

Illegal Logging

A global threat

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Illegal logging and global trade in illegal timber are widely recognized as key threats to forests, biodiversity and development worldwide. The European Union (EU) is a major world consumer of illegally logged timber and therefore plays a key role in the protection of biodiversity and the fight against illegal logging. Unfortunately, up until now, EU policies in this field show a lack of coherence. International goals in terms of reducing deforestation, biodiversity loss and poverty will not be reached if the EU does not take effective action to stop illegal timber and support sustainable forest management worldwide.

Illegal logging

Illegal logging is widespread in many timber-producing countries where governance is weak and corruption omnipresent. By logging in protected areas or outside allowed quotas, by processing the logs without acquiring licences, or by exporting timber without paying export duties, companies are able to generate much greater profits for themselves than by behaving legally.

Illegal logging results in severe environmental and social impacts. First of all, it leads to unsustainable and unfair use of forests with often irreparable effects of deforestation. Secondly, threatened forests are home to an estimated sixty million indigenous people almost wholly dependent on forests.¹ Forests play an important cultural and social role in many countries. They provide important goods and services, including wood energy, food and other non-wood products, for 1.2 billion people of whom approximately 90 per cent live below the poverty line.²

According to estimates by the World Bank, illegal logging deprives governments of some of the poorest countries in the world of at least US\$ 15 billion per year in lost revenue.³ This concerns huge amounts of tax revenues desperately needed to invest in health, education and infrastructure. Illegal logging has also promoted corruption, undermined the rule of law and good governance, and created social conflict among indigenous and local populations leading to violence, crime and human-rights abuses. Although the responsibility for stopping illegal logging is primarily in the hands of wood-producing countries, major timber-consuming countries such as the EU Member States share responsibility for fighting illegal logging and its severe environmental and social impacts.

European Environment Policy - FLEGT

The EU has put sustainable development and especially deforestation prominently on its political agenda. On several occasions the EU has shown its commitment to halt the

¹ World Bank, A Revised Forest Strategy for the World Bank Group (October 31, 2002).

² FAO, Trade and sustainable forest management impact and interactions. Main analytic Study of GCP/INT/775/JPN (Rome 2004).

³ World Bank, Strengthening Forest Law Enforcement and Governance (2006).

global forest crisis.⁴ For instance, at the 2002 Johannesburg World Summit on Sustainable Development, halting illegal logging was put forth as a major priority to help stop the rapid loss of the worlds forests.⁵

The EU, as a major global consumer of timber and wood products, shares responsibility for illegal and unsustainable forest practices in timber producing countries. The EU has recognized the seriousness and complexity of the problem and therefore it has adopted the Forest Law Enforcement Action Plan (FLEGT, 2003) as part of the EUs response to the call for action at the World Summit on Sustainable Development.⁶

The FLEGT Action Plan focuses on improving governance in timber-producing countries, supporting legislative and regulatory reforms and establishing systems to stop illegal timber from entering EU markets. The focus on legality is not an end in itself, but FLEGT intends to work with partner countries to improve governance and aims to support sustainable forest management worldwide. The fact that the approach to defining legality taken by the EU is based on the three pillars (economic, environmental and social objectives) of sustainable forest management shows a willingness to close the gap between legality and sustainability.⁷ Key elements of FLEGT are the following:

- *Negotiation of FLEGT Voluntary Partnership Agreements with producer countries*
- *Examination of EU Member States legislation and consideration of additional legislative options to prohibit import of illegal timber*
- *Encouragement of private-sector initiatives to exclude illegal timber*
- *Promotion of public procurement policies*

Negotiation of Voluntary Partnership Agreements

At the core of the FLEGT Action Plan are negotiations of Voluntary Partnership Agreements (VPAs) between the EU and wood-producing countries. These include a licensing system designed to identify legal products and license them for import to the EU (unlicensed products from VPA countries will therefore be denied entry), combined with capacity-building assistance to help the partner country to set up the licensing scheme, to improve law enforcement and, where necessary, to reform its laws. As of mid-2007 negotiations with several major wood-producing countries, such as Ghana, Indonesia and Malaysia, were underway and other countries have expressed an interest.

⁴ The annual world wide loss of forest area between 2000 and 2005 was 7.3 million hectares per year an area about the size of Sierra Leone or Panama or equivalent to a loss of 200 km² of forest per day (www.fao.org/forestry/site/fra2005/en/).

