

## **EU auditors' critique of FLEGT**

According to an examination by the European Court of Auditors (the Court) published in October, the EU FLEGT action plan to tackle the problem of illegal logging is not sufficiently well managed, designed and targeted.

The special report "EU support to timber-producing countries under the FLEGT action plan" criticises both the implementation of the EU Timber Regulation (EUTR) and the FLEGT Voluntary Partnership Agreement (VPA) process.

While the Court acknowledges the European Commission (EC) "conceived the FLEGT action plan in an innovative way and identified possible measures to be taken" by addressing both supply and demand side issues of illegal logging and related trade, it also identifies shortcomings in implementation. According to the Court, the EC "did not devise an appropriate work plan with clear objectives, milestones and a dedicated budget".

### **Danger of "FLEGT fatigue"**

The Court finds it particularly problematic that, although it has been 12 years since the action plan was presented and despite FLEGT-related financial support to timber-producing countries of around €300 million between 2003 and 2013, there is still no FLEGT licensing system in operation – and several target dates for the introduction have not been met.

As a result, the court highlights a "danger of 'FLEGT fatigue' setting in, as countries become frustrated with the lack of progress and are able to find other less stringent markets for their products".

Following the adoption of the Action Plan, the EC and member states drew up a list of priority countries to target for participation in the FLEGT licensing scheme. However, it was also agreed that the EU "should remain open to trade negotiations with all countries that expressed an interest".

As a result, practically all interested countries – currently 26 – have become involved in the process to some extent and, according to the Court, "the limited financial and technical support has been spread over a large number of countries, some of which were not the key ones for tackling illegal logging or were most unlikely to develop the level of governance necessary to arrive at a licencing system in the short to medium term. This diluted the support".

In this context, the Court particularly criticised high levels of funding for Liberia and the Central African Republic (CAR) on the grounds that they are minor timber suppliers to the EU market and are not expected to develop a functioning FLEGT-licensing system in

the foreseeable future. This is contrasted with Ivory Coast, which delivers timber worth about €166 million per year to the EU (roughly seven times as much as Liberia and CAR combined) which has not so far received any financial assistance in connection with VPA.

Moreover, the Court observes that the EC had early identified important producing, processing and trading countries like China, Russia, India, South Korea and Japan, as crucial for the implementation of FLEGT objectives. However, these countries are currently not pursuing a VPA and, according to the Court, bilateral policy dialogue with them has produced limited results.

The Court also found that “projects aimed at strengthening the capacity of public authorities were not effective” and the main projects examined were problematic. In Cameroon and Indonesia, for example, the financially most significant projects did not bring the desired results – which were to establish a timber tracking system and to improve forest law enforcement and governance, respectively.

The main problems identified affecting the achievement of project objectives were “insufficient assessment of project risks and constraints, improper design, weak project management and monitoring, and coordination problems between project partners”.

The Court was critical of alleged delays in implementation of EUTR, noting that it is still not fully implemented in certain member countries – such as Spain, Greece, Romania and Hungary. The Court commented that: “An earlier adoption of the Regulation would have passed on a clear message, in the initial stages of the action plan, that the EU was taking the lead in the fight against illegal timber exports. This would also have acted as an additional incentive to countries wishing to participate in the VPA process”.

### **FLEGT strengthens civil society**

More positively, the Court noted that FLEGT had contributed significantly to strengthening of civil society organisations and improved transparency in the forestry sector of VPA partner countries. In Cameroon, for example, civil society organisations have been recognised as legitimate partners by the government since the signing of the VPA agreement. As a result, “local and international NGOs now have the possibility to influence the country’s forestry policy”.

The Court also took a closer look at the six VPA partner countries that are currently in the implementation stage of the process. It confirmed earlier reports and assessments that Indonesia and Ghana have made significant progress and are aiming to have their systems ready for licensing in the near future.

However, according to the Court, there has been less progress in other VPA partner countries. Cameroon is struggling with the complexity of its forestry law. The country was supposed to start issuing FLEGT licenses in 2015, according to the schedule set in the VPA. However, neither the timber tracking system, which is now being developed in a second attempt by the German development aid agency Deutsche Gesellschaft für Internationale Zusammenarbeit, nor the timber-licensing scheme are yet in place. The Court concludes that in Cameroon “many challenges are thus to be overcome before full FLEGT licensing can be achieved”.

Progress in Congo has been slow since the VPA was ratified in May 2010, according to the Court, mainly due to governance issues. Liberia, too, is still struggling with illegal logging, an abuse of private use permits and weak capacity of the forest administration services. And in CAR the civil war “has stalled all government action. Many areas of the country lie outside the control of the forest administration services, thus hampering the VPA implementation process”.

