



FINAL REPORT
Volume 2 - Annex 7
Special report on VPAs

Evaluation of the EU FLEGT Action Plan
(Forest Law Enforcement Governance and Trade)
2004-2014

Final Version

27 April 2016



S-FOR-S



Disclaimer: This document has been produced with the financial assistance of the European Union. The contents of this document are the sole responsibility of the consultants and can under no circumstances be regarded as reflecting the position of the European Union.

TABLE OF CONTENTS

1. INTRODUCTION TO THE SPECIAL REPORT	3
1.1 BACKGROUND AND OBJECTIVES	3
1.2 SCOPE	4
1.3 ORGANISATION OF THE REPORT	4
2. PROGRESS ON CORE ELEMENTS OF THE VPAS	5
2.1 OVERVIEW OF PROGRESS MADE IN NEGOTIATION AND IMPLEMENTATION OF VPAS.....	5
2.2 REVIEW OF PROGRESS IN TIMBER LEGALITY ASSURANCE SYSTEMS	7
2.3 CONCLUSIONS ON PROGRESS AND TLAS DEVELOPMENT	17
3. CONTRIBUTION TO DIRECT FLEGT OBJECTIVES	18
3.1 CHANGES IN FOREST GOVERNANCE	18
3.2 CONCLUSIONS ON VPAS CONTRIBUTION TO FLEGT DIRECT OBJECTIVES	27
4. CONTRIBUTION OF VPAS TO HIGHER FLEGT OBJECTIVES	29
4.1 FOREST CONDITION AND USE OF SFM PRINCIPLES.....	29
4.2 ECONOMIC DEVELOPMENT	31
4.3 DOMESTIC MARKET DEVELOPMENT	33
4.4 LIVELIHOOD AND POVERTY.....	35
4.5 CONCLUSIONS ON VPAS CONTRIBUTION TO HIGHER OBJECTIVES	37
5. CONCLUSIONS FROM AIDE-MEMOIRES ON OTHER PRODUCER COUNTRIES	38
6. MAIN CONCLUSIONS AND RECOMMENDATIONS.....	39
APPENDICES	45
APPENDIX 1: CHANGES IN FOREST GOVERNANCE IN VPA COUNTRIES	46
APPENDIX 2: CONTRIBUTION OF VPA PROCESS TO HIGHER FLEGT OBJECTIVES.....	48

1. INTRODUCTION TO THE SPECIAL REPORT

1.1 Background and objectives

This special report on VPAs is a second component of the Final Report of the independent evaluation of eleven years (2003-2014) of implementation of the EU Action Plan on Forest Law Enforcement Governance and Trade (FLEGT), commissioned by the European Commission (EC) through the European Forest Institute (EFI). It complements the Main Report (Volume 1) and responds to the ToR specification that *"particular attention will be dedicated to the Voluntary Partnership Agreements (VPAs), which are at the heart of the Action Plan and have mobilized substantial resources on the part of partner countries, the Commission and, in some cases, Member States"*.

The report focuses on the main question 'To what extent are VPAs effective and relevant instruments in contributing to the FLEGT Action Plan's direct and higher objectives (see box 1), taking into consideration what other (non-VPA) countries have done and achieved to fight illegal logging and improve forest governance.

Box 1 EU FLEGT Action Plan direct and higher objectives

The overall objective of the Action Plan is *"reduction in illegal logging and related trade"*, to be achieved through three direct objectives and impact pathways: (a) *"establishment of trade instruments that seek to minimise the availability of illegal wood-based products on the European market"*, (b) *"demand-side measures to reduce the end-use and consumption of illegal timber in the EU and globally"* and (c) *"improved forest governance to reduce the supply of illegal wood-based products"*.

The EU FLEGT Action Plan is expected, ultimately, to contribute to the higher objectives (goals) of *sustainable forest management*, as well as the overarching Development Cooperation objectives of *poverty reduction* in the context of *sustainable development*.

The results presented in this report have fed into the overall analysis of the FLEGT Action Plan, and are reflected in the findings, conclusions and recommendations presented in the Main Report. In this report, more detailed analysis underlying and substantiating the findings and conclusions in the main report is provided. Furthermore, this volume pays particular attention to the status of the negotiation and implementation processes in VPA countries and to Timber Legality Assurance Systems (TLAS).

The report complements Volume 1 in as far as it provides more in-depth information and analysis, and highlights certain issues that could not be sufficiently developed in volume 1, for lack of space. Still, for a comprehensive understanding of all VPA-related issues, the reader is advised to read Volume 1 as well. VPAs have five main outcome areas: 1) Equitable and just solutions, 2) Reliable timber legality assurance systems, 3) Transparency, 4) Capacity strengthening, and 5) Policy Reform. All five are extensively discussed in volume 1 (notably in chapter 4.1). In particular, certain elements of the Timber Legality Assurance Systems (TLAS) could not receive the attention they deserve, and additional findings and analysis on the TLAS in the VPA countries is therefore presented here.

Key issues covered by the EU and partner countries in annual reports include (1) Participatory national decision making (multi-stakeholder deliberative processes), (2) Legislative and Policy Reform as identified in VPAs, (3) Timber Legality Assurance Systems, (4) Trade and FLEGT Licences, (5) Domestic Market Measures, (6) Transparency Commitments, (7) Communication, (8) Institutional strengthening and capacity building, (9) VPA monitoring structures and efforts and (10) Broader governance reforms and knock-on efforts of the VPA into other sectors. The analysis provided in this report covers all these issues in order to provide an overview of progress and achievements, in chapter 2.1.

However, considering the focus of such monitoring on the specific VPA objectives, it was felt that this framework was not sufficient to evaluate progress against the broader objectives of the FLEGT Action Plan. In this report, we go beyond the specific VPA objectives and also take the broader objectives as defined in the FLEGT Action Plan as reference.

1.2 Scope

The report takes into consideration all 15 VPA countries (not only those visited by the evaluation team) as well as evidence gathered in non-VPA producer countries. The six non-VPA countries covered by Aide Memoires are Bosnia-Herzegovina, Colombia (which were both visited by the evaluation team) and Brazil, Canada, Chile, and Russia, which were covered through teleconferences and documentation. At various points in the analysis, reference is made to China as well, as it is one of the main importing and processing countries.

The reason for including non-VPA countries (including China) in the analysis is to assess possible impacts of FLEGT action on these countries and to learn from alternative (i.e. non-VPA) approaches for achievement of FLEGT objectives. The report draws on all sources available to the evaluation team (refer evaluation methodology, Main Report chapter 2.1) including the country Aide Memoires, the various surveys conducted, as well as all other secondary sources.

The findings and conclusions are presented in a series of six Aide Memoires (see Annex 5), but not separately reported on in this report. However, the main conclusions drawn by the evaluation team from analysis of these countries are presented in chapter 5, as they feed into the overall conclusions and recommendations.

1.3 Organisation of the report

Following the introduction (chapter 1), in chapter 2, progress made on core elements of the VPA is reviewed, starting with a general overview of progress in negotiation and implementation of VPAs. This chapter is followed with an overview and discussion of the main elements of Timber Legality Assurance Systems (TLAS). The theme of scope of products and markets is also discussed, as a particularly critical aspect.

In chapter 3, we review the effectiveness of the VPAs and their contribution to the direct FLEGT objectives (i.e. improved forest governance and reduced illegal logging). Changes in forest governance are discussed using commonly used aspects of forest governance (chapter 3.1) and in chapter 3.2 we look at changes in Illegal logging and trade.

In chapter 4, we review the contribution of the VPA processes to the higher FLEGT objectives of sustainable forest management, poverty alleviation and sustainable development. We do so using a number of specific indicators.

In chapter 5, the main conclusions drawn from analysis of non-VPA countries are presented.

In chapter 6, overall conclusions are drawn based – in part - on a comparison of effectiveness of FLEGT in VPA and in non-VPA countries. Recommendations are formulated in relation to the prioritisation of support provided under the FLEGT Action Plan, both with respect to VPA implementation and to support to non-VPA countries.

2. PROGRESS ON CORE ELEMENTS OF THE VPAS

2.1 Overview of progress made in negotiation and implementation of VPAs

The issues considered and challenges faced during the negotiation phase - and hence the duration of the negotiation phase (from the moment when the country officially engages in negotiations up to the signature of the VPA) – is highly variable. The negotiations typically last around two years, as in Ghana, CAR, Liberia or Cameroon, but can also be as short as nine months, like in Congo. In Congo the VPA was initialled in May 2009 - which marked the end of negotiations - but then there was an exceptionally long delay between initialling and signature (in July 2010) due to the entry into force of the Lisbon Treaty and change in the EU procedures. The negotiation phase can also last much longer, like in Indonesia (> 4 years of negotiation), Malaysia (8 years) Vietnam, Gabon and DRC (5 years).

Political commitment and many other factors related to the specific country realities determine the magnitude of the challenges to be considered and addressed. The complexity of the forest sector, the clarity of the legal framework, and the importance of the EU exports may explain why some countries need more time to negotiate. It has also been observed that some countries give more importance to the development of TLAS systems before signing and starting the implementation phase than others. Signing a VPA did not always happen directly after an agreement was reached: in Indonesia for example, the VPA was signed more than two years after it was agreed. In some cases, actions supporting the implementation of the VPA started before ratification.

There are often important factors outside the forest sector that impinge upon the process, either within the VPA partner country (length of Parliamentary processes, political changes, elections and change of government, etc.), within the EC (need for translation, Parliamentary scrutiny across 28 states, among others) or factors related to the higher level relations between the EU and the partner country. In such cases, the negotiation process may be put on hold until decisions are taken or wider political agendas are settled.

Furthermore, the linkage between signing a VPA and developing and implementing a Timber Legality Assurance System (TLAS) - one of the elements of a VPA - is not as clear as one would expect. Some countries (Guyana, Vietnam, Malaysia) that are still negotiating are developing elements of a TLAS (legality verification, traceability system) and are actually at a similar stage as some of the implementing countries. In Vietnam, the existing supply chain controls and documentation requirements enable an operator to trace their supplies one step back. VNFOREST (FPD) at local level archives copies of supply chain documentation, but this is not, so far, used to support traceability or for any reconciliation purposes throughout the supply chain. In Cameroon and Congo, the traceability system has been developed for years now, without much success. In Liberia, the traceability system pre-dates the VPA; it exists and is operational since 2009. A work started in late 2013 to expand this traceability system to a fully-fledged legality assurance system. In Guyana it is already effective.

In other words, signing of a VPA leads to efforts to implement TLAS, but obviously does not provide any insurance that a TLAS would be fully operational in the short term. Only two countries are implementing a comprehensive TLAS (Ghana and Indonesia) but, by the end of the period covered by the evaluation, these systems were still awaiting a positive assessment by the independent auditor.

A proper evaluation of the VPA implementation processes – and indirectly of cost-efficiency – would need to consider the pre-VPA situation and the details of the VPA process (including challenges that different actors want to see fixed, issues to be ignored, what to address during VPA implementation, tools to be created). Such analysis is beyond the scope of this evaluation and would warrant a more detailed and in-depth study that would also include benchmarking with other, similar processes.

An overview of progress made in negotiation and implementation of VPAs (including the development of TLAS) is presented in Figure 1.

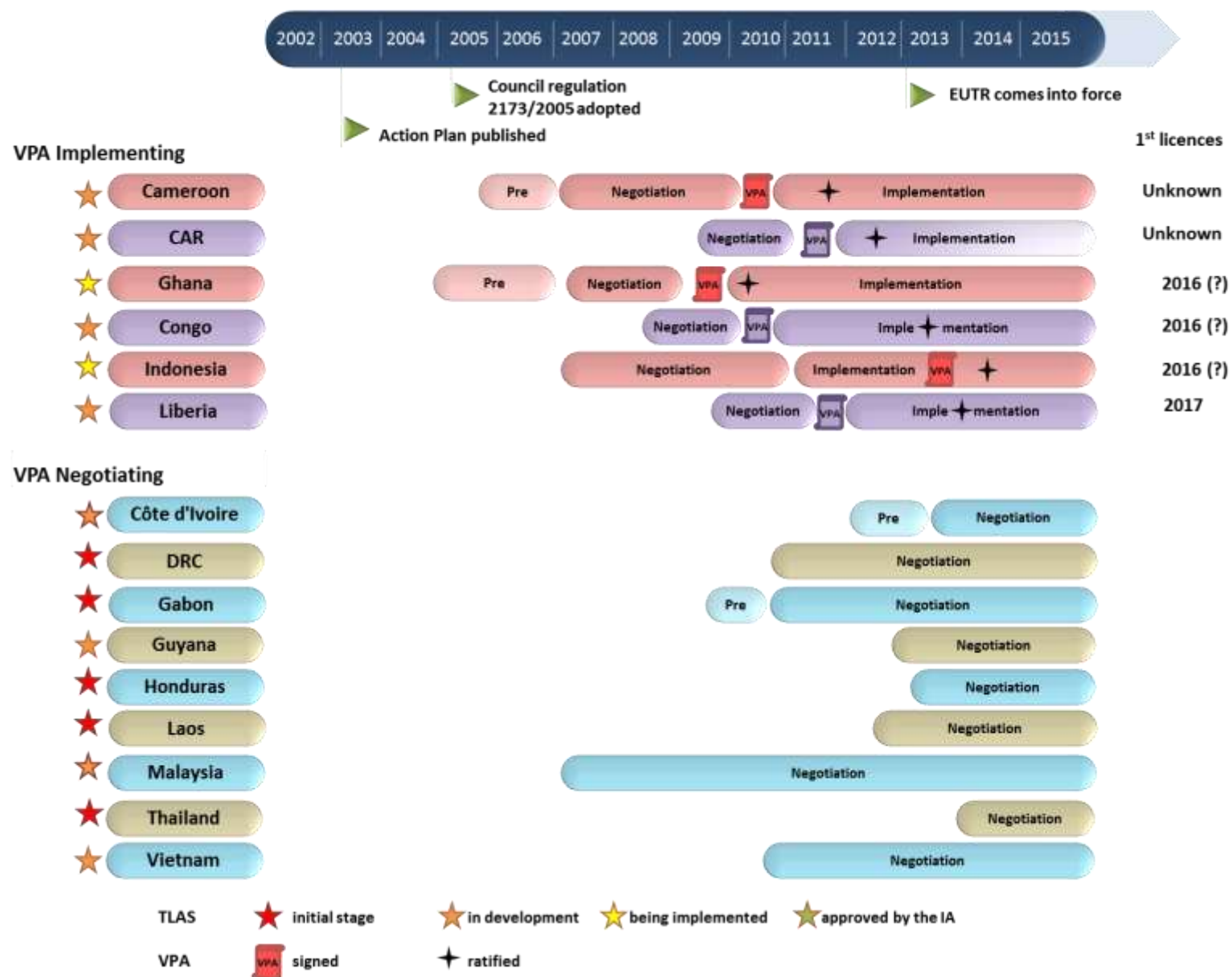


Figure 1: Overview of progress in VPA implementing and negotiating countries

2.2 Review of progress in Timber Legality Assurance Systems

VPAs have five main outcome areas: 1) Equitable and just solutions, 2) Reliable timber legality assurance systems, 3) Transparency, 4) Capacity strengthening, and 5) Policy Reform. All five outcome areas have been extensively discussed in Volume 1, chapter 4.1. However, since certain elements of the Timber Legality Assurance Systems (TLAS) have not received the attention they deserve, some additional findings on the TLAS in the VPA countries are presented here.

The main elements of a TLAS are:

1. Legality Definition and Legality Grid (country-specific)
2. Traceability of timber (supply chain control systems)
3. Verification of compliance (both supply chain and legality)
4. Issuance of FLEGT licenses (timber licensing)
5. Independent Audit (of the entire TLAS).

The main findings identified relate to elements 1, 2 and 4 of the TLAS. Furthermore, following the review of these elements, a separate chapter is dedicated to the theme of scope of products and markets as well, as a particularly critical aspect of VPAs.

A. Legality Definition

Basic principles

The definition of 'Legality' serves many purposes, such as communicating to markets what constitutes legal timber, identifying and resolving possible incoherencies, reaching consensus between stakeholders on the interpretation of legal requirements etc. In the context of TLAS, the legality definition provides the framework against which legal compliance is verified under the VPA. It identifies the national legislative requirements that must be systematically checked to ensure legal compliance; hence it is essentially based on national legislation of the Partner Country. Main activities undertaken by partner countries to come to a legality definition include, among others, identifying and resolving incoherence and overlap in national legislation, reaching consensus between stakeholders on the interpretation of legal requirements, communicating to markets what constitutes legal timber, and strengthening of regulations and control. On the side of the EC and Member States, reaching consensus between stakeholders in partner countries on a shared interpretation of legal requirements is of particular importance.

