

Assessment of the EU Timber Regulation and FLEGT Action Plan



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ISBN 978-952-5980-18-9 (printed)
ISBN 978-952-5980-19-6 (pdf)

Editor-in-chief: Lauri Hetemäki
Managing editors: Rach Colling, Minna Korhonen
Layout: Grano Oy / Jouni Halonen
Printing: Grano Oy

Disclaimer: The views expressed in this publication are those of the authors and do not necessarily represent those of the European Forest Institute.

Recommended citation: Ragnar Jonsson, Alexandru Giurca, Mauro Masiero, Ed Pepke, Davide Pettenella, Jeffrey Prestemon and Georg Winkel. 2015. Assessment of the EU Timber Regulation and FLEGT Action Plan. From Science to Policy 1. European Forest Institute.



SUMMARY

The European Commission presented the EU Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan in 2003, as part of its continuous endeavours to tackle illegal logging. The Plan's objective is to eliminate illegal timber in international trade, acknowledging the shared responsibility of exporters and importers. A cornerstone of the Plan is establishing Voluntary Partnership Agreements (VPAs) with timber producing and exporting countries, and the introduction of FLEGT-licensed timber.

A second key element of the plan is the EU Timber Regulation (EUTR), which came into full effect in March 2013. VPAs and the EUTR are meant to reinforce each other, addressing the supply (export) and demand (import) side of the timber product trade respectively. The EUTR obliges timber product importers to take adequate measures to minimize the risk of importing illegal timber products to the EU. Timber products that will be covered by a FLEGT licence, or a Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) permit, are considered to meet EUTR requirements.

Another key initiative was the amendment of the Lacey Act (LAA) in the US in 2008, prohibiting the import of illegally sourced timber products into the US. Other major importing countries such as Japan and Australia have also followed this trend of regulating illegal timber entering their markets.

This study reviews scientific and expert studies which address the issue of (a) the **effectiveness** of these policies in reaching their objectives and (b) the **impacts** of FLEGT (including VPAs and the EUTR) and the LAA.

It is still too early to be able to draw strong conclusions, in particular quantifiable ones, regarding the impacts of FLEGT and the EUTR on reducing illegal logging. The global legality verification regime is complex and evolving dynamically. Thus, while there are more and more studies being published on the issue, the evidence regarding important questions is still limited.

Lessons learned

- The FLEGT/VPA process has apparently resulted in significant improvements in forest governance in partner countries. However, many studies warn that local communities have yet to be properly involved in the negotiation process or are simply not aware of legality verification. [Experience shows that going beyond timber legality and including socioeconomic development objectives will make VPA implementation more successful.](#)
- Unlike the EU market, the potential effects of the LAA on timber markets and trade flows have already been analyzed quantitatively for the US market. In general, tropical timber product imports seem to decrease, while temperate hardwood imports may fill the resulting gap in timber supply. The causal link between this trend and the legality verification policy is, however, yet to be established. [Shifts in trade need to be better analyzed to understand the causalities and the ultimate consequences in terms of the existence and economic significance of trade diversions and market substitutions.](#)
- Policy measures like FLEGT, the EUTR and LAA tend to result in reduced imports of illegal timber products in countries imposing such measures. [The prices of the legal imports from the same source countries tend to be higher compared to the case without those measures.](#)
- [We cannot yet definitely say that the policy measures have reduced illegal logging in suspected source countries, although they could have.](#) It is possible that these source country producers could have redirected their illegal timber products to other countries without comparable policy measures. It is also possible that more illegal wood in source country markets has been redirected to domestic consumers, pushing more legal wood into world markets, and the *net effect* on illegal timber remaining unclear. [More research is needed to verify these kinds of supply diversions.](#)

SUMMARY

- Outside the EU, the effects of both VPAs and the EUTR on forest governance, forest management, and the timber product manufacturing sector are only evolving now. The arising legality verification regime has strongly increased the awareness of different stakeholder groups in producer and consumer countries of the illegal logging issue, yet the consequences of this increased awareness for harvest, trade and production practices are yet hardly known.
- It is crucial for the success of the EUTR to involve major timber product producers/ importers from emerging economies, most notably China. The bilateral negotiations the EU is already conducting with such countries are therefore essential. However, multilateral negotiations involving also other major destinations for the trade in timber products, notably the US and Japan, could be even more fruitful.

Policy implications

- In the EU, the implementation of the EUTR is still a major challenge. While some countries are well advanced in the implementation process, others are still at the beginning. The technical and economic challenges of the implementation remain substantial, for example the lack of resources and knowledge, and the sheer number of operators versus personal resources of the implementing agencies.
- Effective and consistent implementation of the EUTR across all EU Member States should avoid a counterproductive “race to the bottom”, i.e., inadequate implementation inducing legally questionable timber product trade flows. Coherent implementation of the EUTR across Member States should also reduce the risk of trade disputes. In this respect, helping to facilitate the benchmarking of good practices from more experienced countries would be valuable.
- Implementation should be done in close cooperation with industry, striking the right balance between effective implementation and acceptable costs. A process of mutual learning could aid the achievement of this balance. In this instance, the Independent Market Monitoring (IMM) project, in creating a database for the analysis of timber trade development, could play a key role.
- There is a need to re-consider the importance of the emerging legality verification regime in the context of a broader global governance system targeting the sustainable management of the world’s forests. Legality is a core precondition for sustainability, but does not guarantee sustainability per se.
- There is a danger that the emerging legality verification regime creates advantages for large, export-oriented enterprises compared to smaller firms in both exporting and importing countries, due to the perceived costs of legality verification. Inside the EU, monitoring organizations, which provide advice and directions for exerting due diligence, have a key role here. It is essential that support for small and medium sized firms is also forthcoming in source countries for timber products. In summary, it is essential to strike the right balance between the demands of EUTR compliance and the existence of an inclusive, competitive timber product market. The Independent Market Monitoring (IMM) project, analyzing timber product market trends to assess the impacts of the Action Plan, should aid in striking this balance.



1. Combating illegal timber logging and trade

The trade of illegally sourced timber has detrimental effects on the forest sector, undermining legal trade and posing severe environmental, social and economic threats. The importance of legal and sustainable timber markets has been increasingly recognized by governments, international organizations, non-governmental organizations, trade associations, and wood processing industries alike. Widespread recognition of the severity and consequences of illegal logging and the trade of illegal wood began at a meeting of the G8 in 1998. The support of timber legality verification initially started with the ‘Bali Action Plan’ in 2001 at the first regional Forest Law Enforcement and Governance (FLEG) conference, when some of the world’s leading economies committed to supporting legality in the forest sector. This new approach was complementary to other previous efforts such as forest certification, criteria and indicators practices, and National Forest Programs.

In 2003, the European Commission (EC) presented the EU **Forest Law Enforcement, Governance and Trade (FLEGT)** Action Plan. The key difference from previous processes was the addition of *trade* to the Action Plan, which gave a new and concrete focus. The objective is to eliminate the demand for illegal timber in international trade. However, this is just one aspect of the FLEGT Action Plan, which goes far beyond previous policies, as it acknowledges the shared responsibility of exporters and importers. The cornerstone of the Plan is to establish **Voluntary Partnership Agreements (VPAs)** with both tropical timber producing and exporting countries. The VPAs include bilateral processes to establish legislation and its enforcement. A second key element of the Plan is the **EU Timber Regulation (EUTR)**. VPAs and the EUTR are two parts of the FLEGT Action Plan which are meant to reinforce each other. In 2015, FLEGT has been in force for 12 years, and the EUTR for two years.

Another key initiative came from the United States, which amended the US Lacey Act in 2008, prohibiting the import of illegally sourced timber products into the United States and its territories. The Lacey Act Amendment of 2008 (LAA), in fact, was a key factor in the subsequent passage of the EUTR. Thus, both the EU and the US are promoting legality verification as a means to access their

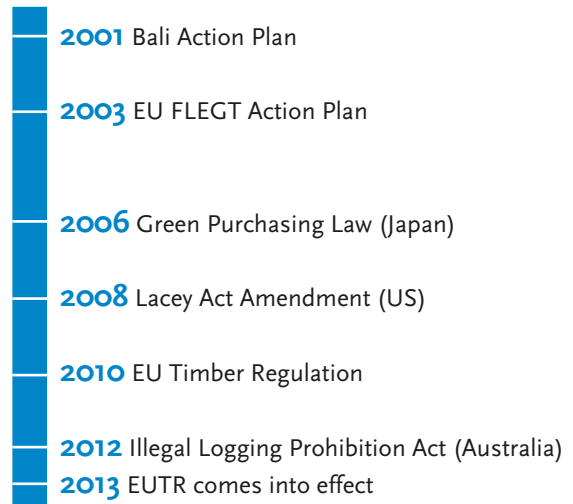


Figure 1. Timeline of major actions to fight illegal logging

markets. Other major importing countries such as Japan and Australia have also followed this trend of regulating illegal timber entering their markets.

Clearly, these initiatives have attracted different responses from both importing and exporting countries impacted directly or indirectly by the regulations. Not only have such initiatives influenced national, and to some extent, global forest governance, but also the international timber trade.

