

POLICY BRIEF

Forest Law
Enforcement,
Governance, and
Trade (FLEGT)
implementation in
Europe and Indonesia,
and the implications of
timber legality and
deforestation policy
changes in the EU, UK,
USA and China

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Key findings and suggestions – 1



Despite substantial regulatory efforts, the full potential of the transnational FLEGT regime to provide policy support and market demand for legal timber and to decrease illegal timber products on consumer markets has not been fully realised.



On the European demand side, main challenges to FLEGT support are the insufficient and incoherent implementation of EU timber legality policies (EU FLEGT Action Plan, EU Timber Regulation, EU FLEGT Regulation, European countries' timber procurement policies) and the still nascent UK FLEGT policy following the EU withdrawal.



On the demand side in key non-EU consumer countries, main challenges are the lack of support for FLEGT timber in the timber legality policies of the USA (US Lacey Act), Australia (Illegal Logging Prohibition Act), and China (Forest Law Amendment).



On the supply side, main challenges are the insufficient interest by key producer and exporting countries (e.g., Brazil, China, Papua New Guinea, Russia), as well as interested tropical countries' slow progress in negotiating with the EU and fully implementing FLEGT Voluntary Partnership Agreements (VPAs) and Timber Legality Assurance Systems (TLAS).



To date, Indonesia remains the first and only country to fully implement a FLEGT VPA with the EU through its TLAS called SLVK, but policy support and market demand for FLEGT licensed legal timber from Indonesia is low on EU/non-EU consumer markets.



On the supply side, robust and trusted national TLAS are needed for broader market recognition of FLEGT-licensed timber and timber products.



Currently, much regulatory efforts are put on new policy shifts in the EU, the UK and USA to close gaps in regulating forest-risk agricultural commodity supply chains.

Key findings and suggestions – 2



While new environmental sustainability standards, namely zero deforestation and zero forest degradation, are prioritised in the new EU Deforestation Regulation (draft), timber legality and FLEGT are given lower attention.



The UK and USA maintain their focus on timber legality, while introducing additional legality requirements for agricultural forest-risk commodity supply chains (UK due diligence provisions, FOREST ACT of 2021).



Due to the co-existence of shortcomings in the transnational FLEGT regime and the emerging regulatory priority on sustainable forest risk products, transnational policies and standards for timber legality and forest sustainability need to be harmonized internationally and be better enforced to provide for policy support and market demand for legal timber, and discourage illegal timber trade.



There is also a need for closer cooperation and better communication between producer and consumer countries to strengthen the role of FLEGT in the changing regulatory policy context in the future.



Launch event on the FLEGT Research evidence on policy changes on timber legality and sustainability, Berlin, 22.09.2022.

Introduction

1. What Are The Issues At Stake?

Since the early 1990s, illegal logging and associated international trade in illegal timber have been touted as one of the key drivers of global deforestation and forest degradation, primarily in the tropics. They contribute to climate change, biodiversity loss, land use conflicts, distortions of international markets and countries' revenue losses [1].

Among the first and most comprehensive transnational policy responses to tackle illegal logging and associated timber and timber product trade was the European Union's (EU's) 2003 Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan (Box 1).

Box 1: The FLEGT Action Plan's theory of change

Reducing illegal timber on the EU - and eventually global - market to address global deforestation is expected to be induced by (i.) decreasing illegal timber supply from third countries (e.g., tropical timber-producing countries) and (ii.) increasing demand for legal timber on the EU and eventually global market.

The EU FLEGT policy framework works with three instruments to achieve these aims:

1) bilateral trade deals between the EU and partner countries, called FLEGT Voluntary Partnership Agreements (VPAs). VPAs are implemented via national Timber Legality Assurance Systems (TLAS) and FLEGT timber licensing systems. They are supported by the EU FLEGT Regulation outlining duties and rights of implementing authorities;

2) the demand side EU Timber Regulation (EUTR), banning the placing of illegal timber and timber products on the EU market and requesting operators to exercise due diligence;

3) increasing consumer market demand by obligating EU Member States (MS) to use legal timber via public procurement regulations (e.g., EU and national public timber procurement policies) [2].

[1] Kleinschmit, D., Mansourian, S., Wildburger, C., & Purret, A., 2016. Illegal logging and related timber trade—dimensions, drivers, impacts and responses. A global scientific rapid response assessment report (Vol. 35). IUFRO (International Union of Forestry Research Organizations) Secretariat.

[2] European Commission, 2003. Communication from the Commission to the Council and the European Parliament – Forest Law Enforcement, Governance and Trade (FLEGT) – Proposal for an EU action plan (No. COM (2003) 251 final). EUR-Lex Access to European Union law, Brussels.

