



CHATHAM HOUSE

Chatham House, 10 St James's Square, London SW1Y 4LE

T: +44 (0)20 7957 5700 E: [contact@chathamhouse.org](mailto:contact@chathamhouse.org)

F: +44 (0)20 7957 5710 [www.chathamhouse.org](http://www.chathamhouse.org)

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## Environment, Energy and Resources Meeting Summary

# 21st Illegal Logging Stakeholder Consultation and Update Meeting

7–8 February 2013

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## LIST OF ABBREVIATIONS

BMP	Best Management Practice
BRIC	Brazil, Russia, China and India
CA	Competent Authority
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
DDS	Due Diligence System
EUTR	European Union Timber Regulation
FDA	Forestry Development Authority
FLEG	Forestry Law Enforcement Governance and Trade
FTA	Free Trade Agreement
IA	Independent Auditor
IM	Independent Monitoring
IM-CSC	Independent monitoring by civil society and communities
IM-FLEG	Independent monitoring of Forest Law Enforcement and Governance
JIC	Joint Implementation Committee
KPCS	Kimberley Process Certification Scheme
LAS	Legality Assurance System
MS	European Union member state
NGO	Non-governmental organization
ODA	Overseas Development Assistance
PUP	Private Use Permit
REDD+	Reduced Emissions from Deforestation and Forest Degradation
SFM	Sustainable Forest Management
SME	Small- and medium-sized enterprises
SVLK	Indonesia's Timber Legality Assurance System
TLAS/LAS	Timber Legality Assurance System
TTF	Timber Trade Federation
UNFCCC	United Nations Framework Convention on Climate Change
VPA	Voluntary Partnership Agreement
WTO	World Trade Organisation

## INTRODUCTION

The 21st Illegal Logging Stakeholder Consultation and Update meeting was held at Chatham House on 7 and 8 February 2013, bringing together around 250 representatives from government, civil society and the private sector. Ten years after the launch of the European Union's Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan, this meeting sought to reflect on the progress made in negotiating and developing the FLEGT Voluntary Partnership Agreements (VPAs), and to consider the challenges and opportunities that lie ahead in light of the entry into force on 3 March 2013 of the EU Timber Regulation (EUTR). The presentations and discussions provided an update on the current state of play of the VPAs, and assessed several key elements of the agreements, including independent and civil society monitoring, Legality Assurance Systems, and finance in the forest sector.<sup>1</sup> The anticipated impact of the EUTR upon these VPAs, and upon the private sector, was also discussed. This report provides a summary of the presentations given, together with an overview of the issues debated over the course of the two days.

## KEYNOTE SPEECH: LYNNE FEATHERSTONE MP

### Chair: Robin Niblett, Chatham House

The keynote speech was given by Lynne Featherstone MP. Having previously served as the Liberal Democrats' spokesperson for international development and for youth and equalities, and as Home Office minister for equalities and criminal information, she was appointed as parliamentary under-secretary of state for international development in September 2012. Ms Featherstone provided a rich overview of both the progress made over the past 10 years in tackling illegal logging and deforestation, and the scale of the challenge that remains. The complexity and global reach of deforestation require individual and collective action, and, while incremental progress has been made, it has nevertheless been slow. Chatham House's Illegal Logging Update meetings have served to play a key role in creating the space for meaningful dialogue between a range of diverse stakeholders, and are testament to the power of collaborative engagement. The United Kingdom's contribution to such a multi-stakeholder approach, through its involvement in the FLEGT Action Plan, has yielded positive results, with FLEGT policies protecting the livelihoods of tens of millions of people across the world. The UK Department for International Development (DFID) recently committed an additional £19 million to the programme, bringing the total budget for the Action Plan to £79 million.

The drivers of deforestation, however, are numerous and complex, with competition for land use becoming increasingly intense. As demand for commodities such as beef and palm oil continues to rise, so too does the rate of forest clearance and conversion. Solutions to this problem, such as the intensification of land already in use for agriculture, are urgently needed if we are to slow the rate of deforestation. Governance challenges inherent to deforestation also continue: illegal logging gives rise to conflict, undermines the rule of law, threatens communities' tenure rights, and deprives governments of much needed revenue. If we are to tackle these issues, we need to support a transition to transparent supply chains and the sustainable use of land. Public procurement policies, such as the UK government's commitment to 100 per cent sustainable palm oil by the end of 2015, are a crucial step towards doing so.

Through its Forest Governance, Markets and Climate Programme, the UK's Department for International Development has sought to address the main drivers of deforestation and illegal logging, and to respond to the changing climate of the global timber trade by engaging with emerging players such as China. DFID's new Forests and Climate Change Programme is intended as a means to take this work further and to work with communities to encourage sustainable practices in forest management. As we continue to tackle illegal logging and deforestation, and to discuss national and global initiatives aimed at curbing the rate of forest conversion, we must all remember that individual actions, such as purchasing legal and sustainable products, are equally as important to achieving our common goals.

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<sup>1</sup> The PowerPoint presentations are also available from the webpage for this meeting: [http://illegal-logging.info/item\\_single.php?it\\_id=286&it=event](http://illegal-logging.info/item_single.php?it_id=286&it=event).

## **SESSION 1. THE FLEGT ACTION PLAN: GOALS AND WHAT HAS BEEN ACHIEVED<sup>2</sup>**

### **Chair: Alison Hoare, Chatham House**

The first presentation was by Cristiana Pasca Palmer of the European Commission, and provided an overview of the principal aims of the Action Plan and of the progress made over the past ten years. The FLEGT Action Plan signalled an understanding of illegal logging as a problem which is to be tackled not only in producer countries, but also through consumer markets. The Action Plan was thus intended as a collection of policy measures which would address both the supply and demand sides of the trade in illegal timber.

The FLEGT Action Plan incorporates a number of components, including Voluntary Partnerships Agreements, the EU Timber Regulation, civil society and private sector support initiatives, public procurement policies, investment measures, and procedures aimed at curbing the trade in conflict timber. Of these, the Voluntary Partnership Agreements (VPAs) have come to form the cornerstone of the Action Plan as a whole. The VPAs have achieved considerable success in fostering multi-stakeholder participation within producer countries. In many cases, this is the first time that civil society organizations have been invited to the negotiating table, and their engagement has had important consequences in terms of the development of these agreements. The VPAs have also had a formative influence upon the EU Timber Regulation, particularly in terms of the understanding of 'legality' which underlies the EUTR.

The Action Plan has achieved considerable success in fostering equitable and meaningful partnerships between the EU and partner countries, in linking the supply and demand sides of the international market, and by separating governance discourse from discussions of development assistance. There is still a long way to go, however, and a more cohesive approach will be required if the VPAs and Action Plan are to remain effective. Greater collaboration with initiatives in other major consumer markets, particularly the United States, Australia, China, and Japan, will strengthen EU policies which target the global trade in illegal timber; improved interaction and lesson-sharing between FLEGT and REDD+ will enhance the effectiveness of both processes; and a thorough re-assessment of the pertinence of current approaches in light of evolving trade relations, above all in emerging producer countries, will be necessary to ensuring the future success of the Action Plan. The European Commission remains committed to moving forwards with the system and to adapting to these challenges.

