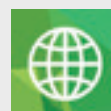


Special Report

## EU support to timber-producing countries under the FLEGT action plan



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**Special Report****EU support to  
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(pursuant to Article 287(4), second subparagraph, TFEU)

The ECA's special reports set out the results of its performance and compliance audits of specific budgetary areas or management topics. The ECA selects and designs these audit tasks to be of maximum impact by considering the risks to performance or compliance, the level of income or spending involved, forthcoming developments and political and public interest.

This performance audit was produced by Audit Chamber III — headed by ECA Member Karel Pinxten — which specialises in external actions spending areas. The audit was led by ECA Member Karel Pinxten, supported by the head of his office, Gerard Madden and Mila Strahilova, attaché; Gérald Locatelli, head of unit; Piotr Zych, team leader; Ruurd de Jong, principal auditor, Laetitia Cadet and Peter Kovacs, auditors.



From left to right: G. Madden, R. de Jong, K. Pinxten, M. Strahilova, P. Zych, G. Locatelli.

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## **Reply of the Commission**

**ACP:** African, Caribbean and Pacific Group of States

**CSP:** country strategy paper

**DCI:** development cooperation instrument

**DG International Cooperation and Development:** Directorate-General for International Cooperation and Development

DG International Cooperation and Development implements a wide range of the Commission's external assistance instruments financed by the EDFs and the general budget.

**DG Environment:** Directorate-General for the Environment

**EDF:** European Development Fund

The EDFs are the main instrument by which the European Union provides aid for development cooperation to the ACP States and overseas countries and territories (OCTs). The partnership agreement signed in Cotonou on 23 June 2000 for a period of 20 years ('the Cotonou Agreement') is the current framework for the European Union's relations with ACP States and OCTs. Its main focus is on reducing and eventually eradicating poverty.

**EFI:** European forest institute

**ENPI:** European Neighbourhood and Partnership Instrument

**EU FLEGT:** European Union — forest law enforcement, governance and trade

**EUTR:** European Union timber regulation

**FAO:** Food and agriculture organisation of the United Nations

**GIZ:** Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (German international cooperation agency)

**NGOs:** Non-governmental organisations

**REDD+:** Reducing emissions from deforestation and forest degradation +

The United Nations' 'Reducing emissions from deforestation and forest degradation' programme (or 'REDD') assigns a financial value to the carbon stored in forests, offering incentives for developing countries to reduce emissions from deforestation and invest in low-carbon paths towards sustainable development. 'REDD+' goes beyond deforestation and forest degradation, and includes the role of conservation, sustainable management of forests and enhancement of forest carbon stocks.

**ROM:** results-oriented monitoring

The ROM system was established by DG International Cooperation and Development in 2000 to strengthen the monitoring, evaluation and transparency of development aid. It is based on brief, focused, on-site assessments by external experts.

**SMEs:** small to medium-sized enterprises

**SVLK:** Sistem Verifikasi Legalitas Kayu (Indonesian timber legality assurance system)

**VPA:** voluntary partnership agreement

## I

Illegal logging and the trade in illegally logged timber are persistent 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.

## II

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.

## III

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 Court concludes that the support was not sufficiently well managed by the Commission.

## IV

FLEGT support was not sufficiently well designed and targeted. The Commission conceived the FLEGT action plan in an innovative way and identified the possible measures to be taken. However, it did not devise an appropriate work plan with clear objectives, milestones and a dedicated budget. While these would have been difficult to prepare at the very start of the initiative, they should have been established in its early years. When assistance was granted this was not done in accordance with clear criteria, and the impact of the aid was diluted because of the many countries involved. The regulation prohibiting the imports of illegally produced timber into the EU (EUTR), which was mentioned in the action plan back in 2003 as one of the possible measures, is still not fully implemented.

## V

The EU support to timber-producing countries was not sufficiently effective. The main projects examined, which were meant to increase the capacity of the public administrations were not successful. While many of the projects undertaken increased awareness of the illegal logging issue and bolstered civil society organisations, they were frequently beset by problems. It has now been 12 years since the action plan was presented and, although interest in the VPAs has been extensive, no FLEGT licensing system is yet in operation and successive target dates for their introduction have been missed. Monitoring of progress has been inadequate, particularly due to the lack of an accountability framework, and reporting on progress was also unsatisfactory.

## VI

The report goes on to make a number of recommendations in order to improve the future management of the initiative.

## Illegal logging is a global problem

### 01

Illegal logging and the trade in illegally logged timber are persistent 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. They deprive governments of revenues from natural resources, thus hindering sustainable development in some of the poorest countries of the world.

### 02

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.

### 03

Given the illicit nature of the activities in question, the scale of illegal logging is difficult to measure. The value of this illegal timber has been estimated at up to 100 billion US dollars annually<sup>1</sup> but, indeed, estimates of this nature vary considerably. However, it is widely accepted that illegal logging is an endemic problem in many major producer countries, particularly where corruption is rife and easy market access is available.

## FLEGT is the EU response

### 04

In response to global concerns<sup>2</sup> about the negative impact of illegal logging and the related timber trade, in 2003 the Commission issued a proposal for an EU action plan on forest law enforcement, governance and trade (FLEGT)<sup>3</sup>. FLEGT aims to reduce illegal logging globally by supporting forest governance in timber-producing countries and by curbing imports of illegal timber to the EU. It is a package of measures designed to tackle the issue of illegal logging and trade both from a supply- and demand-side perspective (see **Box 1**). The Council welcomed the action plan as a first step towards tackling the urgent issue of illegal logging and associated trade in a collaborative and coordinated way with consumer and producer countries, the private sector and other stakeholders<sup>4</sup>. In 2005, it adopted a regulation establishing a FLEGT licensing scheme for the import of certain timber products from countries which enter into a Voluntary Partnership Agreement with the EU<sup>5</sup>.

- 1 UNEP, Interpol, *Green carbon, black trade: illegal logging, tax fraud and laundering in the world's tropical forests. A rapid response assessment*, 2012.
- 2 International action against illegal logging was catalysed by the G8 action programme on forests, launched in May 1998. The G8 discussions prompted a series of forest law enforcement and governance (FLEG) conferences, coordinated by the World Bank, in East Asia (Bali, 2001), Africa (Yaoundé, 2003) and Europe (St Petersburg, 2005). They brought together governments, industry representatives, NGOs and researchers, with the aim of establishing cooperation frameworks between producer and consumer countries.
- 3 COM(2003) 251 final of 21 May 2003 'Forest law enforcement, governance and trade (FLEGT) — Proposal for an EU action plan'.
- 4 Council conclusions 2003/C 268/01 (OJ C 268, 7.11.2003, p. 1).
- 5 Council Regulation (EC) No 2173/2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community (OJ L 347, 30.12.2005, p. 1).

## Box 1

**The composition of the EU FLEGT action plan**

'The following measures in the FLEGT action plan aim to increase consumer demand for verified legally produced timber: (a) encouraging the private sector in the EU to adopt purchasing policies to ensure that only legal timber enters their supply chains [...]; (b) encouraging countries in the EU to adopt public procurement policies that require all timber supplied to be verified as legal [...]; (c) preventing illegal timber from entering the EU market through the enforcement of the EU timber regulation [...]; (d) creating measures to avoid investment in activities that encourage illegal logging. [...]

The action plan contains the following measures designed to support developing countries in building capacity to supply legally produced timber: (a) providing technical and financial support from the EU for improved governance and capacity building of government and non-government actors; (b) supporting efforts by timber-producing countries to combat illegal logging by preventing illegal timber from entering the EU market through bilateral trade agreements called voluntary partnership agreements.'

Source: <http://www.euflegt.efi.int/documents/10180/118682/Introduction%20to%20FLEGT>

**05**

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 both parties to trading only legally harvested timber products. Under these agreements, exporting countries develop systems to verify the legality of their timber. When the Commission is satisfied that the requirements have been met the countries will qualify for FLEGT licensing. An example of the procedures required to acquire the licences and subsequent export permits is given in the action plan (see **Box 2**). In practice, most of the partner countries decided to apply their future licensing schemes not only to timber exported to the EU but also to timber exported to other markets and for internal consumption.

## Box 2

**Example of the procedures required for timber legality certification provided for a VPA**

**Step 1:** The FLEGT partner country designates an accreditation body, which is empowered to appoint bodies to certify the legality of wood products.

**Step 2:** The FLEGT partner country designates an independent monitor and sets out a transparent dispute settlement mechanism.

**Step 3:** The European Commission confirms that the proposed system constitutes a credible system to verify that timber has been legally harvested.

**Step 4:** Certificates are issued for legally harvested timber, allowing customs authorities to clear legal shipments for export. [...]

**Step 5:** The export permit denoting legal harvesting is produced at the European Union port where timber is declared for free circulation in the EU, and checked by Member State customs authorities against the description of the consignment provided under pre-shipment notification. [...]

**Step 6:** Customs only accept declarations for release for free circulation into the EU when timber is accompanied by the necessary export permit.'

Source: COM(2003) 251 final, p. 13.

## 06

The Commission, together with the EU Member States, supports partner countries financially and technically to improve forest governance and to establish or improve systems which verify compliance with their legal requirements. The FLEGT component 'Support to timber-producing countries' consists of the following.

- (a) Supporting processes of policy reform, creation of effective laws and simplification of procedures while protecting forest-dependent communities and integrating them into forest-protection schemes.
- (b) Assistance for developing reliable monitoring and tracking systems, which would distinguish legal from illegal production and track timber from the point of harvest, through processing mills and ports to final markets, and encourage greater transparency of information within the forest sector.
- (c) Supporting broad governance reforms through capacity building, in particular in the judiciary, police or military sectors, to better tackle corruption, to gather evidence of environmental crime and to build legal cases.

## Introduction

### 07

To this end, the EU provides funding through the EDF and the general budget. In total, an estimated 300 million euro have been allocated to 35 countries for FLEGT-related support over the period 2003-2013<sup>6</sup> (see **Annex I**).

### 08

In the Commission, activities related to the FLEGT action plan are led by DG International Cooperation and Development and the Directorate-General for the Environment (DG Environment). DG International Cooperation and Development is responsible for managing FLEGT-related funding to third producer countries. It implements development cooperation programmes and negotiates the VPAs with ACP countries as well as with Guyana and Honduras. DG Environment negotiates VPAs with Asian countries, is responsible for the EUTR, for political dialogue on environmental matters with both timber-producing and consumer countries (such as China, Brazil, Russia, United States, Japan) and for multilateral dialogue. Both DGs share responsibilities for Latin American countries.

### 09

The Commission entrusted the European Forest Institute (EFI) and the Food and agriculture organisation of the United Nations (FAO) with some specific activities to support partner countries' efforts under the FLEGT action plan. The EFI hosts and manages the EU FLEGT Facility, which is a multi-donor trust fund established in 2007. It provides country support (mainly through technical assistance to governments and other stakeholders), performs studies and disseminates information on FLEGT. The FAO implements the ACP FLEGT support programme, of which the main aim was initially to promote the FLEGT process in ACP countries.

6 Excluding sector budget support allocations. The budget support allocations cover issues related to forest policy, but are not necessarily FLEGT-specific. There is no recognised method for attributing the assistance to specific areas.

## 10

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 focused on two main questions.

- (a) Was the FLEGT support well designed and targeted?
- (b) Has the FLEGT support been effective?
- (d) Visits to two beneficiary countries which are signatories of a VPA (Indonesia and Cameroon), comprising a review of the progress in the VPA process and an in-depth review of a sample of ten projects (see **Annex II**).
- (e) A review of the findings from the results-oriented monitoring (ROM) system and programme evaluations for a sample of 35 projects (see **Annex III**).

