

The EU takes its FLEGT action plan to the world's biggest exporter of tropical logs

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Radio tagged: RFID gantry in Sabah monitoring log movements. *Photo: B.H. Ghazali*

In May 2003 the European Union (EU) released for adoption its Forest Law Enforcement Governance and Trade (FLEGT) Action Plan, the primary aim of which is to address problems associated with illegal timber and related trade. In its FLEGT Briefing Notes, the EU explains that, under the Action Plan, it will establish a timber export licensing system to verify the legality of timber exports from FLEGT partner countries to the EU. The Action Plan lists logs, sawnwood, plywood and veneer as wood products to be subjected to FLEGT rules.

At the core of the EU FLEGT Action Plan are two-way voluntary partnership agreements (VPAs) between the EU and individual timber-producing countries. Each 'partner country' that enters into a VPA with the EU agrees to implement a system to verify that its wood-product exports to the EU have been produced legally. Under a proposed regulation, the EU's border-control authorities would allow imports only of licensed products from partner countries.

As part of a larger ITTO study (Simula 2010), the author reviewed the potential costs of a VPA in Malaysia. Some of the main findings are presented here.

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Nuts and bolts of a VPA

VPAs have two particularly crucial elements that need agreement. First, a common interpretation of 'legality' (under the country's prevailing laws and policies) in timber production and trade must be agreed. Second, there should be agreement on whether the partner country's existing timber legality assurance system (TLAS) is ready for immediate formalization under the VPA or if it needs further refinement

to meet validation requirements. A country's TLAS, backed by existing forest legislation, sets the standards for deciding the legal status of timber products. It is also the basis for approving the issuance of export licenses for timber heading to EU destinations.

Other major items in VPA negotiations are the sensitive issue of requesting a partner country's consent to carry out independent monitoring of its TLAS, and the use of timber-export licenses as VPA licenses for verifying timber legality.

The main incentive for tropical-timber-producing countries to participate in a VPA is a support program funded by the EU to enable the partner country to strengthen its forest administration, such as by upgrading enforcement capacity, increasing field monitoring, and improving governance and transparency. The EU argues that this will go a long way towards overcoming problems of illegal logging and other forest-related infractions and that partner countries stand to gain in the long run through improved forest management and a reputation for producing 'clean timber'.

The EU and the Government of Malaysia are now negotiating a VPA. The aim is to find a meeting point between the EU's timber procurement policy and Malaysia's TLAS, and to blend the two into a workable framework for action. But what will the VPA bring to Malaysia's forestry and timber industry?

Malaysia—rainforest country

More than half of Malaysia's total land area is covered in rainforest. These forests are dominated by dipterocarps, which produce some of the world's most popular utility hardwood species. They are also home to a multitude of wildlife and plant species and a huge reservoir of herbs that are much used in traditional medicine and are stirring interest among a

number of pharmaceutical giants. The country has several large national parks and wildlife sanctuaries.

Malaysia is a major producer of tropical timber but it has a relatively small domestic market; most of its wood products, therefore, are exported. Malaysia is the world's top exporter of tropical logs (close to 5 million m³ annually) and is a close second to Indonesia in the supply of plywood (more than 3 million m³). It is the world's eighth leading exporter of sawnwood (just over 1 million m³), and the tenth-largest exporter of wooden furniture (third in Asia behind China and Vietnam) to some 160 export destinations.

Managing the rainforest

Malaysia's lush rainforests contribute to the beauty of the country's landscape and they also have immense ecological and socioeconomic attributes. In managing its forests Malaysia adheres to sustainability principles. The Forestry Department takes great pains to institute forest protection measures to ensure the long-term security of the resource and to strengthen the control of activities on the ground. The country's selective management system imposes area and volume controls over timber-harvesting. There is an ongoing process to upgrade skills, and new technologies are continually being sought and tested to facilitate (for example) timber-tracking and forest surveillance. Current field practices, which include the control and monitoring of the forest-to-mill and mill-to-port timber supply chains, constitute Malaysia's TLAS; with some modification the TLAS is capable of assuring a consistent flow of what the EU considers to be clean timber.

Commitments for an accord

Malaysia will adapt its TLAS to meet the EU's requirements for verifying the status of designated products. Once the products are verified as legally produced, an export license will be issued to permit shipping to EU markets. Under the VPA, Malaysia will allow the EU to monitor Malaysia's TLAS operations.

The EU's main obligation to Malaysia under the VPA will be to provide integrated technical and financial support for capacity building to ensure the long-term security of the forest and to help modernize the forest administration and governance. The EU will also assist in measures to promote trade in legal timber and to address the problem of conflict timber.

The EU's assistance through a VPA will improve the Forestry Department's effectiveness in field supervision and forest administration in general. A well-executed TLAS, backed by the application of modern communication systems, will safeguard the forest and allow little room for illegal activities, thereby enhancing conservation and sustainability.

VPAs are designed to bring order to forest harvesting and to eradicate problems associated with forest degradation. A modernization of forest management systems will improve productivity, create an environment that supports ethical approaches, and lead to greater professionalism in forestry.

Notwithstanding this, much of the basis for good forest governance is already in place in Malaysia, including a field unit dedicated to the operation of the TLAS. Forest management manuals coupled with the procedural documents of ISO 9001:2000 already deal with all aspects of field operations.

Opportunities and fear in the timber industry

Under a VPA, loggers, mill operators and exporters will need to be accountable by providing evidence of legality in timber sourcing; when they do so the industry will be free of any form of restriction in EU markets. It is not beyond the industry to achieve this and to earn the confidence of the market. This should be viewed as a type of national branding.