This study *reviews scientific and expert studies* addressing the issue of the effectiveness of the policies in reaching their objectives and the already observed impacts of FLEGT (including VPA and EUTR) and the LAA. The first section of the study offers a general outline of the policy context, exploring policy measures in the EU and three major importing countries (US, Australia, and Japan). *This helps to put the EU policy measures in a larger perspective, and provides a basis for comparison.* The second section focuses on the experiences from timber exporting and importing (European) countries. We explore the latest trends in the international timber trade and discuss possible linkages between these trends and the policy measures. In the third section, we explore the lessons learned so far. Have the policy measures been successful in tackling the trade of illegally harvested timber and in promoting good forest governance? Finally, drawing on the lessons learned from recent scientific studies, we discuss policy implications.

2. Policy measures to reduce illegal logging

The EU FLEGT Action Plan

The FLEGT Action Plan is the first European strategic initiative that focused on halting the placement of illegally harvested timber on the EU market. The Action Plan recognizes the shared responsibilities of both producer and consumer countries. Hence, it introduces combined demand and supply side measures to address the issue of illegal trade of timber. The Action Plan focuses primarily on governance and enforcement issues as a way to promote legal timber. It encourages policy reforms, transparency, and information sharing. In summary, the Action Plan focuses on seven broad areas:

1. Support for timber product exporting countries, including action to promote equitable solutions to the illegal logging problem.
2. Activities to promote trade in legal timber, including action to develop and implement Voluntary Partnership Agreements between the EU and timber exporting countries.
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 develop due care procedures when granting credits.
6. Use of existing legislative instruments or adoption of new legislation to support the Plan, including the EU Timber Regulation.
7. Addressing the problem of conflict timber.

Voluntary Partnership Agreements

VPAs are bilateral trade agreements between the EU and timber product-exporting countries outside the EU. Under a VPA, a timber-producing country is expected to develop systems to verify that its timber product exports are legal. The legality needs to be verified through a legality assurance system (LAS). The LAS consists of legality definitions established through a multi-stakeholder process, procedures for legality verification and the creation of tracking systems, processes for issuing the FLEGT licences, and the methods for carrying out independent audits. Once the LAS is in place, shipments will be awarded a FLEGT licence.

A VPA is expected to guarantee that wood exported from a timber product-producing country to the EU comes from legal sources, and is also meant to support the partner country in improving forest governance and regulations. VPAs are voluntary for timber product-exporting countries. However, once

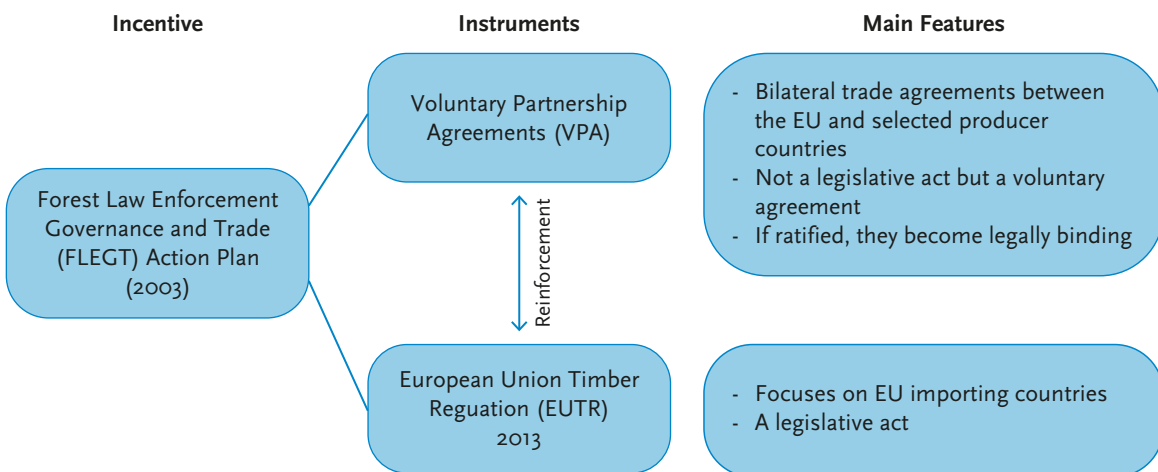


Figure 2. The FLEGT Action Plan with its two main instruments and their main features. *Source: Giurca and Jonsson (2015)*



a VPA has been ratified, it is legally binding on both sides.

The VPA implementation is coordinated through a Joint Implementing Committee. Although the overall objectives of the VPAs are clear, how they are actually implemented may vary somewhat from country to country. Hence, what is framed in a legality definition is the result of each national process. VPAs build on national ownership, therefore “one size does not fit all”.

Partner countries are granted improved access to EU timber markets if the partners can assure the legal production of wood. The EU provides assistance to the partner state to develop a viable timber tracking and licensing system, and in strengthening national governance capacity, as large civil society participation is required. Up until the first quarter of 2015, six countries (Cameroon, Central African Republic, Ghana, Indonesia, Liberia, and Republic of Congo) have signed a VPA with the EU and are implementing systems to control and verify their legal timber exports. Nine other countries (Côte d’Ivoire, Democratic Republic of the Congo, Gabon, Guyana, Honduras, Laos, Malaysia, Thailand, and Vietnam) are negotiating the agreement with the EU, while another 11 countries have expressed interest in VPAs (EU FLEGT Facility 2015).

The first FLEGT-licensed timber product shipments are expected in 2016. Some important timber product trading countries, for example China, may never enter into a VPA with the EU. Even so, the EU is conducting bilateral negotiations with such countries to communicate the implications of the EUTR and to encourage countries to improve their control on the legal origin of timber products.

The EU Timber Regulation

An important step taken to support and increase the effectiveness of the FLEGT Action Plan was the introduction in 2010 of the Regulation No. 995/2010, commonly known as the **EU Timber Regulation (EUTR)**. This came into full effect in March 2013. The EUTR requirements are directed at the demand (import) side, while VPAs aim at the supply (export) side of the timber product trade. The EUTR obliges timber product importers (operators) to take adequate measures to minimize the risk of importing illegal timber products to the EU. Operators are held accountable for the products they bring into the EU (see below) and are required to have a due diligence system that is based on adequate documentation and risk assessment to assess the legal provenance of imported timber products.



The EUTR sets out three requirements for European operators (European Commission 2013):

1. **Prohibition:** The regulation prohibits placing illegally harvested timber or timber products on the EU market.
2. **A Due Diligence System (DDS):** Operators can apply due diligence by themselves or through the assistance of Monitoring Organizations (MO). Operators need to provide access to information on the timber product (country of harvest, logging concession, species, sizes, quantities), implement risk assessment (evaluate the risk of occurrence of illegally harvested products), and implement risk mitigation measures and procedures to minimize the likelihood of illegality.
3. **A Traceability Obligation:** After placing timber products on the market for the first time, as part of their DDS, traders have to keep records with information from whom they bought and to whom they sold the timber product.



The EUTR applies to a wide range of timber products: roundwood, primary-processed products such as sawn hardwood, and secondary-processed products such as wooden furniture and paper products. The FLEGT-licensed products that are currently specified include industrial roundwood, sawnwood, plywood, and veneer, which are typical export products of VPA countries. Additionally, the EUTR also

covers fuelwood, panel products (plywood, particle-board, and fiberboard), packaging such as pallets, builders’ joinery and carpentry, and prefabricated wooden buildings. The products covered can be increased; an updated listing of products covered appears in the EUTR annex (EU 2010).

Timber products that will be covered by a FLEGT licence, or a Convention on International Trade



Figure 3. The FLEGT VPA process in different countries. EU FLEGT Facility, European Forest Institute



in Endangered Species of Wild Fauna and Flora (CITES) permit, are considered to meet EUTR requirements, and EUTR due diligence procedures need not be applied. Thus licensed timber products have a strong market advantage over those that are not licensed. Further, procurement of certified forest and chain of custody certified products will help EU importers to minimize the risk for illegal sourcing. Although certified products provide evidence of legal origin, certification alone does not necessarily ensure legality under the EUTR, since it is possible to incur illegality at any stage of the supply chain after initial forest certification takes place. However, both major international forest certification systems, Forest Stewardship Council (FSC) and The Programme for the Endorsement of Forest Certification (PEFC), have made modifications to control legality through the entire chain-of-custody to address the EUTR due diligence requirements.

Each EU Member State is responsible for controlling the legality of its imports and applying sanctions if needed. Member States are required to designate a competent authority (CA) with responsibility for enforcement of the regulation. To this date, all 28 Member States have designated their CAs, which currently are at different stages of fulfilling EUTR obligations¹.

The European Commission accredits Monitoring Organizations (MOs) to assist operators and trade associations with establishing due diligence systems (European Commission 2013). MOs are typically commercial companies engaged in certification or control services, or trade associations supporting member companies in compliance with the EUTR. The latter often rely on certification bodies in the monitoring of due diligence systems compliance. At the beginning of 2015, nine MOs are recognized by the EC². More MOs are to be accredited.