To date, 15 tropical timber-producing countries have signed a VPA with the EU and are implementing the agreements with varying degrees of success. In 2016, Indonesia became the only country to achieve the FLEGT-licensing stage. The Sistem Verifikasi Legalitas Kayu (SLVK) system is Indonesia's TLAS. According to the 2014 EU-Indonesia FLEGT VPA, the EU and its MS must (i.) stimulate EU policy and market demand for FLEGT-licensed timber; and (ii.) improve the policy, market and societal perception of FLEGT-licensed timber on the Union market.

The transnational timber legality regime further includes other consumer country laws, such as the US Lacey Act with its 2008 amendment and Australia's Illegal Logging Prohibition Act (ILPA) from 2012. After the recent EU withdrawal, the United Kingdom (UK) transferred the EUTR into the UK Timber Regulation (UKTR). Both regulations are essentially the same. Furthermore, the UK transferred the EU FLEGT Regulation into the UK FLEGT Regulation and ratified a UK-Indonesia FLEGT VPA (still not in force) [3].

However, while timber logging is the most important driver of global forest degradation [4] and an important precursor to deforestation [5], agricultural expansion drives 90-99% of



Tropical forest in Indonesia.

tropical deforestation [6]. Consequently, important consumer regions such as the EU, UK and USA recently started shifting their policy attention to the regulation of agricultural forest-risk commodity (FRC) supply chains (e.g., soy, palm oil, beef, coffee, and cacao).

Thus far, there is no systematic knowledge of the implementation of the transnational FLEGT regime in the EU and non-EU consumer markets, as well as of the positive or negative interactions

[3] Office for Product Safety and Standards, Government of UK, 2022. Regulations: timber and FLEGT licences [WWW Document]. GOV.UK. URL <https://www.gov.uk/guidance/regulations-timber-and-flegt-licences> (accessed 10.21.22).

[4] Hosonuma, N., Herold, M., De Sy, V., De Fries, R.S., Brockhaus, M., Verchot, L., Angelsen, A., Romijn, E., 2012. An assessment of deforestation and forest degradation drivers in developing countries. *Environ. Res. Lett.* 7, 044009. <https://doi.org/10.1088/1748-9326/7/4/044009>.

[5] Vancutsem, C., Achard, F., Pekel, J.-F., Vieilledent, G., Carboni, S., Simonetti, D., Gallego, J., Aragão, L.E.O.C., Nasi, R., 2021. Long-term (1990–2019) monitoring of forest cover changes in the humid tropics. *Science Advances* 7, eabe1603. <https://doi.org/10.1126/sciadv.abe1603>.

[6] Pendrill, F., Gardner, T.A., Meyfroidt, P., Persson, U.M., Adams, J., Azevedo, T., Bastos Lima, M.G., Baumann, M., Curtis, P.G., De Sy, V., Garrett, R., Godar, J., Goldman, E.D., Hansen, M.C., Heilmayr, R., Herold, M., Kuemmerle, T., Lathuillière, M.J., Ribeiro, V., Tyukavina, A., Weisse, M.J., West, C., 2022. Disentangling the numbers behind agriculture-driven tropical deforestation. *Science* 377, eabm9267. <https://doi.org/10.1126/science.abm9267>.



Farmland, West Java, Indonesia.

between the transnational timber legality and the emerging zero deforestation policies. Little is known about the positive or negative interactions between supply side measures such as FLEGT VPAs/TLAS and demand side measures such as the EU's and UK's Timber Regulations/FLEGT Regulations, USA Lacey Act Amendment and the Forest Law Amendment in China.

There is a general lack of systematic studies on consumer countries' commitments, especially in the EU and the UK, in supporting FLEGT timber through timber procurement policies (TPP). Specific knowledge gaps refer to questions on demand side actors' perception of Indonesian FLEGT timber and other tropical countries' timber and the perceptions of supply side actors on the new deforestation policy

shifts. The extent to which the EU and its MS have implemented their commitments under the 2014 EU-Indonesia FLEGT VPA also remains largely unknown [7].

This policy brief summarises the main results of a global policy support study based on comprehensive document analysis, surveys and key informant interviews. Study findings were validated, expanded and consolidated during three expert workshops involving state and non-state actors, held in September 2022 in Jakarta (Indonesia), Berlin (Germany) and London (UK). The policy brief first draws lessons from the transnational FLEGT policy demand and supply side implementation. Second, it explores the main implications of recent policy changes, toward regulating agricultural FRCs, on the existing FLEGT policy framework.