The second presentation was given by Penny Davies of the Ford Foundation, and sought to assess both how the broader context of the illegal timber trade has changed over the past ten years and what impact this will have upon the future of the FLEGT Action Plan.

Many of the assumptions upon which the FLEGT Action Plan was founded ten years ago remain strikingly relevant today: the need to accept shared responsibility across consumer and producer countries; the importance of bilateral agreements, and their contribution to a plurilateral process; the advantages of aligning development policy with other policy areas, such as consumer procurement policies and trade; and the power of a multi-stakeholder process which involves the equal and continued participation of all actors. The commitment made to rethinking regulations, institutions and systems at the start of the process seems as pertinent now as it was then.

There is nevertheless a need to learn lessons from the past decade, and to ensure that these lessons are heeded in the future, both within the EU and across international consumer markets. The US' commitment to developing new approaches to climate change provides a fruitful opportunity to promote better understanding of the multiple components of the FLEGT Action Plan. Central to this will be dispelling the misconception held in the United States that the Action Plan is synonymous with the EUTR, and that its requirements are equivalent to those of the US Lacey Act.

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<sup>2</sup> The PowerPoint presentations for this session are available at the following links: Cristiana Pasca Palmer, European Commission <http://illegal-logging.info/uploads/PascaPalmer070213.pdf>; Penny Davies, Ford Foundation <http://illegal-logging.info/uploads/Davies070213.pdf>.

A similar misunderstanding in Asia, where the Action Plan is thought to centre upon trade and trafficking alone, reflects a growing need to engage in a more coherent and effective manner with other global players.

We must encourage a broader understanding of the Action Plan's objectives, and ensure that it is not viewed simply as a licensing system targeted at tracking commodities. The credibility of the FLEGT Action Plan will be at stake over the next six or seven months, as the VPA licensing system and joint independent monitoring mechanisms come into operation. There is great potential for mutual lesson learning between consumer and producer markets, above all in developing measures which foster broader governance changes while respecting communities' rights to manage the resources upon which they depend. We must conduct a deep, thorough and honest assessment of the FLEGT Action Plan and ask fundamental questions about the success of actions taken and their relevance to the future. As yet there has been little systematic monitoring of the Action Plan and of which actors have benefited. If we are to move forward, this must be rectified.

## Questions & discussion

The first question from the audience concerned the readiness of multilateral institutions such as the European Commission, World Bank or United Nations, to implement more effective monitoring of human rights abuses related to the trade in illegal timber. Ms Davies responded that, while there is a role for the United Nations in tracking human rights abuses, the FLEGT Action Plan has shown that a bilateral approach has proved to be the most effective in enforcement more generally, since such an approach allows for informal cooperation between enforcement agencies, which should be more widely promoted. Bilateral cooperation could be particularly effective between the US and Asian custom agencies in fostering closer alignment in their operations.

Further questions focused on the potential for lesson learning between VPA countries, and for the Action Plan to be extended to new countries such as Japan. The representative from the European Commission responded that there have been significant improvements in terms of transparency and knowledge-sharing which in turn have created important opportunities for fostering collaboration between VPA countries. The EU is also looking to expand this beyond existing partners, and to new consumer markets including Japan. Concerns were also raised over a potential shift from hardwood products derived from natural forests towards softwood markets, thereby discouraging 'green' trade and encouraging the conversion of natural forests to plantations. The representative from the Ford Foundation responded that the key issue is whether or not robust legality systems are in place, regardless of where the wood is coming from. The focus should be on whether the allocation process is subject to controls and to independent monitoring. Another question related to the potential for extending the FLEGT Action Plan, or a similar approach, to encompass illegal trade in other commodities. The speakers replied that, while there is a need to share lessons with other sectors, and a potential to apply this model to other commodities, these lessons must first be learned from the forest sector. The priority should be to ensure the effective implementation of the FLEGT licensing system and the success of the Action Plan as a whole. The European Commission is committed, however, to addressing the illegal trade in other commodities as a future step.

## SESSION 2. VPA UPDATE: STATE OF PLAY<sup>3</sup>

### Chair: Duncan Brack

The first presentation was given by Mathieu Bousquet of the European Commission, and provided an update of the current status of VPA countries.

Ghana was the first country to conclude a VPA, and has since been followed by Cameroon, the Central African Republic, the Republic of Congo, Liberia and Indonesia. Procedures for legality verification are under development in Cameroon, and Liberia, with structures already in place in the Republic of Congo, and open for tendering in the Central African Republic. In Indonesia, SVLK certification is mandatory for timber exports from large scale enterprises as of 1 January 2013, with certified timber already being seen on the market, while small-scale producers will have until 1 January 2014.

Malaysia, Vietnam, Gabon, the Democratic Republic of Congo, Guyana, Honduras and Laos have entered into VPA negotiations. Côte d'Ivoire made a formal request in December 2012 to begin negotiating an agreement. Thailand and Cambodia have also shown an interest in negotiating a VPA, while Myanmar has sought to establish a dialogue on forest governance, including both FLEGT and REDD+, with the EU.

Over the course of the last ten years, the EU and VPA countries have faced a number of obstacles to the implementation of these agreements. The implementation process has taken much longer than anticipated, and reflects the complexity and depth of the governance changes involved in developing a successful and operational VPA. These changes range from legislative reform through governance structures to the relationship between state, corporate and civil society stakeholders. The mobilization of financial resources and development aid necessary to implement these new systems, to strengthen capacity and to support reforms, has also been a slow process. It is nevertheless crucial that we remain committed to the implementation of these ambitious agreements and to realize the challenge undertaken ten years ago.

The second presentation was from An Bollen of FERN who offered a comparison of existing VPAs and presented FERN's recently published report, *Improving forest Governance: A Comparison of FLEGT VPAs and their Impact*.

Each VPA is tailor-made to meet the particular requirements and priorities of the stakeholders involved, and as a whole the VPAs have evolved over time in response to lessons learned in each context. FERN's recently published research evaluates the VPAs in Ghana, the Republic of Congo, Cameroon, the Central African Republic, Indonesia and Liberia, and assesses them according to six principal issues, namely: coverage of timber products; coverage of exports, imports and the domestic market; the social dimensions of the VPAs; legal reforms; the transparency annex included in the VPAs; and monitoring.

The VPAs reflect an innovative approach to tackling the illegal trade in timber, incorporating social, legal and transparency measures as key components of the governance and legality assurance mechanisms. Experience has shown that, by integrating social dimensions into the verification system itself, VPAs can serve as an invaluable tool in strengthening community rights and in ensuring that social obligations are met. The legal dimension is included within an annex to the VPAs, with existing agreements reflecting two different approaches to fostering legal reform. The first details specific laws which must be improved, while the second defines broad policy areas which should be addressed. Also included in an annex to most VPAs is a list of documents which, in the interests of transparency, are to be made publicly available. Such a list is available in all existing VPA countries except Ghana, where it is currently under development. This requirement serves an important role in shedding light on documents which were previously beyond the reach of stakeholders, and its implementation is crucial both to strengthening civil society involvement and to enabling independent monitoring of the VPAs.

