VPA Unpacked

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1. What is a VPA?

Voluntary Partnership Agreements (VPAs) are a key component of the EU Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan to address illegal logging.

Each VPA is a bilateral trade agreement negotiated between the EU and a timber-exporting country outside the EU. While parties enter into a VPA voluntarily, the agreement becomes legally binding when both parties have ratified it.

A VPA seeks to ensure that timber and timber products imported into the EU from a partner country comply with the laws of that country.

To achieve this, a partner country must first decide which parts of its national legal framework it will use to define legality for the purposes of the VPA. The country must also have, and describe in the VPA text and annexes, a system to ensure legal compliance and issue legal products with FLEGT licences. In most cases, a country will build on existing systems to achieve this.

A VPA’s timber legality assurance system must also be independently checked to make sure it functions as described.

Under the terms of the EU Timber Regulation, products with FLEGT licences can automatically enter the EU market. For timber products without FLEGT licences, importers must undertake due diligence to demonstrate that they are legal.

At the time of writing, six partner countries have signed VPAs with the EU – Cameroon, the Central African Republic, Ghana, Indonesia, Liberia and the Republic of the Congo. These countries are now developing the systems agreed in VPAs.

Negotiations continue between the EU and nine other countries – Côte d’Ivoire, the Democratic Republic of the Congo, Gabon, Guyana, Honduras, Laos, Malaysia, Thailand and Vietnam. Another 11 countries in Africa, Asia and Central and South America have expressed interest in VPAs.

What is special about a VPA?

A VPA differs from a typical bilateral trade agreement in several ways.

First, while it is the EU and a national government that negotiate a VPA, the content of the agreement is decided in the partner country through a deliberative consultation process that involves stakeholders from government, the private sector and civil society. This means, for instance, that national stakeholders decide how to define legal timber according to the laws in that country.

Second, unlike in most other trade agreements, the two parties negotiate toward the same goals – eliminating illegal timber and improving forest governance.
Third, a VPA embeds legal and governance reforms in its processes and text. The reforms are those that stakeholders identify as necessary to ensure a VPA is credible. This means a VPA can improve transparency, accountability and participation in decision-making.

As such, a VPA’s unique combination of trade levers and governance reforms, and its multi-stakeholder approach to negotiation and implementation, can meet social and environmental, as well as economic goals.

1.1. VPA principles

The following principles explain the philosophy behind Voluntary Partnership Agreements (VPAs) and how they differ from typical trade agreements.

**A VPA is voluntary, but legally binding.** The EU and a timber-exporting country choose to enter into a VPA process. If ratified, a VPA binds both the EU and the partner country.

**A VPA is participatory and reflects a national consensus.** To ensure a VPA is credible and meets market expectations, the EU advocates that the private sector, civil society organisations and, where possible, local communities participate throughout a VPA process.

**A VPA is practical and results-oriented.** A VPA produces robust, transparent and feasible solutions to problems identified by stakeholders.

**A VPA is transparent.** Negotiations on trade agreements often take place behind closed doors. VPA negotiations take place with minimal secrecy.

**A VPA is more than a trade agreement.** A VPA also aims to promote social and environmental sustainability.

**A VPA promotes good governance.** A VPA aims to improve transparency, accountability and law enforcement, and to strengthen the rights of people who depend on forests.

**A VPA is country-owned.** Stakeholder engagement ensures national ownership of a VPA and that it works in the national context.

**A VPA process is flexible.** The VPA process is open to ideas and solutions, and adapts to the realities and goals of each partner. There is no blueprint and no strict deadline for concluding a VPA.

1.2. VPAs and the FLEGT Action Plan

Voluntary Partnership Agreements (VPAs) are one of several elements in the EU Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan of 2003, which aims to address illegal logging. The EU developed the FLEGT Action Plan in response to rising international concerns about the social, economic and environmental impacts of illegal logging.
In the early 2000s, international efforts to tackle illegal logging focused on forest management, law enforcement and governance, but not trade. These efforts failed to stem illegality. The European Union therefore decided to factor trade into the policy response to illegal logging. Trade has the potential to create strong incentives in both producer countries and the EU market for verified legal products. The EU FLEGT Action Plan therefore includes both demand- and supply-side measures:

- The EU FLEGT Regulation of 2005, and associated Council instructions, empower the European Commission to negotiate VPAs with timber-exporting countries and EU authorities to establish rules for imports of FLEGT-licensed products from VPA partner countries
- Other legislation. For instance, the EU Timber Regulation of 2013 requires EU importers to adopt procedures, often referred to as due diligence procedures, to ensure that the timber and timber products they trade in are legal
- Support to timber-exporting countries that wish to address illegal logging
- Support to private-sector initiatives, including voluntary codes of conduct for companies that source timber
- Promotion of public procurement policies that source only legal products
- Efforts to ensure that investments do not promote illegal logging
- Action to address the problem of ‘conflict timber', which is timber whose sale finances armed conflict

2. VPA processes

A timber-exporting country and the EU develop a Voluntary Partnership Agreement (VPA) in phases through nested sets of processes. These include bilateral negotiations between the EU and the timber-exporting country, and national negotiations within and among stakeholder groups in the timber-exporting country.

While bilateral negotiations formalise a VPA, the national discussions shape the agreement's content. Unlike in most trade agreements, in negotiating a VPA the EU and a timber-exporting country are not adversaries. Instead, the parties work together to achieve a shared goal – to eliminate illegal logging.

For a VPA to be credible in the marketplace it must provide EU importers with a guarantee that FLEGT licences be only issued to legal timber. The EU expects VPA processes to build and sustain national ownership of a credible VPA through broad stakeholder participation and by addressing problems identified by national stakeholders.

The expectations of a timber-exporting country depend on the national context and the issues that concern stakeholders. There is no blueprint for a VPA process. The flexibility of the VPA model allows stakeholders to develop an agreement that meets their specific needs and an appropriate roadmap for implementing the agreement.

A VPA process is unprecedented in that it addresses an entire value chain. The VPA process enables national government, private sector and civil society representatives to reach
consensus on how to promote legal forestry activities that support economic, social and environmental goals.

Experiences to date have shown that some governance challenges take time to address. It also takes time to ensure that the negotiating phase is credible and likely to yield results, and that the implementation phase is comprehensive and responds to new challenges as they emerge.

As VPA implementation is country-led and not driven by external funding, it requires strong national commitment. It can be a challenge to maintain momentum in VPA processes. The EU is therefore exploring ways to encourage a robust yet relatively rapid process for countries that are new to VPAs.

While FLEGT licensing is an important goal of a VPA process, it is not the end point. Governance reforms, impact monitoring, improvements to the timber legality assurance system and other activities continue.

2.1. The dynamics of VPA processes

A Voluntary Partnership Agreement (VPA) process comprises several processes that overlap and interact. These processes reflect political and other dynamics in the EU, in the timber-exporting partner country and in bilateral negotiations.

VPA processes are, therefore, complex, potentially lengthy and prone to shifts in power relations, such as those created by national elections. No single individual or institution controls VPA processes. Rather, VPA processes are driven by partnerships as stakeholders come together to identify solutions to problems. Formal and informal structures support these processes.

Viewpoint. John Hudson on what is exciting about VPAs

"One of the most exciting things for me has been that this isn't government; this isn't activist NGOs; it isn't the private sector. It is all of them together making common cause and I think the success that has happened so far is a consequence of that, of those different people coming together; and they did not come together naturally. It took time. And there are still tensions of course, different motives, but a far greater appreciation of common interests than there used to be."

John Hudson, former senior forestry advisor at the UK Department for International Development / Source: EU FLEGT Facility interview 2014

VPA dynamics in a timber-exporting country

The dynamics that affect a VPA process in a timber-exporting country reflect the national political context, the priorities of stakeholders, and relations within and among groups of stakeholders.
Relations within and among stakeholder groups

Differences in priorities among stakeholder groups affect perceptions of a VPA and whether or not a country enters into negotiations (see box ‘Differing aspirations may affect how stakeholders view a potential VPA’). For instance:

- Governments may perceive a VPA as a tool to support law enforcement, increase tax revenue from the forest sector or ensure the sustainability of forestry
- Timber exporters may see a VPA as a means to expand their market, or eliminate unfair competition from cheap illegal wood
- Civil society organisations may see a VPA as a tool for achieving governance reforms or environmental goals

Different priorities can make it difficult for stakeholder groups to find common ground, at least initially. A history of weak and unequal relations among groups, particularly between civil society organisations and both government and the private sector, can further hinder progress. In most cases, however, VPA processes have rebalanced power dynamics and fostered a culture of constructive engagement among major stakeholder groups.

A key challenge for each stakeholder group is to get other groups to understand its perspective and that it does not pose a threat. Understanding each other’s perspectives enables stakeholder groups to identify ways to compromise and to foster changes that bring benefits to all. Persistence, open dialogue and willingness to compromise are key.

Priorities can also vary within stakeholder groups. In the private sector, for instance, small operators have different needs to large companies. Among civil society organisations, some focus on specific topics that a VPA could affect, such as human rights, poverty or biodiversity, but others do not.

**National negotiations**, both within and among stakeholder groups, determine a country’s position in the **bilateral VPA negotiations** with the EU. Stakeholders identify common interests and reach agreement about what they want a VPA to achieve through these national processes.

**Differing aspirations may affect how stakeholders view a potential VPA**

Stakeholder priorities differ both among and within government, the private sector and civil society stakeholder groups. Ministries of finance and forestry may for instance disagree about what a VPA can offer. The following are some of the things members of each broad group may aspire to:

<table>
<thead>
<tr>
<th>Government</th>
<th>Private sector</th>
<th>Civil society</th>
</tr>
</thead>
<tbody>
<tr>
<td>Realise full economic value of the forest resource</td>
<td>Secure and expand markets</td>
<td>Ensure voice and participation</td>
</tr>
<tr>
<td>Raise funds for national coffers</td>
<td>Level the playing field by reducing unfair competition from illegal logging</td>
<td>Clarify and/or strengthen community rights</td>
</tr>
<tr>
<td>Stem loss of revenue from illegal logging</td>
<td>Enable small-scale</td>
<td>Clarify and/or strengthen the rights of indigenous peoples</td>
</tr>
</tbody>
</table>
− Support and/or finance reform of the forest sector
− Reinforce forest management objectives
− Formalise/legalise informal sector
− Expand domestic market
− Improve country image and sector credibility
− Advance forest sector reform agenda

− operators to compete with big companies
− Clarify requirements and control procedures to reduce corruption
− Reduce costs
− Increase efficiency
− Address costs imposed by conflict with communities
− Become ‘legal’, as many small-scale operators have unclear legal status

− Enforce existing legislation
− Clarify user rights and operators’ responsibility to communities
− Collect and redistribute forestry related fees to communities
− Ensure accountability and transparency in decision making (land-use allocation)
− Ensure access to information, forests and sawmills, to enable scrutiny of the sector

**Shifting dynamics**

The dynamics of a VPA process can shift when bilateral negotiations end and a timber-exporting country begins to develop and implement the agreed systems. A VPA has significant implications for the private sector. This means engagement with the private sector tends to deepen.

However, new challenges often arise during implementation. Momentum may be lost or multi-stakeholder participation may weaken. In many VPA processes to date, for instance, civil society organisations have expended a great deal of energy in the negotiation phases. Energy levels have often fallen as the VPA process moved into the implementation phase. Experience shows, however, that progress is faster when all stakeholders share responsibility for implementing a VPA.

Governments, meanwhile, often focus on the trade aspects of a VPA rather than on underlying governance issues. They may consider VPA implementation as a development project rather than as an ongoing political process. The complexity of a VPA and the challenge of implementing VPA systems may create barriers to effective action. The implementation process may also suffer if stakeholders see a VPA as a solution to all of their problems.

Another risk to implementation is that a partner-country government may shift attention to other initiatives, such as REDD+ or legal reform agendas that have the potential to provide significant external funding and/or capture the political dialogue.

To overcome these challenges, governments can:

− Make adjustments to stakeholder consultation mechanisms they used in the negotiation phase of the VPA process to incorporate the specific needs of the implementation phase
− Re-establish and redefine the roles and responsibilities of stakeholder groups
− Involve each stakeholder group in specific aspects of implementation
– Ensure government agencies coordinate activities
– Take a balanced approach to implementing VPA annexes, rather than prioritising technical aspects over governance reforms
– Communicate progress effectively to all stakeholders

**International influences on national processes and dynamics**

International factors can influence VPA processes in timber-exporting countries. These factors include:

– Changing consumer demand for wood and wood products
– International market trends, such as increasing demand from non-EU markets, for example China, India and Nigeria
– Pressure on countries to protect forests as part of global efforts to limit climate change
– Reports from advocacy organisations about the social and environmental impacts of illegal logging

**VPA dynamics in the European Union**

The [FLEGT Action Plan of 2003](#) is the EU response to growing concern about the harmful effects of illegal logging.

Pressure to act came from EU stakeholders, including civil society organisations, the private sector and some EU member states. Pressure also came from political dialogue in the G8 and regional meetings in Asia and Africa in the late 1990s and early 2000s.

Stakeholder deliberations in the EU, combined with these political dialogues, resulted in the EU FLEGT Action Plan.

Under the EU FLEGT Action Plan, the EU and EU member states developed a framework for bilateral negotiations with timber-exporting countries. EU stakeholders articulated their expectations with regard to VPAs in discussions in EU member states and the European Parliament. These discussions informed the EU FLEGT Regulation of 2005 and instructions from the Council of the European Union to the European Commission guiding development of VPAs.

Briefing sessions, stakeholder visits and lobbying in the EU Parliament further incorporated EU stakeholder expectations into the VPA process. For instance, briefing sessions enabled EU stakeholders to articulate their concerns and expectations during initial VPA negotiations, particularly negotiations with Cameroon, Ghana, Indonesia and Malaysia.

During VPA negotiations, the European Commission keeps EU stakeholders informed of progress and invites EU member states to join the EU negotiating team. The dynamics shift when VPA negotiations conclude and the implementation phase begins. When this happens, the EC in Brussels passes responsibility for the VPA to the EU delegation in the partner country.

While the VPA partner country drives implementation, the EU and/or EU member states may provide support to upgrade systems and undertake reforms. The EU may encourage
partner countries to link the VPA to broader political and development agendas and to ensure that stakeholders continue to participate in the implementation phase.

Throughout a VPA process, the EC faces scrutiny from EU stakeholders, including nongovernmental organisations, private sector groups and the European Parliament.

### 2.2. VPA phases

A VPA process is a series of phases, each ending in a decision point. The decision points trigger a shift into a new phase, which may change the nature of relationships and dialogues among stakeholders.

In reality, however, the VPA process is fluid. It varies between countries and as a VPA evolves. There is no checklist or fixed structure to the process. What may seem to be distinct phases may in fact overlap. The process emerges from discussions among stakeholders in the timber-exporting country.

Nonetheless, to clarify understanding of VPA processes it is useful to consider the component phases. The description here outlines what has happened in most VPA processes so far, and is not a prescription for how a VPA process should necessarily proceed in future.

**Pre-negotiation phase.** In this phase, a timber-exporting country, in consultation with national stakeholders, considers whether to pursue a VPA. National stakeholders may begin to organise and inform themselves in preparation for negotiations. Read more in the section of VPA Unpacked on the pre-negotiation phase.

**Negotiation phase.** Negotiations within and among stakeholder groups in the timber-exporting country, and between the national government and the EU, define the content of a VPA and embed it in a legally binding agreement. Read more in the section of VPA Unpacked on the negotiation phase.

**Ratification process**

The ratification process formalises a VPA and follows the normal process in the EU and partner countries for international treaties. The process to ratify a VPA begins when the parties mark the end of negotiations by initialling the VPA. To date, ratification has taken from several months to more than a year. Ratification does not mean a VPA partner country can issue FLEGT licences. First, a country must ensure that all aspects of the timber legality assurance system agreed in the VPA are functioning. This often entails further development and/or refinement of existing systems in the implementation phase of a VPA process.

**Implementation phase.** The implementation phase of a VPA process does not formally begin until both parties have ratified the agreement. In reality, however, implementation activities often begin before the ratification process is complete. In this phase, the parties to a VPA develop and implement what they have agreed, including governance reforms and a timber legality assurance system. FLEGT licensing can only begin after the parties have jointly evaluated the VPA timber legality assurance system and are confident that the
system functions as described. After FLEGT licensing has begun, legal and governance reforms may continue. The parties monitor the economic, social and environmental impacts of the VPA and review reports from an independent auditor. A VPA does not have an end point. Rather it foresees that implementation will continue indefinitely unless either party decides to end the agreement. Read more in the section of VPA Unpacked on the implementation phase.

2.2.1. Pre-negotiation phase of a VPA process

During the pre-negotiation phase of a Voluntary Partnership Agreement (VPA) process, a timber-exporting country and the EU explore the opportunities and challenges of engaging in a VPA process, and decide whether to begin negotiations. Each country has its own approach and structures to reach a decision, which may involve:

- Acquiring and sharing information
- Analysing the forest sector, and structures and stakeholders who are directly involved or have an interest in the sector
- Raising awareness among stakeholders
- Deliberating within and among stakeholder groups on priority issues a VPA could help address
- Assessing potential benefits and consequences of engaging in a VPA
- Preparing for negotiations

The length of the pre-negotiation phase varies among countries. In Ghana, awareness-raising activities started in February 2005. A national workshop in May 2005 resulted in broad agreement among stakeholders to move forward. The Government of Ghana formally notified the EU of the desire to enter into negotiations in December 2006.

2.2.2. Negotiation phase of a VPA process

In the negotiation phase, the EU and the timber-exporting country agree the main text and annexes of a Voluntary Partnership Agreement (VPA). Before this can happen, negotiations take place within and among stakeholder groups in the timber-exporting country.

The in-country negotiations contribute to the national consensus that forms the basis of a country's negotiating position with the EU. There are, therefore, three levels of negotiations in this phase (Figure 2).

- **National negotiations** within government, the private sector and civil society
- **National negotiations** among government, the private sector and civil society
- **Bilateral negotiations** between the partner country and the EU

VPA Unpacked: Negotiation phase of a Voluntary Partnership Agreement from EU FLEGT and REDD facilities on Vimeo.
During the negotiation phase, stakeholders in the EU and the timber-exporting country may also engage the wider public at local, national and international scales. Engagement may include press releases, progress reports and public meetings to inform the public about the VPA, raise the profile of its reforms and reaffirm VPA principles of inclusivity, transparency and accountability. Such activities bring visibility and momentum to a VPA process by building political support and encouraging participation. This also contributes to consensus building.
2.2.2.1. National VPA negotiations

The EU advocates for an inclusive, multi-stakeholder process to agree the terms of a Voluntary Partnership Agreement (VPA). The process should reflect broad consensus among national stakeholders in government, the private sector, civil society organisations, communities and indigenous peoples. Through inclusive processes, stakeholders contribute to discussions and decisions on the content of a VPA.

However, stakeholders may have divergent views on many issues, at least initially. For example, the private sector may want a simple legality definition that would make it easier to demonstrate compliance. Civil society organisations, in contrast, may want a more detailed legality definition that includes responsibilities to communities.

Views can also diverge within broad stakeholder groups. Different branches of government, for instance, may have different reasons for pursuing a VPA and may want the agreement to achieve different objectives. Within the private sector, large and small-scale stakeholders may also have different priorities.

National negotiations, therefore, seek to identify areas of common interest that all stakeholders can support, despite their different perspectives. The aim is not to achieve complete consensus on every aspect of a VPA, but to attain overall support among stakeholders for the agreement.

Two levels of national dialogue

To reach a national consensus, a timber-exporting country continues the stakeholder consultations that began in the pre-negotiation phase. The consultations contribute to making a VPA practical, credible and country-owned. The nature of consultations is therefore key and depends on:

- Effective mechanisms for identifying, engaging and sharing information with stakeholders
- Participation by individuals chosen by stakeholders to represent them, and effective systems through which these individuals can relay information between their constituents and the VPA negotiating structures
- Procedures that ensure stakeholder representatives can actually influence the process

Different countries have adopted different approaches and structures. Processes and structures often change over time and may need to adapt to new situations as they arise.

In VPA processes to date, representatives of government, the private sector and civil society organisations have come together in multi-stakeholder groups to develop national negotiating positions. To balance the needs of each group and reach a broad national consensus, all stakeholders make compromises. Experience to date shows that participation based on fair representation makes it easier for stakeholders to develop consensus.

Discussions and negotiations also take place within groups of stakeholders to develop common positions to feed into the national consultation and/or bilateral negotiations. This process is deliberative. Stakeholders discuss and gather evidence to help them form
positions, and articulate their needs and desires. Some groups choose to do this by developing position papers.

- Companies involved in the timber trade may already have associations within which they can discuss issues. These groups tend to represent larger, more powerful private-sector stakeholders and not small-scale operators, such as household-based wood processors.
- Civil society organisations and/or communities may work within existing coalitions or create new ones. Member organisations of civil society platforms may have different priorities, such as concerning human rights, the environment, gender or the rights of indigenous peoples. Different priorities present challenges in reaching consensus among civil society organisations.

