

## ***A new phase in the fight against illegal logging: the EU Timber Regulation in the picture***



Picture Colin Nicholas

***The demand for timber and timber products is increasing worldwide, which gives fraudulent traders the opportunity to place illegally-logged timber on the market. The European Union wants to tackle the problem of these illegal practices and well-known labels like FSC and PEFC are more than happy to oblige. An overview, for those who cannot see the wood for the trees...***

### ***The problem***

According to Greenpeace and the European Commission 20 to 40% of all timber imported into Europe is derived from illegal logging. Illegal means that it has been 'logged, processed or traded in violation of the laws of the country of origin'. Especially countries with weaker governments fall victim to this practice on a large scale. The consequences are dramatic

- For the **environment**: illegal logging is the major cause of deforestation in many regions. Not only does it cause a large part of the biodiversity on earth to disappear, deforestation is also responsible for about 20% of worldwide CO<sup>2</sup> emissions. With this a clear link to global warming is established.
- For the **economy**: local governments and communities see their natural resources go up in smoke, which often leads to heavy conflicts. Also timber traders who do stick to the rules are victims, because they have to compete with cheaper, illegal products.

### ***The run-up***

The European Union could no longer remain unaware of these market-disturbing practices and approved the **FLEGT action plan** in 2003. It covers lots of domains, including the inclusion of legality matters in public procurement procedures and supporting private initiatives with regard to forest management. The most concrete measure, however, was the ambition to improve the legal protection of forests in timber-exporting countries through voluntary partnership agreements (VPAs). An important instrument in this respect is a licence system, which confirms the legal origin of the timber. The European Commission has now concluded VPAs with Ghana, the Republic of Congo, Cameroon, the Central-African Republic, Liberia and Indonesia. Six other countries are in the negotiating phase.

"To date, not a single timber product has entered our market with a FLEGT licence", explains Denis Pohl, head of department of the competent Belgian authority, the federal public service Health, Food chain safety and Environment. "The procedure is quite difficult and the process is long. In Ghana and

## What's in a name?

**FLEGT** (Forest Law Enforcement, Governance and Trade Action Plan) is a European Action Plan from 2003 to fight illegal timber logging. Two years later the European Commission approved a licence system, which allows partnership countries to export timber to Europe more easily in the context of a **VPA** (Voluntary Partnership Agreement).

**EUTR** (EU Timber Regulation) is the new EU Timber Regulation, approved in 2010, which prohibits the marketing of illegally-logged timber. In July 2012 an implementation regulation was adopted, and it will enter into force on 3 March 2013.

**DDS** (Due Diligence System) is a system to be handled by companies in the context of EUTR to reduce the risk of marketing illegal timber to a minimum.

The **LACEY ACT** is a US act with the same purpose: prohibit the import, trade and transport of timber derived from illegal logging.

**FSC** (Forest Stewardship Council) is a non-governmental organisation, set up after the UN environmental summit in Rio (1992) to support socially, ecologically and economically responsible forestry. It works with an FSC forest certificate (for forest owners and managers) and an FSC Chain of Custody certification (for companies in the chain).

**PEFC** (Programme for the Endorsement of Forest Certification schemes) is also a non-governmental organisation, set up in 1999 on initiative of forest owners from twelve European countries. PEFC also works with a forest certificate (in Belgium a forest owner signs a 14-item charter) and a certificate for timber and paper processing companies.

**CITES** (Convention on International Trade in Endangered Species of Wild Fauna and Flora) is an international treaty from 1975 intended to curb the trade in protected animal and plant species. Besides tigers and rhinos also some timber varieties are on the list, which can only be traded under very strict conditions.

**REDD** (Reduced Emissions from Deforestation and Forest Degradation) is a programme from the United Nations: countries which leave their forests untouched receive financial compensation for the direct income they are missing out on.



Picture Ulu Baram

Cameroon, for example, we are still waiting for the ratification by parliament. But we do see that a positive interaction has been established in these countries between companies, NGOs and the government. And that was the whole point of FLEGT: starting up an awareness-raising process in some problem countries and increasing their capacity to vote and enforce strong laws."

## New laws

After long deliberations the European Parliament and the Council approved the EU timber regulation, in short **EUTR**, in 2010. The key point is the prohibition to import illegally-logged timber.

The Regulation enters into force on 3 March 2013 and contains a series of obligations:

- **'Operators'** (those who introduce the wood to the European market for the first time) must minimise the risk of illegal timber (by means of a 'due diligence system').
- **'Traders'** (those who are further down the chain) must keep records of which timber product they bought from which supplier and to whom they resold (by means of a 'traceability system').

The Regulation applies to a whole series of timber products and paper. Printed matter is currently an exception. EUTR also applies to timber from European forests. Timber and timber products with a valid FLEGT or CITES licence are considered to meet the requirements and are exempted.

