



COMIFAC Workshop:

« *FLEG(T) policies and technical implications* »

Douala - Cameroun

Proceedings

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Ministère fédéral de la
Coopération économique
et du Développement







Introduction

With a view to developing trade in one of the Congo Basin's most precious natural resources, a sector in which sustainable management is now the norm, the Congo Basin Forest Partnership (CBFP) is providing support to member countries of COMIFAC involved in implementing new tools to regulate the timber trade. The aim is to promote direct exchange with Asian – particularly Chinese – actors.

To this end, COMIFAC held a workshop on 24 March 2010, with the support of CBFP members, to assist Asian and international wood product importers and exporters operating in Central Africa in understanding (i) the significance and impact of the Voluntary Partnership Agreements (VPAs) negotiated with the European Union as part of the Forest Law Enforcement, Governance and Trade (FLEGT) process, (ii) concepts of due diligence and (iii) forest governance guidelines issued by China's State Forest Administration for Chinese companies operating outside China. It invited stakeholders from the public and private sector who attended the RACEWOOD wood industries fair (22-23 March, Inter-African Forest Industries Association – IFIA) to deepen their knowledge in these areas in a setting conducive to dialogue and with a focus on Asia. The International Relations Department of China's State Forest Administration accepted the invitation extended by COMIFAC to participate in this platform for the exchange of knowledge and information.

The workshop consisted of two thematic sessions.

1 – Proceedings of the workshop

The first session was devoted to the presentation of public policies to promote trade in legally produced timber in Central Africa, the European Union, the United States and China. It also included a presentation of private-sector initiatives. The participants were invited to discuss the interdependence and compatibility of tools to implement these policies, establishing who monitors implementation and who the key actors are in each region, what the main challenges are for implementing policy tools and what role the member countries of regional/supranational institutions play.

The second session focused on the technical implications arising from these policies, specifically what is expected of forest companies, what the legal value of the certificates presented is, whether there is added value in terms of trade or for the organisation/management of the company, what the experience of companies has been in relation to the requirements of buyers operating on international markets and what possibilities there are for developing the legislative framework based on initial experiences.

The workshop proceedings were chaired by Raymond Mbitikon, Executive Secretary of COMIFAC, and benefited from the valuable participation of Rubens Nambai (representative of COMIFAC presidency currently held by the Central African Republic), Hans Schipulle (CBFP facilitator), Fu Jianquan (China's State Forest Administration) and FLEGT focal points/forest directors from Cameroon, Republic of the Congo, Central African Republic, Democratic Republic of the Congo and Equatorial Guinea.

The full list of participants is provided in annex 3.



2 – Main ideas and recommendations arising from the exchanges

- **Voluntary Partnership Agreements between the European Union and timber-producing countries**

VPAs¹ are trade agreements, in line with WTO² regulations, established between a timber-producing country and the European Union to promote cooperation in the battle against illegal logging and the trade in illegal timber. These agreements are a means of enforcing the implementation of the regional strategy to prevent the trade in illegal wood and also provide signatory countries with an opportunity to increase the size of their export markets. While Cameroon is still finalising its draft agreement (negotiations are, in principle, completed), the Congo is about to ratify its VPA in the two houses of parliament (the National Assembly and the Senate). An important session was held in Brazzaville on 23 February to raise the awareness of the senators and members of parliament who sit on the forest and development commissions of their respective houses, with the support of the International Union for Conservation of Nature (IUCN). Representatives from the two houses have pledged their support to ratify the VPA. Meanwhile, the systems required to verify the legal origin of wood are being developed. The first FLEGT licence is expected to be granted in December 2010.
- The VPA **negotiation process is intended to be participatory**, although it is led by the signatory parties, which are the governments of each country. There seems to be interest from the private sector, but it is difficult to mobilise. It remains to be seen whether the participation of social groups in the VPA negotiations **will determine the legitimacy** and implementation of the agreement. According to the representative of the Réseau des Populations Autochtones et Locales pour la Gestion durable des Écosystèmes Forestiers d'Afrique Centrale (network of indigenous and local populations for the sustainable management of Central African forest ecosystems – REPALEAC), the VPAs have not yet secured the agreement of indigenous peoples. It would perhaps be wise to follow the example set by Forest Stewardship Council (FSC) certification, which includes a provision on the participation of indigenous peoples. In the Congo, the principle of participation was guaranteed for the legality definition, which entails application of the relevant texts. The real problem seems to lie in the legitimacy of the representatives participating in the FLEGT platform, reflected in the lack of effective validation of solutions by civil society. Civil society and the private sector are called on to find constructive solutions to ensure that they fully benefit from the exceptional opportunity presented by the FLEGT platforms to institutionalise dialogue and increase the legitimacy of reform policies in the forest sector.
- **The role of COMIFAC in VPA negotiations and regional harmonisation.** COMIFAC has included the fight against illegal logging and the trade in illegal timber in numerous intergovernmental documents, such as the Convergence Plan, which is a regional strategy implemented by the member governments. The regional institution is working towards harmonisation of national forest policies, taking into account the specific

