

Legality verification on the internal European (EU) market

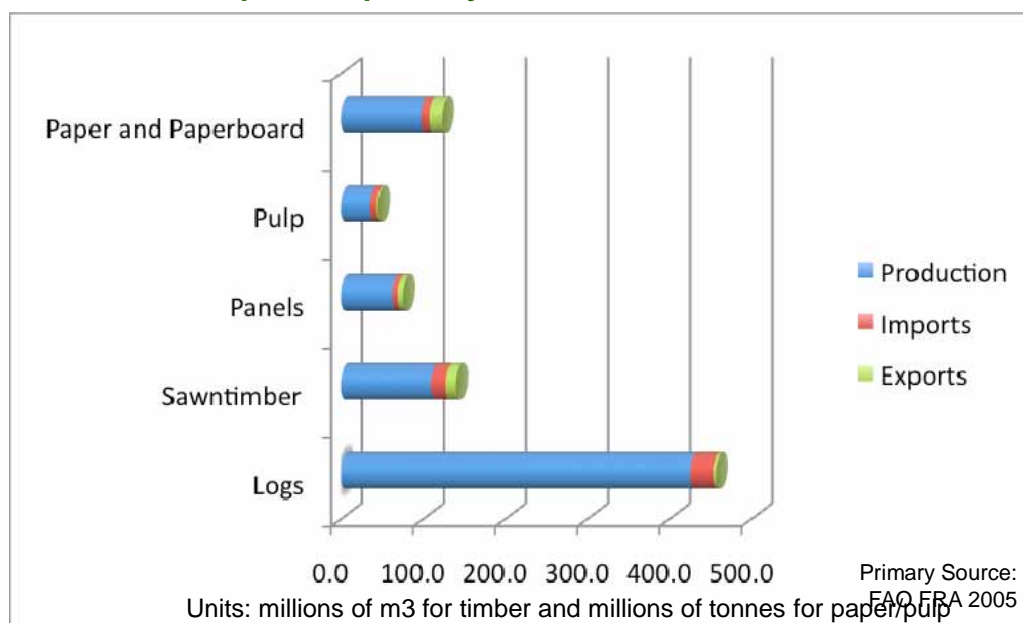
International Seminar on Challenges of Sustainable Forest Management

9 March 2011, Tokyo
by Vincent van den Berk

European Forest Institute – FLEGT Asia

EU27 Production and Trade Data

Europe is pretty self-sufficient in timber



EU timber imports

less than 10% EU timber consumption is imported

1: <u>China</u>	(6)
2: US, Russia, Brazil	(4 – 4.6)
3: Switzerland, Norway, Canada	(2 – 2.6)
4: <u>Indonesia</u> , <u>Malaysia</u>	(1.2 – 1.6)
5: Chile, <u>Vietnam</u>	(1)
6: Cameroon, Gabon, <u>Thailand</u>	(0.45 – 0.7)

- Imported timber associated with all sorts of trouble
- an estimated 20% of import into EU is illegal

EU response: The Forest Law Enforcement Governance and Trade Action Plan (FLEGT)

Agreed 2003 – main aim to exclude illegal timber from EU market (major importer)

stop the EU acting as a market for illegally harvested timber

and **encourage the trade in guaranteed legal timber**

Components included:

- Voluntary partnership agreements (VPAs) with timber-producing countries to set up legality licensing system
- Analysis of existing national legislation relevant to imports of illegal timber; exploration of additional legislative options
- Encouragement for government procurement policies
- Encouragement for private sector initiatives
- Encouragement for financial institutions to exercise due diligence in lending

2003: EU FLEGT Action Plan adopted, 2013: all FLEGT Action Plan elements operational

- EU Timber Regulation applicable
- Voluntary Partnership Agreements delivering FLEGT licensed (guaranteed legal) timber to the EU market

EU Timber Regulation



EU Timber Regulation - main obligations -

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 for the first time ('First Placers') to exercise 'due diligence';
3. keep records of their suppliers and customers.

EU Timber Regulation - What is Due Diligence?-

1. **Information:** operator must have information describing the timber and timber products, country of harvest, quantity, details of the supplier and information on compliance with national legislation.
2. **Risk assessment:** operator to assess the risk of illegal timber in his supply chain, based on the information identified above and taking into account criteria set out in the regulation.
3. **Risk mitigation:** When there is a risk of illegal timber in the supply chain, mitigate that risk by requiring additional information and verification from the supplier.