## 11

The audit covered the Commission's support provided to timber-producing countries from the EDF and the general budget during the entire period of the EU FLEGT action plan application, i.e. from 2003 to 2014.

## 12

The audit was carried out in the period from August to December 2014 and included the following.

- (a) An analysis of the FLEGT strategy documents and relevant reports on timber trade patterns and illegal logging.
- (b) An examination of the allocation of funding to objectives, countries and projects.
- (c) Interviews with Commission officials at DG International Cooperation and Development and DG Environment, and with the EFI, and representatives of the Member States, international organisations and European NGOs active in the area of the environment and forest protection.

## **FLEGT support to timber-producing countries was not sufficiently well designed and targeted**

### **13**

The Court examined whether:

- (a) EU support was based on a sound assessment of needs and the Commission correctly identified the potential measures to be taken;
- (b) EU support was properly planned; and
- (c) the priorities for funding were properly set.

## **The Commission identified a wide range of potential measures**

### **14**

The FLEGT action plan tackles the persistent problem of illegal logging and trade in an innovative way. It combines trade incentives in the form of easier access for partner countries' producers to the EU timber market with development aid, both to governments and to civil society. Partner countries are obliged to ensure coherent legislation in the forestry sector, to implement tracking and licensing schemes and to establish control systems at different levels. In addition, the FLEGT action plan foresaw the development of several demand-side measures aimed at reinforcing the impact of the actions taken in producer countries. Policy dialogue at international level to promote the main objectives of FLEGT was also envisaged.

### **15**

The impact assessment of the EU action plan<sup>7</sup> analysed the potential impact of the implementation of a timber-licensing scheme through partnerships with timber-producing countries<sup>8</sup>. The study contained an analysis of the main drivers of illegal logging. It examined the general economic, environmental and social impacts, and the legal and institutional implications of the proposed solutions both in the EU and in potential partner countries. It also analysed the risks which might impair the effectiveness of potential measures<sup>9</sup>.

### **16**

The impact assessment examined three main options to tackle the illegal logging problem. The bilateral option, of concluding VPAs with individual countries, was considered to offer the best means by which to act quickly and flexibly. A multilateral scheme, including a potential international agreement — in theory the most effective — was considered unrealistic. The third option, a unilateral prohibition on placing illegal timber on the EU market, was seen by the Commission as less acceptable than VPAs based on partnerships with timber-producing countries. The Commission decided to further analyse this option at a later stage.

- 7 Impact assessment of the EU action plan for forest law enforcement, governance and trade (FLEGT); European Commission, Directorate-General for Development (2004).
- 8 SEC(2004) 977 of 20 July 2004 'Proposal for a Council Regulation concerning the establishment of a voluntary FLEGT licensing scheme for imports of timber into the European Community'.
- 9 The study pointed to risks linked to the possible diversion of illegal timber to other 'less stringent' markets, such as China or Japan, and recognised the limited potential effectiveness of the action plan, in particular in countries where timber exports to the EU were low.

## 17

The Commission decided to implement the first, bilateral, option. The Commission acknowledged the challenges of the approach, in particular in countries with limited governance capacity, where the implementation of the action plan needed to be accompanied by substantial capacity building and institutional strengthening<sup>10</sup>.

## 18

The Commission correctly identified the main elements which might require support from donors for effective implementation of a VPA, including forest and environmental policy reform, the development of monitoring, tracking and licensing systems, and capacity building in various sectors (see paragraph 6).

### The Commission did not develop a proper work plan

## 19

The EU FLEGT action plan lacks some key elements of a proper action plan<sup>11</sup>. It has no specific operational objectives with corresponding indicators, no timetable with concrete milestones and no explicit monitoring framework. Its progress and the achievement of results are therefore very difficult to measure. As was stated in the FLEGT action plan progress report 2003-2010 prepared by the EFI: 'the action plan is more than a statement of policy but, in the absence of milestones and targets, it is not quite a strategy'<sup>12</sup>.

## 20

At the time of launching the action plan it was considered to be the start of a long-term process. However, the planned measures, specific objectives and a roadmap to be followed needed to be developed in the early years. 12 years later, FLEGT still lacks a clearly stated set of goals to be achieved with well-defined financing instruments in a specified time horizon.

## 21

The action plan does not have a clearly defined and dedicated budget. The development cooperation activities are financed by various sources, e.g. the EU general budget and the EDF, through various instruments such as the development cooperation instrument (DCI)<sup>13</sup>, including both bilateral and regional geographical programmes as well as thematic programmes, and the European neighbourhood and partnership instrument (ENPI)<sup>14</sup>.

## 22

A complete overview of FLEGT projects was not readily available from the Commission. The database of forestry projects established by the Commission for audit purposes did not give a coherent and complete picture of all FLEGT projects. It was subsequently found during the audit that this was incomplete, with some projects incorrectly classified as FLEGT while other FLEGT projects had not been included<sup>15</sup>. The Commission and the Member States did not set out a clear definition of a FLEGT project and how to account for the related funds.

10 SEC(2004) 977 of 20 July 2004.

11 An action plan is a sequence of steps that must be taken, or activities that must be performed, for a strategy to succeed. An action plan has three main elements: (1) specific tasks; (2) time horizon; and (3) allocation of funds to specific activities (<http://www.businessdictionary.com/definition/action-plan.html>)

12 FLEGT action plan progress report; EFI (2011); p. 34. See: <http://www.euflegt.efi.int/documents/10180/23029/FLEGT+Action+Plan+Progress+Report+2003-2010/>

13 Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation (OJ L 378, 27.12.2006, p. 41). Regulation (EU) No 233/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020 (OJ L 77, 15.3.2014, p. 44).

14 Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European neighbourhood and partnership instrument (OJ L 310, 9.11.2006, p. 1).

15 The completeness of reporting on FLEGT activities was also a challenge during earlier evaluation exercises of the FLEGT action plan. The 2003-2010 FLEGT progress report, prepared by the EFI, states that 'The actions and amounts reported here should be taken as a rough indication of undertakings and financing made available, rather than a comprehensive and fully comparable account'.

## 23

The success in tackling the problems of illegal logging and the illegal timber trade hinged on a combination of factors, e.g. commitment by the partner countries, establishment of the necessary governance arrangements, and a clear and evidenced commitment from the EU and other major producers and importers to act together for a common purpose. It was also essential that the activities necessary to ensure real progress took place in parallel. The implementation of FLEGT objectives also depends heavily on major producing, processing and/or trading countries such as China, Russia, India, South Korea and Japan, and their commitment to fighting against illegal logging and trade in illegal timber products. These countries did not participate in the FLEGT licensing scheme and the Commission has over the years initiated policy dialogue with them on a bilateral basis. These discussions have produced varied but generally limited results to date.

## 24

It was only in 2007 — 4 years after presenting the action plan — that a study assessed the impact of potential demand-side measures<sup>16</sup> to prevent the importation or placing of illegal timber on the EU market. The study resulted in a proposal for a regulation laying down the obligations of operators placing the timber on the EU market<sup>17</sup>.

## 25

The EU timber regulation (EUTR)<sup>18</sup> was finally adopted in 2010 and came into operation in 2013. 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. More than 10 years after the commencement of the action plan, the EU timber regulation is not yet fully implemented in certain Member States<sup>19</sup>. This sends a negative message to countries which are endeavouring to ensure that their timber exports are legal<sup>20</sup>.

## 26

Over the years and particularly with the entry into application of legislation such as the amendment to the Lacey Act in the United States, the Australian illegal logging prohibition act and the EUTR, certain private certification schemes have increasingly revised their standards to better address legality requirements. Such schemes contribute significantly to meeting the EUTR due diligence requirements<sup>21</sup>. However, only three VPAs (Cameroon, Congo and Central African Republic) provide for the recognition of private schemes as part of the FLEGT licensing process, with FLEGT support provided for this purpose. In view of the difficulties faced since the start of the FLEGT action plan in setting up state-run licensing schemes in countries facing such capacity constraints, the Commission did not sufficiently promote synergies between FLEGT and private certification schemes.

- 16 Commission staff working document — Accompanying document to the Proposal for a regulation of the European Parliament and of the Council determining the obligations of operators who make timber and timber products available on the Market: Impact assessment — Report on additional options to combat illegal logging.
- 17 Without such provisions, producers in the VPA countries would be disadvantaged versus those in non-VPA countries. Legal requirements and the associated costs for producers in VPA countries are generally higher than those of producers in countries which have not signed a VPA.
- 18 Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (OJ L 295, 12.11.2010, p. 23). This counters the trade in illegally harvested timber and timber products through three key initiatives: (1) it prohibits the placing on the EU market of illegally harvested timber and products derived from such timber; (2) it requires EU traders who place timber products on the EU market to exercise due diligence; and (3) obliges said traders to keep records of their suppliers and customers.
- 19 Four Member States (Greece, Spain, Hungary and Romania) did not fulfil their obligations concerning the implementation of the EU timber regulation. <http://ec.europa.eu/environment/forests/pdf/EUTR%20implementation%20scoreboard.pdf>
- 20 Article 20(2), of the EUTR provides that in 2015 the Commission will submit a report to the European Parliament and to the Council on its application.
- 21 Commission Implementing Regulation (EU) No 607/2012 of 6 July 2012 on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organisations as provided for in Regulation (EU)

## The Commission did not clearly prioritise its assistance

### 27

Following the adoption of the action plan, Member States and the Commission drew up a list of priority countries to be approached for informal consultations about their possible interest in the FLEGT scheme<sup>22</sup>. The list included Cameroon, Gabon, Congo, Ghana, Russia, Brazil, Papua New Guinea, Indonesia and Malaysia. At the same time Member States and the Commission agreed that the EU should remain open to trade negotiations with all countries that express an interest.

### 28

Virtually all countries which showed an interest in the FLEGT action plan have been able to become involved in the process<sup>23</sup>, including a number of Asian and Latin American countries for which the Commission's impact assessment had shown that, given their low trade volumes with the EU, the potential impact of a VPA would be limited.

### 29

The Commission did not allocate its resources, both human and financial, according to a set of criteria which were likely to give the best results. 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.

### 30

As a result, the limited financial and technical support has been spread over a large number of countries<sup>24</sup>, 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 licensing system in the short to medium term (see **Box 3**). This diluted the support and the impact that could have been achieved.

### 31

The Commission together with governments of the partner countries identified the main requirements of functioning licensing schemes in the countries concerned in the preparation for and during the process of the VPA negotiations. The assessments included reviews of the forest policy and legal frameworks, consultations with relevant ministries and other stakeholders, and an analysis of the key VPA aspects. The requirements were included as annexes in the VPAs. The annexes included a list of fields, in which support would be needed<sup>25</sup> and planned actions<sup>26</sup>.

### 32

The VPAs did not describe how the funding responsibilities should be divided among the government, the Commission and other donors<sup>27</sup>.

No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market (OJ L 177, 7.7.2012, p. 16).