**Challenges that affect national negotiations**

For governments negotiating a VPA with the EU, a challenge is to build trust among stakeholders and secure their long-term commitment to the process. Experience shows, however, that it can be a challenge for governments to design, organise and implement a process that:

- Enables representative multi-stakeholder participation
- Has effective feedback loops that allow stakeholder inputs to inform country positions
- Has effective coordination mechanisms to debate, discuss and agree on government positions
- Ensures that participation continues after the negotiation phase and into the implementation phase

Governments often require new resources and capacities to influence, network with and facilitate dialogue among stakeholders, including groups with which they have had limited prior engagement. Governments also need to provide adequate resources to fund negotiation and implementation structures, technical studies and meetings.

Stakeholders may lack the knowledge, skills and resources to participate effectively in a VPA process. Governments, EU institutions, EU member states, civil society groups, nongovernmental organisations and international organisations all play a role in building stakeholder capacity to take an informed part in negotiations.

See the sections on how a VPA can strengthen capacity and support to VPA stakeholders.

In defining legality, for instance, stakeholders need to understand existing legal frameworks but may struggle even to gain access to this information. They may need new skills to enable them to communicate the technical aspects of legality to their constituents, or to advocate for their position in negotiations. Governments may need several rounds of consultation and field tests before reaching a definition that all stakeholders accept.

National consultation therefore needs to proceed at a pace that is adequate to achieve a broad consensus and provides the time stakeholders need to understand the process, articulate their positions and ensure that a VPA addresses their interests.
2.2.2.2. Bilateral VPA negotiations

Bilateral Voluntary Partnership Agreement (VPA) negotiations between the EU and a timber-exporting country are structured discussions that result in a legally binding treaty.

The bilateral negotiations draw upon ideas generated by national stakeholder discussions, which also take place during the negotiation phase of a VPA process.

Unlike in most trade agreements, the EU and a timber-exporting country are not adversaries in negotiating a VPA. Rather, the parties work together to develop a shared solution to the problems caused by illegal logging. However, there is no blueprint to follow. The processes of negotiating and implementing a VPA are different in each country, and national processes determine the content of a VPA.

Expectations

The EU Forest Law Enforcement Governance and Trade (FLEGT) Action Plan frames EU expectations. The EU seeks to prevent illegal timber from entering EU markets by supporting efforts in timber-exporting countries to strengthen timber legality assurance systems, improve forest sector governance and maintain strong trade relations with countries in the EU.

The EU does not seek a trade advantage. The chief concern of the EU is that, to be credible, there is consensus behind the decisions outlined in the VPA and thus broad national stakeholder support. A VPA must include a robust system for ensuring legal compliance, while also being fair. As the FLEGT Action Plan states: "The challenge is to ensure that actions to address illegal logging, particularly enhanced law enforcement, do not target weak groups, such as the rural poor, while leaving powerful players unscathed."

In bilateral negotiations, instructions from the Council of the European Union guide the European Commission. The European Commission negotiators seek to keep the main text of a VPA simple and consistent among VPAs, and use the annexes for the country-specific details of each agreement.

The expectations in timber-exporting countries vary because of the range of stakeholder groups. Some stakeholders hope a VPA will create business opportunities. Others hope a VPA will protect forests or improve livelihoods for local communities. The range of priorities creates challenges and means stakeholders need time and space to understand issues, form opinions and express their views.

Negotiation structures

Negotiating structures differ between the two parties, and vary among timber-exporting countries. A team from the European Commission negotiates on behalf of the EU, supported by one or more EU member states.

The government of a timber-exporting country decides who will represent it in negotiations. In all six VPAs signed to date, partner countries have decided to include representatives from the private sector and civil society organisations in negotiating structures. The choice
of chief negotiator is important, as this person needs a special set of skills and experience, including the ability to coordinate positions within the country. Some countries have struggled to identify a sufficiently high-level, active chief negotiator. In some cases, this has delayed negotiations.

For more detail and examples, see the section of VPA Unpacked on National VPA negotiating structures.

Bilateral negotiations take place both in face-to-face meetings in the EU and the timber-exporting country, and in video conferences. In addition to political-level negotiations, some VPA processes have involved technical exchanges. EU and/or EU FLEGT Facility staff and national representatives come together to discuss specific aspects of a VPA, such as the legality definition or timber tracking system, at joint expert meetings.

Most VPA processes have the support of a neutral facilitator and targeted technical assistance programmes. Read more about who these facilitators are, how they work and how they are funded in the section of VPA Unpacked on Support to VPA stakeholders.

**Process**

The first bilateral negotiation session formalises the dialogue and sets the vision and scope for subsequent talks. The initial session enables each party to understand the other's expectations and the challenges stakeholders indicate the VPA should address. In these first meetings, negotiators have defined roles, responsibilities and procedures to follow. Negotiators may set out a ‘roadmap’ or timetable for subsequent meetings. The parties then make a public announcement that reaffirms their intent to negotiate a VPA.

Bilateral negotiations then focus on developing the VPA text and its annexes. In addition to official negotiations, the process includes technical meetings to prepare for negotiations and fieldwork to test aspects of the agreement, such as the legality definition and/or other elements of a timber legality assurance system. Tests can identify gaps in company compliance or government enforcement.

Bilateral negotiations end when the parties have agreed the text of a VPA and its annexes. A VPA does not have to be perfect, but must be credible, ratifiable and implementable. The agreement should reflect the national consensus among stakeholders in the VPA partner country and have support from stakeholders in the EU. In the final negotiating session, parties discuss the timetable for ratifying and implementing the VPA. Parties signal the end of negotiations and start of ratification by initialising the VPA.

**Speed and timing**

The timeframe of a negotiation roadmap is only indicative. VPA negotiations may take several years and are often longer than parties initially expect because stakeholders need adequate time to participate in the process and find solutions to challenges as they arise.

Delays can also occur if the interests of governments and other stakeholders shift in response to political, economic and other dynamics, or if bilateral negotiations do not align with national stakeholder discussions.
In general, the quality of a negotiation process is more important than its speed, though this does not imply that a slow process will be a quality one. Factors that can affect progress include national elections or fluctuations in national, regional or global economies that affect timber production and trade.

2.2.3. Initialling, signing and ratification of a VPA

A Voluntary Partnership Agreement (VPA) only enters into force as a legally binding agreement after the legislatures of both parties have ratified it according to their normal procedures for ratifying international treaties. The process can take several months to over a year and involves three main stages – initialling, signing and ratification.

1. Initialling. Initialling of a VPA by the EC and partner government marks the end of negotiations but does not amount to a formal signature. Under international law, initialling confirms that both parties agree that the wording contained in the document initialled is the wording they agreed. Initialling does not imply consent to subsequent signature or ratification.

2. Signature. In the period between the parties initialling and signing a VPA, each side must confirm the agreement through their own decision-making structures. In a partner country, this may involve a vote in parliament and/or approval from the president or prime minister. When two parties sign a VPA they formally express their intention to become a party to the agreement if it is ratified. According to international law, signature obliges signatories 'not to defeat the object and purpose of the agreement'.

3. Ratification, or ‘conclusion’. The obligations in a VPA only bind parties when each party has ratified the agreement and, if stipulated in the VPA, the timeframe for its entry into force has passed. Each party follows its standard procedures for ratifying international treaties. This may involve, for example, parliamentary scrutiny. In the EU, for instance, ratification includes steps that involve EU member states, their parliaments and the European Parliament. Once these steps have been completed, the Council of the European Union adopts a decision to conclude ratification of the VPA.

Upon ratification, the two parties notify each other that they have concluded the ratification process. The formal structures and obligations of the agreement then enter into force. In the EU, the notification is published in the Official Journal of the European Union. At this stage, the EC and the partner country make a formal announcement and the VPA’s joint implementation committee becomes operational.

While ratification means that implementation of a VPA can formally start, in most VPA processes to date some implementation activities started before the ratification process ended. In some countries, the parties established an interim joint implementation committee (JIC), or pre-JIC, to maintain momentum between initialling and ratification.

In legal terms, a VPA enters into force after the parties have notified each other that they have completed their respective ratification processes. Entry into force does not imply, however, that FLEGT licensing can start. In practical terms, much of the work of
implementing a VPA ahead of FLEGT licensing takes place after the agreement has entered into force.

### 2.2.4. Implementation phase of a VPA process

In the implementation phase, parties enhance and/or develop the systems, institutions, capacity, legislative frameworks and governance reforms agreed in a Voluntary Partnership Agreement (VPA). These include the timber legality assurance system and wider governance reforms.

The purposes of the implementation phase are for:

- The partner country to implement governance reform commitments
- The timber legality assurance system to be made operational
- The partner country to export FLEGT-licensed timber to the EU
- The consequences of the agreement to be monitored and evaluated
- Stakeholders to drive ongoing implementation
- FLEGT-licensed products to achieve high market visibility

Each VPA sets out a timetable for implementing the agreement, including governance reforms and developing the timber legality assurance system ahead of FLEGT licensing. Most VPAs include a timetable in the annex on the implementation schedule.

The order and timing of activities in the implementation phase are specific to each VPA partner country and can overlap with the process of ratification. Some implementation activities may even begin before negotiations end. Others, such as ongoing reforms, continue after FLEGT licensing has started. Stakeholder participation is a key feature of the implementation phase of a VPA process.

The lead administration body, usually the ministry of forestry, coordinates implementation activities in the VPA partner country.

Meanwhile, a joint implementation committee of EU and the VPA partner country representatives oversees implementation, monitors progress, handles grievances and addresses new challenges as they arise.

Some VPA processes have created an interim joint implementation committee to bridge the gap between the end of negotiations and the ratification of the VPA by both parties.
Main activities

The main activities in the implementation phase are:

Setting up structures. These include national and bilateral structures described in a VPA text and annexes, and other structures needed to implement a VPA. Such structures often include national multi-stakeholder bodies, implementing agencies and a joint implementation committee.

Read more about these structures in the section on VPA structures.

System development. Partner countries will need to improve existing systems and perhaps develop new ones if all elements of a timber legality assurance system (TLAS), as described in a VPA, are not yet operational. All timber-exporting countries that have signed VPAs to date have had to work on existing systems before moving to FLEGT licensing. As part of a TLAS, a partner country, in consultation with the EU also appoints an independent auditor, whose terms of reference form an annex to a VPA (See independent auditing). Other activities to operationalise a TLAS may include:
Developing procedures and enhancing systems to ensure legal timber
- Strengthening traceability along the supply chain
- Passing enabling legislation
- Strengthening the human, technical and institutional capacity needed to implement VPA systems

Creating public disclosure mechanisms. A VPA partner country will establish mechanisms for sharing information with the public, as detailed in the VPA annex on public disclosure of information.

Joint independent evaluation of the timber legality assurance system. Before a VPA partner country completes developing its timber legality assurance system and FLEGT licensing can begin, the parties conduct a joint evaluation to ensure that the TLAS meets the requirements agreed in the VPA.

To achieve this, the joint implementation committee commissions independent experts who evaluate the timber legality assurance system against criteria provided in a dedicated VPA annex. The evaluation is usually not a one-off exercise. In VPAs to date, the evaluation has taken place in stages to identify actions that are required before FLEGT licensing can commence and to refine the final design of the TLAS.

The evaluators report to the joint implementation committee, which decides whether the TLAS is functioning as intended. If the system is as intended, the joint implementation committee may recommend that FLEGT licensing can commence.

The decision to begin FLEGT licensing has legal consequence for both parties. Each party follows its own processes to formally agree to the recommendation to allow FLEGT licensing to begin, and puts in place the measures required to enforce the FLEGTS licensing scheme. This process involves:

- Establishing communication channels between the EU and partner-country authorities
- Amending the FLEGT Regulation, which gives the EU authority to verify FLEGT licences on timber entering the EU market
- Issuing FLEGT licences

To date, only the VPAs of Ghana and Indonesia have reached the stage of joint evaluation of TLASs. In the case of Indonesia, the findings and recommendations of the joint evaluation led the EU and Indonesia to develop and regularly update an action plan for VPA implementation that mapped out a path to FLEGT licensing. The action plan was shared publicly (see link below). Once the parties were satisfied that the recommendations of the joint evaluation had been implemented, they confirmed that FLEGT licensing could begin on 15 November 2016.

Exports of FLEGT-licensed timber and EU border controls. When the parties are satisfied that the timber legality assurance system functions as required by the VPA, the partner country can begin to issue FLEGT licences to legal timber and timber products of the types listed in the VPA annex on product scope. Customs authorities in EU member states can then verify FLEGT-licensed products at their borders and allow them to enter the EU market.
Wider reforms. All VPAs to date have also identified wider reforms for partner countries to implement beyond the governance and legal reforms required to develop a TLAS.

Impact monitoring. All VPAs oblige the parties to develop impact monitoring frameworks. Joint implementation committees ensure, therefore, that frameworks are in place to monitor the economic, social and environmental impacts of VPAs and to take reasonable steps to mitigate adverse effects. Areas to monitor may include institutional effectiveness, trade flows and market dynamics, illegal logging, forest condition, livelihoods and poverty, and economic development.

Raising awareness. The parties to a VPA and other stakeholders may engage in activities to raise awareness of a VPA and increase market visibility of FLEGT-licensed timber. This may include activities outlined in a communication strategy.

Challenges to VPA implementation

After an intensive period of national and bilateral negotiations, in the implementation phase the action shifts to national processes for both ratifying the VPA and implementing necessary systems and reforms. This shift in focus may involve different stakeholders.

It becomes essential for partner-country governments to secure resources for implementation and to maintain multi-stakeholder participation. Importantly, the move to implementation may require significant changes to common practices. Governments may face challenges in balancing actions to implement the technical and governance aspects of the agreement.

VPA experiences to date indicate that momentum has often dropped in the shift from negotiations to implementation. Momentum can be maintained if the EU and the VPA partner country create an interim structure, such as a ‘pre-joint implementation committee’ or ‘joint preparatory committee’, to operate in the period between the end of negotiations and ratification of a VPA. Such a committee also helps the in-country EU delegation as it takes over from the EC as the European Union lead in the VPA process after the negotiations end and the parties sign the agreement.

Fresh challenges may emerge when a VPA process moves from the negotiation phase into the implementation phase. For example, private-sector stakeholders often only realise the challenge of complying with the legality definition during implementation. In the case of Indonesia, in the implementation phase the furniture sector lobbied for special conditions and more time to adapt to VPA requirements.

Emerging issues or changes to trends in the forest sector since VPA negotiations began can also affect implementation. Ghana, for instance, did not import timber when VPA
negotiations started but does now, with consequences for supply chain control and other aspects of the VPA.

Growing threats to forests from agricultural conversion or mining, as opposed to illegal logging, may also create new challenges. One challenge is how to deal with timber from forest conversion in the framework of a VPA.

3. VPA stakeholders

The stakeholders in any process or activity are the people, companies and institutions that affect or who are affected by that process or activity. Forests have economic, environmental and cultural values at local, national and international scales, meaning that any forest policy will have many stakeholder groups.

Experiences of VPA processes have shown that stakeholders in timber-exporting countries and the EU include governments, private-sector companies, civil society organisations, communities and/or indigenous peoples.

Among and within stakeholder groups there are a multitude of priorities, capacities and viewpoints regarding legality of timber products. A central challenge for VPA processes is to bridge differences and foster broad support.

Thus, the EU advocates for broad stakeholder participation in order to assure EU and partner country stakeholders that a VPA is robust and credible.

3.1. EU stakeholders

This section of VPA Unpacked describes the main groups of European Union (EU) stakeholders in a Voluntary Partnership Agreement (VPA) process, the roles they play and the outcomes they seek.

EU institutions and other bodies

The following EU institutions and other bodies have a role in VPA processes.

The Council of the European Union. The Council is the main decision-making body of the European Union. Its members are government ministers from each of the EU member states. In 2003, the Council endorsed the Forest Law Enforcement Governance and Trade (FLEGT) Action Plan.

In 2005, the Council adopted the FLEGT Regulation and authorised the European Commission to negotiate VPAs with timber-exporting countries. The Council provided the European Commission with guidance on conducting negotiations. A set of EU briefing notes summarise this guidance. When VPA negotiations end, a ratification process begins. The Council, on behalf of the EU and after it has received the assent of the European Parliament, takes the decision to conclude ratification of a VPA. This decision, together with ratification in the partner country, makes a VPA legally binding.
**European Parliament.** EU citizens elect the members of the European Parliament, which can influence VPA processes in several ways. The European Parliament reviews proposed VPAs and provides assent for the Council of the European Union to conclude agreements. The European Parliament also reviews progress in implementing VPAs and may scrutinise proposed amendments.

Members of the European Parliament can raise questions to ensure that stakeholders participate in a VPA process and that the process addresses stakeholders’ concerns. Members of the European Parliament have also interacted with VPA stakeholders at meetings.

One such meeting was the 2006 hearing on illegal logging, arranged by the European Parliament Committee on Development. Speakers included Silas Siakor (Director of the Sustainable Development Institute, Liberia) and Kyeretwie Opoku (Executive Director of Forest Watch, Ghana). Both Liberia and Ghana have since concluded VPA negotiations with the EU and are now implementing VPAs.

**European Commission.** The European Commission is the executive wing of the European Union. Among other things, the Commission proposes legislation, such as the FLEGT Regulation and the EU Timber Regulation, for the Council of the European Union and the European Parliament to adopt. The European Commission also leads VPA negotiations on behalf of the EU. The Commission seeks strong, workable VPAs that have broad stakeholder support, that EU member states will accept and that the Council of the European Union can therefore ratify. During VPA processes, the Commission provides updates to the Council of the European Union and the European Parliament.

**EU delegations.** EU delegations are the official representatives of the EU in partner countries. While the European Commission leads VPA negotiations for the EU, EU delegations take the lead during the implementation phase of a VPA. Representatives of EU delegations may however also take part in sessions or joint technical meetings during the negotiating phase.

**EU Member States**

EU Member States regularly review progress in negotiations and implementation through working meetings of the Council of the European Union. The European Commission also keeps EU Member States informed of developments in a VPA process and often invites Member States to attend high-level joint meetings related to a VPA.

In VPA processes to date, representatives of EU Member States have also participated in negotiating teams and joint implementation committees. Individual EU Member States vary widely in their engagement with VPAs. Factors that affect the level of engagement include:

- Political dynamics in a Member State or VPA partner country
- Bilateral relations between a Member State and a timber-exporting country
- Whether or not a Member State has sea ports that receive large amounts of timber
- Concerns of stakeholders in a Member State
- The focus of development assistance programmes in a Member State
EU Member States also play a critical role in establishing control measures that reinforce the controls introduced by VPA partner countries. Controls include competent authorities to check FLEGT licences, customs clearance procedures and regulatory measures to enforce the receipt of FLEGT licences.

**EU private-sector stakeholders**

Private-sector stakeholders in the EU include timber importers and traders. The EU Timber Regulation requires such companies to ensure that they do not trade illegally harvested, transported or processed timber. The concerns of EU companies in the timber sector include:

- Risks to their reputation
- Relations with suppliers and customers
- Fair competition
- Costs
- The overall image of timber

Progressive companies already have systems in place to ensure sustainability and/or legality. Many of the progressive companies belong to national federations that have codes of conduct for members. Other companies are also implementing such systems.

The value of VPAs to the EU private sector is that FLEGT licences provide reassurance that timber has been produced legally. FLEGT licences therefore provide EU importers with a straightforward way of meeting due diligence requirements of the EU Timber Regulation.

EU private-sector stakeholders require a VPA to have credibility and to achieve what it sets out to do because importing illegal timber risks their reputations. FLEGT licensing must deliver in two key areas. First, FLEGT licensing must consistently deliver a steady supply of legal timber. Second, FLEGT licensing must help address governance challenges in supplier countries that result in illegal timber.

Trade associations, such as the European Timber Trade Federation and its membership of national timber trade federations, help European importers to ensure that they source legal material.

In addition to timber importers and traders in the EU, some EU-based companies producing wood and wood products operate in timber-exporting countries. These companies have an interest in the potential of VPAs to level the playing field with competitors by ensuring that laws apply equally to all.

**EU civil society organisations**

VPAs are of interest to EU civil society organisations that focus on issues such as rights and equity, the environment and climate change, transparency and corruption. Nongovernmental organisations that investigate governance challenges and groups that work on European forest policy also have an interest in VPAs. Such civil society groups influence VPA processes in both the EU and timber-exporting countries by raising issues and
proposing solutions. This involvement can contribute to the credibility of VPA processes. EU civil society groups with an interest in VPAs include:

- ClientEarth
- Environmental Investigation Agency
- FERN
- Forest Peoples Programme
- Global Witness
- Greenpeace
- WWF

EU non-profit organisations also support stakeholders in VPA partner countries. Some build the capacity of civil society organisations and private-sector stakeholders in such countries to participate in VPA processes. Some also support VPA stakeholders in these countries to voice their concerns in the EU. Read more about this in the section of VPA Unpacked on support to VPA stakeholders.

