

LESSONS LEARNED from FLEGT for REDD

Why ignoring key lessons from initiatives to control illegal logging will lead REDD to a dead-end



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Introduction

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Destruction of forests is a significant contributor to climate change. Preserving forests helps mitigate global warming. These two facts explain why halting deforestation is a central part of much of the current negotiations on climate change, with an international binding forest climate agreement, or REDD+, forming a key part of discussions. Yet, such an agreement, even if well-designed, cannot by itself save the forests. Without reducing greenhouse gas emissions by between 85 and 95 percent by 2050, many forests, along with many other ecosystems, will be lost.¹

Forest and climate negotiators should, however, consider experiences from other initiatives which have sought to address problems of deforestation and forest degradation, one being the EU FLEGT Action Plan, aimed at curtailing illegal logging through addressing forest governance.

FERN has been working for nearly ten years at improving forest governance in close co-operation with partners in the South. Over the past five years significant progress has been made. Whilst it is still early days for both FLEGT and REDD+, unfortunately indications are that REDD+ is undermining any advances made so far with FLEGT.

This paper summarises the early findings of a report which will be available in late 2011 analysing the experiences and operation of FLEGT and the lessons these provide to ongoing national plans and international negotiations to address forest loss.²

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- 1 Statistics on climate change, and the risk of ecosystem sinks becoming sources, are truly shocking: The IPCC AR4 (fourth assessment report) estimates the terrestrial biosphere turning from a net sink of GHG emissions to a net source with a 2.2°C temperature rise: <http://www.ipcc.ch/pdf/assessment-report/ar4/wg1/ar4-wg1-spm.pdf>; The onset of Amazon forest collapse is predicted with a 2.5°C temperature rise (The Stern Review, 2007, p. 95). All of the scenarios modelled in IPCC AR4 show a possibility of seeing these temperature increases by the 2090s; many by the 2060s.
 - 2 The full report will be available at www.fern.org

FLEGT and REDD, a short analysis

FLEGT

The 2003 EU FLEGT Action Plan aims to improve forest governance and forest law enforcement and, in so doing, curtail illegality in the timber sector. FLEGT aims to achieve several objectives: improve forest management and governance, including strengthening forest peoples' tenure rights, increase transparency in decision making processes, and ensure participation of civil society in policy-making, while at the same time assure EU consumers on the legality of imported timber.³ To achieve these aims, Voluntary Partnership Agreements (VPAs)⁴ between the EU and timber exporting countries must be developed through a participatory multi-stakeholder process with full and equal representation by all concerned parties.



3 Council of the EU (2003) Communication from the Commission to the Council and the European Parliament on FLEGT: Proposal for an EU Action Plan – Council Conclusions points 8 and 9.

4 See box 1 for an explanation of VPAs.

Box 1

FLEGT Voluntary Partnership Agreements (VPA)

FLEGT stands for Forest Law Enforcement, Governance and Trade. The FLEGT Action Plan (2003) sets out a range of measures that aim to combat the problem of illegal logging, including government procurement policies, financial due diligence and a regulation to control the sale of illegal timber, but its central pillar is the Voluntary Partnership Agreements (VPA) between the EU and timber producing countries.

VPAs are legally binding bilateral trade agreements setting out actions the EU and timber exporting countries need to take to tackle illegal logging, including measures to increase participation of non-state actors, to recognise tenure rights of communities and to address corruption⁵. Although the VPA is negotiated by two parties – the EU on behalf of its Member States and the government of the timber exporting country concerned – it is understood by both negotiating parties that VPAs must have the approval of national stakeholders, including NGOs, forest dependent communities, indigenous peoples and the timber industry. The three VPAs signed to date – between the EU and Cameroon, Congo and Ghana – have all been negotiated with the full participation of local and national NGOs, community representatives, the timber industry and the governments concerned. They have all been adopted with the consent of all stakeholders involved. In all three countries this was a first.