EU Timber Regulation - WHAT IS LEGAL? -

- Legality is defined on the basis of the applicable legislation of the country of harvest, covering:
 - **Rights to harvest** within legally gazetted boundaries;
 - **Payments for harvest rights and timber**, incl. duties related to timber harvesting;
 - **Timber harvesting**, incl. environmental and forest, **legislation**;
 - **Third parties' legal rights concerning use and tenure** affected by timber harvesting;
 - Forest sector-related **trade and customs legislation**.

EU Timber Regulation - Which products?-

- **Almost all timber products covered, including solid wood products, flooring, plywood, pulp and paper.**
- **Not included: recycled products, rattan, bamboo, printed papers such as books, magazines and newspapers.**
- **The product scope can be amended if necessary.**

The Regulation applies to both imported and domestically produced timber and timber products.

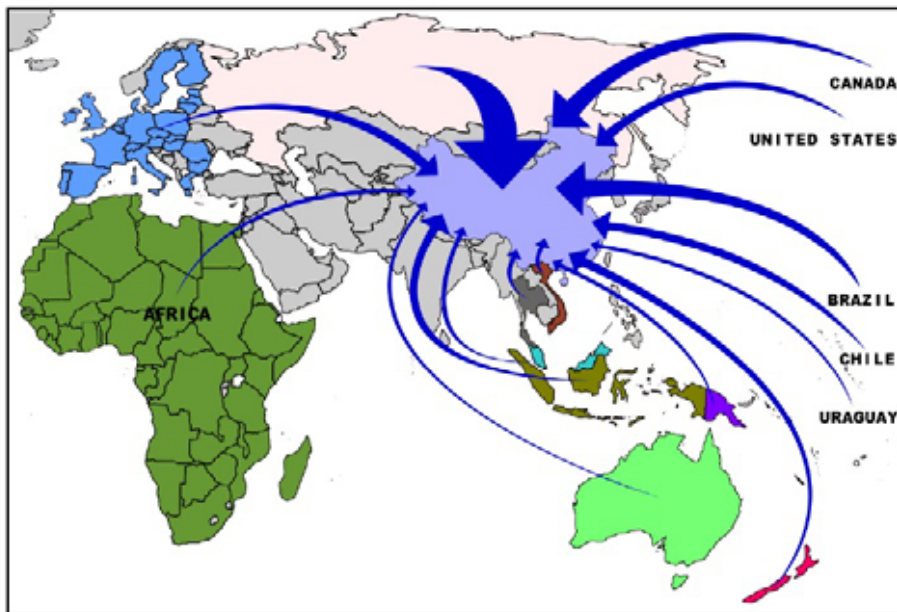
EU Timber Regulation, implementation timeline

- regulation entered into force December 2010
- and will be applicable 27 months later, i.e. 3 march 2013
- Other milestones in-between:
- 3 June 2011. Competent Authorities throughout the EU;
- 3 March 2012. Monitoring organisations recognised;
- 3 June 2012. Risk assessment (incl. Criteria for acceptable certification schemes) & rules risk mitigation detailed. Checks and procedures on Monitoring Organisations detailed

EU Timber Regulation, in summary

- its an offence to place any timber product on the EU market (domestic or imported) that comes from illegally harvested timber
- '1st placers' must have a due diligence system
- '1st placers' are the gate keepers of the EU market
- The one and only 'get out of jail' provision is a FLEGT license or CITES certificate (=zero risk; =strong incentive for a FLEGT Voluntary Partnership Agreement VPA)
- application date is 3 march 2013

Map 1: China's Forest Product Imports, 2009



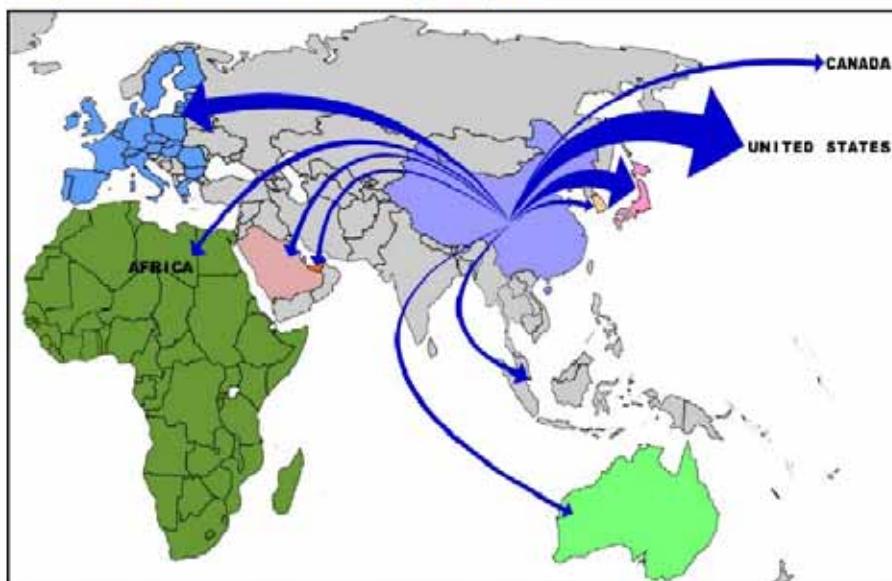
Source: China Customs statistics, as compiled by Forest Trends.