The EU has established the following expectations with regard to monitoring of legal compliance; every process to reflect on a legality definition should consider compliance with legislation in five areas, pertaining to:

1. granting or compliance with rights to harvest;
2. forest management (including community rights and welfare; environmental legislation; and labour, health & safety policies);
3. taxes, import export duties, royalties and fees;
4. respect for tenure and use rights;
5. trade and export procedures.

Based on the Legality Definition, usually a Legality Grid (LG) is prepared, to reflect the different elements of the definition as well as criteria, indicators and verifiers pertaining to each of them. This Grid guides the development of the verification system that will provide evidence of compliance.

Main findings on legality definition

Countries that have signed a VPA recognize the concept and process of (Timber) Legality Definition as a major achievement of the VPAs (VPA country survey data). Yet, countries negotiating a VPA, do not consider the definition of legality an easy step to make. A practical definition of legally-produced timber will require more than just listing all laws applicable to a country's forest sector. Deciding which laws should be included in the legality definition is the responsibility of each timber producing country. The approach taken so far is that the Legality Grid contains applicable legal instruments based on key governance concerns and detailed into criteria, indicators and verifiers. And although the grid is developed through a consultative process, this same process is also seen by several countries as a cause for the perceived complexity of TLAS and of the Legality Grid, as for example mentioned in Ivory Coast (AM Ivory Coast). At the same time, there appears to be overall consensus in the VPA partner countries that a legality definition should – as a minimum – take legislation in the five aforementioned areas into consideration and should not be simplified.

The main challenge resulting from the complexity and breadth of the legality definitions seem to be related to implementation. Requirements for full compliance with the identified legal instruments is often deemed to be ambitious and unrealistic, both in absolute terms and in comparison with what is required in current EUTR practice. Sometimes it is described as a change from “zero questions asked to 100% assurance” (see aide memoires). This ‘holistic’ approach to legality is one of the most critical operational issues identified in implementation of the VPAs; it makes them difficult to implement and enforce and seems to undermine some of the VPA processes.

Unlike common practice in certification systems, the TLAS under development do not systematically distinguish degrees in the non-conformities, but some countries are reflecting them in subsequent guidance. In some cases, these subsidiary documents are referenced in the VPA's themselves. If the legality grid - and the decision whether a FLEGT License can be issued or not - are applied in a monolithic and binary way (i.e. the wood is considered either legal – and can be exported - or illegal - and cannot be exported), then there are serious concerns for the applicability of the system¹.

A stakeholder to the Ghana VPA observed that “...the scope of legality under VPA is unnecessarily broad especially when considering that the VPA is principally a trade facilitation treaty. Currently VPAs require complete compliance with ALL laws that might apply to the forestry sector, regardless of whether the said laws are applicable to trade. Many of these laws are completely irrelevant [to FLEGT] - it is absurd that vehicle registration is a legal compliance requirement to the Ghana LAS, but this is but one example of many such requirements. It is appreciable that the FLEGT program seeks to attend to a wider set of objectives such as improving sustainable forest management, workers' rights and conditions, and environmental protection. But this broad-brushed approach has made the implementation of FLEGT infinitely more complex than necessary”.

In most of VPA countries, the number of indicators defining legality is rather high and covers a high range of legal aspects, as illustrated in the table below.

¹ In Ivory Coast, the Legality Grid under development (version CTN 05 May 2015) does not provide any hierarchy in the requirements and the corresponding infractions; it does not establish any link to applicable sanctions. For example, should a log exploited in accordance with the forestry law be considered illegal under the VPA because it was transported on a truck overcoming the weight limit, or because a forest worker at some point did not wear a helmet in compliance with health and safety regulation?

Table 1: Number of principles, criteria, indicators and verifiers in the grids of legality in the VPA countries

Country	N° of grids	N° of principles	N° of Criteria	N° of indicators	N° of verifiers
Cameroon	8		38	83	293
CAR	1	10	27	70	161
Congo	2	10	43	121	303
Ghana	1	7	29		
Indonesia	5	18	33	60	134
Liberia	1	11		49	134

This table illustrates how differently the definition of legality and the grids of legality have been dealt with by the VPA countries and also reflects, to some extent, the differences in construct between French based and English based legal frames (the British systems tending to set out broad principles with the details worked out through interpretation and adjudication, whereas the French construct requires detailed implementing regulations that set out explicitly all requirements).

Experience in the VPA countries visited suggests that there has been insufficient *guidance* on how to implement, comply with, verify, and demonstrate legality: for each applicable legal matter, many parameters of legality exist. This makes it very challenging, both technically and economically, for VPA country authorities that are not used to strictly enforcing legal requirements to define what legality is and later monitor and check compliance. Also, having to collaborate with other government departments, although essential from a governance point of view, adds to the difficulty for the national forestry authority.

In most VPA countries, legislation is often not well understood, not clear, or never enforced. The development of legality grids therefore requires a significant amount of work and a high level of details, as illustrated in the case of Cameroon: the tables containing the criteria, indicators and verifiers for the LG1 alone occupy 8 pages of the Cameroon VPA; and there are multiple other grids (even if some indicators are being repeated between the LG).

Also, in the end, all criteria and indicators will need to be analysed and tested on the ground for all legality grids, which is another enormous task - even if the burden may be shared between the national administrations and external consultants. The technical difficulties and lack of capacity to deal with them tend to result in discouragement and demotivation. For the first time, there is a fixed framework that defines explicitly what timber can be considered legal; there is no flexibility - neither for the administration nor for the companies - to interpret the LG according to their likes, and this requires a huge change in mentality. In several countries visited, people expressed doubt that there will ever be any FLEGT Licenses issued - which would essentially be seen as a failure of the VPA despite progresses made in areas such as legal frameworks clarification and understanding.

As one private sector service provider to FLEGT said: *“It seems to be a waste of time to formulate all the documentation (which has been prepared at great expense in time and resources) prior to the signing of the VPA when the information is completely reviewed and recompiled after signing the VPA”*. Part of the documentation indeed needs to be updated by the time implementation starts considering the pace of implementation.

In Vietnam, some stakeholders pointed out that the legal requirements of EUTR and VPA do not match well, and would not fully establish the envisaged ‘level playing field’. The EUTR is essentially a

technical scheme, while the VPA/TLAS is more comprehensive, as it implies several types of controls and checks that put additional burden on the administration and on private companies. EUTR requirements (traceability, due diligence) are considered to be simpler than the VPA ones (legality definition, participation of stakeholders, TLAS, licencing scheme, Independent Auditor, inter alia).

Generally speaking, in various VPA countries there is a wish for *better alignment between the different instruments* (EUTR, VPAs, CITES, legality verification, SFM certification) as far as the scope of legality is concerned. There is a call for a scope including as much as possible the most essential SFM principles, to narrow the current gap between legality and sustainability in producer country laws.

There is a need to introduce a *hierarchy of legality requirements and the consequences of their violations*, similar to minor and major corrective action requests required under forest certification schemes. Corrective action requests could be further analysed to distinguish between (i) a *major non-conformity* - that would have the effect of *suspending* the issuance of the FLEGT Authorisation for a specific lot of wood, until corrective action has erased the offence within a certain time, or that could become a definite *blocker* for the specific lot of wood, or even for the activity, after that time has elapsed without a correction or if an ex-post correction is impossible; and (ii) a *minor non-conformity* for which the company responsible will be warned or sanctioned by the competent authority but may get in compliance with the relevant regulation under a certain time limit, and is therefore non-blocking for the issuance of the FLEGT authorisation.

At the same time, there is a need for implementation and enforcement in phases until reaching the full scope of the legality definition and grids. Initially, implementation could concentrate on key criteria of legal compliance, for example, while criteria outside the forestry regulation could be addressed through certificates to be provided by the producer and trader companies.

B. Traceability of timber

With regard to traceability the FLEGT Action Plan refers to the use of a range of technologies, to help monitor harvesting operations, and “track timber from the point of harvest, through processing mills, ports and on to final markets”, as one of the measures composing the verification systems.

In the course of the evaluation, traceability systems have often been mentioned as a major challenge and, generally speaking, the development of the traceability system is said to have been underestimated in terms of burden, technology, human capacity and funding (VPA Survey). In a number of VPA countries (Congo, Cameroon and Ghana²), progress towards FLEGT licensing has been delayed due to difficulties in establishing the necessary traceability systems. A study of FAO³ acknowledges that “...*this is the most complicated element to negotiate and can be a major obstacle in setting up VPA systems*”. In each of these countries, there has been a major focus on the development of these systems in the early stages of the implementation of the VPA, while little was known about how to approach timber traceability at national level (personal communication).

A private sector consortium was involved in the development of the systems in most African VPAs. High-tech tools (bar codes, bar code readers, internet transfer, central database, etc.) were developed but did not live up to the expectations. These experiences have resulted in doubts whether not too much focus was on developing high-tech tools, at the expense of other essential elements such as the development of procedures and, above all, capacity building. This is reflected in the VPA Survey, where only four out of eleven countries see an impact of the establishment of a national traceability system.

2 Annual Report 2011 - Implementing the Ghana–EU VPA. JMRM (Ghana and EC) (04 2014).

3 FAO, 2014 - The VPA process in Central and West Africa - From Theory to Practice.

Reasons that may have hampered the implementation of the traceability systems are summarized in Figure 11. It confirms the common view that the systems developed were too complicated and not adapted to the local capacities (for example, when the service providers referred to web-based tracking and database technologies that are not accessible to individual programmers or small software companies). It is also commonly felt that there has been too much of outsourcing of the development of elements of the traceability system at the expense of national ownership.

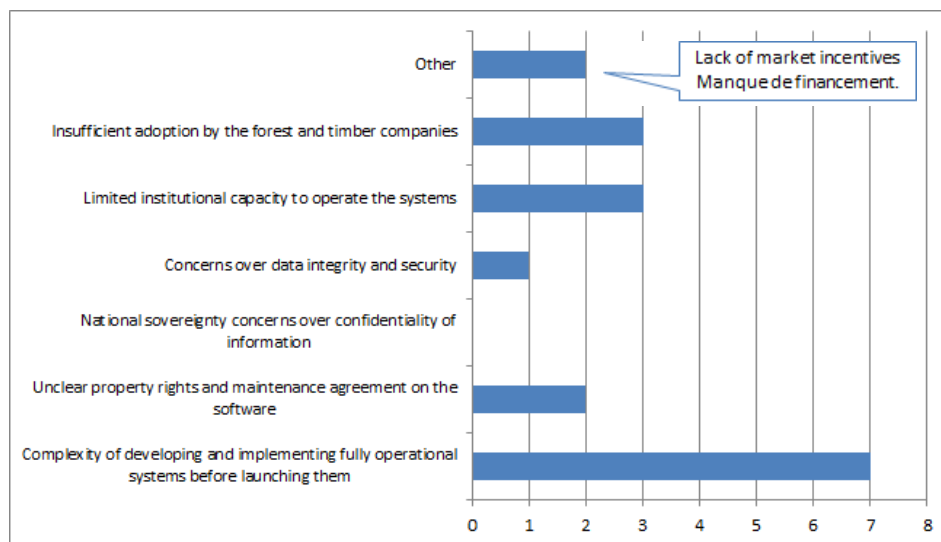


Figure 2: Factors that have hampered the implementation of the traceability system (VPA survey) - (N=9, two countries did not answer this question)

Lack of clarification on what a country wide Wood Tracking System is about and could look like has contributed to misunderstandings between country authorities, service providers and funding agencies. In Cameroon, for example, different stakeholders had different expectations of the system to function as a forest sector monitoring system (FSMS) and/or a wood tracking system (WTS). It was unclear whether or not one single system would be capable of providing the various functionalities in different modules (forest sector management information, timber traceability, legality verification, and licensing). In addition, the material time required for software development has often been underestimated (Cameroon, Congo).

Beside technical challenges, collaboration of service providers with government services and logging companies has often been poor; the latter complain about the inadequacy of operational links with their internal operating systems (Cameroon, Congo) which are primarily geared towards responding to EUTR requirements rather than to VPA requirements. *“All of these factors have quickly brought these systems up against the harsh realities on the ground and led to reluctance among stakeholders in both the private sector and public services.”* (FAO, 2015).

There is also some positive experience. In Ghana, after the failed delivery of an initial WTS and delays in contracting of a new service provider, a WTS has now (2015) been developed and tested and is being rolled out in three phases. A semi-online system has been developed and existing procedures have been refined where necessary. This gives hope that in other countries where attempts to develop a WTS have also failed, there could be systems up and running in the medium term. The range of solutions may include paper-based declarations (with staff entering data manually), submission of electronic files (for automatic data upload), online access to web-based systems (for the transfer of data files), or direct interface between systems. A phased implementation of project design could also be considered in parallel.

Another good example is drawn from the CAR, where the WTS is based on existing systems set up by BIVAC (a subsidiary of Bureau Veritas) coupled with effective traceability systems within the various

logging companies. Likewise, well before the FLEGT Action Plan came into force, Guyana had also developed and implemented a simple but comprehensive tracking system. Initially the log tracking was largely manual, but this system has since been advanced to include electronic barcode tracking, implementation of which has begun on a pilot scale. Protocols and guidelines are being developed to ensure that tracking is possible along the entire supply chain to the final point of sale.

In the initial stage of each VPA, the most appropriate scenario for the development of a nation-wide traceability system should be identified. If, for any reason, the development and implementation of a comprehensive “forest sector monitoring and wood tracking system” cannot be achieved on a medium term, then a simpler “forest sector monitoring system” operating at company and forest operation level could be envisaged, which can still allow for checks and balances and support legality verification. Traceability at individual product level can be added in a next phase.

C. Licensing systems

To date, none of the VPA countries have been able to issue any FLEGT licenced timber. According to the VPA survey, most of the countries have delayed the initial timing for issuing FLEGT licences by three or four years.

The main reasons for the delays put forward are (1) the difficulties to implement a WTS/TLAS and (2) the lack of funding to (fully) support the long process toward licensing. As one stakeholder put it *“six VPA countries have already concluded and signed a VPA, but up to now no FLEGT license has been issued so the feasibility and ability to implement the VPA in reality needs to be assessed”*. For many stakeholders, the absence of FLEGT licenses and the difficulties in implementing a robust TLAS are undermining the entire VPA process (see VPA and public surveys). For Vietnam, licences are an EU requirement and VN Forest wonders why it would have to provide these licences to prove that its TLAS system works. In Ivory Coast there are similar concerns as FLEGT licences are often seen as the main indicator to justify the investments made in a VPA.

At the same time, some VPA countries feel that the efforts they have made so far have not been rewarded since no FLEGT licences are being issued. This has been mentioned several times during the country visits, e.g. in Cameroon where the bigger companies are focusing more on complying with the EUTR requirements than on supporting the VPA itself. In Indonesia, while some companies are wondering why they have invested in a system that does not yet deliver the promised FLEGT licenses, some politicians seem to question whether the country should continue with the VPA in case of further delays (see Indonesia AM).

In the EU MS, there is also a concern about the lack of ‘tangible’ results of the VPA processes and their limited efficiency in terms of FLEGT licensing. There are still high expectations regarding the issuance of FLEGT licenses as a mechanism complementing and facilitating the implementation of the EUTR.

On the other hand, even in the absence of FLEGT licenses, the FLEGT Action Plan is generally recognised to have achieved a lot: some stakeholders in Ghana reported that, even if the FLEGT licenses would never materialise, the whole exercise was worth the effort, especially for the broad stakeholder engagement and inclusive policy development processes. In the Netherlands a consultation of stakeholders emphasised that, without FLEGT licenses, the money was not wasted: training and monitoring systems have been developed, the EUTR was established, and pressure has increased on other countries like the USA and Japan.

Since the EUTR is being implemented, VPA countries look less at FLEGT licenses as a way to enter the EU market than as a recognition and reward for the efforts made. “Balance between ambition and reality on the ground”, “adaptation to national context”, “implementation by phase”, and “need for more time” are some of the recommendations that are made by VPA countries. In Vietnam, a phased approach for the licensing scheme had been discussed in the negotiation process; in Ghana

the implementation of the TLAS all at once for the entire sector is questioned and there may be an interest in applying a phased approach starting with all registered companies involved in exports, to be followed by those that do not export but supply the domestic market; in Cameroon, there is a common feeling that the voluntary character of the VPA approach, without clearly defined milestones, might have undermined the VPA. In this country, the issuance of certificates of legality is considered to be a first step towards FLEGT licensing.

In Indonesia, there has been experience with the licensing over two years; that is to say, with the issuance of SVLK (TLAS) certificates for companies complying with the SVLK requirements. While the SVLK certificates are actively promoted by the Indonesian Government as a guarantee for legal timber on the international market⁴, the issuance of FLEGT licenses has so far been postponed until all companies active in the sector can comply. This is still a major challenge, given the many SMEs active in the sector that have yet to be SVLK certified, after being informed, trained and otherwise prepared for compliance.

