed by a joint Private Sector - Civil Society platform. Indeed, civil society monitoring seems to be an effective constrain for financial institutions not to undertake unsustainable investments. Financing could originate both from EU or MS support and the platform could be devised as to be in joint control of both NGOs and the private sector, with public donors' supervision.

Regardless of the preferred avenue, it is recommended to better use EIB resources to support sustainable investments in natural forests in tropical countries (i.e. outside the areas in which most EIB investments in the forest sector are taking place, such as China), which are not undertaken at the moment.

In any case, future action in this area should not only consider the forestry sector, but also the impact of financing of any other industry or sector that may result in deforestation (e.g. agriculture).

AA6 - International Legislative Instruments

Lack of follow-up and limited results from actions undertaken by MS in the field of using existing legislative instruments - with the exception of the CITES-EUTR relationship - suggest removing this AA, especially if the EU's intention is to make the FLEGT Action Plan more operational. Indeed, CITES could be effectively subsumed under AA2 'Trade in Timber', while other initiatives, at both EU and international level, with which synergies exist or could be created, could be covered without a dedicated Action Area.

AA7 - Conflict Timber

It is recommended to maintain an Action Area on "conflict timber" as a means of focusing attention and action on the relationship between timber and conflicts – pre-, during and post-conflict. This would require more comprehensive treatment in the VPA, similar to other elements of the agreement.

A specific Annex on Conflict Timber in the FLEGT Regulation, and/or attached to VPAs and negotiated by all parties, could define Conflict Timber and ensure that a range of measures are taken to avoid such timber entering the European market. Conflict Timber could be explicitly regarded as illegal, in the VPA legality definition, and a suspension of the VPA or a Notification to the Competent Authorities is among the options. At the same time, integration of a more specific reference in the EUTR, requiring the application of Due Diligence in suspicious situations (without having to wait for an official UN or EC sanction) may be considered.

The installation of a simple structure with responsibilities for stimulating, guiding and monitoring activities in this action area (as well as others), with regular planning, budget, monitoring and reporting obligations may be an effective way to support the development of the necessary instruments in this field, so the international community is better prepared for dealing with conflict timber in the future.



*Handicraft worker at SVLK certified Handicraft Centre, Central Java (Indonesia, June 2015)
Credits: Ernst Paul Zambon*

7 APPENDICES

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Appendix 1: Timber Trade data

In a series of peer-reviewed reports under the FLEGT Action Plan, Chatham House has assessed a number of countries' imports and/or exports of illegal wood-based products (Lawson and MacFaul 2010, Brack 2014a & 2014b; Saunders 2014a & 2014b; Hoare 2014a, 2015a, & 2015b; Hoare and Wellesley 2014; Wellesley 2014a, 2014b, & 2014c; Lawson 2014a, 2014b, 2014c, & 2014d; Momii 2014a & 2014b). It has also assessed several countries' production of illegal industrial roundwood (Hoare 2015c).

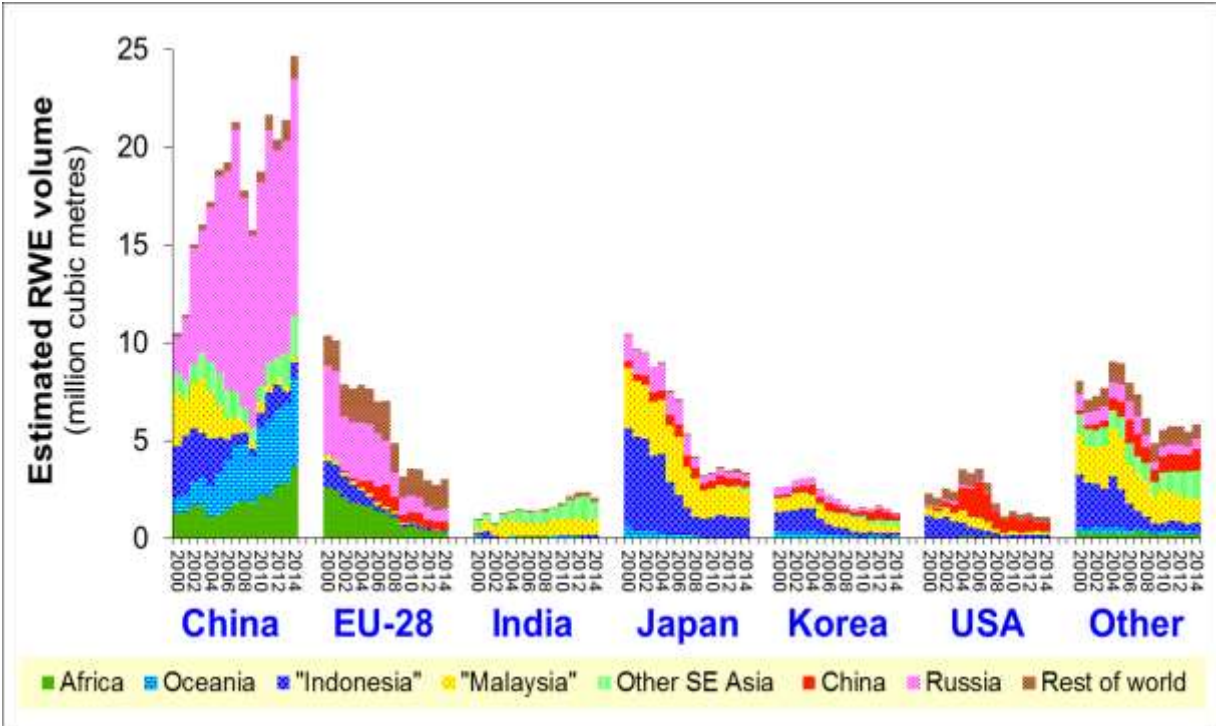
The methodology and percentages of illegality adopted in those assessments recognise that there are specific types of illegality, for example concerning rights and the management of concessions (indicators of sustainability), the allocation of concessions (an indicator of governance) and payment of forest and export related fees and taxes (for economic development). The percentages do not take into account differences between estimates of local end-use, imports, exports and official statistics for production, not least due to the margin for error in estimates of local end-use and roundwood equivalent volume. The percentages are necessarily indicative, rather than precise. Descriptions of trends in percentages of illegality would tend to be misleading if presented as aggregates for the imports or exports of the country whose trade is being evaluated.