¹ VPA: Voluntary Partnership Agreement

² WTO: World Trade Organization



characteristics of each country. Regional cooperation and bilateral negotiation are not mutually exclusive; the aim of COMIFAC is to disseminate the experience gained (through the FLEGT working group and workshops such as this one) and convince countries of the benefits of VPAs, in the hope of prompting other governments in the sub-region to initiate negotiations. As VPAs are negotiated with countries in the COMIFAC area, the common wood production market will gain in importance. COMIFAC acknowledges the fact that, although there is a common desire for the sub-region to move forward as a whole, certain countries are having difficulty in making progress. While some countries have already signed VPAs, others have not even managed to establish effective forest monitoring at the concession level. The problem of regional differences referred to by the FLEGT focal point in Equatorial Guinea persists. According to the OAB³ representative, supplementary support programmes are now being adopted at COMIFAC level, which will make it possible to take Equatorial Guinea into account.

- **Relative cost of VPAs and regional credibility.** Operating under a FLEGT licensing scheme, with the implementation of VPAs jointly funded by donors and timber-producing countries, may well prove to be a less costly alternative for a logging company than individual certification. The adoption of a computerised tracking system involves a relatively small investment compared to the cost to African and European taxpayers. European importers realise that they will need licensed products to respond to changing market requirements. Following the example of the 'Commerce de Bois' (timber trade) association, they can contribute to implementing control chains. Lastly, the direct and indirect cost of a VPA is difficult to calculate, because it also provides benefits in terms of improvements in governance achieved during the negotiation process (in the case of the Congo, the negotiations involved the revision of various texts and regulations, which contributed to improving governance in the forest sector), as a result of action taken on the basis of the national assessment to implement the necessary national forest policy reforms and improvements in the credibility of countries in the implementation of mechanisms for reducing emissions from deforestation and forest degradation (REDD).
- **European legislation on due diligence and interaction with VPAs.** The European Commission has produced a draft regulation to minimise the risks of importing illegally produced timber and wood products into the European Union. This regulation requires importers to put in place systems enabling them to exercise due diligence in relation to all products placed on the European Union market (domestic and imported products), ensuring that they do not come from illegal sources. The legislation has been discussed and amended by the European Council of Ministers (publication March 2010) and is now following the European legislative procedure through the European Parliament. To determine how due diligence should be exercised, the 'first operator' must differentiate between (i) timber licensed by FLEGT (VPA countries) or CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora), (ii) timber with another forest certification label and (iii) non-licensed timber. It is also necessary to take into account cases involving transit and/or the mixing of wood during processing. When timber cannot be reliably tracked, an appropriate solution must be found.

³ OAB: Organisation Africaine du Bois (African wood organisation)



- **FLEGT licensing**, issued by the appointed body in the country that has signed a VPA with the European Union, provides immediate recognition at the national (European) level that a process has been followed to ensure timber tracking and verification of legality. For all products not licensed by FLEGT, European importers must make efforts to put in place a due diligence system or, more accurately, exercise due diligence with the implementation of an appropriate system. Private certification can help to reduce the risk of trading in illegal wood, if taken into account in the context of due diligence. An FSC certificate can therefore be taken into consideration within the architecture of appropriate systems, but importers cannot be automatically considered to have exercised reasonable diligence just because a product is certified. They are also required to put in place a monitoring/legality assurance system combining various elements.
 - **The impact of VPAs on exports depends on the scope of the agreements signed.** If tracking and legality assurance is required for all timber placed on the market, there will not be a two-tier export system. This is a political will included so far in all VPAs negotiated by states with the European Union. At the time of shipping, all shipments will receive legality assurance and those destined for the European Union will be FLEGT licensed. The definition and capacity of the tracking system to be put in place are crucial to ensuring that there is no longer a 'second market'.
- **China's commitments.** China acknowledges the essential role of forests for the development of timber-producing countries and environmental protection and wishes to assume its responsibilities as a major market, a major importer and a major exporter. This acknowledgement has resulted in a commitment at the national level (reforestation strategy and new legislation on the trade in forest products) and at the international level, with coordination agreements with the European Union (Bilateral Coordination Mechanism on FLEG), the United States and Australia to combat the trade in illegal wood.