D. Selection of products and markets

The EU FLEGT Action Plan states that the VPAs *‘would initially cover a limited range of solid wood products (roundwood and rough sawn wood) due to the difficulties of ascertaining the origin of processed timber products, but provision could be made to extend the scheme to other product categories, where practicable’*. The FLEGT Regulation 2173/2005 (establishing the FLEGT licensing scheme for imports of timber into the EU) extended the scope to include plywood and veneer products (5 HS codes).

Each VPA country decides and specifies, typically in Annex I to the VPA, the range of timber and timber products to be covered by the VPA. To date, in order to cover all of their timber exports to the EU, all VPA partner countries have included additional products. Cameroon for example included furniture, fuel wood and wooden tools. The annex identifies each product by a ‘HS’ code, in line with the World Customs Union’s Harmonized System for classifying products, to enable customs authorities in the EU to identify the product category to which imports belong.

The VPA approach leaves flexibility to tailor products coverage in accordance with individual countries industry and preferences. But it may also be seen as an inconsistency in the implementation of the EU FLEGT Action Plan, between what the supply side was expected to produce and what the demand side was looking for in terms of ‘legal timber’.

The EUTR scope is broader; it includes 16 HS codes and some MS (such as the Netherlands in collaboration with WWF NL and the private sector - refer to Netherlands AM) are lobbying to further broaden the scope.

The following table compares the product scopes in the EU FLEGT Action Plan, the FLEGT Regulation, the EUTR and the signed VPAs, illustrating the different requirements. All VPA countries comply with the FLEGT (2173/2005) Regulation and have included the five minimum groups of timber. However, only **Indonesia** included all EUTR timber products in its VPA. CAR and Liberia did the same, except for pulp of wood and paper products since they do not produce/export these products. **Cameroon** and **Ghana** have included less than half of the EUTR requirements. If companies want to develop new products that are not included in the VPA, these products should be subject to the due diligence of operators placing timber on the EU market, in accordance with the EU Timber Regulation. Countries may also want to change the VPA annexes, which could entail lengthy procedures. This might hinder wood-based product development and value addition in general.

⁴ There seems to be a positive response, both from the EU market (as illustrated by the increase of export to the EU) as from other markets (shown by the increased interest of China to import SVLK certified timber from Indonesia).

More attention to this issue should be considered to better support the development of viable timber industries in those countries that have some potential to do so. What would seem to be essential here is to ensure that all products included in the scope of EUTR are also included in the product scope of the VPAs; otherwise some products would have to be exported from VPA countries to the EU without a FLEGT License and may not even be subjected to the rest of the TLAS. This would introduce unjustified operational inconsistencies and would put those products (and the associated companies) at a disadvantage on the market.

Regarding the sources, all VPA countries have included all the types of forest permits that are in their national laws, either for natural or plantation forest.

Initially, the EU FLEGT Action Plan was using EU market leverage to combat illegal logging in producer countries. The objective of the VPAs *“is to provide a legal framework aimed at ensuring that all imports into the Union from [the VPA country] of timber products covered by this Agreement have been legally produced”*. When Ghana negotiated the first VPA, however, it was decided to include the domestic market. Ghana considered it was important to address and tackle the challenges of controlling illegal activity, deforestation and revenue leakage. Inclusion of the domestic market in the VPAs has since then become the norm and was adopted in all VPAs. Only the Central African Republic recognised the difficulty to tackle the domestic market and preferred to develop appropriate legislation for community forests and artisanal permits to address domestic market products before including them in the VPA. Without domestic markets, where most of illegal logging in fact takes place, the EU FLEGT Action Plan would indeed miss a very important part of its principal objective. From a producer country perspective, including the domestic market in the VPA creates an opportunity to bring it under control with all its ramifications, knowing that separating sources destined for export and domestic market is hard. It is also an opportunity to increase demand for legal timber.

As a result in most VPAs it is stated that the partner country shall broaden the scope of the market targeted by the VPA by applying TLAS also to other Non EU markets, to the domestic market and to imported timber. This makes the VPAs more relevant as the EU market has been shrinking while other markets (China) have been developing. Ghana is the only partner country that does not mention the use of FLEGT licenses for non-EU exports.

Table 2: comparison between product scopes in the EU FLEGT Action Plan, the 2005 regulation, the EUTR and the signed VPAs (HS: Harmonization System Code – N Forbidden for export) EUTR Scope, EUTR+ R 173 scope, EUTR + R 175 + FLEGT AP scope

HS	Description	FLEGT AP	R 2173-2005	EUTR	Cameroon	Congo	Indonesia	Ghana	Liberia	CAR
4401	Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms; Sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms			X		X	X		X	X
4402	Wood charcoal (including shell or nut charcoal), whether or not agglomerated					X				
4403	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared	X	X	X	X	X	N	xN	X	X
4404	Hoopwood; split poles; piles, pickets and stakes of wood, pointed but not sawn lengthwise; wooden sticks, roughly trimmed but not turned, bent or otherwise worked, suitable for the manufacture of walking-sticks, umbrellas, tool handles or the like; chipwood and the like						xN			X
4406	Railway or tramway sleepers (cross-ties) of wood		X	X	X	X	N	X	X	X
4407	Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm	X	X	X	X	X	xN	X	X	X
4408	Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for other similar laminated wood and other wood sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm		X	X	X	X	X	X	X	X
4409	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed			X		X	X	X	X	X
4410	Particle board, oriented strand board (OSB) and similar board (for example waferboard) of wood or other ligneous materials, whether or not agglomerated with resins or other organic binding substances			X		X	X		X	X

HS	Description	FLEGT AP	R 2173-2005	EUTR	Cameroon	Congo	Indonesia	Ghana	Liberia	CAR
4411	Fibreboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances			X			X		X	X
4412	Plywood, veneered panels and similar laminated wood		X	X	X	X	X	X	X	X
4413	Densified wood, in blocks, plates, strips or profile shapes						X			
4414	Wooden frames for paintings, photographs, mirrors or similar objects			X	X		X		X	X
4415	Packing cases, boxes, crates, drums and similar packings, of wood; cable-drums of wood; pallets, box pallets and other load boards, of wood; pallet collars of wood			X		X	X		X	X
4416	Casks, barrels, vats, tubs and other cooperers' products and parts thereof, including staves			X			X		X	X
4417	Tools, tool bodies, tool handles, broom or brush bodies and handles, in wood; boot or shoe lasts and trees of wood				X	X	X		X	X
4418	Builders' joinery and carpentry of wood: windows, French-windows and their frames			X		X	X	X	X	X
4419	Tableware and kitchenware, of wood							X		X
4420	Wood marquetry and inlaid wood; caskets and cases for jewellery or cutlery, and similar articles, of wood; statuettes and other ornaments, of wood; wooden articles of furniture not falling in Chapter 94							X		
4421	Wooden paving blocks						X			
47	Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard			X			X			
48	Paper and paperboard articles of paper pulp, of paper or of paperboard			X			X			
9401	Seats other than those of heading 9402						X			
9403	Wooden furniture of a kind used in offices			X	X	X	X		X	X
Number of product types		2	5	16	8	13	21	8	15	17

2.3 Conclusions on progress and TLAS development

1. Progress on **negotiation and implementation** of VPA processes is slower than initially expected. Reasons for slow progress are various, ranging from complex political situations, legal issues, conflict, technical issues, political will, changing political and policy realities (in both VPA and EU MS countries) etc. In some countries, it seems justified to reassess the relevance of such VPAs against clear criteria, e.g. the exports to the EU or gains made in terms of improved forest governance. A more result-oriented management of negotiation processes may help increase focus on support to those countries that are most relevant and willing to engage in a FLEGT (VPA or other) agreement with the EU.
2. The complexity surrounding the **Legality Definition and the Legality Grid** (including the implementation, compliance, verification and demonstration of legality) constitutes one of the key governance challenges to tackling illegal logging. In most VPA countries, legislation is not well understood, not clear, and/or not enforced. In such context, the development of a Legality Grid (LG) is essential but also a major cause for delays in implementation of the VPA processes. Given this complexity there is a need for implementation and enforcement in phases until reaching the full scope of the legality definition and grids. One of the options is to introduce a *hierarchy of legality requirements and the consequences of their violations*.
3. In a number of VPA countries progress towards FLEGT licensing has been delayed due to difficulties in establishing the necessary **traceability systems**. Generally speaking, the development of the traceability system is said to have been underestimated in terms of burden, technology, human capacity and funding. Some of the systems developed were too complicated and not adapted to the local capacities. It is also commonly felt that there has been too much of outsourcing of the development of elements of the traceability systems at the expense of national ownership.
4. Since the EUTR is being implemented, VPA countries look less at **FLEGT licenses** as a way to enter the EU market than as a recognition and reward for the efforts made. “Balance between ambition and reality on the ground”, “adaptation to national context”, “implementation by phases”, and “need for more time” are some of the recommendations made by VPA countries.
5. Different **definition of product scopes** between the EUTR and some FLEGT VPAs risk compromising an effective implementation of the VPAs. There is a need to (i) ensure that the product scope of the VPAs is consistent with national contexts, in particular industry structure and development plans and to (ii) ensure the eventual alignment of all VPAs in that regard..
6. The inclusion of the domestic market in the VPA scope and the difficulties that all VPA countries face with regard to illegality and irregularities in the domestic market are arguments in favour of a phased approach to VPA/TLAS implementation. The phasing could start with all registered companies involved in exports, to be followed by those that do not export and exclusively supply the domestic market. This would (a) allow the stakeholders involved in exports to start TLAS application soon and gain the necessary experience; (b) avoid the loss of interest and momentum of the more advanced parties, caused by the current need to wait for those companies that have yet to be prepared, trained or even informed; (c) allow to start the FLEGT licensing according to planning in a way that can be controlled; and (d) provide the necessary flexibility for stakeholder groups operating in the domestic market to start implementation once they are better prepared for it.

3. CONTRIBUTION TO DIRECT FLEGT OBJECTIVES

3.1 Changes in forest governance

To assess whether forest governance has been strengthened and to what extent the VPA process has contributed, the team first defined ‘forest governance’ since in the EU FLEGT Action Plan ‘forest governance’ has not been made explicit. Several analytical frameworks for forest governance have been proposed (Mayers et al 2002; FAO/Profor 2011; WRI, 2013; van Bodegom et al, 2008; Tegegne et al, 2014). Based on the Tegegne (EFI) framework, combined with inputs from other frameworks, the evaluation team developed a simple tool for assessing changes in forest governance (and in sustainable forest management, poverty reduction and sustainable development) see paragraph 3.4.

Six aspects of governance that were common in most of the frameworks mentioned above were assessed: (1) Effectiveness of stakeholder involvement, (2) accountability and transparency, (3) institutional effectiveness and efficiency, (4) forest legislative reforms including land rights, (5) law enforcement and compliance, and (6) illegal logging. This 6th aspect is dealt with in more detail, since it is also one of the overall objectives of the EU FLEGT Action Plan.

The assessment is based on fieldwork undertaken in the framework of the evaluation, combined with surveys, literature and available documentation. For countries not visited by the team, progress reports, surveys, literature and other documentation were used as sources of information.

A. General forest governance achievements

In the VPA survey, governments were asked for achievements regarding forest governance. All responding VPA governments (n=9) answered they saw achievements in terms of forest governance. When specifying what changes they experienced (n=9), the involvement of stakeholders was mentioned most frequently, followed by changes in institutional effectiveness and efficiency and changes in law enforcement and compliance (see figure 1).

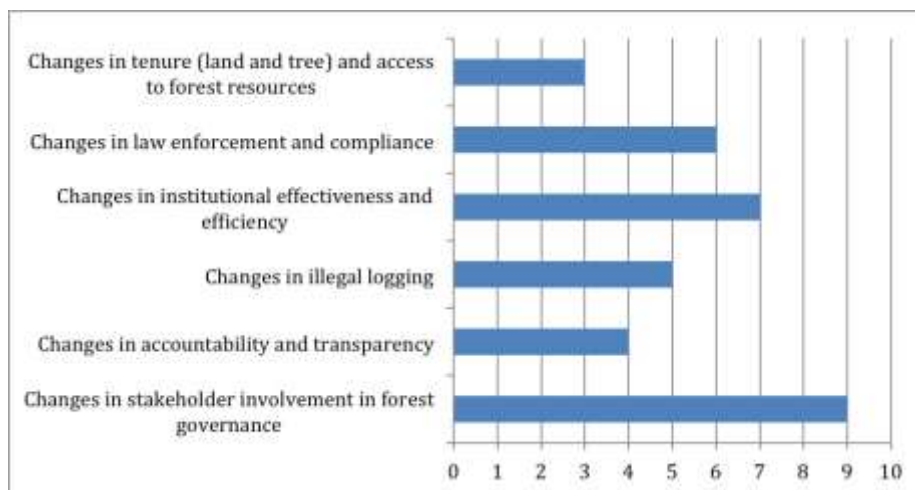


Figure 3: Changes in forest governance, VPA government survey, 2015, n=9, two respondents did not give an answer to this question

In the Public Survey, too, stakeholder involvement is the achievement that was mentioned most frequently (27% of 200 responses). (Refer to Volume 3 – survey results - for more details).

B. Stakeholder involvement

Actions and Progress

Both literature and the team’s own findings show that the involvement of stakeholders, and especially the involvement of stakeholders in VPA partner countries, is one of the main

achievements of the EU FLEGT Action Plan. Respondents talk about ‘unprecedented involvement’ of stakeholders in the VPA negotiation process (see Ghana AM; MS Survey). To further unravel stakeholder involvement, the team looked at a) strengthened capacities of stakeholders for effective involvement in the negotiation and other processes; b) the level and scope of involvement of stakeholders (who is involved, and to what extent, formal/informal); c) the added value of the involvement; and d) sustenance of involvement (within the VPA process and in other processes).

In all countries assessed, the **capacities of stakeholders** are strengthened, whatever their starting position was. In Liberia, Cameroon, DRC, CAR and Ivory Coast, though, capacities of ministries are said to be still weak (see also section C on Institutional effectiveness and efficiency), while in Ghana the capacities of the government were rather strong already before the VPA process. Especially in Ghana and Indonesia capacities of CSOs and NGOs are strong in terms of legal skills and alignment of activities. In Guyana, civil society, representing both Amerindian and non-Amerindian interests, tends to be comparatively weak and fragmented. Ensuring that civil society’s voice is heard in the process might prove to be a challenge. Capacity strengthening of the private sector is less common, although in some countries civil society tries to strengthen capacities of private sector actors as well, especially of small and medium enterprises (Ghana AM, Vietnam AM).

The level and **scope of involvement** of stakeholders show great variations. Going through all data, three levels of involvement were mentioned in reports, the surveys and the Aide Memoires:

- a) Consultation, through which stakeholders are consulted on a wide range of issues but do not necessarily have a seat in formal bodies;
- b) Technical involvement through which stakeholders have a formal seat in technical working groups, technical committees and bodies; and
- c) Political involvement through which stakeholders have a formal seat in the negotiation body.

The NGOs and CSOs, in particular, show varying involvement across the three types. Countries like Ghana, Indonesia, CAR, Laos and the Republic of Congo involve CSOs/NGOs through all three types of involvement. However, the involvement of CSOs/NGOs in the formal (technical and political) bodies seems less strong in some other countries: In Thailand, the CSOs/NGOs are formally involved in technical bodies, but not in the political body. In Vietnam and Malaysia CSOs/NGOs are not formally involved in technical or political bodies, but they are consulted.

For example, the Vietnam CSOs/NGO network does not have a formal seat in the two working groups on the Legality definition and the TLAS, while the private sector does. Nevertheless, after some initial hick-ups, the network can comment on documents and VNFOREST accounts for what advice they have accepted and what not. In Malaysia, the civil society was not directly involved in negotiations and some of them reportedly walked out in the early stages of the negotiation.

In Liberia, Cameroon, Honduras and Guyana, forest-dependent and indigenous communities have/had been recently involved, though not as much as they would have liked, while for some other countries it remains a question to what extent the national/ regional NGOs and CSOs represent local communities. Involvement of provincial and regional stakeholders is, in general, weak. In the DRC, the multi-stakeholder mechanism is currently not working.

The Private Sector (PS) is involved in all countries, in many countries through all three types of involvement. When compared with the CSOs: In Thailand, the PS is involved in the negotiation team (CSOs are not), while in Laos, Vietnam and Malaysia the PS is - other than the CSOs - involved in formal technical bodies. The SMEs are usually not very well represented. In Ivory Coast, the involvement of the industry sector was suspended for about six months (for reasons not directly related to the VPA process).