Monitoring market developments

In order to monitor market developments due to the FLEGT Action Plan and the EUTR, the European Commission established the **Independent Market**

Monitoring (IMM) project. This five-year project is administered by the International Tropical Timber Organization (ITTO) through a project called 'Independent market monitoring: analysis of the reception of FLEGT licensed timber on the EU market as framed by VPAs'. The IMM is implemented through consultations with the EU Member States, VPA partner countries, and relevant stakeholders in the timber sector. The goal is to develop a database of timber trade flows into the EU market from VPA and potential VPA countries. Through analysis of timber product market trends, the IMM will assess the impacts of the Action Plan, including the EUTR. Knowledge of market trends will guide policy developments in the EU and VPA countries.

Policy measures outside the EU

Besides those measures introduced by the EU to reduce illegal logging, several countries outside the EU have also imposed various policy measures or legislation to prevent illegally sourced timber products from entering their markets.

United States

In 2008, the US amended the Lacey Act, which was originally created in 1900 as a tool to combat illegal trafficking of wildlife, fish or plants and products. The 2008 amendment to the Lacey Act (LAA) was designed to expand the coverage of the law to include trees among its listed plants and to include timber products.

The LAA has two main elements: a legality requirement and a declaration requirement. The legality requirement stipulates that plant and plant products entering the US and transported across state lines within the US be legally harvested or produced, that all transactions (taxes, fees and duties paid) associated with the production and transport into and within the US be legal, and that all plant protection laws (local laws at the source of the product and the Convention on International Trade in Endangered Species) be followed³. Penalties for violation of the legality requirement have been described and include forfeiture of the imported product, fines, and even potential imprisonment for failure to have exercised due care in assuring legality. Importantly, it is the government's

¹ State of implementation of EU Timber Regulation in 28 Member States: <http://ec.europa.eu/environment/forests/pdf/EUTR%20implementation%20scoreboard.pdf>

² Bureau Veritas Certification Holding SAS, Consorzio Servizi Legno Sughero, Control Union Certifications B.V., GD Holz Service GmbH, ICILA S.R.L, Le Commerce du Bois, NEPCON, SGS United Kingdom Limited, and Soil Association Woodmark (see <http://ec.europa.eu/environment/forests/pdf/mos.pdf>)

³ The Lacey Act was amended in the Food, Conservation, and Energy Act of 2008 (P.L. 110-234, 122 Stat. 923, Sec. 8204), available at http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045988.pdf

burden to prove that legality was violated. Due care can be demonstrated by maintaining records of efforts to comply, documented changes in efforts to respond to practical experiences, asking and recording answers to questions of source producers, etc.

The declaration requirement of the amended LAA compels the importer to declare the quantity, value, country of harvest, and the scientific names of all of the species included in the imported product. Exemptions exist for products produced before the amendment took effect (May 22, 2008), plant-based packing material, common food crops and cultivars, and plants for planting. There is also a 'special use designation' that may be applied to composite wood products if the genus, species, or country of origin of all wood fibres contained in the product are unknown such that due care is not possible, and still meet the declaration requirement. The legality requirement still holds for such composite materials, however.

The EUTR and LAA are similar in that both initiatives acknowledge that sustainably managed certified products are more likely to conform to the EUTR and LAA requirements, although sustainability and certification are not sufficient to prove legality for either law. The penalties and sanctions under the LAA vary according to the severity of the offence, the value of the goods and the type of operator. Hence, larger corporations pay the highest penalties. A key difference between the two regulations is that the LAA binds any party that procures timber products along the value chain. Thus it applies also to timber products purchased within the US as well as timber products imported into the country. The EUTR binds only operators that place timber (for the first time) on the EU market. Subsequent parties in the value chain only need to document the supply/purchase-related information. Moreover, penalties and risks associated with violating the regulations are potentially more severe under the LAA, hence penalty measures include imprisonment, unlike the EUTR.

Like the FLEGT VPAs, the US has bilateral technical assistance programmes with the forest sector in many producing countries, and sometimes such efforts are coupled with free trade arrangements (such as the US-Peru Trade Promotion Agreement of 2006).

Australia

Australia's Illegal Logging Prohibition Act⁴ came into force in late 2012 and restricts the import of illegally logged timber into Australia. Like the EUTR and LAA, the Australian measure promotes trade in legally harvested timber. Similar to the EUTR, the Australian legislation applies both to Australian-sourced and imported timber products and considers that compliance with source country national legislation in harvesting assures the legal origin of timber. The legislation is directed at persons and corporations importing and processing illegal wood with an intent to sell, or otherwise subsequently transfer ownership, of an illegally logged raw or processed product, and importers are required to practice and prove due diligence. Australian wood processors must also be able to prove due diligence in the sourcing of their timber products.

The Australian government sought to align the law with the EUTR and the LAA in order to minimize the impact of the legislation on businesses importing timber products into Australia.

Japan

The Government of Japan introduced new measures to ensure the legality of imported timber products under the Green Purchasing Law in 2006. Under this law, wood and wood products are included as products needing verification of their legal origin and being sustainably produced ('Goho-wood'). The Japanese Purchasing Law holds individual companies responsible for their wood imports. Japanese importers can voluntarily certify the legality and sustainability of wood and wood products, and have different methods for verifying the legality and sustainability of imports.

The Japanese initiatives have been criticized for being less stringent than their European, American or Australian counterparts. The Green Purchasing Law states that sustainable wood should be purchased "where possible". Furthermore, the Goho-wood guidelines do not require the wood to be verified by a third party or independent monitoring organizations. Nevertheless, despite criticism, the number of certified companies under the Goho system has been increasing. Current efforts to improve the system focus on defining legality and sustainability, introducing independent monitoring, and on creating an open-access database on wood imports.

⁴ The "Illegal Logging Prohibition Act 2012 – C2012A00166", with a date of assent of 28 November 2012, is available at <http://www.comlaw.gov.au/Details/C2012A00166>



3. What does scientific evidence tell us about the impacts of the policy measures?

To assess the full impacts of the EU measures to prevent illegal logging, it is helpful to conceive of these efforts as part of a multifaceted global effort to address illegal logging and timber products. FLEGT, the VPAs, and the EUTR are part of, and are bolstered by, parallel efforts in other producing and

consuming countries. We can frame the global context as one involving a series of actions and reactions in both the source (exporting) and destination (importing) countries, all contributing to greater potential total effect than any effort by one country alone could achieve.



A multifaceted global effort: the mechanism of achieving a synergistic total effect can be described as follows:

- (1) policy makers in importing countries discuss creating new trade measures and other programmes designed to discourage illegal logging, or the processing and sale of illegally produced timber products;
- (2) source country governments pass new legislation, promote voluntary measures, or increase law enforcement efforts to prepare the domestic forest sector for possible new importing country legislation;
- (3) trade measures are enacted in importing countries;
- (4) source country governments respond with new laws and other efforts—sometimes encouraged through bilateral and multilateral efforts such as the VPAs under FLEGT, forest sector assistance and capacity building programmes that are sponsored by importing countries (e.g. the EU Member States), or through the efforts of NGOs that help to advance legality through certification and other forms of assistance.

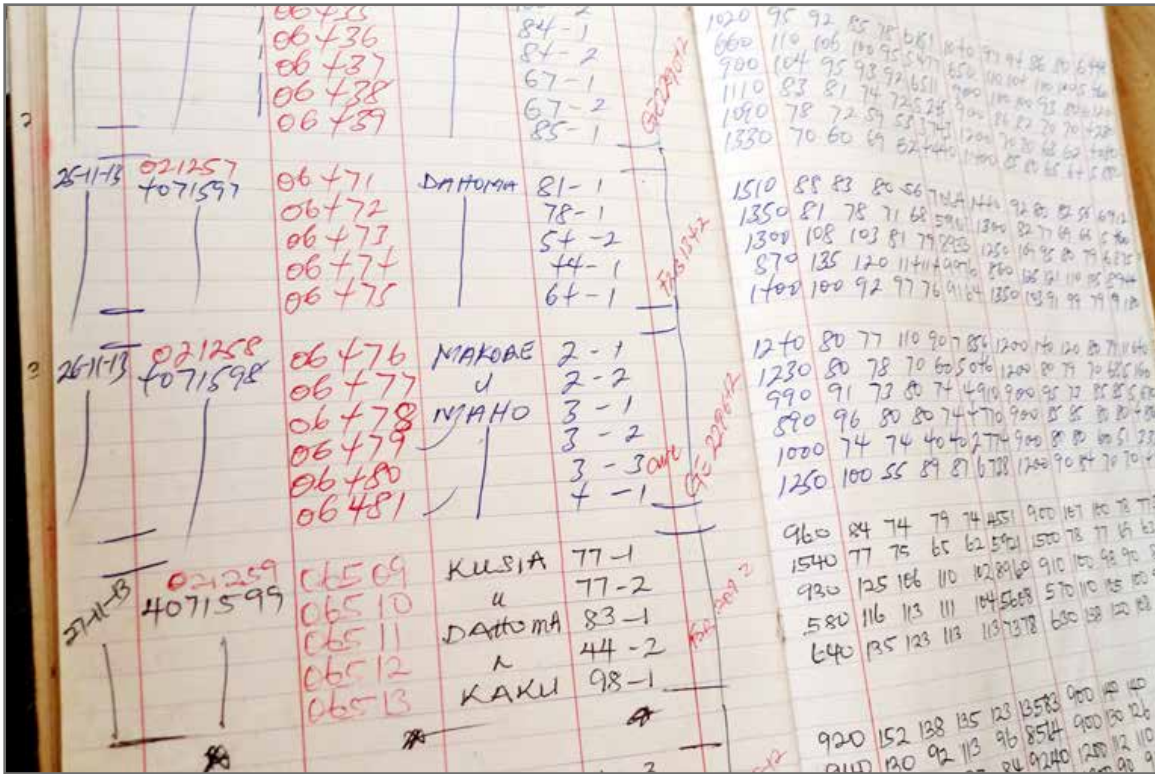


Literature offers several lines of evidence supporting the idea of these kinds of synergistic, feedback processes and impacts. For example, from the early to the late 2000s, there had been increased law enforcement efforts, higher and rising levels of forest certification, new source country legislation protecting primary forests, and improved systems of legality tracking. Also, the literature indicates that the amended Lacey Act played a role in spurring discussions and stimulating training in other destination or source countries, including China, and that both the LAA and the EU VPAs were helpful in cutting off sources of demand for illegally produced materials.

