



FLEGT VOLUNTARY PARTNERSHIP AGREEMENTS 2.0

A RESPONSE TO THE EUROPEAN COMMISSION
FLEGT FITNESS CHECK, AND OPTIONS FOR THE FUTURE

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Front cover: Jiro Ose/Greenpeace. Tropical hardwood waiting for transport in Democratic Republic of Congo.

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Executive summary

This discussion document was devised in response to the European Commission's (EC) public consultation regarding the Illegal logging – evaluation of European Union (EU) rules (fitness check), which underrepresented perspectives from outside the EU. It builds on a questionnaire developed with support from Fern and distributed in French and English to civil society, government and private sector experts from Latin America, West Africa, Central Africa, Southeast Asia and the EU. A strong majority of respondents (88 per cent) represented either civil society or technical experts.

The results, supplemented by several semi-structured interviews, informed our proposed principles for future logging policies, and specifically the Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreements (VPAs).

Part one revisits the EU's FLEGT Regulation, including the two flagship elements, VPAs, and the EU Timber Regulation (EUTR). It finds that participatory, multi-stakeholder decision-making structures are integral to the way the legally binding, bilateral VPAs are negotiated, implemented, monitored, and revised. It also shows that VPAs have helped clarify and revise national definitions of legality so that they are more compatible with the principles of good forest governance and local community rights and livelihoods. Evidence is also emerging that they contribute to an overall reduction in illegal logging.

Most survey respondents agree that reduced illegal logging is the primary indicator of success for FLEGT VPAs. In addition, respondents working in VPA countries tended to assess FLEGT's success according to national level changes, such as governance improvements, legal clarity and coherence, and reduction in the volume of illegal timber produced and placed on both domestic and export markets. The EC's fitness check, on the other hand, emphasised performance indicators linked to the EU's role as a timber consuming market, namely the volume of illegal timber, and the number of FLEGT-licensed timber products, entering the EU market. This latter set of metrics is more straightforward to measure than 'governance improvements' but has limited value in revealing the VPAs' impacts in the forest.

A number of respondents highlighted that VPAs have had an impact beyond the EU. In both the implementation and negotiation stage, VPAs cover 79 per cent of the total global trade in tropical wood products, far more than the EU's market share. In most cases, the VPA standards also apply to timber consumed domestically.

Participants specifically cited examples of the 'VPA multistakeholder approach' being integrated into parallel spaces, like the Central African Forest Initiative's (CAFI) work on the Reducing emissions from deforestation and forest degradation mechanism (REDD+), the Africa Palm Oil initiative (APOI), and efforts to improve the deforestation footprint of agricultural commodities, most notably cocoa in Cote d'Ivoire and Ghana. The recent United States-Vietnam timber agreement is also clearly and explicitly built on the foundation provided by the EU-Vietnam VPA.

Challenges to the future success of FLEGT are also identified. These include that the EU's share of global timber markets has declined so significantly that a promise of green lane access is insufficient to keep actors at the table; and that the slow pace of progress has led to 'FLEGT fatigue' within the EU, meaning that they now dedicate fewer resources, personnel and political capital to VPA processes.

Part two considers how FLEGT VPAs and the EUTR might interact with the proposed EU [Regulation on deforestation-free products](#). It is not yet clear how wood produced from natural forests will be treated since it is not an agricultural crop, and is therefore mainly linked to forest degradation, not deforestation. Degradation due diligence may look quite different to deforestation due diligence, and is likely to involve even more complex ground-truthing.

It concludes with six core principles for decisions about how FLEGT VPAs and the EUTR interact with the new Regulation:

- The EU must maintain respect and trust with partner governments already engaged with VPA processes.
- The EU must ensure clear incentives to bring people to the table and keep them there.
- The Regulation should learn from existing multi-stakeholder VPA structures. They could, for example, inform deforestation and degradation-free approaches to national frameworks as well as the process for defining and ensuring legality.
- Governance reform processes with high buy-in at the national level have the highest chance of long-term success.
- Legally binding agreements (with clear consequences for transgressions) give the EU the legitimacy to weigh-in on national processes. This legitimacy is a crucial part of advancing a more sustainable, and pro-poor agenda within forest sectors.
- Focussing on affecting change beyond the EU's forest footprint has allowed the EU to 'punch above its weight', so the focus should not move to only EU-destined supply chains.

Part three proposes several options for reforming and improving the benefits of FLEGT VPAs. These include:

- **National stakeholders revisiting the minimum standards contained within VPA texts to establish a sustainability or deforestation and degradation-free standard.** This could include ensuring that VPAs tackle conversion timber and that deliberations consider land tenure. The internationally agreed principles encapsulated in the Voluntary Guidelines on Governance and Tenure (VGGT) provide a good starting point and the EU already supports VGGT implementation in eight countries engaged in VPA processes.
- **Refocus VPA implementation on core governance issues by introducing public monitoring of whether milestones are being met.** This would ensure that improving governance remains central to implementation. Such monitoring could include establishing baselines and crafting workable indicators. Inspiration could be drawn from the Extractive Industries Transparency Initiative's (EITI) revised validation mechanism.¹ In this mechanism a national multi-stakeholder group assesses progress against core indicators and reaches a risk rating which is then validated by an international secretariat. Precise milestones could be agreed by VPA parties, so they may differ across contexts and countries. Public reporting would present a clear signal to timber buyers and could help flag areas of significant progress.
- **Linking public monitoring or milestones to the commodity risk benchmarks outlined in the EU's proposed Regulation on deforestation-free products,** which mentions that the presence of a FLEGT licence will constitute evidence of compliance with the 'legal production' requirement. It is less clear how countries making good progress in implementing a VPA yet not at a licencing stage will benefit. Determining the criteria could be a joint exercise between the EU and the VPA partner country, handled through the multi-stakeholder Joint Implementation Committees.

1 - <https://eiti.org/validation>

- **Encouraging greater recognition of FLEGT licences in other major timber consuming markets** through an ‘equivalence’ scheme. Establishing an internationally-managed approach to partnership agreements would share some of the burden of negotiating and supporting VPA implementation. More could be done to link VPA processes to regional and international markets, through public procurement that consider jurisdictional, municipal, and city-wide procurement policies.

One survey participant noted that, **“Where VPAs were true partnerships in the beginning, there is now a more top-down approach, with the EU telling the producer countries what to do.”**²

The report concludes that the EU should examine its own forest ambition and accept that the many threats to forests and forest communities cannot be tackled by policy that focusses exclusively on forestry. Nonetheless, illegal and unsustainable logging remains a major threat to healthy forests and local community livelihoods. The nationally-owned, deliberative approach embodied in FLEGT processes has enabled the EU to affect positive change well beyond the scope of its own timber supply chains. The EU therefore needs to ask itself whether it has the appetite to support a global transition to more sustainable and equitable use of forest resources, or whether it will be limited to cleaning up its own supply.

List of options for reforming FLEGT VPAs

These ratings are intended as a starting point for discussion only. Assessments of each option are likely to differ according to the country or region considering them.

Option	Compatibility with zero deforestation policy	Impact on forests/forest governance	Political feasibility
Public benchmarks for governance progress	High	High	Medium
Link FLEGT licences to due diligence benchmarks	High	Medium	High
Revisit baseline sustainability standards in VPAs	High	Medium	Medium
Multilateral FLEGT platform	Low	High	Low
Place VPA-like processes at the heart of forest partnerships	High	High	Medium
Tap into local and regional public procurement policies	Medium	Medium to high	High



Photo: Axel Fassio/CIFOR, Flickr/cc. Sapelli tree being transported, Democratic Republic of Congo.