[7] Sotirov, M., Pokorný, B., Kleinschmit, D., Kanowski, P., 2020. International forest governance and policy: institutional architecture and pathways of influence in global sustainability. Sustainability 12, 7010. <https://doi.org/10.3390/su12177010>.

2. The FLEGT policy implementation in the EU and Indonesia

2.1. Demand side implementation in the EU-27 and the UK

Demand side timber trade regulation

By adopting the EUTR/FLEGT Regulation and providing recognition of FLEGT timber as legal under the EUTR, the EU met its commitment to support legal timber and keep illegal timber products out of the EU market. EU Members have made progress by designating competent authorities (CA), formally implementing EU law and engaging in practical law enforcement. In some EU countries, private sector actors (e.g., timber federations, certification associations) were nominated or developed as so-called monitoring organisations (MO) to assist economic operators in meeting due diligence obligations. Information and awareness-raising campaigns undertaken by some CAs, MOs and industry federations have incentivised mainly larger traders and retailers to understand their obligations and improve compliance. At the same time, small and medium-sized economic operators have been facing compliance issues due to insufficient knowledge, higher costs and capacity constraints. Importantly, incoherent, inconsistent and insufficient practical enforcement across many EU MS has led to regulatory loopholes, allowing for the

import of illegal and high-risk timber via specific EU countries with lower enforcement. In combination with environmental non-governmental organisations (ENGO) pressure, cleaning and changing of some timber supply chains were observable. Actions included abstaining from tropical timber imports or changing sourcing practices.

Demand side timber procurement policies

The inclusion of FLEGT-licensed timber in the EU Green Public Procurement (GPP) criteria and due diligence exemption under the EUTR ('green lane') formally contributed to policy and market demand for FLEGT-licensed timber as stipulated in the EU FLEGT Action Plan and the 2014 EU-Indonesia FLEGT-VPA (Article 13).

However, EU countries have insufficiently supported FLEGT-licensed timber in their national TPPs. 22 of the 28 EU MS have developed TPPs, but only 19 mention FLEGT-licensed timber therein. EU countries show a greater variety in the recognition and prioritisation of FLEGT timber as legal or sustainable in their TPPs.

The UK and Luxembourg are the only countries that prioritise FLEGT timber in their PPs and recognise it as proof of sustainability and legality. Except for the UK, the top tropical timber importing EU countries (Belgium, France, Germany, Greece, Italy, the Netherlands, and Poland) either do not accept and/or do not prioritise FLEGT timber in their public TPPs. The situation looks similar across the remaining European countries.

The overall development and implementation of TPPs have created little policy support and market demand in the EU market for FLEGT timber.

2.2. The role of FLEGT timber under EU and non-EU demand side timber legality policies

The US Lacey Act Amendment and the EUTR served as an inspiration for similar demand side timber legality laws in consumer countries such as Australia (ILPA), South Korea (Act on Sustainable Use of Timbers), Japan (the Clean Wood Act - CWA) and Switzerland (Timber Trade Ordinance - TTO). China also amended its Forest Law, banning the purchase, processing, and trade of illegal timber (Table 1).

However, contrary to the EU's hope to expand the FLEGT initiative globally [2], these legislations do not formally or specifically recognise FLEGT licenses (Table 2). In the UK, timber and timber products from UK FLEGT partner countries are recognised as fulfilling the UKTR's due diligence requirements.

22

EU MS developed
TPPs

19

mentioned FLEGT-
licensed timber in
TPPs

2

prioritised FLEGT
timber in their PPs

Table 1: The role of FLEGT timber under demand side timber legality laws

LEGISLATIVE INITIATIVE	ROLE OF FLEGT TIMBER
USA: 2008 amended Lacey Act	No formal mechanism for recognising timber legality systems like SLVK [8].
EU: 2010 EUTR	Green lane for FLEGT-licensed timber and timber products [9].
Australia: 2012 ILPA	Indirect green lane for FLEGT timber, as it wholly or partially recognises state, territory or third countries' laws, certification or industry accreditation as compliance with due diligence requirements [10].
Japan: 2016 CWA	No direct reference to FLEGT. The Guideline for Verification of the Legality and Sustainability of Wood and Wood Products recognises certification schemes and voluntary private sector verification methods [11].
China: 2019 amended Forest Law	No direct reference to FLEGT. China is interested in learning more about SVLK [12].
South Korea: 2020 Act on Sustainable Use of Timbers	No direct reference to FLEGT. Importers must file import declarations before importing timber and timber products. Any documents verifying timber and timber products can be provided upon inspection [13].
UK: 2021 UKTR	Green lane for FLEGT-licensed timber and timber products (UK-partner country FLEGT VPAs) [3].
Switzerland: 2021 TTO	No direct reference to FLEGT. Certification or regulations verified by third parties can be used for risk assessments under the due diligence obligations [14].