## Be diligent

By means of a 'due diligence system' (**DDS**) operators must prepare to reject illegally-logged timber. Three elements are important in this system:

- **Information:** They must collect information about the type of product, the quantity, the origin (country, region, concession, supplier) **and compliance with national legislation.**

- **Risk assessment:** On the basis of that information they should assess the risk of illegally harvested timber being placed on the market. Examples of risk factors are: is this a country with a high level of corruption? Is it a country at war? Is it a country on which sanctions have been imposed? How complex is the chain?
- **Risk mitigation:** When there is a risk, additional information must be requested and inspections carried out.

Operators may develop their own system or use systems of independent supervising bodies recognised by the European Union. Every EU member state has a competent authority, for Belgium it is the federal public service Health, Food chain safety and Environment. Denis Pohl continues: "At this time we are still working on the instructions for our inspection departments and customs services at the port of Antwerp. We are trying to reach agreements with France and the Netherlands to handle inspections in similar ways. If not, the problem will just shift from one port to another. Furthermore, we will have to evaluate and adjust our approach in the years ahead because the regulation does not state in black and white what good records are and what a good due diligence system is."

### Private labels

Many organisations and companies from the environment and timber industry did not wait for the government to set up systems for sustainable forestry. Dozens of labels and quality marks are available worldwide, but the two most important ones - certainly in Belgium - are **FSC** and **PEFC**.

The principle of both is a responsible exploitation of the remaining forests worldwide. Logging may not compromise the biodiversity and other ecological values of the forest. Both work with a certificate for forest owners and a certificate for companies operating in the chain. Inspections are conducted by independent bodies. The result for consumers is labelled wood products and paper products.



Picture FSC Belgium

FSC works according to internationally established criteria and is therefore often considered to be 'stricter' from an environmental perspective. PEFC also uses an international standard but leaves more room for specific, national forestry issues. FSC has the largest number of certified companies. PEFC has - in terms of surface area - developed into the largest forest certification system in the world.

### Impact on FSC and PEFC

FSC and PEFC both have a certification system which gives the necessary guarantees in terms of the legal origin of labelled products. The logical question is therefore whether certification is automatically enough to meet the new obligations. The answer is no. FSC and PEFC did not get a 'green lane' or safe-conduct like FLEGT or CITES certified products did. A certificate is no formal proof of legality for EUTR. It does not discharge operators from the task to collect information and carry out a risk assessment. In other words, FSC and PEFC cannot replace a due diligence system. But if you have a certification, you definitely have a head start.

Both organisations are also working to **better align** their systems to the EUTR. Bart Holvoet, director of FSC Belgium: "Today our Chain of Custody certification does not specify that information about the origin must be available at all levels for every product. Because EUTR does require this, we intend to launch an on-line platform in the second half of 2013. On this platform, all certificate holders will make all necessary information available to each other." The same can be heard at PEFC. Vanessa Biebel, national secretary of PEFC: "We have adjusted some aspects of our Chain of Custody standard to make sure it can serve as a DDS. We are currently consulting all our partners about the new text and we should be completely ready by 12 March 2013."

Both organisations are also confident that the inspection services will not target them right from the start. This is confirmed by Denis Pohl: "If we, the inspecting authority, have to choose between a cargo of labelled timber and a cargo of timber for which not much information is available, it is quite obvious what our choice will be."



Picture PEFC

## Hope for the future

"There is an important element we should not lose sight of", Bart Holvoet warns. "EUTR is a step in the right direction on paper. Let's hope it also is in practice. But suppose that companies will import more legal timber from now on, there are still no guarantees that the forest management is ecologically, economically and socially responsible. **Legality** is one thing, **sustainability** is quite something else." Still, he and Vanessa Biebel are hopeful: "EUTR will force companies to think about their approach, because a DDS is quite something. We will have to wait and see what they will do, but we hope that it will promote our certification systems."

A Dutch study about the possible consequences of EUTR for the Bolivian timber export draws similar conclusions: "Bolivia is not ready for a VPA; it is going to take years. So companies have only two options in the short term: start compiling records themselves and hope that they will suffice as DDS. Or - more practical - use the systems of inspectors or certification systems."

### WWF barometer

Early 2012 WWF published a new barometer after an interruption of some years. Every member state was given a score on different fields discussed in this article: the implementation of the FLEGT action plan, the preparation for EUTR, the procedures for public procurement and the role of development cooperation in supporting VPAs in partner countries. Belgium occupies a nice fifth place in the ranking. But with 9 points out of a maximum of 18 we are scoring barely half the points and 17 out of 27 member states absolutely fail. For WWF the conclusion is clear: A lot of work needs to be done.

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DEVELOPMENT COOPERATION **.be**

### Sources

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