



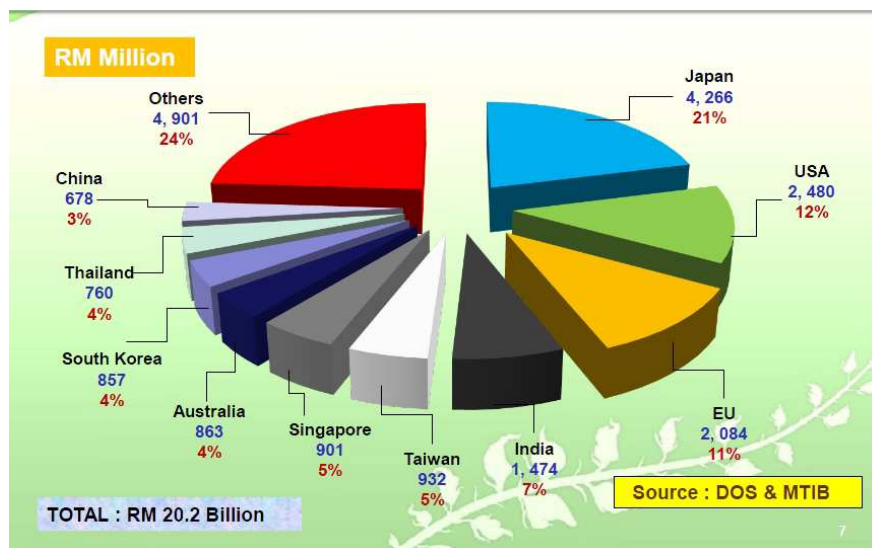
**FOREST LAW ENFORCEMENT GOVERNANCE AND TRADE  
– FLEGT – AND THE EU TIMBER REGULATION**

**1. EU-Malaysia timber trade and the industry<sup>1</sup>**

Malaysia is the world's largest exporter of tropical logs and sawn timber, and a major exporter of tropical plywood, veneer and mouldings. The timber sector is one of the largest export earners<sup>2</sup>. In 2012 Malaysia exported RM 20.197 billion of timber and timber products, an increase of 0.5 % y-o-y. Wooden furniture contributed RM 6.37 billion to the export value (up 6.3%) while logs decreased by 21.1%

The breakdown of Malaysia's timber export by region is as follows: Peninsular Malaysia: RM 11.176 billion; Sabah: RM 1.812 billion; Sarawak: RM 7.209 billion.

Japan, USA and India were still the major importers for timber and timber products from Malaysia, contributing RM 4.26 billion (21%), RM 2.48 billion (12%) and RM 1.47 billion (7%) to Malaysia's total export value respectively. The EU is the destination of about 11% of Malaysian exports, for a value of about RM 2bn. In 2011, about 18.3% of Peninsular Malaysia's timber and timber product export went into the EU, while this figure for Sabah was about 10% and for Sarawak only 0.6%. In the last few years, the EU imports of timber and timber products from Malaysia have gradually decreased.



*Malaysia: Major Timber Markets (2012). Source: DOS & MTIB*

<sup>1</sup> In 2012 the Ringgit/Euro exchange rate was on average 4.

<sup>2</sup> Together with electrical and electronic products, palm oil and palm oil-based products, liquefied natural gas and crude petroleum.

Furniture, sawn timber, mouldings, plywood, doors and flooring materials are among the main exports.

## **2. Background of FLEGT and the EU Timber Regulation**

In 2003 the EU launched the EU Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan to address the problem of illegal logging and related trade. The objective is to reduce illegal deforestation and give consumers better assurances about the products they buy.

FLEGT consists of two main instruments: a) bilateral timber trade agreements, the Voluntary Partnership Agreements (VPAs), between the timber-producing countries and the EU; and b) the EU Timber Regulation, a comprehensive legislation which came into force in the EU market on 3 March 2013.

These **bilateral agreements** establish control and licensing procedures that ensure that only legal timber products from partner countries enter the EU. Six such agreements have been concluded so far, out of which five in Africa (with Ghana, Cameroon, Central African Republic, Congo-Brazzaville and Liberia) and one in Asia, Indonesia. The EU is currently negotiating with several countries, including Malaysia, Vietnam and Laos, in Asia. National discussions are underway in Thailand, and Cambodia has also expressed interest in the VPA process. The EU and Malaysia have been negotiating a FLEGT VPA since 2007.

The **EU Timber Regulation** prohibits trade in illegally harvested timber on the EU market. It focuses on the first placing of timber or timber products on the market, be it by European producers or importers. It means that if certain product is found to be made illegally harvested timber, then the person/company who placed the product on the market will be penalised. Penalties will range from fines, seizure of timber to immediate suspension of authorisation to trade.