[8] Leipold, S., Sotirov, M., Frei, T., Winkel, G., 2016. Protecting "first world" markets and "third world" nature: the politics of illegal logging in Australia, the European Union and the United States. *Glob. Environ. Change* 39, 294-304. <https://doi.org/10.1016/j.gloenvcha.2016.06.005>.

[9] European Parliament, Council of the European Union, 2010. 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. OJEU.

[10] Office of Parliamentary Counsel, 2018. Illegal Logging Prohibition Act 2012. Attorney-General's Department.

[11] Momi, M., Saunders, J., 2020. The Japanese clean wood act: effectively cleaning up? *Forest Trends*.

[12] Ministry of Ecology and Environment of the People's Republic of China, 2019. Forest Law of the People's Republic of China. Ministry of Ecology and Environment the People's Republic of China, China.

[13] Korea Forest Service, 2019. Korea's regulation to promote legal timber trade. Korea Forest Service.

[14] Schweizerische Eidgenossenschaft, 2021. Verordnung über das Inverkehrbringen von Holz und Holzzeugnissen (Holzhandelsverordnung, HHV). Fedlex Die Publikationsplattform des Bundesrechts, Switzerland.

2.3. Supply side implementation of the FLEGT policy in Indonesia

Indonesia formally fulfils its commitments under the EU-Indonesia FLEGT VPA with its SVLK, which the EU recognised after years of political and technical efforts [15].

SVLK focuses on assuring and licensing timber legality. In 2020 the SVLK was expanded to include sustainability. The VLK standard component proves legality in forest management and timber processing industries, and PHPL proves the sustainability of forest operations [16].

SVLK was developed as part of a successful, inclusive and participatory multi-stakeholder process. It has fostered legality compliance in timber value chains and facilitated coherent and more harmonised policies whilst strengthening the national forest institutional designs. At the same time, SVLK has less stringent requirements than sustainability certification, which eased compliance but also allowed for loopholes. Lack of clear guidance on the conduct of an audit, timber harvesting prior to permit granting and wood harvesting outside of designated state production forest areas were

identified as operational challenges [17].

Data obtained from Indonesia's Ministry of Environment and Forestry [18] indicates that the number of companies and industries, both legally verified and sustainably certified with SVLK standards, has grown steadily over time. The expectation of better market access partly drives the interest in engaging in SVLK. Official statistics indicate no significant changes in exports to the EU. This might signal lower policy support and market demand from EU countries for FLEGT-licensed timber from Indonesia.



Deforestation, Indonesia.

[15] European Commission, 2016. Press release- EU and Indonesia celebrate cooperation milestone in sustainable management of forests [WWW Document]. <https://ec.europa.eu>. URL https://ec.europa.eu/environment/pdf/28_11_16_news_en.pdf (accessed 10.24.22).

[16] Susilawati, D., & Kanowski, P. J. 2021. Sustainability certification and legality verification in Indonesian natural forest-based wood products value chains. *International Forestry Review*, 23(3), 365-391.

[17] Heilmayr, R., Benedict, J., 2022. Indonesia makes progress towards zero palm oil deforestation trase insights. URL <https://insights.trase.earth/insights/indonesia-makes-progress-towards-zero-palm-oil-deforestation/> (accessed 10.12.22).

[18] MoEF, n.d. INFOGRAFIS – SATU DATA SI PHL [WWW Document]. URL <https://phl.menlhk.go.id/infografis> (accessed 10.24.22).

3. Newly emerging deforestation policies in the EU, the UK, USA and China and their interaction with the FLEGT policy

3.1. Policy changes in the EU

The key EU regulatory policy change is the drafting and negotiating of a new EU Deforestation Regulation (EUDR). Upon adoption, the EUDR would repeal the EUTR but nonetheless build and expand on the existing regulatory approach of prohibitions and due diligence obligations. Unlike the EU FLEGT policy, the draft EUDR extends the product scope to regulate agricultural FRCs (cattle, cocoa, coffee, oil palm, soya), wood and specified derived products. Legal obligations are further extended by the introduction of new ecological sustainability standards. The EUDR prohibits placing and trading specified products on the EU single market unless they are deforestation-free (i.e., zero deforestation and zero forest degradation), have been produced in compliance with producer countries' legislation and are covered by a specified due diligence statement. The EUDR will set in place a more detailed regulatory design, further developing due diligence obligations

and information requirements. The EUDR would newly introduce minimum inspection levels for CAs and a deforestation risk rating system. This country benchmarking system would allow for the evaluation and allocation of producing countries and regions into high, medium and low risk categories. Simplified due diligence would only be possible for low risk imports and exports. Under the EUDR, cooperation with producer countries to address deforestation and forest degradation would be mandatory for the European Commission (EC) and interested EU countries (e.g., via a new instrument called Forest Partnerships).