**EU think tanks**

Research by EU-based think tanks on VPAs and wider forest issues informs VPA processes and decisions in the EU and in timber-exporting countries. Think tanks include:

- Chatham House
- Centre de coopération internationale en recherche agronomique pour le développement (CIRAD)
- International Institute for Environment and Development
- Overseas Development Institute
- Wageningen University and Research Centre

In addition to EU-based think tanks, institutions in the United States such as Forest Trends and the World Resources Institute also produce research on VPAs.

### 3.2. VPA country stakeholders

In Voluntary Partnership Agreement (VPA) processes, national stakeholders include companies involved in the timber trade, governments, civil society organisations and communities. Opinions about VPAs and what they should achieve differ within and among these broad groups of stakeholders (see box ‘Differing priorities affect stakeholders’ opinions of VPAs’).

**Differing aspirations may affect how stakeholders view a potential VPA**

Stakeholder priorities differ both among and within government, the private sector and civil society stakeholder groups. Ministries of finance and forestry may for instance disagree about what a VPA can offer. The following are some of the things members of each broad group may aspire to:
Government
- Realise full economic value of the forest resource
- Raise funds for national coffers
- Stem loss of revenue from illegal logging
- Support and/or finance reform of the forest sector
- Reinforce forest management objectives
- Formalise/legalise informal sector
- Expand domestic market
- Improve country image and sector credibility
- Advance forest sector reform agenda

Private sector
- Secure and expand markets
- Level the playing field by reducing unfair competition from illegal logging
- Enable small-scale operators to compete with big companies
- Clarify requirements and control procedures to reduce corruption
- Reduce costs
- Increase efficiency
- Address costs imposed by conflict with communities
- Become ‘legal’, as many small-scale operators have unclear legal status

Civil society
- Ensure voice and participation
- Clarify and/or strengthen community rights
- Clarify and/or strengthen the rights of indigenous peoples
- Enforce existing legislation
- Clarify user rights and operators’ responsibility to communities
- Collect and redistribute forestry related fees to communities
- Ensure accountability and transparency in decision making (land-use allocation)
- Ensure access to information, forests and sawmills, to enable scrutiny of the sector

**Shifting dynamics**

A VPA process must enable stakeholders to participate and voice their concerns if it is to result in a credible agreement that can be realistically implemented and that balances the needs of different stakeholders. However, stakeholders vary with respect to:

- How well they are organised
- How well they understand a VPA
- How well information flows among them
- How inclusive or representative they are of the group as a whole
- How easy it is to reach them
- How willing they are to engage

Governments also vary in their willingness to engage with other stakeholders.

Some VPA stakeholders are also rights holders. These are people whose legally protected rights could be affected by a VPA. Rights holders may include members of forest communities and/or indigenous people. The rights they hold under national or international law may include rights to consultation or rights to free, prior informed consent.

**Government stakeholders** are those involved in setting policy and enforcing legislation that directly or indirectly relates to forests. They include:
- National, provincial and local authorities involved in forest control and forest enforcement
- Customs officers
- Finance and tax representatives
- Environment, health and labour officers responsible for enforcing legislation
- Justice department representatives
- Trade and industry representatives
- Foreign affairs representatives

Governments operate at many levels and have a diversity of interests. Government champions for a VPA process may be outside the forestry sector. For example, a finance ministry may engage with a VPA process because of concerns about revenue losses in the timber sector. Law enforcement agencies may offer support because a VPA would weaken criminal groups. However, some government representatives may also oppose a VPA because efforts to improve the sector would reduce their power base or cut off informal sources of revenue.

Read more in the section on national government stakeholders.

Private-sector stakeholders include companies and individuals that profit from the forest sector. They include:

- Owners and holders of forest concessions or titles, such as private permit holders, plantation owners, communities and households
- Processing companies
- Timber transporting companies and traders
- Buyers/sellers/importers/exporters of timber and timber products
- The informal sector
- Artisans, such as furniture makers

The private sector is a broad group that includes stakeholders with markedly different agendas, perspectives and levels of support for a VPA.

Read more in the section on national private-sector stakeholders.

Civil society stakeholders include people whose lives and livelihoods are linked to forests and affected by forest policy, and organisations whose interests in forests relate to wider issues such as poverty, rights or the environment. Civil society stakeholders include:

- Forest communities or people who depend on forests
- Indigenous peoples
- Traditional authorities
- Civil society organisations that advocate for forest-related issues or human rights
- Environmental organisations
- Labour unions

In some VPA countries, indigenous peoples prefer to form their own groupings rather than join broader civil society platforms.
Some stakeholders may belong to more than one of the broad categories of government, private sector or civil society. They include:

- Local community and household-based producers
- Workers in timber, timber transport or timber processing companies
- Customary or elected political representatives, including traditional authorities, parliamentarians, and local and regional representatives
- University representatives or researchers related to the forest sector and timber trade

For example, workers may express grievances more openly in a civil society platform than in a meeting with their private-sector employer. Similarly, household-based producers may relate more to other community members than to large-scale private operators.

3.2.1. National government stakeholders

Within the national government of a timber-exporting country, there are groups of stakeholders, each with their own interests regarding a Voluntary Partnership Agreement (VPA). For example, several ministries will have an interest in the forest sector. Government stakeholders may include:

- Finance ministries, with an interest in increasing tax revenues from the forestry sector by, for instance, formalising the informal sector and eliminating illegality
- Environment ministries, with an interest in promoting environmental safeguards in the forest sector
- Justice departments and law enforcement agencies, with an interest in eliminating forest crime and criminal groups
- Trade ministries, with an interest in boosting exports of timber, competing more strongly with other nations and improving the credibility of the forest sector
- Customs authorities, with an interest in simplifying operational systems
- Foreign affairs ministries, with an interest in the diplomatic value of international forest policy or improving the image of the country

However, the interests of different national stakeholders may compete (see box ‘Competing interests in Cameroon’). Even within a government ministry there may be powerful forces pulling in different directions. Also, there may be government stakeholders who object to the reforms to the forest sector required by a VPA. Objectors may not understand a VPA or may stand to lose power or resources if a VPA is implemented.

Another issue is that different government agencies have responsibility for or jurisdiction over different parts of the timber supply chain. However, effective coordination and communication between agencies may be lacking.

It is, therefore, important for government stakeholders to overcome their differences and reach consensus on key issues. VPA processes can bring government stakeholders together
and promote the improved communication and coordination that is critical to implementing a timber legality assurance system (TLAS).

Ensuring broad representation on national VPA structures can strengthen coordination among government stakeholders. In some VPA processes, governments have set up an inter-agency coordination committee to strengthen links between ministries and government agencies.

**Challenges to VPA implementation**

In Cameroon, according to research by the Center for International Forestry Research (CIFOR), chainsaw millers operating illegally produce approximately 75% of the timber harvested for domestic use. The government does not receive any revenue from this trade. But government officers pocket large sums of money each year, extracted from informal loggers and timber traders as bribes. Small-scale loggers in an association called Les Verts would prefer to pay taxes instead of bribes. The CIFOR researchers report that Les Verts made a proposal on taxes to the finance ministry, which supported the idea. However, officials in the forest ministry blocked the move, arguing that it would legitimise criminal activity.


### 3.2.2. National private-sector stakeholders

Private-sector stakeholders have a direct financial interest in a Voluntary Partnership Agreement (VPA) and a major role in implementation. Private-sector stakeholders include:

- Logging companies
- Household and other small-scale woodworkers
- Small- and medium-scale forest enterprises
- Traders
- Large companies that transport, process or export timber

The diversity of private-sector stakeholders in terms of size, power and position in the value chain means that the group is complex and does not always pull in the same direction. In some contexts, private-sector stakeholders may drive a VPA process, but in others, they may oppose it, particularly in the beginning. Opposition may be because stakeholders do not understand a VPA, or because they profit from informal deals, which the increased visibility and control resulting from a VPA would put at risk.

Private-sector stakeholders can be difficult to convene and keep engaged, particularly during lengthy VPA negotiations, as participation in long meetings has direct business costs.

**Private-sector interests**

The private sector is a large and diverse group of stakeholders that includes big and small enterprises with varied and sometimes competing interests and relations with government.
Private-sector concerns include the complexity and costs of complying with a timber legality assurance system (TLAS). For instance, while exporters may welcome the assurance that FLEGT-licensed timber will enter the EU market without hindrance, other companies and individuals operating further up the supply chain may equate compliance with VPA with higher transaction costs.

Many private-sector stakeholders are interested in the potential of VPAs to level the playing field by ensuring that all companies abide by the same laws. A level playing field would eliminate unfair competition from cheaper illegal wood. At the same time, other private sector stakeholders may oppose efforts to strengthen law enforcement because they profit from illegal logging.

**Organisation and influence**

A TLAS cannot be effective without the involvement of the private sector. Private-sector participation in a multi-stakeholder VPA process is critical, therefore, to the credibility and feasibility of a VPA. It is in the interests of all private-sector stakeholders in the timber trade to participate in a VPA process.

However, the private sector faces challenges in participating in a VPA process. Challenges include the amount of time needed to engage. Small-scale producers in particular may struggle to have a say in VPA processes because they lack resources, information and influence. Often, associations of small-scale producers are absent from the process or poorly organised. Access to information varies greatly. Many private-sector stakeholders are simply unaware of why they should engage in a VPA process.

In addition, some small-scale operators, such as chainsaw loggers or household industries, may lack legal status to operate. It may be difficult to engage these small enterprises in VPA discussions because they are numerous, poorly organised and dispersed. Yet these are important interested parties, who together have a big impact on the forest sector, and in particular on domestic markets.

The uncertain legal status of many small-scale loggers makes it difficult for them to access resources legally, deprives governments of tax revenues and threatens to undermine efforts to improve governance. See box ‘Ghana’s illegal chainsaw loggers who want to be legal’.

In contrast, large-scale operators can have strong political influence. They can block the VPA process if they feel it goes against their interests, or encourage aspects of a VPA that favour their businesses.

**Engaging small-scale participants**

In the first VPA processes, representation of small-scale private sector participants was poor. In Ghana, for instance, the two private-sector seats on the national steering committee went to representatives of the Ghana Timber Millers Organization, whose members are large, hi-tech milling companies. The Ghana Timber Association, whose members are small-medium scale logging and milling operations, had no representative on the committee.
In VPA processes underway at present, support targets smaller private-sector groups to encourage them to engage. In Vietnam, for instance, there has been a big push to involve artisanal woodworkers and get them to meetings. In Cameroon and Indonesia, support organisations have worked with small- and medium-scale enterprises to help them understand both the requirements of a TLAS and the demands of the EU market regarding legal timber.

**Representation in VPA processes**

- In the VPA processes in the Central African Republic and the Republic of the Congo, large international companies and smaller national companies were each represented by individuals who fed information back to their constituencies
- In Cameroon, representatives of three trade unions performed this role
- In VPA negotiations in Thailand, the private sector has a strong voice and has created position papers to present its perspective

**Indonesia's furniture makers**

For many small-scale enterprises in the Indonesian furniture sector, the implications of the TLAS only became clear after VPA negotiations had ended and implementation was well advanced. Small-scale enterprises in the sector, therefore, lobbied the government for less stringent requirements and more time to comply with them. As a result, in 2014, the government revised the TLAS, introducing a procedure called the Supplier’s Declaration of Conformity that makes compliance easier for smallholders operating on private land, traders dealing with timber produced by smallholders and small-scale producers.

**Ghana's illegal chainsaw loggers who want to be legal**

VPAs pose challenges to small-scale loggers in Ghana. Under current laws, the loggers operate illegally. Enhanced law enforcement under a VPA may disproportionately penalise these small-scale, low-income loggers. Therefore, it may be in their interests to engage with a VPA process to press for reforms that would decriminalise their activities.

In Ghana, chainsaw loggers produce more than 80% of all lumber, all of it illegally. The 100,000 chainsaw loggers support as many as a million people and make vital contributions to local economies. The loggers say their way of harvesting timber is more efficient and sustainable than the legal sawmill industry.

The Domestic Lumber Trade Association is a union that represents 25,000 domestic lumber traders, table-top machine operators, chainsaw operators and transporters. The union is urging the government to end the ban on chainsaw logging and issue official permits to control the activity instead. The government, however, wants to encourage loggers to stop using chainsaws and to switch to legal forms of low-tech milling, such as with mobile sawmills.

Ghana’s VPA requires all lumber to be legal, including lumber produced for the domestic market. But with so much wood cut illegally with chainsaws, there is a risk that some could enter the export supply chain and undermine the VPA.
"We are looking to the VPA to help," said Patrick Agyei, secretary of the union's eastern region. "While we are illegal, the status of the VPA is shaky. We have been to Liberia where it is legalised, and to Guyana where the forests have been given to the communities. This is what we want."


### 3.2.3. National civil society stakeholders

The multi-stakeholder process to negotiate a Voluntary Partnership Agreement (VPA) involves a range of civil society groups, which represent diverse interests and work on issues related to, among others, tenure, environment, livelihoods, rights and transparency.

Many civil society groups are nongovernmental organisations, but others may be community organisations, indigenous peoples, faith groups or workers' unions.

Civil society groups vary in their capacity to engage on issues, present their concerns, organise, share information and develop negotiating positions.

Civil society groups may need training or funding to help them access information and participate fully in a VPA process. Links with international nongovernmental organisations and/or donor agencies may help local groups participate, organise meetings and make their concerns heard.

In some countries, civil society platforms and other stakeholder structures help organise and promote the interests of civil society groups.

However, a challenge for civil society stakeholders is to develop a representative platform that captures the interests of all members and communicates with one voice. Platform members must reach a consensus on issues despite diverse priorities and differences of opinion.

Some groups with particular interests, such as groups of indigenous peoples, may create their own platforms rather than participate in a broader civil society platform.

**Viewpoint. Elijah Danso on what a VPA could mean in Ghana**

"From the start, we saw FLEGT as a possibility to enforce reforms, like competitive bidding and transparency for concessions, and changing ownership rights to forests in favour of farmers. We need power at the local level. If the VPA doesn't deliver that, it will be a failure."

Elijah Danso is a social activist and forest consultant in Ghana / Source: Pearce, F. 2012. Forest Stands: How New EU Trade Laws Help Countries Protect Both Forests and Peoples. FERN. 24pp. [Download PDF]
Examples of civil society participation in VPA processes

Ghana. The VPA process in Ghana illustrates how a change in the government's attitude to civil society yielded positive outcomes. When the VPA process began in 2005, a coalition of more than 35 nongovernmental organisations, called Forest Watch Ghana, had no seat on the VPA steering committee.

When civil society representatives raised the issue, the government invited Forest Watch Ghana to join the committee. To broaden representation, the coalition created a contact group comprising community groups, traditional authorities, unions, media and research bodies. Two representatives of this group then joined the steering committee.

The steering committee also created a policy committee and working groups. These drafted the VPA annex text on legality definitions and standards, verification and licensing, domestic market regulation and timber industry restructuring. The contact group had representation in all of these groups.

Indonesia. Civil society organisations were involved in a process to develop Indonesia's timber legality assurance system before VPA negotiations began in 2007. Since then, civil society organisations and individuals have had representation in the national VPA negotiating team and in technical working groups. They have successfully lobbied for a role as independent observers.

The role of independent observers, called independent monitoring in Indonesia, is integral in Indonesia's timber legality assurance system. Civil society representatives have requested that the VPA annex on public disclosure of information ensures that they have access to data that enables meaningful independent observation.

Groups that perform the role of independent observer include JPIK, the Indonesian Independent Forestry Monitoring Network. JPIK members include more than 60 organisations and more than 300 individuals across Indonesia.

Liberia. The Liberian VPA process is distinct from other VPA processes in that communities have their own platform for discussing issues and their elected representatives are members of the VPA steering committee.

A network of local groups, the Community Forestry Development Committees, formed in 2008. As a result, when VPA negotiations began in 2009, there were already channels for community-level involvement, which the government supported. The Community Forestry Development Committees encouraged wide community involvement in the VPA process by broadcasting messages about FLEGT in regional dialects on local radio.

Seven community representatives and four members of civil society organisations, such as the Foundation for Community Initiatives and the Sustainable Development Institute, had seats on Liberia's VPA steering committee. While communities had no representation on the national negotiating team, which had one seat for civil society, they could attend negotiations and were able to voice opinions.
Republic of the Congo. Civil society groups involved in the VPA process played an important role in securing legislation giving new rights to indigenous peoples, including equal access to education and health care. Passage of a new law on the rights of indigenous peoples had stalled until civil society groups made promulgation of the law a condition of their participation in VPA negotiations. The law, the first of its kind in Africa, is now embedded in the VPA.

3.3. Support to VPA stakeholders

In Voluntary Partnership Agreement (VPA) processes to date, development programmes have supported national governments, civil society organisations and/or the private sector. Support has included capacity building, technical advice and logistical assistance during pre-negotiation, negotiation and implementation phases.

FLEGT facilitators

Most VPA processes have benefited from the involvement of a neutral, EU-funded Forest Law Enforcement Governance and Trade (FLEGT) facilitator. The facilitator supports the process, helps ensure the effective engagement of stakeholders and helps stakeholders identify solutions to problems. To date the EU, or an EU member state, has funded the facilitator. However, the facilitator is neutral and works toward a strong VPA, providing support to both the EU and the partner country.

Technical assistants

The government of a timber-exporting country may need additional support in a particular area, such as stakeholder participation or timber traceability.

Development programmes have often provided technical specialists to work in government institutions in partner countries. Several VPA partner countries have requested support from donors for specialists to help them think through and organise inputs to VPA negotiations and/or VPA implementation. In bilateral negotiations, such technical assistants support the timber-exporting country. Technical assistants can also support a VPA process by process by, for instance:

- Helping a government set up national structures for multi-stakeholder consultation or participatory approaches to ensure stakeholders have input
- Identifying capacity needs
- Providing administrative support to help a government organise key meetings, workshops, negotiations and other activities

International organisations and development agencies

International and development organisations have often set up programmes or provided grants to help national stakeholders:

- Participate in VPA processes
- Build capacity to work on forest governance issues
– Support VPA processes in other ways

In addition to the European Commission, organisations helping national stakeholders include:

– Finland’s Department for International Development Cooperation
– Food and Agriculture Organization of the United Nations (FAO)
– French Development Agency (Agence Française de Développement, AFD)
– GIZ, the German Federal Enterprise for Development Cooperation
– Netherlands Ministry for Foreign Affairs
– Swedish International Development Cooperation Agency (Sida)
– UK Department for International Development (DFID)

**EU-based nongovernmental organisations**

Several EU-based nongovernmental organisations are involved in VPA processes in timber-exporting countries. The activities of NGOs include strengthening the capacity of stakeholders to make effective use of the negotiation space created by a VPA process, and conducting policy-relevant research to support stakeholder advocacy.

Organisations that support civil society groups in timber-exporting countries through capacity building and advocacy activities include:

– ClientEarth
– Environmental Investigation Agency
– FERN
– Forest People's Programme
– Friends of the Earth
– Greenpeace
– International Union for Conservation of Nature (IUCN)
– Rainforest Foundation
– Tropenbos International
– Well Grounded
– WWF

Non-profit organisations that support private-sector stakeholders in timber-exporting countries include:

– NEPCon
– Earthworm Foundation

Trade associations also provide support. Among other things, they help European importers understand conditions in VPA partner countries so they can ensure that they source legal material. Trade associations include:

– The European Timber Trade Federation and its membership of national timber trade federations in EU member states, such as the UK Timber Trade Federation
– The Association Technique Internationale des Bois Tropicaux
Community Rights Network

The Community Rights Network is an international network of civil society organisations concerned with forest governance. Many network members are organisations in countries that are negotiating or implementing VPAs. The network meets every two years to share information and develop strategies. The network presents findings and concerns to the European Commission and Members of the European Parliament.

4. VPA elements

All Voluntary Partnership Agreements (VPAs) share common elements. The details of each agreement, however, are unique to the national context of each partner country, as they are based on national laws and the priorities of national stakeholders.

The outputs of each agreement include:

- A **timber legality assurance system**
- Frameworks for monitoring and evaluating **implementation**
- Commitments to improve **transparency** and other aspects of **forest governance**

The text of a VPA, which is in two sections, the **main text and the annexes**, describes these outputs. The main text of a VPA outlines the basic principles and structures, and varies little between VPAs. The annexes vary between VPAs because they provide country-specific detail on issues such as:

- The legal requirements the partner country will monitor and ensure compliance with under the VPA
- The procedures for verifying legality, tracing timber and issuing **FLEGT licences**
- The documents and data the country will make accessible to the public

Deliberations among stakeholders in a timber-exporting country determine the ambition and content of a VPA. These deliberations help the government of a VPA partner country determine the scope of products a VPA will cover, whether or not to include domestic markets, and the extent of legal and governance reforms.

A VPA that includes **legal reforms** and **domestic market measures** provides a strong signal that the partner country's government is prepared to address fundamental governance challenges that result in illegal logging comprehensively.