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<sup>3</sup> The PowerPoint presentations for this session are available at the following links: Mathieu Bousquet, European Commission <http://illegal-logging.info/uploads/Bousquet070213.pdf>; An Bollen, FERN <http://illegal-logging.info/uploads/AnBollen070213.pdf>; Pablo Pacheco, Center for International Forestry Research <http://illegal-logging.info/uploads/Pacheco070213.pdf>.

Among the recommendations made by FERN in its report is the need to prioritize the effective implementation of concluded VPAs. Only once the existing agreements are fully operational can an assessment of their success be made and lessons drawn for the future. In order to achieve a successful implementation phase, civil society organizations must be better represented and integrated into the process, while the EU and its member states must continue to provide financial, technical and political support to all stakeholders. The rigorous implementation of the EU Timber Regulation will be crucial to the future success of the VPAs, since the two initiatives are mutually supporting, while greater engagement with consumer initiatives in the United States and Australia will strengthen this further. The VPAs have exceeded expectations and hold great potential for broad improvements to governance in partner countries. In this way, they can offer important lessons for similar initiatives concerning other commodities, not least of which should be the meaningful and continued engagement of civil society in the process.

The third presentation in this session was given by Pablo Pacheco of the Center for International Forestry Research. It addressed the changing context within which VPAs have developed and offered insights into lessons to be taken forwards.

A number of trends have emerged since the start of the VPA process which reflect the evolving context within which the VPAs operate. Growing demand for agricultural crops, minerals and other commodities has led to increased competition for land, particularly in the forested areas of Africa, Asia and Latin America. At the same time, the dynamics of global trade are shifting, expanding both outwards and inwards: while trans-boundary and regional trade continues to grow, so too does the domestic market in the timber sector. Each of these trends gives rise to new challenges to the implementation of the VPAs.

The role of the domestic market and its integration into the VPA process is particularly complex. The domestic market has been included in negotiations in the majority of VPA countries, with the aim of ensuring that smallholders and chainsaw operators, who dominate this market, will become compliant with the laws and regulations governing the forest sector. While this will serve to bring small-scale producers into the formal market, the enforcement of forestry regulations among these actors can also have a negative effect, criminalizing informal practices upon which many communities may traditionally depend. The process by which formalization is managed is therefore of crucial importance, raising key questions concerning tenure rights, access to markets, financial support of smallholders, and their participation in forest management decision-making.

The level of engagement and cooperation with local actors seen across the small-scale informal sector will offer valuable lessons on how to achieve improved governance in the forest sector more broadly. The successful integration of this informal sector into the VPAs will nevertheless require a flexible approach which responds to the particular needs and characteristics of the local context. So as to foster positive engagement from all actors within the forest sector, the VPAs and the FLEGT Action Plan should be linked closely to governance initiatives in related areas, such as tenure rights, transparency and accountability, monitoring and enforcement, and the development of inclusive business models which support smallholders and large-scale investments from the private sector. Central to this will be a multi-stakeholder approach which harnesses existing structures and promotes lesson-learning across different policy areas and country contexts.

## Questions & discussion

Several questions raised by the audience concerned the issue of cross-border trade between VPA and non-VPA countries. Concerns were expressed over the capacity of both the VPAs and the upcoming EU Timber Regulation to ensure adequate monitoring and to mitigate risks of 'contamination' of timber flows into the EU. The representative from the EC responded that circumvention of this type was one of the major concerns of NGOs at the beginning of the VPA process. Whereas the onus for preventing such cross-contamination lies with the operator under the EUTR, several VPA countries, including Ghana and Cameroon, have developed strategic measures to control their imports and exports, thus limiting the risk of circumvention. There is also a need to engage third countries involved in the supply chain, such as China, and to ensure that bilateral trade relationships with these countries are sufficiently well managed.

There were general questions and comments on the extent to which the VPAs have met expectations, with one participant asking what the European Commission might do differently if the clock were to be wound back. The EC representative responded that the process has been much more resource-intensive than anticipated, which has slowed down the implementation of the VPAs. Ideally there would be a specialized task force in each country to foster expert knowledge and experience, but this would undermine the basic principles of the VPA as a participatory, open and consultative process. Certain improvements could be made to the disbursement procedure of development aid and the financial regulation of the EC; measures taken in this area, which is a member state competency, could improve efficiency and could accelerate the implementation process. The financing of the VPAs, particularly the Legality Assurance Systems, was identified as one of the principal challenges to tackle in moving forwards with the VPAs.

## **SESSION 3. VPA UPDATE: MOVING FORWARD WITH IMPLEMENTATION**

### **Chair: John Hudson**

This session comprised a panel discussion between: Alhassan Attah of the Ghana Forestry Commission; Paolo Cerutti of the Center for International Forestry Research; Victoria Cole of the Forestry Development Authority of Liberia; Julia Falconer of the European Forestry Institute; Joachim Kondi of the Ministry of Forest Economy from the Republic of Congo; and Serge Moukouri of Forests Monitor in the Republic of Congo.

Julia Falconer of EFI provided an introduction to the discussion, and highlighted some of the key challenges in the implementation of the VPAs. Following a period of intense negotiation and structured political discussions, the implementation stage brings with it a host of practical issues and decisions which reveal the vested interests, points of confusion and disagreements which remain among the different stakeholders. An agreement between stakeholders at the negotiation stage does not presuppose absolute agreement on each practical issue thereafter; rather, the negotiations have put in place a structure with which to deal with these different perspectives and competing priorities. The building of strong foundations must be a primary focus, with stakeholders organising themselves into committees and coming together through regulatory structures in order to move forwards. Reforms will be required in legislation, regulation and business practice, and crucial steps towards transparency, accountability and access to information must be made. Reporting, communicating and monitoring all represent additional challenges which require the continued commitment of all stakeholders.

In discussing what changes had been seen in the regulation of forest management since the signing of the VPAs, the panellists touched on a number of challenges which remain and whose importance was perhaps underestimated at the start of the VPA process. The role of the domestic market and the informal sector, and of how both fit into the overall structure and requirements of the VPA, is an issue to which a solution is needed if the VPAs are to be implemented successfully. A lack of finance and the often unequal distribution of benefits from timber exploitation were also raised as concerns for VPA countries, although significant progress was noted in some areas. The presence of an Independent Observer in the Republic of Congo for the past three years was thought to have supported changes in response to certain infractions, while considerable growth in the number of legality certification bodies since the development of the SVLK in Indonesia was identified as an indicator of positive change.

On the subject of the VPAs as a multi-stakeholder process, the difficulty in maintaining the engagement and understanding of all actors was emphasized. A lack of capacity among civil society groups, together with the technical nature of many aspects of VPA implementation, have served to limit the extent of civil society input into the process as it moves forwards. While a strong emphasis has been placed upon developing institutions and building capacity, there remain certain technical aspects of the process, such as the traceability system, in which civil society plays only a marginal role. Work is also needed on fostering greater understanding among the private sector of their obligations and of the benefits which they may reap from participating fully in the process. A similar need for improved communication was raised when discussing progress made in legal reforms relating to VPAs. It was felt that, in certain contexts, government departments outside the

forestry sector have not recognized the importance of pushing for structures and pursuing reforms so as to advance the VPAs. Civil society's engagement in this area of the implementation phase was also felt to be weaker than anticipated, with government bodies moving ahead at a speed which did not allow for sufficient input from civil society organizations.