The green lane advantage offered to VPA countries under the EUTR would be reduced under the EUDR as FLEGT-licensed timber fulfils the EUDR's timber legality standard but not the deforestation-free sustainability standard [19;20].

[19] European Commission, 2021. Proposal for a Regulation of the European Parliament and of the Council on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010, COM(2021) 706 final. European Commission, Brussels.

[20] Council of the European Union, 2022. Draft Regulation of the European Parliament and of the Council on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 – General approach, 10284/22. Brussels.

3.2. Emerging policy changes in the UK and USA

In contrast to the EU, the UK is developing a separate legislative initiative to regulate agricultural FRC supply chains whilst maintaining the UKTR and negotiating bilateral UK partner country FLEGT VPAs. New due diligence provisions under the UK Environment Act foresee additional due diligence requirements for large businesses using specified agricultural FRCs and operating in the UK. Similarly, the USA maintains its Lacey Act to regulate timber legality and is now also seeking to regulate agricultural FRC supply chains through the proposed FOREST ACT of 2021, amending the Tariff Act of 1930 and the US Code.

In sum, the newly emerging deforestation policies in the EU, UK and USA do not provide for (substantial) policy support and market demand for FLEGT-licensed legal timber.

4. Key lessons: what is the (in-)effectiveness of FLEGT policy?



Logging activities, Indonesia.

When comparing the FLEGT Action Plan's expected theory of change with its formal and practical implementation, a range of key lessons can be drawn regarding the FLEGT policy's (in)effectiveness. The main discrepancies are summarised in Table 2, followed by the main lessons on key challenges.

Table 2: Expectations and reality of the FLEGT theory of change

EXPECTATION	REALITY
Decreased supply of illegal timber from third countries (and eventually globally)	
EU countries implement the EUTR/FLEGT Regulation in a coherent and rigorous way to prevent illegal timber from entering the EU market.	EU countries put efforts into implementing the EUTR/FLEGT Regulation. Despite some achievements, the practical enforcement by MS authorities and compliance by economic operators is incoherent and insufficient. Illegal timber still enters the EU market and other non-EU consumer markets.
Increased demand for legal timber on the EU market (and eventually globally)	
FLEGT licenses of legal timber promote market access to the European (and global) market.	<p>The green lane under the EUTR enables European market access for FLEGT-licensed timber. However, the majority of EU countries' TPPs do not explicitly demand FLEGT timber, and non-EU markets do not formally recognise FLEGT licenses as a green lane.</p> <p>Exports of timber products from Indonesia increased after achieving the FLEGT licensing stage, but current export volumes to the EU market show no substantial increase.</p> <p>FLEGT-licensed, privately certified (e.g., FSC/PEFC), uncertified/licensed tropical and non-tropical timber compete for market access on EU and non-EU consumer markets.</p>
Improved policy, market and societal perception of FLEGT-licensed (tropical) timber within the EU (and global) consumer markets	
National TLAS, like the Indonesian SVLK, are well known and positively perceived as a legal timber standard by EU and non-EU markets.	<p>National TLAS, like SVLK, are not well known in EU and non-EU consumer markets. There is a general policy mistrust and lower market value for solely legal timber.</p> <p>The fact that Indonesia is the only country exporting FLEGT-licensed timber and timber products limited the interest in including FLEGT in policy frameworks (e.g., public and private procurement).</p>
National TLAS, like the Indonesian SVLK, are well known and recognised as a standard for sustainable timber by EU and non-EU markets.	National TLAS, like the Indonesian SVLK, are poorly known and recognised by only two EU countries as a standard for both legality and sustainability.

5. FLEGT policy implementation challenges

During the stakeholder workshop, state and non-state actors identified the most important demand and supply side FLEGT implementation challenges. The main challenges and policy recommendations are summarised in the following sections.

5.1 Challenges on the demand and supply side

One main challenge faced by the EU and VPA countries is the complicated, lengthy and resource-intensive (e.g., human, financial, technical) process of negotiating and implementing FLEGT VPAs. Only Indonesia exports FLEGT-licensed timber, substantially limiting the volume of available FLEGT timber on the market and FLEGT's expected impact.