Of the nine countries currently negotiating a VPA with the EU, the report highlighted activities in Malaysia. The country was one of the first to pursue a VPA but negotiations have not yet been completed due to “difficulties of applying a VPA throughout the whole country and in Sarawak in particular”. However, Malaysia makes, in the absence of a VPA, “extensive use of public and private certification schemes”.

Insufficient use of possible synergies between FLEGT and private certification schemes was another issue identified by the Court. Private certification schemes have helped fill “the void created by the absence of FLEGT licensing”. According to the Court, they contribute significantly to meeting the due diligence requirements of the EUTR. And they could also be more widely recognised as a part of the VPA licensing process.

### **Recommendations for improvement**

The EC and others connected with the action plan can take comfort from the fact that the Court at no point suggests that the EU should reduce support for the process. Instead it recommends various actions to strengthen implementation and better target resources.

The Court encourages the EC to draw up a work plan for all components of the FLEGT action plan for the period 2016-2020. The plan should set out “clear and specific objectives, priorities, deadlines and a budget for EU support in timber-producing countries”. The objectives should be set realistically and “take into account the capacities of countries and their specific limitations”.

Moreover, the EC should urgently insist on the implementation of the EUTR in all Member States. And it should also consider making more use of reputable private certification schemes.

The EC should also take steps to ensure resources are more clearly allocated “where they are likely to have the greatest impact in tackling illegal logging and related trade”. In countries that are unlikely to reach the standards required by a VPA in the foreseeable future, the EC should focus on supporting forest governance “without necessarily signing a VPA”.

The Court recommends that the Commission evaluate the FLEGT process more often and produce a progress report every two years, which should include “an assessment of VPA implementation, scheduled deadlines, difficulties encountered and measures taken or planned”.

The EC has yet to publish a full response to the Court’s conclusion. However the BBC, quoting an EC representative, reports that the EC is disputing some of the findings and that they “will pursue its efforts to improve efficiency, effectiveness and economy”. The EC “recognises the need to develop more specific objectives, milestones and a common roadmap”, according to the BBC article.

### **NGO defence of FLEGT Action Plan**

While the EC has yet to respond formally, there has been a vigorous defence of the FLEGT action plan by European civil society since publication of the Court’s report. Saskia Ozinga of FERN, an organisation which co-ordinates NGO campaigning activity on forestry at EU level, commented that: “while progress in some countries has been painfully slow, the FLEGT action plan remains the EU's most effective policy on tropical forests to date”.

Ms Ozinga observes that: “the auditors have looked at FLEGT as one simple programme with one simple aim [i.e. FLEGT licensing], when in fact the situation in different timber-producing countries varies greatly.... The first VPAs were only signed four years ago, so to expect deep-seated, fundamental governance changes in such a short time is unrealistic. The auditors appear to be underestimating the enormity of this task.”

The fact that an influential NGO was so quick to defend the FLEGT action plan seems significant given one clear intent of the plan is to improve market acceptance of legal and sustainable tropical timber in the EU.

There is now a strand of opinion running through the European environmental movement that the legal timber trade is part of the solution, rather than part of the problem, to serious forest problems like illegal logging and deforestation. This is contrary to the situation that prevailed when the action plan was launched 12 years ago when the focus was still more on tropical timber bans and boycotts. Giving civil society a

central place in the action plan and VPAs has been a significant factor encouraging this change of attitude.

It's also notable that European media commentary of the Court's conclusions – rather than simply regurgitating platitudes about the alleged destructive effects of timber harvesting – has drawn attention to broader issues of tropical forest management.

For example, The Parliament, a political magazine, quotes European MEP Paul Brannen who said the report is "well-timed. Not only can it hopefully influence the revision of FLEGT due early next year, it also comes just before world leaders start to arrive in Paris for the global climate conference. (...) A particularly notable development since the FLEGT Action Plan was agreed in 2003 is that the main driver of illegal logging has changed. The reason why trees are cut down in developing countries these days is to make space for agriculture, mostly soy plantations and grasslands populated by cattle to feed Europe's growing appetite for beef. Newly-revised FLEGT must take this game-changer into account".

Overall the signs are that the EU wants to remain heavily engaged in tropical forest issues. But, following a deep recession and significant decline in imports of tropical timber products, it is now having to look hard at ways to sharpen tools to increase the efficiency and effectiveness of policy engagement.