For this evaluation, the methodology and the percentages of illegality adopted in those assessments (Lawson 2014e, Hoare 2014b) have been extended to other countries (including all EU Member States). The methodology is simple – 1) statistics of a given country's annual bilateral trade in each major group of wood-based products have been abstracted or estimated from official sources, 2) estimates of these products' roundwood equivalent ("RWE") volume have been derived from those statistics - using necessarily imprecise standard or assumed factors; and 3) those RWE volumes are then multiplied by estimates for the percentage of illegal bilateral trade in each of those product groups. Those percentages derive from on insights about illegality at each node in typical supply chains based on literature review and surveys of experts' perceptions.

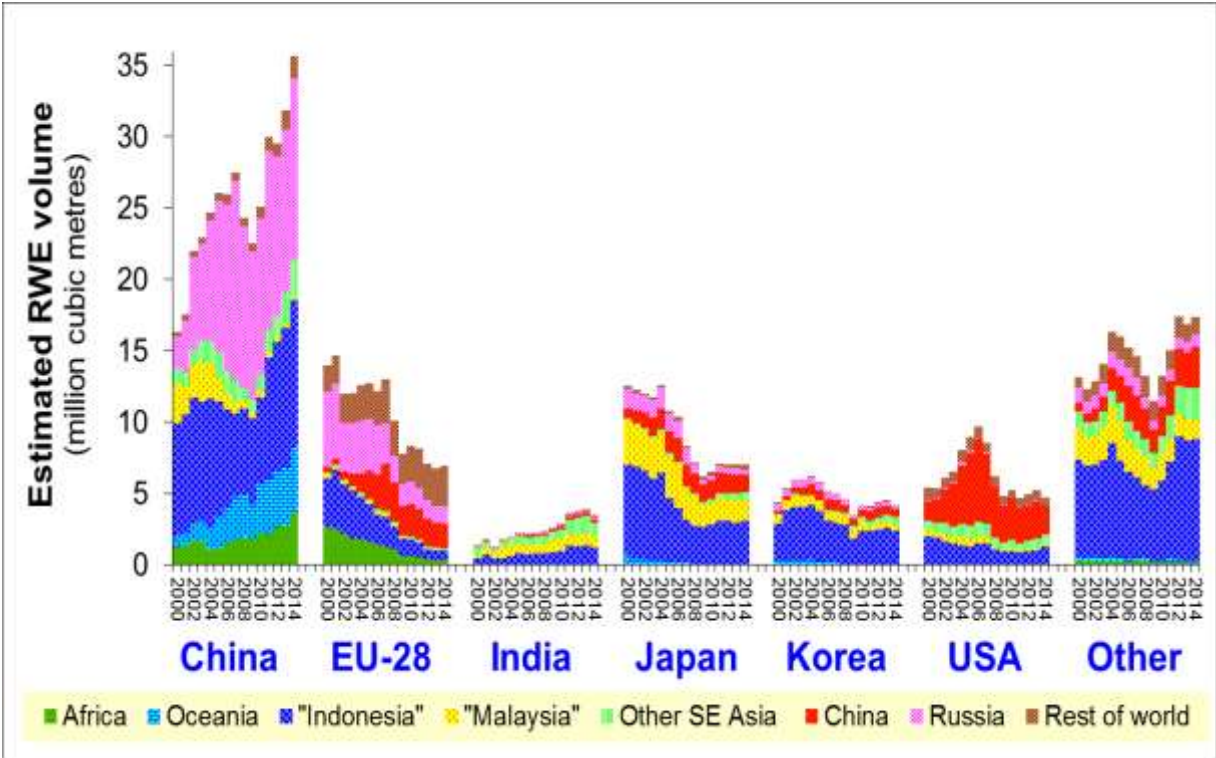
The salience of specific illegalities may vary between countries, between products and over time. Concerning governance, particularly the allocation of concessions (to enterprises or for changes in land-use), there has been progress in some countries (notably Ghana and Liberia) but only concerning recently allocated permits. However, little progress seems to have been made concerning fraud (including in South America and exports to and from China, corruption and patronage). Concerning sustainability, there has been little progress, particularly in relation to rights (although the constitutional court ruling in Indonesia is particularly relevant), forest clearance, or in enforcing legislation requiring the preparation and implementation of credible plans for the sustainable management of concessions in natural forest. Concerning economic development, efforts have been made (with little success) to assess the payment of official forest- and export-related fees and fines, and logs continue to be imported from countries which prohibit their export.

The first two of the four charts which follow this introduction derive from that extended assessment. The third chart adopts that methodology and data but, concerning estimates for end-use in the country of production, the percentages of illegality adopted take into account whether the industrial roundwood derives from natural forest, forest clearance or plantations. That third chart reflects an earlier assessment for a review for the UK's FGMC programme.

