



19.11.2015

WORKING DOCUMENT

on ECA Special Report 13/2015 (2014 discharge): "EU Support to Timber-Producing Countries under the FLEGT Action Plan"

Committee on Budgetary Control

Rapporteur: Joachim Zeller

Introduction

Illegal logging and the trade in illegally logged timber are persistent and endemic problems, despite the international efforts that have been underway since the late 1990s to combat them. They cause environmental damage and a loss of biodiversity, have a negative impact on the livelihoods of forest - dependent people, distort markets, fuel corruption, and undermine the rule of law and good governance.

Illegal logging and trade occur when timber is harvested, transported, bought or sold in violation of national laws. What is 'illegal' will therefore depend on the particular national legislation in force.

In 2003, the Commission issued a proposal for an EU action plan on Forest Law Enforcement, Governance and Trade (FLEGT) to tackle the problem of illegal logging and related trade. The FLEGT initiative aims to reduce illegal logging globally by supporting forest governance in timber-producing countries and by reducing the consumption of illegally harvested timber in the EU. The cornerstone of the action plan is a bilateral agreement between the EU and a wood exporting country - the FLEGT voluntary partnership agreement (VPA) - committing this country to trading only legally harvested timber products.

Under these agreements, exporting countries develop systems to verify the legality of their timber and are allowed to award FLEGT licences when the required conditions are met.

The Commission and the EU Member States support partner countries financially and technically to increase forest governance and systems verifying compliance of partner countries with their legal requirements. 300 million euro were allocated to 35 countries over 2003-2013 for FLEGT related support. The Food and Agriculture organisation of the United Nations (FAO) and the European Forest Institute (EFI) are entrusted by the Commission to respectively manage the ACP FLEGT support programme and the EU FLEGT Facility.

Audit Scope and Objectives

The Court examined whether the Commission managed well the support provided under the EU FLEGT action plan to timber-producing countries to address illegal logging. The audit work was structured on two key-questions:

- Was the FLEGT support well designed and targeted?
- Has the FLEGT support been effective?

The audit covered the entire period of the EU FLEGT action plan implementation from 2003 to 2014. The Court's audit work consisted of an examination of the FLEGT strategy documentation and allocation of funding to countries and projects, interviews with Commission officials, international organisations, Member States and NGOs, an examination of the findings from the results-oriented monitoring for 35 projects under and visits to Cameroon and Indonesia.

Court's Findings and Observations

I - Was the FLEGT support well designed and targeted?

The Court noted that the EU support to the FLEGT process was based on a sound assessment of the illegal logging issue, its drivers and possible measures to be taken. In particular, the Court considered innovative the way the FLEGT action plan tackles the issue of illegal logging and trade by combining trade incentives through easier access for partner countries' producers to the EU timber market - notably through the negotiation of Voluntary Partnership Agreements (VPAs) with individual countries - with development aid both to governments and to civil society. The action plan also required from partner countries to adopt a coherent legislation in the forestry sector in view of implementing tracking and licensing schemes and controls at different levels. The Court estimated that the Commission had clearly identified domains where support was needed to implement VPAs.

However, the Court pointed out that the Commission did not devise an appropriate work plan with clear operational objectives and correlated indicators, milestones and a dedicated budget. While these elements would have been difficult to prepare at the very start of the initiative, the Court considered they should have been established in its early years and was obliged to note that, 12 years later after the beginning of the implementation in 2003, FLEGT was still lacking a clearly set of goals to be attained with defined financing tools and targeted date or completion.

The audit work also revealed that the development cooperation activities were granted without clear criteria as it was depending on various financial sources and instruments, that the impact of the aid was diluted due to many countries involved and that an accurate overview of FLEGT projects was unavailable from the Commission database related to forestry.