## Questions & discussion

The first question from the audience focused on transparency and on the potential for stakeholders and external actors to monitor progress. Julia responded that formal access to information, including official documents, is included as a key element of the VPAs, with implementation committees assessing progress made several times a year. This information is made available on the European Commission website, and on the websites of VPA country ministries. Reports are published annually, and follow a structure as mandated in the agreement. Most of the VPAs include a commitment to publishing a host of documents, and Global Witness is playing a key role in monitoring the implementation of these commitments. VPA countries themselves are also investing considerably in transparency measures. The question of how the VPAs, and particularly the Legality Assurance Systems and Chain of Custody systems, will be financed was also raised. Speakers from the panel replied that, while donor assistance is currently providing the finance in a number of VPA countries, it is important to establish how long-term financing will be maintained. The idea of a tax levied on companies was put forward, but it was suggested that it was more a matter of improving the capture of revenue and ensuring that any money generated ends up where it should.

## SESSION 4. VPA UPDATE: WHAT ROLE FOR INDEPENDENT MONITORING AND CIVIL SOCIETY MONITORING?<sup>4</sup>

### Chair: Hugh Speechly, DFID

The first presentation was by Duncan Brack and was on the subject of Independent Monitoring. The presentation was based on a research project involving Global Witness and several NGOs in partner countries which is expected to be ready for publication in April of this year.

Independent Monitoring (IM) has long played an important role in international agreements, particularly in arms agreements, but its role in an environmental context has been less prominent. Such monitoring is not included in any of the other major license schemes related to natural resources, such as CITES or the Kimberley Process Certification Scheme. Independent forest monitoring was first conducted by Global Witness in Cambodia, from 1999 onwards, and has since been carried out in Cameroon, Honduras, Nicaragua, the Republic of Congo and the Democratic Republic of Congo, largely by Global Witness and Resource Extraction Monitoring (REM).

IM has formed an integral component of the FLEGT Action Plan from the start, and the concept has since been refined and narrowed in response to the particular needs and priorities of the Action Plan's stakeholders. This has resulted in provision for an Independent Audit (IA) in the VPAs, with the role of the IA being to check the performance and efficiency of FLEGT Legality Assurance Systems (LAS) and to submit reports to a Joint Implementation Committee (JIC). The remit and terms of reference for the IA are set out in an annex to each VPA (in Ghana, the IA is called the Independent Monitor, while in Indonesia the process of independent monitoring is termed 'periodic evaluation'). Most VPAs, with the exception of Ghana, also include a specific reference to independent monitoring or civil society monitoring, as distinct from the role of the IA. In addition, the nature of the interaction between the independent monitor and the IA and JIC is also specified, though the role of the independent monitor in each country varies considerably. Views on whether

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<sup>4</sup> The PowerPoint presentations for this session are available at the following links: Duncan Brack <http://illegal-logging.info/uploads/Brack070213.pdf>; Brad Mulley, Forests Monitor <http://illegal-logging.info/uploads/Mulley070213.pdf>; Rodrigue Ngonzo FODER <http://illegal-logging.info/uploads/Ngonzo070213.pdf>; Zainuri Hasyim Telepak <http://illegal-logging.info/uploads/ZainuriHasyim070213.pdf>.

IM should be formally recognized by government also differ from country to country, with competing imperatives to avoid capture by interested parties on the one hand, and to ensure access to sufficient information on the other. Debates addressed in Duncan's research include the question of exactly what the independent monitor should be monitoring (the LAS alone, or the broader implementation of the FLEGT Action Plan and wider forest law enforcement), and of how the independent monitor's reports should be disseminated and used.

The second presentation was given by Brad Mulley of Forests Monitor, and provided an insight into Independent Monitoring based on the experience of IM-FLEG in the Republic of Congo.

The presentation addressed five key questions concerning the reality of IM, namely: (i) is the independent monitor truly independent?; (ii) how can we maximise and evaluate the impact of IM?; (iii) are national CSOs suitable candidates to lead on IM-FLEG?; (iv) will an IM be necessary forever?; (v) how can, and how should, IM-FLEG be funded?

To the extent that it has good access to documents and is able to publish reports which are not censored and are externally validated, the IM in RoC has achieved a high level of independence. This independence is nevertheless weakened by practical factors, such as delays in the publication of reports as a result of the slow process by which the government provides its input. While calculating the number of penalties issued as a direct result of these reports provides some insight on the impact of the IM, the complexity of the forest sector makes it very difficult to understand the causal chain and so the full scale of this impact. In terms of their suitability to lead the IM, national CSOs have been found to require support from external actors in building their capacity and in producing high-quality investigations and reports. In the RoC, a specialist committee – Field Legality Advisory Group (FLAG) – has been established to provide this support across the region.

Independent Monitoring will remain an integral element of the VPAs in ensuring that the Legality Assurance System is operating to a sufficient standard. IM is also vital to maintaining civil society's participation in the VPA process, and is well suited to the unique knowledge base and experience of CSOs in VPA countries. The intensity and frequency of IM investigations and reports offers room for negotiation in the future, and it may be that full-time monitoring will not be necessary further down the line. The funding of the IM raises a number of questions: are donors willing to provide funding in the long term? Would funding from the host country government undermine the independence of the IM? Indeed, if a host country is in a position to support and fund a fully independent monitor is such a monitor needed at all? In moving forwards, decisions should be made on how to address each of the five questions raised above in a systematic and sustainable manner.

The third presentation was by Rodrigue Ngonzo from FODER who provided a Cameroonian perspective on civil society monitoring.

The IM-CSC in Cameroon is a multi-stakeholder body which engages civil society organizations, communities and citizens, each of whom has their own particular interests and priorities. As a result, the IM-CSC is a multi-faceted enterprise which nevertheless maintains the overall aim of improving forest governance. It is not subject to any government control and has no official terms of reference, so is free to publish whatever and whenever it deems appropriate. The IM-CSC has a range of roles, including: training in issues related to forest governance; data collection and on-the-ground investigations; reporting; and advocacy and lobbying. The IM's activities are subject to certain constraints, such as limited access to official information on account of their complete independence from government, and the lack of sufficient coordination to improve the efficiency of data collection and transmission. The IM also suffers from a lack of funding, and from the continued effects of corruption in the forest sector.

Closer collaboration is needed between administrative bodies and the IM on the one hand, and civil society and communities on the other. Such collaboration will itself only be possible if the technical capacity of the IM is improved, allowing for the IM to work in a professional and credible manner. Information and communication technology has a key role to play in this; more specifically, there is great potential for a simple, online information system and database which could be accessed by communities via mobile phones. By harnessing the power of social networks such as Facebook and Twitter, and by embracing technology and its capacity to facilitate new ways of communicating

and accessing information, we could ensure that communities engage to a far greater extent in forest management initiatives and with the work of the IM.

The fourth presentation was given by Zainuri Hasyim from Telepak, offering lessons from the Independent Forest Monitoring Network (JPIK) in Indonesia.

The JPIK was established in September 2009 as an Independent Monitor of the SVLK (Indonesia's Timber Legality Assurance System), and comprises 41 NGOs in addition to 259 individual members. JPIK has three principal roles: input into the accreditation Body, audit body and Ministry of Finance; monitoring the certification of timber; and supporting the development of regulatory systems across the country. Considerable progress has been made in terms of the relationship between JPIK and the government, with the government now notifying JPIK one week ahead of each certification issuance. While this is still a short notice period, it enables JPIK to gather some initial information on the company to be audited.