- 22 Minutes from an ad hoc meeting on the FLEGT donor coordination of 26.2.2004.
- 23 Currently, 26 countries are engaged at various stages of the VPA process.
- 24 As concluded in the EFI progress report 2003-2010, 'demands for support to VPAs already exceed the capacity to respond to them all and some Member States also wish to work with neighbourhood countries (Belarus, Russia and Ukraine) or regions (Western Balkans) which account for a larger share of their trade than tropical developing countries'. See FLEGT action plan progress report 2003-2010; EFI (2011), p. 36.
- 25 For example, the VPA between the EU and the Republic of Cameroon includes the following: (a) capacity building; (b) communication; (c) promotion of FLEGT products on the Union market; (d) monitoring the domestic timber market; (e) industrialisation; (f) monitoring the impact of the agreement; (g) helping to monitor implementation of the legality assurance scheme; (h) modernising the traceability system; (i) strengthening the national control system; (j) the legality assurance system; (k) the system for issuing FLEGT licences; (l) establishing the independent audit, (m) reforms of the legal framework; (n) seeking additional financing.
- 26 For example, organisation of the domestic timber market or establishment of a suitable traceability system.
- 27 The VPAs with ACP countries mention only the need to seek resources from the EDF and other mechanisms to be identified. The VPA with Indonesia mentions the possibility of seeking resources in the context of EU programming exercises.

## Observations

### 33

Projects implemented together with the governments of the VPA countries address the needs specified in the VPAs, for example the development of timber tracking systems, licensing schemes and the creation of an independent auditor function. However, the objective of enhancing law enforcement by national authorities was not clearly addressed as very few projects concentrated on this key issue. Weak law enforcement has a significant impact on the extent of illegal logging activities because the likelihood of detection and prosecution of environmental crimes is low while the incentives to operate illegally are correspondingly high. The VPA countries have considerable needs in this area, as demonstrated for example by their rankings in Transparency International's Corruption perception index (see **Annex IV**). While in certain VPA countries a positive trend can be observed, most of them remain among the countries with the highest perceived rate of corruption in the world.

### 34

The support to the VPA process was not consistently included in the development cooperation strategies with the partner countries. Forest governance is included as part of a focal sector in five<sup>28</sup> of the twelve<sup>29</sup> VPA countries in the country strategy papers for the programming period 2007-2013. As illegal logging involves multi-sectorial issues (governance, trade, agriculture), FLEGT could be tackled within various focal sectors in all the VPA countries, but development cooperation strategies do not explore this possibility or mention the need to mainstream FLEGT-related issues in relevant focal sectors.

28 Cameroon, Honduras, Indonesia, Malaysia and Congo.

29 The auditors reviewed 12 countries which have signed or are currently negotiating VPAs and which receive FLEGT support.

### Box 3

#### Liberia and the Central African Republic

Liberia and the Central African Republic, both signatories of a VPA, have received significant amounts of financial support for the preparation and implementation of their VPAs<sup>30</sup>. These countries export very limited volumes of wood products to the EU and are facing many governance challenges which will prevent them from developing a functioning licensing system in the foreseeable future. By contrast, Côte d'Ivoire has exported significantly higher volumes of wood products to the EU than these countries<sup>31</sup>, yet it did not receive any financial assistance to prepare it for a VPA.

30 Wood product imports into the EU from Liberia and the Central African Republic averaged around 5 and 18 million euro per year respectively, while total financial support to these countries amounted to 11.9 and 6.8 million euro respectively.

31 Some 166 million euro on average per year.

### EU support to timber-producing countries was not sufficiently effective

#### 35

The Court examined whether:

- (a) project outputs were delivered as planned;
- (b) the overall progress towards licensing systems was satisfactory; and
- (c) the Commission properly monitored and reported on the implementation of the action plan.

### The main projects examined were problematic

#### 36

Projects aimed at strengthening the capacity of public authorities were not effective. In contrast, FLEGT did strengthen civil society organisations, thus increasing the transparency of the forestry sector. The financially most significant projects in Cameroon and Indonesia did not bring the expected results. The lack of success in Cameroon stalled the progress that was being made while the failure of the project in Indonesia led to a change of focus for the use of EU funds.

#### 37

The main project in the VPA process in Cameroon, aiming to establish a timber tracking system<sup>32</sup>, has failed as the developed system is not operational, meaning that the existing deliverables of the project will not be used. The project had been running between 2010 and 2013 and cost 2.27 million euro. The failure stemmed from a combination of factors, ranging from an inappropriate needs assessment to serious shortcomings in the implementation of the project. A feature of this inadequate needs assessment was the Commission's ineffective coordination with the stakeholders and, particularly, with the Ministry of Forestry and Wildlife. In addition, the contractor's performance was inadequate, and the Commission did not take timely remedial actions. The failure of the timber tracking system is one of the main factors contributing to the delay in VPA implementation in Cameroon. A separate project funded by the Deutsche Gesellschaft für Internationale Zusammenarbeit is currently working on developing a new system.

32 Project: *Mise en place d'un système de traçabilité du bois au Cameroun*.

## 38

The major achievement of the FLEGT process in Cameroon is the involvement of the civil society in forest governance. Prior to the VPA signature, the civil society organisations were not recognised by the government as legitimate partners with any right to express concerns on issues related to the management of forest resources. Although relations with the ministries concerned often remain tense<sup>33</sup>, the local and international NGOs have become accepted stakeholders and have the possibility to influence forestry policy in the country at various levels. This has a positive impact on the transparency and accountability of the entire sector. However, although projects generally strengthened the position of civil society, two out of four audited projects implemented by NGOs did not deliver all the expected outputs, mainly due to over-ambitious objectives.

## 39

The financially most important of the FLEGT-related projects in Indonesia<sup>34</sup> was aimed at improving forest law enforcement and governance through enhanced accountability and transparency, reducing illegal timber trade through the involvement of trade and industry sectors, and supporting the coordination of FLEGT activities. It did not deliver most of the planned results due to an over-ambitious and unrealistic project design, problems during implementation and weak monitoring. The project did not produce any concrete outputs, was prematurely closed down and part of the project funds needed to be recovered. Following a disagreement with the Commission about the handling of the project, the Indonesian government decided to implement the VPA without further direct Commission support.

## 40

Whereas the Commission's country strategy paper for Indonesia over the period 2002-2006 included the management of natural resources, in particular forests, as one of the focal sectors for development assistance, this was no longer the case for the following period 2007-2013. Apart from the Indonesian FLEGT support project in 2004, no further EU development assistance to the government of Indonesia in the forestry sector has been programmed in this period.

## 41

EU assistance in Indonesia, amounting to 10 million euro for 11 projects, had been channelled exclusively to NGOs since 2004. Projects were generally aimed at supporting local participation (by civil society or other non-state actors, including the private sector) in various elements of the VPA (including policy reform), improving forest governance, and implementing timber tracking and independent monitoring systems. While this approach had the advantage of engaging with committed organisations, a more coordinated approach was required given the extent of the challenges faced. One of these challenges is to assist the large number of small to medium-sized enterprises (SMEs) in their preparation for full FLEGT licensing, but this is a task way beyond the capacities of the Commission projects.

- 33 For example, the Ministry of Forestry and Wildlife does not follow up reports on cases of illegal extraction prepared by local communities (project: *Observation externe et communautaire des forêts dans la mise en œuvre de l'APV-FLEGT au Cameroun*).
- 34 EC-Indonesia FLEGT support project.

## 42

The four NGO projects examined in Indonesia were working to strengthen the country's independent monitoring system, support SMEs, and improve the preparation and implementation of the VPA. One project achieved its aims on schedule and on budget<sup>35</sup>. Two projects are still being implemented, one of which is likely to deliver the planned outputs<sup>36</sup>. The other project<sup>37</sup> experienced major delays and a considerable reduction in its scope due to weaknesses in its design and the withdrawal of a co-financing partner.

## 43

The main factors identified by the Court affecting the achievement of project objectives in these two countries were also highlighted by the Commission's evaluators in their ROM reports and evaluations of FLEGT-related projects in other VPA countries. These factors were: insufficient assessment of project risks and constraints, improper design, weak project management and monitoring, and coordination problems between project partners.

## Progress on the road towards licensing is slow

## 44

Twenty-six countries are currently engaged in the VPA process. Nine of them are negotiating VPAs, while six countries have already signed VPAs, namely Indonesia, Cameroon, Ghana, Congo, Liberia and the Central African Republic. The degree of advancement towards licensing differs considerably among these signatory countries due to a variety of factors, such as varying institutional capacities and levels of commitment to the process.

## 45

Indonesia, where VPA negotiations started in March 2007 and the agreement entered into force in May 2014, has made considerable progress in dealing with outstanding issues and is hopeful of a progression to FLEGT licensing in the near future. It already has a national timber legality assurance and licensing system in place, which is mandatory for all exports. Following the joint assessment carried out in 2013 and 2014, it is now addressing remaining issues. Two major challenges for Indonesia are (1) ensuring the required governance in a country of its size and diversity, and (2) making certain that its numerous SMEs are fully compliant with all the regulatory requirements.

## 46

Cameroon expressed its interest in signing a VPA with the EU in 2004. However, although forestry law in Cameroon is considered to be well developed, it is also very complex and enforcement remains a major challenge. The VPA negotiations took place over 4 years, from 2006 to 2010. Due to the long ratification process, the agreement finally entered into force on 1 December 2011. According to the schedule set in the agreement, the pilot timber tracking system was supposed to be tested in 2013 and FLEGT licences were supposed to be issued in 2015. However, the VPA's main objective — the development of a timber-licensing scheme — is still far from being attained, mainly due to the failure of the project aiming to develop the timber tracking system. There are thus many challenges to be overcome before full FLEGT licensing can be achieved.

35 Project: Strengthening civil society organisations and small and medium timber industries in VPA preparation and SVLK implementation.

36 Project: Promoting the implementation of timber legality assurance (FLEGT licence) as a key step to sustainable production and consumption in Indonesia's wood-processing industry.

37 Project: Strengthening state and non-state actors in the preparation, negotiation and/or implementation of FLEGT-VPA.

## Observations

### 47

Ghana, which was the first country to sign a VPA in 2009, originally envisaged that the first FLEGT-licenced products would be exported by the end of 2011. The wood-tracking system is already operational, but licensing procedures still need to be tested. Currently, the ambition of the country is to have the systems ready for licensing by the end of 2015.

### 48

In Congo, which ratified its VPA in May 2010, the forest strategy and new forestry law are being devised. Progress, however, has been slow due to a combination of factors, mainly concerned with governance.

### 49

Liberia and the EU entered into VPA negotiations in March 2009 and the VPA was signed in July 2011. Illegal logging nevertheless continues to be a major problem, as does the abuse of private use permits<sup>38</sup>. The main challenge is the weak capacity of the forest administration services.

### 50

The VPA with the Central African Republic was concluded in November 2011, but 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.

### 51

Another nine countries are currently negotiating VPAs. One of them, Malaysia, which is an important producer of tropical timber, was the first country to start negotiations in 2006. However, intensive negotiations over the years have not managed to overcome the difficulties of applying a VPA throughout the whole country and in Sarawak in particular. In the absence of a VPA Malaysia makes extensive use of public and private certification schemes.

### 52

While the Commission has managed to highlight the issue of illegal logging and to maintain considerable interest in this subject, progress towards licensing has been slow. There is 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. In most countries, the main challenges in the implementation process are a lack of institutional capacity, widespread corruption and poor law enforcement.

<sup>38</sup> See: <http://www.illegal-logging.info/regions/liberia>

## Monitoring and reporting procedures were unsatisfactory

### 53

The Commission did not report periodically on the progress of the FLEGT action plan. Although, pursuant to Article 9 of the FLEGT regulation, it was required to submit a report to the Council within 2 years of the entry into force of the first VPA, no such report was ever prepared. Reports were available on individual partner countries, containing information on activities implemented in various VPA areas, but they did not measure the progress of VPA implementation against set milestones, nor did they describe achievements and the difficulties encountered, together with how they were dealt with.