4.1. VPA text and annexes

A Voluntary Partnership Agreement (VPA) sets out the commitments of the EU and the VPA partner country. Each VPA has two parts – the main text and the annexes. The VPA **negotiation process** determines what information appears in each part.
**VPA main text**

The main text of a VPA explains the key obligations of each party and how the will interact during implementation of the agreement. The text is usually around 15 pages and varies little between VPAs. The text comprises around 30 articles that detail:

- The objectives and scope of the agreement
- Definitions of terms
- The functions of implementing structures, such as the joint implementation committee
- The principles behind different aspects of the agreement
- Conditions for the agreement's entry into force and for parties to amend, suspend, extend or terminate the agreement

Some articles frame the VPA annexes, which provide detailed, country-specific information on aspects of the agreement.

**VPA annexes**

The annexes describe the practical steps for implementing the core commitments in the VPA in detail. Annexes provide country-specific information on, for example:

- The laws the partner country will monitor under the VPA
- The products the agreement will cover
- The technical systems for verifying legality, tracing timber and issuing FLEGT licences in the partner country
- The government departments and agencies involved in implementing the VPA and their roles
- The information and documentation that will be put in the public domain and the mechanisms through which this will happen

The number of annexes varies between VPAs. Most VPAs to date have the following annexes:

- Annex on product scope
- Annex on legality definition
- Annex on timber legality assurance system
- Annex on EU procedures for imports of FLEGT-licensed timber products
- Annex on FLEGT licences
- Annex on independent auditing
- Annex on legality assurance system assessment criteria
- Annex on implementation schedule
- Annex on accompanying measures
- Annex on public information
- Annex on the joint implementation committee

**Annexes relating to the timber legality assurance system (TLAS)**

All VPAs have an annex on the TLAS. This annex tends, however, to focus on timber tracking, control and verification aspects of the system. In most VPAs to date, information about
other elements of the TLAS, such as the legality definition, is in other annexes. Liberia, however, included the legality definition, timber tracking and control in a single annex.

**Navigating VPAs**

Table 1 shows the articles and annexes in each partner country's VPA that relate to each of the main topics.

**Table 1. Articles and annexes relating to key topics in each partner country's VPA**

<table>
<thead>
<tr>
<th>Subject</th>
<th>Cameroon</th>
<th>Central African Republic</th>
<th>Ghana</th>
<th>Indonesia</th>
<th>Liberia</th>
<th>Republic of the Congo</th>
</tr>
</thead>
<tbody>
<tr>
<td>Product scope</td>
<td>Anx 1</td>
<td>Anx 1</td>
<td>Anx 1</td>
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<td>Legality definition</td>
<td>Art 8</td>
<td>Art 7</td>
<td>Art 7</td>
<td>Art 2</td>
<td>Art 7</td>
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<td>Anx 2</td>
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<tr>
<td>Timber legality assurance system tracking and control</td>
<td>Art 9</td>
<td>Art 8</td>
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<td>Art 8</td>
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<td>Anx 5</td>
<td>Anx 5</td>
<td>Art 10</td>
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<td>Art 9</td>
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<td>Anx 3</td>
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<tr>
<td>EU procedures for imports of FLEGT-licensed timber products</td>
<td>Art 6</td>
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<td>Anx 3</td>
<td>Art 8</td>
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<td>Art 3</td>
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<td>Art 11</td>
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<td>Anx 8</td>
<td>Anx 6</td>
<td>Anx 7</td>
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<tr>
<td>Implementation schedule</td>
<td>Art 14</td>
<td>Art 14</td>
<td>Art 14</td>
<td>See footnote*</td>
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### Accompanying measures

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### Stakeholder involvement in implementation

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### Social safeguards

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<th>Art 17</th>
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### Public information

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<th>Art 21</th>
<th>Art 21</th>
<th>Art 20</th>
<th>Art 17</th>
<th>Art 21</th>
<th>Art 21</th>
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<td>Anx 7</td>
<td>Anx 11</td>
<td>Anx 9</td>
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### Joint implementation committee

<table>
<thead>
<tr>
<th>Art 19</th>
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<th>Art 14</th>
<th>Art 19</th>
<th>Art 19</th>
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<tbody>
<tr>
<td>Anx 11</td>
<td>Anx 10</td>
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<td>Anx 10</td>
<td>Anx 11</td>
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</tbody>
</table>

### Independent market monitoring

<table>
<thead>
<tr>
<th>Art 15</th>
<th>Anx 7</th>
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</thead>
</table>

* Not defined as an annex, but developed during implementation in the form of Joint Action Plans

## 4.1.1. VPA annex on product scope

The VPA annex on product scope identifies the range of timber and timber products covered by a Voluntary Partnership Agreement (VPA). The annex, therefore, determines the parts of the private sector a VPA will affect and what their responsibilities under a VPA will be.

All VPAs must include logs, sawn wood, veneers, plywood and railway sleepers, but a VPA can also include additional products. To date, in order to cover all of their timber exports to the EU, all VPA partner countries have included additional products, as shown in Table 2.

The VPA annex on product scope identifies each product by a ‘HS' code, in line with the World Customs Union’s system for classifying products. HS codes enable customs authorities in the EU to identify the product category to which imports belong.

### Table 2. Variation in VPA annexes on product scope

<table>
<thead>
<tr>
<th>Country</th>
<th>Products covered in addition to logs, sawn wood, veneers, plywood and railway sleepers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cameroon</td>
<td>Furniture, fuel wood and wooden tools</td>
</tr>
<tr>
<td>Central African Republic</td>
<td>Furniture, fuel wood, wooden tools and wooden packing material</td>
</tr>
<tr>
<td>Ghana</td>
<td>Furniture</td>
</tr>
<tr>
<td>Country</td>
<td>Products</td>
</tr>
<tr>
<td>-----------------</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Indonesia</td>
<td>Furniture, fuel wood, wooden tools, wooden packing material, wood pulp, paper and paper products, and kitchen and tableware</td>
</tr>
<tr>
<td>Liberia</td>
<td>Furniture, fuel wood, wooden tools, wooden packing material and rubber wood chips. Charcoal will be included at a later stage</td>
</tr>
<tr>
<td>Republic of the Congo</td>
<td>Furniture, fuel wood, wooden tools, wooden packing material and charcoal</td>
</tr>
</tbody>
</table>

Some VPAs have a two-part annex on product scope. The second part lists timber species and/or products that are illegal to export. In the Indonesian VPA, for example, part A lists the products covered by the Indonesian FLEGT-licensing scheme. Part B lists four classes of products that are prohibited exports under Indonesian law and, therefore, cannot be FLEGT licensed.

So far, all VPA partner countries have included all timber exports in the scope of VPAs, not only exports to Europe. The scope of all VPAs, except the Central African Republic VPA, includes domestic as well as export markets. The Central African Republic has committed to developing appropriate legislation for community forests and artisanal permits to address domestic market products before including them in the VPA.

### 4.1.2. VPA annex on the legality definition

The purpose of the VPA annex on the legality definition is to identify the national laws a Voluntary Partnership Agreement (VPA) partner country will use to indicate legality of timber, and describe the process for gathering evidence to monitor compliance with the laws.

The legality definition is central to a country's timber legality assurance system. Timber and timber products must comply with this definition in order to receive FLEGT licences. Although all VPAs have an annex on the legality assurance system, some countries put the legality definition in a separate annex.

The legality definition emerges from multi-stakeholder consultation early in a VPA process. As stakeholders have different interests, conflicts in a country's forest sector often come to the fore during this early consultation. The government of a timber-exporting country has the responsibility for fostering dialogue and building consensus among stakeholders in order for the multi-stakeholder consultation to clearly articulate:

- What a timber legality assurance system requires
- Which legal requirements need to be better enforced
- Which aspects of the legal framework need to be updated or altered
Scope of the legality definition

Part of the multi-stakeholder dialogue focuses on the scope of legality. This means deciding how to include different types of land use, such as natural forests or plantations, and different aspects of management such as allocating permits, selling rights or export procedures, in the legality definition. The aim of the dialogue is to produce a clear legal definition for which it is practical to verify compliance.

A legality definition that serves the interests of all stakeholder groups must cover more than just the legal rights to harvest and sell timber. The EU expects that a legality definition will cover the three pillars of sustainability (economic, social and environmental). Multi-stakeholder consultations provide opportunities to ensure that a legality definition is credible and serves the interests of all stakeholder groups.

The laws comprising a legality definition can include:

- A country’s constitution
- National laws relating to forests, tax, trade, employment, environment, social security, biodiversity conservation and freedom of information
- Customary law
- International treaties, such as multilateral environmental agreements
VPAs define legality according to existing national laws and regulations. However, in some VPA processes, multi-stakeholder discussions on the legality definition have identified gaps or inconsistencies in existing laws. A VPA process can identify legal and/or policy reforms to address these gaps. Ghana includes reforms to address gaps in the annex on the legality definition. In other VPAs, the annex on accompanying measures details reforms.

**Structure of the annex on the legality definition**

Most VPAs include a table, called a legality grid or legality matrix, to present the definition of legality. The tables outline the legal requirements, usually called ‘indicators’, which make up the legality definition. The tables also describe the means by which a national authority will verify legality.

VPA partner countries present information on legality in different ways according to their needs, circumstances and existing systems. As a result, an annex on the legality definition may include several legality matrices that apply different standards to different sources of timber, such as community forests, plantations or logging concessions. For example:

- Indonesia has several legality matrices for different kinds of rights holdings
- Cameroon has several legality matrices for different types of forests and selling rights
- Ghana has a single legality matrix that applies all along the supply chain for timber and to timber products from all types of forest

Legality matrices may seem complicated at first glance but provide clear information about what each element of legislation requires, what evidence is needed to show compliance and what aspects will be systematically monitored.

**Note on naming annexes on the legality definition**

The titles of annexes on the legality definition vary among VPAs. Cameroon and the Republic of the Congo, call the annexes ‘legality matrices’. The Central African Republic and Indonesia call the annexes the ‘legality definition’, and Ghana calls the annex ‘legislation to be taken into account when defining legality’. Liberia includes its legality definition in the annex on the legality assurance system.

### 4.1.3. VPA annex on the legality assurance system

A timber legality assurance system (TLAS) forms the core of a Voluntary Partnership Agreement (VPA). The annex on the legality assurance system describes how, in practice, a VPA partner country’s legality assurance system will differentiate legal from illegal timber and timber products, and how the country will issue FLEGT licences to legal products.

The annex on the legality assurance system sets out:

- The government agencies responsible for different aspects of the overall system, and how they will work
- The roles the private-sector or civil society organisations play in checking compliance with the system and monitoring implementation
The annex may describe the following components of a TLAS.

**The legality definition.** The legality definition describes the rules and regulations that a TLAS will apply, meaning those that will be checked for compliance. However, most VPAs to date put the legality definition in a separate annex. Liberia, in contrast, includes its legality definition in the annex on the TLAS. For more information, see the section on the legality definition.

**How to verify compliance.** Annexes on the legality assurance system describe how VPA partner countries will check that timber and timber products comply with the requirements in legality definitions. In most cases, governments check compliance. In some instances, governments have strengthened checks on compliance by involving nongovernmental organisations to oversee or monitor verification. In Indonesia, the government contracts private auditing companies, called Conformity Assessment Bodies, to check compliance. Civil society oversight complements the audits and reinforces compliance. For more information, see the section on verification of compliance.

**Supply chain control.** Annexes on the legality assurance system describe how VPA partner countries will ensure that timber and timber products can be tracked from the forest where trees are felled to the point of export. Supply chain controls in VPAs often build on existing systems. These annexes also explain how countries will track transit timber from third countries and wood that is imported for processing before being exported. For more information, see the section on supply chain control.

**FLEGT licensing.** Annexes on the legality assurance system describe how VPA partner countries will issue FLEGT licences to products that comply with their legality definitions. Most VPA partner countries have needed to create structures to issue FLEGT licences, often building upon an existing control or export licensing system. For more information, see the section on FLEGT licensing.

**Independent audit.** Annexes on the legality assurance system describe how third-party independent auditors will regularly check that a legality assurance system and its components are functioning as outlined in the VPA. A separate annex to each VPA describes the terms of reference for the independent auditor. For more information, see the section on independent audit.

### 4.1.4. VPA annex on EU procedures for imports of FLEGT-licensed timber products

The annex on EU procedures for imports of FLEGT-licensed timber products varies little among Voluntary Partnership Agreements (VPAs) as it draws on the EU Forest Law Enforcement Governance and Trade (FLEGT) Regulation of 2005. This annex explains EU border control measures and describes the procedures authorities in EU member states will follow when a shipment of FLEGT-licensed timber or timber products arrives from a VPA partner country.
Control measures and procedures are enshrined in the EU FLEGT Regulation of 2005 and its Implementing Regulation of 2008. Under these regulations, once a VPA country starts FLEGT licensing, designated competent authorities in EU member states must verify that consignments of timber from the VPA partner country have valid FLEGT licences.

The annex on EU procedures for imports of FLEGT-licensed timber products explains two kinds of checks:

- Documentary checks of licences to ensure they have the correct format, date and content
- Physical checks, according to the normal procedures of customs authorities in EU member states, to ensure a consignment conforms with the accompanying licence

4.1.5. VPA annex on FLEGT licences

The annex on FLEGT licences varies little among Voluntary Partnership Agreements (VPAs). The annex explains:

**Conditions for issuing licences.** The annex on FLEGT licences explains how companies in a VPA partner country will apply for FLEGT licences to accompany shipments of legal timber and timber products destined for the EU. The annex explains how an applicant’s request will be assessed and which authority will issue FLEGT licences.

**Technical specification of FLEGT licences.** The annex explains technical aspects of FLEGT licences, such as whether licences are issued as paper or electronic documents, when licences become valid and for how long, and the language of the licence text.

**How to deal with doubts about the validity of a licence.** The annex on FLEGT licences clarifies what authorities in the EU and VPA partner country will do if FLEGT licences are lost, stolen, damaged or forged.

**What FLEGT licences should look like.** The EU requires VPA partner countries to use a common format for FLEGT licences so that competent authorities in EU member states can readily check licences for the information required. The VPA annex on FLEGT licences, therefore, includes a template for licences. Some countries are exploring e-licensing instead of paper licences.

4.1.6. VPA annex on independent auditing

*Independent audits* are a compulsory feature of all Voluntary Partnership Agreement (VPA) timber legality assurance systems (TLAS). Independent audits underpin the credibility of the timber legality assurance system of a VPA partner-country and the VPA as a whole.

Audits provide independent evidence that a TLAS is working. The auditor’s role is not to find evidence of illegality, but to assess whether a TLAS is functioning properly. The evidence provided by audits reassures governments of partner countries that TLAS are effective forest management tools.
The purpose of the VPA annex on independent auditing is to outline the scope and principles of independent audits, and to frame these in the terms of reference for auditors, which specify:

- Required qualifications
- Independence from interests linked to the forest sector
- Relations with stakeholders
- Tasks, methodology and sources of information
- Reporting principles, procedure and schedule

Each annex on independent auditing also describes how a partner country will, in consultation with the EU, recruit and support an auditor, and how parties to the VPA will respond to an auditor’s reports.

Independent auditing is part of a country’s timber legality assurance system and must be in place before FLEGT licensing can begin. However, the frequency of audits, name of the auditing role and nature of reports vary between countries, as Table 3 shows.

**Table 3. Variations in VPA annexes on independent auditing**

<table>
<thead>
<tr>
<th>Country</th>
<th>Name</th>
<th>Frequency</th>
<th>Reports</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cameroon</td>
<td>Independent system audit</td>
<td>Six months after establishment of legality assurance system. One audit in later years</td>
<td>Complete report and summary public report</td>
</tr>
<tr>
<td>Central African Republic</td>
<td>Independent system audit</td>
<td>Three audits in the first year. Two audits in the second and third years. One audit in later years</td>
<td>Complete report and summary public report</td>
</tr>
<tr>
<td>Ghana</td>
<td>Independent monitoring</td>
<td>Approximately every six months in the first year. One audit in following years</td>
<td>Complete report and summary public report</td>
</tr>
<tr>
<td>Indonesia</td>
<td>Periodic evaluation</td>
<td>Audits no more than 12 months apart</td>
<td>Complete report and public report</td>
</tr>
<tr>
<td>Country</td>
<td>Name</td>
<td>Frequency</td>
<td>Reports</td>
</tr>
<tr>
<td>------------------</td>
<td>------------------------</td>
<td>---------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Liberia</td>
<td>Independent audit</td>
<td>Two audits in the first year. One audit in later years</td>
<td>To be prepared as agreed with the joint implementation committee and validated by that committee before being made public</td>
</tr>
<tr>
<td>Republic of the Congo</td>
<td>System independent audit</td>
<td>At least three audits in the first two years. Fewer in later years, but there must be spot checks</td>
<td>Single report, which the joint implementation committee will review and then publish</td>
</tr>
</tbody>
</table>

4.1.7. **VPA annex on legality assurance system assessment criteria**

VPA partner countries cannot begin issuing FLEGT licences until the EU and the partner country’s government are satisfied that the timber legality assurance system (TLAS) functions as intended.

The EU and partner country therefore jointly commission an independent assessment of the TLAS to ensure that what they describe in a VPA is being delivered (see the section on VPA implementation for more details of the joint assessment).

The VPA annex on legality assurance system assessment criteria provides the questions that the parties agree an independent assessment should answer to enable the parties to decide that a system is robust and ready.

The process of negotiating the content of an annex on legality assurance system assessment criteria can be an opportunity for stakeholders to ensure certain mechanisms are in place before FLEGT licensing begins, rather than later. Stakeholders may require criteria on participation and consultation mechanisms, complaint mechanisms and structures to ensure transparency, for example.

4.1.8. **VPA annex on the implementation schedule**

Most Voluntary Partnership Agreements (VPAs) to date have an annex on the implementation schedule. The schedule outlines the suggested order and timetable for actions the parties agree to take after negotiations end and implementation begins. Actions include:

- Establishing the joint implementation committee
- Building capacity

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The annex on the implementation schedule enables the parties to a VPA to identify next steps and prioritise areas of work. The annex also provides a VPA joint implementation committee with a basis for creating a work plan and monitoring progress.

Partner countries that do not have a VPA annex on the implementation schedule, such as Indonesia, still need to prepare a schedule. Indonesia and the EU developed a schedule during VPA implementation in the form of Joint Action Plans.

Annexes on the implementation schedule indicate when parties expect FLEGT licensing to begin. For VPAs agreed to date, however, negotiated timetables for FLEGT licensing have proved too optimistic. Experience shows that the complex task of creating effective legality assurance systems often requires more time than VPA negotiators anticipate.

4.1.9. VPA annex on accompanying measures

Many Voluntary Partnership Agreements (VPAs) include an annex on accompanying measures that describes the supporting measures that stakeholders have identified as necessary for full implementation of the VPA.

Annexes on accompanying measures can include measures that require additional resources, regardless of whether funding is secure. Annexes on accompanying measures, therefore, help VPA partner country governments frame their needs and help donors target support.

However, although VPAs acknowledge the needs of partner countries for financial assistance to enhance systems and capacity, VPAs do not commit the EU to provide finance. Assistance to enhance systems and capacity may come instead through normal development channels. The EU and EU member states have existing legal instruments that guide the use and allocation of development assistance. VPAs instruct the parties to work with these existing instruments.

Accompanying measures may include:

- New structures and capacity needed to implement a VPA
- Mechanisms for financing VPA implementation and strategies for raising additional finance
- Measures needed to establish the legality assurance system and its component parts, or improve existing systems
- Legal reforms and enactment of new laws
- Promotion of FLEGT-licensed products on the EU market
- Development or regulation of domestic markets
- Ways to monitor the implementation and impacts of a VPA, including impacts on domestic markets
- Strategies for communicating with stakeholders about the VPA and its implementation and impacts

4.1.10. VPA annex on public information

An annex on public information describes the documents and information stakeholders think should be made publicly available to strengthen governance in the forest sector and enable monitoring of implementation of a Voluntary Partnership Agreement (VPA).

Transparency and access to information about a country's forest sector are important to national stakeholders and to international markets, which need to understand the systems a country has in place. VPAs create an opportunity for countries that already make information about the forest sector public to demonstrate this transparency to domestic and international audiences.

In some VPA partner countries, civil society organisations with roles as independent observers have taken the lead on public information in VPA negotiations because access to information is critical to their work as observers.

In Indonesia, for instance, the VPA annex on public information builds on the requirements of independent observers as well as the country's freedom of information act.

Content of the annex

There are often two main classes of information in VPA annexes on public information signed to date. First, information to be published as it becomes available, such as legal documents, procedures or institutional arrangements for governing the forest sector. Second, information to be published regularly, such as data and reports of forest activities.

However, additional sets of information to be disclosed may be included if parties to a VPA wish.

In VPAs signed to date, the lists of information in annexes on public information often include:

Legal information. Including, but not limited to, the texts of relevant laws and regulations that relate to a country's forest sector. For instance, the forest law, forest code, tax code and aspects of the regulatory framework referred to in the legality definition.

Information on procedures for allocating forests, such as information relating to:

- Tender procedures and notice of calls for tenders relating to permit allocations
- Documents related to competitive bidding
- Lists and maps of valid concessions with names of beneficiary individuals and/or companies
- Contracts
Social agreements between forest communities and permit/contract holders

**Information on forest planning**, such as environmental assessment reports, land-use planning documents, maps, lists and total area of concessions.