JPIK nevertheless faces significant challenges, such as gaining the acceptance of a broad range of stakeholders. JPIK receives no feedback from the Auditor regarding the input and comments submitted, which limits the potential for making improvements in the system. The progress made since the establishment of JPIK is a positive sign, however, and it is hoped that the system will continue to improve as more experience is gained and lessons are learned on the basis of past challenges.

## Questions & discussion

The questions in this session centred upon the long-term sustainability of IM-FLEG bodies, in terms of financing as well as their part- or full-time presence in a country. Speakers from the panel agreed that the IM-FLEG is an expensive body to establish and maintain, with considerable overhead costs such as reliable vehicles, staff members, and potentially office buildings. A lack of financing has already been found to constrain the work of existing IM-FLEG organizations, and further investment is needed in transparency measures and information sharing. External funding in the form of a trust fund was felt to be a potential alternative to government funding, particularly in light of the need to maintain the IM's independence. Citizens can play a central role if they are made aware of the importance of individual whistle-blowing, but this in turn requires access to information on the volume of wood being cut each year, where that wood is coming from, where the money is going and should be going, etc. The Internet can serve as a powerful tool in providing a sustainable mechanism for information sharing. In terms of the full- or part-time presence of the IM-FLEG, it was felt that the costs of a full-time presence should be considered alongside the disadvantages of having to renegotiate access to areas and information if the body were to hold only a part-time presence.

## SESSION 5. LEGALITY ASSURANCE SYSTEMS<sup>5</sup>

### Chair: Daphne Hewitt, IDL

This session centred upon a panel discussion between: Thomas de Francqueville of the European Forest Institute; Chris Beeko from the Ghana Forestry Commission; Ghassan Bitar of John Bitar & Co. Ltd. in Ghana; Victoria Cole from the Forestry Development Authority of Liberia; and Agus Sarsito of the Ministry of Forestry in Indonesia.

Thomas de Francqueville from the European Forest Institute began the session with a presentation on emerging challenges in the implementation of VPA Legality Assurance Systems. LAS are currently in development in the six VPA countries, namely: Cameroon, the Central African Republic, Ghana, Indonesia, Liberia and the Republic of Congo, with field trials in verification procedures and the development of information systems for the LAS on-going. In Indonesia and

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<sup>5</sup> The PowerPoint presentation from this session is available at the following link: Thomas de Francqueville, European Forest Institute <http://illegal-logging.info/uploads/Francqueville080213.pdf>.

Liberia, the LAS have been built upon existing systems. The Independent Auditor in Cameroon has already been appointed, and recruitment is underway in Ghana. There are currently no FLEGT licenses in place.

Governance is central to the successful implementation of LAS, with most stakeholders in agreement that the primary objective is to foster new ways of working in VPA countries. To reach such an agreement, compromises must be made if all interests are to be taken into account. This can be a long process, particularly in the case of developing a common understanding of how 'legality' should be defined. Legal frameworks also need to be formalized and adapted to support the development and implementation of the LAS and, while necessary, these changes often serve to delay the process. A further challenge lies in the pursuit of inter-agency cooperation within governments, which is often very new to the governments in question. Collaborative efforts between agencies and stakeholders are also necessary to the establishment of strong transparency frameworks, and for developing strategies by which to engage the informal sector and domestic markets in the VPA structure.

The implementation phase brings its own difficulties, not least in maintaining the engagement and active interest of all stakeholders in the process. One key step is to ensure that each stakeholder is aware of his or her own specific role in the implementation process, and of the importance of his or her expertise to the broader development of the LAS. While information technology facilitates procedures necessary to LAS implementation, it is important to recognize the importance of cooperation and active dialogue among stakeholders in encouraging new ways of working. Six-monthly stakeholder meetings can help to foster closer collaboration while ensuring the continued participation of all actors. Successful implementation of the LAS will also depend upon the experience and expertise of a range of government agencies together with the private sector. The EUTR should also have an impact upon LAS, driving up demand for legal timber. As we move forwards with the LAS, it will be crucial to learn from past experience, particularly in recognizing that these systems should not follow a one-size-fits-all blueprint. Rather, they should develop organically in response to the particular needs and expectations of those who rely upon the LAS and its success.

The panel discussed their experiences of tracking systems that are in place or in development in their countries. It was noted that the LAS is extremely broad in scope, addressing both the business practices of operators and broader regulatory processes in the sector as a whole. The complexity of the distribution chain in many VPA countries is such that developing tracking systems presents a considerable challenge: indeed, experiences in Indonesia and Liberia, where such tracking systems are in place, suggest that bringing existing systems into line with VPA requirements can be a very lengthy process. Insights from the private sector in Ghana underlined concerns over the slow pace with which VPA implementation is progressing, and fears that the LAS may exacerbate the situation. So as to ensure that the forest sector does not fall behind other industries – such as oil, gold, cocoa and rubber - where progress has been moving much more quickly, it was suggested that new electronic systems should incorporate existing manual systems which have already been implemented by many logging companies.

## Questions & discussion

Questions from the audience reflected concerns that reliance upon a legality verification process which is progressing at such a slow pace would place those companies who are operating legally at a comparative disadvantage in a market into which illegal timber flows continue. The representative from the Ghana Forestry Commission responded that delay in the VPA licensing system arises from the fact that it does not simply comprise a tracking system for commercial purposes; rather, it carries much more baggage in governance terms. The representative from the Indonesian Ministry of Forestry added that involvement of all stakeholders slows the process, but the multi-stakeholder approach provides the very foundation for the VPAs. The representative from the EC commented that, in developing a cohesive approach where all actors are working together, the VPA provides clarity to assessments of whether a company is compliant or not. In this way, it will ultimately serve to level the playing field and to benefit those companies who are investing in

legality assurance mechanisms. Until the FLEGT licenses are operational, the EUTR will ensure that legal and sustainable operators do not lose out on the European market.

Arif Havas Oegroseno, the Indonesian Ambassador to the EU, gave a short statement at the end of this session, commenting on Indonesia's experience of FLEGT and the Indonesian VPA. Mr Oegroseno informed the audience that several shipments had been received in Europe from Indonesia, and that discussions with the European importers would suggest that all is working well with the SVLK. Mr Oegroseno also responded to comments made earlier in the meeting regarding the possible exclusion of the state of Sarawak from Malaysia's VPA. Mr Oegroseno suggested that such an exclusion would contravene international law, since both territories entering into a bilateral agreement are bound in their entirety.

## SESSION 6. FINANCING & INVESTMENT SAFEGUARDS<sup>6</sup>

### Chair: Penny Davies, Ford Foundation

The first presentation in this session was by Nick Oakes of the Global Canopy Programme who considered ways of catalysing investment in forest-friendly development.

Addressing financial flows which go into forest activities is one way of influencing the finance 'food chain' in its entirety and of restricting the flow of finance into those industries which contribute to deforestation and illegal logging, such as palm oil and beef production. The lack of finance for forest-friendly investment is not because of the unavailability of finance; rather, it is because this finance is badly targeted. This money needs to be redirected, both to increase financial flows to forest-friendly activities and to limit the funding of other sectors which exacerbate deforestation and encourage the trade in illegal timber.