A VPA includes three key elements:

- a. **Defining legality**, or deciding which laws impact on forest use and trade and will be enforced for the implementation of the agreement.
- b. Developing a **Legality Assurance System (LAS)** that includes timber tracking, government legality controls, licensing plus systems to verify the legality of the timber.
- c. **Independent audits** of the whole system, to ensure credibility of the export licenses.

For an up-to-date snapshot on the VPAs, go to www.loggingoff.info

5 Council of the EU (2003) Communication from the Commission to the Council and the European Parliament on FLEGT: Proposal for an EU Action Plan – Council Conclusions points 8 and 9.

REDD+

REDD stands for Reduced Emissions from Deforestation and Forest Degradation. The 'REDD debate' re-entered UN climate talks in 2005, when Costa Rica and Papua New Guinea argued in a proposal to the UN Framework Convention on Climate Change (UNFCCC), that forested countries should be paid for reducing rates of deforestation and maintaining their forest cover. Subsequent to REDD being included in the UNFCCC Bali Action Plan in 2007, there was a considerable growth of interest in the role forests play in climate change. In late 2008 REDD was changed to REDD+ to include activities aimed at enhancing carbon stocks, sustainable forest management and forest conservation. A plethora of actions at local, national and international level have been carried out and significant funds have been pledged for REDD+.

Important aspects of REDD+ have yet to be defined; how it should be financed and who should benefit are questions being hotly debated. Though there is a considerable lack of clarity about the focus, framework and financing of REDD+, various countries are rushing to develop and implement national REDD+ plans. This is being done under the auspices of the World Bank and UN agencies, often in the face of considerable protest from various civil society organisations.

Prerequisites for halting forest loss

In order to effectively address forest loss there is broad consensus that two key issues need to be addressed – to clarify who holds which rights to forestland and to improve forest governance. Already in the Stern Review it was acknowledged that '*Clarifying both property rights to forestland and the legal rights and responsibilities of landowners*

is a vital pre-requisite for effective policy and enforcement'.⁶ The World Bank states that improving governance and achieving REDD+ is about '*ensuring countries make sound social and economic decisions about managing land use, including balancing global and local environmental benefits with the opportunities for production of wood, fuel and fibres*'.⁷ This assessment is supported by the FAO and the ITTO, which state that '*the successful mitigation of climate change through REDD requires effective forest governance*' and that '*REDD initiatives should build on lessons already learned through forest law, enforcement, governance and trade initiatives*'⁸ (i.e. FLEGT). The World Resources Institute (WRI) in its comprehensive governance analysis, says '*Failing to tackle problems of weak institutional capacity and coordination, accountability, transparency, and public participation may exacerbate current conflicts over the use of forest resources and risk creating perverse outcomes for forest dependent people, forest ecosystems, and the global climate*'.⁹

REDD+ and FLEGT – going their different ways

Despite the generally held view that REDD+ and FLEGT need to take the initiative in improving forest governance, and that clarification and recognition of customary tenure rights¹⁰ are key for both to be effective, REDD+ and FLEGT are evolving as decidedly different mechanisms, with different aims and processes – and hence, markedly differing approaches to preventing forest loss.

6 Stern(2007); *The Economics of Climate Change*; Cambridge University Press, page 608

7 Chomitz, K. (2007) *At Loggerheads? Agricultural expansion, poverty reduction, and environment in the tropical forests*. Washington DC, The World Bank.

8 FAO and ITTO (2009); *Forest governance and climate change mitigation. A policy brief*.

9 *The Governance of Forests Toolkit*; WRI; September 2009.

10 Tenure rights include all forms of rights – including but not limited to ownerships rights, access rights, user rights – that indigenous and tribal people hold to land, territories and resources, under statutory and customary law.