The link between both instruments is that if a country has a FLEGT VPA with the EU, its licensed exports to the EU will be considered to have been harvested legally and thus be exempt from any further legality checks under the Regulation.

This EU development is in line with similar policies elsewhere. The US has amended the Lacey Act to make trade in illegally harvested timber a criminal offence. Australia has adopted the Illegal Logging Prohibition Bill 2012. Similar policies are currently under consideration in Switzerland.

## **3. Key characteristics of the EU Timber Regulation**

The EU Timber Regulation **prohibits** placing illegally harvested timber on the EU market.

It focuses on the **first** act of placing timber or timber products on the EU market: i) by importers that bring timber products into the EU, and ii) by primary producers within the EU who sell their timber for the first time.

Traders first placing timber on the market are required to exercise '**due diligence**' in order to reduce the risk of trading in illegal timber products. In practice this means tracking timber flows, conducting a risk assessment, identifying the country and region of harvest, describing the product, and having access to documentation on legal compliance.

The only exemption to the administrative requirements of the EU Timber Regulation is granted to **FLEGT- and CITES licenses**, which are considered a proof of legality. Certification is treated as a risk reducing factor, not as proof of due diligence (unlike FLEGT and CITES), as certification schemes are generally market-based and not regulated by Governments.

The Regulation applies to **all timber and timber products** (round wood, sawn timber, veneer, panels, wooden furniture, pulp and paper, wood chips) with the exception of recycled and printed materials, the latter to be reviewed in five years.

The **legality of timber** is defined similarly to the FLEGT VPA as being compliant with the laws and regulations of the country of origin.

The EU Timber Regulation entered into force, on 3 March 2013. The Regulation is binding in its entirety and immediately applicable in all EU Member States. EU Member States are currently setting up the necessary infrastructure for the implementation of the Regulation. All the EU Member States are reported to have selected their competent authority with overall responsibility for the EU Timber Regulation, but they still have to establish who will administer it on a day-to-day basis.

#### **Expected impacts of the EU Timber Regulation**

The EU Timber Regulation requires all traders in the EU to use due diligence and thus **counters the undercutting of companies adhering to the Regulation by illegal operators**.

It applies to timber from all countries, both tropical and temperate. Hence, the Regulation creates a **level-playing field for exporting countries** (such as Malaysia, Indonesia, Russia, China).

The Regulation also provides an immediate incentive to source **imports from low risk** rather than high risk suppliers, motivating all producers to improve the legality practices.

It will provide partner countries with an important **incentive to join and implement FLEGT VPA**, and will help enhance the profile of tropical timber products on the EU market.

#### **4. Key points for Malaysia**

##### **Proof of legality required for Malaysian timber**

Assuming that Malaysia is a high risk country, from 3 March 2013 onwards the European operators buying timber from Malaysia will require Malaysian operators to provide legality evidence. This can be done through:

- i) Certification (FSC, MTCS etc.), third party monitoring that proves legality or other comparable systems; or
- ii) FLEGT licence.

**FLEGT premium is a 'green lane' for Malaysian timber exports to EU.**

A FLEGT VPA with the EU will give Malaysia a tangible advantage in selling timber to EU traders as it will allow Malaysia to supply timber to EU traders without further questions asked. While countries and suppliers may be able to provide documentation of legality, it is expected that EU traders will favour 'hassle free' FLEGT timber over sources of timber which require administrative processing.

**FLEGT premium is an advantage for Malaysian timber exports to processing countries.**

Once the EU Timber Regulation is in force, the processing countries will increasingly look to FLEGT timber when trying to ensure the legality evidence. This will inevitably make Malaysian timber more attractive for countries such as Vietnam and China for their timber processing industry.

**Without a FLEGT VPA concluded in time Malaysia might lose its comparative advantage with other countries.**

Many VPA partner countries were aware of this date and were aiming to have their agreements ratified and systems up and running before then (Ghana, Congo, Cameroon, Indonesia).

**FLEGT VPA is an important marketing tool for timber producers.**

Through FLEGT VPA timber producers will be able to boost their sales in the EU market and it also gives a quality label to Malaysian timber in the global market.

**5. Further EU-Malaysia cooperation on forestry**

The EU is committed to support sustainable forest management in Malaysia. Currently, Malaysia benefits from the FLEGT Asia Regional Programme (€6 million), set to be extended. Meanwhile, a €4 million Programme for sustainable forest management and climate change related aspects in Sabah will be launched in 2013.

Moreover, the EU FAO FLEGT Programme for VPA countries provides support to timber producing countries to enforce forest law, governance and trade exchanges. Projects selected through the call for proposals mechanism (currently open, with deadline **30 June 2013**) will focus on support to initiatives that advance the VPA process and encourage active engagement of stakeholders.

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