The FLEGT Action Plan includes three key actions relating to finance: (i) accounting for the environment when lending to the forest sector; (ii) developing safeguards for finance institutions such as the European Central Bank and European Investment Bank; and (iii) improving access to information for such finance institutions to enable them to assess risks. In practice, this means increasing due diligence measures around financing decisions, identifying correct targets for funding, and monitoring compliance with safeguards put in place by these lending institutions. There are a number of tools by which to redirect finance into forest-friendly development, including credit guarantees, exerting pressure on investors, and fostering adequate insurance provisions. In seeking to increase such financing, we must therefore understand deforestation and illegal logging within the wider context of land-intensive industries, concentrating our efforts on discouraging major investments in non-forest-friendly trade.

The second presentation was given by Chris Knight from PwC, who discussed ways to engage the finance sector on forests.

PwC has been working in forestry for around 25 years, with a team of staff working on issues relating to forest carbon and REDD, certification in the tropics, and finance in the forest sector more generally. The organization's forest finance work began seven years ago in Malaysia, and past experience has offered a number of lessons for ways forward in this area. The major lesson learned is that the forestry sector is far from being dependent upon financial support, and that the finance sector does not, as previously thought, have the capacity to make or break the future of forestry companies. The focus has therefore shifted away from large-scale forestry companies, who are rarely lacking in capital, towards channelling finance into locally controlled forests in the developing world.

Through its Sustainable Forest Finance Toolkit, PwC aims to provide support in a number of ways, including: assisting bankers to assess the risk presented by forestry clients; aiding banks to ensure

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<sup>6</sup> The PowerPoint presentations from this session are available at the following links: Nick Oakes, Global Canopy Programme <http://illegal-logging.info/uploads/Oakes080213.pdf>; Chris Knight, PwC <http://illegal-logging.info/uploads/Knight080213.pdf>; Yiting Sun, WWF China <http://illegal-logging.info/uploads/YitingSun080213.pdf>; Augusta Molnar, Rights and Resources Initiative <http://illegal-logging.info/uploads/Molnar080213.pdf>.

compliance with their investment policies; and providing guidance on procurement policies, on certification schemes, and on legality processes. Through engaging with the forest sector and harnessing the support of toolkits such as this, big banks in the United Kingdom and elsewhere have the opportunity to improve their public reputation. Knowledge-sharing initiatives targeted at the corporate audience, such as annual prizes for best practice, could be an important step in fostering action on a wider scale and in encouraging more direct engagement between major forest product buyers and producers.

The third presentation was by Yiting Sun of WWF China and provided an introduction to China's Green Credit Guidelines and their impact upon the forest sector.

China's Green Credit Guidelines, issued in February 2012, reflect the central role played by the banking sector in the development of a green economy. The Guidelines demonstrate a commitment to ecological progress by encouraging banks to assess potential risks relating to the impact of their investments on local communities and the surrounding environment, and by promoting measures to mitigate and monitor these risks. The key objectives of the Guidelines are to support low-carbon development in China's economy, to manage environmental and social risks surrounding corporate investment, and to support banks as they seek to improve their performance in this area.

Included in the Guidelines are procedures for overseas lending, for internal control and information disclosure measures (such as disclosure of green credit strategy and implementation status, and internal control compliance reviews), and capacity building (such as training, recruitment of expert staff, and independent third-party risk assessment bodies). The China Banking Regulatory Commission is currently in the process of developing a monitoring and evaluation mechanism by which to assess banks' success in implementing the Green Credit Guidelines. The forestry sector has benefited from the broader impacts of this collaborative process, including a higher level of engagement with financial institutions, and improved capacity for embedding sustainability measures within business practice models.

The fourth presentation was by Augusta Molnar from the Rights and Resources Initiative, and was on the subject of the changing context of investment and demand in the forest sector.

The drivers behind deforestation are shifting very rapidly as pressure on land increases with the growth of commercial agriculture, mineral extraction, urban development and subsistence farming. At a global level, the economic balance in international markets is also changing as growth rates in the East challenge the traditionally strong economies of the West. Investments in mining in particular are rising at a very fast pace, while the areas of land being licensed for mineral extraction are also increasing in size. The world's three tropical regions are experiencing considerable expansion of the middle class, which in turn is driving up demand for logs, pulp, and other forest products.

This evolving climate presents an opportunity to rethink regulations in the forest sector and to consider ways in which they could be adapted to facilitate the integration of small- and medium-sized enterprises (SMEs) into the market. Increased transparency surrounding data on forest use, information on the impacts of good and poor governance in the forest sector, and means by which to monitor the timber trade would assist SMEs in complying with new regulatory frameworks. As the balance of power and influence between different stakeholders shifts with the FLEGT process, SMEs and domestic suppliers have the potential to play a formative role in driving regulatory frameworks in the sector, through certification processes, independent monitoring and verification, and voluntary 'best management practices' (BMPs). Alternative ways of regulating the forest sector may offer more attractive and appropriate solutions to smallholders: the BMP model, for example, has been found to work well among smallholders in Montana, United States, as a means to self-regulate beyond the requirements of state regulations. As demand for forest products increases, domestic suppliers and SMEs have the potential to feed this growing market. For this potential to be realized, however, existing regulatory frameworks will need to be scrutinised and streamlined in order to avoid stifling these important actors.

## Questions & discussion

Questions from the audience related to the challenges inherent in discouraging banks from investing in mining and in agriculture, and investing instead in the forest sector which traditionally has very low rates of return. The representative from PwC replied that growing awareness of the risks relating to land tenure rights and due diligence in supply chains has proved to be an important driver in discouraging investment in sectors which have a detrimental impact upon forests. Through integrating the value of avoided damage to local ecosystems into financial modelling for investment risks, and through emphasizing the value of sustainability to long-term investment returns, it is possible to present financing of forest-friendly activities as an attractive investment option.

A number of questions centred upon the recent Global Witness report which detailed instances where HSBC was financing illegal logging in Sarawak. There was agreement among the panellists that levels of awareness among financial institutions of the nature and extent of illegal logging activities are very low, and that training in this area would be valuable. The protocols put in place by banks and financial institutions are often very cumbersome which risks making their implementation extremely difficult. The representative from PwC suggested that, while NGOs such as Global Witness offer a healthy challenge to the financial sector and play an important role in monitoring the implementation of policies and protocols, it is also valuable to recognize progress made and to raise awareness of good practice. Independent reviews and verifications of the overall portfolio performance of banks would be one way to foster good practice while avoiding discouraging other banks from investing in this area.

## SESSION 7. EU TIMBER REGULATION: PREPARATIONS FOR IMPLEMENTATION<sup>7</sup>

### Chair: Alison Hoare, Chatham House

The first presentation was given by Jade Saunders of Chatham House, and provided an overview of results from a recent survey of member state Competent Authorities' preparedness for the EUTR.