Regarding the **added value** of multi stakeholder involvement, several issues were mentioned: In Ghana different people stated that the quality of the process and of the contents of e.g. the annexes of the VPA improved thanks to the involvement of stakeholders. Among others, the Special Permits issue was put on the agenda by the NGOS. In Cameroon, the quality of the VPA is said to have improved through the stakeholder involvement as well. In Liberia, the involvement of the civil society ensured that the Private Use Permits were cancelled. In Vietnam, the texts of the annexes were adjusted thanks to the involvement of the VNGO network.

As regards **sustenance of involvement**, in Indonesia, Ghana and Liberia the involvement of stakeholders has continued during the implementation of the VPA, although in Ghana the Forestry Commission and the NGOs have different opinions on the extent to which such involvement needs to continue. While the Forestry Commission sees the implementation phase more as a technical process that does not require much stakeholder involvement (even as the NGOs and the PS are still represented in the formal bodies), the NGOs and PS would like to be involved more closely. In Indonesia and Ghana, the involvement of stakeholders seems to spread to other sectors as well (Ghana/mining sector).

In Cameroon, stakeholders' participation has continued, but the extent to which the contributions of civil society have been taken into account is unsure.

C. Accountability and Transparency

Actions and progress

In order to further unravel accountability and transparency, the evaluation team looked at a) access to information; b) communication; c) installation of complaint mechanisms, and d) the establishment of monitoring mechanisms.

Access to information has been the primary field that was targeted by the VPA countries to improve transparency. In Cameroon, considerable effort has been put to improving access: a new internet site is managed by MINFOF and is being visited 5,000 times a month; overall, there is improved dissemination of the information, even if an estimated 83% of the information regarding the FLEGT VPA is available, 50% is accessible and only 28% published (FODER 2015). The Transparency index for Cameroon shows mixed progress over the years.

Congo also developed a web-based mechanism, which is regularly updated with online forest maps and other information (<http://www.apvflegtcongo.info>). FLEGT news is published every two months and provides useful information on the on-going process. Liberia, which became the first country to include forestry in its Extractive Industries Transparency Initiative ("EITI") reporting, revealed that almost 90% of resource concessions granted for logging, commercial agriculture, mining, oil and gas between 2009 and 2011 were illegal. During 2012, following an assessment of transparency, a start was made to develop the FDA's website so that it provides a platform for transparency.

While websites and new technologies are a good first step, they cannot be the only solution in countries where many local communities do not even have access to basic infrastructure such as electricity. More needs to be done to reach people on the ground in the remotest areas of these countries, by using other kinds of media (radio, leaflets, comics, translation of documents into local languages). Also better information needs to be provided on sensitive issues such as title allocations, production statistics or the status of new regulations. The use of media and popular communication tools has enhanced the visibility of the VPA process in CAR (radio programmes) and in Ghana (Community rallies). This is most important in countries where access to villages is extremely difficult such as in DRC.

In Ghana, transparency has been increased mainly through strong mobilization of the civil society, which has put the spotlight on the forest sector; people are more aware, nowadays, of the problems with tenders, for example. Increased transparency has contributed to improved governance,

particularly in cases of high-level political resistance to prosecute certain offenders, like in Ghana. Transparency has greatly improved in Vietnam, a centralized country with a strong involvement of NGOs. Until 2014, the consultation process was not very transparent and it was unclear what inputs from the Civil Society were taken into account. In 2014, VN Forest elaborated a report to indicate what inputs were included in the annexes.

Access to information remains a challenge in Indonesia and is not an objective that has been achieved as much as in other VPA countries, despite the Freedom of Information Law that came into force before the VPA was signed. The work of the Independent Monitor, for example, is hampered both by lack of transparency and by personal security constraints.

All VPA countries have annexes to the VPA on transparency (sometimes called public information). Most countries negotiating the VPAs are in the very early stages of improving transparency, even if some progress is observed. Honduras and Malaysia have agreed to reflect transparency prominently in their VPA annexes. A baseline study mentions that a considerable amount of information is available about forest governance in Guyana but that gaps exist in transparency and data access, outreach and community capacity to interpret technical data.

Other initiatives contributing to increased transparency throughout VPA - and some non-VPA countries - include the Central Africa Forest Transparency Initiative, which is developing an online platform to monitor indicators of legality with FAO/WRI support. It provides access to anyone wishing to see the available legal information for any industrial company. It is well advanced in Congo, but would need to avoid duplication with existing initiatives and databases (Brack and Léger, 2012).

Communication is an important instrument to raise public awareness of the VPA and its benefits and strengthen stakeholder collaboration in implementing the agreement. Communication strategies have not always received much attention of the VPA countries before 2013. Congo did prepare a communication strategy in a VPA annex, which identifies target audiences, methods of communication and messages, and annual communication plans have been developed since 2013-as part of VPA implementation efforts. In Vietnam, a project supported by the EU-FAO FLEGT programme aims at improving the communication capacity of media and business associations to inform key actors about the VPA process, prepare them for implementation and enhance their motivation and commitment. In Indonesia, all stakeholders agreed on a joint communication strategy, which would support the transparency. Since 2013, specific VPA Annual Communication Plans were developed as part of the VPA implementation efforts.

VPAs consider **complaint mechanisms** concerning the implementation of the TLAS. However, the evaluation team does not have sufficient information to assess implementation of such mechanism in countries such as Ghana, Indonesia, Cameroon or Malaysia. This may be due to the fact that implementation of TLAS is still pending. In Indonesia, a regulation allowing Civil Society groups to raise objection on the TLAS has been enacted previous to the VPA-signing.

In order to improve transparency and accountability, some VPA countries have developed **independent forest monitoring** (or forest observation) mechanisms. These mechanisms - described in the table below - provide appropriate responses in countries that face multiple governance challenges while developing and implementing a VPA. A review of the existing systems has been made by Brack and Leger in 2013⁵ and was complemented by recent country visits.

⁵ Brack and Leger - A review of independent monitoring initiatives and lessons to learn - 2013

Table 3: Independent monitoring mechanisms (also called “observation” in some countries)

Country	Most recent Independent Forest Monitoring mechanisms	Comments	Results
Cameroon	IFM started before VPA Consultant firm in association with one NGO until 2013 (EU funding)	IFM started before VPA Recognition of IFM’s role in the VPA Observation of compliance with forest regulations to monitor Close cooperation with forest administration Not renewed after the end of 2013	Some
	NGO and CSO self-mandated monitoring	Not mentioned in the VPA Local observers. Coordination by a national NGO Independent from the forest administration	Some
CAR	CSO monitoring system under development Support by international and national NGOs	VPA contains reference to CSO forest monitoring in Annex V, X and XI	Few
Congo	A national NGO (Cercle d’Appui pour la Gestion Durable des Forêts – CAGDF) is functioning as FLEGT independent observer in Congo with a permanent order of assignment by the MEFDD (Ministry of Forestry). Among others funded by EU and DFID. The CSO Independent Observer is enshrined in article 80 of the new draft Forest Code validated by stakeholders in June 2014; pending approbation.	Mentioned in the VPA (Annex IX) IFM started before VPA On-the-ground investigations and publication of reliable information on the realities of the forest sector in Congo	Some
Ghana	No official IFM in spite of efforts from NGO to establish such a mechanism	Not mentioned in the VPA	Few
Indonesia	Network of NGOs aiming to monitor the Indonesian TLAS	IFM formally recognised in the VPA (Annex VIII)	Few
Liberia	A team of Civil Society Independent Forest Monitors has been established under the NGO Coalition. They have published a number of briefings e.g. http://loggingoff.info/sites/loggingoff.info/files/CS-IFM(2014)%20ICC-ForestVentureBrief[03]_0.pdf They are recognized by stakeholders and the Liberian government as the official IFM.	IFM formally recognised in the VPA (Annex VIII)	Some
DRC	IFM project led by international and national NGOs until April 2013. Self-mandated NGOs are also conducting monitoring organisations	IFM not related to VPA negotiations	Some

D. Institutional effectiveness & efficiency

Actions and progress

For assessment of 'Institutional effectiveness and efficiency', three indicators are considered: (a) performance of governmental institutions involved, (b) clarity of roles (clear division of mandates and roles between the various institutions and stakeholders involved) and (c) coordination and alignment of (FLEGT) activities.

In general, the **performance of governmental institutions** varies greatly across the VPA countries, irrespective of their status of VPA-negotiating or -implementing country. In some countries, institutions were possibly already rather strong before they embarked on the VPA process, like in Indonesia, Vietnam, and to some extent Ghana and Guyana. The VPA process has probably contributed in a number of countries - whatever their starting position - to the effectiveness and efficiency of the institutions, like in Ghana ('our tools have been sharpened', as one interviewee in Ghana says), Indonesia, possibly the Republic of Congo, Central African Republic, Liberia, Vietnam etc. In countries like Ghana, Indonesia and Vietnam these improvements seem to last, while in other countries the governing structures and their effectiveness are affected by disagreements between various groups of stakeholders (Malaysia), between different levels of administration (Malaysia, DRC) and/or political conflicts (Thailand, Central African Republic).

In Cameroon and the Central African Republic, performance of the institutions is generally considered to be weak. In a number of countries (Laos, Ivory Coast) it was also noted that till 2015 limited political will impedes progress in institutional effectiveness.

The **clarity of roles and division of labour** between the various institutions and stakeholders show mixed pictures as well. In both Ghana and Vietnam there are divergent perspectives on the role of the NGOs/CSOs: While the government in Ghana considers that further development of e.g. TLAS/ WTS is primarily a technical issue that does not require involvement of the civil society organisations, the latter argue that they need to stay involved since all technical matters have a social dimension as well. In Vietnam, the NGOs would like to be more formally involved and have more influence. But the authorities - while they appreciate NGO's comments - do not see a role for the NGOs in the working groups and formal bodies. In Laos, the role of NGOs in the VPA Steering and Technical Committees has been determined recently, while in Guyana a clarification of the various roles is under development. In the Republic of Congo the division of roles between the groups of stakeholders seems clear.

In Ghana, Indonesia, Vietnam, Guyana and the Republic of Congo **coordination** between the various ministries (or equivalent) involved in FLEGT, and coordination with the other stakeholders seems to be satisfactory. Liberia is said to have one of the best coordination mechanisms of all VPA countries, especially when it comes to coordination with stakeholders. Coordination across the government departments is not optimal, but key authorities (revenue authority and ministry of justice) are closely involved, in addition to the forest authority. In Laos, coordination across the government stakeholders involved in the VPA process appears encouraging with eight ministries (plus three provinces at level of deputy governor) involved in the Steering and Technical Committees.

In Cameroon, CAR, Ivory Coast, DRC, and Malaysia the coordination mechanisms face more challenges: In Ivory Coast the interest and availability of other ministries/ agencies than the leading agency is limited, while in the DRC, coordination between central and regional levels is challenged by differing views on tax collection and national and provincial regulation. In Malaysia, interagency coordination is a core issue hampering VPA progress.

E. Legal reform (including tenure and access to land)

Actions and Progress

Legal reform is a constant in all VPA processes and countries except in Malaysia. Though, strictly speaking, VPAs rely on the national legal framework, they usually require, or at least trigger, some forms of legal reform to align the national legislation with the FLEGT framework. For this reason, it is fair to say that VPAs have been a push factor in promoting legal reform of forestry laws, with some achievements in all countries that are implementing a VPA. In negotiating countries, it is undetermined as yet. This does not imply that countries where the VPA has been signed – let alone negotiating nations – have completed their legal reform. Limited political support and the complexity of the reform processes (in terms of e.g. legislative or administrative capacity; clarity of the legal status quo) still prevent full accomplishment of this goal, in many countries.

In Ghana, legal reform is a central issue in the VPA process for a number of reasons, including the complexity of ‘timber ownership’, a legal conundrum on which more than 16 laws impinge. The situation is so complex that some of what is legal under the current national legislation (e.g. the Special Permits) is not incorporated into the VPA, and thus does not comply with FLEGT license requirements. Ideally, a legal reform process should align the two frameworks, but this has not been the case, so far. According to local sources, the legal reform process did start, but was halted because of lack of political will and the complexity of the challenge. Three policies have undergone reform: the Forest and Wildlife Policy and the Domestic Market Policy have been approved, while the Public Procurement Policy is under development.

The situation in Ivory Coast shows some similarity with that of its neighbour Ghana. The legal reform process has been formally completed, since the new forestry code was approved in 2014. FLEGT is explicitly acknowledged as one of the factors having fostered its adoption. The new code also includes a Copernican revolution of the concept of ‘tree ownership’: while the former norm attributed tree ownership to the state, now the proprietor of the land is also the owner of the tree. Obviously, such a norm, to be effective, presupposes a working system of land ownership titles. In any case, the approval of the primary legal act has not yet been followed up by the necessary secondary regulations. Hence, the situation remains transitional; this lack of legal certainty also has impacted on the work on the legality grid.

In Congo, international support to include the necessary VPA elements in the existing legal framework on forestry was provided already in 2010; however, full revision of the Forest Code was then considered necessary. A draft of a new forestry law, validated by the stakeholders, has been presented to the Joint Implementation Committee, and is expected to be submitted by the Government to the Parliament.

As for Cameroon, FLEGT is considered to be one of the drivers for the revision of the national forest legislation, which now takes into account both economic interests and SFM principles. Following the signature of the VPA, the government has passed three secondary norms concerning the traceability system, FLEGT licensing, and legality certification. While these are acknowledged as significant outcomes, the overall legislative reform is yet to be completed, as was also noted in the recent Chatham House (2015) assessment.

In Liberia, a National Forest Reform law was passed in 2006, following up on a Protected Forest Act, which dates back to 2003. The FLEGT AP is considered very helpful in demonstrating the need for legislative change. The signed VPA identifies 12 areas for forestry policy and law reform (as identified by Liberian stakeholders), and the Joint Implementation Committee has identified two further needs.

Moving to a country at a different level of development, such as Indonesia, it is acknowledged that the national legislation, both at primary and secondary level, is already fit for the purpose. It is already described and embedded in the TLAS system (SVLK), which anyhow pre-dated the VPA

agreement. Indeed, VPA results in terms of legislative achievements include more fine-tuned interventions, such as the application of Freedom of Information Act to the forestry sector, or the implementation of the on-line timber administrative system. Similarly, the legal framework of Malaysia is also considered to be already consistent with the principles of the FLEGT Action Plan.

Land tenure and access to land – which are considered to be potential areas for legal reform under the FLEGT Action Plan – are not such prominent issues in the VPAs. Most of the VPAs under negotiation do not include any explicit commitment on land tenure. However, where it surfaces, it is usually a very relevant element. A case in point is Liberia, where the first-ever Land Rights Policy was finalized in May 2013. It is said to represent an important paradigm shift for Liberians in their thinking about land rights, land tenure, land and natural resource governance. The policy aims to address historic inequalities by recommending that customary lands are given protection equal to that of private lands. A new land law based on the policy is under development. This policy shift and the need to adapt the TLAS have been recognized by the JIC (e.g. move towards community forestry management agreements).

In Ghana, benefits for the communities are linked to the issue of tree ownership, which has not yet been cleared from a legal point of view. In some areas, Community Forest Committees (CFC) have been created, to the advantage of local stakeholders. Thus far, however, communities hardly see the benefits of having CFCs. The dominant view is that communities are now more likely to claim their rights, though the benefit of the VPA process for them is still unclear.

In Indonesia, it is not clear to what extent land tenure is prominent under the VPA process. In particular, there does not seem to be a mutual understanding, between the EU and the local counterparts, of the remaining problems, such as forest people's rights, and processes (including corruption) that precede the issuance of documents authorising logging. In Malaysia, some stakeholders want land tenure and customary laws to be addressed within the VPA process, while the government wants to keep the land reform agenda separate. Issues relating to National Native Customary Rights Land are regularly raised by CSOs but are only included in the negotiations as far as they are found to be acceptable to the government.

F. Law enforcement & compliance

Actions and Progress

Progress concerning law enforcement and compliance under the VPA countries is slow. First, for reason of sequencing in time, law enforcement is usually tackled only after VPA signature and law reform. As confirmed by various progress reports, work on law enforcement and non-compliance has not yet been started in most negotiating countries. The exceptions, discussed below, are Malaysia and Guyana, where existing legal mechanisms and verification systems are, and will be upon signature, relied upon for legal enforcement. Ivory Coast is also engaged in the revision of its legal framework. In countries where a VPA has been signed, improvements in enforcement and compliance management have been achieved in a limited number of cases, such as Congo.

In general, VPA mechanisms are conducive to improve the law enforcement situation on the ground, such as in Cameroon. In Ghana, the verification procedures and restructuring of TIDD (Timber Industries Development Department) teams into rapid-response teams has shown how law enforcement has improved. By auditing different teams, enforcement has improved and audits are tracking and ensuring that non-compliance is addressed. In Liberia, and Congo, either little work has been carried out on this theme, or the unclear legal situation still prevents proper enforcement and tackling of non-compliance.