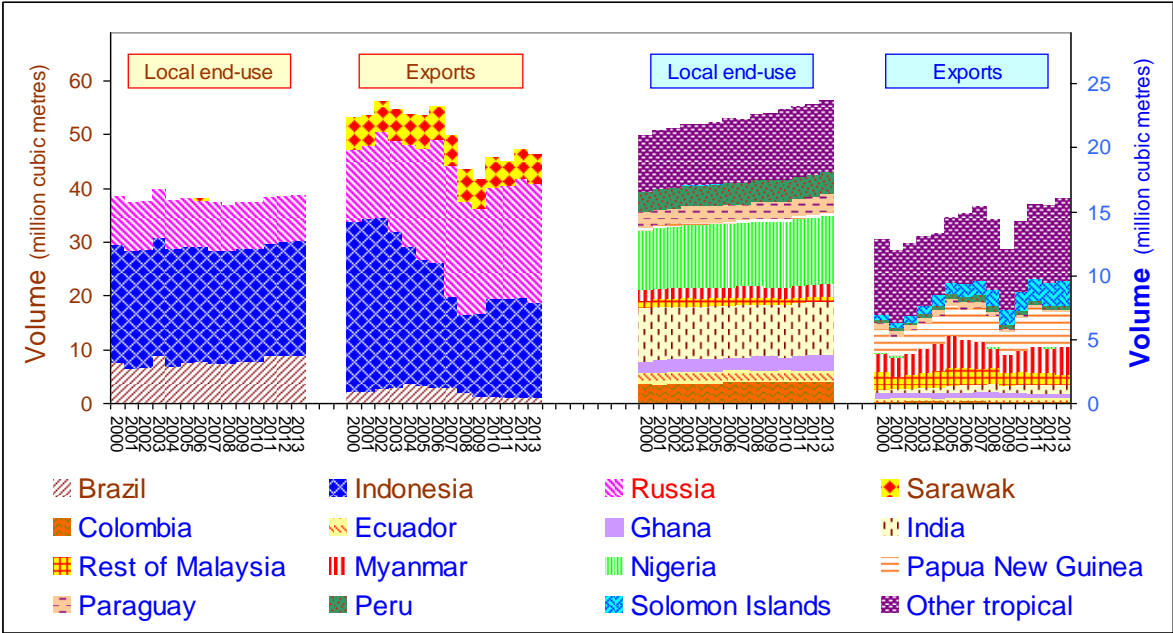
Imports of "illegal" logs, sawn wood, veneer and plywood (2000-2013)



World imports of "illegal" timber sector and paper sector products

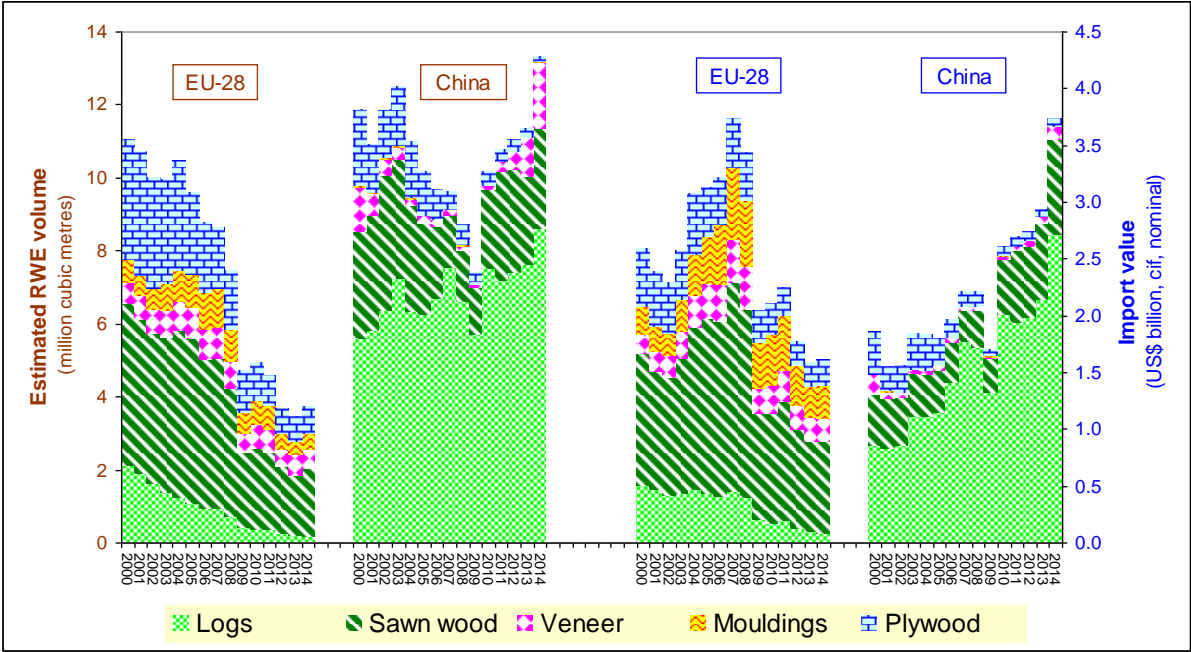


Production of illegal industrial roundwood in tropical countries and Russia, for local end-use or exports - indicative estimates (2000-2013)



Imports of “tropical timber” (other than “rosewood”) by the EU and China (2000-2014)

Source: based on Eurostat and General Administration of Customs of the People’s Republic of China



Note: “tropical timber” is defined here as logs, sawn wood, mouldings, veneer, and plywood deriving at least partly from natural tropical forests and imported directly into either the EU or China