Note

ARROW WIDTH = MILLION m³ RWE

RANGE	ARROW WIDTH
1-5	Thin arrow
6-10	Medium-thin arrow
11-15	Medium-thick arrow
16-25	Thick arrow

Map 2: China's Forest Product Exports, 2009

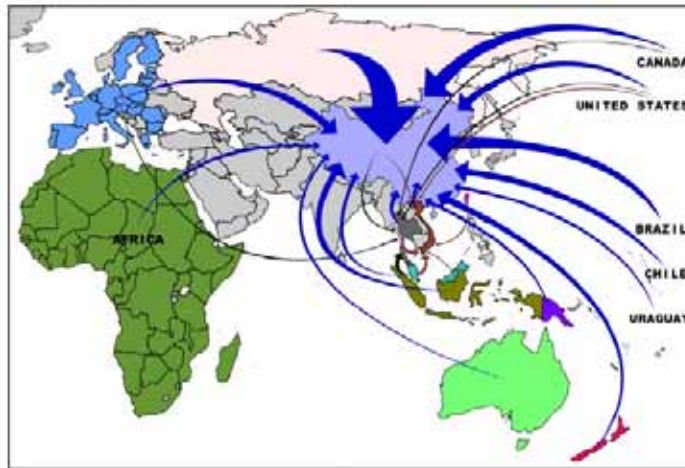


Source: China Customs statistics, as compiled by Forest Trends.

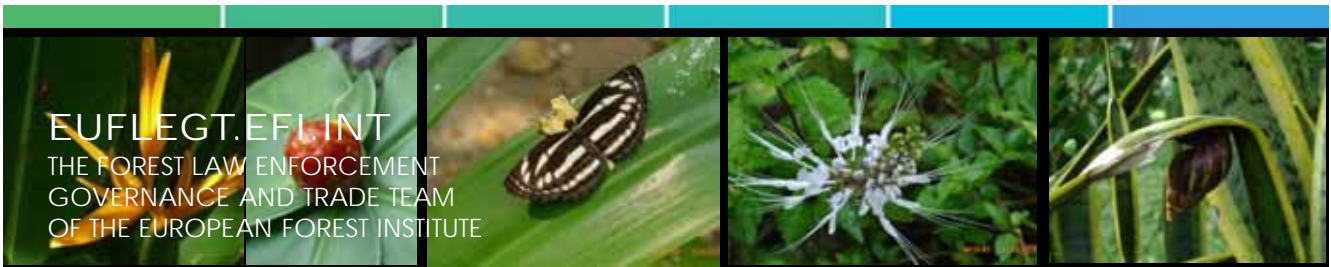
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Map 3: Chinese Imports Compared to Regional Manufacturing Hubs Vietnam and Thailand, 2009