Nevertheless, the industry worries that under a VPA it will lose out to competition. Non-VPA countries can, for example, circumvent FLEGT controls and launder illegal timber. The loopholes that allow such violations are enormous. Today, mid-ocean documentation changes give unscrupulous mill operators the opportunity to bring in illegally sourced timbers, process them, and re-export them to open markets, including FLEGT countries.

The industry sees little prospect of a market advantage under a VPA. There is concern, for example, about the extra cost of compliance. Existing regulations are felt to be tough enough, and the industry feels that it is now facing the possibility of further trade restrictions. There is uncertainty over the impact of timber legality definitions on supply, particularly those related to native rights. And there are doubts about the existence of price incentives for VPA-licensed timber.

The timber industry is pessimistic about the future. Mills have been hurt by cost escalations for some time and the global market downturn has also had an effect. Strong operators with long-term security of log supply will recover, but unless the VPA proves to be immediately beneficial for business, many industrial companies will be inclined to look elsewhere for their profits. Some may move into customized designer wood products not covered by the VPA and other TPPs, while others may seek benefits from the fast-expanding technologies in non-wood-fiber processing.

Resource and cost implications

Fulfilling VPA requirements will impose a financial burden on the Malaysian forestry sector. The EU will play an important role in relieving this burden. The Forestry Department has drawn up several capacity-building proposals costing some €1.2 million and has called for the EU's assistance to fund these proposals.

In addition, there are plans for institutional restructuring—largely to increase the security of the forest resource—through projects costing about €3 million. These will cover investments in infrastructure, including the hiring of helicopters for air surveillance, ground logistics, and the establishment of a timber-related forensic base. The enforcement division at the Forestry Headquarters will also be strengthened.

The states are developing parallel proposals to increase human resources and facilities for the enforcement teams, including the recruitment of wood-science forensic specialists. Currently, harvesting under a sustainable forest management regime costs more than it does under a 'conventional' regime—by up to 41% per m³ of harvested wood (see table) and up to 38.5% per hectare.

Calculated over a cutting cycle, the present-value costs of forest management and harvesting would increase from €841 to €1367 per hectare. In addition,

Cost of sustainability

Average cost of harvesting per m³ of log produced

Activity	MC&I compliance*		Conventional practice	
	(ringgit/m ³)	(%)	(ringgit/m ³)	(%)
Management plan	1.17	0.59	0.24	0.21
Pre-felling activities	17.68	8.91	4.67	3.99
Road construction	33.57	16.91	3.86	3.30
Felling and related operations	78.65	39.61	55.10	47.07
Taxation	67.18	33.84	53.18	45.43
Additional training on MC&I (certification standard) compliance	0.29	0.15	0.00	0.00
Total cost per m ³	198.54	100.00	117.05	100.00

*MC&I = Malaysian criteria and indicators for sustainable forest management.

Source: Malaysian Timber Council

the industry would have to pay the cost of field-auditing under the Malaysian Timber Certification System and the cost of chain-of-custody certification. The government would pay the cost of the independent monitoring of the TLAS.

Socioeconomic implications

There is growing evidence of global support for national policies on tropical rainforest conservation. Implementation of an EU–Malaysia VPA, therefore, could contribute towards improving Malaysia's green credentials. Malaysia is encouraged by the steady flow of domestic as well as international visitors to its forest parks and is keen to show the world its unique and immensely rich rainforests. Perhaps a VPA would help to encourage world visitors to witness the important work being done by Malaysia in managing and conserving its rainforests.

The government has gone a long way in compensating and re-settling forest-dependent communities affected by logging operations. Forest licenses and logging roads are planned to exclude native and aboriginal settlements and their immediate surroundings, and particular attention is paid to preventing forest operations from affecting cultural sites and burial grounds. Forest communities are duly compensated for any inconvenience caused to them by logging or related activities. In addition, workers in nearby forest communities are often employed by logging companies, which recognize their skills and deep local knowledge.

In stakeholder consultations, however, the government is yet to find a consensus on issues of land ownership and logging rights. Native customary rights and demands for greater participation and decision-making in forest licensing are the sources of unending arguments between social NGOs and government, and they remain delicate and difficult issues. Existing state legislation may be unable to deal with some aspects of such problems.

Conclusion

The industry still remains sceptical of a VPA, regarding it as cumbersome and excessive. It will impose costs on the industry in meeting the documentation requirements of a new reporting system. Similarly, the industry faces the prospect of more intensive surveillance and auditing.

The industry is concerned that the provisions of a VPA will be far from final and there are fears that more restrictions will follow. In a way, this may soon be borne out. A set of new regulations called 'due diligence' is now being debated in the EU parliament. If brought into effect it would likely extend the initial product list of logs, sawnwood, plywood and veneer to wood manufactures (similar to the product scope that applies under the United States' Lacey Act). Environmentalists doubt the efficacy of VPAs and warn of loopholes in the system. They insist that the European Commission impose tighter restrictions and broaden product coverage.

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Malaysia is divided geographically into three timber-producing regions—Peninsular Malaysia, Sabah and Sarawak—with significant variations in industrial development, socioeconomic conditions and export markets. In Peninsular Malaysia the EU timber market is particularly important, while Sarawak and Sabah look to the East Asian countries as their major markets. Therefore, the latter two states do not see the same benefits of participating in a VPA as Peninsular Malaysia does. It may take time to persuade the timber industry in Sabah and Sarawak to enter into the VPA negotiations. A more pragmatic move might be for Malaysia to do so in stages, and by region, starting with Peninsular Malaysia.

Reference

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