Appendix 2: Summary of findings on governance

Source: VPA country Aide Memoires and Surveys

Country	Effectiveness of stakeholders' involvement A -Capacities B -Involvement C -Sustained engagement D - Effective involvement / added value)	Accountability & transparency A - Complaint mechanism B - Access to information C - Monitoring mechanisms D - Communication	Institutional effectiveness & efficiency A - Performance of all institutions involved B - Clarity of roles C - Coordination	Legal reform / tenure and access to land A - Revised and harmonized legislative framework B - Ownership, access to land, trees clear and documented	Law enforcement & compliance A - Changes in forest offences B - Transparent and consistent application of legal definitions	Illegal logging - Changes in illegal logging (practices) -Other remarks
Ghana Start 03-2007 Sign 11-2009 Force 12-2009	A - Strong B - CSO more pronounced than PS C - Partly/ in implementation D - (NGOs) enhanced quality VPA and annexes	A - Multi-stakeholder TVC B - Good C - Joint Team impact monitoring installed; limited NGO monitoring D - Sufficient	A - FC performance improved B - diff perspectives role NGOs/ implementation C - good	A - some initial legal reform, rest to be done after licensing; -Issues: chainsaw millers; old permits B - ownership of trees an issue.	A - Great variations in forestry offences annually (CH) B - Compliance VPA and legal definitions differ	- Chatham 2010: 59% illegal of overall logging - Chatham 2014: 49% illegal (perception) -TLAS evaluation: 4% is VPA compliant.
Indonesia Start 03-2007 Sign 09-2013 Force 05-2014	A - strong (all stakeholders) B - All stakeholders C - Yes D - Impact on broader governance	A - In place B - Weak; personal security an issue C - Independent monitoring by civil society networks (TLAS internal); KPK anti corruption unit active D - Sufficient	A - SLVK pre-VPA; performance satisfactory B - Clear C - Good, including between ministries	A- Reform/ Import legislation being developed to prevent illegal import. B - Land allocation and illegal conversion problematic	A - Enforcement strengthened but still needs further strengthening B - improving	- CH 2010: 60% - CH 2014: 40% (perception) - Indonesia own estimates is 30%, domestic market - Issues of old permits/ allocation of concessions, illegal conversion.
Cameroon Start Nov 2007 Signed Oct 2010 Force Dec 2011	A - Strengthened, incl. indigenous comm. B - All C - Yes D - Enhanced quality VPA and annexes	VPA Transparency Annex A - installed B - Still weak C - Independent Monitoring by three entities D -	A- Weak B- C - Weak inter-ministry and overall coordination	A - Series of legal reforms to be completed B - Land allocation and land use planning need progress	A - Forest Law Enforcement weak B - Corruption persistent issue. - Almost no timber complies with VPA legality definition	-35% in 2010, now higher? (CH) -Conversion issue -Conflict timber from CAR
Liberia Start 03-2009 Sign 07-2011 Force 12-2013	A - Strengthened B - CSO incl. forest comm. strong. Export oriented PS less pronounced C - Yes, civil society D - Cancellation of Private Use Permits	A- B - Website developed, use, weak C -Independent monitoring by CSOs D -	A - Weak capacities of FDA; slow progress B - Evolving C - Reasonable	A - Legal texts weak B-	A - Law enforcement weak B - Lack of political will/ Logs for export illegal/ not complying with VPA	-Conversion an issue. -Chainsaw milling legalised
Ivory Coast Start 06-2013 Process stalled	A - Strengthened, but weak B - Main achievement but low compared other countries C- D-	A - B - access to information (one of main achievements) C - D-	A - NFP limited availability/ Overall lack of capacity at Min level, fragility of institutions B - C - Weak ; stalled for >12 months.	A - Clarity on need legislative changes/ Polices developed/ Implementation of Forestry Code lacking/Problem validation titles / transition old- new licenses. B-	A - Lack of political will corruption persists	-No info, presumably little progress -Large group of artisanal loggers/ domestic market -Conversion an issue
Vietnam Start 11- 2010	A-Improved, needs strengthening B- PS formally involved in technical & negotiation/ NGOS informally consulted C - D - annexes adapted	A - B- VN Forest made clear how CSO comments taken into account /Important step forward in a very centralised country C D	A - Strong/VPA negotiation centralised by MARD B- C- Coordination/ Participation of other ministries (Custom, Industry)	A - Review legal framework, unclear implementation/ Legislation on import needed B-State-owned forest/Land use certificate/land conflicts	A - Lack of law enforcement in remote areas	- CH 2013: Import still 18% illegal - CH 2010: 20% estimated of import high risk - Still illegal logging going on in natural forest
Guyana Start 12-2012 Pace negotiations slowed down	A- Gov capacities strong- CSOs weaker and fragmented/ could be strengthened. Capacities PS unknown B- NTWG includes government agencies, private sector, and government-supported Amerindian. Direct representation of Amerindians is an issue.	D- Communication strategy to reach out to stakeholders	A Performance gov strong ; CSOs weak and fragmented B Clarification roles under development C Good cross-government coordination	A- May be need to adopt broader legislative and/or policy reforms B- Platform for discussion on allocation of land rights	No info yet	-Illegal logging not an issue. Embarked because of Norway Agreement. -WTS/GLAS pre-existed -Domestic market under consideration

Appendix 3: Costs and benefits data

Costs related to FLEGT action

- According to the EC- and MS-Surveys 2015 undertaken in the context of this evaluation, the total amount spent in the period 2003–2014 by the EC and MS amounts to **€882,350,672**.
- Hudson and Paul (2011) provided a list of **FLEGT related actions** (projects, programs) for the period 2003 – 2010¹⁹⁷. Building on this list, the evaluation team requested the respondents from EC and MS to provide spending information on these actions and to provide additional information for the period 2010-2014, with data on the sponsoring entity (EC or MS), project name and the total budget. Projects were included in the list if they mentioned FLEGT or illegal logging in the project title or in the log-frame. The list includes the EFI-FLEGT Facility and FAO FLEGT Program budgets, which will be estimated below. The total for all the financial contributions listed until 2010 was **€608,161,660**.
- A study on Forest Financing by the **Advisory Group on Finance of the Collaborative Partnership on Forests** (UNFF, 2012) estimates the total funding spent on FLEGT for the period 2002 – 2012 at **US\$ 900 M** (equivalent to approximately **€703 M**, based on the average exchange rate for the period 01/01/2002 – 31/12/2011; OZ Forex).
- The VPA Survey 2015 undertaken in the context of this evaluation suggests that VPA countries do not always have a complete overview of the FLEGT budgets received during negotiation and implementation phases, with the exception of Ivory Coast, Indonesia and to some extent Vietnam. Therefore the amount of support received from the EU and MS¹⁹⁸ by producer countries is based on information provided by the **EC survey 2015 and the MS survey 2015** (some EU MS did not complete the survey so possibly there is an **underestimation**).
- The **VPA Survey 2015** produced the following data on own **contribution of VPA countries**: Cameroon: €0.19 M; Central African Republic: €0.04 M; Congo: €1.80 M; Ivory Coast: €0.69 M; Vietnam: €0.04 M; Indonesia: €0.80 M; Thailand: €0.10 M. There are no data for the other 4 responding countries. This adds up to a total of €3.66 M, with an average of €0.52 M per VPA country. These data show considerable differences between VPA countries, depending among others on the phase of negotiation/implementation.
- Funding is channelled through multiple initiatives, but two main instruments have been established: the EFI FLEGT facility and the FAO FLEGT programme. The EFI FLEGT facility is funded through an EU MS multi-donor trust fund. For the period 2007-2014, EC contributed €21 M, United Kingdom €8.1 M, The Netherlands €5.25 M, Finland €1.25 M, Sweden €0.36 M, Germany €0.25 M, and France €0.14 M. The United Kingdom is contributing another €1.2 M for 2015, while Sweden has pledged to support the period 2015-2018 with another €3.3 M. Separate funding went into **Regional Support to SE Asia FLEGT** (2009-2012), totalling €6 M (94% EC, 4% Germany and 2% United Kingdom). A new grant of €4.8 M for the period 2013-2016 was approved in 2013 to be managed through the FLEGT Facility. However not all funds committed were used. **Total expenditure through EFI-FLEGT Facility** is calculated at **€31,534,396 M** from 2007-2014 (EU FLEGT Facility Financial Update, January-June 2015). The FAO FLEGT programme supports smaller projects that contribute to overall FLEGT objectives in VPA and non-VPA countries. Funding of the **FAO FLEGT programme**: Phase 1 (2008-2013) €11.85 M; Phase 2 (2013-2016) €11 M (plus €1.7 M from DFID); Phase 3 (2016-2022): €41.1 M (EU FAO FLEGT Evaluation, Blomley, 2015), of which €16 M financed by EC and €8 M pledged by Sweden (FAO; pers. comm.). The 3rd phase aims to spend 50% approximately in non-VPA countries. According to the Annual Report 2014, phase 2 expenditure until the end of 2014 amounts to €6.7 M (out of €11