In Indonesia, enforcement is largely linked with the implementation of the SVLK, which is leading, or expected to lead to a reduction in forest offences and to transparent and consistent application of legal definitions. The coordination among the different ministries with respect to law enforcement under the SVLK framework is considered positive, and the SVLK itself is fostering administrative

reform, improved control, and coordination. A case in point is the Ministry of Industries, which, though not responsible for forestry or the SVLK as such, undertakes to control the compliance of timber companies with health and safety procedures introduced under the SVLK. In Malaysia, a negotiating country, the national legislative framework is already implemented and enforced; procedures for dealing with non-compliance with the VPA framework will be developed in consultation with the Joint Implementation Committee. However, a lack of capacity for verification and enforcement has been identified, in particular for VPA-specific additional elements compared to the existing national framework.

In Ghana, enforcement and compliance are made more complex by the hiatus between 'VPA compliance' and 'legality' under the legislation in force, as the two do not fully match and the reforms which should make them compatible are still pending. However, the implementation and enforcement of those regulations that are not contradictory has reportedly improved, in particular through awareness-raising and capacity-building actions for civil servants in the field. The civil society and private actors acknowledge this improvement, which also led to an increase in revenue collection. Increased transparency also led to better prosecution. Concerning forest offences, it is worth mentioning that the control on illegal chainsaw timber has much improved, and the level of illegality of domestic timber, though remaining high, has dropped from 80% to 60%. In Liberia, work on law enforcement and non-compliance has started, including provision of legal expertise to identify legal provisions to address non-compliance with VPA principles and developing procedures for non-compliance management. Capacity building programmes have been programmed and should be started in the near future. This is consistent with overall mission findings showing that law enforcement is still being developed and currently presents several weaknesses.

In Cameroon, improved transparency and law enforcement seems to be primarily the result of - work of - the Independent Monitor, which has contributed to enhanced control of forest offences, through elaboration of guidelines and capacity-building for the public staff. The VPA process has also improved enforcement and compliance mechanisms by introducing the Independent Auditor. While the Chatham House (2015) evaluation considers that transparency in the application of forestry laws remains limited, stakeholders mention that the situation has improved in this respect.

Findings from the evaluation mission also include an improved responsiveness of the administration and change in the mentality of the civil servants, which have reduced illegal exploitation in the permanent forest domain. In the neighbouring country of Congo, no significant work on law enforcement and compliance was carried out so far, given the current state of progress of VPA implementation. It is foreseen that a manual for non-compliance management will be developed during the development of TLAS. Interestingly, civil society, with the support of private actors, is developing an electronic database that will allow the public to monitor VPA legality indicators online, including capacity-building of prospective users.

Concerning Guyana, the work on enforcement and compliance has been linked to the existing operational legality verification procedures, which already includes some enforcement mechanisms. It will form the basis of the legality verification system under the VPA.

3.2 Conclusions on VPAs contribution to FLEGT direct objectives

A. On Forest Governance

1. Forest governance has improved to some extent in all VPA countries. Valuable processes have started in all VPA countries, but achievement varies from country to country, and from issue to issue, and is slow due to persistent governance challenges, a lack of incentives and political will and/or difficulties in practical implementation of VPAs. *If improving forest governance is to remain one of the major objectives*, the EU should seek to engage with those countries that have shown political will to improve their forest governance and minimise their domestic use of illegal wood-based products. At the same time, linkages of EU FLEGT Action Plan with other initiatives aimed at improving governance and addressing wider land use challenges should be strengthened. The table in Annex 1 provides a country-wise overview of VPA effectiveness in governance issues.
2. **The involvement of stakeholders** is often called ‘unprecedented’; especially the processes in Ghana and the Republic of Congo are impressive. Three different patterns of involvement emerged from the data: a) Consultation of stakeholders, b) Formal Technical Involvement and c) Formal political involvement. Formal technical and political involvement of NGOs and CSOs could be improved, especially in some of the Asian countries, as well as the representation of indigenous people and provincial and regional stakeholders. Capacities of the private sector to effectively participate should be strengthened as well.
3. **Accountability and transparency** both have improved in many countries, with an emphasis on transparency and accountability of the VPA processes itself. Actual gains in accountability and transparency are slow. While most information on the forestry legal framework is available, more is still needed, such as information on forest title allocations. There is still a long way to go to ensure that the initial positive experiences are sustained over time, and for national administrations to take full ownership of these initiatives, including the development of dedicated communication strategies. Independent Forest Monitoring led by CSOs is an interesting tool that proves to be highly relevant, on the condition that the local communities involved are correctly trained. However, this type of IFM is still in the early stages of development and more pilot projects need to be carried out to establish clear procedures adapted to national situations.
4. In many VPA negotiating or implementing countries, the VPA processes very likely contribute to enhanced **performance** of governmental institutions, clarity of roles and to improved coordination. The baselines of the countries, although not available, would have shown significant differences in starting positions: Ghana, Indonesia, Vietnam, Thailand and maybe Malaysia likely already had good performance levels when they started with the VPA process. In certain countries these improvements seem lasting, like in the case of Ghana, Indonesia and Vietnam, due to relatively stable political situations. In other countries, the governing structures and their effectiveness are affected by conflicts between various groups of stakeholders (Malaysia), between different levels of administration (Malaysia, DRC) and political conflicts (Thailand, Central African Republic). Although the VPA processes can clearly contribute to institutional effectiveness, progress in some countries is limited by conflict and limited political commitment.
5. VPAs both signed and under negotiation, are largely acknowledged for their impact on **legislative reform**: they are a push factor for countries to align and review their forest code and other legislation (especially through the development of a shared legality definition and legality matrix) and address different challenges, such as forest economic exploitation, social impacts, or SFM. On the issue of land tenure, the assessment is mixed. In many cases, the VPA

process does not explicitly address the issue, leaving it to 'national legislation'. In other cases, there is resistance to tackling land tenure and access to land.

6. The assessment of VPA impacts on law enforcement and compliance is moderately positive. The Stakeholder Survey indicated this as the 3rd most important impact, though in most negotiating countries actual work has not started; as for VPA implementing countries, in some countries (Ghana, Indonesia) there are signs of improved implementation/compliance; in others, work has either not started or progress has been limited. The evaluation team collected anecdotal information on specific improvements, though in most cases there is still a long way to go to achieve significant results - as in the case of Cameroon - or systems work satisfactorily based on pre-existing national frameworks and institutions. Obviously, law enforcement and compliance are wide themes, linked not only to forest management and the forestry legal framework, but also to other factors such as the level of development, institutional capacity, or corruption. Yet, it remains a crucial element to ensure that VPAs are effective in delivering results in terms of reduced illegal logging and promotion of SFM.

B. On Illegal Logging and Trade

1. Data on illegal logging are hard to come by and this hinders assessing changes in illegal logging and related trade in the VPA countries and the possible contribution of the VPA process (and the broader EU FLEGT Action Plan) to an eventual reduction. Nevertheless, Chatham House data seem to indicate that illegal logging in some VPA countries like Ghana, Indonesia and Malaysia has been reduced, while in other countries there hardly seems to be overall progress (Cameroon, Ivory Coast, Vietnam and possibly Thailand). However, this is because improvements to some markets have been offset by increased exports to other, less sensitive markets. In other countries illegal logging seems to continue at large scale DRC (2013: 70%), Laos (2013: 80-90%), and, despite some FSC-certified exports, Republic of Congo (2013: 70%). It is not clear to what extent the VPA process has contributed to positive changes in illegal logging although in some countries, like Ghana and Indonesia, it is plausible the process did contribute to a certain extent. It is useful to keep in mind that, without VPAs (and the EUTR), the situation might well have been far worse.
2. When taking trade of illegal wood based products (timber and paper) to the EU into consideration, the VPAs possibly account only for about an estimated 20% of all illegal imports (of which more than half comes from Indonesia) while Russia, China and others (notably in eastern Europe) are estimated to deliver the larger share of illegal wood based products.
3. Trade of illegal wood based products at a global scale shows that an estimated 30% of illegal timber products come from VPA countries. However, it also becomes clear that, of the VPA countries, mainly Indonesia seems to play a role (2013: 70% of total illegal timber and paper from VPA countries is estimated to come from Indonesia), while Malaysia, Vietnam, and the Congo Basin take most of the rest. The question that arises here is whether the EU FLEGT Action Plan is targeting all relevant countries.

4. CONTRIBUTION OF VPAS TO HIGHER FLEGT OBJECTIVES

The three higher objectives sustainable forest management, poverty reduction and sustainable development are broken down into four criteria that reflect achievement of these objectives, by way of 'proxy indicators', namely (1) The condition of forests including the use of SFM criteria, (2) economic development, (3) poverty and livelihoods, and (4) the development of domestic markets- which constitute a linking pin between livelihoods, forests and economic development. Besides these, 'domestic market development' was chosen as a criterion since most VPAs influence and are influenced by domestic markets.

4.1 Forest Condition and use of SFM principles

Actions and progress

The actual situation of the forested areas in six VPA countries is presented in the table below: with the exception of Ghana - where a slight increase would have occurred – the forest area in VPA implementing countries has been steadily decreasing during the last 20 years. Forest cover in two VPA negotiating countries has remained stable. The implementation of the VPA does not seem to have had a positive impact on the forest cover. That does not mean that it reflects a failure of the VPA - without a VPA the situation might have been worse - but it suggests that VPAs may not be the best tool to tackle deforestation, in particular as long as deforestation is (considered) legal.

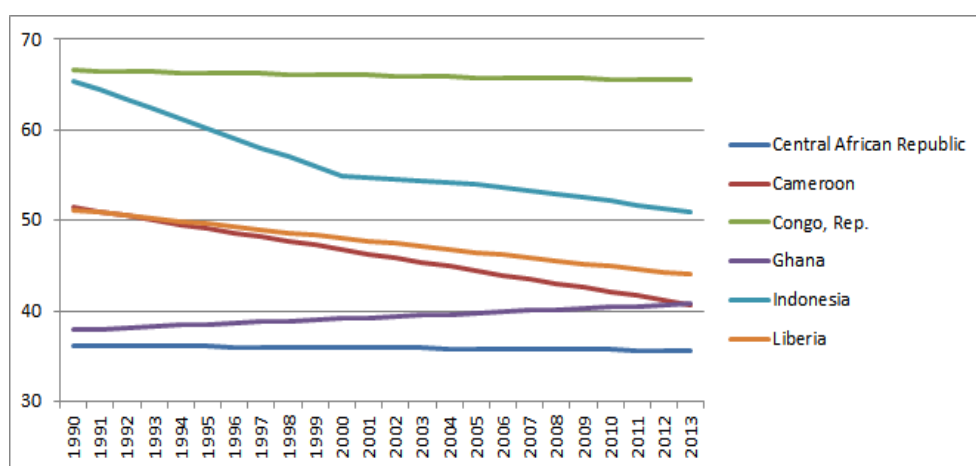


Figure 4: Forest area (% of land area) in VPA countries (World Bank data - <http://data.worldbank.org/indicator/AG.LND.FRST.ZS> 2015)

Regarding Sustainable Forest Management principles there is little information on the level of implementation in the VPA countries, as SFM can stand for different realities according to the country context: in **Vietnam** most of the natural forests are protected and SFM is about Plantation management, which is very distinct from SFM in **Cameroon**, for example, where most of the natural forest areas are exploited for timber and where management plans are being implemented according to a comprehensive set of rules.

In several VPA countries of the Congo Basin, support from the French Cooperation Agency has helped design a legal framework as well as technical rules to sustainably manage the forest (SFM). Most of this support happened before the VPAs were negotiated and the positive results may not be considered to be a direct impact of the VPA processes. Still, the application of such SFM frameworks, in case it follows from application of VPAs, could be a direct result of VPAs; VPAs could have a positive effect on SFM through enhanced law enforcement.

However, direct support to SFM has clearly not been the priority of the EU and most of the other donors. Some actions were undertaken in **Liberia**, **Malaysia** (UK, Germany), and in **Vietnam** (Germany), but always related to local communities' livelihood development rather than to commercial scale logging activities. Some support for SFM, under the EU FLEGT Action Plan, has targeted non-VPA countries (Nepal, Malawi, Ethiopia, see MS survey).

The ITTO 2011 report on SFM worldwide indicates that of the 37,300,000 ha of harvestable forest areas in the VPA countries only 10% can be considered to be sustainably managed (with a slight increase since 2005). Other studies do not seem to be more optimistic; for **Cameroon** for example, it was found that most of the Management Plans do not comply with the SFM criteria⁶. In **Liberia**, none of the Management Plans are fully implemented. In **Congo**, the grids of legality indicate that there is very little commitment to the SFM principles.

The area of (timber sector) plantations and forest concessions certified to FSC standards in **Indonesia** is increasing. However, the view that FLEGT-licensing will soon commence is so dominant that interest in FSC-certification tends to decline – and prices for FSC-certified products are now similar to those of SVLK-certified products (Indonesia AM). According to a CIFOR study (2015⁷), only few companies are willing to invest in SFM as the emission of first licenses is approaching; 80% of Forest Management Units reportedly do not seriously consider pursuing SFM certification.

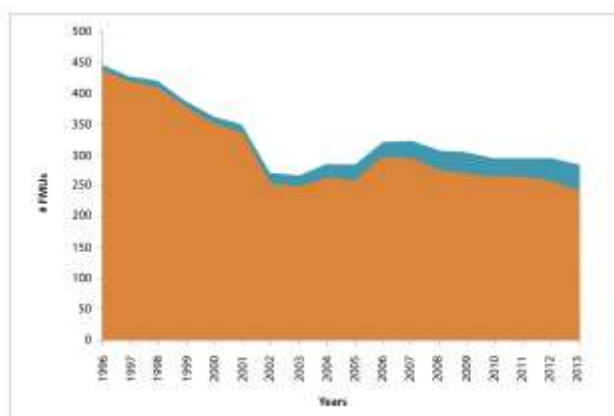


Figure 5: Proportion of active operating FMUs that engaged in FSC certification (blue) of natural forest management in Indonesia (1996-2013) and that of FMUs never becoming involved with FSC certification (brown).CIFOR, 2015.

In African countries that signed a VPA, FSC certification has been increasing steadily until 2010 (see figure 9). Only the biggest exporting companies (a total of 10 throughout the VPA countries representing 5 million ha) had been engaged in improving their standards in order to comply with their client SFM requirements or with the Public Procurement Policies requiring or preferring SFM (Netherlands, France, Germany). While it could be expected that the VPAs - and the improvements in legal frameworks - would facilitate the companies to make their way up the steps toward SFM certification, this has so far not been the case. Even though legally certified forest areas have increased since 2012, the logging companies are not very willing to further increase such areas, considering that, thus far, they can comply with EUTR requirements. This has particularly been the case in **Ivory Coast**, where three companies have been recently certified as “Legal Origin” but SFM certified forest is considered an “unachievable dream” due to the degraded condition of natural forests in the country.

⁶ PGDRN, Étude comparative de vingt plans d'aménagement approuvés au Cameroun (GTZ, 2006)

⁷ CIFOR, The context of natural forest management and FSC certification in Indonesia - 2015

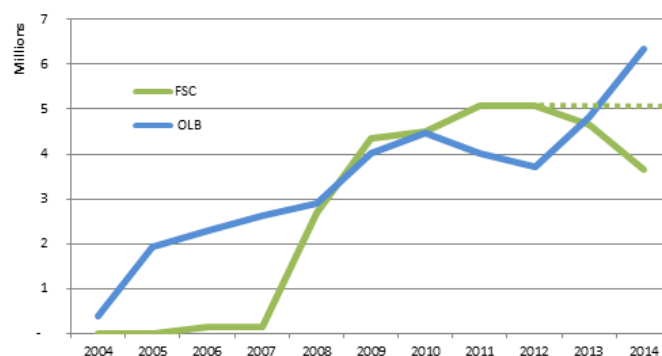


Figure 6: Areas of FSC and OLB certified forest in the African VPA countries: Cameroon, CAR, Gabon, Congo, DRC, Ghana, Ivory Coast (and Liberia, for which no certificates have been recorded) – One concession FSC certified in Congo was suspended in 2013 and recently re-associated with FSC (data from ATIBT, 2011; FSC facts figures 2012, 2013, 2014; Bureau Veritas database, 2014).

4.2 Economic development

In this section, we assess the degree to which FLEGT, and VPA's in particular, have contributed to economic development, in particular through (1) increased market confidence for timber from participating countries; and (2) increased revenues from taxes and duties. The FLEGT Action Plan mentions these as some of the advantages for countries from participating in VPAs.