Background

This discussion document was devised in response to the European Commission's public consultation "Illegal logging – evaluation of European Union (EU) rules (fitness check)". The consultation, conducted between September and November 2020, sought to evaluate the performance of the EU Timber Regulation (EUTR) and the Forest Law Enforcement, Governance and Trade (FLEGT) Regulation. As 79 per cent of respondents to the consultation were from the EU,³ perspectives from timber producing countries were underrepresented.

This research aimed to rebalance that and therefore draws primarily on perspectives from those living and working in timber-producing countries. A questionnaire distributed in French and English in September 2021 collected 61 responses. Contributions came from Latin America, West Africa, Central Africa and Southeast Asia, as well as the EU. A strong majority (88 per cent) either represented civil society or were technical experts.⁴

Findings were supplemented by a series of semi-structured anonymous interviews with 13 people from civil society, timber-producing governments, the private sector, technical experts, EU Delegations, and development agencies.

The results can be used to guide the EU's current and future policies to cut illegal logging and protect tropical forests and forest communities. The recommendations and principles need to be developed carefully and this should therefore be considered as a discussion document.

³ - Factual summary report on the public consultation on the fitness check of the EU rules on illegal logging, Jan 2021.

⁴ - Technical expert is a composite term bringing together respondents who classified themselves as consultants, researchers, technical experts and FLEGT facilitators.

Part 1: EU FLEGT

The FLEGT Action Plan was created in 2003. It outlines a collection of measures that make up the EU's contribution to reducing illegal logging in tropical forests.⁵ Among these measures, two core instruments stand out.

The first is the FLEGT Regulation (2005). This enabled the EU and timber producing countries to negotiate legally binding Voluntary Partnership Agreements (VPAs), which create a framework for defining and then verifying legal production of timber and certain wood products. Participatory multi-stakeholder decision-making structures are integral to the way in which VPAs are negotiated, implemented, monitored and revised.⁶

VPAs have effectively catalysed national legal and policy reform processes that bring the forest legal framework more in line with principles of good forest governance (for some concrete examples, see box 1).

The second standout pillar is the EU Timber Regulation, (EUTR) which controls the placement of illegally-produced wood products on the EU market. The EUTR and the FLEGT Regulation are supported by five additional activity areas, which relate to public procurement, private-sector initiatives, finance and investment, conflict timber, and promoting the global trade in legal timber.

DEFINING SUCCESS IN FLEGT VPAS

Contributing to a reduction of illegal logging and related trade worldwide is the primary stated objective of the FLEGT Action Plan.⁷ To achieve this it "places particular emphasis on governance reforms and capacity building, supported by actions aimed at developing multilateral co-operation and complementary demand-side measures designed to reduce the consumption of illegally harvested timber in the EU (and ultimately major consumer markets elsewhere in the world)."⁸

Stakeholders from tropical forested countries echo these priorities. A majority of survey respondents (70 per cent) agreed that reduced illegal logging is among the most important indicators of FLEGT's success. Improved forest and land tenure, and more sustainable forest management in VPA countries, were the next most important indicators (Figure 1).

⁵ - Communication from the Commission to the Council and the European Parliament - Forest Law Enforcement, Governance and Trade (FLEGT) - Proposal for an EU Action Plan (2003), available online at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52003DC0251>

⁶ - <https://www.vpaunpacked.org/vpa-principles>

⁷ - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52003DC0251>

⁸ - Communication from the Commission to the Council and the European Parliament - Forest Law Enforcement, Governance and Trade (FLEGT) - Proposal for an EU Action Plan (2003), Executive summary.

Most important indicators of success for FLEGT

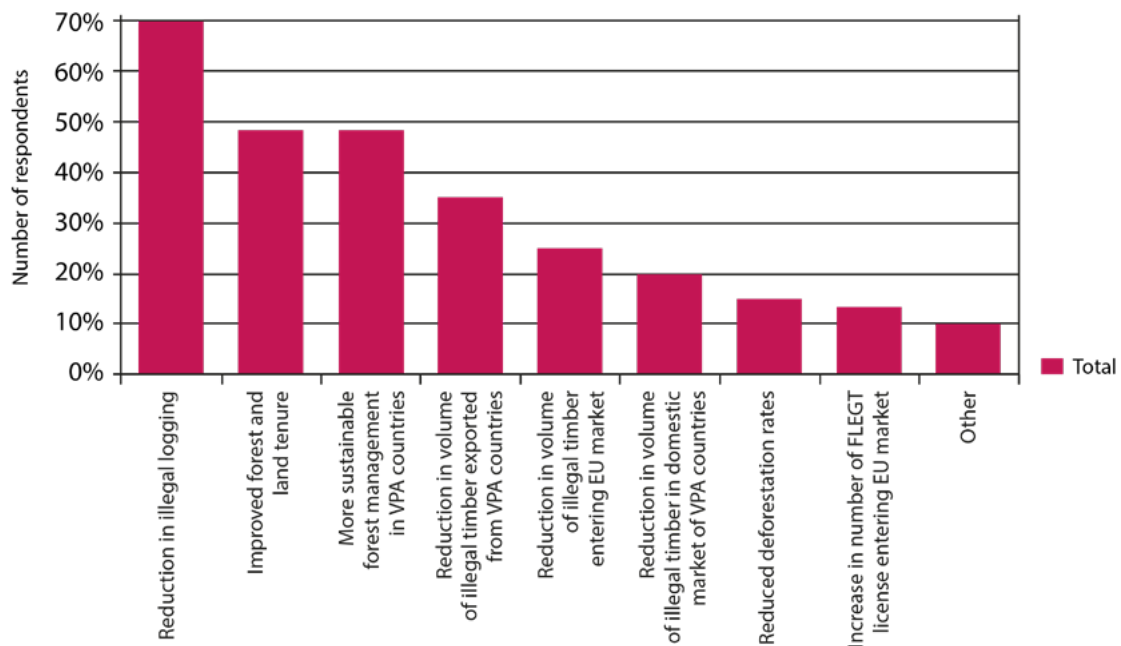


Figure 1: Most important indicators of success for FLEGT (Question 10 of research survey). Participants could choose up to three responses.

However, systems to monitor the FLEGT's success in reducing both illegal logging and the underlying conditions which enable it were not established at the outset of the Action Plan. Work to rectify this began following a 2016 evaluation,⁹ after which the European Commission (EC) created its first comprehensive FLEGT workplan (for the period 2018 – 2022). The workplan included activities to markedly step-up monitoring of implementation and impact, including establishing clear governance indicators for VPA progress.¹⁰ Although national-level VPA progress reporting has improved in recent years¹¹ and work to develop governance progress indicators is ongoing, a systematic framework for measuring success against the priorities outlined above has not yet been fully established.

Work to improve monitoring around EUTR implementation has also stepped up in recent years. Data around wood product imports, Competent Authority activity, FLEGT-licensed timber products entering the EU, and other trade-related factors are now systematically collected and annual progress reports published.¹² These metrics have the advantage of being easily measured. They also provide valuable insight into the EUTR's ability to control EU supply chains. They do not, however, reveal the extent to which FLEGT is tackling the underlying conditions that enable illegal logging, or the impact of VPA processes on timber flows not destined to the EU.

⁹ - Topperspective, (2016) Evaluation of the EU FLEGT Action Plan (Forest Law Enforcement Governance and Trade) 2004 – 2014

¹⁰ - Work Plan 2018 – 2022 for the Implementation of the Forest Law Enforcement, Governance and Trade Action Plan, available at https://ec.europa.eu/environment/forests/pdf/FLEGT_work_plan_2018_2022.PDF

¹¹ - See progress reports published by the EU FLEGT facility <https://www.euflegt.efi.int/fr/publications>

¹² - For a list of EUTR and FLEGT implementation reports, see https://ec.europa.eu/environment/forests/eutr_report.htm

Box 1: Forest governance and FLEGT VPAs.