An overall lack of proper information and communication resulted in a lack of knowledge and awareness in European and non-European consumer markets about the value of FLEGT-licensed timber and TLAS. These informational deficiencies, partially due to an ineffective FLEGT and SVLK branding, continued the general lack of trust in tropical timber and fed into the insufficient policy support and market demand for FLEGT-licensed timber in particular. This is further aggravated by the lack of effective communication between the consumer and producer side. This, for example, results in unawareness among EU authorities and market actors on SVLK's adoption to

include sustainability criteria; and tropical countries' limited knowledge of the EUDR's impact on the FLEGT policy.

The challenges above augment the institutional barrier of no accountability system between the EU and FLEGT VPA partner countries. Inaction or action shortcomings do not lead to repercussions or the enforcement of adaptive measures. Despite several existing multi-stakeholder mechanisms on the supply (e.g., FLEGT Joint Expert Meeting (JEM), Joint Implementation Committee (JIC)) and demand side (e.g., EC's EUTR/FLEGT expert group; FLEGT/Deforestation expert group) effective mechanisms, in terms of complying with EU-partner country FLEGT VPA's legal obligations, are lacking.

Market-based challenges include connecting supply and demand side actors; and increased costs incurred for verifying and certifying the same EU-intended timber for legality (under the FLEGT VPA or EUTR) and sustainability

(under FSC, PEFC) with different proof mechanisms. A general lack of economic estimates about due diligence costs under the EUTR, and other demand side legislation (e.g., US Lacey Act, ILPA), compared to potential FLEGT-related savings (e.g., financial, administrative), represent another economic barrier.

5.2 Challenges on the demand side

The lack of a harmonised international standard for legality and sustainability is one of the key barriers to increased market uptake and global policy support for FLEGT-licensed timber.

Misaligned demand side measures (based on state-based legality rules (e.g., EUTR, FLEGT Regulation, US Lacey Act)), non-state market-driven governance standards (e.g., forest certification under FSC, PEFC) and private sector action (e.g., procurement decisions), resulted in an unlevelled global playing field. This policy fragmentation is also reflected in the newly emerging legislative initiatives in the EU, UK and USA regarding the regulation of agricultural FRC supply chains (e.g. continued focus on commodity legality in the UK and USA vs EU-led focus on commodity sustainability).

Tropical timber exporters and importers reported compliance struggles with the

myriad standards from consumer countries and private sector regulations. Relatedly, rapid changes ('changing goal posts') in demand and consumer-side regulations (e.g., EU, UK, USA, Australia) were perceived as disruptive to the stability of institutional frameworks, which is necessary for long-term decision-making and sustainable investment. Expert workshop participants also highlighted the lack of a mechanism to ensure the full implementation of the EU-Indonesia FLEGT VPA agreement and demand side commitments. Insufficient political will and lack of capacities and resources to enforce the FLEGT Action Plan across EU MS and the UK were mentioned. Insufficient FLEGT-related procurement policies prevented broader market uptake and led to a stronger de-facto prioritisation of global certification standards (e.g. FSC and PEFC). The unclear status of FLEGT in the TPPs of non-EU countries further impacted FLEGT timber and TLAS and SVLK systems.

Furthermore, while FLEGT implementation on the supply side (e.g., Indonesia) is well-researched, FLEGT implementation on the demand side (e.g., EU) is less researched, limiting informed decision-making. In the context of the EUDR, the legitimacy of EU external action-oriented trade rules was questioned; for example, the EU's unilateral decision to set new trade rules which goes against the legitimacy of producer countries to set their own standards (e.g. legally planned vs illegal unplanned deforestation in Indonesia).

5.3 Challenges on the supply side

The non-involvement in the FLEGT policy of important timber producing and exporting countries (e.g., Brazil, Russia) and consuming and/or exporting countries (e.g., China, India) is a major barrier in addressing illegality in the forest sector and impeded FLEGT's potential impacts. The export from VPA tropical timber-producing countries to less regulated and less demanding domestic and international markets (e.g. China, Viet Nam and India) also reduced the overall trust towards the supplied timber. Additional trust-reducing factors are regulatory and governance weaknesses and their fragmentation on the supply side. This includes the variety of definitions for (il)legal timber due to varying national laws, limited progress implementing FLEGT VPAs and incoherent and partially defective implementation of TLAS in partner countries. For instance, there is no rigorous and trusted international mechanism for recognising national TLAS systems, thus contributing to risks of regulatory fragmentation and standard deviation.