⁵ Paragraph 45 of the Johannesburg Plan of Implementation, http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/WSSD_PlanImpl.pdf.

⁶ Communication from the Commission to the Council and European Parliament, Forest Law Enforcement, Governance and Trade. Proposal for an EU Action Plan (2003).

⁷ FLEGT Briefing Sheet 2, What is legal timber?, http://www.loggingoff.info/media/articles/article_358.pdf

Examination of EU Member States legislation and additional options

Another element of FLEGT includes the examination of EU Member States legislation that might be of value to control the illegal trade in timber and wood products. Analysis showed that although some of these laws are probably applicable, there are major practical difficulties, for instance in obtaining evidence of the original crime from the country of origin and tracking the movement of the products thereafter.⁸

Next to this, as part of the measures within FLEGT, the European Commission proposed to review options for, and consider the impact of, further measures to support the FLEGT Action Plan, including, in the absence of international progress, the feasibility of legislation to control imports of illegally harvested timber, and report back to the council on this work during 2004.⁹ These include a requirement for proof of legality for all timber placed on the market or an import ban on illegal timber.

Encouragement of private-sector initiatives to exclude illegal timber

Encouragement of a strong market for certified sustainable wood products is an excellent tool for creating market incentives and interesting timber producers in producing sustainable (socially and environmentally) wood. The private sector has a key role to play and can exert a direct and positive influence through its network from forests to the market. Partly in response to government regulation and sometimes as a result of direct consumer and NGO pressure, many private-sector initiatives have been taken to exclude illegal products from their supply chains.

Promotion of public procurement policies

Public Procurement can also influence the market.¹⁰ It is estimated that the public authorities in the European Union spend around 1,500 billion euros annually on buying supplies, services and works approximately 16 per cent of the EUs total Gross Domestic Product (GDP). In March 2004, the European Parliament and Council adopted a revision of EU procurement legislation with the objective to stimulate the demand for sustainable timber and thereby promote sustainable forest management worldwide. The revised directives offer some clear opportunities for the inclusion of social and environmental criteria in public procurement procedures.¹¹ However, the European Commission cannot take binding measures; it is up to the willingness of the EU Member States to transfer the EUs guidelines into binding national measures. Until now, only a few Member States have undertaken suitable action to make their procurements sustainable.

⁸ Chatham House, Briefing paper illegal logging (July 2007).

⁹ COM (2003)251 final.

¹⁰ OECD, The Size of Government Procurement Markets (2003) 30.

¹¹ Directive 2004/17/EC and Directive 2004/18/EC.

European Development Policy

The primary and overarching objective of EU development policy is the eradication of poverty in the context of sustainable development, including the pursuit of the Millennium Development Goals (MDGs).¹² The seventh MDG, agreed by the United Nations in 2000, commits the EU to ensuring environmental sustainability and reversing the loss of environmental resources.

To promote the conservation and sustainable management of forests in developing countries, the European Union gives financial support through its external cooperation policies. Efforts in this regard include substantial development cooperation programmes in Brazil, Central Africa and Indonesia, as well as in a large number of other countries. Altogether, the EC has provided more than 700 million euros to support sustainable forest management in Asia, Central Africa and South America over the past 10 years.¹³

Policy Coherence for Development

The EU has a legal obligation to take developing countries' interests into account in all policy areas which are likely to affect them.¹⁴ This is known as Policy Coherence for Development (PCD). The EU has on several occasions expressed its commitment to enhancing PCD. For example, in 2005, the European Commission identified policy coherence as a key tool in accelerating progress toward attaining the Millennium Development Goals.

The EU has identified twelve priority policy areas as important for assisting developing countries in achieving the MDGs by means of improved policy coherence.¹⁵ Environment is among these priority policy areas.

Incoherence

The EU has put sustainable development, deforestation, related biodiversity loss, climate change and poverty alleviation prominently on its policy agenda. The adaptation of the FLEGT Action Plan incorporates all ingredients for a coherent policy approach towards sustainable development. However, in putting these commitments into practice the EU isn't showing much progress. The current implementation of FLEGT will not make a decisive difference in tackling illegal and destructive logging. This undermines European development-cooperation investments to fight poverty in the context of sustainable development. Additional action is therefore needed to attain the objective set out by the

¹² European Consensus on Development, p.46/2.