**Information on production**, such as volumes of timber felled and processed by species, concession and company.

**Information on processing**, such as lists and locations of approved processors.

**Information on imports and exports**, such as volume of timber by species, company and destination country, and information on timber in transit.

**Information on the legality assurance system.**

- A full description of the system
- Procedures for FLEGT licensing
- Inspection reports
- Reports of independent observers
- Information on FLEGT licences issued
- Cases of non-compliance with the FLEGT licensing scheme
- Actions taken to resolve non-compliance

**Information on the independent audit**, such as auditor’s terms of reference, summaries of reports and procedures for challenging audits.

**Information on the payment of forest taxes and fees**, such as rents, felling taxes, reforestation fees and any other charges.

**Information on law enforcement**, such as information on violations, arrests, penalties and convictions.

**Information on institutional structures and government procedures**, such as the composition and function of national implementation structures.

**Communication channels**

Annexes on public information also describe channels for making information public. Channels can include:

- Active channels of communication through which the country will provide information. Examples include stakeholder meetings, published and distributed reports or media announcements
- Passive channels of communication, through which the country makes information available, such as websites, document centres or responses to freedom of information requests
How Ghana's VPA differs

Ghana's VPA, being the first signed, has no annex on public information. However, the annex on the timber legality assurance system identifies data that will be publicly available. Also, in the main VPA text, Article 20, on reporting and public disclosure, states that the Joint Monitoring and Review Mechanism shall record Ghana's efforts towards transparency. The article refers to:

- Transparency around harvest rights
- Areas designated for harvesting
- Harvesting schedules
- Timber rights' fees and harvest related payments
- Information on social responsibility agreements and crop damage compensation awards

4.1.11. VPA annex on the joint implementation committee

Under a Voluntary Partnership Agreement (VPA), the EU and partner country create a joint implementation committee once both parties have ratified a VPA. An annex on the joint implementation committee describes the structure and functions of the committee.

In some instances, parties to a VPA have recognised that the formalities of ratification take time and have established an interim mechanism for monitoring and coordination in advance of setting up a joint implementation committee.

In VPAs that do not include an annex on a joint implementation committee, information regarding the committee is in the main text.

Read more in the section on Joint implementation committees.

4.1.12. VPA annex on independent market monitoring

In most VPAs, an article on ‘market incentives' in the main text sets out the aim of promoting FLEGT-licensed timber in the EU market. During Voluntary Partnership Agreement (VPA) negotiations to date, all partner countries have emphasised the importance of market recognition of FLEGT licences. Ensuring FLEGT licences are visible and well received in the marketplace is important for exporting countries, as it will help secure and add value to their timber trade. The EU also recognises that it is important to understand how the EU market responds to FLEGT-licensed timber.

However, in order to assess the effectiveness of FLEGT licences in adding value to the timber trade, it is necessary to monitor the market. The purpose of independent market monitoring, therefore, is to assess the effects of the trade in FLEGT-licensed timber on timber markets.

In the case of Indonesia's VPA, these concerns were further developed into an annex on independent market monitoring. The EC, for its part, has appointed an independent market monitor to cover all VPA countries.
The EC has awarded a five-year contract to the International Tropical Timber Organization to conduct independent market monitoring, starting in 2014. Monitoring will analyse how FLEGT licensing affects trade flows, market developments and timber prices. The information from monitoring will track developments and help shape policies to enhance implementation and effectiveness of the EU FLEGT Action Plan.

4.2. VPA outputs

Experiences to date show that negotiating and implementing Voluntary Partnership Agreements (VPAs) deliver tangible achievements. The VPA text and annexes describe outputs that parties commit to realising. Other achievements result from the process itself. The annual reports of VPA joint implementation committees describe how each VPA contributes to such achievements, which can include the following:

**Participatory decision-making**

The EU advocates for broad stakeholder participation in negotiating and implementing a VPA to ensure the agreement is credible and country-owned. Ultimately, national governments are responsible for deciding how stakeholders will participate in the process. However, the expectation that processes will be participatory and the emphasis on consensus mean that VPA processes are making huge strides in creating space for multi-stakeholder decision-making. Participation may take different forms as a VPA process progresses.

− **Pre-negotiation phase.** In VPA processes to date, governments have consulted stakeholders before deciding to enter negotiations with the EU. Consultation continues into later phases of the VPA process if negotiations go ahead.

− **Negotiation phase.** Stakeholders participate in formal or informal structures, such as stakeholder platforms, multi-stakeholder steering committees and national negotiating teams. In all VPAs signed to date, partner countries have decided to involve representatives of the private sector and civil society organisations in negotiating structures.

− **Implementation phase.** All VPAs to date include an article in the main text that outlines expectations for stakeholder participation in the implementation of the agreement. Participation may take the form of representation on joint implementation committees and national structures set up to implement a VPA and/or monitor impacts.

VPAs are the first trade agreements to be developed through inclusive multi-stakeholder processes. In many timber-exporting countries that have entered into VPA negotiations there has never before been such an inclusive, participatory process.

Read more in the section of VPA Unpacked on how a VPA increases participation.

**Timber legality assurance system**

The timber legality assurance system is the backbone of a VPA and enables partner countries to:
– Define legal timber
– Control the supply chain of timber and wood products from forests to ports
– Verify the legality of timber
– Issue FLEGT licences for legal products
– Subject the entire timber legality assurance system to independent auditing

Read more in the section on Timber legality assurance systems.

**Trade in FLEGT-licensed products**

VPAs aim to promote legal trade in timber and timber products by bringing FLEGT-licensed products to the EU market. In addition, VPAs can also affect trade to non-EU markets. To date, all VPAs have covered all of a partner country’s exports, and not just those to the EU. Most VPAs have also include timber traded in domestic markets. The annual reports of joint implementation committees established by each VPA state the number of FLEGT licences that a partner-country has issued and the number of licences that the EU has received. In addition, the EU has appointed an independent market monitor to analyse the impacts of VPAs and FLEGT licensing on the timber trade.

Read more in the section on Trade in FLEGT-licensed products.

**Legislative and policy reform**

VPAs depend on the ability of all stakeholders to interpret the laws relating to the forest sector clearly. However, in VPA processes to date, national deliberations have identified problems with legal clarity and areas of law stakeholders would like to change. Problems include inconsistencies or gaps in laws relating to the forest sector that make it difficult to determine what is legal. Other problems occur where laws are good but poorly enforced. Stakeholders may also consider some laws to be unjust because enforcement penalises the poor. In some cases, VPA processes have led to legislative and/or policy reform. The extent of reform varies greatly. Some countries insist that existing laws are satisfactory. In other countries, the process has led to:

– Policy renewal
– Enabling legislation for FLEGT licensing
– Broader legal reform to address weaknesses

Read more in the section on how a VPA can increase legislative and institutional clarity.

**Stronger capacity**

A VPA process can enhance the capacity of institutions and individuals in stakeholder groups to collectively:

– Regulate, control and verify compliance
– Enforce law
– Self-organise and engage
– Comply and adapt business functions
– Engage in advocacy
Perform independent observation
Monitor impacts
Coordinate across government

During VPA processes, for instance, international finance or domestic programmes may support training that strengthens the capacity of stakeholders to understand and participate in VPA negotiations. Most VPAs also set out additional capacity-building needs in annexes on accompanying measures.

Read more in the sections on how a VPA can strengthen capacity and support to VPA stakeholders.

**Domestic market measures**

In many tropical countries, domestic timber markets are informal and unregulated. While these markets provide livelihoods for many people, they are often characterised by illegality. This illegality may be because of poor legislation, poor control, limited capacities or deliberate criminal activity. This means domestic timber markets often fail to generate revenue for the state. In many countries, growing informal domestic markets are larger than markets for industrial, export-oriented timber. Some countries have chosen to use a VPA as a tool to address the challenges posed by unregulated informal domestic trade in timber and timber products. In these cases, VPAs may lead to changes in policies or laws, or to the structure and organisation of domestic markets. However, addressing informal markets is not straightforward, as stakeholders are dispersed, not organised and difficult to engage, especially if they are currently illegal.

Read more in the section on domestic market measures in VPAs.

**Transparency**

Transparency enables citizens to hold governments, companies and communities accountable for managing and using forest resources. In many timber-exporting countries, problems such as lost rent and tax revenues, corruption, unsustainable or illegal logging, and negative impacts on communities that depend on forests persist because of a lack of transparency. A VPA, therefore, has components that seek to improve transparency, such as:

- Broad stakeholder participation
- Independent auditing of the timber legality assurance system
- Provision for independent forest monitoring
- Public disclosure of information as specified in the main text of a VPA or an annex on public information
- Public disclosure of information during the VPA process, such as through summaries, press releases, a website or public meetings
- Publication of annual reports by a joint implementation committee

Early action to strengthen transparency during VPA negotiations has improved dialogue among stakeholders and set the stage for further improvement during the implementation
phase. The ultimate success of a VPA in improving transparency depends on its implementation.

Read more in the section on how a VPA can increase transparency.

Communication

Communication in VPA processes takes several forms, in addition to a partner country government’s commitment to make information public to improve transparency. Some VPAs include plans for communication strategies to provide stakeholders and the wider public with information about the VPA, its outputs and its impacts. Communication may include outreach to communities that depend on forests, national businesses involved in the timber trade and European timber buyers. Such communications help to maintain stakeholder engagement and commitment during the implementation phase and beyond.

Read more in the section on communication in VPA processes.

VPA monitoring

A joint implementation committee ensures that parties implement the VPA. The committee is also responsible for monitoring the economic, social and environmental impacts of a VPA, and for dealing with any complaints or failure to comply with the VPA. The committee receives and validates reports from the independent auditor of the timber legality assurance system and, if there is one, the independent observer. In addition, the EU appoints an independent market monitor to assess the impacts of trade in FLEGT-licensed timber on timber markets.

Read more in the section on VPA monitoring.

Broader reforms and impacts

A VPA may affect or inspire broader governance reforms beyond the reforms framed in the text and annexes. For example, a VPA may lead to action that reduces poverty or corruption, or to land reform and other changes. VPAs may also complement other initiatives, such as REDD+ and institutional reform in the forest sector, or inspire action in sectors such as mining or agriculture.

4.2.1. Participatory decision making

The level of stakeholder participation and the influence stakeholders exert in Voluntary Partnership Agreement (VPA) processes is unprecedented. VPA processes foster participation, both in the process itself, and as a result of the commitments parties make in the VPA text and annexes.

VPAs are the first trade agreements developed through inclusive multi-stakeholder processes that have had impacts on decision making in the forest sector.

Participation not only enables stakeholders to influence decision-making processes that will affect them. Participation also brings benefits to decision-making processes. Decisions made
through participatory processes are likely to be practical, equitable, credible and effective, and to reflect a broad consensus among stakeholders.

Without inclusive multi-stakeholder processes, a VPA would lack credibility. For that reason, the EU expects broad stakeholder participation in both the negotiation and implementation phases of a VPA process.

To read more about the ways VPA processes foster participation and the benefits that have resulted in different countries, see the section of VPA Unpacked on how a VPA can increase participation.

Viewpoint: Saskia Ozinga on the depth of VPA consultations

"This level of consultation between government, civil society, NGOs and private sector, never happened in these countries before. In fact, it hasn't happened anywhere, including Europe."

Saskia Ozinga, campaign coordinator at NGO FERN, former senior forestry advisor at the UK Department for International Development / Source: Jeffree, M. 2014. FLEGT forest power to the people. Timber Trades Journal Online October 2014 48–49.

4.2.2. Legal reforms resulting from VPA processes

All Voluntary Partnership Agreements (VPAs) agreed to date have emerged from multi-stakeholder processes that have identified shortcomings in existing legal frameworks. Shortcomings include:

- Unclear rights to land and trees
- Inconsistent or weak enforcement of existing laws
- Contradictory laws
- Overlapping institutional responsibilities
- An absence of legislation needed to implement FLEGT licensing

By highlighting shortcomings in legislation, a VPA process enables stakeholders to identify solutions. As a result, a VPA partner country may undertake legal reforms and adopt new laws to address challenges identified during the VPA process.

Some countries describe their aspirations for legal reform in a VPA annex on the legality definition, others in a VPA annex on the implementation schedule or an annex on accompanying measures.

To date, the level of ambition of legal reforms in VPAs has varied with respect to both timing and content. Most short-term reforms concern the traceability and verification aspects of a timber legality assurance system that are necessary before FLEGT licensing can begin. Reforms that are likely to take time include those relating to tree tenure, domestic markets, customary rights, benefit sharing and governance.
Examples of legal reforms in the context of VPAs include:

- **Cameroon** developed and signed new legal texts to address verification of legality, FLEGT licensing and non-compliance. Reform of the 1994 forest law is ongoing.
- In the **Central African Republic**, the VPA process identified environmental legislation that must be finalised before FLEGT licensing begins. The VPA states that additional legislative reforms to integrate artisanal producers and community forests in the VPA will take place in the future.
- The VPA for **Ghana** distinguishes reforms that must precede FLEGT licensing from reforms that can come later, but within a specific time frame. Later reforms relate to governance issues and benefit sharing. As a result of the VPA, the government and a dialogue platform convened by a nongovernmental organisation have developed and agreed policies to address illegal logging in the domestic market.
- In **Indonesia**, legal reforms have advanced in parallel with the VPA process. As a result of some of these reforms, annexes such as the legality definition and others will be revised.
- **Liberia’s** reforms include new regulations to address pit-sawing; chainsaw logging; abandoned logs; transit, imported and confiscated timber; third-party access and use of resources in concession areas.
- In the **Republic of the Congo**, VPA-facilitated reforms include the revision of the Forest Code and adoption of the Indigenous Peoples Law. Other legislative reforms are ongoing.

Ongoing **stakeholder participation** in legal reform processes is important and reflects the negotiation process. Experience has shown that for reforms to be effective, public authorities need to disseminate information on legal instruments and the process for legal reform, and to provide adequate time for stakeholders to participate.

### 4.2.3. Timber legality assurance systems

At the heart of each Voluntary Partnership Agreement (VPA) is a ‘timber legality assurance system’, which verifies that wood products conform to national laws. Once verified as legal, partner countries can give **FLEGT licences** to timber products destined for the EU market. Once a VPA partner country begins FLEGT licensing, the EU will only accept timber products from that country if it has a FLEGT licence.

Some countries meet VPA requirements by adapting existing systems. In Indonesia, for example, a timber legality assurance system (TLAS) called SVLK was in place before VPA negotiations began. Since then, Indonesia has refined the SVLK through the VPA process.

Other countries have incorporated existing private certification schemes used by national companies into their VPA timber legality assurance systems, to reduce the burden of compliance on the private sector.

Some countries need to develop new elements of a TLAS in order to ensure it is robust enough to meet the demands of a VPA. The five core components common to all VPA TLASs are:
4.2.3.1. **Legality definition**

The legality definition in each Voluntary Partnership Agreement (VPA) clearly states the aspects of a country's law for which the timber legality assurance system (TLAS) will systematically seek evidence of compliance. The intent of a VPA is not to repeat all of a country's legislation but to target and emphasise the subset of legal requirements that national stakeholders decide are most important.

A legality definition brings clarity, and so makes identifying legal timber clearer. The legality definition is particularly useful in cases where a country has many laws relating to the forest sector, when laws are challenging to enforce or when there are inconsistencies among laws.
Timber and timber products that comply with the laws cited in the legality definition are considered legal under the terms of the VPA. Timber and timber products deemed legal are eligible for FLEGT licences. A legality definition is thus central to a TLAS. All other technical aspects of a TLAS flow from the legality definition.

**Scope of a legality definition**

A legality definition should include laws relating to the whole supply chain – from the allocation of logging rights through processing and transport to export and benefit sharing.

In addition, a legality definition should reflect the concerns of national stakeholders and the elements of the country's legal framework stakeholders wish to include.

The scope of a legality definition will therefore go beyond forest law and may include aspects of laws on tax, trade, employment, social security, biodiversity conservation, freedom of information and customary law.

The EU is neutral with respect to the content of a legality definition, but expects a partner country to frame a definition around the three pillars of sustainable development – economic, social and environmental.

For a legality definition to be credible, it must have the support of all stakeholders. The EU, therefore, advocates that national stakeholders reach a consensus on a legality definition through an inclusive participatory process. A comprehensive multi-stakeholder dialogue on the legality definition may identify reforms that are necessary by revealing gaps, inconsistencies or overlaps in legislation.

**Approaches to defining legality**

Each partner country takes its own approach to choosing how to consider and define legality. In most VPA processes, approaches in partner countries have involved the steps illustrated in Figure 8. Processes are not unidirectional. Given the many stakeholders to involve and consult, there may be repeated reversals.
In most VPA processes, the first step in defining legality is a multi-stakeholder consultation process. In this step, each stakeholder group may also hold discussions within the group to reach a common position on priorities for defining legality.

Each stakeholder group perceives laws differently. For governments, the interest is in applying and enforcing laws. For companies, the challenge is to comply with laws. For communities, the issue is being able to depend on laws to secure rights. The multi-stakeholder process should result in a legality definition that meets the needs of each group, has the support of each group and is, therefore, realistic and practical to operationalise.

Stakeholders analyse existing laws in relevant sectors to decide the subset of laws that a VPA should require compliance with. Deciding the subset of laws can be a considerable task. Indonesia, for example, has more than 900 national or local laws and regulations relating in some way to the forest sector.

A legality definition does not need to include all relevant laws but must identify a subset that meets the needs of stakeholders and for which it is practical to verify compliance. Stakeholders may identify gaps or inconsistencies in laws that indicate a need for reform.
National negotiating teams draft a legality definition based on inputs from the multi-stakeholder consultation process. Different countries have approached drafting a legality definition in different ways. Some negotiating teams draft a definition themselves. Others create a multi-stakeholder working group to prepare a draft. In some countries, multi-stakeholder groups have appointed national experts to draft a legality definition.

Aspects of timber production that a legality definition may cover

<table>
<thead>
<tr>
<th>Allocation of forest titles</th>
<th>Timber transport requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allocation of harvesting rights</td>
<td>Labour requirements</td>
</tr>
<tr>
<td>Forest management</td>
<td>Worker health and safety</td>
</tr>
<tr>
<td>Respect for tenure/use rights</td>
<td>Social obligations of companies</td>
</tr>
<tr>
<td>Social agreements with communities</td>
<td>Import procedures</td>
</tr>
<tr>
<td>Timber processing</td>
<td>Duties and fees</td>
</tr>
<tr>
<td>Environmental protection</td>
<td>Trade and export</td>
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</tbody>
</table>

Some countries refine a legality definition by field testing. Field tests are an opportunity to identify gaps or problems in the subset of laws, and how to verify compliance.

A final legality definition takes the form of a table, called a legality grid or legality matrix. The tables usually provide indicators of legality, which set out the requirements outlined in legislation and identify the evidence required to prove adherence to the requirements. The tables also describe the means of verifying compliance. Some VPAs have different legality definitions for different sources of timber, such as plantations or logging concessions.

To read more about how legality definitions vary among VPAs, see the section on the VPA annex on the legality definition.

4.2.3.2. Supply chain control

The purpose of supply chain control is to ensure that unverified products and products that are possibly illegal do not enter the supply chain. Supply chain control enables countries and companies to track timber and timber products from a forest or point of import to a point of export. Tracking means that businesses are better able to manage supply chains and that authorities can trace a product to check it is legal.

Supply chain control entails a series of mechanisms and procedures that confirms the origin of wood and wood products at each link in the chain. Logs and processed wood travel accompanied by documentation that identifies and confirms their origin.

Documents record data in a way that enables authorities to check that the quantities and types of product at any point in the supply chain are consistent with the prior and
subsequent links in the chain. Supply chain control also requires procedures to prevent mixing of legally verified timber with material from unknown or unauthorised sources.

The supply chain control aspect of the timber legality assurance system must be robust, credible and firmly rooted in existing systems and procedures. This does not imply that supply chain control should be particularly hi-tech. However, supply chain control should be clear and verifiable, and should undergo testing before it is finalised.

In addition to controlling the supply of timber from a partner country, a timber legality assurance system (TLAS) must also be able to track other types of timber.

**Imported wood.** Some Voluntary Partnership Agreement (VPA) partner countries import wood from other countries, process it and then export it. A VPA partner country's TLAS must therefore be able to verify the legality of the wood it imports. The system must prevent illegally produced wood imported to the country from receiving a FLEGT licence. If imported wood is from another VPA partner country this should be relatively straightforward. If imported wood is from a non-VPA partner country, the VPA partner country will need to:

- Develop a system to verify the legality of imported timber, or
- Segregate the wood from its own timber and ensure it does not enter the supply chain for export

**Timber in transit.** Timber in transit includes any timber products that originate outside a VPA partner country, which enter the VPA partner country under customs control, and leave it in the same form. Timber in transit retains its country of origin. The supply chain controls in a TLAS must be able to identify, isolate and track timber in transit to prevent it from entering a VPA partner country's supply chain and receiving a FLEGT licence from the VPA partner country. Instead, timber in transit must be accompanied at all times by proof of its country of origin.

In Indonesia, for example, gazetted Principal Customs Areas strictly exclude timber and timber products in transit. Thus, transit timber does not enter customs areas and so cannot be included in timber supply chains for FLEGT licensing.