Overall, the effects were reduced rates of illegal logging and exports of illegally harvested timber products across many major producers. These reductions were noted for Brazil, Cameroon, Ghana, Indonesia, and Malaysia.

“The complexities of the interactions among the policies and related efforts in source and destination countries make quantifying the separate effects of individual efforts such as the LAA, the EUTR, or any particular VPA a technical challenge. Disentangling them requires a multi-pronged research effort that is so far lacking.”

The conception of EU efforts as part of a multifaceted and global programme to address illegal logging compels us to examine the evidence for what existing FLEGT VPAs have achieved, and how they fit into this larger picture. A number of studies have analyzed the VPA process in different partner countries. Here, we examine the evidence from Ghana, Indonesia, and Cameroon.



Timber tracking system, Ghana
 Photo: EU FLEGT Facility, European Forest Institute

Experiences in exporting (source) countries

Ghana

Ghana was among the first countries to initiate VPA negotiations with the EU in December 2006. The VPA was signed in November 2009 and ratified in March 2010. In Ghana, almost half of the annual timber harvests are consumed domestically, the other half being exported, with around 43% in value going to the EU. Illegal logging is prominent in the country. Ghana's forest industry consists mainly of large-scale companies that obtain timber from small- and medium-size enterprises⁵. It has been estimated that 80% of sawnwood in Ghana's domestic market is illegally produced 'chainsaw' lumber.

The VPA process in Ghana built upon earlier experiences with a national timber verification system and included consultations with various non-governmental organizations. Different aspects, such as forest values and their compliance with forest

legislation, were also explored. The national timber legality programme included considerations for the export market as well as the domestic market. Also the need to include social safeguards for local communities was acknowledged.

However, a lack of formal mechanisms for ongoing and long-term civil society participation seems to persist, and there is a limited representation of forest communities within civil society platforms. There are also concerns about how VPAs may adversely and differentially affect the livelihoods of different social groups in the country. Finally, legality licensing is perceived as creating market barriers for small-scale and domestic market-oriented producers, partly to the benefit of larger and export market-oriented producers. Fears that efforts to combat illegal logging in Ghana are likely to further restrict local communities' access to forest resources are voiced by some.

Indonesia

Indonesia was among the first Asian countries to initiate VPA negotiations with the EU, in March 2007, in order to control the problem of illegal logging. The VPA was signed in September 2013 and ratified in April 2014. Indonesia has a leading role in

⁵ Small enterprises are those with fewer than 50 employees and less than €10 million in annual turnover (gross revenues); Medium enterprises have fewer than 250 employees and less than €50 million in annual turnover. Source: http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/index_en.htm





Members of a community forest processing timber in Java, Indonesia.

Photo: EU FLEGT Facility, European Forest Institute

international timber markets. The majority of timber exports are destined for China, India, and other major economies in the Asian region. Around 15% of Indonesia's total timber export value comes from trade with the EU (Source: ITTO).

The Indonesian private sector is divided between large-scale (export-oriented) operators and small-scale (domestic market-oriented) operators. Over 80% of Indonesian wood production is for domestic use and a significant amount of this comes from small-scale operators. Approximately half of the exported timber products (20% of total production) is produced by these small-scale operators, including many processing facilities and thousands of forest owners. Naturally, this adds to the complexity of controlling timber legality in Indonesia.

While half of Indonesian stakeholders surveyed about the VPA process were positively disposed towards the participatory approach of the VPA, others considered that it had a limited focus on the traditional timber sector. Quite a few did not consider the process socially responsible, while some critics voiced concerns related to environmental sustainability. Nevertheless, the Indonesian VPA was commended for its extensive civil society participation in the legality monitoring process.

The Indonesian government launched its own licensing system for timber products exported to the EU—the Sistem Verifikasi Legalitas Kayu (SVLK)—in 2009, which became the basis for Indonesia's LAS. There is considerable uptake of SVLK certification among large-scale operators, but small-scale producers lag behind, mainly because of stakeholders' limited understanding of SVLK and the VPA. Concerns about additional costs and uncertainty about the benefits of formalizing their operations keep many small-scale operators from pursuing certification.

Again, as in Ghana, the 'uniform approach' driven by technical verification requirements tends to create disproportionate market barriers for smallholders and domestic producers. Some studies warn that by shortening the supply chain in the sense of reducing the number of agents, legality verification has the potential to negatively impact small-scale timber industries. This would further negatively impact small-scale operators. However, the VPA is currently being adapted to reflect this issue. The latest revisions of the SVLK describe a more simplified procedure for small-scale operators to place their timber under SVLK-controlled supply chains.



Inspection of a log truck, Cameroon
Photo: EU FLEGT Facility, European Forest Institute

Cameroon

Cameroon started negotiations with the EU in November 2007, signing a VPA in October 2010, and ratifying it in December 2011. Cameroon is Africa's largest exporter of tropical hardwoods (mostly sawnwood) to the EU. Cameroon's forestry sector is characterized by high rates of illegal logging and corruption. The country's producing sector is multi-faceted, including both large-scale operators (multinational companies) that are more export market-oriented, and small-scale, often informal, operators producing for the domestic market.

The VPA process is seen as having the potential to contribute to more sustainable management of forest resources in Cameroon, and its implementation is expected to result in positive behavioural change towards legality among forest stakeholders. However, Cameroon still faces several barriers to its VPA implementation: ongoing corruption, the informal nature of the domestic sector, changing

timber demand, technicalities of the VPA, the high cost of achieving legality, and a lack of awareness from the private sector.

The objective of Cameroon's VPA is not only to produce legal timber for the EU, but also to include economic opportunities for local small-scale producers. However, studies warn that the positive impact of the VPA might still only be felt by industrial (export-oriented) forest companies, whereas the high costs of implementing the VPA and its complex procedures risk driving small-scale operators in local communities out of business.

Most actors involved in timber production expect to see illegal harvesting eliminated, corruption and poverty reduced, legal timber business opportunities expanded, and legal investments in the sector achieving higher returns. However, there are warnings that the expectations of Cameroon's private forest sector are not always in line with the aims of the VPA, and this lack of alignment may lead to further fragmentation in Cameroon's forest sector.

Experiences in the EU (importing) countries

The EU level

“The EUTR created a new framework within which different actors involved in the timber trade from both importing and exporting countries now interact. It is important to acknowledge the heterogeneity of actors and their different perceptions of the EUTR.”

There are still some aspects of the regulation itself that need clarification. Indeed, it has been pointed out that ambiguity in trade could originate as a side effect of the transition towards a stricter regulation for tropical timber. Possible consequences from increased ambiguity are, for example, increased substitution of temperate hardwood lumber for tropical hardwood lumber, and a diversion of exports of timber to destinations with less stringent regulatory frameworks, within as well as outside the EU.

Analysis of different stakeholder opinion statements indicates that some stakeholders—notably those exporting temperate hardwood timber to the EU—see the EUTR as advantageous for their businesses, while others—exporters from source countries of tropical timber products—see it as an impediment. Both importers and exporters raise issues, such as weak law enforcement, insufficient guidance from regulatory and implementing authorities, and increased bureaucracy. The trade-off between effective legislation and ease of trade is a concern for some stakeholders.

Every EU Member State has designated its Competent Authority (CA) responsible for enforcing the EUTR, and significant progress has been made in preparing national legislation implementing the EUTR. CA resources and responsibilities have increasingly been put in place. However, observers report that some challenges still remain. The capacities of CAs are still limited in many countries, with quite small numbers of staff members assigned to EUTR implementation, despite the very large number of operators and traders in these countries. In some cases, the CAs that oversee the largest number of operators are also the least staffed.

The importance of coordination between the CAs in different countries and of consistency in the

application of the EUTR have been acknowledged. As a result, CAs meet regularly and have established procedures for cooperation. Many CAs have amplified their capacity-building and the development of risk-assessment tools and have begun sharing information about operators and illegal timber product flows.