Actions and progress

All VPA signed countries have seen their exports to EU decrease since the FLEGT Action Plan started in 2004. In most cases this reduction started before the 2008 crisis, but the trend was not reversed afterwards (19% decrease between 2004 and 2008 and 24% decrease between 2009 and 2013). In other words, signing a VPA has so far not been a guarantee for countries to maintain their EU markets.

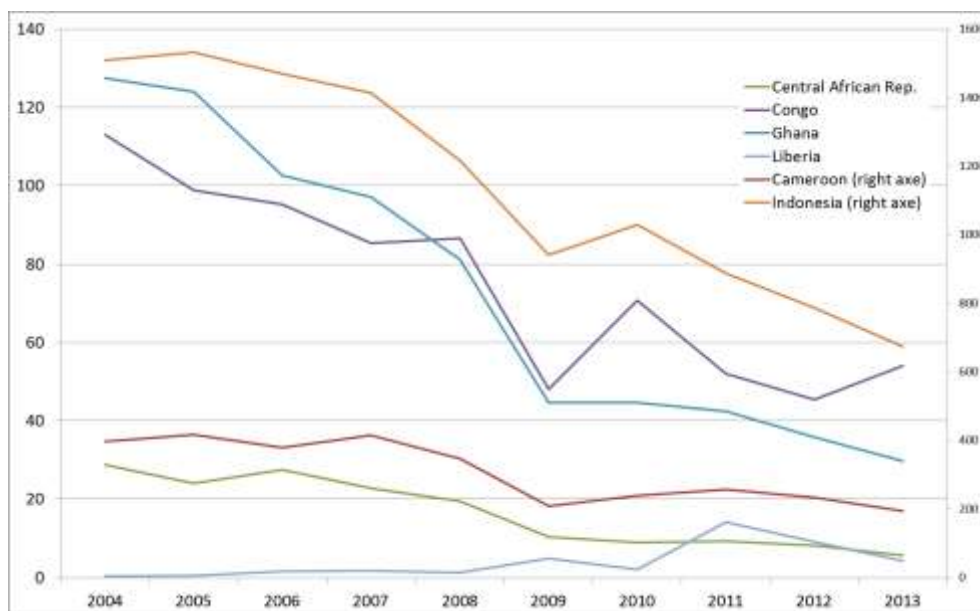


Figure 7: EU Import from VPA signed countries (million euros) – IMM ITTO Data

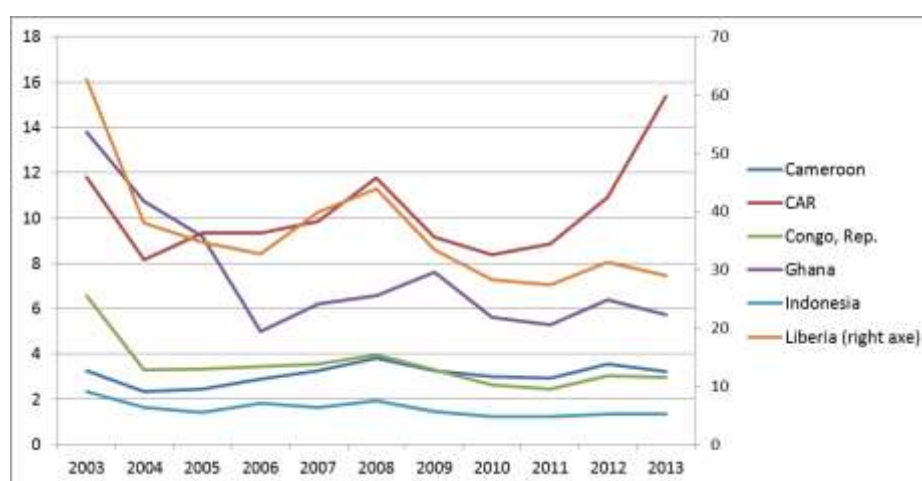
Surprisingly perhaps, countries that have not been engaged in a VPA (negotiating or pre-negotiating a VPA) actually show a lower decrease in their timber exports to the EU. Possibly, some of these

countries have seen opportunities to increase their market share under the EUTR, especially for certified timber.

Table 4: Changes in EU import before and after the 2008 crisis – IMM ITTO project

Countries	2004-2008	2009-2013
VPA signed[1]	-19%	-24%
VPA negotiating[2]	+10%	-20%
VPA pre-negotiating[3]	+30%	-16%

The incentives for accessing the EU market have been reducing while the EU imports have been shrinking. At the same time, the share of the forestry and wood sector economy in the national GDP has diminished, for most of VPA countries; from an average of 16.7% of the GDP in 2003 to 9.6% in 2013 (from data.worldbank.org). Today, the national economies of partner countries are less dependent on the forest sector than they were when the FLEGT Action Plan started. The reasons behind this trend could be the stabilisation of the countries after a conflict period, as in **Liberia**; the availability of new resources, such as oil in **Congo**; or the development of service-based economies, such as in **Ghana**. The decrease may also indicate that the formal sector has been replaced by an informal sector that responds to a gradually increasing domestic demand. In countries negotiating a VPA, the decrease is less sharp than that of VPA implementing countries.



A

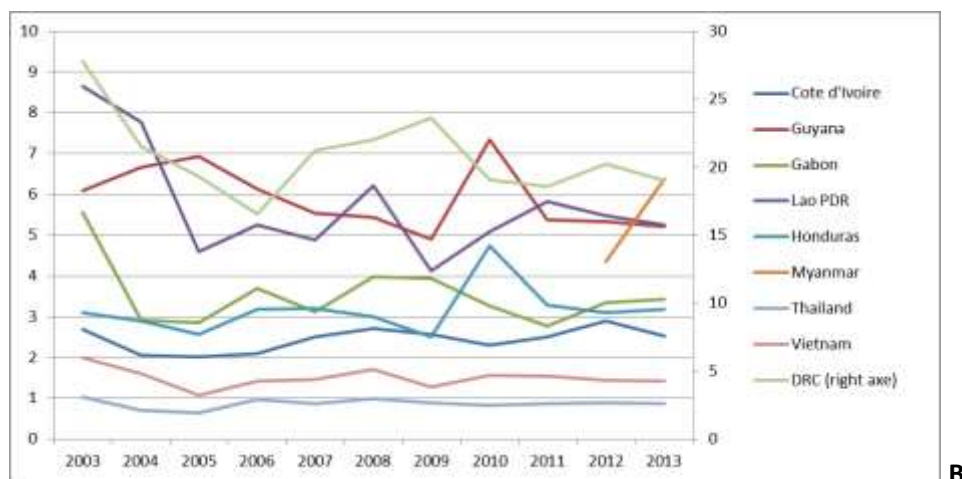


Figure 8: Contribution of the forest sector to the GDP in countries that have signed a VPA (A) and in countries negotiating a VPA (B) - Estimates based on sources and methods described in "The Changing Wealth of Nations: Measuring Sustainable Development in the New Millennium" (World Bank, 2011).

Regarding timber prices on the international market, there is no evidence to indicate that VPA countries benefit from their engagement in the process. This concern of VPA countries - that the efforts made are not recognized on the international market - has also been noted during several of the field visits. By contrast, there may even have been a negative impact of FLEGT - in particular from the EUTR - on timber coming from VPA countries as they may be more explicitly considered as high risk countries. Other sources confirmed that for many traders 'VPA' is connoted with high risk (source Traders' survey and traders session).

However, a very recent study of Global Timber Forum (September 2015) carried out among small and medium-size enterprises in EU consumer and tropical supplier countries, might balance this view; it observes a revival of EU imports of tropical timber suggesting that European buyers now seem sufficiently confident of the legality assurances provided by suppliers to increase purchases of Tropical Timber Products. Further improvement of this situation may reasonably be expected once FLEGT timber would come onto the market; e.g. Indonesia foresees a major increase of its exports.

4.3 Domestic market development

Actions and progress

In most VPA countries, the Domestic market is usually considered as informal and contributing, to an important extent, to an expansion of the global consumption of timber and hence logging activities (see Table 5 below).

In **Cameroon**, several studies indicate that the development of a domestic/informal sector - besides the industrial/formal, yet with connections - will further increase. Recent data on domestic consumption and the importance of the informal sector confirm this trend (Karsenty, 2010). The local demand for cheap timber is expected to further increase as a result of the development and population growth of Cameroon and the growing regional trade with neighbouring countries. A 2013 study in **Cameroon** demonstrates that the informal logging sector ("*exploitation artisanale de bois d'oeuvre*") represents ¼ of the formal industrial sector in terms of added value (CIFOR, 2013). The informal sector also represents more than 100,000 jobs.

In **Ghana**, the domestic sector contributes 5% of the GDP. The informal sector is supplying 84% of local lumber supply for a market value of 150 M Euros. Currently, 50% of the national production of lumber goes to the domestic market, and 50% to the export market. Ten years ago this was 30% to

the domestic market and 70% to the export market. TBI (Tropenbos International) estimated that in 2007 80-90% of the domestic timber was supplied by chainsaw millers. Chainsaw milling (illegal in Ghana) is also considered to be one of the major causes of deforestation.⁸

In **Congo**, most of the domestic market is supplied by the informal sector.

In **Liberia**, information has not been recently updated, but the domestic timber sector is estimated to be of primary importance for at least 5,000 operators. Small-scale loggers are the main source of timber for the domestic market.

Table 5: Domestic and export market, informal and formal sector (m³ of lumber)

	Lumber market	Informal/Chainsaw milling	Industrial/formal	% informal/total domestic
Cameroon	Domestic	662 000	198 000	77%
	Export	60 000	413 000	
CAR	Domestic	33 000	34 000	50%
	Export	6 000	41 000	
Congo	Domestic	99 000	10 500	90%
	Export	No data	93 000	
Ghana	Domestic	497 000	95 000	84%
	Export	260 000	528 570	
Liberia	Domestic	86 900 – 201 300	No data	100%
	Export	N/A		

It is important to realise that, in most VPA countries, domestic and export markets are connected. Some larger companies are involved in both (for example in Ghana or CAR) and some purchase timber on the domestic market for their export-oriented activities (Cameroon).

In most of the VPA countries, the legal framework provides a minimum basis for the small scale loggers to be active. In **Cameroon** volumes allocated to small-scale loggers through timber permits are not adapted to the increasing market and are prohibitively expensive. However, a new policy has been drafted that aims also to regulate the local market. Review is still on-going. In **Congo** the special permits are suspended or not attributed but the new forestry laws address specifically the domestic market including new “*Permis d’Exploitation Domestique*”. As in Cameroon, the law is still under review and operational texts still have to be elaborated. In **CAR** the regulation is not implemented in the artisanal exploitation permits. However this country has not included the domestic market in the VPA based on the consideration that the lack of legal framework would slow down the implementation of the VPA.

⁸ Tropenbos International, Effectively addressing domestic and regional timber trade within FLEGT VPAs – Workshop 2014

In **Ghana**, all chainsaw milling was suspended in 1998 and the ban appears to have been better enforced thanks to the VPA. A first draft of a domestic timber regulation was devised in 2012 with support of Tropenbos and offered to Cabinet for supply of legal lumber to the domestic market and the development of artisanal milling. It was a first step towards formalizing the system but it still needs proper implementation in a way that would not harm local communities depending on this activity for their livelihood. However, reportedly for fears that this would affect the implementation of government projects, the proposal was not approved and instead broader consultations were requested.

Liberia seems to be the most advanced country in terms of tackling the domestic market, since it has developed a regulation that in theory enables a proper consideration of the small loggers and pit sawyers. However, the regulation still needs to be reviewed before it can be implemented.

The domestic market is particularly large in **DRC**, with more than 1,000,000 m³ of lumber being processed per year by small scale loggers (compared to 50,000 m³ by the industrial sector). In **Vietnam** the 'domestic' market is mainly catered for by households and SMEs (16.2 million m³ RWE) who sell their products to the woodchip industry exporting to China – which also raises the question how domestic markets should be defined. Full implementation of a legal framework, either the actual one or the one revised to comply with a VPA, may impact these small suppliers and on the domestic market.

Some VPA countries (**Liberia, Congo, Ghana, Indonesia, and Vietnam**) have developed / are developing a Timber Public Procurement Policy, arguably to support good practices in the domestic timber sector (VPA survey). National Timber Public Procurement Policies in VPA countries could support the development of a formal domestic market. **Ghana** is currently developing Implementation Guidelines for the PPP on timber and timber products. It is less clear to what extent the other VPA countries are elaborating and/or implementing a PPP on Timber.

4.4 Livelihood and poverty

Actions and Progress

Although the FLEGT Action Plan clearly states the poverty alleviation as an overall objective, the VPA Survey indicates that it has not been a reason for the engagement of a country in the VPA process. Likewise, none of the VPA countries have seen any major contribution of the FLEGT Action Plan on livelihood and poverty.

While all the signed VPAs include a chapter on Social Safeguards that refer to a better understanding of the livelihoods of communities and a minimization of possible adverse impacts of the VPA process and to the monitoring of these impacts, it is only very recently that it has received proper attention after VPA started to be implemented and concerns about their impacts on poorer people arose.

In **Vietnam**, a recent Livelihood Impact study has analysed the likely impacts of the VPA on vulnerable stakeholders (households, small enterprises), identifying key social safeguard issues and responses, exploring opportunities for enhancing livelihood outcomes and identifying implementation risks and risk reduction and mitigation measures reference. This provides a useful baseline in case a VPA is signed. It also reveals that the VPA could result in a range of positive and negative impacts.

In **Cameroon** also a VPA impact monitoring study has started to assess the impact of the VPA on local communities through several initiatives (CAJAD-FODER, CED) but no results are available yet (see Cameroon AM).

In **Ghana** it has been observed that illegal loggers were losing their livelihood after the ban on chainsaw milling was better enforced due to the VPA, and could not get alternative livelihoods. A study carried out in 2012 summarises the various poverty-related effects of the Ghana VPA.

Table 6: Poverty-related effects on stakeholders in Ghana (Hobley 2012)

Stakeholders	Effects	Mitigation	
		Livelihood effects & changing rules of game	Voice
Forest fringe communities – about 3m; differentiate subsistence farmers, migrants, women, etc.	risks to customary forest access; poor forest dependent HHs vs. diversified ones	Better governance of revenue systems; identify legal gaps to tenure & usage rights	Build voice, support engagement with local government, local accountability mechanisms
Forest workers	health & safety benefits from laws	Includes ensuring minimum wages	Strengthen unions and associations to ensure continued voice in implementation
Chain saw operators and employees	Legal enforcement is threat to livelihoods	Legalisation & regulation of activities; small business finance	Build small trade associations to aggregate voice and collective bargaining
Small-scale timber processors & artisans	40,000 carpenters depend on illegal timber	More supportive regulatory/financial environment	

At the same time, however, in Ghana complaints mechanisms are in place, and there is better understanding and application of the Social Responsibility Agreements (SRAs) and better data management. Communities are said to have a better understanding of the SRAs and to claim their rights more than before. Some communities have successfully negotiated new Social Responsibility Agreements (SRAs) and received proper compensation for damaged crops and property.

In some VPA countries, the VPAs seem to have had some (in some cases indirect) impact: In Liberia, the National Benefit Sharing Trust was created by Liberia's National Forestry Reform Law (NFRL) of 2006. The Trust and its Board were effectively established a number of years ago. However, between 2006 and 2014 no funds were transferred to the Trust and it went dormant. The VPA was instrumental in securing a first transfer of 1 million US\$ from the GoL to the Trust in July 2015 (as recorded in JIC aide-memoires). Since the transfer of the funds, the revival of the Board is on-going to operationalize the Trust again, with the help of the VPA support Unit.

A similar system is also implemented in **Congo** with a "*Fonds de Développement Local*" (FDL), compulsory for each Forest Management Unit (FMU), which aims to support micro-projects of interest for the development of communities living in and around the FMUs. The FDL is financed by a specific tax of 200 FCFA/m³ directly paid by the logging companies and managed by a "*Conseil de concertation*". Nine FDL have been created, all in the northern part of the country. The set-up of these FDL started in 2008 and since it has supported the implementation (with relative success) of 162 projects until end of 2013. Almost 600 M FCFA (900,000 Euros) have already been spent. Although it is unclear if the VPA process has had an impact on the development of these FDL, the impact in terms of benefit sharing is already remarkable. The latest revision of the forest law - which was a VPA requirement - has formally incorporated the FDL, thereby giving Congo an important tool to tackle poverty in forested areas.

In **Cameroon**, by contrast, the revenue-sharing system that had met with considerable success in allowing local communities to implement development projects, has been recently revised (*Loi des Finances, 2015*) without proper informing of some of the populations concerned. The share of the taxes that was transferred to the communities is now in the hand of the communal authorities. Some NGOs question the conformity of this decision with the engagement made in the Cameroon VPA. The decision could also impact negatively the activities of the Independent Observation if there are fewer incentives for the community to identify illegal loggers.