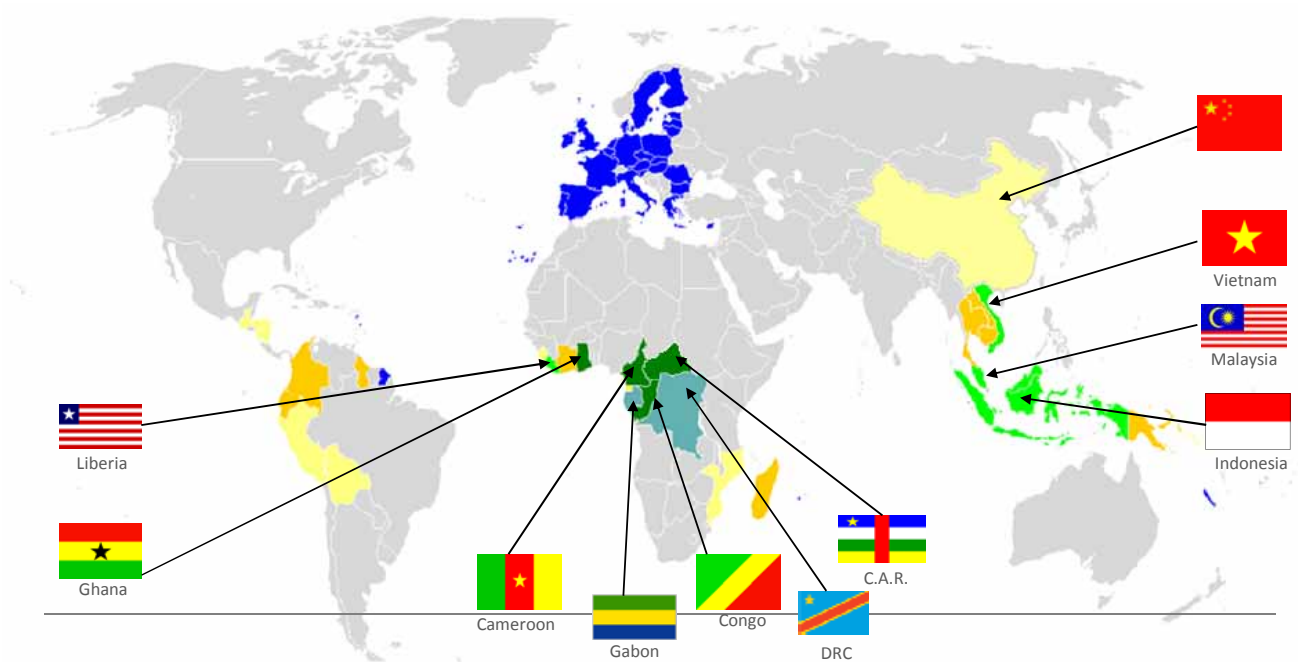
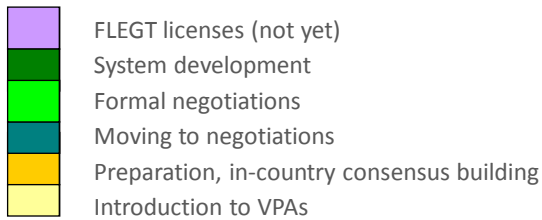
Source: European Forestry Institute, as compiled by James Hewitt



EU Timber Regulation and VPAs

- FLEGT-licensed timber products (and CITES certified timber) will be considered to have been legally harvested. These are the only exemptions.
- Countries with VPAs export FLEGT licensed timber into the EU without importers needing to make further legality checks ("Green Lane"; FLEGT licensed or a risk assessment)
- FLEGT VPA and the EU Timber Regulation are mutually reinforcing

Progress on FLEGT VPAs



A Voluntary Partnership Agreement is....

A legally-binding bilateral trade agreement:

EU (all 27 Member States) – partner country

Export License from partner country assures EU market of legality of timber product

Targets/objectives:

Work together to stop illegal logging

Strengthen governance & transparency

Improve control, track & verify legal compliance

Reform policy and law

Build capacity

Better capture revenues

Secure & improve market access (*the Green Lane into the EU market*)

Legality verification in a VPA

- To identify and license legal timber and ensure only this timber is exported to the EU
- Must include checks of the supply chain from harvesting to point of export, including processing

Legality verification in a VPA

The LAS should include 5 Key Elements:

1. Clear definition of legal timber
2. Control of timber movement
3. An accredited organisation to verify compliance with the law
4. A licencing authority for exports
5. An independent institution to monitor the functioning of the whole system

Legality definition in a VPA

- Based on existing regulations/legislation, covering the 5 legality areas similar to the EU Timber Regulation
- Makes clear and visible what is legal timber
- Identifies what will be routinely verified to demonstrate timber is legal
- Ability to focus attention where current legislative enforcement challenges exist
- Based on a consultative process including stakeholder preparation of LD dialogue to define priorities.

Legality verification in a VPA

- The VPA requires a legality definition/standard be developed, drawn from critical **national** legislation relating to the timber exploitation
- Based on multi-stakeholder dialogue to ensure interests of industry, civil society and government are include
- Simple, clear, auditable criteria and indicators
- Includes payment of appropriate taxes or royalties

Legality verification in a VPA, CoC

- Wood control system = chain of custody (CoC)
- Most countries and large companies have a CoC system
- The timber must be checked as it moves down the supply chain
- The system must make sure imported timber is legal based on the laws in the country of export

Legality verification in a VPA, credibility

Auditing for credibility

Supply chain

Legality system

Professional trained and accredited auditors without conflict of interest

Corrective action if problems are found including suspending the licence

An independent structure to oversee the whole scheme



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<http://ec.europa.eu/environment/forests/flegt.htm>

http://ec.europa.eu/environment/cites/home_en.htm

http://ec.europa.eu/environment/forests/illegal_logging.htm

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