The Chatham House survey sought to provide an insight into the levels of readiness among Competent Authorities ahead of the EUTR coming into force on 3 March 2013, and to share best practice with regards measures already taken. The results were then presented and discussed at a two-day workshop organized by Chatham House, Client Earth and INTERPOL and UNEP's Project Leaf team which was held at the European Commission in January of this year. 20 member states responded to the survey, although a number of significant importers were not in a position to provide details on their preparations for the EUTR's implementation.

The questions related to aspects of the CA's activities, such as expertise, resources, protocols for dealing with substantiated concerns, monitoring organizations, reporting, and inter- and intrastate communications. A large number of the responses given reported that there were no protocols in place, that mechanisms had not yet been identified, or that decisions had not been taken. Both the survey responses and workshop discussions nevertheless revealed willingness across member states to fill the knowledge and capacity gaps, together with a commitment to ensuring the successful implementation of the EUTR. These gaps are substantial, particularly in terms of data collection and availability (for example, 40 per cent of CAs did not know how many regulated operators were under their jurisdiction). Lessons from other regulatory sectors will need to be heeded, and greater awareness of what constitutes a high-risk product will need to be established. Interstate and interagency communication mechanisms will be central to this, and will facilitate the development of efficient, intelligent criteria which support rather than hinder the work of the CAs.

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<sup>7</sup> The PowerPoint presentations from this session are available at the following links: Jade Saunders, Chatham House <http://illegal-logging.info/uploads/Saunders080213.pdf>; Alar Soo, Environmental Inspectorate of Estonia <http://illegal-logging.info/uploads/AlarSoo080213.pdf>; Svetla Atanasova, European Commission <http://illegal-logging.info/uploads/Atanasova080213.pdf>.

The second presentation was by Alar Soo of the Environmental Inspectorate of Estonia, and offered an introduction to Estonia's preparations for the EUTR's implementation.

The Environmental Inspectorate in Estonia holds responsibility for overseeing both the use of natural resources and protection of the environment in Estonia, which includes the implementation of legal measures to prevent illegal logging. The Inspectorate is a Competent Authority for supervising the implementation of the EUTR. Estonia's Forest Act currently includes requirements for certain documents to be provided for the sale and purchase of timber, with penalties in place for any infractions of the Act. The number of violations of forest protection legislation has decreased dramatically since 2000, and ensuring that this trend continues through compliance with the requirements of the EUTR is a top priority for the Ministry of the Environment.

Over the coming year, the Inspectorate plans to carry out checks of 148 units involved in the felling, processing or selling of wood products. There are currently 25 inspectors supervising compliance with the Forest Act, and plans are in place for an exchange of knowledge and information between Competent Authorities to enhance understanding of the regulatory requirements of the EUTR. NEPCon, SGS Estonia and BM Trada are currently awaiting recognition as monitoring organisations.

The third presentation was by Svetla Atanasova of DG Environment at the European Commission, and offered an update on the status and requirements of the EUTR.

The EUTR comprises three core components: due diligence; prohibition; and traceability. Of these components, the Due Diligence System (DDS) is the most important, requiring a company to carry out sufficient risk evaluation and mitigation before placing the product on the European market. Operators will need to apply the DDS on a systematic, as opposed to shipment-by-shipment, basis. The EUTR does not include border controls. Each type of timber or timber product placed on the market by the operator will need to be assessed at least once every 12 months, with re-assessment within this period should the products handled by the operator change in any way. Each operator must document their supply chain and must keep hold of these documents for five years. Every operator is liable for exercising due diligence and for ensuring that no illegal products are placed on the market, while any natural or legal person trading on the internal market in products already placed on that market will need to comply with the traceability requirements of the EUTR.

Certificates issued by third-party verification schemes will not constitute evidence of legality under the EUTR. The laws with which operators must comply 'relating to trade and customs, in so far as the forest sector is concerned' (Article 2(h) of the EUTR) will be understood as those laws in the country of harvest covering exports. CITES- and FLEGT-licensed timber and timber products will not be subject to due diligence requirements. Monitoring organisations are an optional component of the EUTR and are intended to assist operators in achieving compliance with the Regulation. 15 applications for MOs are currently under evaluation by the European Commission. The EC has launched a communications campaign to promote awareness and understanding of the EUTR, which will enter into force on 3 March 2013.

Representatives of government in Ghana and Indonesia reported that improved communication and awareness raising will be crucial to the successful implementation of the EUTR. Many of the documents and data needed to meet the Regulation's due diligence requirements are already available under existing certification schemes. While these schemes are not compliant with the EUTR, a better understanding of how this existing information can be utilized in complying with the EUTR framework would be a valuable means of assisting operators.

## Questions & discussion

The first question from the audience concerned the interaction of the definitions of legality under the EUTR with the VPAs, and with the United States' Lacey Act and Australia's Illegal Logging Prohibition Bill. The representative from the EC responded that the scope of the definition of legality under the VPAs is, in some cases, broader than that of the EUTR, and may cover laws in

the country of harvest which are not covered under the Regulation. There are efforts to align consumer country requirements, which are already complimentary on many levels: the due diligence requirements under the Australian Bill, for example, are very similar to those of the EUTR. In response to concerns over deviation in practice among different forest concessions, the EC representative noted that in those cases where an operator is aware of varying practices and standards across regions of a country with whom it does business, that operator must verify at a regional level whether a given company is compliant.

Other questions focused on the role of the CAs and on whether progress had been made since the Chatham House survey was conducted. The representative from Chatham House noted that the survey provided a snapshot during a very busy period for the CAs, and it is likely that progress has been made over the past six months. It is hoped that the survey will be repeated soon to provide an update on the state of play. Insights from the Estonian and UK CAs shed light on different approaches which CAs may adopt in fulfilling their duties, including annual audits, spot checks, information requests and the sharing of good practice.

## **SESSION 8. PRIVATE SECTOR INITIATIVES: RESPONDING TO THE EUTR AND THE FLEGT ACTION PLAN<sup>8</sup>**

**Chair: Duncan Brack**

The first presentation was from Rupert Oliver of Forest Industries Intelligence Ltd, who spoke about private sector responses to the EUTR.

The EUTR was largely a response to private sector initiatives in the forest sector, among which due diligence has been an integral component of business for a long time. This is reflected in the fact that much of the onus under the Regulation lies with the operators themselves, and encourages a high degree of scepticism over legality assurance on non-FLEGT- or CITES-certified timber. Only 21 per cent of the total EU import value in the sector is covered by existing VPAs, and only 3 per cent of forest area in high-risk countries has been certified. From an industry perspective, the EC must act more quickly than it has done so to date in providing adequate guidance to companies on compliance to ensure that private sector reputations are not unnecessarily tarnished when the EUTR enters into force.

The immediate impacts of the EUTR will be to broaden and deepen the focus of legality and compliance checks, with a move away from the 'greenwashing' of certain product lines and towards a consideration of the supply chain in its entirety. Due diligence systems put in place by the FSC and PEFC certification schemes are being aligned with EUTR requirements, and information gathered on each stage of the supply chain under these certification schemes will feed into EUTR reporting. There are a number of concerns in the industry over the impact of the EUTR on global trade flows. It is anticipated that there will be a move towards wood and wood products harvested or manufactured within the EU, rather than imported from non-EU countries. There are also concerns that the EUTR will result in a shift towards lower risk products, and away from those member states with more rigorous enforcement or from the European market altogether. In light of existing trends in global trade – for example the reduction in trade between Africa and the EU, and the increased trade flows to and from China – it is crucial to engage the Chinese government on developing legislation comparative to that in the EU, United States or Australia. A key point of leverage here will be products that are entering the European or American market from China.