Box 2

Defining forest governance (based on the WRI model)¹¹

FERN uses the term governance to embrace five principles:

- 1. Transparency:** open actions which can be scrutinized by rights holders and stakeholders;
- 2. Participation:** ensuring diverse and meaningful participation in government policy by non state actors;
- 3. Accountability:** clarity about the role of various institutions in decision-making and whether they are held accountable;
- 4. Coordination:** how those involved work toward common objectives on forests;
- 5. Capacity:** a government's role in giving public access to decision-making, as well as the ability of civil society to make use of this.

The four key issues that forest governance impacts are:

- 1. Forest tenure:** the broad spectrum of ownership, use, access and management rights to forests.
- 2. Land use planning:** the multi-stakeholder process to determine optimal land uses that benefit current and future generations, given the economic and social conditions of an area.
- 3. Forest management:** the management and control of various different forests uses, including those associated with conservation and ecology, community, resource extraction and conversion for agriculture, infrastructure, or other economic activities.
- 4. Forest revenues and incentives:** collection and management of revenues from forests; benefit sharing.



Improving forest governance lies at the heart of FLEGT. The EU FLEGT Action Plan considers illegal logging a symptom of bad governance and that to address it, work needs to focus first and foremost on improving governance.¹² Strengthening land tenure rights and access rights for forest dependent communities, increasing transparency, strengthening effective participation of all stakeholders, notably of civil society groups and indigenous peoples, and reducing corruption are all key elements of the VPA.¹³

On the other hand, the focus of REDD+ is on reducing **emissions** from deforestation and forest degradation and maintaining existing carbon stocks. From the start the REDD debate was about how much money would be required to encourage developing countries to reduce deforestation and degradation: as a result the focus of REDD+ is on how to raise the necessary finance, rather than on how to tackle the direct and underlying causes of deforestation. As a result REDD+ processes have focused on preparing for an international forest carbon market but not on improving governance, nor on clarifying land tenure rights.

The main focus of national REDD strategies at present is to develop methods by which forest carbon fluxes can be measured and monitored. This does not contribute to addressing the two prerequisites mentioned above for halting forest loss. Whilst the World Bank, the FAO and others acknowledge that reducing deforestation cannot be done without putting the needs, knowledge and live-

11 WRI (2009), Governance of Forests Initiative Indicators (version 1)

12 EU FLEGT Action Plan. 'The Action Plan is the start of a process which places particular emphasis on governance reforms and capacity building, supported by actions aimed at developing multilateral cooperation and complementary demand-side measures designed to reduce the consumption of illegally harvested timber¹ in the EU (and ultimately major consumer markets elsewhere in the world)' page 3.

13 Council of the EU (2003) Communication from the Commission to the Council and the European Parliament on FLEGT: Proposal for an EU Action Plan – Council Conclusions points 8 and 9.

lihoods of forest peoples at the heart of the matter, in reality there is little indication that these issues are central to international REDD+ negotiations or sufficiently considered in national REDD initiatives.

Can FLEGT form a basis for a forest and climate agreement?

FLEGT is a bilateral negotiation process, while national level REDD strategies and its funding channels are primarily multilateral. The two parties involved in FLEGT agree a VPA text, which addresses key issues such as clarity of tenure rights, transparency related to forest exploitation and independent monitoring of the agreement (see Box 1). Although FLEGT VPAs could have resulted in trade agreements which legitimised business-as-usual logging practices, in fact the three signed agreements, have opened up political 'space' for all stakeholders and rights holders to work together towards improving governance, as a first step to achieving legal and sustainable timber production and ensuring sustainable livelihoods.

REDD+ processes differ markedly from the FLEGT processes. The majority of REDD+ finance is being channelled multilaterally: as a result accountability over the process is limited, reflected in end results. In REDD+, the complexities of governance have not been adequately addressed by most governments and there has not been a comprehensive stakeholder consultation process.

The FAO and the ITTO,¹⁴ Proforest and Chatham House,¹⁵ and others have pointed out that much could have been

achieved if elements of FLEGT had been integrated in national REDD+ plans or bilateral REDD+ agreements. Yet at present national REDD+ plans do not recognise FLEGT and FLEGT type processes – in many cases they undermine them.¹⁶ A thorough debate on these issues is urgently needed – before REDD+ goes any further down a dangerous road.