Following the adoption of amendments to the Lacey Act in May 2008, China's State Forest Administration, in an attempt to help Chinese companies operating abroad to comply with international standards, produced (in conjunction with the Ministry of Trade) **guidelines for the management of natural tropical forests**. These guidelines provide guidance for Chinese companies that have chosen to operate abroad on how to avoid illegal practices. However, in the event of infringement or non-compliance with the forest code, it is up to the authorities of the host country to enforce domestic legislation and deal with those in charge of the company operating in its territory.

- **Will the Chinese market and demand change** so that demand is in line with good governance guidelines? The size of the Chinese market could put the importance of the European market into perspective; European consumers alone are no longer able to exert enough pressure if other major markets do not impose the same requirements. China does, in fact, have a legality assurance system: timber is checked by the customs authorities when it enters China. However, there is some question as to the legality of the certificates, because managing and supervising administration and the authorities responsible at the operational level remains a difficult task in such a large country. China faces the same problems as all the other countries in the world. However, the government has shown its commitment to addressing these issues, with the implementation of measures to regulate the forest



sector and plans to promote certification at the national level (with the support of the United Kingdom), and has become involved in various timber-producing countries.

- Although there is no legal basis in China at present for requiring forest certification and certification of the processing chain, the **pressure of the international market** could motivate operators. It should not be forgotten that markets are consumers, and it is they who demand additional certificates when they do not have confidence in the controls imposed by the authorities. Is China prepared to put in place a certification system to win markets for wood products processed in China?
- **Added value of forest certification and the control chain.** Sometimes, forest certification and a controlled supply chain can have positive secondary effects. In France, the Grenelle 2 Act (submitted to the vote of parliament in March 2010) provides that, from 1 January 2011 onwards, enterprises with over 500 employees operating in a greenhouse gas emitting sector will be required to report their emissions (article 26). The carbon footprint for all the products made from tropical wood and processed in China will certainly not be very favourable. By highlighting the fact that wood products used in marketed products have been licensed and that the production process complies with the principles of sustainable development, companies will be able to demonstrate that they are making considerable efforts to promote sustainable development.

For the CBFP and COMIFAC, the common agreement for the sustainable management of the Congo Basin's forests provides the region with an advantage in combating the problem of illegal logging and the trade in illegal wood. It is important now to maintain confidence in the regional strategy and move forward with the development of tools that can contribute to implementing it. Such continued efforts are also required to further the understanding of parallel regulatory systems and their interdependent relationship. All the necessary mechanisms must be made operational for them to be complementary, and the costs involved must be carefully considered.

Lastly, rapid globalisation and the integration of extensive Asian markets, factors that could influence the situation in the Congo Basin, require agreement with all the actors. The CBFP has sought to advance dialogue with China, and this workshop represents an important step forward. It is now necessary to examine the problems in greater detail and further professionalise the essential tools required to conduct a true dialogue. The CBFP and COMIFAC would like to congratulate our friends from China who have come to help identify gaps in existing regulations.

In addition to this workshop, an informal agreement has been established between COMIFAC and China's State Forest Administration to strengthen dialogue on the forest sector. For their part, CBFP members intend to continue supporting these Sino-African initiatives.



Annexe 1 : Terms of reference for the FLEGT Workshop

I - Objective:

This workshop should foster direct exchange between actors from China and Central African countries that are concerned by the trade instruments aimed at promoting sustainable forest management in order to value trade of one of Central Africa's most valuable resources. It will improve the understanding of Chinese (and international) timber product importers and Central African exporters about how EU FLEGT VPA agreements, due diligence concepts and SFA guidelines on natural forest management will shape mutual business behavior.

- provide Chinese (and other) logging companies implemented in the Congo Basin with the opportunity to fully seize the legal framework which regulates trade relations between African timber-producing countries involved in the FLEGT process and the international markets
- discuss the state of art of legal verifications systems and the added value of different certification schemes for product placement on international markets by working on case studies
- allow representatives from international timber importing companies to meet face-to-face with representatives from Central African logging companies, be they owned by Chinese, Central African or other nationals
- allow international importers or manufactured wood producers to present the impact of the forthcoming European due diligence legislation on their corporate quality control systems.

II - Organisation

The workshop is convened and hosted by COMIFAC. It will be organised and co-financed by the German Facilitation of CBFP and IUCN. Other CBFP member contribute technical inputs.