¹⁹⁷ where relevant including the continued funding of actions after 2010

¹⁹⁸ To avoid double counting, please note that this information covers the full period of the FLEGT-AP (2003-2014) and therefore includes the information provided by the Mid-term Review (Hudson and Paul, 2011), mentioned above.

M). Therefore, total **FAO FLEGT Programs** expenses for the period 2008-2014 amount to €11.85 M + €6,725,193 + €1.7 M = **€20.3 M**.

- The **European Court of Auditors Evaluation Report on FLEGT (2015)** provides combined information on investments made by the EC through different management modes: 1. Implementation by Member States; 2. Joint management with international organizations; 3. "Other" (implementation by partner countries, NGO's and public and private companies (this concerns funding originating from EU), for the period 2003 - 2013. **Investments made by the EC** (not EU MS) in the period 2003 – 2013 amounted to €297.2 M. If investments remained at the same level in 2014 (i.e. €29.7 M per year), the **total EC investment for the period 2003 – 2014** is estimated at **€326.9 M**. It is to be noted however that the information presented in the ECA report only includes information on 35 countries (6 VPA signed countries, 7 VPA negotiation countries, 23 non-VPA/non-MS countries). This means that information on 2 VPA negotiation countries (Ivory Coast and Laos) and an additional 13 non-VPA/non-MS countries where the EU provides FLEGT support is not provided. It also does not consider the contributions and own investments by Governments, Civil Society Organizations and public and private companies in partner countries.
- The three tables below present an overview of the **FLEGT expenditure** for partner countries with a *VPA signed* (Table 1), countries *negotiating a VPA* (Table 2) and a *selection of non-VPA/non-MS countries* (Table 3). A difference is made between "direct funding" (funding directly provided to a country by the EC and/or MS) and "indirect funding", funding directed at a specified group of 2 or more countries. In addition amounts have been spent on actions that do not target a particular country (defined here as "Global") and actions for a group of several non-specified countries (defined here as "Multi "). As these lines are so general (and include the overall costs for the EFI-FLEGT Facility and the FAO-FLEGT Programme), the amounts spent on these lines (respectively €193.4 M and €110.2 M) are not attributed to countries as "indirect costs", but rather considered separately, at the overall level. These three tables present an overview of a. the amounts of *direct support* (i.e. projects implemented at national level) by EC and MS, b. the amounts of *indirect support* (i.e. projects implemented at regional level) by EC and MS, c. the amounts invested by "other sources" (i.e. from VPA countries government and stakeholders) and d. the total amount invested per country. The data on *direct support* and *indirect support* are based on the EC and MS Surveys, conducted in the context of this evaluation. The data on "other sources" are based on information of the ECA report, but have been processed and extrapolated, leading to estimations. VPAs are Trade Agreements and according to the EC it was always made clear to partner countries that no money was attached to it. In many cases the evaluation team was made aware of the fact that VPA partner countries were contributing substantial investments to the FLEGT process. E.g. the Indonesian Government indicated to have invested €20 M on FLEGT in the period under review; in addition, private sector is believed to have invested at least €10 M for compulsory SVLK (TLAS) certification (including direct and indirect certification costs). CSOs may well have invested another €5 M, obtained from non EC/non MS sources. Compared with the investment by EC and MS (€ 38.8 M) these amounts are similar. From other countries (VPA and non-VPA/non-MS) there are similar indications of additional investments based on other sources, including government budgets, other donors (e.g. World Bank, US-AID, Norway), private sector and NGOs (WWF, IUCN, among others). The FAO-FLEGT programme requests a counterpart contribution of at least 20 %. Based on the above indications conservative factors of 0.4 for VPA signed, 0.3 for VPA negotiating and 0.2 for non-VPA/non-MS countries have been applied to the data provided by the ECA report to cater for funding from "other sources".

Table 1: Estimated total investments in FLEGT from EU and MS (direct and indirect) and other sources for countries with a VPA signed (Sources: EC Survey 2015; MS Survey 2015; ECA FLEGT Evaluation Report 2015).

Country	Direct support EU/MS (x M €)	Indirect support EU/MS (x M €)	Other sources (x M €)	Total investment (x M €)
Cameroon	53.4	3.1	6.0	62.5
CAR ¹⁹⁹	0.1	3.1	3.0	6.2
Congo	14.7	3.1	3.3	21.1
Ghana	58.3	2.8	1.3	62.4
Indonesia	44.7	1.8	9.6	56.1
Liberia	18.2	2.8	1.7	22.7
Total	189.4	16.7	24.9	231.0

In total, the six **VPA signed countries** have received an amount of **€189.4 M in direct support** on FLEGT - both for activities directly related to the VPA process and for wider FLEGT action, for example on forest governance, policy reforms and support to stakeholders- plus possibly an additional **€16.7 M in indirect support**. The total amount received from **“other sources” is estimated to be €24.9 M**, so that the total investment in FLEGT in this category of countries would amount to **€ 231.0 M**.