Better coordination is still needed on the development of document-authenticity validation processes, sharing of information on monitoring organizations, and the development of inter-state communication mechanisms. An ongoing issue is the lack of coordination of CAs with CITES management authorities, which could potentially become a weak point in the implementation of the EUTR. Regarding third-party certification, the EUTR (and perhaps also the LAA) seems to have been heightening interest in certification as another means of meeting legality requirements.

United Kingdom

The UK is among the EU’s biggest tropical timber importers and an important market in the global timber trade. In 2011, almost 20 million cubic metres of timber products were imported into the UK. Of these, 13 million cubic metres originated from within the EU and the remaining 7 million originated from Russia, China and Malaysia, largely plywood and wood furniture, in particular from China.

Operators and traders in the UK importing tropical timber products have been faced with increased scrutiny of their timber product supply chains, encountering high standards from various groups of actors (civil society representatives, the government) and a growing consumer awareness. Extensive media coverage of illegal logging indicates a widespread awareness of the issue over the first half of the decade.

The UK has a strong record of tackling illegal logging and its associated trade. Even before the FLEGT Action Plan was introduced, the UK undertook a number of different measures (see below) that were focused on promoting sustainability through trade. This gave birth to networks of companies and organizations such as buyers and producer groups committed to making certified timber a priority in their buying and selling operations. The growing number of companies with chain-of-custody certification and the resulting

amount of certified wood-based products placed on the UK market indicate a pro-active attitude from the UK private sector. Indeed, the UK ranked

first in the 2014 edition of the WWF Government Barometer assessing EU member states' efforts to tackle illegal logging⁶.



Various government procurement policies, together with codes of conduct initiated by the UK Timber Traders' Federation, have been directed at advancing legality and sustainability. The UK government adopted voluntary guidance in 1997 that encouraged its government departments to purchase timber products from legal or sustainable sources. In 2000, this became a binding commitment. Under the Timber Procurement Policy (TPP), last modified in 2009, public authorities are required to only purchase timber products that derive from sustainably managed forests, or are licensed under a FLEGT agreement. So far, the TPP has been an important tool in combating illegally sourced timber imports. Although commended for its achievements, the policy implementation still lacks appropriate monitoring, according to WWF UK.



The focus is now on implementing and enforcing the EUTR. Observers report that stakeholders have been engaged and that efforts towards raising awareness and understanding of the legislation have been made. Enforcement action in the UK is well advanced, and regular checks on importers are underway. The UK's Competent Authority, the National Measurement Office, has focused so far on capacity building, improving understanding of the regulation, and helping companies to comply with the new rules. However, there are concerns around the fact that the current checks focus too much on high-profile companies and too little on smaller, less visible operators and traders.

In February 2015, Soil Association Woodmark was the first UK-based Monitoring Organization recognized by the EC and one of only four MOs with capacity to cover all EU states. Somewhat uniquely, Soil Association Woodmark is a membership charity practicing certification and setting legality standards. The MO has developed a comprehensive due diligence system which operators can use to show compliance with the EUTR.

In addition to a general decline in the demand for solid wood products (tropical and non-tropical alike) in the UK, imports of tropical timber also suffer from the development of temperate hardwood products marketed as alternatives to tropical hardwoods. Econometric analyses indicate that temperate hardwood, in particular oak, is a substitute for tropical timber in the UK.

The most significant trend as regards UK timber imports is the increasing role of China, providing 44% of all UK wood-based product imports originating

outside the EU in 2011. China's growing timber product manufacturing sector, fuelled by its surging manufacturing base in general, may be associated with this trend. However, the UK's growing Chinese imports could also be the result of trade diversion stemming from the increasingly demanding EU legality requirements; tropical exporters might be choosing to export timber products to other markets characterized by less stringent regulatory frameworks.

Italy

Notwithstanding a general decrease in overall wood imports in recent years, mostly due to declining construction activity and falling furniture consumption, Italy remains a major player among European wood importers, e.g., accounting for 15% of the EU sawnwood imports in 2013 according to FAOSTAT. Imports are mostly intended as inputs for an export-oriented wood-furniture-industry. However, recently Italy has also shown an increasing dependence on the international biomass market, becoming the largest worldwide importer of firewood and the fourth largest importer of wood chips, particles and wood residues. In addition to this, Italy is the main European importer of wood pellets for residential use.

Italy enjoys well-established commercial relationships with many VPA partner countries for industrial timber products, with a strong recent shift from tropical to temperate species. However, as regards the biomass for energy sector, the procurement relationships are not as well-established. For

⁶ http://barometer.wwf.org.uk/what_we_do/government_barometer/





EU timber imports from FLEGT countries arrive via sea freight.
 Photo: jazzed/Fotolia.com

biomass for energy the number of supplier countries has been increasing and the share of imports from EU countries has been diminishing. Indeed, in some non-EU countries the exports of forest biomass to Italy are of a very high value (e.g. Bosnia Herzegovina, Serbia and Ukraine). According to the Institute for Environmental Protection and Research, the share of illegally sourced wood could range between 7% and 10% of total wood imports. Illegality, however, has also been reported with regard to the domestic sources and trade, especially for firewood and pallets. It has been estimated that more than 100,000 national companies are potentially subject to EUTR requirements, of which about a quarter qualify as operators. Indeed, about 19,000 companies imported wood and wood-based products in 2013, while another 5,000 operate as forest sector businesses placing domestically harvested wood on the Italian market.

Given this state of affairs, a pro-active attitude from the State in implementing international and national measures to reduce illegality along the value chain could be expected, but this is not yet apparent. Italy ranked 24th in the 2014 edition of the WWF Government Barometer assessing EU Member States'

efforts to tackle illegal logging. In particular, technical and/or financial initiatives to support VPAs under the FLEGT Action Plan have yet to be undertaken.

The Ministry of Agricultural, Food and Forestry Policies was designated as the national Competent Authority and the State Forestry Corps (*Corpo Forestale dello Stato*, CFS) as the body in charge of performing controls in December 2012, i.e., about two months before the Regulation would have come into full force. Ultimately, the Ministry appointed the Directorate General for Rural Development as the national body in charge of coordinating EUTR implementation and identified CITES units of CFS as the main controlling bodies (January 2013). The late designation of responsible bodies delayed the definition of penalties and control procedures. Indeed, the EC report on EUTR implementation by Member States indicated Italy as non-fully compliant until October 2014⁷. Penalties were finally approved by means of a Ministerial Decree in December 2014, but additional Decrees are now needed to make the system fully operative. The national government did not include further restrictions on EUTR measures

⁷ In the most recent version of the EC scoreboard Italy is reported as fully compliant.

or ‘illegally harvested’ and ‘applicable legislation’ definitions. While national legislation basically mirrors the EU text, it also includes some additional issues such as the development of a national register of operators and of a multi-stakeholder permanent board on FLEGT-EUTR issues, with the aims of coordinating different parties and achieving effective implementation.⁸

Despite delays and inactivity in the identification and activation of the Competent Authority, two Italian organizations, ConLegno and ICILA, have already been recognized as Monitoring Organizations, both with an operational scope limited to Italy⁹.

Given the prevalence of small and medium enterprises (SMEs) within the wood sector, MOs are expected to play a key role in the implementation of EUTR requirements in Italy. SMEs are indeed more likely to need technical support in order to address the Regulation; otherwise, there might be a risk of market concentration, with SMEs depending on large importers and turning, in some cases, from operators to traders.

So far, about 100 companies have applied for ConLegno services on the EUTR, and 15 of them have also submitted a request for the use of the LegnOK logo. Meanwhile, the Competent Authority has implemented no specific controls so far. As well, national legislation clearly states that no additional human or financial resources will be devoted to this service. However, the CFS declared that they believe most Italian companies are not in full compliance with the EUTR requirements and are likely waiting for the enforcement of national legislation before they begin adopting specific measures. A case in point: in December, 2013, Greenpeace informed the Italian Competent Authority about the arrival – via Belgium and Germany – of an illegal wood shipment from a Congolese company. But while logs from the same load were confiscated by the German Competent Authority, no actions were taken by the Italian CA.

During a pilot test to check ConLegno’s system, the MO and the CFS jointly visited three companies with potentially high-risk suppliers. One of them reported a significant decrease – from 120 to 25 – in

the number of wood species imported by the company during the last year. The decline in the number of species imported was attributed by the company to the high cost of implementing the due diligence procedures, which compelled it to focus on fewer species and consolidate trade relationships with some suppliers.

“If confirmed by further studies, this experience would represent a major effect of the EUTR on timber product markets. The EUTR facilitates the consolidation of trade patterns and partnerships and it discourages the imports of products/species suspected at being of higher risk, which in turn could be diverted towards countries with weaker legality standards.”

As no additional resources will be made available for the Competent Authority, Italian companies will bear additional costs. These costs include those necessary to meet EUTR requirements and compulsory ones due to registration to the national register of operators and the payment of fees for the import of any load of timber product covered by a FLEGT licence. The burden of extra costs for companies might induce trade-offs between compulsory and voluntary investments, since forest certification does not afford automatic compliance with EUTR requirements. This is of particular relevance for Italy, given that the country ranks third among EU countries in terms of FSC and fourth in terms of PEFC chain of custody certificates.