4.5 Conclusions on VPAs contribution to higher objectives

1. **On SFM forest conditions and area:** There is little evidence that SFM practice has spread in VPA countries thanks to the FLEGT Action Plan. The number of SFM-certificates has slightly increased during the recent year, suggesting that most industries are in a 'stand-by' position, observing how and if FLEGT licensing systems will be implemented. One of the assumptions of the VPAs was that improved forest governance would help put the sector on a more sustainable footing. The TLAS scheme would become a priority for forest managers as soon as FLEGT licenses can be issued, and the expected outcome - in line with one of the higher objectives of the FLEGT Action Plan - would be that forest companies, once they establish the legality of their operations, would be well on the way towards certification. However, if key markets are satisfied with legality verification and do not push for sustainability certification, then enthusiasm for certification may decline, as the incentives that drive companies to engage in SFM are indeed primarily market benefits (e.g. price premiums and improved market share and access).

It is not always clear whether VPAs have affected forest conditions in ways that would foster sustainable use of the forest. The VPA Survey indicates that only one respondent out of 10 considers that the VPAs have had an impact on forest conditions. In many countries, forest areas have not increased; on the contrary, they have tended to decrease. Once more, however, it could be argued that the counterfactual situation might have been worse.
2. **On economic development:** The forest and timber sector is still of economic importance for the VPA countries, even if export to the EU has been decreasing steadily since 2008. However, engagement in a VPA seems to have helped reduce the negative impact of the 2008 crisis. The forest sector in the VPA countries might also have evolved from exporting low processed products to developing local industries and adding value, with expanding domestic markets.
3. **On domestic markets:** Domestic markets are certainly the sector where the impact of the VPA will be the most significant and visible, as it is where all forest governance, poverty alleviation and technical issues come together. However, addressing the related challenges requires an effort and a time-scale beyond those of the original EU FLEGT Action Plan, which essentially targeted the exports to the EU "only". Inclusion of the domestic markets in VPAs has added significant value to the VPAs and exposed the need for improving governance; if it were only for the export market, improvements in forest governance would have been less prominent in most countries. But the path is still very long to ensure a full recognition of this sector and a formalization that would not harm local communities.
4. **On poverty reduction:** There is very little evidence on the impact of the VPA on poverty alleviation; such effects can be negative (due to loss of livelihood for communities engaged in illegal logging activities) or positive (thanks to benefit sharing revenues from industrial logging activities). In the last few years this issue has gained increased attention particularly from Civil Society Organisations. The VPA processes and contents offers clear opportunities though to address poverty. Some positive examples indicate that it is possible to move beyond just 'do not harm' to poor people (EU FLEGT Action Plan, 2003) to a more positive support to improved local community livelihood and reduce poverty, including through improved legal frameworks.

5. CONCLUSIONS FROM AIDE-MEMOIRES ON OTHER PRODUCER COUNTRIES

In this chapter, we summarise the main conclusions drawn from the analysis made regarding other (non-VPA) producer countries. The findings and conclusions for each of these countries are laid down in Annex 5 (Country Aide Memoires).

1. The EU and Member States have provided support for FLEGT action in other (non-VPA) countries as well. Considering the importance of illegal logging and trade - and of underlying governance challenges - in some of these countries, such support is highly relevant for achievement of overall FLEGT Action Plan objectives. In reality, however, it has been very limited in perspective of the scale of the problems, especially when compared to investments made in VPA countries. Also, FLEGT funding was hard to track and criteria for allocation of FLEGT funding were found to be unclear.

A reconsideration of investments seems desirable, based on a clearer use of criteria for allocation of FLEGT funding. Such criteria could include the role countries play with regard to illegal logging and trade (with the EU and globally) and the development of domestic markets, the political will (as may be reflected by the duration of the negotiation process until signing a VPA) or the overall level of forest governance level and needs for external support to improve forest governance.

2. Several non-VPA countries are improving control of their timber supply chains, sometimes with EU-FLEGT support (Colombia, China), sometimes on their own initiative (Russia). These measures are highly relevant for better achievement of FLEGT objectives and/or meeting EUTR requirements, but have - in most cases - not met with full support from the EU and its Member States.
3. In most producer countries, larger companies use voluntary forest and chain of custody certification as a means to attain or maintain access to the EU and/or USA markets (Bosnia-Herzegovina, Brazil, China, Canada, Chile and Colombia, among others); consequently certification has seen a strong growth especially since the introduction of the EUTR. However, smaller companies risk to be excluded from these markets, since this tool is not within their reach - even though group certification constitutes an alternative. This risk is real in China and Russia, among other countries, including VPA countries.

6. MAIN CONCLUSIONS AND RECOMMENDATIONS

With regard to the FLEGT Action Plan

Conclusion 1

The EU and Member States have provided extensive support for FLEGT action in both VPA and other (non-VPA) countries. However, support to some of the non-VPA countries' has been limited in perspective of the scale of the problems, and criteria for prioritisation of FLEGT support are unclear. The absolute amount and relative scale of Illegal logging and trade in some of the 'non-VPA producer countries' - compared to those of VPA countries – warrant more attention under the FLEGT Action Plan. In terms of trade of illegal wood based products (timber and paper) into the EU, VPA countries possibly account only for about 20% of all illegal imports, while Russia, China and others (notably eastern European countries) are estimated to deliver the larger share of illegal wood-based products. If reduced illegal logging and trade remains the overall FLEGT objective, there appears to be a need to rebalance the attention of FLEGT for developing (tropical) countries with that for realities in 'other countries'.

Recommendation 1

A prioritisation of FLEGT technical and financial support seems desirable, based on clearer criteria. Such criteria could include the role countries play with regard to illegal logging and trade (with the EU and globally), the importance of domestic markets, the political will (as may be reflected in long duration of VPA negotiation processes) or the overall level of forest governance and the need for external support to improve forest governance.

In order to enhance effectiveness in combating illegal logging and related trade globally, there needs to be a stronger effort to influence the most relevant non-VPA (non-tropical) producer and/or processor countries involved in these practices, such as Russia and China. Bilateral and multilateral policy dialogues and (non ODA related) cooperation with these countries need to be strengthened. In addition, more even and effective implementation of the EUTR should increase the provision of proper legality assurance and limit the risk of laundering of illegal timber.

A Bilateral Coordination Mechanisms on FLEGT – such as that with China - provides a useful structure for such dialogue and action but need to include all relevant actors. For the Russian Federation, the EU-Russia Environmental Dialogue would need to be reactivated. Furthermore, the St. Petersburg Declaration and ENI FLEG Programme provide a suitable framework for implementation of FLEGT action. In the absence of ODA funding for such countries, EU and other Trade Regulations may provide the appropriate focus for a range of support activities and the delivery of tangible outcomes.

With regard to effectiveness of FLEGT action

Conclusion 2

There is recognition that Illegal Logging and timber trade in some VPAs and in some 'other producer countries' has decreased due to several efforts, possibly including FLEGT-supported interventions. Yet, underlying causes and factors related to forest and 'broader' governance (poverty and dependence on forests, criminality and sophisticated fraud, inappropriate legislation, weak law enforcement and corruption) continue preventing substantial progress in a number of VPA and non-VPA countries that are important for FLEGT and EU timber imports (Bosnia-Herzegovina and Russia, for example). This also may reduce the perceived relevance of FLEGT and the motivation to follow FLEGT requirements. These challenges can only partly be addressed through forest-sector action and the EUTR. Action on law enforcement, for example, requires increased cooperation with the judiciary, public prosecutors and courts, with Ministries of Interior and with anti-corruption agencies, among other institutions involved in law enforcement tasks.

Recommendation 2

The FLEGT Action Plan - and programmes deriving from it - needs to more explicitly identify and address the broader governance issues underlying illegal logging, possibly as part of the Action Area 'Support to producing countries'. At the same time, better linkages to complementary actions that address broader governance constraints and challenges affecting the forest sector need to be established. This requires increased engagement with non-forestry institutions involved in law enforcement as well as enhanced 'mainstreaming' of FLEGT into political dialogues and international cooperation activities, using the various EU foreign policy instruments, such as the Instrument for Pre-accession Assistance (IPA) or European Neighbourhood Instrument (ENI), among others.

With regard to Voluntary Partnership Agreements (VPAs)

Conclusion 3

In many VPA countries, the formulation and implementation of Timber Legality Assurance Systems meet with a range of challenges deriving from legality definitions, the inclusion of domestic markets, lack of funding and other factors. The prospect of FLEGT-licensing is often remote and there are no clearly defined milestones – linked to incentives – that help maintain the initial momentum created by VPAs. Weak communications about the FLEGT Action Plan and VPAs in particular, have resulted in a perception that VPAs offer an “all or nothing” approach, with no reward for progress towards improved forest governance. This lack of intermediate reward is perceived by some stakeholders as a reason why progress towards FLEGT-licensing has slowed or stalled in several VPA countries (see AM Ghana, Vietnam).

Recommendation 3

A phased approach to VPA implementation is recommended, with well-defined actions and corresponding funding placed within a realistic timeframe, marked by a number of milestones and related incentives - before the ultimate 'reward' of FLEGT-licensing. Flexibility to adapt VPAs to country-specific contexts should be further enhanced but all VPAs should eventually converge on common minimum requirements to ensure harmonization and a level playing field among all VPAs.

A phased approach should distinguish steps, defined by a progressive inclusion (enforcement) of elements of the entire scope, based on criteria to be determined. The phasing should allow for prioritisation of key needs and a strategically focused preparation of frameworks and actors.

Initially, a phased approach could focus on key 'legal origin' criteria (e.g. licenses to operate, titles to harvest) to be verified. At later stages, key requirements may still require specific verification of compliance (such as payment of taxes and forest management and timber harvesting requirements), while other compliance areas could be simply covered by statutory evidence, such as annual certificates of compliance issued by the relevant authorities.

Accomplishment of each of the levels would be decided by the Joint Implementation Committee of the VPA country, based on independent assessment of compliance with the level requirements. Upon achievement of one level, a timeframe would be defined for achievement of the next.

At the same time, better alignment of requirements of VPAs and the EUTR must be pursued, i.e. progress on levels should be linked to the EUTR Due Diligence practice. It is recommended that, in the intermediate phases of a phased implementation process, the EU recognize the progress made by accepting VPA “level certificates” (issued upon compliance with the corresponding basis of legality). Competent Authorities (and their counterparts in non-EU countries) would need to be kept informed of the level of achievement of the various countries.

A global feasibility study - to define criteria for a phased approach and minimum requirements for each of the levels - and country-specific feasibility studies to establish indicators for compliance in the specific national context of each VPA country are recommended. Phasing criteria could include:

- *scope of the legal requirements retained within each phase;*
- *timber sources (national timber vs. import timber, natural forests vs. plantations, different types of forest management regimes / forest permits);*
- *size of enterprises (large companies vs. SMEs);*
- *categories of products by HS Code;*
- *Geographical region of production (country, region, province...);*
- *markets (EU/non-EU, regional, domestic market).*

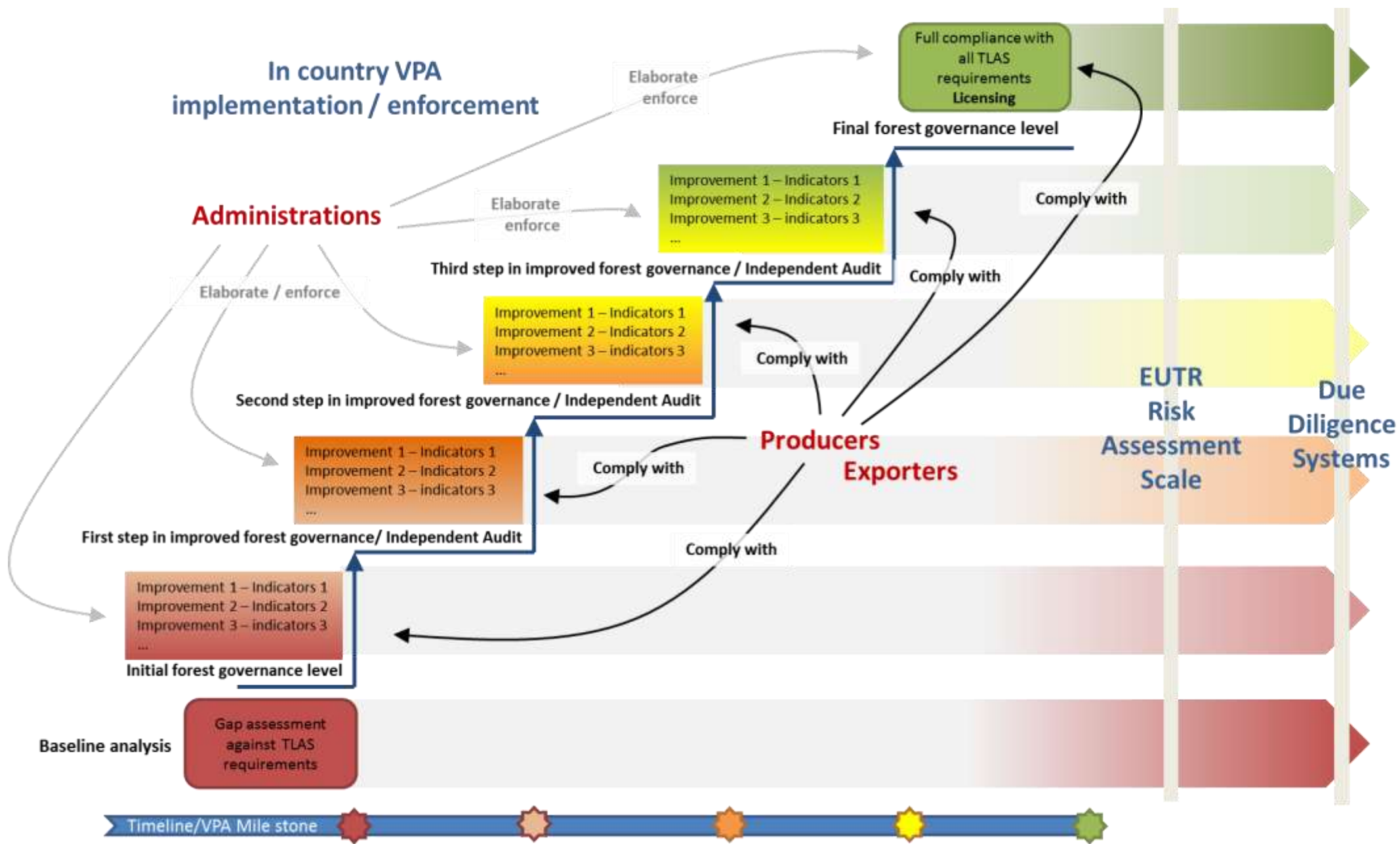


Figure 9: A VPA approach and the possible links between VPA and EUTR

Conclusion 4

FLEGT licensing is considered by many as an indicator of success of a VPA. Especially those stakeholders who have invested in improving systems to comply with the VPA requirements are eager to achieve FLEGT licensing and disappointed about repeated delays. Globally, there is a strong desire to start issuing licenses and to show the world that the FLEGT/VPA approach functions. At the same time, FLEGT licensing needs to be credible and assure compliance with the full set of a country's VPA requirements in a robust way, in order to avoid risks of damaged credibility on part of the EU and the countries involved.

Notwithstanding the investments made to date, most countries still need to make substantial additional efforts in order to reach the required level of implementation throughout the country and throughout the sector. Considerably more funding and time are needed before FLEGT licensing can effectively start.

In some countries, however, stakeholders are 'ready' and waiting to implement their TLAS until the FLEGT licensing starts. 'Phasing' of FLEGT Licensing by groups of stakeholders can favour those parties and/or subsectors that already comply with TLAS requirements, while motivating those that do not yet comply to prepare and comply as well.

Compliance of a group can be decided by the JIC, based on the advice of an independent group or subsector assessment, in a procedure similar to that followed for a "TLAS compliance assessment", covering legal compliance and a verifiable CoC. This approach is expected to give a stimulus to the VPA process, the complying parties and those parties that have yet to prepare.

Recommendation 4

It is recommended that the EC should consider supporting a phased approach to FLEGT licensing in which the licensing system is applied to groups of complying stakeholders or complying sub-sectors, stimulating the VPA system to fully work, and allowing complying stakeholder groups and/or subsectors the promised reward of easy access to the EU market, without the need to necessarily wait for those parties that are not yet ready for it.

With regard to FLEGT in other producer (non-VPA) countries:

Conclusion 5

Stakeholder involvement in processes aiming at improved forest governance or reduced illegal logging and trade in 'other' timber producer countries is typically weak. However, in some of the non-VPA countries, such as Colombia or China, FLEGT support has given an important impetus to stakeholder engagement in the forestry sector, resulting in broader support for reform processes and/or improved regulation. Domestic policies such as 'open government process' in the case of Russia are also key to facilitating reform and merit FLEGT support.