Evidence is emerging that levels of illegal logging have declined and that FLEGT VPAs are a contributing factor.¹³ In addition, FLEGT VPAs' contribution to improved forest governance has been widely acknowledged, although rarely systematically studied. An exception is that the Centre for International Forestry Research's (CIFOR) recently looked¹⁴ at VPA impacts in Indonesia, Cameroon, and Ghana.

In addition to finding that VPA processes have directly and positively impacted illegal logging rates in production forests, the research identified notable improvements in terms of transparency, government accountability, civil society capacity (not to be underestimated as a powerful precursor to achieving many other gains), and more credible and better enforced sanctions for illegal behaviour in forests.¹⁵

Eighty-three per cent of questionnaire respondents judged that VPA processes have contributed to bringing national forest legal frameworks more in line with sustainability principles.¹⁶

Changes to the legal framework, which the VPA helped to set in motion.

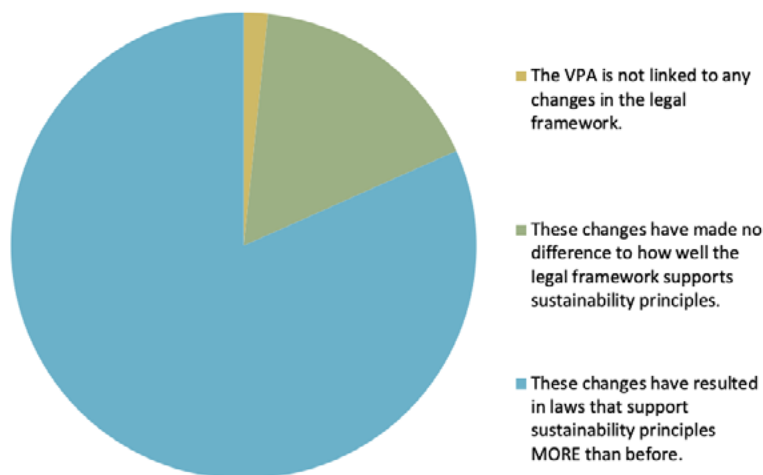


Figure 2: Responses to survey question regarding changes to the legal framework, which the VPA helped to set in motion.

Legal reforms catalysed by VPA processes include strengthening local communities' rights to own, manage and benefit from forest land and resources in Liberia, and new regulations outlining minimum distributions of forestry revenues to affected communities in Ghana.¹⁷ While there still needs to be work to ensure these benefit sharing arrangements are fully implemented, in both countries some communities have already begun to receive the revenue previously unavailable to them.¹⁸ Vietnam's new Forestry Law (promulgated 2019) draws on the content of its VPA and regulates for the first time the processing and trade of forest products. It adopts an approach to tenure rights and timber legality that makes it possible for smallholders and households to participate in a legal timber trade while also facilitating monitoring to ensure that protected species aren't harvested.¹⁹

¹³ - Most recently, see Cerutti, PO et al, Collecting Evidence of FLEGT-VPA Impacts for Improved FLEGT Communication, CIFOR, 2020. A 2015 Chatham House study also found reductions in illegal logging linked with FLEGT.

¹⁴ - CIFOR, (2020) Collecting Evidence of FLEGT-VPA Impacts for Improved FLEGT Communication

¹⁵ - Ibid.

¹⁶ - FLEGT VPAs 2.0 – Questionnaire results.

¹⁷ - Fern, (2017), How much do communities get from logging?

¹⁸ - See Chatham House, (2020), Forest Sector Accountability in Cameroon and Ghana, and Forest Trends (2020), Community benefits sharing in the forestry sector: Liberia's legislative framework& track record on sharing land rental fees from commercial forestry, 2007 – 2019).

¹⁹ - Fern, SRD and VNGO FLEGT network, (2018) Briefing Note: EU-Vietnam VPA timber trade deal available at <https://www.fern.org/fileadmin/uploads/fern/Documents/briefing-note%20vietnam%20FINAL.pdf>

The Republic of Congo recently adopted a new Forest Code, developed using the VPA multi-stakeholder structures, which enshrines participation rights of Indigenous Peoples and local communities, formally recognises a role for independent forest monitoring, and contains provisions on benefit-sharing in logging revenues.²⁰

Impacts are identified throughout the VPA process, not limited to an 'end point' of FLEGT licences being issued. VPA negotiations in Côte d'Ivoire, for instance, have prompted the country's timber industry to begin restructuring itself to become more 'FLEGT compatible', even before the Agreement had been finalised.²¹ In Laos, the VPA process has led to the development of a forest legality compendium, which is a crucial first step to enabling stakeholders to understand, expose and discuss gaps and problems in the legal framework.

VPAS MULTIPLY THE EU'S IMPACT

The standards established within all signed VPAs apply to the entirety of the timber exported from those countries. Timber traded by countries currently engaged in VPA negotiations constitutes 79 per cent of the total global trade in tropical wood products – far in excess of the EU's market share.²² In most cases, the VPA standards also apply to timber consumed domestically.

Research in Ghana suggests that the share of illegal timber on the domestic market has declined substantially since the country implemented the wood tracking system, developed through the VPA, from around 74 per cent in 2017 to 43 per cent in 2019.²³

*'FLEGT has allowed the EU to really punch above its weight when it comes to illegal logging.'*²⁴

A number of questionnaire respondents identified integration of the 'VPA approach' in parallel spaces as a 'new success' for FLEGT. Examples cited included the transposition of the multi-stakeholder governance model into the Central African Forest Initiative (CAFI) work on REDD+, and the Africa Palm Oil initiative (APOI). The fact that there is genuine interest in some quarters in applying a VPA multi-stakeholder approach to agricultural commodities (as is the case with Cocoa in Côte d'Ivoire and Ghana)²⁵ is also seen as a success.

In October 2021, Vietnam, and the United States of America (USA) announced a joint agreement on illegal logging and the timber trade.²⁶ The agreement includes commitments from Vietnam to amend the legal framework that applies to confiscated timber, and to eliminate financial incentives to import, process and export illegally produced timber. This agreement also requires Vietnam to report its progress towards delivering FLEGT licences, and any changes to the legality assurance system, to a joint USA-Vietnam 'Timber Working Group'. There is a commitment to using consultative mechanisms to seek views from outside the government regarding implementation of the USA-Vietnam agreement. The agreement was negotiated over the course of a year. It clearly draws heavily from, and explicitly refers to some of the principles and framing ideas within the EU-Vietnam FLEGT VPA, which took an initial six years to negotiate. Essentially the VPA process laid the groundwork.

20 - <https://www.fern.org/publications-insight/republic-of-the-congo-forest-code-and-climate-plans-are-both-a-cause-for-hope-2296/>

21 - <https://www.youtube.com/watch?v=0m7eIUbkJsl>

22 - FLEGT Independent Market Monitor, FLEGT VPA Partners in EU Timber Trade 2018, 2019. Available at https://flegtim.eu/wp-content/uploads/2019/04/Final_clean_version_Natalie_VPA-Partners-in-EU-Timber-Trade-Annual-Report-2018.pdf

This figure includes all countries formally engaged in negotiation or implementation of a VPA, fifteen countries in all. It is probably useful to consider the figure a slight over-estimate, in that it includes Malaysia, where VPA negotiations have been stalled for years, and there is no real momentum towards re-engaging in the process. However, the share captured within active VPA processes still constitutes a significant majority of global trade.