### 54

The lack of a framework, incorporating a robust database (see paragraph 22), which would facilitate accountability was problematic. Given the lack of objectives and milestones, assessing progress was difficult. As remarked in the EFI FLEGT action plan progress report 2003–2010 this is made all the more difficult by the fact that the action plan is more of a political process than a traditional aid programme<sup>39</sup>.

### 55

Only in late 2014 did the Commission introduce a standardised progress monitoring framework for measuring achievement of the key steps for VPA implementation. To date, it was for the Commission's internal management purposes. As the system was introduced only very recently, it is premature to comment on how it operates in practice.

### 56

At the end of 2014, the Commission launched an external evaluation of the FLEGT action plan, with a report planned for October 2015. This evaluation, taking place 12 years after the action plan was submitted, is long overdue, given the difficulties faced and the substantial developments over this period which should have been identified and analysed to assess their impact on the existing action plan. The following are examples.

- (a) The increasing importance of major Asian economies in the timber trade.
- (b) The growing impact of the illegal conversion of forests for other purposes, such as agriculture.
- (c) The possibilities for greater synergies with the climate-change mitigation measure REDD+.
- (d) The changing trends in timber exports to the EU.
- (e) The possibility of making more use of private certification schemes.

<sup>39</sup> FLEGT action plan progress report 2003–2010, EFI (2011), p. 34.

## 57

The Court concludes that the Commission did not manage sufficiently well the support provided under the EU FLEGT action plan.

## 58

The FLEGT support was not sufficiently well designed and targeted.

- (a) EU support to the FLEGT process was based on a sound assessment of the illegal logging problem, its drivers and possible measures to be taken, and the Commission conceived the FLEGT action plan in an innovative way.
- (b) However, the Commission did not devise an appropriate work plan with clear objectives, milestones and a dedicated budget. While these would have been difficult to prepare at the very start of the action plan, they should have been established in its early years.
- (c) The late adoption and slow implementation of the EUTR acted as disincentives for the VPA countries in their preparation for eventual FLEGT licensing.
- (d) The void created by the absence of FLEGT licensing has been filled to a large extent by private certification bodies, which contribute significantly to meeting the due diligence requirements of the EUTR. However, the Commission did not sufficiently explore the possible synergies between FLEGT and these private schemes.
- (e) The Commission did not set clear funding priorities for its support to timber-producing countries.

### Recommendation 1 Work plan

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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.

### Recommendation 2 Implementation of the EUTR

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

### Recommendation 3 Private certification schemes

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

### Recommendation 4 Resource allocation

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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.

## Conclusions and recommendations

### 59

EU support to timber-producing countries was not sufficiently effective.

- (a) It reinforced civil society 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.
- (b) The FLEGT licensing scheme, which was the cornerstone of the action plan, is not yet in operation in any of the partner countries. It has now been 12 years since the action plan was presented and, although interest in the VPAs has been extensive, no FLEGT licensing system is yet in operation, and successive target dates for their introduction have been missed.
- (c) The Commission did not properly monitor and report on the progress of the FLEGT action plan. The evaluation launched at the end of 2014 was long overdue.

### Recommendation 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.

### Recommendation 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.

This Report was adopted by Chamber III, headed by Mr Karel PINXTEN, Member of the Court of Auditors, in Luxembourg at its meeting of 8 September 2015.

*For the Court of Auditors*



Vítor Manuel da SILVA CALDEIRA  
*President*

## Implementation of FLEGT, forest governance and trade-related programmes from 2003-2013

(million euro)

| Region/Country             | VPAs          |                       |                                   | Management modes                |                                                   |                                                                                 | Total        |
|----------------------------|---------------|-----------------------|-----------------------------------|---------------------------------|---------------------------------------------------|---------------------------------------------------------------------------------|--------------|
|                            | Signed (year) | Interest <sup>1</sup> | Ongoing negotiations <sup>3</sup> | Implementation by Member States | Joint management with international organisations | Other (implementation by partner countries, NGOs, public and private companies) |              |
| <b>Sub-Saharan Africa</b>  |               |                       |                                   |                                 |                                                   |                                                                                 | <b>74.89</b> |
| Multi-country <sup>2</sup> |               |                       |                                   |                                 |                                                   | 14.92                                                                           | 14.92        |
| Cameroon                   | 2010          |                       |                                   | 8.00                            |                                                   | 13.66                                                                           | 13.66        |
| Liberia                    | 2011          |                       |                                   |                                 |                                                   | 3.90                                                                            | 11.90        |
| Ghana                      | 2009          |                       |                                   |                                 |                                                   | 3.00                                                                            | 3.00         |
| Burkina Faso               |               |                       |                                   |                                 | 7.80                                              | 0.20                                                                            | 8.00         |
| Congo                      | 2010          |                       |                                   |                                 |                                                   | 7.56                                                                            | 7.56         |
| Central African Rep.       | 2011          |                       |                                   |                                 |                                                   | 6.80                                                                            | 6.80         |
| Dem. Rep. of the Congo     |               |                       | X                                 |                                 | 3.00                                              | 2.18                                                                            | 5.18         |
| Uganda                     |               |                       |                                   |                                 |                                                   | 2.75                                                                            | 2.75         |
| Madagascar                 |               |                       |                                   |                                 |                                                   | 0.68                                                                            | 0.68         |
| Gabon                      |               |                       | X                                 |                                 |                                                   | 0.20                                                                            | 0.20         |
| Sudan                      |               |                       |                                   |                                 |                                                   | 0.19                                                                            | 0.19         |
| Malawi                     |               |                       |                                   |                                 |                                                   | 0.05                                                                            | 0.05         |
| <b>Latin America</b>       |               |                       |                                   |                                 |                                                   |                                                                                 | <b>90.21</b> |
| Multi-country <sup>2</sup> |               |                       |                                   |                                 |                                                   | 3.93                                                                            | 3.93         |
| Honduras                   |               |                       | X                                 | 20.40                           |                                                   | 21.73                                                                           | 42.13        |
| Brazil                     |               |                       |                                   |                                 | 10.79                                             | 12.74                                                                           | 23.53        |
| Nicaragua                  |               |                       |                                   | 2.00                            |                                                   | 6.06                                                                            | 8.06         |
| Colombia                   |               | X                     |                                   |                                 |                                                   | 8.05                                                                            | 8.05         |
| Peru                       |               | X                     |                                   |                                 |                                                   | 4.03                                                                            | 4.03         |
| Guyana                     |               |                       | X                                 |                                 |                                                   | 0.45                                                                            | 0.45         |
| Chile                      |               |                       |                                   |                                 |                                                   | 0.04                                                                            | 0.04         |

(million euro)

| Region/Country              | VPAs          |                       |                                   | Management modes                |                                                   |                                                                                 | Total         |
|-----------------------------|---------------|-----------------------|-----------------------------------|---------------------------------|---------------------------------------------------|---------------------------------------------------------------------------------|---------------|
|                             | Signed (year) | Interest <sup>1</sup> | Ongoing negotiations <sup>3</sup> | Implementation by Member States | Joint management with international organisations | Other (implementation by partner countries, NGOs, public and private companies) |               |
| <b>Asia and the Pacific</b> |               |                       |                                   |                                 |                                                   |                                                                                 | <b>43.37</b>  |
| Multi-country <sup>2</sup>  |               |                       |                                   |                                 | 10.60                                             | 1.91                                                                            | 12.51         |
| Indonesia                   | 2011          |                       |                                   |                                 |                                                   | 21.95                                                                           | 21.95         |
| China                       |               |                       |                                   |                                 |                                                   | 3.84                                                                            | 3.84          |
| Philippines                 |               | X                     |                                   |                                 |                                                   | 1.92                                                                            | 1.92          |
| Afghanistan                 |               |                       |                                   |                                 |                                                   | 1.88                                                                            | 1.88          |
| Thailand                    |               |                       |                                   |                                 |                                                   | 0.61                                                                            | 0.61          |
| Myanmar/Burma               |               | X                     |                                   |                                 |                                                   | 0.45                                                                            | 0.45          |
| Solomon Islands             |               | X                     |                                   |                                 |                                                   | 0.18                                                                            | 0.18          |
| Malaysia                    |               |                       | X                                 |                                 |                                                   |                                                                                 |               |
| Vietnam                     |               |                       | X                                 |                                 |                                                   | 0.03                                                                            | 0.03          |
| <b>Neighbourhood</b>        |               |                       |                                   |                                 |                                                   |                                                                                 | <b>25.04</b>  |
| Multi-country <sup>2</sup>  |               |                       |                                   |                                 | 15.00                                             |                                                                                 | 15.00         |
| Morocco                     |               |                       |                                   |                                 |                                                   | 5.63                                                                            | 5.63          |
| Kosovo                      |               |                       |                                   | 2.70                            |                                                   | 0.41                                                                            | 3.11          |
| Montenegro                  |               |                       |                                   |                                 |                                                   | 0.75                                                                            | 0.75          |
| Lebanon                     |               |                       |                                   |                                 |                                                   | 0.33                                                                            | 0.33          |
| Albania                     |               |                       |                                   |                                 |                                                   | 0.10                                                                            | 0.10          |
| Georgia                     |               |                       |                                   |                                 |                                                   | 0.09                                                                            | 0.09          |
| Belarus                     |               |                       |                                   |                                 |                                                   | 0.03                                                                            | 0.03          |
| <b>Two regions or more</b>  |               |                       |                                   |                                 |                                                   |                                                                                 | <b>63.65</b>  |
| Multi-country <sup>2</sup>  |               |                       |                                   |                                 | 39.60                                             | 24.05                                                                           | 63.65         |
| <b>TOTAL</b>                |               |                       |                                   | <b>33.10</b>                    | <b>86.79</b>                                      | <b>177.28</b>                                                                   | <b>297.17</b> |

1 Six other countries expressed their interest (Bolivia, Cambodia, Ecuador, Guatemala, Papua New Guinea and Sierra Leone), but there has been no financial commitment yet.

2 Multi-country projects include: **(for Asia and the Pacific)** agreements with the European Forest Institute for a total of 10.6 million euro (FLEGT Asia); and **(for the neighbourhood region)** agreements with the World Bank totalling 15 million euro (FLEGT). As regards **multi-country projects covering more than two regions**, main programmes include agreements for 12 million euro with the EFI and agreements for 20 million euro with the FAO (FLEGT ACP: 10 million euro and EU FAO FLEGT: 10 million euro).

3 Negotiations are ongoing for three further countries for which there has been no financial commitment yet — Côte d'Ivoire, Laos and Thailand.

Source: European Court of Auditors on the basis of information provided from DG International Cooperation and Development.