There are major differences in FLEGT expenditure per country. CAR hardly received direct support from the EC and MS. Ghana and Cameroon on the other hand received considerable amounts, followed by Indonesia. Ghana and Indonesia are the two countries closest to FLEGT licensing.

Table 2 presents the financial support to **countries negotiating a VPA**. In total, the nine **VPA negotiating countries** have received an amount of **€122.6 M in direct support from the EU and MS**, plus possibly an **additional €17.5 M in indirect support**. This support includes a mix of activities directly related to the negotiation process, as well as broader FLEGT related activities. Investments from **“other sources” add up to at least €8.4 M**, but there are no data for Ivory Coast, Laos and Malaysia. This suggests that the total investment in FLEGT in VPA negotiating countries would at least amount to **€ 148.5 M**.

There are important differences in the amount of investment between the negotiating countries. Approximately €1 M has been spent on Gabon and on Guyana. The country with the highest support rate is Honduras with more than €66 M, while Vietnam has received almost €28 M.

The total amount from **“other sources”** for the 6 countries for which data is available is €8.4 M, with an average investment from **“other sources” of €1.4 M per country**. If this average is extrapolated to the complete set of 9 countries in the group, the total **investment from “other sources” for the VPA negotiation countries** is estimated to be **€12.6 M**.

¹⁹⁹ According to the European Court of Auditors Evaluation Report on FLEGT (2015), from 2003-2013 an amount of €6.8 M had been spent through other channels like producer country government, NGOs and public and private sector companies.

Table 2: Estimated total investment in FLEGT from EU and MS (direct and indirect) and other sources for countries negotiating a VPA (Sources: EC Survey 2015; MS Survey 2015; ECA FLEGT Evaluation Report 2015).

Country	Direct support EU/MS (x M €)	Indirect support EU/MS (x M €)	Other sources (x M €)	Total investment (x M €)
DRC	5.5	3.1	0.7	9.3
Gabon	0.9	3.1	0.1	4.1
Guyana	1.1	0.9	0.2	2.2
Honduras	66.2	0.4	7.2	73.8
Ivory Coast	9.4	2.8	No data	> 12.2
Laos	6.2	1.8	No data	> 8.0
Malaysia	5.4	1.8	No data	> 7.2
Thailand	0.1	1.8	0.2 ²⁰⁰	2.1
Vietnam	27.8	1.8	0.0	29.6
Total	122.6	17.5	> 8.4	> 148.5

Table 3 presents FLEGT investment data for a **selected group of non-VPA/non-MS countries**. In total 31 non-VPA/non-MS countries have received FLEGT related support. The selection includes China, Bosnia-Herzegovina and Colombia (countries visited by the evaluation team), Brazil, Chile and Russia (countries contacted through teleconference) and Myanmar and Guatemala (countries showing interest in VPA negotiations). In this category Brazil received by far the highest amount (€35 M) of direct support by the EC and MS. China received almost €9 M, while Russia hardly received anything, although it is a major supplier of timber to the EU. Bosnia is a potential candidate country to EU accession and, as such, does not work on a VPA.

²⁰⁰ According to the European Court of Auditors Evaluation Report on FLEGT (2015), from 2003-2013 an amount of €0.61 M had been spent through other channels like producer country government, NGOs and public and private sector companies. The estimated total amount for "other sources", including 2014, $(0.6 + 0.1) = 0.7$ could be confirmed by the VPA Survey, according to which an amount of €103,768 was contributed by Government in 2014.

Table 3: Estimated total investment in FLEGT from EU and MS (direct and indirect) and other sources for selected non-VPA/non-MS countries (Sources: EC Survey 2015; MS Survey 2015; ECA FLEGT Evaluation Report 2015).

Country	Direct support EU/MS (x M €)	Indirect support EU/MS (x M €)	Other sources (x M €)	Total investment (x M €)
Bosnia-Herzegovina	No data	0.8	No data	> 0.8
Brazil	35.1	0.9	2.8	38.8
Chile	1.1	0.9	0.0	2.0
China	8.8	-	0.8	9.6
Colombia	8.3	0.9	1.8	11.0
Guatemala	0.9	0.4	No data	> 1.3
Myanmar	1.3	1.8	0.1	3.2
Russia	0.5	0.8	No data	> 1.3

Calculating for the selected group of non-VPA/non-MS countries the total amounts invested directly or indirectly by EC and MS would not make much sense as these “totals” would only represent a selection of 8 out of 31 countries in this category. According to the combined data of the EC Survey 2015 and the MS Survey 2015 the amount of **direct support on FLEGT for non-VPA/non-MS countries by EC and MS amounts to €133.4 M.**

According to the same sources the **overall indirect investment (through regions worldwide, including VPA signed, VPA negotiating and non-VPA/non-MS countries) amounts to €124.0 M.** The **total indirect funding by EC and MS for the non-VPA/non-MS countries** can be calculated by deducting the indirect investments for VPA countries (both signed and negotiating) of the total investments for indirect funding. This results in €124.0 M - €16.7 M (see Table 1) - €17.5 M (see Table 2) = **€89.8 M**

The total **investment in non-VPA/non-MS countries through “other sources”** can be estimated on the basis of the information for 22 countries in this category in the ECA report, according to which the total amount invested in 22 non-VPA/non-MS countries for the period 2003-2013 is €50.4 M. Considering a correction factor to cover 2014 and a factor of 1.41 to extrapolate from 22 to 31 countries, this would suggest a **total of € 78.2 M for the 31 countries** (on average €2.5M per country). This average amount is finally multiplied by a factor 0.2 to obtain the estimation of the amount contributed (co-funded) by “other sources”. The total investment by other sources would be $0.2 \times €78.2 \text{ M} = €15.6 \text{ M}$.