23 - Obeng, EA et al, (2020) *Bottlenecks to Supplying Legal Wood to the Domestic Market*

24 - Interviewee # 4.

25 - https://www.fern.org/fileadmin/uploads/fern/Documents/2021/NGO_letter_10-09-21_next_steps_cocoa_talks.pdf

26 - [https://ustr.gov/sites/default/files/files/Vietnam%20Timber/VN%20Timber%20Agreement%20Text%20\(9-30-21\).pdf](https://ustr.gov/sites/default/files/files/Vietnam%20Timber/VN%20Timber%20Agreement%20Text%20(9-30-21).pdf)

MAJOR CHALLENGES TO THE FLEGT THEORY OF CHANGE

Survey participants were asked to identify new and major obstacles to the success of FLEGT. Among the responses, three core themes stood out.

In many countries the forestry sector is too small to be an effective entry point

Even before the FLEGT Action Plan was created, forest land conversion for agriculture was recognised as a more significant cause of deforestation than logging.²⁷ Today, estimates range from around a half to up to eighty per cent of deforestation being caused by conversion for agriculture.²⁸ International responses to this challenge are increasingly organised around concepts of ‘zero-deforestation’ and ‘sustainable production’, with less focus on legality per se (see for instance, the proliferation of voluntary ‘zero-deforestation’ commitments across the private sector). This shift has happened alongside the increasing prominence of forests in climate policies.²⁹

It is worth pointing out that global figures conceal dramatic regional distinctions. The Congo Basin Rainforest, the second largest in the world, has not yet succumbed to overwhelming industrial agriculture,³⁰ and timber remains Central African Republic’s primary export.³¹ On the other hand, the value of agricultural exports from Ghana now dwarf those of timber, while metal and mineral exports from Liberia overshadow those of both timber and agriculture.³²

Access to the EU timber market is an insufficient incentive to keep stakeholders at the table

The EU’s overall market share of the tropical timber trade was already in decline in 2003 when the Action Plan was created. Today, China, India, and Vietnam account for 90 per cent of total International Timber Trade Organisation (ITTO) tropical Roundwood imports (compared with 44 per cent in 2000),³³ while the EU’s share of global forestry product imports has shrunk to just 9 per cent³⁴ (this figure includes products from plantation forests). While it has long been the case that the majority of tropical timber harvested in Africa is destined for domestic markets,³⁵ in recent years regional African markets have also become more important. The African Continental Free Trade Agreement (AfCFTA) kicked off in 2021 and is expected to further increase intra-regional trade in wood products.³⁶

An expectation remains among some actors³⁷ that a FLEGT licence will confer premium pricing for the product. There is no evidence that this will happen, nor any infrastructure designed to enable it. One private sector respondent commented that ‘*market benefits are illusory... better to come clean.*’³⁸ A number of civil society participants agreed, highlighting that ‘*exports are a factor [influencing producer countries to engage in VPAs], but only one of several.*’³⁹

The EUTR has been in place since 2013, although widespread enforcement only really began to step up in 2016 and there has been a marked improvement since 2018.⁴⁰ So, in effect, the EUTR has only been ‘really in force’ for about three years. Member States still need to improve its effectiveness as a barrier to entry for illegal timber. In 2020, 41 per cent of operators having placed timber or timber products on the EU market checked under the EUTR, were found to be non-compliant.⁴¹

27 - Rob Glastra (ed.), *Cut and Run: Illegal logging and the timber trade in the tropics* (IDRC, 1999).

28 - See for instance the 2014 Forest Trends study estimating that 49 per cent of total tropical deforestation between 2000 and 2012 was due to illegal conversion for commercial agriculture, and Hosonuma, N. et al’s 2012 Assessment of deforestation and degradation drivers, which puts the figure at 73%.

29 - Forest conservation and restoration are now embedded in international climate strategies – REDD+ is a core element of the 2015 Paris Agreement. Work to ‘sustainably manage forests’ is a core element of the UN Sustainable Development Goal 15.

30 - Tyukavina, A., et al., (2018) Congo Basin forest loss dominated by increasing smallholder clearing. *Science advances* 4(11), eaat2993. DOI: 10.1126/sciadv.aat2993

31 - Cerutti, P et al, (2018) State of the Timber Sector in Central African Republic (2016), CIFOR

32 - Data taken from <https://resourcetrade.earth>

33 - ITTO, Biennial review and assessment of the world timber situation 2019-2020

34 - www.resourcetrade.earth

35 - Kleinschmit, D et al (eds) *Illegal Logging and Related Timber Trade - Dimensions, Drivers, Impacts and Responses* (2017) available at <https://www.iufro.org/science/gfep/gfep-initiative/panel-on-illegal-timber-trade/>

36 - ITTO, Biennial review and assessment of the world timber situation 2019-2020,

37 - Expressed in surveys and supplementary interviews, notably with actors from Central Africa.

38 - Survey participant #4

39 - Survey participant #2

40 - Zeitlin & Overdevest, (2021) *Experimentalist interactions: Joining up the transnational timber legality regime*

41 - EUTR: Union-wide overview for the year 2020 https://ec.europa.eu/environment/forests/pdf/EUTR%20Overview%202020_alternative.pdf

FLEGT fatigue

Implementing VPAs has proven to take time as the very governance challenges that the Action Plan sought to tackle also present obstacles to success.⁴²

The challenge of 'FLEGT fatigue' has been identified in VPA processes for a number of years. In this research, it became clear that actors in the EU are also 'fatigued' with FLEGT. In fact, changed EU attitudes was the most frequently cited challenge. Participants felt that declining EU interest could be seen in reductions in funding, and a less collaborative, participatory attitude particularly at the central Commission level (not the EU Delegations).

In some cases, national-level enthusiasm for FLEGT has come and gone. For instance, survey respondents reported that government enthusiasm for the VPA process in Ghana has increased over time and, while the process was stalled for a long period in Cameroon, the current government does appear to endorse the process as it aligns with some of their national objectives.

Although the term 'FLEGT fatigue' is used widely, some of what it refers to may be more linked to staff turnover and the arrival of people who are new to the FLEGT approach. This applies in both the EU and VPA country governments. Participants identified a kind of 'mission drift' over time, where a focus on delivering 'export ready' timber has tended to distract attention away from achieving deep-seated governance improvements. The technical complexity in implementing timber legality assurance systems, including digital tracking systems, is highlighted as a particular challenge. On the other hand, Ghana's digital wood-tracking system was described as a 'game changer' in terms of improving legality compliance within the sector. In this case, the picture varies significantly across countries.

Views from producer countries:

The EU's attitude to VPAs was cited by participants from every geographical group as a barrier to success. One participant referred to 'the EU's bad partnership approach', while a number of others cited poor communication around the future of VPAs, and poor conduct around the fitness check.

"Where VPAs were true partnerships in the beginning, there is now a more top-down approach, with the EU telling the producer countries what to do."⁴³

"The Commission itself has been a big obstacle to VPA success. They are very eager to point fingers at others for 'insufficient political will', 'dragging of feet', etc-- but the Commission has done this as much or more than anyone else. They've woefully under allocated human resources, sent out highly unhelpful and confusing political signals about the continuation of VPAs, and at times even actively tried to sabotage them. The Commission needs to take an honest look at itself as an obstacle to success."⁴⁴

"The new Regulation appears to be underpinned by a desire to shrink the scope, and for the EU to focus on eliminating deforestation from its supply chains, rather than trying to be a transformative force in the global market."⁴⁵

"At the EC, lack of interest increased, and capacity decreased compared to 10 years ago when EC staff involved had a better technical understanding. EC staff needs capacity building."⁴⁶

⁴² - These governance challenges are well documented and recognised. For a recent summary of such challenges in a number of VPA countries, see Methven, S Progress towards strong forest governance in Voluntary Partnership Agreement countries 2018-2020, Fern, 2021.