III Target group / participants: (30 to 40 participants)

- 1) International and national logging companies implemented in Central Africa
- 3) Asian trading companies
- 4) International companies with sourcing in Central Africa and manufacturing in China:
- 5) Representatives from Chinese embassies, SFA and Central African forest administration



Annexe 2 : Agenda de l'atelier FLEGT COMIFAC

Douala, 24 mars 2010, Hôtel Sawa

Langues de travail: Français - Chinois (service d'interprétation)

Modérateur: Jean-Marie Noiraud

Présidence : COMIFAC SE et Facilitateur PFBC

9h00 – 10h: Accueil : Présentation des opportunités de commerce et des perspectives mutuelles

- Mot d'accueil du Facilitateur du PFBC, M. Hans SCHIPULLE
- Mot d'accueil du SE COMIFAC à l'atelier, ses objectifs et ses résultats (Raymond MBITIKON, SE COMIFAC)
- Attentes du Représentant de la Chine (FU Jianquan, Administration Forestière Nationale, Chine) sur le présent atelier, ses objectifs et ses résultats
- Attentes du Représentant de l'Union Européenne (Mathieu Bousquet, EC DG DEV) sur le présent atelier, ses objectifs et ses résultats
- Présentation du projet d'agenda et attentes des autres participants par rapport à l'objectif de l'atelier

10h00 – 10h30

Pause café

10h30 – 13h00 Promouvoir le commerce de bois légal : politiques publiques et privées

Présentations :

- Négociier des APV pour valoriser des réformes forestières en Afrique centrale (Alain PENELON, conseiller FLEGT COMIFAC)
 - L'expérience au Cameroun (Briand MINTYENE, MINFOF Cameroun)
- Le projet de législation de l'Union Européenne « due diligence » (diligence raisonnable) (Eudeline PEKAM, France/ Mathieu BOUSQUET, EC Développement)
- Etats Unis – le Lacey Act (Carmelia MACFOY, Ambassade des Etats Unis au Cameroun)
- Les instruments politiques en Chine (FU Jianquan, Administration Forestière Nationale, Chine)

Discussion / compréhension commune :

Quelle est l'interdépendance de ces instruments et est-ce qu'ils sont compatibles ? Qui veille sur l'application et qui sont les acteurs clés dans chaque région? Quels sont les défis principaux dans la mise en œuvre des instruments politiques? Quel est le rôle des pays membres des institutions régionales/supranationales ?

13h00 – 14h00

Déjeuner offert à l'Hôtel Sawa

14h00 – 16h00 Implications techniques: qu'est-ce qu'on attend réellement des sociétés forestières ?

- Traçabilité et vérification de la légalité de bois
 - Marie Chantal PENDOUE, SGS System and Services Certification
 - Jervais NKOULOU, Rainforest Alliance/Smart Wood Africa Coordinator
- Les initiatives du secteur privé pour promouvoir le bois légal (Hervé BOURGUIGNON, IFIA)
- Dialogue avec les parties prenantes: démontrer les enjeux entre légalité et légitimité
 - Pierre METHOT, WRI
 - Adonis MILOL, UICN
- Programmes de soutien (non présentés, faute de temps)
 - « Appui à la Certification » comme composante d'un programme biodiversité et forêt de la coopération allemande (Bruno PERODEAU)
 - WWF Global Forest Trade Network (Elie HAKIZUMWAMI)



Discussion/compréhension commune :

Quel est la valeur juridique des certificats présentés? Y a-t-il une valeur ajoutée au niveau commercial ou pour l'organisation/gestion de la société ? Quelles ont été les expériences des sociétés face aux exigences des acheteurs opérant sur des marchés internationaux ? Possibilité de faire évoluer le cadre législatif suite à des premières expériences?

17h30 Séance de clôture

- Conclusions et recommandations tirées de l'atelier concernant :
 - la complémentarité des instruments politiques pour promouvoir le bois et la valeur respective des différents certificats de légalité ;
 - le rôle du secteur privé et le rôle des administrations forestières de tous les pays concernés pour avancer ensemble vers un commerce légal des bois tropicaux ;
 - l'engagement de la COMIFAC et du PFBC pour accompagner ce processus multi-acteurs.

18h00 Pause café



Annexe 3 : List of participants FLEGT COMIFAC workshop

FICHE DE PRESENCE

Atelier COMIFAC sur « FLEG(T) – Instruments politiques et implications techniques »

Douala, 24 mars 2010

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