## List of projects audited

| Country   | Project title                                                                                                                                                            | EU contribution (euro) | Implementation period |
|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-----------------------|
| Cameroon  | <i>Mise en place d'un Observateur Indépendant au contrôle forestier et au suivi des infractions forestières au Cameroun</i>                                              | 2 480 070              | 31.12.2009-30.12.2013 |
|           | <i>Mise en place d'un système de traçabilité du bois au Cameroun</i>                                                                                                     | 2 496 763              | 15.2.2010-14.12.2012  |
|           | <i>Mise en place d'un Audit Indépendant du Système FLEG au Cameroun</i>                                                                                                  | 1 164 600              | 4.5.2012-3.5.2014     |
|           | <i>Promotion de la production et de l'exportation légales des bois issus des forêts communautaires</i>                                                                   | 987 139                | 1.2.2011-31.1.2012    |
|           | <i>Observation externe et communautaire des forêts dans la mise en œuvre de l'APV-FLEG au Cameroun</i>                                                                   | 113 836                | 19.1.2012-18.7.2013   |
| Indonesia | EC-Indonesia FLEG Support Project                                                                                                                                        | 11 276 872             | 1.3.2006-28.11.2011   |
|           | Collaborative land use planning and sustainable institutional arrangement for strengthening land tenure, forest and community rights in Indonesia                        | 1 796 619              | 1.3.2010-28.2.2014    |
|           | Strengthening state and non-state actors in the preparation, negotiation and/or implementation of FLEG-VPA                                                               | 1 189 228              | 10.1.2011-31.12.2015  |
|           | Strengthening Indonesia's Independent Forestry Monitoring Network to ensure a credible timber legality verification system and effective VPA implementation              | 188 946                | 1.5.2011-30.4.2013    |
|           | Promoting the implementation of timber legality assurance (FLEG licence) as a key step to sustainable production and consumption in Indonesia's wood-processing industry | 1 091 463              | 30.1.2013-28.2.2014   |

## List of project evaluations and ROMs reviewed

## Evaluations

|   | Project title                                                                                                                                                                                    | EU contribution (euro) | Country      | Evaluation date and type                                     | Main findings of the report                                                                                                                                                                                                                                                                                           |
|---|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|--------------|--------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | Regional Support Programme for the EU FLEGT action plan in Asia                                                                                                                                  | 5 800 000              | Headquarters | December 2010<br>midterm                                     | <ul style="list-style-type: none"> <li>Weak project design: objectives, project activities, expected results and milestones insufficiently specific.</li> <li>No clear performance monitoring system, resulting in poor efficiency and limited accountability.</li> </ul>                                             |
| 2 | VERIFOR — Institutional Options for Verifying Legality in the Forest Sector                                                                                                                      | 1 902 171              |              | November 2009<br>final                                       | <ul style="list-style-type: none"> <li>Lack of flexibility of the project to adapt or accommodate its logical framework (LFA) to the dynamics of certain regions in Asia and Africa, thereby reducing its effectiveness.</li> </ul>                                                                                   |
| 3 | Timber trade action plan (TTAP) — a TFT (Tropical Forest Fund) project                                                                                                                           | 3 389 796              |              | May 2012<br>final for 1st phase<br>and midterm for 2nd phase | <ul style="list-style-type: none"> <li>Very positive overall project performance.</li> </ul>                                                                                                                                                                                                                          |
| 4 | Ensuring a seat at the table: supporting NGO coalitions to participate in FLEGT VPA processes with the aim of improving forest governance and strengthening local and indigenous peoples' rights | 960 000                |              | June 2012<br>final                                           | <ul style="list-style-type: none"> <li>Very positive overall project performance.</li> </ul>                                                                                                                                                                                                                          |
| 5 | Forest Governance Learning Group (FGLG) — enabling practical, just and sustainable forest use                                                                                                    | 1 866 365              |              | January 2014<br>final                                        | <ul style="list-style-type: none"> <li>Lack of systematic needs assessment and insufficiently specific project logframe, with no properly defined country level indicators.</li> <li>Project-supported actions insufficient to achieve the intended level of governance improvement.</li> </ul>                       |
| 6 | <i>Mise en place d'un système de traçabilité du bois au Cameroun</i>                                                                                                                             | 2 496 763              | Cameroon     | May 2013<br>final                                            | <ul style="list-style-type: none"> <li>Weak project design: country risks and constraints not properly taken into account.</li> <li>Insufficient coordination among stakeholders.</li> <li>Ineffective monitoring and project management.</li> <li>Outputs not delivered as expected.</li> </ul>                      |
| 7 | <i>Promotion de la production et de l'exportation légales des bois issus des forêts communautaires</i>                                                                                           | 987 139                |              | December 2012<br>midterm                                     | <ul style="list-style-type: none"> <li>Constraints insufficiently assessed and anticipated.</li> <li>Project design not sufficiently realistic.</li> </ul>                                                                                                                                                            |
| 8 | Strengthening African Forest Governance — through high-level national 'illegal logging' meetings and mid-level awareness raising and training                                                    | 1 890 608              |              | May 2013<br>midterm                                          | <ul style="list-style-type: none"> <li>No proper logical framework with objectively verifiable indicators.</li> <li>Deficiencies in project monitoring: lack of regular steering committee meetings.</li> <li>Coordination problems leading to an absence of linkages between the various project outputs.</li> </ul> |

## Annex III

|    | Project title                                                                                                                                      | EU contribution (euro) | Country   | Evaluation date and type | Main findings of the report                                                                                                                                                                                                                               |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-----------|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 9  | EC-Indonesia FLEG support project                                                                                                                  | 11 276 872             | Indonesia | Sept 2010<br>final       | <ul style="list-style-type: none"> <li>○ Inappropriate and unrealistic project design.</li> <li>○ Ineffective project monitoring and supervision.</li> <li>○ Most outputs not delivered as planned.</li> </ul>                                            |
| 10 | <i>Observation Indépendante de l'application de la Loi Forestière et de la Gouvernance (OI-FLEG) en appui aux APV FLEG dans le Bassin du Congo</i> | 1 598 497              | Congo     | March 2012<br>midterm    | <ul style="list-style-type: none"> <li>○ Some weaknesses in the logical framework, notably in the definition of objectively verifiable indicators.</li> <li>○ Deficiencies in project monitoring: lack of regular steering committee meetings.</li> </ul> |

## ROM reports

|    | Project title                                                                                                                                                     | EU contribution to the programme (EUR) | Country  | ROM Date      | Main findings of the report                                                                                                                                                                                                                                                                                                                                                                              |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|----------|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11 | Forest Peoples Programme: A Strong Seat at the Table: Effective Participation of Forest-Dependent Communities and Civil Society Organisations in FLEGT            | 778 271                                | Cameroon | March 2013    | <ul style="list-style-type: none"> <li>○ Logframe not properly elaborated, making it difficult to assess the outputs delivered.</li> <li>○ Partners not properly involved in the project design.</li> <li>○ Limited coordination with other FLEGT projects and national actors.</li> <li>○ Limited monitoring efforts.</li> </ul>                                                                        |
| 12 | <i>Promotion de la production et de l'exportation légales des bois issus des forêts communautaires</i>                                                            | 987 139                                |          | March 2013    | <ul style="list-style-type: none"> <li>○ Weak logframe, with insufficiently specific objectives and indicators.</li> <li>○ No sufficient risk analysis.</li> <li>○ Weak monitoring of activities.</li> <li>○ Delays in implementation.</li> <li>○ Lack of flexible/viable exit strategy.</li> </ul>                                                                                                      |
| 13 | Strengthening African Forest Governance — through high-level national 'Illegal logging' meetings and mid-level awareness raising and training                     | 1 890 608                              |          | June 2013     | <ul style="list-style-type: none"> <li>○ Weak logframe, and poorly designed objectives, outputs and indicators.</li> <li>○ Weak coordination among stakeholders.</li> <li>○ Low quality of outputs and uncertain sustainability.</li> </ul>                                                                                                                                                              |
| 14 | Capacity building in the Congo Basin and implementation of Independent Monitoring of Forest Law Enforcement and Governance (IM-FLEG) in the Republic of the Congo | 1 636 366                              | Congo    | April 2009    | <ul style="list-style-type: none"> <li>○ Indicators not always quantifiable.</li> <li>○ Project dependent on external funding and does not create revenue for itself.</li> <li>○ Unlikely that institutional structure will remain without outside intervention.</li> </ul>                                                                                                                              |
| 15 | <i>Observation Indépendante de l'application de la Loi Forestière et de la Gouvernance (OI-FLEG) en appui aux APV FLEGT dans le Bassin du Congo</i>               | 1 438 647                              |          | December 2012 | <ul style="list-style-type: none"> <li>○ Indicators not specific and difficult to measure.</li> <li>○ No steering committee meetings have taken place, despite being planned.</li> <li>○ Sustainability dependent on continued donor funding.</li> </ul>                                                                                                                                                 |
| 16 | <i>Vulgarisation de l'APV/FLEGT pour une appropriation et participation des populations locales dont les populations autochtones dans sa mise en œuvre</i>        | 180 000                                |          | December 2012 | <ul style="list-style-type: none"> <li>○ Weak logframe, some indicators not measurable.</li> <li>○ Stakeholders not properly involved in the project design.</li> <li>○ No steering committee meetings have taken place, despite being planned.</li> <li>○ Sustainability problems: VPA process is still ongoing, level of partners' and other stakeholders' technical training insufficient.</li> </ul> |

|    | Project title                                                                                                                                     | EU contribution to the programme (EUR) | Country   | ROM Date       | Main findings of the report                                                                                                                                                                                                                                                                                   |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|-----------|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 17 | Governance initiative for rights & accountability in forest management (GIRAF)                                                                    | 865 767                                | Ghana     | July 2011      | <ul style="list-style-type: none"> <li>Weak logframe.</li> <li>Vague risks and assumptions.</li> <li>Weak coordination between partners.</li> <li>No supporting policy environment.</li> <li>Inefficient implementation of some activities.</li> <li>Sustainability not integral in project design</li> </ul> |
| 18 | Supporting the integration of legal and legitimate domestic timber markets into voluntary partnership agreements                                  | 1 999 265                              |           | June 2013      | <ul style="list-style-type: none"> <li>Indicators not always measurable, monitoring and measuring results are difficult.</li> </ul>                                                                                                                                                                           |
| 19 | Pioneering a new way to conserve rainforest: from illegal logging to good governance                                                              | 2 560 516                              | Indonesia | November 2011  | <ul style="list-style-type: none"> <li>Indicators not sufficiently well developed</li> <li>Complexity and number of actors involved, underestimated by project implementers.</li> <li>Weak embedding in local institutional structures.</li> </ul>                                                            |
| 20 | Improving governance of forest resources and reducing illegal logging and associated trade with full civil society participation in SE Asia       | 1 645 901                              |           | September 2007 | <ul style="list-style-type: none"> <li>Indicators should be more realistic.</li> </ul>                                                                                                                                                                                                                        |
| 21 | Collaborative land use planning and sustainable institutional arrangement for strengthening land tenure, forest and community rights in Indonesia | 1 796 619                              |           | November 2012  | <ul style="list-style-type: none"> <li>Indicators lack required detail.</li> <li>Weaknesses in reporting on progress.</li> <li>No sound exit strategy.</li> </ul>                                                                                                                                             |
| 22 | Strengthening state and non-state actors in the preparation, negotiation and/or implementation of FLEGT-VPA                                       | 1 189 228                              |           | December 2013  | <ul style="list-style-type: none"> <li>Inadequate indicators.</li> <li>Insufficient coordination: lack of steering committee meetings, limited collaboration between partners.</li> <li>Delays in implementation.</li> </ul>                                                                                  |

|    | Project title                                                                                       | EU contribution to the programme (EUR) | Country | ROM Date  | Main findings of the report                                                                                                                                                                                                                                                                                                                                                       |
|----|-----------------------------------------------------------------------------------------------------|----------------------------------------|---------|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 23 | Strengthening Forest Management in Post-Conflict Liberia                                            | 1 616 448                              | Liberia | June 2012 | <ul style="list-style-type: none"> <li>○ Lack of clarity and realism in logframe.</li> <li>○ Lack of monitoring and evaluation tools in design.</li> <li>○ Many beneficiaries not involved in design process.</li> <li>○ Communication problems between EUD and implementing partner.</li> <li>○ No sustainability strategy.</li> </ul>                                           |
| 24 | Civil Society Independent Monitoring of Forest Law Enforcement and Governance (CSIMFLEG) in Liberia | 150 000                                |         | May 2013  | <ul style="list-style-type: none"> <li>○ Weaknesses in logframe: indicators not well-defined, unrealistic time frame.</li> <li>○ Poor beneficiaries and private sector not involved in design.</li> <li>○ Weak monitoring, no project steering committee involving all stakeholders.</li> <li>○ No phasing-out strategy in work plan</li> <li>○ Weak policy framework.</li> </ul> |
| 25 | Improving forest governance through civil society monitoring                                        | 129 852                                |         | May 2013  | <ul style="list-style-type: none"> <li>○ Logframe lacks clarity, indicators not smart</li> <li>○ Rural poor and private sector not involved in design process.</li> <li>○ Many outputs seriously late, some not delivered.</li> <li>○ Communication problems between EUD and implementing partner.</li> <li>○ No exit strategy.</li> </ul>                                        |