Strong market competition between tropical countries (e.g. Indonesia vs Viet Nam vs Malaysia) for the same EU and non-EU consumer export markets is an additional barrier. It prevents greater volumes of FLEGT timber from being produced and supplying the market; and prevents stronger collaboration between VPA countries to voice shared interests, set harmonised supply side standards and manage timber demand. As a result, there is no institutionalised coalition of tropical VPA countries to foster broader market recognition of national TLAS. Workshop participants also observed that the lack of knowledge of consumer country decision-making procedures makes it more difficult for supply side countries to engage with decision-makers at the right time to influence the decision-making procedure and regulatory design phase.



Working groups on the FLEGT implementation challenges, Berlin, 22.09.2022.

6. Policy recommendations to strengthen FLEGT in the changing regulatory context

6.1 Policy recommendations for consumer and demand side actors

- **Demand and supply side stakeholder engagement, communication and consensus, from the start, are vital.** The FLEGT/VPA multi-stakeholder approaches in Indonesia and other producer countries should be directly linked to EU level multi-stakeholder processes (EUTR/FLEGT working group; EU FLEGT/Deforestation working group) and thus secure broader common understanding, agreement, legitimacy, accountability and mutual recognition.
- **More regular and closer cooperation between policymakers and law enforcement authorities in producer and consumer countries.** Jointly coordinated policy and enforcement actions (exchange of information, lessons learnt) will help address and adapt to policy and market issues (e.g. control system operationalisation, national rule implementation).
- **More public-private policy coordination.** Collaborative action and harmonisation of rules between voluntary sustainability schemes (FSC/PEFC certification) and mandatory policies (TLAS, EUTR/FLEGT VPAs, TPP) should be promoted to increase cost efficiency and reduce FLEGT timber market discrimination.
- **More nuanced storytelling about FLEGT on the supply and demand side.** Narratives are important tools to influence attitudes and motivate decision-makers, stakeholders and research/think tanks on the policy, market and societal impacts of FLEGT. The current focus on challenges and limited effectiveness needs to be communicated but complemented by positive storytelling based on facts, research evidence and practical knowledge.
- **Creation of an international mechanism to reduce current regulatory fragmentation and deviation.** A narrow and solely national/regional focus runs the risk of remaining ineffective at the global level.

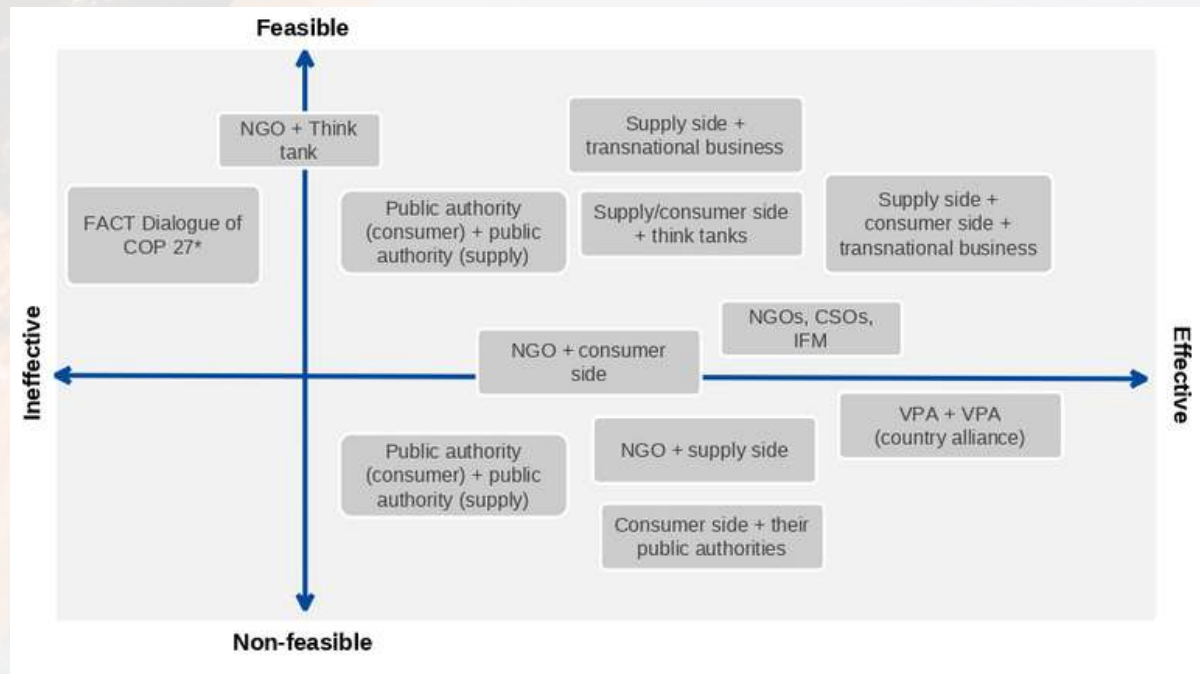
6.2. Policy recommendations for consumer-side actors