14 FAO and ITTO (2009); Forest governance and climate change mitigation. A policy brief.

15 Ebeling, Nussbaum and Saunders (2008); Reduced Emissions from Deforestation and Forest Degradation; Lessons from a governance perspective; Proforest, Ecosecurity and Chatham House.

16 Leal, I., and Opoku, K. (2009) Is REDD undermining FLEGT. FERN. Available at www.fern.org

Key findings

Lesson 1

Identify and address the key deforestation drivers

The direct and underlying drivers of deforestation must be recognised, and reflected in policy. Though some national REDD+ processes show an increased awareness of the drivers of deforestation, many lack real analysis and are blaming forest dependent communities. As a result they will be ineffective and may even lead to increased forest loss.

Lesson 2

An integrated national land-use plan is essential

Most forest countries have yet to develop a coherent vision that outlines a path towards land use planning that balances the competing demands for revenue generation to pay for services essential to improving livelihoods and protect the remaining forests. Deforestation is often part of a short-term growth policy. Far reaching reforms in governance and how natural resources are utilised are required, including rural development and energy policies. The REDD+ process has narrowed its focus to building technical capacity to (attempt to) measure forest carbon fluxes. A far broader approach is needed aimed at long term land-use planning, alternative models of development – such as community forest management – and an increase in demarcating forest peoples' territories.¹⁷

Lesson 3

Multi-stakeholder decision making is vital

Participation of civil society groups, in decision making is vital if solutions are to be found that will work in the local context. Once all parties concerned have given approval for a specific agreement, the chances of it actually being implemented increase dramatically. FLEGT VPAs have been successful where VPA negotiations have involved all

stakeholders. FERN has not found a single national REDD+ process, based on a consultation process similar to the VPA consultation process. In most REDD initiatives, participation has been limited or non-existent.

Lesson 4

Good processes cost time

While preventing deforestation and climate change are urgent issues, unrealistic time frames do not allow for the development of effective policies. National REDD+ processes to date have been rushed, characterised by a lack of transparency and little or no civil society input and hence poor outcomes.¹⁸ Changing behaviour across a sector takes time. Building trust is key: creating a false sense of urgency will undermine the quality of analysis, planning and outcomes.

Lesson 5

Respect existing national and international law

Recognition of tenure rights is a pre-condition to tackling deforestation. International human rights law is clear in the need for recognition of principles of self determination¹⁹. Most countries have adopted the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), based on international human rights conventions and specifying free prior and informed consent (FPIC) as well as principles of self determination. Proposed legal or institutional changes must be based on these principles.

Lesson 6

Carrot and stick are both needed

The right incentives have to be put in place. In order to

17 Hoare, A., (2010) Community based forest management in the Democratic Republic of Congo: a fairytale or a viable REDD+ strategy?

18 Dooley et al (2011) Smoke and Mirrors: A critical assessment of the Forest carbon partnership Facility. FERN/FPP

19 Notably the International Covenant on Civil and Political Rights to which 167 countries are a party, states in article 1: 'All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.'

be effective, sanctions and incentives must be designed to address the causes of forest loss. FLEGT, from its inception, has used a carrot and stick approach, focusing on policies and reforms required to achieve the objective of preventing illegally sourced timber entering the EU market. The REDD+ debate has been dominated by how much money is needed to save the forests, the assumption being that a money raising mechanism will be established, based on trading a newly invented commodity – forest carbon – in a volatile and much questioned carbon market. The carrot is money, which may well not be forthcoming²⁰, but there is no clear stick.