## Transparency International — Corruption perception index 2007-2013

| Country                          | 2007  |      | 2008  |      | 2009  |      | 2010  |      | 2011  |      | 2012  |      | 2013  |      |
|----------------------------------|-------|------|-------|------|-------|------|-------|------|-------|------|-------|------|-------|------|
|                                  | CPI   |      |       |      |       |      |       |      |       |      |       |      |       |      |
|                                  | Score | Rank | Score | Rank | Score | Rank | Score | Rank | Score | Rank | Score | Rank | Score | Rank |
| Cameroon                         | 2.4   | 138  | 2.3   | 141  | 2.2   | 146  | 2.2   | 146  | 2.5   | 134  | 2.6   | 144  | 2.5   | 144  |
| Liberia                          | 2.1   | 150  | 2.4   | 138  | 3.1   | 97   | 3.3   | 87   | 3.2   | 91   | 4.1   | 75   | 3.8   | 83   |
| Ghana                            | 3.7   | 69   | 3.9   | 67   | 3.9   | 69   | 4.1   | 62   | 3.9   | 69   | 4.5   | 64   | 4.6   | 63   |
| Congo                            | 2.1   | 150  | 1.9   | 158  | 1.9   | 162  | 2.1   | 154  | 2.2   | 154  | 2.6   | 144  | 2.2   | 154  |
| Central African Republic         | 2.0   | 162  | 2.0   | 151  | 2.0   | 158  | 2.1   | 154  | 2.2   | 154  | 2.6   | 144  | 2.5   | 144  |
| Democratic Republic of the Congo | 1.9   | 168  | 1.7   | 171  | 1.9   | 162  | 2.0   | 164  | 2     | 168  | 2.1   | 160  | 2.2   | 154  |
| Gabon                            | 3.3   | 84   | 3.1   | 96   | 2.9   | 106  | 2.8   | 110  | 3     | 100  | 3.5   | 102  | 3.4   | 106  |
| Honduras                         | 2.5   | 131  | 2.6   | 126  | 2.5   | 130  | 2.4   | 134  | 2.6   | 129  | 2.8   | 133  | 2.6   | 140  |
| Guyana                           | 2.6   | 123  | 2.6   | 126  | 2.6   | 126  | 2.7   | 116  | 2.5   | 134  | 2.8   | 133  | 2.7   | 136  |
| Indonesia                        | 2.3   | 143  | 2.6   | 126  | 2.8   | 111  | 2.8   | 110  | 3     | 100  | 3.2   | 118  | 3.2   | 114  |
| Malaysia                         | 5.1   | 43   | 5.1   | 47   | 4.5   | 56   | 4.4   | 56   | 4.3   | 60   | 4.9   | 54   | 5.0   | 50   |
| Vietnam                          | 2.6   | 123  | 2.7   | 121  | 2.7   | 120  | 2.7   | 116  | 2.9   | 112  | 3.1   | 123  | 3.1   | 116  |

The Corruption perception index (CPI) measures the perceived levels of public sector corruption on a scale from 0 (highly corrupt) to 10 (very clean). The 2013 rankings included an assessment of 177 countries.

## Executive summary

I  
EU leadership in global efforts to tackle illegal logging is 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.

II  
It should be emphasised that the FLEGT communication responded to a strong call for joint action by the Commission, Member States and producer countries. The FLEGT action plan is 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. It is important to take into account that FLEGT is not a funded cooperation programme with a dedicated financing mechanism.

The FLEGT action plan 'sets out a process and a package of measures' across different components and relies mainly on policy and regulatory measures, complemented by traditional development cooperation support to achieve its objectives.

III  
The Commission does 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 will pursue its efforts to improve efficiency, effectiveness and economy. It will draw from the Court's Special Report as well as the ongoing FLEGT action plan evaluation, which has been able to examine a wide range of programmes, projects and measures.

The Commission also highlights that FLEGT is a joint undertaking by the Commission, Member States and partner countries. This should be taken into account, inter alia when assessing the allocation of resources. The Commission resources alone should not be expected to address all forest governance and law enforcement issues.

IV  
The Commission disagrees with part of the Court's observation.

The innovative nature of the FLEGT action plan, the diversity of policy, regulatory and development cooperation measures and the multiplicity of actors and partners are difficult to frame in a single work plan with clear milestones and deadlines and a dedicated budget. Nevertheless, many of the FLEGT measures, such as the VPAs or the projects have their own detailed implementation plan.

Assistance was granted in accordance with clear criteria, although using a unique set of criteria for all interventions was impossible in the absence of a unified dedicated budget and financing instrument.

The Commission does not share the Court's view that there was late adoption of the EUTR. The EUTR was not mentioned in the action plan, which only refers to exploring 'the feasibility of legislation to control imports of illegally harvested timber into the EU'. The regulation was only proposed after an extensive exercise in which means of addressing illegal logging using existing legislation were examined. The legislation was adopted and entered into force on 20 October 2010, and became applicable in March 2013. Upon entry of the EUTR into application the Commission took action to ensure full implementation of the legislation.

## Reply of the Commission

### V

The Commission wishes to highlight the following issues. Firstly, developing an operational FLEGT legality assurance and licensing system requires much more than effective projects. Secondly, although 12 years have passed since the adoption of the FLEGT action plan, the time which has elapsed since the conclusion of the six VPAs in implementation varies between 1.5 and 4.5 years- this is a relatively short time to implement the ambitious systems and governance reforms which the VPA entail, particularly if the challenging governance environments of many of our partner countries are taken into consideration. As recognised in paragraph 45 of the Court's report, licensing systems have been established in Indonesia and Ghana and rolled out to the whole country. They have both undergone an evaluation and are being improved on the basis of the findings and recommendations of these evaluations. VPAs set high standards for the legality assurance systems, which need to be met before FLEGT licensing can start

## Introduction

### 02

In many cases, a complex and diverse set of laws and regulations, often with internal contradictions and loopholes, govern the forest sector and contribute to legal uncertainty for the forest industry and forest-dependent people. Defining what is legal or illegal requires an in-depth review of the existing legislation.

### 04

The design and development of two regulations (the FLEGT regulation and the EUTR) and trade agreements (the VPAs) are major achievements which deserve to be recognised. They absorbed a large share of Commission time and resources between 2004 and 2010.

### Box 1

The action plan did not include the EU timber regulation, but only a commitment to analyse options and the feasibility of legislation to control imports of illegal timber in the EU.

### Box 2

Box 2 reflects the initial thinking of the EU and Member States on VPAs; this concept has been the subject of in-depth discussions between the Commission and Member States in 2004-2005, and has significantly evolved. This led to the Council directives for the VPA negotiations at the end of 2005.

Each VPA has evolved further through the negotiations with partner countries, reflecting the particular context and aspirations of the country.

While the VPA with Indonesia is generally similar to the one described in the action plan, the other VPA countries have opted for a model that relies mainly on public administrations for the legality verification, rather than on independent bodies accredited by the State.

### 06

As FLEGT is a joint undertaking of the Commission and Member States, the Commission's support should not be evaluated in isolation from EU Member States' support. Coordination of Commission and Member State support has been ensured by the FLEGT *ad hoc* group and, at national level, by the joint implementation committees and EU delegations.

### 08

It is important to reflect the diversity of actors involved in the implementation of FLEGT. Activities related to FLEGT are implemented by the Commission, Member States and partner countries.

Member States play a central role in the implementation of the EUTR and FLEGT regulations, through their competent authorities, in public procurement policies, in policies on financing and investments, and in the support to producer countries.

It should also be recognised that activities related to FLEGT are also implemented by producing countries, the private sector and civil society.

### Observations

**17**

The Commission pursued the bilateral option but also the ‘prohibition’ option, which led to the adoption of the EU timber regulation. The Commission has also continuously engaged with international partners in order to promote multilateral responses to the problem of illegal logging.

**19**

The Commission recognises that the FLEGT action plan is a policy framework that defines a general approach, general objectives, and outlines a suite of possible policy and regulatory measures and other actions by the EU, Member States and various stakeholders. It was conceived as the EU response to the ‘Programme of action’ on forests and illegal logging adopted by the G8 in 1998.

**20**

The Commission recognises the need to develop more specific objectives, milestones and a common roadmap, as well as the need to more systematically monitor FLEGT AP implementation. The recommendations of the ongoing evaluation will certainly help in this effort. However, the absence of a more specific plan reflects the difficulty of establishing specific goals, targets and a timeframe for a policy that combines a broad range of policy, regulatory and financial/technical assistance measures by a broad range of countries and actors. The Commission would like to highlight the fact that detailed implementation plans have been developed for various elements of the action plan — it is the case, for example, for all the VPAs and for all projects and instruments to support producer countries.

**21**

European Commission (EC) action plans often do not spell out budgets (see various EC action plans: e.g. European e-government action plan; action plan on human rights and democracy).

As for development cooperation, the Commission has implemented what was foreseen under section 4.1 of the action plan: a consolidated budget was not envisaged and the Commission strived to integrate FLEGT in various geographic and thematic instruments. The Commission is developing a ‘FLEGT flagship’ under the DCI Global public goods and challenges (GPGC) with the intent to enhance the coherence, complementarity and coordination of various EC projects in support of producer countries.

**22**

Identifying all forest or FLEGT projects was challenging since EU FLEGT actions are funded through multiple instruments and are sometimes mainstreamed into programmes covering sectors other than forests (e.g. trade, sustainable consumption and production etc.). This means that there is no unique FLEGT ‘tag’ allowing a simple search in the Commission information system. Nevertheless, the Commission had made an attempt to develop a database aimed at compiling forest-related projects financed by the EU over the period 2000-2012, which was shared with the Court, signalling that this was a work in progress and was to be refined. The Commission has updated the database to integrate contracts signed after 2012. In the framework of the ongoing FLEGT AP evaluation, a new exercise to compile all FLEGT projects financed by the Commission and Member States has been launched.

## Reply of the Commission

### 23

Russia and China export significant quantities of timber products to the EU and decided not to engage in VPAs with the EU. With those countries, the EC therefore opted for establishing bilateral dialogues on illegal logging.

India, South Korea and Japan are major consumer markets and the Commission has an environment bilateral dialogue with them that includes timber trade.

The Commission does not share the view that the bilateral discussions with major producing, processing and/or trading countries have produced generally limited results to date. It is generally recognised that the EU FLEGT action plan has inspired other major countries to adopt demand-side measures (e.g. the Australian illegal logging prohibition act; revised US Lacey Act; Swiss legislation; Japan).

### 24

The action plan included a commitment to 'undertake an analysis of the options for and the impact of further measures, including, in the absence of multi-lateral progress, the feasibility of legislation to control imports' of illegal timber. The Commission had to assess the added value and potential impacts of these options and to ensure that any further regulation enjoyed enough support from stakeholders. At the start of the action plan, the only demand for further legislation was from NGOs. The private sector focused on voluntary measures such as certification, codes of conduct, etc. It was only when these measures were proven to be insufficient that the private sector started to support it and eventually called for further legislation (see 2006 petition from private sector to the Commission). It was therefore only in 2007, as stated in paragraph 24, that the Commission considered that there was enough support to start the study.