Costs related to FLEGT action in Member States

The EC and EU Member States have made considerable contributions to support FLEGT action in producer countries, where much of the above mentioned investments were related to. EU MS are also confronted with costs for FLEGT with respect to implementation of activities related to demand side measures, such as the implementation of the EUTR. To provide some insight, the example of MS Romania is developed below, based on information gathered during the MS visit to Romania.

Case of Romania

Estimated costs of FLEGT: €63.9 mln/year

Cost borne by the Government of Romania: €2.1 mln/year

Costs borne by the private sector: €61.6 mln/year

Costs borne by the civil society: €0.2 mln/year

Estimated benefits of FLEGT: €235.4 mln/year

Illegal logs becoming legal: €93 mln/year

Additional revenue collection (excluding VAT): €7.7 mln/year

Additional VAT revenue collection: €18.6 mln/year

Higher price for FSC certified products: €116.7 mln/year

DETAILS OF COSTS AND BENEFITS

A. Estimated investments in FLEGT

▪ Investment made by the Government of Romania (GoR) :

- FLEG Seminar 2008: €40,000

- development of Sumal and subsystems Forgis, Formis (WB Forestry Sector Development Program, 2008): €348,000

- development of the WTS + helpdesk (2014): €35,000

- further development of the Forest Management Information and Monitoring System (FMIMS) for the period 2015-2018: €706,853 (software development) + €400,000 (hardware) = € 1,106,853

If the above 4 investments are spread over time (a and b: 10 yrs; c and d: 5 years) this would mean an average annual investment of: €38,800 + €228,371 = **€267,171 / yr**

- information provision and **training** workshops: **€2,000/yr**

- **equipment** planned for FG staff (2016): €1.17 M. Taking this as a basis, the same amount is applied for the NEG. For customs an amount of 10% of this is applied. Further the investments in equipment are estimated to be used 5 years.

→ (€1.17 M + €1.17 M + €0.117 M) / 5 means an investment in equipment of **€0.49 M/yr**

- planned EUTR related staff input and operations FG (2016): € 1.08 M / yr

- staff input and operations NEG: say this would be 20% of cost for FG (part time thematic activity): €0.216 M / yr

- staff input and operations Customs: say this would amount 5% of the input of FG (due to the need to focus on many different products beyond timber products): €0.054 M

→ total **staff input for EUTR** (FG + NEG + NSI): €1.08 M + €0.216 + €0.054 = **€1.35 M/yr**

→ **total investment GoR: €2.1 M /yr**

▪ Private sector :

- total 6,200 logging/processing companies + 30,000 importing companies = 36,200 companies

- certification: 1st audit: 100,000 euro/ 1 M ha (Romsilva) (2.4 M ha → €240,000) + annual surveillance audits during 4 yrs (estimated at €45,000 /yr) → on average €84,000/yr.

- estimation other certifications: a. other FSC-FM/CoC certificates (€150,000/yr); b. 1 FSC-FM/CW certificate (€15,000/yr); c. FSC-CoC group certificates (15 x €15,000 = €225,000) ; FSC individual CoC certificates: 166 x €5,000 = €830,000)

→ **total certification costs €1.304 M/yr**

- 1 **additional staff for DDS**: € 5,000/yr/company; (for 5 % of companies) → 36,200 x 0.05 x €5,000 = **€9.05 M**

- **increased IT needs**: € 250/yr/company (for all companies): 36,200 x €250 → **€ 9,1 M/yr**

- internal development of DDS, training on DDS, internal development know-how, internal development code of conduct and MO proposals of ASFOR: €10,000; say € 1,000/yr (right to use of DDS ASFOR: no additional costs for members)

- development of DDS and training on DDS by 4 other associations /major groups: € 4,000/yr

→ **DDS development/maintenance costs for associations/major groups: €0.005 M/yr** (say used by 6,200 members)

- **development new DDS by individual companies** (say 30% of rest companies; average €10,000; use DDS during 10 yrs): estimation on average €1,000/year/company x 9,000 companies → **€9 M/yr**

- **adjustment of existing systems by individual companies** (70% of rest companies; estimated average cost: €200/yr)

→ 21,000 x €200,- = **€4,2 M/yr**

- **association to MO**: 800 - 5,000 euro/yr/company (depending on size; say average €2,000); limited use (10% companies)

→ €2,000 x 3,620 = **€7.24 M/yr**

- **implementation of DDS by individual companies** (36,200 companies; on average 3 supply lines /company ; cost/supply line €200/yr): estimation on average €1,500/year → **€21.72 M**

→ **total investment private sector: €61.619 M**

▪ **Civil society :**

- WWF : estimation : 1 M euro (in 10 years) (so on average €100,000/yr)

- others : say that 4 other NGOs spend 25 % of that each: €100,000/yr

→ **total investment civil society: € 200,000/yr**

Estimation TOTAL investments per year:

GoR + PS + CS = €2.1 + €61.6 + €0.2 M = **€63.9 M**

B. Potential Benefits

- **Illegal logging** in Romania is averaging 1.6 M m3/year, representing an amount of approximately **€93 M/yr** for the **material only**.

- **No taxes** have to be paid over the products (as there is no stumpage fee). However contributions have to be paid to: a. the *Fund for Forest Conservation and Regeneration - FFRC*: 10-25% of authorized harvest calculated at average price of a m3 of standing timber. Other percentages apply for illegal timber found and documented, depending on ownership. For the purpose of this calculation we suggest that illegally logged timber is not found and thus we apply an average value of $(10 + 25)/2 = 17.5\%$. Based on information from the UK Forestry Commission (2015), it is assumed that the average price of 1 m3 standing timber is 37% of the average price of 1 m3 of timber on the roadside. The value of 1 m3 timber at the roadside is €93 M/yr / 1.6 M m3/yr = €58.125. This means that annual volume of illegal timber (1.6 M m3/yr) should normally have contributed the following amount to the **FFRC**: $1.6 \text{ m3/yr} \times 0.37 \times €0.58.125/\text{m3} \times 0.175 = \mathbf{€ 6.02 M / yr}$

b. the *Environmental Fund - EF* (related to Government Emergency ordinance No. 196/2005): 2% of the sold wood value, except for firewood (and some other categories, such as Christmas trees, that are not relevant in this context). In line with the estimations of the FD, we suggest that 60% of the total illegally logged volume concerns firewood. The value of 1 m3 would be €93 M/yr / 1.6 M m3/yr = €58.125. The contribution to the **EF** would have been $1.6 \text{ M m3/yr} \times 60\% \times 2\% \times €58.125 /\text{m3} = \mathbf{€1.12 M /yr}$