Lesson 7

Independent monitoring of the system is required

Monitoring the implementation of any bilateral or international agreement is essential, though such monitoring cannot remedy fundamental design flaws or perverse incentives. FLEGT contains a commitment to transparency which gives communities a proper role in monitoring the activities in their forests. National REDD+ strategies have focused on calculating and monitoring carbon and carbon fluxes – highly technical activities which largely exclude civil society. With a few exceptions, monitoring and assessing progress on governance issues is a major gap in national REDD+ processes and international REDD+ financing.

Lesson 8

Safeguards

Ensuring countries improve forest governance through improved measuring of transparency, accountability, capacity etc. is vital. Basing payments on progress in

these areas is a much more effective way of encouraging improved governance than a ‘safeguards approach’ – or policing to ‘prevent harm’.



20 Dooley (2009); Why Congo Basin Countries Stand to Lose out from a carbon based REDD; FERN.

Conclusions

Any initiative that aims to successfully halt deforestation must incorporate the lessons of past attempts – some partially successful and many failed. There are some similarities with lessons provided by other multilateral initiatives to halt deforestation, such as the 1980s Tropical Forests Action Plan (TFAP). The main point is that top down initiatives that have not been developed in a truly consultative way and focus mainly on the forestry sector, will not bring about lasting reductions in deforestation and may even lead to an increase in forest loss.

National REDD processes have been developed in a top down manner, with a narrow focus on carbon accounting, rather than on creating the political 'space' for required policy and legal change, including the recognition of forest peoples' tenure rights. Consultation processes for REDD in all countries reviewed by FERN have been dismal.²¹ Control of the forest resource risks being centralised while collective title to land is restricted by definitions of forest carbon rights. Meanwhile industrial logging and agriculture groups are positioning themselves to be the main beneficiaries of REDD payments, made possible by the setting of dubious baselines.

The national REDD plans reflect, in part, international REDD discussions where attention is focused on measuring carbon as a proxy for forest loss rather than on tackling the underlying causes of deforestation. At the moment the REDD text, being negotiated at the UNFCCC, seems to implicitly support carbon trading as a source of REDD financing. National REDD initiatives are focused on being able to access finance from forest carbon trading. Given the uncertainties of forest carbon markets, and carbon markets in general, such a stance is not justified.

21 Dooley et al (2011) *Smoke and Mirrors: A critical assessment of the Forest carbon partnership Facility*

While negotiations on national and international REDD processes differ, it is important to recognise that the international debate dominates and is framing the way REDD is being implemented on the ground. If international UN climate negotiations were to change focus and base initial payments for halting forest loss on measures tackling direct and indirect drivers of deforestation, this would be reflected in local and national negotiations.

The problem

The objective of REDD+ is to achieve reductions in emissions caused by deforestation and forest degradation across an entire country. For such an endeavour to be successful, an assessment of national land use patterns is essential. If not, deforestation might simply be moved from one location to another. Yet very few national REDD+ strategies recognise this – nor is it encouraged in the way REDD+ has been formed internationally. In most cases REDD+ is developing in a very narrow framework, focusing on the technical carbon inventory capacity of a particular country and the measures needed to qualify for anticipated offset payments.

The FLEGT VPA process, although conceived as a trade agreement, focuses on most aspects of improving forest governance. It is an approach which incorporates relevant policy reform at the national level. National REDD processes to date have focused on quantifying and monitoring carbon fluxes and do not adequately address issues surrounding governance and tenure rights.

The need for the right incentive system

Money is, of course, a very effective motivator and hence it is crucial that money is targeted at achieving the right outcome. If payments are linked to carbon emission

reductions, it would come as no surprise that most money will go to where most emissions reductions can be achieved at lowest cost. This puts large forest destroyers like oilpalm plantations out of the picture and targets small scale farmers and local communities, who have not been given a say in these programmes, leading to increased forest loss.²² Furthermore key requirements to halting forest loss such as clarification and recognition of land and resource tenure rights of communities and improving forest governance do not lead to immediately quantifiable reductions in deforestation, and thus will not be addressed. While such a system might be short lived, as large-scale forest carbon markets are unlikely to work, it has the potential to do a lot of damage. Meanwhile climate negotiators will have wasted a golden opportunity to actually harness the political will and muscle to halt deforestation.