⁴³ - survey respondent #29

⁴⁴ - Survey respondent #46

⁴⁵ - Survey respondent #37

⁴⁶ - survey participant



Photo: Mokhamad Edlidi/CIFOR. Aerial view of a forest in Cameroon.

Part 2: FLEGT and a new EU deforestation regulation

In November 2021, the EC released its long-awaited Proposal for a regulation on deforestation-free products⁴⁷ (hereafter, the 'Deforestation Regulation'). If adopted, the Deforestation Regulation will require that certain commodities and products placed on, made available on or exported from the EU market must be deforestation and degradation-free, and produced in accordance with national laws. Companies putting these products on the market will have to conduct due diligence to ensure they meet the Deforestation Regulation's requirements. Due diligence would include obtaining the geographic coordinates of the land where the commodities have been produced, a supply chain risk assessment, and adequate and proportionate mitigation measures. The Deforestation Regulation will also include a risk benchmarking system, which will mean increased checks by Competent Authorities for material coming from countries considered high risk, and reduced due diligence obligations on companies sourcing from low risk countries.

The draft Deforestation Regulation was developed as part of a renewed focus on forests by the EU. It was kicked off in 2019 when, after years of campaigning from civil society, the European Commission published a Communication on stepping up EU action to protect and restore the world's forests.⁴⁸ Forest clearance linked to agriculture has been recognised as a major global driver of deforestation for decades and so action to reduce the EU's role in this is welcome.

The commodities covered by the draft Deforestation Regulation are cattle, cocoa, coffee, oil palm, soya, and wood. Inclusion of wood products raises questions of the future of FLEGT.

Under the proposal, the EUTR will be repealed. Wood products placed on the EU market will be subject to the mechanisms within the Deforestation Regulation, which include stronger enforcement systems and a requirement for companies to pro-actively declare their compliance. These are both positive improvements on the EUTR. Wood products would need to meet both the legality requirement (as with the EUTR), and the additional deforestation-free requirement.

⁴⁷ - https://ec.europa.eu/environment/publications/proposal-regulation-deforestation-free-products_en

⁴⁸ - https://ec.europa.eu/info/publications/eu-communication-2019-stepping-eu-action-protect-and-restore-worlds-forests_en

The draft Deforestation Regulation does not propose to repeal the FLEGT Regulation. It specifies that FLEGT-licensed products will automatically fulfil the legality requirement, although companies would still need to perform due-diligence to ensure compliance with the deforestation-free requirement. The EC has also said that Forest Partnerships will be offered to all relevant countries, including those currently engaged in VPA negotiation or implementation.

The draft Deforestation Regulation also mentions engaging in partnerships and cooperation, potentially including through 'structured dialogues' with producer countries, to focus on "conservation, restoration and sustainable use of forests, deforestation, forest degradation and the transition to sustainable commodity production, consumption processing and trade methods." It is not clear what relation these dialogues will have with the VPAs, or with the 'Forest Partnerships' announced in 2020.⁴⁹ A global coalition of civil society organisations published principles⁵⁰ for what useful forest partnerships might look like, in April 2021.

In navigating a course, a number of points are worth considering.

The difference between due diligence to ensure products are degradation-free rather than deforestation-free.

Among the commodities targeted by the draft Deforestation Regulation, wood is unique in that its production on forested land does not usually imply complete deforestation. Logging tropical timber in natural forests, whether legally or illegally, usually means that only valuable species are felled. This selective logging is, however, a major cause of forest degradation,⁵¹ which the Intergovernmental Panel on Climate Change (IPCC) has called (alongside other forms of land degradation) 'one of the biggest and most urgent challenges for humanity'.⁵²

Recognition of this distinction is woven into the draft Deforestation Regulation definition of deforestation-free: "the relevant commodities and products... were produced on land that has not been subject to deforestation after December 31, 2020, and that the wood has been harvested from the forest without inducing forest degradation after December 31, 2020."

The EC foresees using satellite imagery and other remote diagnostic tools to monitor deforestation. While these methods could conceivably be used to help identify clear-cutting, identifying forest degradation is more complex and will require even more site-specific data and ground truthing. So complex is the task that the United Nations Food and Agricultural Organisation (FAO) does not attempt to offer a universal definition of degradation, leaving it up to individual countries to define their own context.⁵³ If producer country governments and other national stakeholders do not support the degradation definition, monitoring it could prove extremely difficult. For those countries without a recent forest inventory, even the challenge of establishing baselines would be immense.

The EU's standing as a good international partner is at stake.

The preamble to the draft Deforestation Regulation makes it clear that FLEGT licences will fulfil the legality requirements to "respect bilateral commitments that the EU has entered into and to preserve the progress achieved with partner countries that have an operating system in place (FLEGT licensing stage)." This move is clearly in line with the survey respondents for this document, 60 per cent of whom consider that bringing an end to FLEGT licensing would have a negative or very negative impact on the forest sector in their country.⁵⁴

FLEGT licences will not, however, automatically satisfy the deforestation-free requirement. Some may still consider this as a case of shifting the goal posts, as VPAs have been negotiated as legally-binding agreements that commit the EU to providing a country with 'green lane' access to EU timber markets in exchange for that country developing and effectively implementing a robust and broadly endorsed system for assuring timber legality.

49 - <https://ec.europa.eu/newsroom/intpa/items/682194>

50 - https://www.fern.org/fileadmin/uploads/fern/Documents/2021/Raising_the_bar_CSOs_statement-EN.pdf

51 - Mitchell, A et al, 'Current remote sensing approaches to monitoring forest degradation in support of countries measurement, reporting and verification (MRV) systems for REDD+', in Carbon Balance and Management volume 12, Article number: 9 (2017)

52 - <https://www.ipcc.ch/srccl/>

53 - FAO (2020) Global forest resources 2020 Terms and definitions, available at <https://www.fao.org/3/I8661EN/i8661en.pdf>

54 - This survey was conducted before the draft deforestation regulation was released

“The VPA is a partnership between EU and the producer countries based on trust or at least respect. If the EU starts to doubt the process as it seems, then producer countries are entitled to question EU motivations and the investments both parties have made during all these years.”⁵⁵

How the EU navigates this dilemma will be important. The same mechanisms could be used to jointly assess the compatibility of legal timber frameworks with a deforestation and degradation-free standard, and make necessary adjustments. In a number of countries, VPA processes have already extended beyond a narrow examination of legal timber harvesting, to consider legality issues connected with forest land use conversion.

Legally-binding agreements with real consequences for non-compliance are crucial to induce domestic reforms

The draft Deforestation Regulation, like the EUTR, prohibits products being placed on the EU market that are produced in contravention of the national laws of the country where it is produced. Operators conducting legality due diligence will be faced with the same dilemma experienced by timber operators confronted with the EUTR; that verifying legality in countries with unclear, incomplete, or overlapping legal frameworks can be an impossible task.

VPA mechanisms have already proven valuable tools to clarify the forest legal framework, and to identify areas where reform is needed (see Box1). Most survey respondents consider that watering down the legally-binding nature of VPAs would be a negative move.