As we seek to find new approaches in the future, public sector initiatives may look to an international FLEG agreement, with a focus on forest law enforcement in producer countries and on encouraging DDS across the timber trade at a global level. Steps to increase private sector engagement could consider integrating EUTR definitions into internationally recognized standards

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<sup>8</sup> The PowerPoint presentations from this session are available at the following links: Rupert Oliver, Forest Industries Intelligence Ltd <http://illegal-logging.info/uploads/Oliver080213final.pdf>; Björn Roberts, The Forest Trust <http://illegal-logging.info/uploads/Roberts080213.pdf>; Rachel Butler, European Timber Trade Federation (ETTF), and Christian Sloth, NEPCon <http://illegal-logging.info/uploads/Butler080213.pdf>; Sofie Tind Nielsen, Proforest <http://illegal-logging.info/uploads/TindNielsen080213.pdf>.

for timber legality, and into regional, country-level and species-specific risk assessments, with the aim of facilitating compliance among smallholders and community forest operators excluded from national certification frameworks.

The second presentation was by Björn Roberts of The Forest Trust and was on challenges posed by the EUTR to producers.

While responsibility for ensuring compliance with the EUTR lies with the operator, that operator is in turn dependent upon the other partners along the supply chain and their ability to provide the right documentation. In light of this, it is important when discussing the EUTR and its implications to consider both the requirements it places upon producers and the support needed to facilitate compliance. In seeking to assist producers and to understand the challenges they face, The Forest Trust is working with a large number of producers to provide information on wood sources, risk assessments, product types and suppliers. In addition, teams of experts are operating in-country to provide assistance in risk mitigation, with a particular focus on higher risk regions such as China. In doing so, the TFT has found that the task of compliance is much more difficult for some products than others, with complex international supply chains in products such as MDF and paper serving to elevate the burden of documentation and due diligence.

Different operators have different risk assessment and mitigation strategies, which they must communicate to their suppliers, who in turn pass this information on the producers. As a result, producers are dependent upon the quality and extent of information provided by the suppliers in establishing practices which meet the requirements of the Regulation and which will enable the continued sale of their product on the European market. While this process risks limiting the potential for SMEs, who traditionally have lower capacity, to operate on the regulated market, there is much to gain for suppliers and producers who adopt a pro-active, diligent approach. Steps will nevertheless need to be taken to raise awareness of the obligations brought by the EUTR, and to promote greater communication of good practice and business solutions to meeting the challenges posed by the Regulation.

The third presentation was by Rachel Butler of the European Timber Trade Federation (ETTF) and Christian Sloth of NEPCon.

The ETTF works mainly with SMEs in the forest sector, and has found that there is often a high level of debate and confusion surrounding the role of certification and legality verification in the EUTR. The reality is that operators have the choice of whether to use certification or legality verification schemes or not, and that the use of such a scheme does not negate the need to meet the Regulation's due diligence requirements. These debates underline the need for effective outreach to operators and producers, and the sharing of information in order to raise awareness of what the EUTR means in practice. This would be further facilitated by cooperation at an international level, both within the Timber Trade Federation and across other regulatory frameworks and sectors. It will be the priority of the ETTF over the coming months and years to promote such a global collaborative approach, and to ensure that European stakeholders have access to all the relevant information that will assist them in EUTR compliance.

A joint assessment of existing national due diligence systems carried out by the ETTF and NEPCon found that only a few MS Timber Trade Federations had a functioning DDS, and that there was a high level of confusion over which legislation would be covered under the EUTR DDS. There was a high degree of variation between DDS in terms of the risk assessment methodologies employed, which in turn gave rise to widely differing results. A lack of understanding of which risks could be classified as 'negligible' was also identified, and, together with other areas of divergence, this demonstrated a need for harmonization and improved communication among TTFs. The ETTF will take a leading role in this process of harmonisation, advising national TTFs on how best to develop or adapt their DDS in line with EUTR requirements. The primary tool through which this will be achieved is a generic DDS model which can be modified as necessary to respond to the current practices of national TTFs. This will be particularly crucial with regards to the definition of 'negligible risk', since this has emerged as a turning point of the whole Regulation but as yet has not been assigned a common definition. Other focus areas within this model will be a framework for identifying applicable legislation and instruments with which to collect and evaluate supply chain

information. An assessment of the scale and impact of non-compliance will also form a key component of the model DDS.

The fourth presentation was given by Sofie Tind Nielsen from Proforest and was on the subject of certification and verification schemes in the context of the EUTR.

Proforest recently conducted a review of existing certification and verification schemes to ascertain which of these have the potential to provide legality assurance in compliance with the EUTR. The study was focused specifically on the legality requirements of the EUTR, to the exclusion of the DDS and other components of the Regulation, and 10 schemes were assessed. Assessment was carried out on the basis of desk-based research, and not on the implementation and impact of these schemes in practice. The Implementing Regulation of the EUTR allows for certain schemes to be taken into account in the risk assessment and mitigation procedures where they meet a series of criteria stipulated in the Regulation, and where they are verified by a third party.

One of these criteria is that the certification or verification body must be accredited to evaluate against a forest management standard that covers the legality requirements specified in the Proforest report. The study found that those schemes operated by FSC or PEFC accredited certification bodies were found to partially meet the requirement for accreditation. However, GFS's Wood Tracking Programme and CertiSource's Legality Assurance System, which are not certification bodies, do not require that the certification bodies included in their systems be accredited, and were therefore found to be non-compliant. All of the schemes assessed included traceability or Chain of Custody frameworks by which to trace their timber through the supply chain, but GFS's Wood Tracking Programme and Bureau Veritas' Origine et Légalité du Bois schemes were both found to lack the means to prove that all illegal timber and timber products had been excluded from their supply chain. These results attest to the need for continued review of existing schemes, and for adequate assurance and credibility frameworks to be in place. While certification and verification schemes such as those assessed in the Proforest study do not offer proof of legality, as do FLEGT and CITES licenses, products certified or verified under these schemes may be defined as representing 'negligible risk' of illegality, and may therefore be placed on the market by operators (who will still be liable for their legality) with no further risk mitigation measures.

## Questions & discussion

Questions posed by the audience raised the issue of discrepancy between DDS employed by different producers in a given country which could result in operators importing 'high-risk' products from seemingly 'low-risk' countries. It was noted that DDS can be fairly prescriptive, as can mitigation actions recommended by industry initiatives, with the result that there is high level of consistency. The drawback of country-level risk assessments is that they will always be generic, and will not take into account the breadth of realities on the ground. The focus should be on developing a risk assessment process which defines where the thresholds for 'negligible' or 'non-negligible' lie. Ultimately it will be up to the operator to assess the reliability of the DDS and LAS employed. It was also suggested that information should be provided on the concession from which timber is sourced to ensure that this concession was legally obtained, that it includes adequate requirements for environmental and social impact assessments, and management plans, etc. These documents are not currently required, and the primary focus is on the profile of the sources themselves. Risks surrounding other elements of the supply chain will follow as a later step in the process.