**Example: Wood traceability systems in Liberia**

Liberia’s chain of custody system, LiberFor, requires every harvestable tree and any cut wood to carry a barcode throughout the journey from forest to port. This allows authorities to track wood back to the stump of the felled tree. The system also confirms the logger's legal right to harvest the wood, and the payment of fees and taxes. LiberFor monitors inventories and maps of trees in logging concessions, information on trees felled and volumes of standing timber. The system also monitors documentation such as transport waybills and export permits. Liberia's Legality Verification Department will build on LiberFor to verify other aspects of legality, such as compliance with social and environmental laws and regulations.

Source: Carey, R. and Schrader, S. 2012. The LiberFor tracking system: state of implementation. PowerPoint presentation. [Download PDF]
4.2.3.3. Verification of compliance

Before the authorities in a Voluntary Partnership Agreement (VPA) partner country can issue FLEGT licences they must ensure that timber products are legal. This means checking that all the requirements of the VPA legality definition have been met by operators, suppliers or anyone else each legal requirement targets. The authorities must also ascertain that supply chain controls ensure that licensed products only come from legal sources.

A VPA describes how a partner country will deal with cases of non-compliance and enforce corrective or preventive measures.

To be reliable and credible, verification requires unambiguous evidence that timber products and related activities comply with the requirements set out in a VPA legality definition.

Evidence is gathered from physical checks and documentation, and information and/or data systematically collected and verified at different steps along the supply chain.

Procedures for documenting and archiving evidence allow the licensing authority in a VPA partner country to assess the legality of a shipment before issuing a FLEGT licence.

Organisations verifying legality may be government agencies, market participants, third-party organisations or a combination of these groups. Roles and responsibilities for all groups involved in verification should be clearly defined and documented. Once a FLEGT licensing scheme goes live, an independent auditor will regularly check and report on implementation, which includes the effectiveness and potential shortcomings of verification.

In the African countries that have signed VPAs to date, government agencies are responsible for verification. Some have engaged service providers to help with this task.

In Indonesia, the Ministry of Forestry appointed independent private companies, called Conformity Assessment Bodies (CABs), to verify private sector and governmental compliance with the legality definition. CABs are accredited by Indonesia’s National Accreditation Body and operate under ISO/IEC 17065 rules. Overall oversight of the licensing function of the timber legality assurance system remains the responsibility of the government.

4.2.3.4. Independent audit

Independent auditing is a compulsory component of a Voluntary Partnership Agreement (VPA) timber legality assurance system (TLAS). The purpose of independent auditing is to review and report on the TLAS and check that components of the system function as described in the VPA. Independent auditing, therefore, contributes to the credibility of a VPA. Auditors’ reports may identify ways for a VPA’s joint implementation committee to improve a timber legality assurance system.
The government of a VPA partner country appoints an independent auditor in consultation with the EU, through a process described in a VPA annex on independent auditing. The annex makes it clear that the auditor must be independent of the organisations and individuals involved in the management of the TLAS. All signed VPAs require audits to be undertaken by a professional audit organisation working to international (ISO) standards.

VPA annexes on independent auditing define the terms of reference for an independent auditor, including when and how an auditor will conduct the work and produce reports.

**Role of the auditor**

The role of an auditor varies between countries. It can include:

- Assessing all aspects of a timber legality assurance system to check that the system is doing what it sets out to do according to the VPA
- Identifying possible deficiencies in a timber legality assurance system
- Assessing the effectiveness of corrective measures
- Evaluating that data management is correctly serving FLEGT licensing decisions
- Evaluating EU procedures for releasing licensed timber into the EU market
- Assessing how verification procedures are being followed to ensure compliance with the legality definition requirements
- Assessing the performance of regulatory agencies involved in the verification process
- Assessing how relevant authorities address reporting infractions
- Assessing the functionality of the complaints management mechanism, covering stakeholder grievances about implementation of the legality assurance system and/or independent audit activities
- Evaluating the system in place to track timber in transit
- Cross-checking information in the VPA partner country about FLEGT licences sent to the EU against information held in the EU about FLEGT licences received

**Roles for stakeholders**

Independent auditors will seek information from private sector and civil society stakeholders affected by the TLAS. Some VPAs explicitly state that civil society organisations can and should proactively provide information to independent auditors. Some VPAs have also created a role for civil society groups as independent observers. See box ‘Independent auditing versus independent observation’.

**Independent auditing versus independent observation**

Some VPAs recognise a role for independent observers in addition to the compulsory independent audit. Unlike independent observers, an independent auditor does not monitor forest crime or assess whether specific operators are complying with the law. Instead, an auditor focuses on the TLAS as a whole, and its ability to meet its remit. For more information on independent observation, see the section on VPA monitoring.
Frequency of audits and reports

The EU and a VPA partner country agree on the frequency of audits during negotiations. To date, most VPAs state that audits will take place at least every six months when a partner country is preparing to issue FLEGT licences. After FLEGT licensing begins, audits will usually take place annually. Auditors may also conduct spot checks. Auditors submit reports to the joint implementation committee set up by the EU and the VPA partner country. Summaries of reports are made public.

See the section on the VPA annex on independent auditing.

Note on names

Some VPAs call independent auditing by other names. Ghana calls independent auditing 'independent monitoring', while in Indonesia, it is called 'periodic evaluation'. Despite these different names, the principles are the same.

4.2.3.5. FLEGT licensing

A FLEGT licence guarantees that timber from a Voluntary Partnership Agreement (VPA) country has been harvested, processed and exported in accordance with national laws. FLEGT licences serve border control requirements and are not intended as a product label.

An annex in each VPA provides a format for FLEGT licences, based on an EU template. A common format ensures that licences issued by different VPA partner countries are similar while making provision for country-specific information.

The FLEGT licensing authority in a VPA partner country issues FLEGT licences for consignments of timber or timber products exported to the EU, provided the verification system has evidence that consignments are legally compliant.

The licensing authority can take two approaches to issuing FLEGT licences:

- **Shipment-based.** The licensing authority issues licences on a consignment-by-consignment basis, after first checking that each consignment of timber has met the requirements of the legality assurance system.

- **Operator-based.** If the licensing authority is satisfied that a particular operator, such as a timber processor, can control the legality of wood according to the requirements of the legality assurance system, the authority issues all consignments from that company with FLEGT licences.

In both approaches, each individual consignment of timber or timber products has a FLEGT licence.

Once a FLEGT licensing system becomes operational, EU border control agencies, or ‘competent authorities’, will inspect any products from a VPA partner country that are listed in the VPA annex on product scope. Products accompanied by a FLEGT licence are permitted to enter the EU market. If not accompanied by a FLEGT licence, the competent authorities...
will not allow the products to enter the market. By ensuring that only legal timber enters the EU market, EU controls reinforce the efforts of the VPA partner country to eliminate illegal logging.

Each EU member state is responsible for setting up a mechanism to prevent the entry of unlicensed timber from VPA partner countries. A standard annex to VPAs describes the EU procedures for verifying FLEGT licences, as set out in the EU FLEGT Regulation of 2005. Shipments without licences are rejected at the EU border. See the section of VPA Unpacked on the annex on EU procedures for imports of FLEGT-licensed timber products.

4.2.3.5.1. About the FLEGT licence

This resource explains FLEGT licences, a special document that facilitates the entry of timber and timber products to the EU market. It describes what a FLEGT licence is and how FLEGT licences benefit timber operators in the EU and timber producers in countries outside the EU. It describes how FLEGT licences link two major features of the EU Forest Law Enforcement, Governance and Trade Action Plan on illegal logging and associated trade: the EU Timber Regulation and Voluntary Partnership Agreements. For more information visit the frequently asked questions on FLEGT-licensed timber (below).

FLEGT licences

FLEGT licences are documents issued by timber-producing countries that have ratified a Voluntary Partnership Agreement with the EU. The licences confirm that timber or timber products comply fully with the relevant laws of the country of export. FLEGT-licensed timber and timber products are considered to comply with the requirements of the EU Timber Regulation, which prohibits EU importers and EU timber producers from placing illegally harvested timber and timber products on the EU market. EU importers therefore do not need to undertake further due diligence on FLEGT-licensed timber.

In order for a VPA country to issue FLEGT licences, it must put in place a timber legality assurance system and other measures outlined in the VPA. When fully operational, VPA timber legality assurance systems are robust and credible. Legality assurance systems control supply chains, verify legal compliance and are independently audited. The systems are built on practical definitions of legality that have been developed through participatory processes involving stakeholders from government, the private sector and civil society.

FLEGT licences therefore indicate that products comply with a broad range of laws and regulations in the partner country, such as a selection of those relating to forest management, environmental aspects, labour rights, community benefits, import and export procedures, and payments of fees and taxes.

Advantages of FLEGT-licensed timber

FLEGT licences discourage illegal trade and level the playing field for law-abiding businesses. The advantage for EU traders is that FLEGT licences eliminate the risk of importing illegal products. Operators trading in FLEGT-licensed products do not need to undertake further due diligence, which can be time-consuming and costly. Authorities responsible for
enforcing the EU Timber Regulation in EU Member States recognise FLEGT licences as proof of legality.

The advantage for partner countries is that FLEGT-licensed timber products are considered legal under the EU Timber Regulation, making it easier for EU operators to import their products. Once a country begins issuing FLEGT licences to products listed in its Voluntary Partnership Agreement (VPA), EU member states will not allow such products to enter the EU unless they have a valid FLEGT licence. FLEGT licensing strengthens legal trade and excludes illegal trade.

**The supply and demand measures of FLEGT**

The EU Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan addresses illegal logging through demand- and supply-side measures that facilitate legitimate trade in timber products. Demand-side measures include the EU Timber Regulation, while supply-side measures include Voluntary Partnership Agreements (VPAs) with timber-producing countries outside the EU. The FLEGT-licensing scheme links these demand-side and supply-side measures.

**FLEGT licensing brings social, environmental and economic benefits**

FLEGT licences show that a country manages its forests in line with forest management and environment laws, as well as labour and community welfare legislation. They show that logging rights have been granted according to the law, and that timber is legally harvested. The licences also confirm that products comply with legal requirements for trade and export, and that required taxes and fees are paid.

4.2.3.5.2. **Frequently asked questions about FLEGT-licences and FLEGT-licensed timber**

The questions and answers are organised under the following headings:

**FLEGT licences**

What is a FLEGT licence?

A FLEGT licence is a document that confirms that a shipment of timber or timber products has been legally produced, in accordance with the relevant laws of the country of export. FLEGT-licensed timber and timber products are considered to comply with the requirements of the EU Timber Regulation (EUTR).

The EUTR requires that operators (defined as any natural or legal person that places timber or timber products on the EU market) exercise due diligence when placing timber or timber products on the market. Exercising due diligence means undertaking a risk management exercise so as to minimise the risk of placing illegally harvested timber, or timber products containing illegally harvested timber, on the EU market.

Operators in the EU do not need to exercise due diligence on imports of FLEGT-licensed timber.
FLEGT licences can only be issued by countries that have ratified a Voluntary Partnership Agreement (VPA) with the EU. To issue FLEGT licences, a VPA partner country must implement a timber legality assurance system and other measures specified in the VPA. When fully operational, a timber legality assurance system is both robust and credible, as it includes effective supply chain controls, mechanisms for verifying compliance and is subject to independent audits. A VPA timber legality assurance system is built around a practical definition of legality that has been agreed through participatory processes involving stakeholders from government, the private sector and civil society.

Once a VPA country begins FLEGT licensing, all shipments of timber products listed in the amended annex I of the VPA’s product scope, and exported from the VPA country to the EU, must be FLEGT-licensed in order to be released for free circulation in the EU.

I am an EU timber importer. What are the benefits of importing timber and timber products covered by a FLEGT licence?

FLEGT licensed timber meets the due diligence requirements of the EU Timber Regulation (EUTR). The EUTR requires that operators, defined as any natural or legal person that places timber or timber products on the EU market, exercise due diligence when placing timber or timber products on the market.

FLEGT-licensed timber and timber products are considered to comply with the requirements of the EUTR. Therefore, if you are an operator you can place FLEGT licensed products on the market without the obligation of exercising due diligence, thus saving relevant time and work, and making your business more efficient.

What are the wider benefits of FLEGT licences?

In order to issue FLEGT licences a country will have made significant improvements to forest governance. These improvements are made through a comprehensive multi-stakeholder process and are described in the Voluntary Partner Agreement between the partner country and the EU. Countries that issue FLEGT licences have a robust, audited system for tracking timber and verifying its legality throughout the supply chain — a ‘timber legality assurance system’. They have committed to making information about their forest sector publicly available, introducing an unprecedented level of transparency. As well as promoting legal trade, the multi-stakeholder processes involved in improving forest governance and developing FLEGT licensing schemes contribute to social and environmental goals.

Who issues FLEGT licences?

FLEGT licensing authorities in VPA partner countries issue FLEGT licences. The licensing authorities issue FLEGT licences for shipments of timber or timber products that are listed in the VPA annex on product scope and are destined for the EU, providing the VPA country’s timber legality assurance system has confirmed the products are legally harvested. For more information, see the section on FLEGT Licensing Authorities.
How credible is a FLEGT licence?

A FLEGT licence is underpinned by a timber legality assurance system that the EU and the VPA partner country have agreed upon in consultation with stakeholders from government, private sector and civil society. A VPA country’s timber legality assurance system includes a definition of legality, supply chain controls that track wood and prevent legal products from mixing with illegal or unverified products, and describes procedures for verifying compliance with both the legality definition and supply chain controls.

Timber legality assurance systems incorporate powerful safeguards, such as independent audits that work to International Organization for Standardization (ISO) standards to detect system failures. Independent auditors report to VPA joint implementation committees. In many VPA countries, civil society also plays a crucial role in carrying out independent observation in the field and informing decision makers on potential fraud and system loopholes.

FLEGT licensing cannot begin until the EU and the VPA partner country have confirmed, through a joint independent assessment, that the country’s timber legality assurance system functions as described in the VPA.

**FLEGT-licensed timber products**

**Are FLEGT-licensed products available in the EU?**

Indonesia started issuing FLEGT licences on 15 November 2016. Thus, all shipments of timber products listed in the amended annex I of the VPA, and exported from Indonesia to the EU, must be FLEGT-licensed. For more information on Indonesian FLEGT licences, [click here](#).

**What timber products do FLEGT licences cover?**

FLEGT licences cover timber products exported to the EU and listed in the annex on product scope of a Voluntary Partnership Agreement between the EU and a partner country outside the EU. Logs, sawn timber, plywood, veneer and railroad sleepers are the minimum products that are covered in all VPAs. In addition, VPA countries have included many other products in the scope of their VPAs, such as fuel wood, packing cases, builders’ joinery and carpentry of wood, pulp and paper, and furniture. Some VPA product scopes are exceeding the product categories for which the EU Timber Regulation (EUTR) requires due diligence. Some VPAs also list products that cannot be exported from the VPA country and so can never be FLEGT-licensed.

You can check the products covered by the EUTR [here](#).

You can download concluded VPAs and consult their annexes on product scope [here](#).

Please note that the product scope of Indonesia’s VPA changed after the EU and Indonesia ratified the VPA. The revised annex on product scope is [here](#).
What happens if the timber products I want to buy and place on the EU market are not covered by a FLEGT licence?

If the products you want to place on the EU market are from a VPA partner country that is issuing FLEGT licences, and if these products are listed in the product scope of the VPA but are not covered accompanied by a FLEGT licence, then you are not allowed to import place these products on the market.

If the products you want to place on the EU market are outside the product scope of the VPA, or if they come from a VPA country that has not yet started FLEGT licensing, or they come from a non-VPA country, they can enter the EU market, but you will need to exercise due diligence as required by the EU Timber Regulation (EUTR) if those products are covered by the EUTR.

Operators — defined as any natural or legal person that places timber or timber products on the EU market— must exercise due diligence when placing for the first time on the EU market timber and timber products covered by the EUTR. The EUTR prohibits the placing on the EU market of illegally harvested timber or timber products derived from such timber.

How will a consumer recognise a FLEGT-licensed timber product?

FLEGT-licensed timber products are not distinguished by a brand, logo or label that customers can recognise. This is because FLEGT licences are documents issued for each export consignment. They are not customer certificates. Once a country begins FLEGT licensing, the EU will only accept FLEGT-licensed imports from that country, for the product types falling within the scope of that country’s FLEGT Voluntary Partnership Agreement with the EU. Therefore, there is no need for a consumer certificate or logo. However, it is possible for consumers to ask for products that come from partner countries that issue FLEGT licences. In this way consumers can contribute to the efforts aiming at combating illegal logging and promoting sustainable management of forests.

Does FLEGT-licensed timber lose its FLEGT licence if processed in another country? For example, if FLEGT-licensed timber from Indonesia is exported to China, where it is processed into tables and re-exported to the EU, would the tables still be FLEGT-licensed?

If the ‘processing country’ does not also issue FLEGT licences, then the products manufactured with FLEGT-licensed timber in the processing country cannot be FLEGT licensed. For example, tables made in China from Indonesian FLEGT-licensed timber and exported to the EU would not be FLEGT-licensed products. Operators in the EU who place such products on the market for the first time can refer, in their due diligence under the EU Timber Regulation (EUTR), to the FLEGT-licensed status of some or all of the raw materials and to the supply chain controls in the country of harvest. Any process in a non-VPA third country must be covered by the due diligence, as required under the EUTR.
If FLEGT-licensed timber is transported to the EU from a VPA country through a third country such as China, is the validity of the FLEGT licence affected?

If the FLEGT-licensed shipment is only transported through China, and does not become mixed with any other products while it is in China, the validity of the FLEGT licence is not affected.

Voluntary Partnership Agreements

What is a Voluntary Partnership Agreement?

A Voluntary Partnership Agreement (VPA) is a legally binding trade agreement between the EU and a timber-exporting country outside the EU. A VPA aims to ensure that all timber and timber products destined for the EU market from a partner country comply with the relevant laws of that country.

When a VPA partner country has implemented a timber legality assurance system and other measures set out in the VPA it will be able to issue FLEGT licences for timber products that are verified to be legal. Timber and timber products covered by a valid FLEGT-licence automatically comply with the requirements of the EU Timber Regulation (EUTR), which prohibits EU operators from placing illegally harvested timber and timber products on the EU market.

VPAs promote trade in legal timber and address illegality by improving forest governance and law enforcement.

Which countries have a Voluntary Partnership Agreement?

Six countries have ratified Voluntary Partnership Agreements (VPAs) with the EU. These are Cameroon, Central African Republic, Ghana, Liberia, Indonesia and the Republic of the Congo. Indonesia was the first country to issue FLEGT licences, from November 2016.

Nine countries are negotiating Voluntary Partnership Agreements with the EU. These are Côte d’Ivoire, the Democratic Republic of the Congo, Gabon, Guyana, Honduras, Laos, Malaysia, Thailand and Vietnam.

You can download the concluded VPAs here.

EU Timber Regulation

What is the EU Timber Regulation?

The EU Timber Regulation (EUTR) is part of the European Union’s policy to combat illegal logging and associated trade. It prohibits the placing on the EU market of illegally harvested timber or timber products derived from such timber. The EUTR requires ‘operators’ who place timber or timber products on the EU market for the first time to exercise due diligence to ensure that timber and timber products are legally harvested. To facilitate the traceability of timber and timber products, the EUTR also requires ‘traders’ who buy or sell timber products in the EU to keep records of their suppliers and customers.
For more information, visit our EUTR webpage.

I am an EU-based operator. Why should I prefer to buy FLEGT Licensed timber products?

FLEGT licensed timber meets the due diligence requirements of the EU Timber Regulation (EUTR), saving you time and money. The EUTR requires that operators exercise due diligence when placing timber or timber products on the market. Exercising due diligence means undertaking a risk management exercise so as to minimise the risk of placing illegally harvested timber, or timber products containing illegally harvested timber, on the EU market. Operators in the EU do not need to exercise further due diligence on imports of FLEGT-licensed timber. For more information on the benefits of FLEGT licensed timber products, see the Information for timber buyers.

I have purchased FLEGT-licensed timber from a VPA country. Do I still have to carry out due diligence under the EU Timber Regulation?

No. Timber and timber products covered by a valid FLEGT licences are considered to comply with the requirements of the EU Timber Regulation (EUTR) and thus you do not need to exercise further due diligence.

I purchased goods from a VPA country before it started FLEGT licensing. Do I need a FLEGT licence before placing these goods on the EU market?

No. The FLEGT licence becomes mandatory only after FLEGT licensing in the partner country has officially started. However, please check if your timber products fall under the EUTR’s product scope. If so, this means you are responsible for checking the legality of the goods and must be able to demonstrate that you have exercised due diligence before placing them on the EU market.

EU import procedures for FLEGT-licensed products

What is the procedure in the EU for handling FLEGT-licensed products?

Each FLEGT Voluntary Partnership Agreement (VPA) between the EU and a timber producing country includes an annex that describes EU procedures for the release for free circulation of FLEGT-licensed timber products. The annex explains EU border control measures and describes the procedures that ‘Competent Authorities’ in EU Member States will follow when a shipment of FLEGT-licensed timber or timber products arrives from a VPA partner country.