Moreover, the Court observed that the late adoption in 2010 of the regulation prohibiting the imports of illegally produced timber into the EU (EUTR) did not favour the implementation of FLEGT as it acted as a disincentive for the VPA countries in their preparation for eventual FLEGT licensing and found as well that the EU timber regulation was not yet fully implemented in certain Member states and this also, more than ten years after the launching of the FLEGT action plan. Even though the absence of FLEGT licensing due to this late and slow implementation was filled to a large extent by private certification bodies, which contribute significantly to meeting the due diligence requirements of the EUTR, the Court however stated that the Commission did not sufficiently explore the possible synergies between FLEGT and these private schemes.

With regard to the prioritisation of the Commission assistance, the Court' review showed that the Commission did not clearly set clear financing priorities for its support to timber-producing countries. In particular, a clear list of priority countries potentially interested in the FLEGT scheme was not defined and the Commission did not also allocate its human resources according to a set of criteria which were likely to give best results¹. Finally, the Court found that the support to the VPA process was not consistently integrated in the development cooperation strategies with the partner countries.

II - Has the FLEGT support been effective?

¹ Criteria such as the extent of illegal logging, the importance of trade with the EU, the commitment and potential of the countries in question and their development needs were not considered together in order to prioritise the use of resources.

The Court examined first whether project outputs were delivered as planned. From the Court's review, it appeared that the EU support to timber-producing countries reinforced civil society organisations and raised awareness of the illegal logging problem in partner countries, but projects aiming to strengthen the capacity of public authorities did not produce the expected outcomes and were frequently beset by problems. The first project reviewed by the Court in Cameroon aiming at setting-up a timber tracking system failed due to combination of factors such as an inappropriate initial needs assessment, shortcomings in the implementation of the project, Commission ineffective coordination with national stakeholders and inadequate contractor's performance. 2.27 million euro was spent for this project between 2010 and 2013.

In Indonesia, the project aiming at improving forest law enforcement and governance received 10 million euro and did not produce any concrete outputs due to overambitious and unrealistic project design and weak monitoring. Globally, the main factors identified by the Court were insufficient assessment of project risks and constraints, improper design, weak project management and monitoring and coordination problems between project partners.

The Court then assessed whether the overall progress towards licensing systems was satisfactory. It has now been 12 years since the FLEGT action plan was presented and, although interest in the VPAs has been extensive (26 countries are currently engaged in the VPA process), it must be observed that the progress remains slow as no FLEGT licensing system is yet in operation. The Court identified the following main issues hindering the implementation process in most countries i.e. a lack of institutional capacity, widespread corruption and poor law enforcement.

Thirdly, the Court reviewed the monitoring and reporting procedures. The Court pointed out that the Commission did not report periodically on the progress of the FLEGT action plan despite the provision of the FLEGT regulation (art. 9) to report to the Council within two years of the entry into force of the first VPA. In addition, the Court found that when reports are available on individual partner countries, they did not measure the progress of VPA implementation against set milestones, nor containing a description of the difficulties encountered. The Court also observed a lack of framework, namely a robust database that would facilitate accountability and allow a better assessment of progress achieved.

Moreover, it must be noted that it is only late 2014 that the Commission initiated a standardised progress monitoring framework for measuring achievement of the key steps of VPA implementation and launched an external evaluation of the FLEGT action plan which was long overdue, that is to say twelve years after the submission of the FLEGT action plan.

Summary of the Commission Replies

The Commission emphasized that the EU leadership in global efforts to tackle illegal logging was widely recognised. The EU and 28 Member States have been working with more than 40 producer countries and several consumer countries around the world to implement FLEGT-related measures. For the Commission, it should be underlined that the FLEGT communication responded to a strong call for joint action by the Commission, Member States and producer countries, the FLEGT action plan being a policy framework that was successful in mobilising political attention for the issue of illegal logging, policy and regulatory measures and governance support by the EU, Member States and a number of partner countries.