### 25

The adoption of the EUTR passed a clear signal on the EU's strong commitment to complement the arsenal of measures already put in place and to tackle illegal logging 'at home'. The Commission commenced preparations for a legislative proposal already in 2007 and put forward a legislative proposal in 2008. Imposing new obligations on several economic sectors requires a considerable amount of preparatory work by the Commission. The number of countries engaged in the VPA process demonstrated that there was no lack of incentive in the early stages of FLEGT to engage in a VPA.

Regarding the state of play of implementation of the EUTR, it should be noted that the regulation has only been enforceable since March 2013 — it is still relatively new. The vast majority of Member States (24 out of 28) have put in place the measures to implement the EUTR and are carrying out checks on operators as required by the EUTR. The Commission prepared appropriate measures upon the entry of the EUTR into application. Possible measures were identified and listed in a compliance assurance strategy with clear timeline and resource allocation. As a result of the measures taken, a number of Member States accelerated the implementation process and reported full compliance.

The Commission recognises the crucial importance of the effective implementation of EUTR by all Member States and will continue to play its role in order to achieve this objective.

### 26

As envisaged in the FLEGT AP, the Commission has explored means to create synergies with existing public or private certification schemes and continues to engage with VPA partner countries and certification schemes in this respect (e.g. the EC guidance documents for VPA negotiations owe their inspiration to the work of these schemes and deliberately included an option for operator based schemes — as is enshrined in the Indonesia VPA; a number of studies have been performed, a specific guidance note was developed and a session was dedicated to this topic during the 2015 FLEGT

week. A number of projects financed by the EU and Member States have promoted private certification in developing countries. In Indonesia the timber trade action plan (TTAP) — a major EU-funded action, coupled with voluntary certifications (notably the Forest Stewardship Council — FSC and Indonesia Ecolabel Institute — LEI certification) resulted in the SVLK system and standard.

Four of the six concluded VPA countries foresee the recognition of private certification schemes as part of their licensing schemes (Cameroon, Congo, Liberia and the Central African Republic) and the Commission is supporting work to operationalise this recognition. In addition, the Indonesian system is an 'operator-based-system' that leaves considerable scope for recognising a variety of existing systems used by operators. It is up to partner countries, not to the Commission, to decide whether to include private schemes in the agreement. Ghana is the only country with a concluded VPA that has not made this choice, for a variety of reasons.

It would also be fair to recognise the limitations of private certification schemes which cover individual operators and small portions of territory while FLEGT licensing schemes cover the whole national territory.

### 28

The FLEGT action plan identifies four key regions and countries recognised as most exposed to illegal logging and deforestation: Central Africa, Russia, tropical South America and South East Asia. From the beginning, the Commission and Member States prioritised countries in these regions as follows: an important forest industry, significant timber exports and trade links with the EU, significant problems of illegal logging recognised by the authorities, and a strong interest for the FLEGT licensing scheme. VPA negotiations were only opened after thorough in-country information and stakeholders consultations confirmed the country's interest and after an official request from the Government to the Commission. Currently, 15 countries are engaged in VPA negotiation or implementation. A number of other countries have expressed interest and have benefited from some limited activities. The FLEGT independent market monitoring baseline report shows that the VPA process has achieved a very high level of coverage in supply of tropical timber, both to the global market and to the EU. The 15 VPA countries

represent 80 % of EU tropical timber imports (2.45 billion euro per year) and 75 % of the global exports of tropical timber. China, which is primarily a processing country, is covered by a specific bilateral cooperation mechanism (BCM) on FLEGT with the EU.

### 29

The Commission recognises the need to allocate resources where they are likely to give the best results and will continue its efforts to achieve this goal.

Human resources were allocated to key measures of FLEGT, namely the VPAs, development cooperation support and the EUTR. The largest share of the human resources have been allocated to VPA countries as well as to China. The Commission recognises that VPAs have possibly absorbed an excessive share of human resources allocated to FLEGT — possibly at the expense of other FLEGT measures.

Regarding financial resources, the absence of a central FLEGT fund — and hence the need to seek funding opportunities in existing geographic and thematic instruments — prevent the use of a unique set of criteria to allocate resources. The allocation of geographic funds is the result of a dialogue between the Commission and the partner country. Finally, the targeting of EU support should not be assessed in isolation from MS support.

Most of EU FLEGT-related support has gone to countries with; (1) a high prevalence of illegal logging, (2) a strong commitment to fighting this problem with high priority to countries engaged in VPA processes, (3) strong development and capacity needs, (4) high forest cover and/or high deforestation rates, as well as/or (5) a forest sector contributing significantly to the GDP and exports.

In total, the largest share of EU support has been targeted to VPA countries and some strategic countries having expressed interest in FLEGT such as Colombia, the Philippines and Peru. This also applies to the global multi-country projects/instruments. Besides VPA countries, countries that are strategic in the fight against illegal logging, such as Brazil, China and Eastern neighbourhood countries, have received a significant share of the financial resources, supported by a political dialogue with these countries. The large amounts allocated to

## Reply of the Commission

Morocco and Honduras result from the choice of these countries to select forest as a focal sector.

Among these countries, middle income countries, which have progressively 'graduated' out of development cooperation receive relatively lower amounts (e.g. Gabon, Thailand, Vietnam).

Where possible, the Commission has successfully mobilised other funds to provide support to other countries that are strategic in the fight against illegal logging, such as the neighbourhood instrument.

### 30

The Commission has allocated resources to a relatively large number of countries. This is partly related to the large number of countries where illegal logging prevails and which have expressed an interest in FLEGT/VPAs and therefore, a measure of the general interest in the FLEGT initiative. The Commission is exploring ways to tackle this problem in the future and find the right balance between the — sometimes conflicting — objectives of achieving broad coverage, responding to countries' interest, and effectively managing limited resources.

### Box 3

Liberia is host to most of the remaining primary forests in western Africa, which are highly threatened by illegal logging. Illegal logging has fuelled the civil war, a reason why the forest governance reform is high on the agenda of the Liberian Government. The Liberian government has demonstrated a strong commitment to tackling these issues, despite very limited resources. Liberia is one of the six countries with a VPA in implementation and has decided to prioritise FLEGT in its country MIP. In addition, Liberia has decided to include all export markets in its FLEGT licensing scheme. As such, the VPA can have a significant impact, despite the limited volumes exported to the EU. Liberia has established an operational wood-tracking system (Liberfor) and is making steady progress in the development of its licensing scheme. The above and the severe capacity constraints the country is facing justify the significant financial resources allocated by the EC to support the process.

The Central African Republic (CF) is also host to large areas of forests, which are highly threatened by illegal logging. The forest sector in CAR is the second source of employment as well as the second contributor to the national GDP, therefore central to the country's development. The strengthening of the sector has been important following the political and humanitarian crisis which struck the country in early 2013. The VPA process and systems provide the framework to initiate reforms and help the sector to gain credibility for exports. If the country stabilises, the development of an operational licensing system could be relatively quick, considering that the export industry is concentrated on a few large operators, which all have operational wood-tracking systems. The Commission considers that the severe capacity and resources constraints the country is facing justify the 6.7 million euro support offered to CAR.

Côte d'Ivoire decided to enter the VPA negotiation in December 2012. To a large extent, the civil war that affected the country in previous years prevented FLEGT-related support, with the notable exception of technical and financial assistance provided by the FAO FLEGT programme and the EU FLEGT Facility to prepare the negotiations. Negotiations are ongoing and receive adequate financial and human-resources support through the FAO FLEGT programme, the EU FLEGT facility, GIZ technical assistance to the Ministry of Forestry, a FLEGT facilitator financed by DFID and broader support to the forest sector provided by AFD.

### 32

The VPA is a trade agreement, not a financing agreement. Development assistance being governed by different legal instruments, the Commission deliberately avoided specifying financial amounts and commitments in the VPA, which clearly refers to existing aid instruments — and the standard programming procedures that govern them — to commit development assistance.

### 33

The VPAs and support projects support forest law enforcement by clarifying and promoting consistency of forest legislation, increasing stakeholders' knowledge of applicable laws (thereby preventing violations), strengthening the systems and capacities to ensure wood-tracking and controls of operators along the supply chains (and thereby to detect violations of the law), promoting stakeholder participation and providing a political space where governance and law-enforcement issues can be discussed, reducing the potential for corruption, establishing a system of independent audit, enabling external scrutiny of law enforcement, promoting public disclosure of information and independent forest monitoring to detect violations and to achieve better transparency in the sector, etc.

In many partner countries, the ministry of forestry or equivalent has the mandate to ensure forest law enforcement. Many FLEG support projects aim at strengthening and equipping these institutions. In several countries, such as Indonesia and Cameroon, there has been long-standing forest sector support financed by Member States.

Broader support to law enforcement agencies, such as the police, probably goes beyond what can be achieved under FLEG. In several countries, it is covered by the broader support to governance provided under the MIP or by Member State support.

Although it is expected that FLEG support contributes to better law enforcement, one cannot reasonably expect EC FLEG support to cover all the needs in this area and to have an impact on the Corruption perception index after a few years of implementation.

### 34

The Commission has strived to integrate FLEG support in the country programmes whenever possible. However there are inherent challenges in this endeavour.

- Most country programmes 2007-2013 were agreed before the beginning of the VPA negotiation, and a fortiori, the VPA conclusion. Despite this, the country programmes 2007-2013 of most of the countries with a VPA in implementation include FLEG support: it is certainly the case for Indonesia, Cameroon, Liberia and Congo.
- The forest sector and FLEG had to compete with other priority sectors and pressing needs.
- It is not easy to assess the future needs at the time of starting VPA negotiations. Support needs during the negotiation phase are generally well covered by the global instruments (EFI, FAO).

In several countries, Member States have foreseen FLEG/forest support such as the UK through DFID (Ghana, Indonesia, Liberia, Guyana) or Germany through GIZ (Cameroon, Laos, Côte d'Ivoire).

Most MIPs for 2014-2020 in VPA countries do include FLEG under one of the focal sectors.

The Commission recognises however that FLEG support could be more systematically foreseen under the MIP of VPA countries.

## Reply of the Commission

**36**

The Commission disagrees that all projects aimed at strengthening the capacity of public authorities were not effective. The VPA seeks to address broader challenges. Its implementation relies on actions from many actors besides the ministry of forestry. It is also incoherent to link progress in the VPA to one specific project when most donor resources to the VPA have come from a multi-donor fund which has delivered important outputs.

The Commission acknowledges the problems of the Cameroon project but wishes to highlight that the delays in the VPA implementation are due also to other factors.

In Indonesia, the focus on EU cooperation has progressively shifted to civil society and the private sector, whereas the Ministry of Forestry was initially the main recipient. This process started much before the FLEGT support project implemented by the Ministry of Forestry, based on the needs to implement the VPA and efforts to ensure complementarity with UK support.

**37**

The project has been the subject of two ROM missions and three external evaluations, which demonstrate the close attention given to it by the Commission. All project annual reports have been the subject of exchanges between the Commission and beneficiaries, and two addendums to the contract — modifying the project timeframe and scope — were concluded, demonstrating efforts to address the project shortcomings. It should also be noted that the project was implemented under the decentralised modality, which means that the contract beneficiaries were appointed and supervised by the Government of Cameroon, which further calls into question the assumption that the Commission coordination has been ineffective.