The procedures are based on the requirements of the EU Forest Law Enforcement Governance and Trade (FLEGT) Regulation of 2005 and its Implementing Regulation of 2008. Under these regulations, once a VPA country starts FLEGT licensing, Competent Authorities in EU Member States must verify that consignments of timber from the VPA partner country are covered by valid FLEGT licences, if the products fall within the VPA’s product scope. If such products are not covered by a valid FLEGT licence, the competent authorities will not permit their import to the EU.
The VPA annex on EU procedures for imports of FLEGT-licensed timber products describes the two kinds of checks that Competent Authorities do:

- **Documentary checks** to ensure FLEGT licences are in the correct format, and have the correct date and are valid and authentic.

- **Physical checks**, according to the normal procedures of customs authorities in EU Member States, to ensure shipments conform with the accompanying licences.

In case of doubts about whether a shipment conforms to its corresponding FLEGT licence, the Competent Authority concerned can seek further clarification from the VPA partner country. The release of a shipment could be suspended and the shipment detained if there are doubts regarding the validity of the FLEGT licence.

You can download each ratified VPA and read the annex on EU procedures [here](#).

**Are there consequences for an EU operator if they place FLEGT-licensed products on the market but later learn, through NGO reports for example, that the products originated from illegal sources?**

If the operator has placed the products on the market without knowledge of their illegality or reason to suspect illegality, it can be recognised that the operator acted in good faith. However, if competent authorities have evidence that the operator was aware of the illegality, there may be penalties for the operator.

The purpose of a FLEGT licence is to provide an assurance that products have been verified as legal. If timber products receive a FLEGT licence but are later shown to be illegal, the FLEGT licensing authority should revoke the licence. If anyone suspects or knows that illegal products have been given FLEGT licences they should contact the Competent Authorities in the recipient EU Member State and the FLEGT licensing authorities in the exporting country.

**What is the process if customs prevent an EU operator from placing timber on the market because of a problem with a FLEGT licence? If there are costs, who pays?**

Normal customs procedures will apply. If the FLEGT licence is not consistent with the shipment, any costs will be borne by the importer, except where the EU Member State concerned determines otherwise (Art. 5 para. 7 of Reg. 2173/2005). Importers should check the relevant Member State’s legislation. The onus is on importers to ensure all their documents are in order and ready for checks by customs. In the case of routine checks by customs in the absence of problems with a FLEGT licence, the related costs will be borne by customs.

**Do operators need to send each FLEGT licence to their Competent Authority? When and how should they do this?**

Yes, operators need to submit the hard copy of the FLEGT licence marked 'original' to the Competent Authority. This can take place as soon as the FLEGT licensing authority has issued the licence and the details are confirmed in the export declaration in the country of dispatch. Operators in EU Member States therefore do not need to wait until the shipment
has reached the EU before sending copies of FLEGT licences to Competent Authorities. Please also check the relevant Member State’s legislation (or the Competent Authority) for the exact procedure to be followed.

An IT system (FLEGIT) will enable EU operators to submit a FLEGT licence to the Competent Authority for verification by entering all the licence’s elements electronically. The advantage of FLEGIT is that it allows national Competent Authorities to check and verify FLEGT licences quickly and also enables Customs authorities to check the licence validity and release the shipment for free circulation quickly. FLEGIT has been developed as a component of the TRACES (TRAde Control and Expert System).

Operators in EU Member States that have set up a national site for submitting FLEGT licences electronically should only use the national site. All operators who submit FLEGT licences electronically must also submit the hard copy of the FLEGT licence marked ‘original’ to their Competent Authority.

What is the status of timber products that are already on their way to the EU when FLEGT licensing starts and which therefore lack FLEGT licences?

Timber products exported to the EU from Indonesia on or after 15 November 2016 must have a FLEGT licence. If such products lack FLEGT licences, authorities in EU member states will not allow the products to enter the market. Timber products exported from Indonesia before 15 November 2016, and so lacking FLEGT licences, are permitted to enter the EU after that date. However, for such products, the due diligence requirements of the EU Timber Regulation still apply.

EU FLEGIT Competent Authorities

What are the FLEGIT Competent Authorities and how can I find them?

FLEGIT Competent Authorities are the authorities in EU Member States responsible for verifying FLEGT licences, as set out in the EU FLEGIT Regulation.

A list of FLEGIT Competent Authorities in each Member State can be found here.

In many EU Member States, a single Competent Authority is responsible for both the EU Timber Regulation (EUTR) and the FLEGIT Regulation. Other Member States divide responsibilities for implementing the EUTR and the FLEGIT Regulation between two Competent Authorities.

EUTR Competent Authorities

What are the EUTR Competent Authorities and how can I find them?

The EUTR Competent Authorities are the authorities in EU Member States responsible for implementation of the EU Timber Regulation (EUTR). You can find the list of EUTR Competent Authorities here.
In many EU Member States, a single Competent Authority is responsible for both the EUTR and the FLEGT Regulation. Other Member States divide responsibilities for implementing the EUTR and the FLEGT Regulation between two Competent Authorities.

Shipments

What does a FLEGT licence cover? One shipment? One container?

As stipulated in the FLEGT Regulation, a FLEGT licence covers a single shipment. Note that a shipment is covered by a single Import Declaration in the EU but may include several containers.

Do shipments that are split among operators require multiple FLEGT licences?

The number of FLEGT licences required depends on when the shipment is split. According to the definition of ‘shipment’ in the FLEGT Implementing Regulation (Regulation 1024/2008), one single FLEGT licence should not be declared to more than one customs office in the EU. And one single FLEGT licence should not correspond to more than one customs declaration. If the shipment splits before export, the initial FLEGT licence should be cancelled and new ones should be issued for each new split part of the shipment.

If the split takes place after the shipment has left the country of export, the importer for whom the FLEGT licence has been issued should declare the entire shipment and then to proceed to split the shipment with the other operators. If the operator splits the shipment before declaring it at EU customs, information contained in the FLEGT licence and the shipment(s) will not match. In this case, the EU FLEGT Competent Authorities will not release this shipment for free circulation in the EU.

Can a single FLEGT licence cover multiple containers?

Yes. The FLEGT Regulation requires that a FLEGT licence covers only one shipment but one shipment may include several containers. If, for instance, 20 containers are covered by a single Bill of Lading or purchase order, a single FLEGT licence is sufficient provided it displays all the required information related to the products being shipped in the 20 containers. In theory, one FLEGT licence could cover several containers shipped on different vessels and arriving at different times in the EU. However, this would be impractical as despite arriving in different ports, these containers would have to be declared to the same EU customs office in one single Import Declaration.

Can the country of custom clearance differ from the country of destination indicated in a FLEGT licence?

The European Union is one customs area, and the country of destination and the country where customs is cleared can be different. For example, a shipment listing a trading company operating in the port of Hamburg in Germany as destination could be customs cleared in Austria. So information on the FLEGT licence regarding the country of destination is indicative, and only for use by the exporting authorities.
**Forest certification**

**What is forest certification?**

Forest certification is a voluntary process. An independent third party — the certifier or certification body — assesses the quality of forest management and production against a set of requirements called ‘standards’ predetermined by a certification organisation. Forest certification, and associated labelling, informs consumers about the sustainable management of the forests from which timber and other forest products were produced and/or the legality of the products.

**How is forest certification different to FLEGT licensing?**

FLEGT licensing and forest certification schemes are complementary initiatives that work at different scales. FLEGT licensing operates at the national scale, while certification operates at the scale of the forest management unit. Certification is a voluntary initiative that companies can choose or decline to undertake. In contrast, FLEGT licensing and related legality verification are compulsory and apply across entire countries.

FLEGT-licensed timber meets all the requirements of VPAs and the EU Timber Regulation (EUTR), and therefore is automatically considered legal. Certification, on the other hand, helps companies to exercise due diligence but is not automatically a proof of legality. It assists with compliance with the requirements of the EU Timber Regulation but does not replace a FLEGT licence.

Under the EUTR, certification schemes are not considered as a proof of legally harvested timber, but they can contribute to meeting the due diligence requirement.

Forest certification standards targeting at sustainable forest management however can be more far-reaching than legality definitions under VPAs.

**Why do I need a FLEGT licence when my company is already certified by a certification body?**

FLEGT licences are a legal requirement for all imports into the EU of shipments of timber products listed in the VPA of a partner country that has started FLEGT licensing. Imports into the EU of such timber products exported by a partner country will be prohibited unless the shipment is covered by a valid FLEGT licence.

**Reporting problems**

There seems to be a mismatch between information on the FLEGT licence and information on the Bill of Lading or Import Declaration. What should I do?

The information on the Import Declaration should match the information on the FLEGT licence. A discrepancy between information on the FLEGT licence and information on the Bill of Lading may trigger the EU Competent Authorities to hold the shipment until the discrepancy is resolved.
The FLEGT Regulation allows for a 10% discrepancy between the weight or volume of the shipment and the weight or volume declared in the FLEGT licence. If the discrepancy exceeds 10% or if other information is inconsistent, EU Competent Authorities will not release the shipment and will seek information from the VPA partner country.

If you identify such a discrepancy after the shipment has been cleared for release for free circulation, you can contact the Competent Authority in charge of implementing the FLEGT Regulation in the country where the shipment has been imported and the Competent Authority in your country, if it is not the same.

4.2.3.5.3. FLEGT licences from Indonesia

On 15 November 2016, Indonesia started issuing FLEGT licences to verified legal products it exports to the EU. This page provides background information on Indonesian FLEGT licences, links to more information and answers to frequently asked questions.

Background

Since 2001, Indonesia has made great progress in its efforts to eliminate illegal logging, including by developing and improving a national timber legality assurance system called SVLK.

Between 2007 and 2011, Indonesia and the EU negotiated a Voluntary Partnership Agreement (VPA) to promote trade in legal timber products and improve forest governance. The VPA process provided significant opportunities to improve the SVLK.

In 2014 the two parties ratified the agreement and began implementing the VPA commitments. In 2016, the EU and Indonesia confirmed that Indonesia had met the final requirements of the VPA, and Indonesia began issuing FLEGT licences on 15 November 2016. Now that FLEGT licensing is operational, and for product types listed in the VPA’s revised Annex I, Indonesia exports to the EU only verified legal timber products accompanied by FLEGT licences.

Indonesia’s FLEGT licensed products are deemed to comply with requirements of the EU Timber Regulation. This means EU-based operators do not need to do further due diligence before placing FLEGT-licensed products on the market. Since 15 November 2016, products listed in the VPA’s revised annex I can no longer enter the EU unless they have a FLEGT licence.

An Indonesia-EU Joint Implementation Committee oversees implementation of the VPA and responds to any concerns as they arise. Implementation therefore improves as it proceeds.
Frequently asked questions for FLEGT licences from Indonesia

FLEGT-licensed products from Indonesia

When will Indonesia begin shipping FLEGT-licensed products?

Indonesia began shipping FLEGT-licensed products on 15 November 2016. Products covered by Indonesia’s timber legality assurance system and issued with export licences after 15 November 2016 must be accompanied by FLEGT licences, not V-Legal Documents, if they are exported to the EU.

What products does the Indonesian FLEGT-licensing scheme cover? How do the types of products compare with the types of products covered by the EU Timber Regulation?

Products covered by the Indonesian FLEGT licensing scheme include all those for which the EU Timber Regulation (EUTR) requires due diligence. You can check the products covered by the EUTR [here](#).

In addition to the minimum requirements of the product scope of a VPA, the Indonesian FLEGT licensing scheme also covers furniture, fuel wood, wooden tools, wooden packing material, builders’ joinery and carpentry of wood, wood pulp, paper and paper products, kitchen and tableware, and other products. See the [revised Annex I](#) of the Indonesia-EU Voluntary Partnership Agreement (VPA) for details.

The VPA also describes products that cannot be legally exported from Indonesia, such as logs and large dimension sawn timber. These products cannot be FLEGT licensed.

Products made from rattan or bamboo (non-wooden materials), or paper made from recycled material, are excluded from the VPA and the FLEGT licensing scheme because they are not covered by the timber legality assurance system. Note, however, that products from rattan or bamboo can fall under the scope of the EUTR.

Do I need a FLEGT licence for products I want to bring to the EU but do not intend to sell on the EU market (for example – a sample I want to show in an exhibition)?

Yes, if the product is of a type covered by the Indonesia-EU Voluntary Partnership Agreement (VPA) and listed in [Annex I of the VPA](#), you will need a FLEGT licence. Such products cannot be exported from Indonesia without a FLEGT licence.

I have purchased some Indonesian products but they are not FLEGT licensed. What should I do?

If your products left Indonesia before 15 November 2016, when FLEGT licensing began, they should not have a FLEGT licence. If the products fall under the scope of the EU Timber Regulation (EUTR), you must conduct due diligence, as required by EUTR, before placing them on the EU market.
Competent authorities in EU Member States will require FLEGT licences only for shipments of products listed in the Indonesia-EU Voluntary Partnership Agreement (VPA) that leave Indonesia after the start of FLEGT licensing, which began on 15 November 2016.

The authorities will permit products accompanied by a valid FLEGT licence to enter the EU market. They will not allow such products to enter the market without a FLEGT licence.

Each EU Member State is responsible for setting up a mechanism to prevent the entry of unlicensed timber from VPA partner countries that have started FLEGT licensing. A standard annex to VPAs, Annex III in the Indonesian VPA, describes the EU procedures for verifying FLEGT licences, as set out in the FLEGT Regulation of 2005.

For products exported from Indonesia after 15 November 2016, your supplier or commercial partner should provide you with a FLEGT licence if the products are included in the product scope of the VPA.

If raw material used to make a product is harvested in Thailand or Malaysia, for example, and then imported to Indonesia and made into the final product and exported to the EU, could this final product be covered by a FLEGT licence?

Yes. The Indonesian importer has to ensure that the wood they imports into Indonesia comes from legal sources. This applies for the product scope of the VPA, including logs and sawn timber. To demonstrate legality the importer conducts due diligence, before import, using the Ministry of Environment and Forestry’s SILK system to upload relevant documentation. The Ministry of Environment and Forestry checks on the due diligence applied and, if satisfied, issues an import recommendation to the Ministry of Trade.

The final product will be FLEGT licensed if (i) the product is covered by Annex I of the VPA, (ii) the exporter holds an SVLK certificate, and (iii) the exporter can demonstrate the legality of the sources in their supply chain, including imports.

All product types listed in Annex I of the VPA, and exported to the EU, will be FLEGT-licensed. Products that are not listed in Annex I of the VPA will not require a FLEGT licence for export to the EU. For such products, the EU Timber Regulation will apply.

Can Indonesian bamboo and rattan products be FLEGT-licensed or does the EU Timber Regulation apply if EU operators want to place such products on the market?

Indonesia’s timber legality assurance system (SVLK) does not apply to bamboo and rattan. Products made from these materials therefore do not receive FLEGT licences when exported to the EU.

Bamboo and rattan may, however, be contained in composite products that are classified — in accordance with the applicable provisions of the International Convention on the Harmonised System (HS Convention) and the General Rules for the Interpretation (GIR) of the Harmonised System — under HS codes that fall under the product scope of the VPA (e.g. products made both from wood and bamboo or rattan). In such cases, the products would not be classified as bamboo/rattan and would require a FLEGT licence.
The EU Timber Regulation (EUTR) applies to bamboo and rattan products included in HS Codes that are listed in the Annex to the EUTR, unless they are explicitly excluded in the Annex to the EUTR.

For example, the EUTR excludes pulp and paper (HS codes 47 and 48) made from bamboo-based and recovered products, and does not apply to bamboo products, such as bamboo primarily used for plaiting, in the rough, whether or not split, sawn lengthwise or cut to length (HS Code 1401 that is not listed in the Annex to the EUTR).

However, the EUTR does cover bamboo and rattan in some products included in HS code 44, such as flooring. EU operators who wish to place such products on the EU market must therefore apply due diligence.

Are Indonesia’s Harmonized System Codes the same as European Customs (HS) codes?

Annex I of the Indonesia-EU Voluntary Partnership Agreement (VPA) details the scope of products the agreement covers. The annex specifies the Customs HS codes of products, according to the World Customs Organization (WCO) HS code system. FLEGT licences will display the four or six-digit HS codes stipulated in the annex.

EU and Indonesian HS Codes are the same to the level of six-digits. Indonesia operates an internal system of 10 digits which is different from the EU system.

See the [revised Annex I](#) of the Indonesia-EU Voluntary Partnership Agreement (VPA) for a full overview of the product coverage and their HS codes.

In Annex III to FLEGT Regulation (Regulation (EC) No 2173/2005 several HS codes of timber and timber products covered under the FLEGT Licensing Scheme are preceded by "ex" and some of them are prohibited from export from Indonesia. What does "ex" mean? When do I need a FLEGT Licence for timber products in ex codes?

The prefix "ex" (or "ex-out") means "out of". When applied to an HS code, “ex” indicates that this code contains only part of the referenced subheading, as specified in the description. In other words the prefix "ex" is used to specify which parts of a given code are included.

Therefore whenever the prefix "ex" is applied to an HS code, it means that only some timber products or products that respond to a certain specification (e.g. specific thickness or other characteristics provided for in the description – see examples below) are covered by the FLEGT Licensing scheme.

It should be noted that for certain ex HS codes (see example of ex 4407 below), the description may also clarify that while the timber products are covered by the FLEGT licensing scheme, they are prohibited from export according to Indonesian law and therefore they cannot be FLEGT licenced and they may not be imported into the EU.
Examples:

1) "Ex" HS codes used to implement the log export ban in accordance with Indonesian legislation

The entire range of products under HS 4407 (Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm) is covered by the FLEGT licensing scheme. However some products cannot be exported from Indonesia –due to current export prohibition. Hence, such products cannot be FLEGT-licensed and may not imported to the EU. The prefix "ex" is used to separate two categories of products for which there are different licensing implications. These are expressed as follows:

a) ex 4407: Wood sawn or chipped lengthwise, sliced or peeled, planed, sanded or end jointed, of a thickness exceeding 6 mm. For timber products falling under this ex code a FLEGT licence is always required.

b) ex 4407: Wood sawn or chipped lengthwise, sliced or peeled, not planed, not sanded or not end jointed, of a thickness exceeding 6 mm. (Prohibited from export under the Indonesian law. In line with Article 3(3) of the VPA, products under this HS code may not be FLEGT-licensed and therefore may not be imported into the EU). These timber products are covered by the FLEGT licensing scheme but they cannot be FLEGT-licensed due to the current export prohibition under the Indonesian law and may not be imported into the EU.

2) "Ex" HS codes used to exclude products made from bamboo and rattan from the scope of application of the FLEGT licensing scheme

For a number of HS codes, specific sub-headings that identify products made from non-wooden materials such as bamboo and rattan do not exist. Since these non-wooden materials are not covered by the Indonesian Timber Legality Assurance System, they have been explicitly excluded from the scope of application using the prefix "ex". For example, under the Code ex 4419 "Tableware and kitchenware, of wood (not from bamboo and rattan)", all products made of wood are covered by the FLEGT licensing scheme, while the ones made from bamboo and rattan are excluded from the FLEGT licensing scheme:

a) ex 4419: tableware and kitchenware made of wood. For such products, a FLEGT licence is always required.

b) ex 4419: tableware and kitchenware made from bamboo or rattan. For such products, no FLEGT licence is required.

3) "Ex" HS codes used to exclude paper products made from non-wooden or recycled material from the scope of application of the FLEGT licensing scheme

Paper products made from non-wooden or recycled material are excluded from the scope of application of the FLEGT licensing scheme, but Indonesian legislation requires that any shipment of such products to be covered by a letter by the Indonesian Ministry of Industry confirming use of these materials. This applies to all products from chapter 48 which are
included in Annex III to FLEGT Regulation (Regulation (EC) No 2173/2005. For example, under the Code ex 4802 "Uncoated paper and paperboard, of a kind used for writing, printing or other graphic purposes, and non-perforated punch cards and punch tape paper, in rolls or rectangular (including square) sheets, of any size, other than paper of heading 4801 or 4803; hand-made paper and paperboard (not from non-wooden nor recycled material*), products made from wood are covered by the FLEGT licensing scheme, while products from non-wooden or recycled material are excluded from the FLEGT licensing scheme:

a) ex 4802: Uncoated paper and paperboard, of a kind used for writing, printing or other graphic purposes, and non-perforated punch cards and punch tape paper, in rolls or rectangular (including square) sheets, of any size, other than paper of heading 4801 or 4803; hand-made paper and paperboard. For such products, a FLEGT licence is always required.

b) ex 4802: Uncoated paper and paperboard, of a kind used for writing, printing or other graphic purposes, and non-perforated punch cards and punch tape paper, in rolls or rectangular (including square) sheets, of any size, other than paper of heading 4801 or 4803; hand-made paper and paperboard made from non-wooden or recycled material. For such products, no FLEGT licence is required. For such products, a letter by the Indonesian Ministry of Industry confirming use of these materials is required for export from Indonesia.