“There was already very little teeth with FLEGT, now [if VPAs are replaced by non-legally binding instruments] it would not even have a mouth nor a single teeth. It will have no binding aspect, which will lead to definitive failure. It will be a vague programme, with no goal.”⁵⁶

In Ghana, government ministers used to be able to issue ‘special permits’, which allowed the bearer to log an area of forest even in the absence of the usually required management plans and contracts. These special permits represented a major loophole in controlling logging in the country. When Ghanaian civil society raised this problem within the VPA process, the government response was initially that there was no problem, because Ghanaian law allows it. It was the EU, ‘putting its foot down’ and insisting the issue be tackled, that forced the government to consider the concerns raised and, ultimately, to act. Ghanaian law is now in the process of being changed to prohibit arbitrary issuance of logging permits, bringing Ghana’s legal framework further in line with principles of good governance and sustainable resource management.⁵⁷

When Indonesia’s Ministry of Trade attempted to roll back the universal applicability of timber legality standards in 2020, an emergency meeting was called in line with the terms of the VPA and the legally-binding nature of the agreement was recalled.⁵⁸

⁵⁵ - survey respondent #31

⁵⁶ - Survey respondent #25

⁵⁷ - Interviewee #6

⁵⁸ - https://www.euflegt.efi.int/fr/indonesia-news/-/asset_publisher/FWJBfN3Zu1f6/content/update-on-recent-developments-in-indonesia

Box 2: Principles for preserving the best elements of VPAs in the Deforestation Regulation.

Drawn from survey responses

1. **Maintain the EU's standing as a 'good partner.'** VPAs are legally binding trade agreements, into which both sides have committed considerable resources. Unilateral actions that undermine those agreements weaken the EU's reputation as a reliable partner. This will make it harder to engage in future processes to tackle deforestation or climate change, among others.
2. **Clear incentives are needed to bring people to the table.** Forest dialogues without incentives tend to have limited impact, particularly in contexts of high corruption and competing vested interests. The Deforestation Regulation must take care not to undermine existing incentives for engaging in VPAs.
3. **Make use of existing multi-stakeholder structures. VPA structures** are typically flexible and have been designed to be iterative. They are well-placed to establish practical definitions of legality, degradation-free and could be used to integrate these definitions into national frameworks in a way that enjoys crucial buy-in from national stakeholders.
4. **Effective governance reform processes should have buy-in from producer countries.** This gives them the highest chance of long-term success. National systems should include agreement of how to define and achieve a deforestation and degradation-free standard for wood products.
5. **Legally binding agreements (with clear consequences for transgressions) give the EU the legitimacy to discuss national issues.** This dynamic was part of the VPA and has been crucial in advancing a more sustainable, and pro-poor agenda within forest sectors.
6. **Maintain ambition to affect forests beyond the EU's immediate footprint.** The objective of VPAs is first and foremost to affect change in the forests. Action should be guided by what can work, for the planet, and not only by what reaches the EU's doorstep.



Photo: Ollivier Girard/CIFOR, Flickr/cc. Democratic Republic of Congo.

Part 3: Proposals for FLEGT reform

The remainder of this paper is dedicated to drawing out some proposals for reforming FLEGT VPAs and related processes, to maximise their positive impact on forests and forest communities. They are based on inputs from survey respondents and interviewees and should be taken as starting points for discussion.

OPTIONS FOR STRENGTHENING FLEGT VPAS

1. Establish a sustainability standard.

The FLEGT Action Plan was expressly designed to focus on legality in timber production, following the logic that, “[s]ince in many countries forest legislation is based on the premise of sustainable forest management, better law enforcement will in general lead to more sustainable forest management. Where this is not the case the EU should encourage a review of the legal framework. Better forest governance is therefore an important step on the path to sustainable development.”⁵⁹

As such, the FLEGT Regulation does establish the minimum scope of product types included in the agreement, regardless of the partner country.⁶⁰ This could be strengthened by agreeing timber legality definitions within new VPAs to be compatible with agreed sustainability principles. Assessment of these principles could then become a more formalised element of negotiations. If there was appetite from existing VPA countries to revisit the terms of their agreements, this could also be considered.

The minimum requirements could be based on internationally agreed principles such as the Voluntary Guidelines on Governance and Tenure (VGGT), which were officially endorsed in 2012, nearly a decade after the FLEGT Action Plan was created. These internationally recognised principles lay a good foundation for a ‘sustainable’ forest sector. If standards like the VGGT were incorporated into VPAs, then the process to bring them into national policy and practice could be built into the VPA’s implementation roadmap. Evaluations and intelligence developed through this support could be also useful in establishing baselines and crafting workable indicators of success. The EU already supports VGGT implementation in eight countries currently engaged in VPA processes.⁶¹

⁵⁹ - FLEGT Action Plan, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52003DC0251>

⁶⁰ - Annex II of the FLEGT Regulation

⁶¹ - <https://landgov.donorplatform.org/>

If wood products remain within scope of the draft Deforestation Regulation, the existing timber legality assurance systems (TLAS) could be used to assess the extent to which it is degradation-free. These TLAS are a key part of the negotiations towards FLEGT licensing. If TLAS are changed to also monitor whether wood is degradation-free, FLEGT licences issued thereafter might be considered to comply with all elements of the Deforestation Regulation.

It would also be useful to assess the extent to which those countries that incorporate conversion timber within their legality grid, and monitoring and traceability systems already meet the Deforestation Regulation requirements, including when applied to agricultural commodities.

Views from producer countries

“Security of tenure and respect for human rights. These issues need to be a foundation of VPAs”⁶²

Several participants said that VPAs already allow space to pursue greater coherence between sustainability and legality. For example, structures already exist for domestic actors (including the government) to identify and pursue positive changes, if they have the motivation and capacity to do so.

2. Refocus VPA implementation on core governance issues linked to internationally recognised benchmarks.

After signing a VPA, the EU and the producer country develop a joint implementation roadmap. These roadmaps have almost always proved to be overly ambitious with implementation bottlenecks linked to corruption, and a lack of awareness or buy-in at the local and municipal level, among government agents, private sector actors and communities alike. But there are no real consequences for failing to achieve implementation milestones, except that the process will not eventually lead to FLEGT licences. Another issue is that those VPA countries who focus on delivering ‘export ready’ timber have sometimes sidestepped work to tackle difficult governance challenges or underlying tenure issues during VPA implementation (see views from producer countries).

More could be done to encourage steady progress along the roadmap by introducing a public monitoring system with a set of milestones. Inspiration could be drawn from the Extractive Industries Transparency Initiative’s (EITI) revised validation mechanism,⁶³ in which a national multi-stakeholder group assesses progress against core indicators and reach a risk rating, which is then validated by the international secretariat to maintain the robustness of the system. The carding system used within the EU’s Illegal, unregulated and unreported fishing regulation (IUU Regulation),⁶⁴ could also offer inspiration. ‘Yellow cards’ issued as a warning that a country is not doing enough to control fishing activities, and subsequent engagement to step up activity, do appear to be bearing fruit.⁶⁵

Precise milestones might be agreed jointly between the VPA parties, so each country’s may differ. It should nonetheless be possible to identify a number of core principles to frame such a system. Ideally there would be a good mix of systems and outcomes indicators – linked to priority governance issues.

Public reporting would present a clear signal to timber buyers that enhanced due diligence is necessary, and could also help to flag areas of significant progress. The primary function of such a system would be to leverage international reputations.

⁶² - Survey respondent # 6

⁶³ - <https://eiti.org/validation>

⁶⁴ - https://ec.europa.eu/oceans-and-fisheries/fisheries/rules/illegal-fishing_es

⁶⁵ - https://ec.europa.eu/commission/presscorner/detail/en/IP_20_2289

A public progress assessment could help funders assess the best areas for investment and would allow producer countries to demonstrate progress on priority governance issues. This would give them reputational benefits even before FLEGT licensing, and also encouraging persistent implementation of reforms by introducing (reputational) consequences for implementation failures.