The final evaluation report states that, despite its shortcomings, the project produced the basis of a wood-tracking application and important lessons learnt.

**39**

This project has been subject to standard ROM and midterm evaluation procedures and has been the subject of very close monitoring by the EU delegation through regular field visits to the different project sites and very frequent meetings with all actors concerned. The Commission also notes that the project final evaluation concluded that the project actually achieved some results.

**40**

The Commission would like to clarify that the FLEGT support project was implemented between 2006 and 2009 and that resources have been allocated to the Government of Indonesia for the forestry sector in 2012 (project 'Support to Indonesia's response to climate change', implemented by the Ministry of Forestry). Indonesia also continues to benefit from significant assistance through EU FLEGT and FAO FLEGT to date. It would also be fair to recognise that the UK has continued to provide significant FLEGT-related investments throughout the period.

**41**

Support to the Government of Indonesia in the forestry sector has been provided through several projects after 2004 (e.g. South Sumatra forest fire management project, FLEGT support project, support to Indonesia's response to climate change); and here again, the continued support provided by EFl and to a lesser extent by FAO FLEGT needs to be taken into account.

It is important to remember that support to FLEGT in Indonesia is provided by the Commission and the Member States. The Commission is of the opinion that this joint support has been coherent with the needs of and has targeted the different groups of stakeholders in a complementary way.

Over the last years, support has increasingly been delivered to the private sector and SMEs through partnerships between NGOs and timber industry associations funded under the EU Active and Switch programmes. The EU has also funded the timber trade action plan, a global initiative with significant activities in Indonesia, which was exclusively aimed at private sector capacity, including some smallholders. SME support was provided by MFP2 and MFP3 UK-supported programmes, and national solutions are now being found for their difficulties, getting SVLK including regulation improvement and substantial budgetary support from national and local government.

Further support to SMEs is foreseen under some ongoing initiatives (the new phase of the FAO FLEGT programme and the EU FLEGT regional Asia component).

### 43

The factors affecting project achievements mentioned by the Court are very broad and cover most of the typical challenges affecting development cooperation projects.

FLEGT projects are particularly exposed to such difficulties, due to the complexity of tackling sensitive natural resource governance matters, the challenging environment where these projects operate and the technical and political complexity of the FLEGT VPA process. The FLEGT process requires significant human resource mobilisation by the EU delegations.

### 46

The VPA implementation in Cameroon has proven to be more challenging than expected and falls below EU expectations.

The terms of reference of a new system (SIGIF) have been developed and its development is now funded by German funds while the EU has also committed resources to support the roll out of the new system through activities such as training.

### 49

In Liberia, the abuse of private use permits (PUP) was halted thanks to reports by civil society organisations active in the VPA process. The VPA provided a forum for discussing the issue. The EU played an active role in monitoring the issue and provided support to the Government of Liberia for the investigation. Since then the permits have been subject to a moratorium and a new PUP regulation has been drafted with EU support. Liberia is making steady progress in the establishment of the timber legality assurance system (TLAS) and a country-wide wood-tracking system is already operational.

### 51

The Commission wishes to clarify that Malaysia, is a federal country and responsibilities for forest management are decentralised at the state level. While peninsular Malaysia and Sabah have engaged in the VPA process by developing legality grids and TLAS, Sarawak has rejected any participation in the VPA. This is an internal political issue in Malaysia.

### 52

Implementing these ambitious and complex agreements in some of the partner countries — particularly where capacities and governance are weak — has revealed more demanding and challenging than anticipated.

### 53

It is useful to distinguish reporting on the implementation of the FLEGT regulation from broader reporting on the FLEGT action plan.

The Commission recognises that more systematic reporting on the progress of the FLEGT action plan is desirable. However, the Commission did report regularly through various mechanisms, as Member States reported on their actions periodically at the Council working party on forests (at least several times a year), at regular ad hoc FLEGT meetings, in the FLEGT committee, and more recently in the FLEGT-EUTR expert group. FLEGT was also discussed at CODEV, at the 133 committee, at the customs working party. In addition, subsequent Commissioners reported at agriculture council meetings over this period. DEV Commissioners also

periodically reported on progress and challenges at the EU Parliament with several meetings deliberating and reporting at great length.

Stakeholder meetings and feedback were held for all VPA negotiation processes and VPA countries publish annual progress reports.

As regards the obligations under Art.9 of the FLEGT regulation to report on the implementation of the FLEGT licensing scheme, the Commission decided not to prepare a report until FLEGT licences are issued as the reporting required under the FLEGT regulation specifically concerns a record of receipt of FLEGT licences and problems encountered under these schemes.

A progress report on the implementation of the FLEGT action plan was prepared in 2011, on the basis of input from Member States. It was shared and discussed with Member States. The ongoing evaluation will provide the opportunity to report to Council and Parliament.

### 54

It is important to distinguish between the notions of a project database, monitoring framework for VPAs and broader monitoring framework of the FLEGT action plan.

(Please also refer to our reply to paragraph 22.)

The Commission also wishes to clarify that the progress report 2003-2010 is not an EFI report but a FLEGT action plan progress report requested by the Commission.

### 56

Before launching the FLEGT action plan evaluation, the Commission has regularly assessed progress of various components and the difficulties faced, not least in the progress report of 2011. The evaluation of the FLEGT action plan will help in addressing new issues linked to the evolution of the global context as indicated in paragraph 56, and in shaping future EU efforts in this area. The Commission has endeavoured to proactively adapt the implementation of the action plan to address new developments. Some of the responses already put in place are listed below. The Commission however recognises that more comprehensive responses will need to be developed, on the basis of the evaluation.

### 56 (a)

The following steps have been taken to date to address the growing importance of Asia in the timber trade.

- Memorandum of understanding with China to establish a bilateral cooperation mechanism (BCM) on FLEGT.
- Opening of VPA negotiations with major processing countries such as Vietnam and Thailand.
- Expanded VPA preparation phases with relevant producer countries in the region (Laos and more recently Myanmar/Burma).

### 56 (b)

The following steps have been taken to date to address the growing impact of illegal conversion.

- Increased attention to illegal forest conversion and how to deal with this issue effectively in the context of the VPA.
- Note prepared for EU delegations.
- Increased attention to forest land governance in DG International Cooperation and Development programmes.

## Reply of the Commission

### 56 (c)

The following steps have been taken to date to foster synergies with REDD+.

- The Commission is promoting synergies between FLEGT and REDD, notably through the EU REDD Facility and the FLEGT-REDD+ working group.
- The FLEGT and REDD+ agenda are closely linked and supporting each other in several countries, including Guyana or Liberia.

### 56 (d)

The following steps have been taken to date to address changing trends in timber exports to the EU.

- Regular monitoring through timber trade studies and the independent market monitoring system
- EU timber regulation and BCM with China.

### 56 (e)

The following steps have been taken to date.

Steps to promote synergies with private certification.

(Please refer to our reply to paragraph 26.)

## Conclusions and recommendations

### 57

The Commission does 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 will pursue its efforts to further improve efficiency, effectiveness and economy. It will draw from the Court's Special Report as well as the ongoing FLEGT action plan evaluation, which has been able to examine a wide range of programmes, projects and measures.

### 58

The Commission disagrees with part of the Court's observation.

### 58 (b)

The innovative nature of the FLEGT action plan, the diversity of policy, regulatory and development cooperation measures and the multiplicity of actors and partners are difficult to frame in a single work plan with clear milestones and deadlines and a dedicated budget. Nevertheless, many of the FLEGT measures, such as the VPAs or the projects have their own detailed implementation plan.

### 58 (c)

The Commission does not share the Court's view that there was a late adoption of EUTR. The EUTR was not mentioned in the action plan, which only refers to exploring 'the feasibility of legislation to control imports of illegally harvested timber into the EU'. The regulation was only proposed after an extensive exercise in which means of addressing illegal logging using existing legislation were examined. The legislation was adopted and entered into force on 20 October 2010, and became applicable in March 2013. Upon entry of the EUTR into application the Commission took action to ensure full implementation of the legislation.

### 58 (d)

As envisaged in the FLEGT action plan, the Commission has explored means to create synergies with existing public or private certification schemes and is stepping up its efforts in this area.

### 58 (e)

Assistance was granted in accordance with clear criteria, although using a unique set of criteria for all interventions was impossible considering the different legal basis of the financial instruments. The Commission clearly prioritised VPA countries for its support to timber-producing countries.

## Reply of the Commission

### Recommendation 1

The Commission partially accepts the recommendation.

As regards the budget, this will be feasible only for thematic programmes.

### Recommendation 2

The Commission cannot accept this recommendation as formulated.

While the Commission fully agrees with the need for a strict implementation of the EUTR by all Member States, the Commission wishes to highlight that, as outlined in our reply to paragraph 25, it has already taken appropriate measures to promote its effective implementation and will continue to do so in line with its compliance assurance strategy. As a result of the measures taken, a number of Member States accelerated the implementation process and reported full compliance. The vast majority of Member States (24 out of 28) have put in place the measures to implement the EUTR and are carrying out checks on operators as required by the EUTR. The Commission has initiated infringement procedures against three of the non-compliant Member States and is investigating the fourth.

The Commission further recalls that EUTR implementation is first and foremost a responsibility of Member States and that the reports from Member States on the first 2 years of EUTR application were due on 30 April 2015. In accordance with Art.20 of the EUTR, the Commission will report to the Council and the Parliament by 3rd December 2015 on the review the functioning and effectiveness of the regulation.

### Recommendation 3

The Commission accepts this recommendation.

As explained in the Commission reply to paragraph 26, much has been done in the past to promote these synergies.

### Recommendation 4

The Commission accepts this recommendation.

Resource allocations to particular countries will also depend on the availability of funding.

The Commission has approved in 2014 a financing decision for a new initiative with FAO that will offer country support packages to strengthen forest governance in selected countries that are strategic for the fight against illegal logging, but do not opt for a VPA.

### 59 (b)

The six concluded VPA entered into force respectively in late 2009, 2011, 2012, 2013 and 2014. Considering the ambition of the reforms they entail, the complexities of the undertaking and the governance challenges in partner countries, it is understandable that their full implementation requires time and sustained commitment. The Commission recognises that the challenges of the implementation were underestimated.

### 59 (c)

Please refer to the Commission's reply to paragraph 53.

The Commission regularly reported to Member States and other stakeholders on the progress of the FLEGT action plan. Annual reports have been produced on VPA implementation. A first progress report was produced in 2010. The evaluation was launched at the beginning of 2014, on the basis of consultations initiated in 2013.

### Recommendation 5

The Commission accepts this recommendation.

### Recommendation 6

The Commission accepts this recommendation. The ongoing FLEGT action plan evaluation demonstrates that the Commission was aware of the need to assess the current approach and planned the evaluation already in 2013. Based on the results of the evaluation, the Commission will draft a staff working document.



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Illegal logging and trade in illegally logged timber affect most of the forested countries. It causes environmental damage and loss of biodiversity, and has negative economic and social effects. The EU action plan on forest law enforcement, governance and trade (FLEGT) aims to reduce illegal logging globally by supporting forest governance in timber-producing countries and by reducing the imports of illegally harvested timber to the EU. In this report the Court concludes that the Commission's support to timber-producing countries in the framework of the FLEGT action plan was not sufficiently well managed. While the FLEGT action plan was conceived in an innovative way, the Commission did not devise an appropriate work plan with clear objectives, milestones and a dedicated budget. It did not clearly prioritise its assistance, and monitoring and reporting procedures were unsatisfactory. The main projects examined were not successful and the envisaged timber licensing schemes are not yet fully operational in any of the partner countries.



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