The Commission did not share the Court's conclusion that the support provided under the EU FLEGT action plan to timber-producing countries was not sufficiently well managed. The Commission has endeavoured to manage the FLEGT support to producing countries as well as possible, taking into account the challenges of addressing illegal logging globally, the complexity of promoting good forest governance and law enforcement in a diversity of developing countries, as well as the innovative nature of FLEGT. The Commission stated its readiness to pursue its efforts to improve efficiency, effectiveness and economy while also highlighting that FLEGT is a joint undertaking by the Commission, Member States and partner countries.

Court's recommendations

The report makes a number of recommendations in order to improve the future management of the initiative.

1. Work plan

The Commission should establish a work plan for the various components of the FLEGT action plan for the period 2016-2020, setting out clear and specific objectives, priorities, deadlines, and a budget for EU support in timber-producing countries. The objectives should take into account the capacities of countries and their specific limitations.

2. Implementation of the EUTR

It is high time that the Commission insist on the strict implementation in all Member States of the timber regulation.

3. Private certification schemes

The Commission should identify the extent to which more use can be made of the work done by reputable private certification bodies.

4. Resource allocation

Resources should be allocated to where they are likely to have the greatest impact in tackling illegal logging and the related trade. In cases where the implementation of the VPA requirements appears less feasible, the Commission should propose measures supporting forest governance, without necessarily signing a VPA.

5. Reporting

The Commission should produce a report every 2 years on the progress of the FLEGT action plan. This should include an assessment of VPA implementation, scheduled deadlines, difficulties encountered, and measures taken or planned.

6. Evaluations

The Commission should use the current evaluation as an opportunity to assess how the present approach could be modified to produce more tangible results.

Rapporteur's recommendations for possible inclusion in the Commissions' annual discharge report

[The European Parliament]

7. Welcomes the special report dedicated to the EU Support to Timber-Producing Countries under the FLEGT Action Plan and sets out its observations and recommendations below;
8. Considers the FLEGT initiative as essential to improve the forest governance, to keep forests standing and ensure law enforcement, in particular by deploying all possible means *inter alia* voluntary partnership agreements or financial due diligence, in order to address the global issue of illegal logging and help to secure timber exports to the EU;
9. Deplores however the cumulative shortcomings identified in the implementation phase of the FLEGT action plan and projects, requiring now a rapid and thorough evaluation;
10. Strongly believes it is time, after allocating 300 million euro over 2003-2013 for FLEGT related support, to have a serious cost-benefits analysis of the FLEGT process to reducing illegal logging and related trade but also to streamline the design of existing mechanisms to make them more effective in terms of outcomes and impacts;
11. Deplores the slow implementation of the FLEGT action plan, the late adoption of the EU timber regulation as well as the late reaction from the Commission to learn the lessons from the overall funding for FLEGT;
12. Calls on the Commission to prioritise its aid efforts by clear objectives and criteria; invites the Commission therefore to structure EU funding from different budgets and consider one single, clearly defined budget;
13. Calls on to swiftly reinforce transparency and accountability frameworks through monitoring and regular reporting by including appropriate progress assessment; urges the Commission furthermore to monitor and report on the full implementation of the EU timber regulation in the Member States and to take the necessary legal actions to ensure its application;
14. Calls on the Commission to streamline and better coordinate its efforts of fighting illegal logging within its different EU policies and involved services;
15. Recalls that the traceability of timber products, through an operational licensing legally produced system between the EU and timber exporting countries, should be considered as a recurrent core objective, particularly in light of the factors identified by the Court such as widespread corruption, poor law enforcement or insufficient assessment of risk and constraints in projects;
16. Calls on the Commission to negotiate timber import standards in future bilateral or multilateral trade related agreements, in order not to undermine the successes achieved through the FLEGT Action Plan with timber-producing countries;
17. Considers that the governance gaps in the FLEGT system should be addressed either in the external evaluation of the FLEGT action or on an *ad hoc* basis by the Commission.