¹³ **13** Parliamentary questions joint answer given by Mr. Michel on behalf of the Commission, Written Questions: E-0430/07, E-0431/07, E-0432/07.

¹⁴ Art. 178 EC Treaty

¹⁵ The Commission Communication on Policy Coherence for Development sets out detailed proposals for action in these areas which should also inform the discussion.

European Council of Gothenburg (2001), namely that *biodiversity decline should be halted by 2010*.¹⁶

Regarding FLEGT, the first problem that needs to be tackled is the small scope of the Voluntary Partnership Agreements (VPAs): these only cover direct timber trade between partner countries and the EU. Timber and wood products imported via high-risk third-party countries such as China and Russia are not addressed. VPAs therefore only cover around 4 per cent of all direct timber imports into the EU.¹⁷ Illegal products can simply be transshipped via non-partner countries to the EU, which creates the danger of circumvention or laundering of illegal logged timber, thus undermining investments in sustainable timber trade and management. A second limitation is the restricted product coverage of FLEGT. Processed wood products such as pulp, paper and furniture will, initially, not be covered by the voluntary scheme. Consequently, the EU is unable to combat illegal logging effectively.

The lack of acknowledgement that FLEGT in its current context and without additional measures is proving to be ineffective in excluding illegal and destructive timber from entering EU Markets is however the most important shortcoming. Although the European Commission stated that it would undertake an Additional Legislative Options Study, it has not conducted the required *Extended Impact Assessment* yet. Instead, a new round of public consultation was organized earlier this year resulting in a conclusion from the majority of the respondents that the bilateral FLEGT approach is insufficient to address the problem of illegal logging.¹⁸ This clearly contradicts the EU's very own efforts as undertaken by its development policy. Additional legislative measures and strong leadership in this matter are needed to stop the supply and trade of illegal and destructive timber on the European market.

Regarding Europe's procurement policy, part of FLEGT, the EU also lacks behind. As stated in FLEGT, a promising route is offered to the EU and Member States to support the market for verified sustainable products, creating thus a level playing field for the sustainable timber trade. The revised directives do allow EU Member States to include social and environmental criteria. Many governments have taken up the challenge of sustainable public purchasing but up till now, with the deadline for implementation passed on 31 January 2006, less than half of the 15 original EU members have national laws, based on the revised directives, in place in September 2006.¹⁹ Therefore, to

¹⁶ European Council, Presidency Conclusions Göteborg (15 and 16 June 2001).

¹⁷ AidEnvironment, Factsheet effectiviteit van de FLEGT Vrijwillige Partnerschappen (VPAs) commissioned by Milieudefensie, Greenpeace and ICCO (2006).

¹⁸ European Commission, Analysis and report public consultation Additional options to combat illegal logging (August 2007) <http://ec.europa.eu/environment/forests/pdf/addoptionssynthfinal.pdf>.

¹⁹ The European Coalition for Corporate Justice, Sustainable Procurement in the European Union (February 2007) 3.

enforce implementation of the revised directives and sustainable procurement within the EU Member States, leadership from the European Commission is needed.²⁰

Conclusion

The above clearly states that the EU, in its approach to the problem of illegal logging, is not taking the necessary measures to meet its aim of halting the loss in biodiversity, stopping deforestation and fighting illegal logging. This undermines European Union environmental objectives as well as development-cooperation investments to fight poverty in the context of sustainable development.

Policy Recommendations

- The European Commission should adopt legislation which requires that only legally-harvested timber and timber products coming from legal sources and responsibly-managed forests be placed on the European market. Legislation should be cost-effective, fair and enforceable and should include sanctions. The primary responsibility for proving legality should rest with all companies that are importing or selling products in the EU, thus creating a level playing field and being WTO-compatible.
- The European Commission should strengthen the FLEGT-process of supporting wood producing countries to improve forest law enforcement, tackle corruption and promote socially and environmentally responsible forest management.
- The EU should enlarge the number of Voluntary Partnership Agreements with producing countries. A participatory multi-stakeholder process, including local communities and indigenous peoples, should be at the core of these VPAs.
- The EU should broaden the range of products covered by VPAs to cover all timber products.
- The EU Member States should speed up the implementation of sustainable public procurement for wood products including social and environmental criteria.
- The European Commission should endeavour to bring best practices in EU countries together and give clear guidance to Member States on how they can implement sustainable procurement by developing guidelines and tools to include social and environmental criteria in public procurement.

²⁰ Ibidem.

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