Work is ongoing, through the EU FLEGT Facility, to enhance EU monitoring, joint stocktaking, information-sharing and strategic planning within ongoing VPA processes.⁶⁶ Information gathered could be useful in establishing baselines against which indicators could be pegged. VPAs already include commitments to publish annual bilateral progress reports, but implementation is patchy. These requirements could be linked to a public milestone reporting structure.

For new VPAs, multi-stakeholder participants and negotiators could consider adopting a TLAS approach that also focuses more clearly on monitoring the achievement of certain key governance principles (such as clarity of tenure, community benefit sharing, adherence to sustainable harvesting plan and payment of taxes).

3. VPA implementation could be linked to the draft Deforestation Regulation risk benchmarks.

The draft Deforestation Regulation is explicit that the presence of a FLEGT licence will be considered evidence of compliance with the requirement that wood products are legally produced. Beyond this, it will be important to spell out how the risk benchmarks interact with FLEGT licences and VPA processes in general. The proposed milestone system could be linked to these benchmarks.

For countries implementing VPAs but not yet issuing licences, determining the criteria for moving from high to medium or low risk could be a joint exercise between the EU and the partner country, handled through the multi-stakeholder Joint Implementation Committees. Movement between benchmarks could be linked to fulfilling, or failing to fulfil, priority aspects of the VPA (for instance around transparency and reporting, fulfilment of social obligations of timber operators, and/or adherence with annual allowable cut and other aspects of forest management plans).

The implication would be that issuing FLEGT licences would mean the country automatically achieved a 'low risk' benchmark for timber, on the understanding that the legality standard achieved reflects the required conditions for degradation-free production.

⁶⁶ - <https://www.euflegt.efi.int/fr/publications/eu-flegt-facility-highlights-and-insights-from-2018>

Views from producer countries

Seventy-seven per cent of survey respondents supported a 'phased approach' to implementing FLEGT licences, as proposed in the 2016 FLEGT review. A number of participants highlighted that it would depend significantly on how that was defined. More than 15 per cent of participants felt it could have a negative impact. Some people specifically cautioned against any kind of approach that might allow some operators to get green lane access before the entire country, essentially to resist the drift towards private certification-like system.

A number of participants highlighted that the allure of access to EU timber markets, of itself, was not always the major or only factor motivating government engagement in VPA processes. Broadly speaking, survey respondents identified the following motivations:

Central Africa: Promote the commercialisation of the legal timber industry, to boost trade with the EU. Access to funding, and increased tax revenues were also highlighted.

West Africa: EU market access, access to funding, and enabling external support/cover for internal reforms.

Latin America: Increase reputational standing internationally, access to climate and development funding, and access to external support for internal reforms.

Southeast Asia: The economics of the timber trade, and potential EU market access (as well as easier access to US markets) is in general a genuine driver, with pressure to engage coming from the private sector in some cases.

A number of respondents emphasised the value of the EU accompanying their domestic processes, with one respondent commenting that *'exports are a factor but only one of several.'*

A number of participants called for refocusing and simplifying the VPA and TLAS, with a renewed focus on tenure and respect for human rights. Suggestions included making the VPA less technically ambitious, instead focussing on two or three core governance questions. Some respondents challenged the focus on developing digital traceability systems, seen as too technical and complex, and a distraction. Another commented that, ***"it seems the original intent of an instrument supporting development and environment, as well as trade, has withered to focus very largely on trade."***⁶⁷



Photo: Nining Liswanti/CIFOR, Flickr/cc. Cocoa harvesting.

OPTIONS FOR STRENGTHENING RELATED PROCESSES

4. Place VPAs and partnership agreements for agricultural commodities at the heart of the EU's new 'Forest Partnerships'.

There is a genuine interest among some stakeholders in applying a multi-stakeholder approach to develop agreements on agricultural commodities. This can be particularly seen in work around cocoa in Ghana and Côte d'Ivoire.⁶⁸ There needs to be careful work to agree how to structure agricultural commodity agreements, including how they would fit within the upcoming Deforestation Regulation. This research did not consider options, but Fern outlined some possibilities in its 2020 paper 'Getting the incentives right'.⁶⁹

If agreements covering multiple different commodities are developed, it will be important that they are mutually supportive. Forest Partnerships could be used as an umbrella structure to facilitate the sequencing of agreement negotiations and implementation, to make sure that each process reinforces the gains of the other.

For instance, most FLEGT VPAs have from the outset addressed forest and land governance, and livelihood themes that extend beyond the immediate reach of narrow timber supply chains. Many VPAs also contain a legality framework around conversion timber. Gains achieved through VPAs are therefore likely to benefit future work to improve governance linked to forest risk commodity supply chains. Future processes linked to other commodities should build on the gains already achieved.

One of the implementation bottlenecks experienced by those engaged in VPAs has been difficulties sometimes encountered when engaging with a government Ministry that has not been directly involved in the negotiation process. An 'umbrella' forest partnership could help ensure that Ministries implicated by one commodity are informed at strategic moments about processes connected to different commodities, where some overlap is likely. Regarding tenure or resource allocation, for instance.

Any new partnership agreement, let alone a cluster of multiple agreements, would require significant political buy-in from producer governments. This would need to include a commitment to apply a deliberative, meaningful multi-stakeholder approach, and reform multiple key economic sectors in the country. It is also likely that financial and technical support would be needed.

68 - <https://www.fern.org/publications-insight/eu-cote-divoire-ghana-dialogue-on-sustainable-cocoa-production-and-trade-2379/>

69 - <https://www.fern.org/publications-insight/getting-the-incentives-right-2236/>

Views from producer countries

Sixty per cent of respondents regard FLEGT VPAs as relevant to tackling deforestation linked to agricultural conversion. They highlight that:

- **Timber is a gateway commodity** to enable agricultural conversion, which makes improved controls on the timber trade relevant to tackling land use change for agriculture. A number of VPA legality definitions already include language dealing with forest conversion.
- **The governance improvements** enabled by VPAs lay the groundwork for better protection against agricultural conversion.
- **Lessons learnt through VPA processes**, particularly regarding multi-stakeholder dialogue, could usefully be applied to processes to tackle agricultural conversion. Some of the monitoring tools developed under the VPA could also be usefully applied.

A number of survey respondents spontaneously called for the VPA approach to be applied to agricultural commodities. Others were explicit that, in any event, the FLEGT VPAs themselves should not be expanded to encompass commodities beyond timber, to avoid the risk of over-burdening them and making them unworkable. Instead, participants argued for a focus on reinforcing the elements linked to social and environmental obligations, including land rights, and ensuring effective implementation.

5. Tap in to local and regional public procurement policies

Despite being a core element of the original FLEGT Action Plan, attempts to get EU Member States to incorporate FLEGT-licensed timber within their national public procurement policies have largely failed. Only the Netherlands and the United Kingdom (when it was still an EU member) recognise FLEGT licences as evidence of compliance with the timber procurement policies. Part of the challenge is linked to a perception of FLEGT licences as 'only' conferring evidence of legality, while procurement policies often require timber to be sourced from 'sustainably managed' forests.⁷⁰ Work to challenge this idea should continue.