Recommendation 5

Increased support for multi-stakeholder processes and for increased accountability and transparency towards stakeholders (esp. civil society) and the general public in the forestry sector – outside VPA frameworks – is recommended. Lessons learned in VPA countries and Colombia and China could be of great value to (other) non-VPA countries.

Conclusion 6

Some non-VPA countries, such as Colombia, show an interest in EU-support for improving specific elements of forest governance or minimising illegal logging using typical VPA tools (such as legality definition or country-wide traceability systems) outside a VPA framework. Results obtained are as meaningful as those achieved under VPAs, sometimes at a relatively low cost, and are highly relevant for better achievement of FLEGT objectives and, in some but not all cases, for meeting EUTR requirements. However, useful FLEGT initiatives have – in some cases - not met with full support from the EU and its Member States.

Recommendation 6

EU and MS support under the FLEGT Action Plan should be provided in a flexible and need-based manner, outside a VPA framework while using the VPA experience gained, to those countries expressing a genuine interest in improving specific aspects of forest governance and/or minimising illegal logging. Where relevant, this should include political and technical support to initiatives aimed at improved due diligence and timber supply chain control, in order to enhance EUTR implementation.

Conclusion 7

In non-VPA producer countries, larger companies use voluntary forest and CoC certification as a means to attain or maintain access to the EU and/or USA markets (Bosnia-Herzegovina, Brazil, Canada, Chile and Colombia, among others); consequently certification has seen a strong growth especially since introduction of the EUTR. However, smaller companies risk to be excluded from these markets, since this tool is not within their reach - even though group certification constitutes an alternative. This risk is real in China and Russia, among other countries including VPA countries.

Recommendation 7

For non-VPA countries, in order to avoid undesired effects of FLEGT on small producers, the development and promotion of mechanisms, such as group certification, through which (smaller) producer companies that cannot afford individual certification could still meet EUTR legality requirements at a reasonable cost, must be encouraged.

APPENDICES

APPENDIX 1: CHANGES IN FOREST GOVERNANCE IN VPA COUNTRIES

Country	Effectiveness of stakeholders' involvement A - Capacities B - Involvement C - Sustained engagement D - Effective involvement / added value)	Accountability & transparency A - Complaint mechanism B - Access to information C - Monitoring mechanisms D - Communication	Institutional effectiveness & efficiency A - Performance of all institutions involved B - Clarity of roles C - Coordination	Legal reform / tenure and access to land A - Revised and harmonized legislative framework B - Ownership, access to land, trees clear and documented	Law enforcement & compliance A - Changes in forest offences B - Transparent and consistent application of legal definitions	Illegal logging - Changes in illegal logging (practices) - Other remarks
Ghana Start 03-2007 Sign 11-2009 Force 12-2009	A - Strong B - CSO more pronounced than PS C - Partly/ in implementation D - (NGOs) enhanced quality VPA and annexes	A - Multi-stakeholder TVC B - Good C - Joint Team impact monitoring installed; limited NGO monitoring D - Sufficient	A - FC performance improved B - diff perspectives role NGOs/ implementation C - good	A - some initial legal reform, rest to be done after licensing; -Issues: chainsaw millers; old permits B - ownership of trees an issue;	A - Great variations in forestry offences annually (CH) B - Compliance VPA and legal definitions differ	- Chatham 2010: 59% illegal of overall logging - Chatham 2014: 49% illegal (perception) - TLAS evaluation: 4% is VPA compliant.
Indonesia Start 03-2007 Sign 09-2013 Force 05-2014	A - strong (all stakeholders) B - All stakeholders C - Yes D - Impact on broader governance	A - In place B - Weak; personal security an issue C - Independent monitoring by civil society networks (TLAS internal); KPK anti corruption unit active D - Sufficient	A - SLVK pre-VPA; performance satisfactory B - Clear C - Good, including between ministries	A - Reform/ Import legislation being developed to prevent illegal import. B - Land allocation and illegal conversion problematic	A - Enforcement strengthened but still needs further strengthening B - improving	- CH 2010: 60% - CH 2014: 40% (perception) - Indonesia own estimates is 30%, domestic market - Issues of old permits/ allocation of concessions, illegal conversion.
Cameroon Start 03-2007 Signed Oct 2010 Force Dec 2011	A - Strengthened, incl. indigenous comm. B - All C - Yes D - Enhanced quality VPA and annexes	VPA Transparency Annex A - installed B - Still weak C - Independent Monitoring by three entities D -	A - Weak B - C - Weak inter-ministry and overall coordination	A - Series of legal reforms to be completed B - Land allocation and land use planning need progress	A - Forest Law Enforcement weak B - Corruption persistent issue. - Almost no timber complies with VPA legality definition	-35% in 2010, now higher? (CH) - Conversion issue - Conflict timber from CAR
Liberia Start 03-2009 Sign 07-2011 Force 12-2013	A - Strengthened B - CSO incl. forest comm. strong. Export oriented PS less pronounced C - Yes, civil society D - Cancellation of Private Use Permits	A - B - Website developed, use, weak C - Independent monitoring by CSOs D -	A - Weak capacities of FDA; slow progress B - Evolving C - Reasonable	A - Legal texts weak B -	A - Law enforcement weak B - Lack of political will/ Logs for export illegal/ not complying with VPA	- Conversion an issue. - Chainsaw milling legalised
Central African Republic Start 10- 2009 Signed 11- 2011 Force 07-2013 <i>Political crisis hinders progress</i>	A - Capacities improved but still to be strengthened B - CSO and PS technically and politically involved Community/indigenous representation lacking C - Yes D - CS independent observer to concession allocation process.	A - B - C - CSOs getting IO experience D - regular updates to parliament before conflict	A - Performance before improved, currently weak B - Gov, PS and CSOs developed positions. C - Before good, now ineffective	A - Accelerated approval of the SFM norms (a/o) B -	A - lack of law enforcement due to lack capacities.	- ? - The domestic market is not covered by the LAS
Republic of Congo Started 06-2008 Signed 05-2010 Force 03-2013 <i>TLAS funding stalled process</i>	A - Capacities perceived as strong, in political, technical and legal sense. B - CSO and PS involved technical bodies, and negotiation Representation of community voices is still weak C - Yes. D -	VPA Transparency annex A - No complaint structure yet B - Starting info on apvflegtcongo.info C - Independent observation CS functioned since 2007/since 2014 done by local NGO. D - Strong communication	A - Strong but further efforts still needed. B - Roles: clear C - Coordination: strong?	A - New law rights of indigenous peoples promulgated in 2011. Draft revised forestry law to be submitted to Parliament/ work continues on regulations. B -	A - B -	- 2013: 70% CH - Domestic market Scope: 21 products including wood charcoal (only VPA)
Ivory Coast Start 06-2013 <i>Process stalled</i>	A - Strengthened, but weak B - Main achievement but low compared other countries C - D -	A - B - access to information (one of main achievements) C - D -	A - NFP limited availability/ Overall lack of capacity at Min level, fragility of institutions B - C - Weak ; stalled for >12 months.	A - Clarity on need legislative changes/ Polices developed/ Implementation of Forestry Code lacking/ Problem validation titles / transition old- new licenses. B -	A - Lack of political will corruption persists	- No info, presumably little progress - Large group of artisanal loggers/ domestic market - Conversion an issue

DRC Start 10-2010 <i>Process stalled, lack of funding</i>	A. Conflicting requirements concerning central and provincial authorities weaken the capacity of the institutions to work on the ground. B. All groups of stakeholders involved in Technical Commission C D	A- B- C. Significant challenges coordination between central-regional levels and also national legislation and provincial regulations. C. commitment to include mandated independent observer civil society D. Website opened for sharing info during negotiation> not functioning.	A- B- C. Significant challenges coordination between central-regional levels and also national legislation and provincial regulations.	A. New decree allocation concessions to local communities ; Conversion Forest titles concluded B. Land tenure issues to be clarified	-	-2013: 70% CH -Domestic market under discussion
Vietnam Start 11- 2010	A-Improved, needs strengthening B- PS formally involved in technical & negotiation/ NGOs informally consulted C - D - annexes adapted	A – B- VN Forest made clear how CSO comments taken into account /Important step forward in a very centralised country C D	A – Strong/VPA negotiation centralised by MARD B- C- Coordination/ Participation of other ministries (Custom, Industry)	A - Review legal framework, unclear implementation/ Legislation on import needed B-State-owned forest/Land use certificate/land conflicts	A - Lack of law enforcement in remote areas	- CH 2013: Import still 18% illegal - CH 2010: 20% estimated of import high risk - Still illegal logging going on in natural forest
Malaysia Start 2006 <i>No facilitator</i>	A-Capacities strong (PS and CSO strong opinion) B-All parties consulted/ CSO not involved in TWG/ Joint expert meetings/negotiations. Some PS involved. Sarawak does not participate /fundamental differences between the regions (Sarawak versus Peninsular/Sabah)	<i>Transparency annexes are agreed</i> A-Complaint structure in place B- Dedicated EU-Malaysia FLEGT VPA website C- Independent observation undetermined D-Joint communication negotiations poor.	A-Need to strengthen institutional capacity C- Discussions on interagency coordination amongst the states/regions /needs time	A- No specific provision legislative and policy reform B- Many NGOs/CSOs claim current legality definition is illegitimate, does not take 'customary law', into account.	-	-Improved, from 20-30 to 15-20% CH -all exports -domestic market included -scope : 11 products
Laos Start 02-2012 <i>Approval Laos' Prime Minister of start VPA process June 2015</i>	A-- B- Political structures still undetermined. Technical working group : Involved gov agencies, private sectors (LWPIA, LNCCI) and NGOs, C - D-	No info	A- June 2015 commitment made by prime minister's office for VPA process. No strengthened institutions yet. B- Roles clear in 2015 C-Inter-agency dialogue increasing, encouraging involvement eight ministries.	-	-	-2013: 80-90% CH
Thailand Start 09-2013 <i>Political process stalled Some technical work done</i>	A- Capacities of NGOs/PS/ Gov rather strong B- PS and CSO/NGO involved in technical working groups. NGOs not involved in formal negotiation team/PS is.	A- B- Documents related to VPA country process are regularly updated on the RFD website.	A- Capacity of the private sector and civil society quite strong.	A- Interim military administration embarked on political and legislative reforms, and fighting corruption.	-	-20% all exports -all export destinations -domestic market considered
Honduras Start 01-2013 <i>Expected signing in 2015</i>	A-Some capacities but need improvement of PS, NGOs (incl indigenous people) and Gov B-Actors from all sectors (public, private, civil society and indigenous peoples) are engaged in discussion of design of the LAS through the VPA Technical Committee. But also some missing like SME.	<i>Draft transparency annex</i> C- Forest Monitoring by National Cie on Human Rights/ Forest Trends, Hon Forest Institute and CSO working on impact assessment D- Communication protocol ready	A B C- CSO coordination improved	-	-MOSEF for law enforcement capacities	- Intention to include domestic market/ all exports/ more than 5 products EU/GE active (€100 million) but synergy with VPA unknown
Guyana Start 12-2012 <i>Pace negotiations slowed down</i>	A- Gov capacities strong- CSOs weaker and fragmented/ could be strengthened. Capacities PS unknown B- NTWG includes government agencies, private sector, and government-supported Amerindian. Direct representation of Amerindians is an issue.	D- Communication strategy to reach out to stakeholders	A Performance gov strong ; CSOs weak and fragmented B Clarification roles under development C Good cross-government coordination	A- May be need to adopt broader legislative and/or policy reforms B- Platform for discussion on allocation of land rights	No info yet	-Illegal logging not an issue. Embarked because of Norway Agreement. -WTS/GLAS pre-existed -Domestic market under consideration

APPENDIX 2: CONTRIBUTION OF VPA PROCESS TO HIGHER FLEGT OBJECTIVES

Country	Forest Condition A-SFM	Economic development A-Value and volume timber production B-Volume of timber for export C-Market price D-Credibility of VPA as site for forest investment E-Contribution sector to GDP	Domestic market development A-Volume of legal timber for domestic market B-Volume of legal timber in government financed contracts (PPP)	Livelihood and poverty A-Evidence of implementation of corporate social responsibility safeguards (SRAs etc) B-Changes in livelihoods of forest dependent people
Ghana Start 03-2007 Sign 11-2009 Force 12-2009	A- Low impact Forest cover has been increasing before the VPA process started.	A- Stable B- Continuous decrease of timber export to the EU since 2003 C- Increase of the Tropical Timber price since 2003 but little to do with VPAs D- None E- Contribution to GDP has decreased since 2003	A-16% B-policy on PPP stalled	A- Communities have been empowered on SRAs and are demanding their rights B- Illegal loggers are losing their livelihood after chain saw milling has been better enforced due to the VPA
Indonesia Start 03-2007 Sign 09-2013 Force 05-2014	A- Limited impact. Some FSC certification but stand by waiting the FLEGT licenses	A- Stable B- Continuous decrease of timber export to the EU since 2003 C- Increase of the Tropical Timber price since 2003 but little to do with VPAs D- None E- Contribution to GDP is rather stable	A- ? B- Draft PPP for wood-based products	A- No evidence B-
Cameroon Start 11-2007 Signed 10-2010 Force 12-2011	A-Limited impact Many management plan available however low compliance with SFM criteria. No new SFM certificates Forest cover is decreasing	A- Stable B- Decrease of export to the EU after 2008 and stagnation afterwards C- Increase of the Tropical Timber price since 2003 but little to do with VPAs D- reduced investment in the forestry sector. Big companies are questioning their investment E- Contribution to GDP is rather stable	A- 23% B-En cours de développement?	A- Revenue sharing with local communities but recent changes question the real adequacy of the decision made with the engagement in the VPA B-Some successes on the ground. Communities uses some of their revenues o
Liberia Start 03-2009 Sign 07-2011 Force 12-2013	A-Low impact. Reduction of forest cover. set of rules but poorly implemented	A- Stable B- Slight increase of EU export C- Increase of the Tropical Timber price since 2003 but little to do with VPAs D- None E- Contribution to GDP has decreased since 2003	A- 0% B-No Regulation	A- No evidence B-
Central African Republic Start 10-2009 Sign 11-2011 Force 07-2013 <i>Political crisis hinders progress</i>	A- No major changes in forest condition. All companies have elaborated a Management Plan. No SFM certificates	A- Stable B- Regular decrease of EU export since 2003 C- Increase of the Tropical Timber price since 2003 but little to do with VPAs D- None E- Contribution to GDP has increased (not because of FLEGT but because of the general decline of the CAR economy)	A- 50% B- No	A- No evidence B- Local taxes
Republic of Congo Start 06-2008 Sign 05-2010 Force 03-2013	A-No major changes in forest condition. Low commitments of concessionaire with SFM principles and grid of legality	A- Stable B- Decrease of export to the EU after 2008 and stagnation afterwards C- Increase of the Tropical Timber price since 2003 but little to do with VPAs D- None E- slow decrease of contribution of the forest sector to the GDP	A- 10% B- Unclear?	A- "Fonds de Développement Local" (FDL) compulsory[1] in each Forest Management Unit (FMU) B-) FDL aims at supporting micro-projects of interest for the local development of communities living in and around the FMUs

Ivory Coast Start 06-2013 Process stalled	A- Control of deforestation in Cote d'Ivoire appears to be far beyond FLEGT capacity	A- Stable C- Increase of the Tropical Timber price since 2003	A- Domestic market is primarily illegal. Difficult to include the DM in the VPA	B- Limited impact of the VPA
DRC Start 10-2010 Process stalled, lack of funding	A- Difficulties to implement SFM criteria country wide	A- Stable C- Increase of the Tropical Timber price since 2003		A- Process stalled in spite of the development of regulation to better involve communities in forest management B- No impact so far
Vietnam Start 11-2010 Process slow differing opinions VN-EU	A- Natural forest are managed but SFM is more about plantations Reduced SFM certificates	A- Stable C- Increase of the Tropical Timber price since 2003	B- Unclear.	
Malaysia Start 09-2006 Expected signing data No facilitator Process slow due to internal conflicts	A- Low impact of FLEGT on SFM which is included in the national policy.	A- Stable C- Increase of the Tropical Timber price since 2003		
Laos Start 02- 2012 Negotiations have not started		A- Stable C- Increase of the Tropical Timber price since 2003		
Thailand Start 09-2013 Political process stalled Some technical work done		A- Stable C- Increase of the Tropical Timber price since 2003		
Honduras Start 01-2013 Negotiations started Expected signing in 2015	A- Reduced impact on Forest condition so far. Huge expectation in term of establishing a better climate for investment in sustainable forest management. Possible impact on Community Forest Management	A- Stable C- Increase of the Tropical Timber price since 2003		
Guyana Start 12-2012 Pace negotiations slowed down		A- Stable		