In summary, the Italian case shows that despite the relevant role of Italy in the international timber trade, the public sector has not been very pro-active in the domestic implementation of EUTR. National legislation, indeed, has been developed and approved quite late and no formal controls have been implemented so far. On the other hand the private sector has been rather active, with two MOs already recognized and several initiatives in place. Since most of the Italian enterprises operating in the timber sector are small or medium size enterprises, the role of MOs is likely to be relevant. Companies are expected to bear extra costs for compliance with EUTR requirements; to what extent they could be affected by this, however, it is hard to say because the implementation of the EUTR is still at an early stage.

⁸ Decree n.178, 30th October 2014 (Official Journal n. 286, 10th December 2014) www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2014-12-10&atto.codiceRedazionale=14G00191&elenco30giorni=false

⁹ <http://ec.europa.eu/environment/forests/pdf/mos.pdf>



4. Impacts on global timber markets

The main objective of FLEGT and the EUTR, and other similar policies such as the LAA, is to reduce the international trade in illegal timber. Has this been achieved so far?

There are basically two reasons why arriving to a definite conclusion regarding the impacts of FLEGT and the EUTR on international timber trade, based on quantitative analysis, is challenging. First of all, there are many other important factors affecting international trades besides FLEGT and the EUTR, such as, for example, the business cycle, exchange rate movements, and differences in economic growth and ensuing demand for timber products. Therefore, the precise identification and quantification of the impacts of FLEGT and the EUTR may not be possible.

Secondly, the time that FLEGT and the EUTR has been in force in practice is rather short, which impedes the ability to identify their impacts and to make strong conclusions of their effectiveness. Yet, there are already studies that help to give insights and preliminary understanding of the possible impacts of these measures. Some studies speculate that actions such as FLEGT or the LAA may have played a role in reducing illegally traded timber, while other studies estimate that FLEGT and the LAA would be only moderately effective in decreasing illegal

logging. Also, there are signs that exports of tropical timber (both legally and illegally sourced) are diverted to destinations with less stringent regulatory frameworks.

Clearly, if the EU and US timber legality requirements are seen as being too demanding, then exporters might choose to export timber products to other markets. However, possibly higher growth in the demand for timber in those other markets would also accelerate such shifts in global timber product trade flows, as already mentioned. Cutting off access of illegally produced timber products to some of the world's largest markets by the joint implementation of the FLEGT, EUTR and the LAA—creating a level playing field and thus not putting the policy imposing region in a competitive disadvantage vis-a-vis other major timber importing regions—should strengthen the impact on illegal logging. Some EU importers might be opting for temperate hardwoods instead of tropical hardwoods in order to avoid the risk of importing illegally sourced tropical timber, reinforcing the trend of this substitution mentioned in connection with the UK.

However, estimates of the scale of illegal logging are still very uncertain; illegal trade is, for obvious reasons, not recorded in trade databases.

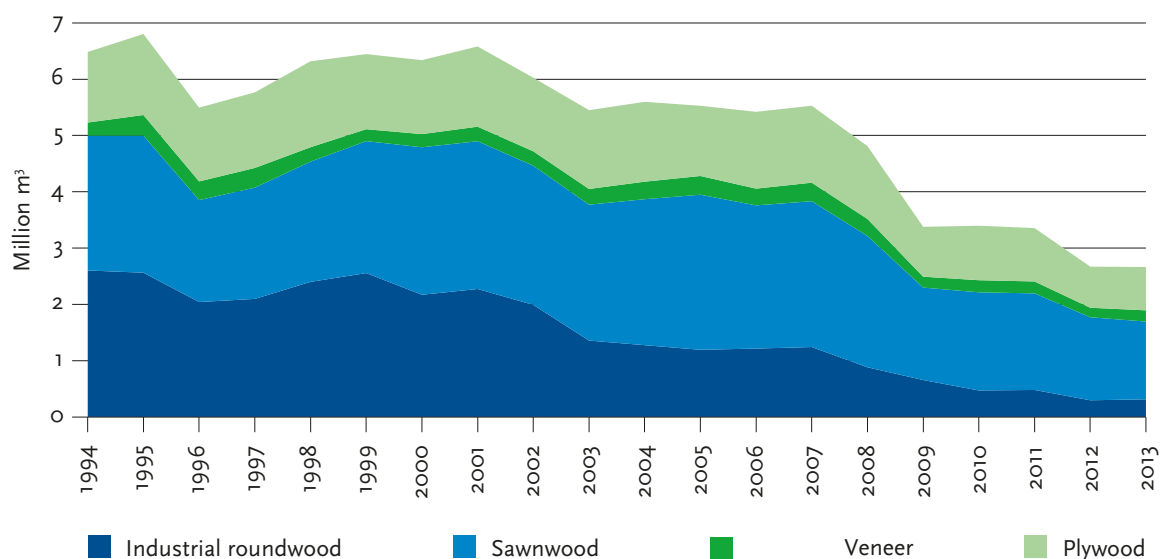


Figure 4. EU tropical timber imports. Source: ITTO, 2015.

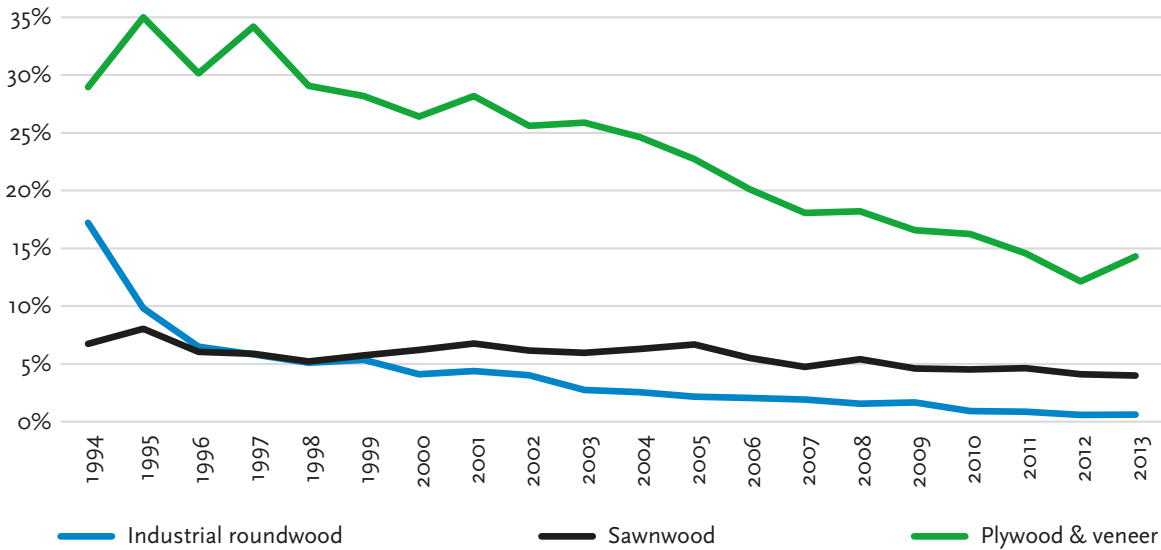


Figure 5. EU tropical timber imports as percentages of total volume of imports of primary processed products. Source: ITTO 2015.

“Nevertheless, until the first fully FLEGT-licensed shipments arrive in Europe, analysts and policy makers will remain uncertain as to the actual effects of the EUTR on EU imports.”

Until then, some indication of its effect could be inferred by examining recent trends in international timber product trade.

Recent trends in global timber markets

The introduction of the LAA in 2008 and the issuance of the EUTR in 2010 coincided with a global economic and financial crisis. The financial crisis caused the collapse of the wood-based housing construction industry in the US and the economic crises also significantly dampened construction activity in the EU. While US demand for wood has rebounded with its housing market since the end of the US recession 2009, in Europe the demand for wood remains stagnant. Clearly, these trends have had an important impact on the reduced import demand for timber products in the US and the EU. This makes it difficult to identify what have been the impacts of financial and economic crises on timber imports, and what may be the result of FLEGT (VPAs), the EUTR and LAA.

Figure 4 indicates a trend of reducing tropical timber imports to the EU. More interestingly, Figure 5 suggests that the share of tropical timber imports in total timber imports were declining well before FLEGT (VPAs) and EUTR implementation. Apparently tropical timber imports to the EU have been substituted by timber of temperate (and boreal) origin for quite some time.

Primary-processed tropical timber (both softwoods and hardwoods) accounted for 32% of global trade in 2013 (Figure 6). Apparently tropical timber has managed to uphold its market share better in value than in volume terms, which could be taken as an indication of more value-added tropical timber imports.

“An emerging pattern, preceding the EUTR, in international trade in timber products is temperate timber substituting for tropical timber in EU imports. FLEGT/EUTR could possibly reinforce this trend.”

Further, the circumstance that the market value share of tropical timber has more or less remained unchanged suggests that there has been a shift within the EU imports of tropical timber to further processed products.