- **Focus on positive storytelling to (re-)build demand side trust in FLEGT and national TLAS.** The somewhat negative discourse around FLEGT, especially regarding its inconsistent EU implementation and resource intensive implementation for producer countries, has led to a more cautionary stance and reluctance on the producer side. If not addressed adequately, it could morph into a hindering factor in further international action (e.g. EUDR, US Forest Act) on zero deforestation goals.
- **Revise and better implement existing policies to support FLEGT.** There is a need for more coherent and sufficient implementation of existing legal timber trade policies in the EU (EUTR/EU FLEGT Regulation), the UK (UKTR), the USA (Lacey Act), Australia (ILPA), and China (Forest Law) to remove illegal timber from international markets, and avoid market leakage. Hesitance to adapt policies and allowing unclarity to create loopholes should be avoided. For example, public timber procurement policies should be mandatory and implemented at the regional and local, and not just national level.
- **Take a long-term perspective to evaluate FLEGT development and impacts.** A greater longitudinal perspective is needed so that long processes such as FLEGT have the time to create systemic change. Systematic research and supportive public opinion could counteract short-term political agendas.
- **Build on lessons learned from what worked under FLEGT VPAs.** VPA partner countries (e.g., Indonesia) appreciated FLEGT VPAs as a legitimate policy instrument that supported systemic and lasting supply side forest governance reforms. Future cooperation mechanisms (e.g., Forest Partnerships under the EUDR, UK-partner country FLEGT VPAs) need to address FLEGT VPA shortcomings but also recognise and build on FLEGT-related positive supply side transformations. This includes demand side flexibility in recognising Indonesia's efforts in further improving the SVLK system and making a possible expansion of SVLK for agricultural FRCs possible.

6.3. Policy recommendations for tropical timber supplying actors

- **Wide-spread FLEGT-supportive policies are also required in producing countries.** A complementary measure is a national TPP that lists FLEGT as proof of legality and sustainability criteria. This would strengthen market demand for FLEGT timber and further push for the removal of illegal timber in supply chains.
- **More robust TLAS under FLEGT need to be operational.** For all TLAS systems, countries need to prove, with research evidence, facts and practical knowledge, the removal of illegal timber from supply chains and avoided leakage.
- **Transition towards including robust sustainability criteria.** There is a general trend in consumer countries demanding stricter socio-environmental sustainability criteria. Incorporating such criteria during the policy design, implementation and review phases (e.g., of TLAS) will ensure greater acceptance and increase adaptability to changing regulatory contexts (e.g., new sustainability standards under the EUDR).
- **More trust-building.** Measures to increase demand side trust in a commodity's sustainability and legality (e.g., robust, known and internationally recognised TLAS) would counteract continued negative perceptions on consumer markets, stimulating market demand.
- **Skilful leadership to unite and voice interests.** Greater and more strategic inclusion of actors that can influence the discourse and decision-makers need to be rallied. This can include capitalising on the momentum behind public consultations and mutual actions and campaigns between state authorities, industry and business actors, ENGOs and civil society organisations (CSOs).
- **Strategic coalitional building.** A powerful coalition between tropical producer countries is recommendable to counteract supply side regulatory fragmentation and have a sound position in negotiations with consumer countries.

Figure 1: An overview of (in-)feasible and (in-)effective strategic alliances to strengthen the role of FLEGT policy in the changing regulatory context



* Forests, Agriculture and Commodity Trade (FACT) Dialogue is chaired by the UK and Indonesia. This multi-stakeholder government led dialogue aims at accelerating the transition towards more sustainable land-use practices and will be convening again during the COP27 in Egypt.

Acknowledgements

The research and publication of this policy brief were made possible with the support of the Forest, Markets and Climate Governance (FGMC) programme of the UK Government Foreign, Commonwealth and Development Office (FCDO). The Indonesian Embassy to Germany has kindly co-funded this policy brief.

Suggested citation:

Sotirov, M., Berning, L., Eckelmann, J., Maryudi, A., Pratama, A., Laraswati, D. (2022). Forest Law Enforcement, Governance, and Trade (FLEGT) implementation in Europe and Indonesia and the implications of timber legality and deforestation policy changes in the EU, UK, USA and China. A Policy Brief. University of Freiburg, Germany, and Universitas Gadjah Mada, Yogyakarta, Indonesia.

Design and layout:

Sofia Konstantinova, University of Freiburg, Germany



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