Building monitoring, reporting and verification for governance into the incentive structure

The carrot and stick approach of FLEGT in part explains its success to date. In the national REDD processes on the other hand, the incentive structure encourages mistaken outcomes, with safeguards to address environmental and social harm as an afterthought. This illustrates how far in the wrong direction the REDD+ debate has gone. And while NGOs are lobbying hard for 'safeguards' to be monitored and verified to ensure REDD+ does no harm to forests or forest dependant peoples, what seems to have been forgotten is that without protecting both the forest and the peoples who depend on them, deforestation will continue.

In FLEGT, a great deal of time is allowed for the preparatory phase (the VPA 'negotiation phase') of negotiations, focusing on governance – entirely lacking in national REDD processes. The FLEGT process provides tools to understand, implement and, if needed, reform forest related laws in a specific country. In FLEGT, the process itself becomes one of the tools for governance improvement. In REDD, the process is often outsourced to international consultants, excluding local civil society, communities and indigenous peoples from a say in the overall outcome.

The way forward

Lessons from FLEGT suggest that designing a framework capable of halting deforestation will require that UN climate talks shift their focus. If there is a shift away from quantification of forest carbon fluxes, UN climate negotiations could actually make a big contribution to halting deforestation – and a reduction in emissions will always follow. A reduction in emissions from deforestation will only occur as a result of actual reductions in deforestation itself – which in turn will not be lasting without tackling the drivers of deforestation. The incentive structures put in place as a result of international discussions mean that attention on the ground is focused on actions allowing access to an uncertain future funding source rather than on tackling the root causes of deforestation.

The final and most fundamental lesson to be taken from FLEGT is that all agreed VPAs have been developed in a fully consultative process and adopted with the consent of a wide group of civil society actors. This is a crucial step towards implementation of commitments made under FLEGT. Again, this has not occurred in national REDD negotiations, making lasting reform very difficult.

22 Dyer, N and Counsell S. (2010). Mc REDD: How McKinsey cost-curves are distorting REDD

Recommendations

Where the UNFCCC discourse on forests needs to change course

International level

- In order to encourage improvements in forest governance – a fundamental prerequisite to lasting reductions in deforestation – payments must be based on performance indicators measuring progress concerning forest governance, including: clarifying and securing tenure rights of forest peoples, increasing transparency and addressing corruption.
- Payments for carbon provide the wrong incentive, or even a perverse incentive, as it is not clear that reducing greenhouse gas emissions on paper (as this is what it amounts to) will have any relation to halting forest loss. Unless payments are linked to measures that, in the first instance, improve forest governance, it is unlikely reductions in deforestation will be achieved.
- Readiness funds should only flow to countries or regions that have adopted and are implementing core human rights agreements, such as the International Convention on Civil and Political Rights as well as core labour and environmental agreements, such as the Convention on Biological Diversity.
- As critics of TFAP pointed out in the 1980s, TFAP was destined to fail because of its top down and narrow focus. REDD is following in TFAPs footsteps. The focus of UN climate negotiations on forests needs to shift away from top-down grand plan design towards developing national readiness and action plans grounded in the local situation – designed, developed and implemented by local people.

National level

- To improve forest governance, clarification of tenure rights is clearly needed. This is not a costly exercise but one which is politically sensitive. Any initiative triggered by the UN negotiations on forests and climate change

which does not have the ability to tackle issues of land and tenure conflicts is doomed to fail.

- National agreements aimed at halting deforestation should be based on a proper participative process such as takes place as part of FLEGT VPA negotiations in Africa, in which representatives of all stakeholder groups are around the table, jointly developing the plan.
- National agreements aimed at halting deforestation must include a clear monitoring and reporting framework and a complaints mechanism that allows for effective participation of local rights holders and stakeholders. The focus must be on monitoring governance indicators, not on measuring carbon fluxes.





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