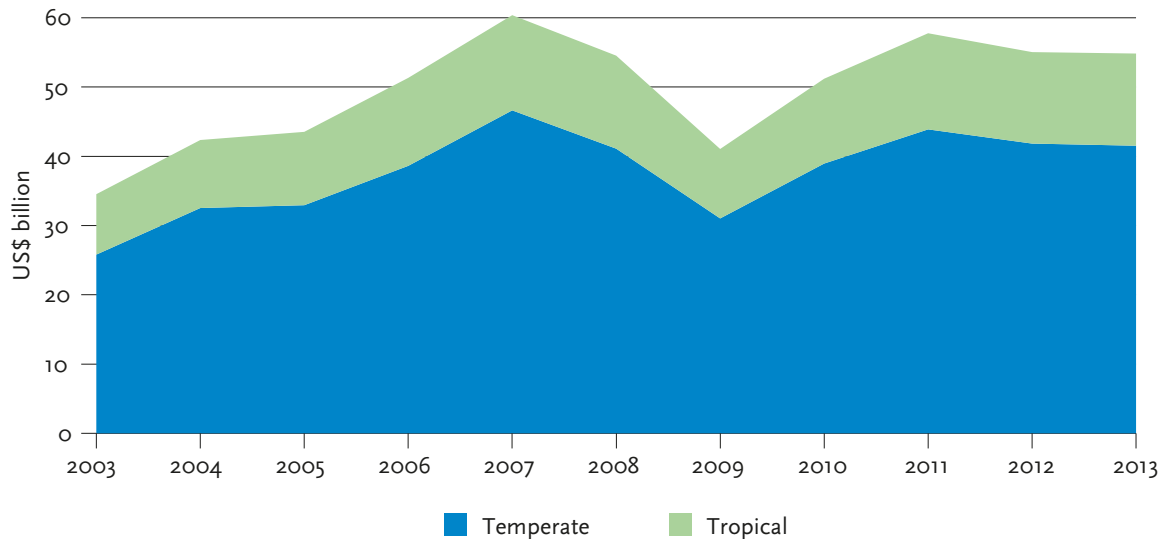


Figure 6. Tropical and temperate timber shares of global trade, 2003-2013. (Note: Based on 4 primary products: roundwood, sawnwood, plywood and veneer.) Source: ITTO 2015.

Impacts on Russia

A recent study on the readiness of Russian timber companies to meet the requirements of the EUTR was conducted by WWF Russia together with Levada-Center and NEPCon and supported by the European Union within the framework of the FLEGT II¹⁰ programme. Directors of 100 Russian timber companies were asked questions related to the requirements of the EUTR.

According to the results, almost all (94%) the surveyed companies were aware of the EUTR (WWF Russia). However, only 45% of the surveyed companies exporting timber to EU countries considered the new regulation to be influencing their activity. Many respondents believed that the EUTR will only increase bureaucracy, while others did not consider the EUTR to have any significant influence on the legality of timber products. The companies least informed about the requirements of the EUTR were situated in the Russian Far East, a region that supplies timber directly to Asian markets (mainly China). To some extent, this may suggest that Russian companies have yet to adapt their operations in response to EUTR requirements.

A positive development is that many Russian companies operating in North West Russia, which

is the important timber producing region from an EU perspective, have been issued FSC certificates, thus bolstering confidence that timber from the region is harvested sustainably and legally. As seems to be the case in other countries around the world, after the EUTR came into force, getting certified by FSC became more important also in Russia. Hence, 32% of the surveyed companies which hold FSC certificates had perceived more stringent requirements from their customers abroad. The Russian companies which have voluntarily opted for certification have acknowledged the necessity to perform more frequent checks on their suppliers.

WWF Russia is currently making efforts to provide additional information and raise awareness on this topic. A Guidance Document on applicable Russian legislation, which offers step-by-step recommendations on ensuring timber legality, has already been produced. Furthermore, a substantial contribution was made by the recently adopted legislative amendments concerning the implementation of the Unified State Automated Information System for tracing roundwood in Russia.

Impacts on China

In order to meet the new requirements set by the LAA and EUTR, China, the world's largest exporter of furniture, is in the process of establishing

¹⁰ The FLEG II Programme : <http://www.enpi-fleg.org/about/about-fleg/>

the China Timber Legality Verification Scheme (CTLVS). The CTLVS is based on China's domestic timber management and control system, which includes a forest harvesting permit, a timber shipment permit, and a timber processing permit. Under CTLVS, China-authorized organizations issue timber legality certificates. However, there are still many challenges to be overcome in the progress of implementing the CTLVS.

Finally, China and Russia are discussing cross-border timber trade and timber legality issues, which could ultimately lead to greater overall joint compliance with legality requirements in both nations. Discussions are exploring opportunities for the two countries to work together on cross-border forest law enforcement and a business code of conduct. They are currently facilitating a bilateral dialogue on illegal logging and its associated trade (source: EU FLEGT Facility).

Experiences from the US Amended Lacey Act

Research quantifying the effects of the 2008 amendment to the Lacey Act is quite scant. An early analysis, based on a survey of US wood product producers and importers, indicated that these industry actors generally supported the trade measure, but were skeptical of its eventual effectiveness, particularly for achieving reductions in illegal logging. The interviewees indicated that there would be primarily diversion effects from the agreement—i.e., inducing illegal producers to redirect their exports to countries without such trade measures in effect. It should be noted that the interviews were prior to the enactment of the EUTR or similar measures by Australia, Japan, and other major tropical wood product importers.

One study has been published on the effects of the LAA on US imports from countries suspected of illegal fibre sourcing (illegal logging or illegal timber product manufacture). This study evaluated whether the LAA had observable effects on US imports from suspected source countries. Economic principles would suggest that, as illegal material is removed from the export supply of suspected source countries, prices of the remaining imports

from those countries should be higher and quantities lower, compared to without the LAA. The research examined monthly import price and quantity data for hardwood plywood and seven separate categories of tropical hardwood sawnwood from Bolivia, Brazil, Ecuador, Peru, Indonesia, Malaysia, China, and Taiwan, all of which could have been or have been considered suspected source countries for illegal wood.

The study found that the timing of the LAA enactment, even after accounting for the potentially confounding factors, corresponded with a shift upward in prices and downward in quantities, as theory predicted. The LAA resulted generally in an increase by one-quarter to about one-half in import prices and a decrease by one-third to three-quarters in import quantities, depending on the country and product. Furthermore, results showed that source country domestic policies and programmes designed to reduce harvests from natural forests or of particular forest species in Bolivia, Peru, Brazil, and Indonesia were found to have been effective, at least in terms of reducing the supply of wood available for export to the US.

One should not interpret the findings of the study as saying that the LAA has reduced illegal logging in suspected source countries. *What the research indicates is that the supply made available to the US for its imports has declined, likely as a result of the LAA.* While overall supply from suspected source countries apparently has declined and incentives for illegal production have been reduced, it is also probable that illegal production is still occurring at significant levels in many supplying countries. Because the LAA itself is most fundamentally focused on imports entering the US, producers in suspected source countries essentially remain beyond its direct legal reach. Consequently, it is quite possible that these source country producers could have redirected their illegal wood fibre to other countries without comparable trade measures. It is also possible that more illegal wood in source country markets has been redirected to domestic consumers, pushing more legal wood into world markets, yielding an only small net effect on the rate of illegal wood production. More research is needed to verify these kinds of supply diversions.



5. FLEGT and EUTR: Impacts on forest governance and implementation

Partner countries

All FLEGT/VPA countries have developed and agreed on a set of legality definitions through stakeholder consultation.

“Our review indicates that the FLEGT/VPA process has resulted in significant improvements in forest governance in partner countries.”

VPA negotiations have indeed managed to enhance the participation of domestic civil society organizations in the decision making process, and important steps towards improving legal reforms have been taken. Institutional mechanisms for auditing, monitoring and reviewing national timber legality assurance regimes have also undergone significant development.

However, while the VPA process is well recognized for opening up negotiations with a wider array of stakeholders and for increased representation of civil society organizations, many studies warn that local communities have yet to be properly involved in the negotiation process or are simply not aware of legality verification. Different countries can interpret the VPA implementation in different ways, with some partner countries being more inclusive with regards to aspects such as timber legality and forest-based livelihoods while others tending to neglect the latter. In fact, experience shows that going beyond timber legality and including socio-economic development objectives will make VPA implementation more successful.

The diverse private-sector and broad socio-economic variety of stakeholders is common to all partner countries implementing the VPA. Large-scale operators as well as small-scale operators are active in these countries. Whereas large-scale, international market-oriented operators have the necessary resources to benefit from legality agreements, the reviewed literature suggests that small operators may be adversely impacted by the agreements.

“Available studies suggest that the negotiation process needs to be inclusive and acknowledge the necessities of small-scale traders in order for the VPA to achieve both of its socioeconomic and legality goals.”

Social safeguards need serious consideration in VPA implementation. In fact, all VPAs currently have an article on social safeguards. Countries such as Ghana, Indonesia and Cameroon are developing systems to monitor VPA impacts on livelihoods and small and medium-sized enterprises.

The implementation process has overcome many challenges in achieving significant governance improvements. Perhaps the most immediate challenge of the FLEGT Action Plan is the delay of VPA countries in developing LAS that are capable of meeting the EU’s expectations of FLEGT-licensed timber. The EUTR came into effect in March 2013, but no country has yet been able to issue FLEGT export licences.