Many public procurement policies are not national, but are devised at a county, municipal, or even city-wide level. In some cases, particularly in the case of larger cities, these represent sizable contracts and changing them to recognise FLEGT timber could significantly increase the benefits derived from fully implementing a VPA. Improving public procurement policies is a relatively easy campaign that could be championed by (for example) MEPs. This offers an entry point to broader recognition of the FLEGT licence as conferring more than 'just' legality.

VPA countries themselves should also incorporate FLEGT licences into their national procurement policies, and get their regional neighbours to do the same. Achieving this could be easier for those countries which are also engaged in VPA processes, particularly processing hubs like Vietnam.

Views from producer countries

"The belief that markets for licensed timber in the EU could drive any significant change in forest practices was always a mirage - there are simply too many opportunities to sell unlicensed wood into other markets"

70 - <https://www.euredd.efi.int/documents/10180/23031/FLEGT+licensed+timber+and+EU+Member+State+Procurement+Policies/ca6bed82-7521-45df-aad5-1ca99d03866c?version=1.0>

6. Integrate VPA implementation into broader climate and development policies.

VPA processes should be explicitly recognised, and endorsed within relevant climate and sustainable development policies at a national, regional and international level.

At the national level, this could mean for instance, building VPA implementation (for existing VPA countries) into Nationally Determined Contributions (NDC) to the Paris Climate Agreement, and national development policies. While ‘sustainable forest management’ has entered a number of NDCs – for instance it is a key pillar in the Democratic Republic of Congo’s NDC and one of the seven ‘priority economic sectors’ within Ghana’s NDC – this general aspiration rarely translates to concrete commitments on VPA implementation.

In practical terms, integration could be encouraged through a standing item in Joint Implementation Committee meetings (for those countries where VPAs are being implemented) and within negotiation structures for those countries still working towards an agreement. The EU could assist by requiring that VPA implementation indicators are included within the reporting frameworks of climate-linked finance offered to countries with an ongoing VPA process. The recent EU announcement of an additional €1 billion for forest protection over five years,⁷¹ with a focus on the Congo Basin, offers a timely opportunity to ratchet up the importance of the VPA process in national conversations.

For existing and new VPAs, an annex regarding integration with climate policies could be included. This should include a commitment from producer governments to review and report on coherence between relevant national strategies and the VPA legality definition and TLAS. EU commitments in the annex could include promoting support for VPA processes within relevant climate and development aid funding envelopes.

The EITI could be used more effectively to add political weight to VPA processes. The transparency framework is in some cases a potentially more powerful instrument for tackling forest corruption as it spans a number of extractive industries. For those countries engaged with the EITI, forestry should be one of the monitored industries (if it is not already). Efforts to bring EITI monitoring of the forestry sector in line with the monitoring priorities established within VPA processes, could also strengthen efforts. For new VPAs in countries engaged in EITI, a commitment to monitor forestry could be included with a new ‘policy integration’ annex.

Views from producer countries

According to one survey respondent “there was very limited connection between the NDCs and FLEGT. Civil society organisations had to push for linkages to be made. It appears the authorities are completely ignorant about the need to link NDCs to some of these flagship programmes.”

One of the survey respondents called for “Improved coherence between FLEGT and other forest-related initiatives in producer countries so that FLEGT deliberations become embedded in national policy formulation.”

Some survey respondents highlighted that VPA implementation has been hindered by representatives of government ministries that have not been involved in negotiating the agreement, and so have neither the political buy-in, nor appreciation for the process. The ministers, other government officials, or members of multi-stakeholder bodies embedded in VPA structures have not had the necessary political power to overcome these challenges, nor to overcome corruption which pervades more than just the forest sector.

71 - https://ec.europa.eu/commission/presscorner/detail/en/IP_21_5678.

7. Create global recognition of FLEGT licences.

The FLEGT Action Plan was clear that other major timber consuming countries should be encouraged to get on board, at least with restricting illegal timber, to help avoid leakage and strengthen the incentive for producer countries to reduce illegal logging.

Work to encourage major timber consuming markets to recognise FLEGT licences should continue, with a particular focus on China. Work to harmonise standards across consuming markets that prohibit importing illegal timber could be stepped up, drawing inspiration from the Timber Regulation Enforcement Exchange's (TREE) impressive work in this space.⁷²

Greater global recognition of FLEGT licences would be a useful first step towards establishing a framework for new VPAs where the EU is not the only consumer country. FLEGT licences would then be recognised by all participating consumer countries, not solely the VPA signatory. This could potentially bring in additional participants, for whom easier EU market access is a less significant incentive, even in the context of more robust EUTR implementation.

A global FLEGT initiative would require considerable leadership at the outset. Whether creating a facility within an existing institution or a loose collection of countries with a rotating secretariat, impetus to get this off the ground would likely have to come from the EU in the first instance. Political will and resources to achieve this are currently lacking. However, in the longer term, such a framework would have the advantage of enabling importer countries to share some of the human resource and financial burden involved in negotiating, and then implementing, multiple VPA processes.

The Palladium Group has developed a proposal along these lines but it goes further, incorporating multiple forest risk commodities. The intent would be that a 'global FLEGT' would be compatible with both the EU and the UK upcoming deforestation regulations.⁷³

Views from producer countries

More than 90 per cent of survey respondents judged that greater coordination among importing markets, in the form of an international forum, would have a positive effect on achieving the goals of FLEGT.

For those who thought success was undermined by FLEGT's failure to deliver market benefits, the absence of China within the FLEGT scheme, and a **"need to graduate from bilateral FLEGT endorsement to a global one"**,⁷⁴ were particularly singled out. Participants from all geographic regions flagged the uneven or weak application of the EUTR as an obstacle to effective VPAs.

One participant particularly called for other consumer market representatives present in VPA countries to take part in ongoing VPA discussions.

72 - <https://www.forest-trends.org/events/timber-regulation-enforcement-exchange-london/>

73 - See <https://www.legislation.gov.uk/ukpga/2021/30/contents/enacted>

74 - Survey respondent # 35

Conclusion

This is an important time for the future of FLEGT. Renewed recognition that healthy forests are crucial to address climate change, and determined policy focus on grappling with agricultural drivers of deforestation, are welcome. FLEGT VPAs have never been a silver bullet – more policy measures are needed as well as stronger support for communities that live alongside, protect, and depend on forests.

Illegal and unsustainable logging remains, however, a major driver of forest degradation, which the IPCC calls “one of the biggest and most urgent challenges for humanity”. The motivations for engagement, and the barriers to implementation are often more complex, and more opaque than the original Action Plan envisaged. Not all FLEGT VPA processes have succeeded. But where they have worked, they have sometimes been transformational.

This study was an attempt to learn from the perspectives of many of those in timber-producing countries that have dealt with VPA processes firsthand and have grappled with both the successes and the frustrations involved. From these insights have been gleaned some principles for ensuring the most effective parts of VPAs are not dismantled within a broader policy environment. It has also sketched some options for strengthening the effectiveness of future VPAs. Not all these options are likely to be implemented, and the eventual impact of each on forests and forest-dependent communities likely differs. None of these options have been worked out in sufficient detail, they are intended only as a departure point for discussion rather than prescriptions.

The EU is going to have to make some decisions about the future of FLEGT. Many of the questions informing these decisions come down to the ambition of the EU’s policy approach to tropical forests.

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Fern is a non-governmental organisation (NGO) created in 1995 with the aim of ensuring European policies and actions support forests and people. Our work centres on forests and forest peoples' rights and the issues that affect them such as aid, consumption, trade, investment and climate change. All of our work is done in close collaboration with social and environmental organisations and movements across the world.

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"VPAs have helped clarify and revise national definitions of legality so that they are more compatible with the principles of good forest governance... and contribute to an overall reduction in illegal logging."