The potential benefit to gain by avoiding illegal logging in favour of the FFRC and the EF amount to: **€7.1 M**

- In addition **20% VAT** (new rate from 01/01/16) could be gained over the sales, which would mean another **€18.6 M**
- Additional benefits are thought to be achieved based on the **slightly higher price for FSC certified products**. The total volume logged per year amounts 18.07 M m3/yr, representing a value of €659.74 M/yr. The total area of production forest is 62% of 6.3 M ha = 3.906 M ha. The total certified area (September 2015) amounts 2,524,392 ha, which is 64.6% of the production forest. On average the production of the certified forest would be $64.6\% \times 18.07 \text{ M m3/yr} = 11.67 \text{ M m3/yr}$, representing a value of €426.19 M. Provided the average price bonus for FSC timber from Romania is € 10/m3, this would deliver an additional benefit of $11.67 \text{ M m3/yr} \times €10 = \mathbf{€116.7 M/yr}$

Estimation TOTAL potential benefits per year:

€93 M + €7.1 M + €18.6 M + €116.7 = **€235.4 M**

When comparing the estimated costs with the estimated potential benefits it seems that the benefits are a factor 3.7 bigger than the costs, which means that the investments made by the stakeholders in the sector can be cost effective.

Appendix 4: Overview of REDD+ activities in VPA countries

Country	VPA	UN-REDD*	FCPF**	FIP***	Other major REDD+ support
Cameroon	I	p	o		GEF funding to COMIFAC**** countries
Central African Republic	I	p	o		GEF funding to COMIFAC countries
DR Congo	N	I	o	√	GEF funding to COMIFAC countries
Gabon	N	p	o		GEF funding to COMIFAC countries
Ghana	I	p	o	√	
Guyana	N	P	o		Bilateral agreement with Norway
Honduras	N	p	o		
Indonesia	I	I	o	√	Australia support for MRV
3	N	p	C		
Lao PDR	P	p	o	√	Finland supporting REDD+ development, aligned with FIP
Liberia	I		o		EuropAid support
Malaysia	N	p			Australia support for MRV; EuropAid support to State of Sabah
Republic of Congo	I	I	o		GEF funding to COMIFAC countries
Thailand	P		o		
Vietnam	N	I	o		FAO Finland Forestry Program; JICA support for remote sensing assessment

Source: ETRN News issue 55, March 2014, 'Linking FLEGT and REDD+ to improve forest governance',

Legend:

VPA: I — Implementing; N — Negotiating; P — Preparing to negotiate
 UN-REDD: I — Implementing (fully budgeted); p — Partner country (limited budget)
 FCPF: o — Partnership agreement signed and activities funded; C — Candidate.
 FIP: √ — FIP country
 Other: This column lists only those activities with major NFMS/MRV support.

Notes to the Table

* United Nations Collaborative Programme on REDD
 ** Forest Carbon Partnership Facility
 *** Forest Investment Program
 **** Central African Forest Commission

Appendix 5: Initiatives / Organisations mentioned under 4.4 - Private sector initiatives

Initiative / Organisation : Initiatives / Organisations mentioned under 4.4 - Private sector initiatives	Website
Association Technique Internationale des Bois Tropicaux (ATIBT)	www.atibt.com
Bureau Veritas	www.bureauveritas.com
Double Helix Tracking Technology (DHTT)	www.doublehelixtracking.com
Extractive Industries Transparency Initiative (EITI)	https://eiti.org
Forest Legality Alliance's 'Risk Tool' project	www.forestlegality.org/risk-tool
Forest Stewardship Council (FSC)	www.ic.fsc.org
Forest Trends - Supply-change.org platform	www.supply-change.org www.supply-change.org/commodity/timber_and_pulp
Forests Monitor	www.forestsmonitor.org
FSC National Risk Assessments	https://ic.fsc.org/national-risk-assessments.310.htm
Global Forest Registry (GFR)	www.globalforestregistry.org
Global Timber Forum (GTF)	www.gtf-info.com
Global Timber Traceability Network (GTTN)	www.globaltimbertrackingnetwork.org/home/
Global Traceability Solutions (GTS)	http://www.global-traceability.com
Global Witness	www.globalwitness.org
Le Commerce du Bois (LCB)	www.lecommercedubois.org
NepCon	www.nepcon.net
NEPCon - Forestry Risk Profiles	www.nepcon.net/forestry-risk-profiles
PEFC France	www.pefc-france.org
Proforest	www.proforest.net/en
Programme for the Endorsement of Forest Certification (PEFC)	www.pefc.org
Rainforest Alliance	www.rainforest-alliance.org
Réseau des Institutions de la Formation Forestière et Environnementale en Afrique Centrale (RIFFEAC)	www.riffeac.org
Resource Extraction Monitoring (REM)	www.rem.org.uk
SGS	www.sgs.com
Sustainable Tropical Timber Coalition (STTC)	www.europeansttc.com
TFT	www.tft-earth.org
Thünen-Institut: Forest Genetics	www.ti.bund.de/en/fg/
Timber Trade Action Plan (TTAP)	www.tft-earth.org/resource-centre/guides-and-reports/
Track Record Global Ltd (TRG)	www.trackrecordglobal.com
Transparency International (TI) - Corruption Perceptions Index (CPI)	www.transparency.org/cpi2014
UK Timber Trade Federation (UK TTF)	www.ttf.co.uk
WRI - Forest Legality Alliance (FLA)	www.forestlegality.org
WWF – Global Forest Trade Network GFTN)	http://gftn.panda.org