EU implementation

“To avoid illegal timber products from entering the EU, by diversion of exports to less stringent markets within the EU, it is crucial that the EUTR be implemented consistently across all member states.”

However, there is mixed evidence on whether the EUTR is indeed being implemented consistently and effectively in the different member states of the EU. Thus, a comparative analysis on the EUTR implementation reveals very different scenarios. The UK has been a frontrunner in the development and implementation of measures against illegal timber product imports long before the EUTR was implemented. Many of these initiatives gave a strong contribution to the design and development of the EUTR at an EU scale. As a consequence, the EUTR was introduced into a

favourable regulatory environment in the UK, facilitating the timely implementation of enabling domestic legislation.

As for Italy, the country has traditionally been reluctant in defining specific measures to tackle illegal timber imports, and the EUTR was formally adopted after nearly two years of delay (and is still not yet fully enforced), since it represented a completely new element in domestic legislation. It has been argued that countries which act as pace-setters in policy making, are likely to influence the designing of EU policies, thus minimizing the costs in 'downloading' them to the domestic level. Latecomers instead often face severe problems because they might lack policies to upload to the European level or sufficient staff power, money, expertise and technology actively to shape European policies. While in the UK the process of implementing the EUTR is led by a centralized public authority that involves and co-ordinates multiple stakeholders (producers, traders, retailers, environmental non-government organizations etc.) and initiatives, in Italy the role of the Competent Authority is quite weak, and the network is based on strong links among organizations.

Delay in the setting of national legislation favoured the emergence of an Italian MO as a pivotal player in early implementation phases.

Differences between the two countries in terms of EUTR implementation can also be noticed with regard to effective controls in place as well as dedicated resources. As mentioned, basically no controls have been performed so far by the CFS in Italy, while some 87 operators/traders were engaged in enforcement activities and checked¹¹ in the UK (although in the UK no fines have been issued yet but some timber has been seized). This could suggest that the first year after the entry in force of the EUTR was seen as a kind of testing-period, indirectly confirming the idea that the UK maintains an informal implementation, focusing more on outcomes rather than on defining formal procedures. As for available resources, the National Measurement Office employs around seven persons within a specific EUTR team and relies on an annual dedicated budget. The Italian Competent Authority appointed CITES units of CFS as the main controlling bodies, and this means that the involved staffing levels is expected to increase up to about 50 people but no additional human or financial resources will be devoted to this service.

¹¹ See: http://barometer.wwf.org.uk/what_we_do/government_barometer/scores_by_country/country_answers.cfm?country=United%20Kingdom



6. Lessons learned

It is still too early to be able to draw strong conclusions, in particular quantifiable ones, regarding the impacts of FLEGT and the EUTR on reducing illegal logging. The policy measures seek to influence both the supply and demand for illegally logged timber. Drawing on scientific evidence regarding the impacts of the LAA in US, it can be expected that the supply of illegally logged timber to the EU will decrease.

Some of the attitudes of different stakeholders toward the EUTR are clearly irreconcilable, e.g., those who see it as a business opportunity versus those who see it as (unfairly) disadvantageous. The resulting ambiguity in the current transition towards full implementation could possibly reinforce the trend of reduced imports of tropical hardwood timber, as operators opt for presumably less (legally) risky temperate hardwood. However, the efforts in source countries to comply with the requirements of the EUTR should counter this effect in the longer run.

Likewise, the implementation of similar legislation to the EUTR in other countries and/or global sub-regions should limit the opportunities for market diversion of illegally logged timber. Similarly, support for small-scale timber industries in source countries in complying with verification requirements should reduce illegal logging and its associated trade. There are also positive signs as regards the Russian Federation and China, two major timber product source countries for the EU and worldwide, in establishing legality schemes. Since China is a major importer of primary wood products, not least tropical timber, which are then processed and exported as value-added products, it is of paramount importance that the country be included in the move towards legality in the timber trade.

- The FLEGT/VPA process has apparently resulted in significant improvements in forest governance in partner countries. However, many studies warn that local communities have yet to be properly involved in the negotiation process or are simply not aware of legality verification. **Experience shows that going beyond timber legality and including socioeconomic development objectives will make VPA implementation more successful.**
- Unlike the EU market, the potential effects of the LAA on timber markets and trade flows have

already been analyzed quantitatively for the US market. In general, tropical timber product imports seem to decrease, while temperate hardwood imports may fill the resulting gap in timber supply. The causal link between this trend and the legality verification policy is, however, yet to be established. **Shifts in trade need to be better analyzed to understand the causalities and ultimate consequences in terms of the existence and economic significance of trade diversions and market substitutions.**

- Policy measures like FLEGT, the EUTR and LAA tend to result in reduced imports of illegal timber products in countries imposing such measures. **The prices of legal imports from the same source countries tend to be higher compared to the case without those measures.**
- **We cannot yet definitely say that the policy measures have reduced illegal logging in suspected source countries, although they could have.** It is possible that these source country producers could have redirected their illegal timber products to other countries without comparable policy measures. It is also possible that more illegal wood in source country markets has been redirected to domestic consumers, pushing more legal wood into world markets, and the *net effect* on illegal timber remaining unclear. **More research is needed to verify these kinds of supply diversions.**
- The global legality verification regime is complex and evolving dynamically. While there are more studies being published on the issue, the evidence regarding important questions is still limited; **there are more hypotheses than empirically established causal links.**
- Outside the EU, the effects of both VPAs and the EUTR on forest governance, forest management, and the timber product manufacturing sector are only evolving now. **The arising legality verification regime has strongly increased the awareness of different stakeholder groups in producer and consumer countries of the illegal logging issue, yet the consequences of this increased awareness for harvest, trade and production practices are yet hardly known.**

7. Policy implications

- In the EU, the implementation of the EUTR is still a major challenge. While some countries are well advanced in the implementation process, others are still at the beginning. **The technical and economic challenges of the implementation remain substantial, for example the lack of resources and knowledge, and the sheer number of operators versus personal resources of the implementing agencies.**
- Effective and consistent implementation of the EUTR across all EU-member states should avoid a counterproductive “race to the bottom”, i.e., inadequate implementation inducing legally questionable timber product trade flows. Coherent implementation of the EUTR across member states should also reduce the risk of trade disputes. In this respect, **helping to facilitate the benchmarking of the good practices from more experienced countries would be valuable.**
- **EUTR implementation should be done in close cooperation with industry, striking the right balance between effective implementation and acceptable costs.** A process of mutual learning could aid achievement of this balance. In this instance, the Independent Market Monitoring (IMM) project, in creating a database for the analysis of timber trade development, could play a key role.
- **It is crucial for the success of the EUTR to involve major timber product producers/importers from emerging economies, most notably China.** The bilateral negotiations the EU is already conducting with such countries are therefore essential. However, **multilateral negotiations which also involve other major destinations for the trade in timber products, notably the US and Japan, could be even more fruitful.**
- There is a need to re-consider the importance of the emerging legality verification regime in the context of a broader global governance system targeting the sustainable management of the world's forests. **Legality is a core precondition for sustainability, but does not guarantee sustainability per se.**
- There is a danger that the emerging legality verification regime creates advantages for large, export-oriented enterprises compared to smaller firms in both exporting and importing countries, due to the perceived costs of legality verification. Inside the EU, monitoring organizations—in providing advice and directions for exerting due diligence have a key role here. **It is essential that support for small and medium sized firms is also forthcoming in source countries for timber products.**
- **In summary, it is essential to strike the right balance between the demands of EUTR compliance and the existence of an inclusive, competitive timber product market.** The Independent Market Monitoring (IMM) project, analyzing timber product market trends to assess the impacts of the Action Plan, should aid in striking this balance.



Abbreviations

CA:	Competent Authority
CFS:	Corpo Forestale dello Stato/ Competent Authority and the State Forestry Corps
CITES:	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CTLVS:	China Timber Legality Verification Scheme
DDS:	Due Diligence System
EC:	European Commission
EUTR:	European Union Timber Regulation
FLEGT:	Forest Law Enforcement Governance and Trade
FSC:	Forest Stewardship Council;
IMM:	Independent Market Monitoring
ITTO:	International Tropical Timber Organization
LAS:	Legality Assurance Systems
LAA:	The Lacey Act Amendment of 2008
MOs:	Monitoring Organizations
PEFC:	Programme for the Endorsement of Forest Certification
SMEs:	Small and Medium-Sized Enterprises
SVLK :	Sistem Verifikasi Legalitas Kayu
TPP:	Timber Procurement Policy
VPAs:	Voluntary Partnership Agreements
WWF:	World Wide Fund

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We are living in a time of accelerated changes and unprecedented global challenges: energy security, natural resource scarcity, biodiversity loss, fossil-resource dependence and climate change. Yet the challenges also demand new solutions and offer new opportunities. The cross-cutting nature of forests and the forest-based sector provides a strong basis to address these interconnected societal challenges, while supporting the development of a European bioeconomy.

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This work and publication has been financed by EFI's Multi-Donor Trust Fund for policy support, which is supported by the Governments of Finland, France, Germany, Italy, Ireland and Norway.



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