*Note: Paper products originating from non-wooden or recycled material are accompanied by a formal letter from the Indonesian Ministry of Industry validating the use of non-wooden or recycled materials. Such products will not be FLEGT-licensed.

How do I know whether a composite furniture product made from wood and non-wooden material needs a FLEGT licence?

The FLEGT licensing scheme is HS code based. For an HS code that is covered by the product scope of the VPA – listed in Annex I of the VPA – a FLEGT licence is needed for each shipment to the EU. The VPA Annex is mirrored in Indonesia’s export regulations.

Concerning composite furniture products made from wood / non-wooden material, the Indonesian Ministry for Environment and Forestry confirmed in February 2017 that HS codes for exported products are proposed by an exporter, based on BTKI 2017 (the Indonesian HS Codes referring to the World Customs Organisation).

The exporter has to consider the dominant materials of the composite furniture product or highest value of material that is used in the fabrication of a given product. So only if wood is the dominant or highest value material in the product, the proposed HS code (confirmed by Indonesian customs) refers to wood. A FLEGT licence is needed if the chosen HS code for a wooden furniture product belongs to the product scope of the VPA. The HS codes under furniture that require a FLEGT licence are (using IDN’s 8 digit classification):

9401.61.00
9401.69.10
9401.69.90
SVLK – Indonesia’s timber legality assurance system

What is SVLK?

SVLK (Sistem Verificasi Legalitas Kayu) is the acronym of Indonesia’s national timber legality assurance system, which is a mandatory legality and sustainability certification system built on a national multi-stakeholder consensus.

Is SVLK enough to prove the legality of the wood?

Yes. Under Indonesian law, SVLK certification and related documents (SVLK certificates and export licences called V-Legal Documents) constitute proof of legality for Indonesian timber products. Until the start of FLEGT licensing, Indonesian products with a V-Legal Document that are exported to the EU will have to go through the normal due diligence process under the EU Timber Regulation (EUTR). Once FLEGT licensing starts, FLEGT-licensed products will be considered comply with the EUTR requirements, meaning that no due diligence is required.

V-Legal Documents

What is a V-Legal Document?

V-Legal Documents are Indonesian export licences attesting legality. When the timber legality assurance system is fully working as described in the Indonesia-EU Voluntary Partnership Agreement (VPA), Indonesia will issue V-Legal Documents as FLEGT licences for timber bound for the EU.

Companies that comply with the timber legality assurance system (SVLK) need to attach a V-Legal Document to their consignments for export to any international market. The V-Legal Document specifies that the timber products being shipped comply with the legality and/or sustainability standard and the supply chain control requirements as stipulated in Indonesian regulations and the VPA. Thus the V-Legal Document provides assurance that timber or timber products are legal. V-Legal Documents are issued by bodies authorised by the Indonesian government to act as licensing authorities.

For products covered by the VPA, the FLEGT licence will replace the V-Legal Document for exports to the EU when Indonesia begins FLEGT licensing.

What does a FLEGT licence from Indonesia look like and how does it differ from a V-Legal Document? Does a FLEGT licence replace a V-Legal Document?

The FLEGT licence looks like the template in Annex IV of the Indonesia-EU Voluntary Partnership Agreement (VPA). It looks similar to the V-Legal Document, but has ‘FLEG
licence’ clearly stated on the top right of the licence, in the box marked 'B'. The FLEGT licence will replace the V-Legal Document for exports to the EU when Indonesia begins FLEGT licensing. V-Legal Documents will be issued for exports to other markets for the products covered in the VPA. Indonesia has developed an annex to the FLEGT licence that will be used if more than one product is shipped under one licence.

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Indonesia already has SVLK legality certification and export licences called V-Legal Documents. How do these relate to FLEGT licences? Are FLEGT licences better than V-Legal Documents?

Indonesia’s timber legality assurance system (SVLK) has been in force since 2013 and applies to all Indonesian operators and timber products. Before FLEGT licensing starts, the SVLK allows legality verification and attests to the legality of all Indonesian timber and timber products through the issuance of SVLK legality certificates and V-Legal Documents for exports.

Under Indonesian law, SVLK certification and V-Legal Documents constitute a proof of legality for Indonesian timber products. A FLEGT licence will attest to the legality of Indonesian timber in exactly the same way as a V-Legal Document.

When Indonesia begins to issue FLEGT licences, they will replace V-Legal Documents for all exports to the EU of product types listed in the revised Annex I of the Indonesia-EU Voluntary Partnership Agreement (VPA).

Indonesia will issue V-Legal Documents for exports to non-EU markets for the products covered in the VPA.

The Indonesia-EU VPA Joint Implementation Committee serves as a joint monitoring and decision making body. The Joint Implementation Committee responds to any problems stakeholders bring to its attention, thereby contributing to continual improvement of VPA implementation.

**Indonesian FLEGT licensing procedures**

*When are FLEGT licences issued?*

FLEGT licences are issued at the point at which the consignment is consolidated prior to export.

*How are FLEGT licences issued?*

FLEGT licensing authorities are independent organisations registered with the Ministry of Environment and Forestry, which lists them on the SILK website.

The licensing authorities issue FLEGT licences to accompany consignments of verified legal timber that registered operators with valid legality certificates wish to export to the EU. FLEGT licences are issued at the point at which the consignment is consolidated prior to export.

What follows is a summary of the procedure. For full details, consult the revised Annex V of the Indonesia-EU Voluntary Partnership Agreement (VPA).

To obtain a FLEGT licence, the exporter applies in writing to the licensing authority with which it holds a contract. The exporter attaches the following documents to demonstrate that the timber raw materials in the product originate only from verified legal sources:
A summary of the transport documents for all timber/raw materials received by the factory since the last audit (up to maximum of 12 months)

Summaries of Timber/Raw Material Balance-Sheet Report, and Processed Timber Balance-Sheet Report since the last audit (up to maximum of 12 months)

The licensing authority verifies the validity of the operator’s legality certificate by reconciling the data provided and, where necessary, conducting a field visit to ensure consistency with the information to be specified in the FLEGT licence.

For the licensing authority to issue a FLEGT licence, all suppliers in the exporter's supply chain that make up the consignment must have been covered by a valid legality or sustainable forest management certificate, or a Suppliers Declaration of Conformity (SDoC).

If the operator complies with legality and supply chain requirements, the licensing authority issues a FLEGT licence in the format presented in Annex IV of the VPA.

If an operator does not comply with the legality and supply chain requirements, the licensing authority will issue a non-compliance report instead of a FLEGT licence. The non-compliance report halts the movement of the related timber and/or timber products.

Indonesia follows the same procedure to issue V-Legal Documents for exports to non-EU markets for the products covered in the VPA.

The licensing authority registers each FLEGT licence in the Ministry of Environment and Forestry’s SILK system, which is linked to Indonesia’s online trade and customs systems to allow for fast approval of export and clearance of consignments. Competent authorities in EU Member States have access to SILK, as regulated in the VPA.

Who are the licensing authorities?

Licensing authorities are independent organisations registered with the Ministry of Environment and Forestry, which lists them on the SILK website.

Independent private certification bodies, called conformity assessment bodies (CABs), are accredited by the National Accreditation Committee (KAN) and mandated by the Ministry of Environment and Forestry to carry out legality verification functions nationwide. By June 2016, 22 of the CABs had also been accredited and mandated as licensing authorities.

The licensing authorities issue their customers (exporting companies) with V-Legal Documents, and in future will issue FLEGT licences, to accompany shipments of verified legal timber products exported to the EU. The licensing authorities are supervised by the Ministry of Environment and Forestry, and use the SILK online information management system managed by the Licence Information Unit (LIU).

What is the Licence Information Unit?

The LIU is a service of the Ministry of Environment and Forestry in charge of overseeing the licensing function. In the case of questions about a licence or a licensing authority, the LIU is the main source of information in Indonesia. Visit the SILK website for information on the
licensing authorities and V-Legal Documents (and in future FLEGT licences) that have been issued.

How long does it take Indonesia to issue a FLEGT licence following an application from an exporter?

The lead time is three days for a licensing authority to issue a FLEGT licence after an application by an exporter, as set out in the SVLK Guidelines. Note that the licensing authority can only issue export licences (V-Legal Documents or FLEGT licences) to exporters that are SVLK certified.

For how long do FLEGT licences remain valid?

A FLEGT Licence is valid for four months after its issuance by Indonesian licensing authorities. EU-based operators should therefore send FLEGT licences to their Competent Authorities as soon as possible after they have FLEGT licences from the exporters.

Is the FLEGT licence issued at the same time as the Bill of Lading?

A FLEGT licence or V-Legal Document is issued just before products are loaded into containers, which are then sealed. This is not necessarily at the same time that the Bill of Lading is issued. Note that the invoice number/reference information is among the mandatory pieces of information that appear in a FLEGT licence or V-Legal Document. A customs-approved Export Declaration (‘Pemberitahuan Ekspor Barang’ or PEB) features the following mandatory information: (a) the FLEGT licence/V-Legal Document number; (b) the Invoice number/reference; and (c) the Bill of Lading number.

Do the mills I source from in Indonesia need to have a SVLK certificate in order to apply for their FLEGT licence?

Yes. Before the start of FLEGT licensing, Indonesian exporters need to have a valid ‘SVLK certificate’ to apply for their V-Legal Document, which is an export licence. For exports to the EU, the V-Legal Document will be ‘replaced’ by a FLEGT licence when Indonesia begins FLEGT licensing. Indonesian exporters will then need to have a valid ‘SVLK certificate’ to apply for their FLEGT licence.

SVLK certification does not automatically mean that a company can get a V-Legal Document of FLEGT Licence. This is because, while the SVLK certificate certifies the company, the V-Legal Document or FLEGT licence is shipment based. To issue a FLEGT licence, the licensing authority will check whether its client has the SVLK certificate and whether products and production figures are consistent.

What is the status of timber products that are already on their way to the EU when FLEGT licensing starts and which therefore lack FLEGT licences?

Timber products exported to the EU from Indonesia on or after 15 November 2016 must have a FLEGT licence. If such products lack FLEGT licences, authorities in EU member states will not allow the products to enter the market. Timber products exported from Indonesia before 15 November 2016, and so lacking FLEGT licences, are permitted to enter the EU
after that date. However, for such products, the due diligence requirements of the EU Timber Regulation still apply.

What are the VPA and SVLK requirements for species declaration?

According to the VPA, if more than one species is included in a composite product, the FLEGT licensee should use a separate line in the FLEGT licence to list each species. The species declaration may be omitted for a composite product or component that contains multiple species whose identity has been lost (e.g. particle board). Under the SVLK (DG regulation P.14/PHPL/SET/4/2016, Annex 7), if a product consists of more than one species, each species needs to be listed by separating them with semicolons (;). For composite products or for products comprising of more than three species, it is sufficient to record the main species.

What happens if a shipment includes multiple products whose details cannot fit onto a single-page FLEGT licence?

Indonesia has developed an annex to the FLEGT licence that will be used if more than one product is shipped under one FLEGT licence. The annex provides details per product on HS code, scientific name, country of harvest (specifying if imported), volume or weight, and number of units. This will allow Competent Authorities in EU Member States to fulfil their reporting requirements.

What is the export procedure for Indonesian recycled/non-timber paper products that are exempted from FLEGT licensing?

In general the procedure is as follows:

1. The paper industry sends an application to the Ministry of Industry (MoI). The application lists intended products (10 digit HS codes) and production plan, loading port(s) and destination countries (can be several).
2. If the industry uses waste paper, it attaches the report of field examination by MoI’s centre for pulp and paper, or proof of its ecolabel certificate that testifies the waste paper use.
3. If the industry uses non-wood material, it attaches the report of field examination by MoI’s centre for pulp and paper, or an analysis by an independent (KAN-accredited) laboratory.
4. The MoI’s Directorate General of Forest and Plantation Based Industry checks the validity of these documents. It can conduct field checks if necessary.
5. If MoI approves the paper industry’s application, it will issue a recommendation letter to Customs that informs Customs that no V-Legal Document or FLEGT licence is required for the specific industry, product, loading port(s) and destination country/countries.
6. The recommendation is valid for one year, but only for the listed product(s), port(s), and destination(s).
7. The letter is issued in Bahasa Indonesia and English and can be used by an EU importer to inform EU Competent Authorities that a specific paper shipment is exempted from FLEGT licensing.

**EU operators and competent authorities**

How can EU Competent Authorities access information on the Indonesian FLEGT licences they receive?

EU Competent Authorities can access the SILK database managed by the Licence Information Unit (LIU) in the Ministry of Environment and Forestry and can validate any information in the licence. If specific questions arise, the Competent Authorities can contact the LIU in Indonesia directly. Competent Authorities need to sign a memorandum of understanding with the LIU. The SILK database’s list of licensing authorities is online.

How can an EU operator be sure a FLEGT licence is genuine? Will Indonesia check to ensure that its FLEGT licences are genuine? Could a licence be counterfeit?

It would be difficult to counterfeit a FLEGT licence, as a valid FLEGT licence can only be issued using the Sistem Informasi Legalitas Kayu (SILK) online system operated by Indonesia’s Licence Information Unit (LIU). The system generates a unique, secure barcode for each licence, and stores information about each licence in its database. SILK is a secure online system of the Ministry of Environment and Forestry. It connects in real time directly with the secure INATRADE online system of the Ministry of Trade, and with the National Single Window Customs system of the Ministry of Finance.

All licences are recorded in this system. Indonesian customs officials and EU Competent Authorities have direct access to the SILK system, so they can check that a licence is valid and not a counterfeit. To be valid, all the information in the FLEGT licence must match the information recorded in the SILK system. Once an EU competent authority confirms it has received a FLEGT-licensed consignment, SILK will automatically update the FLEGT licence’s record, ensuring that the same licence cannot be recorded again.

The Indonesian timber legality assurance system and the VPA also include powerful safeguards such as an independent audit (called periodic evaluation), which aims to detect any systemic failures and report them to the VPA joint implementation committee (JIC). In Indonesia civil society also plays a crucial role in carrying out independent observation (independent monitoring) and informing organisations and decision makers about potential individual frauds and system loopholes.

I want to import products that originate in Indonesia, but are first exported from Indonesia to a non-EU country where they are processed and re-exported to the EU. I understand that products covered by the VPA cannot be imported to the EU without a FLEGT licence, but also that products exported from Indonesia to non-EU markets will not carry a FLEGT licence. Can I still import such products and place them on the EU market?

If a shipment from Indonesia is first exported to a non-EU country it will be accompanied by a V-Legal Document not a FLEGT licence. It will then need to be exported from that non-EU country to the EU. Hence, the non-EU country will become the new country of dispatch and
not Indonesia. This means that the VPA does not apply, as that only covers products where the country of dispatch is Indonesia. Hence, the operator in the EU can import the product without a FLEGT licence, but is of course still obliged to conduct its due diligence as required by the EU Timber Regulation.

If my company buys from a European supplier who has already imported Indonesian wood products into the EU will we be under any obligation to provide documentation for those products?

In this scenario, your company is a ‘trader’ as defined by the EU Timber Regulation (EUTR). To meet the requirements of the EUTR, as a ‘trader’ you would need to keep records, regardless of whether the products came from Indonesia (with or without FLEGT licensing) or any other country.

**FLEGT, certification and CITES**

I export teak furniture from Indonesia to the EU. My customer asks me to use certification schemes to prove the wood is certified. Is it necessary to use such labels if I have the SVLK certificate? Can the SVLK certificate replace certificates from certification schemes and prove the timber is legal?

SVLK is the name of Indonesia’s national timber legality assurance system, which is a mandatory certification system built on a national multi-stakeholder consensus. Forest certification schemes are voluntary. Teak wood, and other timber products from plantations, are included in the scope of the SVLK, and thus must be SVLK certified, and must have V-Legal Documents or FLEGT licences to be exported from Indonesia. Exports of FLEGT-licensed timber automatically meet the requirements of the EU Timber Regulation. Some individual operators may however choose to ask for additional certification, if their purchasing policy requires proof of sustainability.

**What is the link between SVLK, FLEGT licensing and CITES in Indonesia?**

The FLEGt Regulation and existing Voluntary Partnership Agreements (VPAs) state that timber products subject to the EU Wildlife Trade Regulations (annexes A, B and C) will not undergo the procedure described for the FLEGT-licensed products at the EU border.

Nevertheless, existing VPAs apply their FLEGT legality assurance system also to species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Therefore it is possible that some CITES timber shipments are accompanied by both a CITES import permit (annexes A and B) or a CITES import notification (annex C) and a FLEGT licence.

It is recommended, in cases where a FLEGT licence is declared for CITES timber, that the relevant Competent Authorities are informed. Customs may also report irregularities regarding CITES requirements in timber from Partner Countries to the Competent Authority, aiming at facilitating the review of the provisions on CITES as indicated in Article 4(3) of the FLEGT Regulation.
If the FLEGT licence is available for Customs or Competent Authorities, irregularities in the FLEGT licence should lead to further verifications pursuing CITES compliance.

Indonesia’s exports to the EU of products from CITES-listed species need both CITES documentation and the relevant export licence, which from 15 November 2016 will be a FLEGT licence.

Indonesia’s Conformity Assessment Bodies verify CITES documentation during timber legality assurance system (SVLK) audits. The requirement is covered in the SVLK legality standards, except in the case of round logs or rough sawn timber whose export Indonesia prohibits, meaning they can never have CITES documentation nor be FLEGT-licensed.

4.2.3.5.4. FLEGT Licensing Authorities

FLEGT Licensing Authorities are the authorities in countries with Voluntary Partnership Agreements (VPAs) with the EU that are responsible for issuing FLEGT licences.

As VPA countries begin FLEGT licensing, information on their FLEGT Licensing Authorities will be added below.

Indonesia

The licensing authorities are independent organisations registered with the Ministry of Environment and Forestry, which lists them on the SILK website: http://silk.dephut.go.id/index.php/info/vlegal

In Indonesia, independent private certification bodies, called Conformity Assessment Bodies (CABs), are accredited by the National Accreditation Committee (KAN) and mandated by the Ministry of Environment and Forestry to carry out legality verification functions nationwide.

The licensing authorities are supervised by the Ministry of Environment and Forestry, and use the SILK online information management system managed by the Licence Information Unit (LIU). In the case of questions about a FLEGT licence or a licensing authority, the LIU is the main source of information in Indonesia.

4.2.3.5.5. How to communicate

The first FLEGT-licensed timber started to arrive in the European Union (EU) market at the end of 2016. The European Commission, Competent Authorities in EU Member States, timber importers and traders, producers, retailers and many others will need to provide information about FLEGT licences, FLEGT-licensed timber and FLEGT-licensed timber products. These guidelines provide definitions, terms of use, and advice for branding and communicating accurate, coherent information about FLEGT licences.
Definitions

**FLEGT**

FLEGT stands for Forest Law Enforcement, Governance and Trade. The EU FLEGT Action Plan of 2003 is the EU response to the international challenge of illegal logging.

**FLEGT licensing scheme**

A FLEGT licensing scheme is the process a Voluntary Partnership Agreement (VPA) country follows to issue FLEGT licences to shipments of verified legal timber or timber products destined for export to the European Union, and the recognition of FLEGT licences through border controls by Competent Authorities in EU Member States.

**FLEGT licence**

A FLEGT licence is a document issued by a Voluntary Partnership Agreement (VPA) partner country for timber or timber products destined for the EU market. The FLEGT licence confirms that the timber or timber products covered by that licence are legal according to relevant laws of the VPA partner country. Timber or timber products accompanied by a FLEGT licence are accepted as legal under the EU Timber Regulation (EUTR). Importers therefore do not need to apply further EUTR due diligence procedures to FLEGT-licensed timber or timber products.

**Voluntary Partnership Agreement (VPA)**

A Voluntary Partnership Agreement (VPA) is a legally binding bilateral trade agreement between the EU and a timber-exporting country outside the EU. Each VPA aims to ensure that timber and timber products imported into the EU from a partner country comply with the relevant laws of that country.

**Legally produced timber**

Legally produced timber or timber products have been harvested, imported, processed and traded according to the laws of the countries where the activities have taken place.

**Terms of use**

Communication about the FLEGT licence and FLEGT-licensed timber should comply with the following terms of use.

**Branding**

Users of the FLEGT licence throughout the supply chain, and other stakeholders communicating about issues related to FLEGT-licensed timber, should refer to the licence using only words. They should not create a trademark, logo or other visual images to represent or brand the FLEGT licence. The FLEGT licence does not have a visual identity, logo or trademark.
**Non-competitive**

All FLEGT licences are equally legal, irrespective of the country of origin. The FLEGT licence is non-competitive. It describes a specific characteristic of timber or timber products, but does not ‘brand’ them. The FLEGT licence does not compete with brands of forest management methods, timber products or third-party certification schemes, or with the brands of national timber legality assurance systems, such as the Indonesian Sistem Verifikasi Legalitas Kayu (SVLK).

The FLEGT licence indicates only that a timber product is verified as legal by the Voluntary Partnership Agreement (VPA) country that has issued the licence. While all VPA countries and producers may compete on the quality, design, species and price of their products, they cannot compete on the quality of their FLEGT licences. All FLEGT-licensed timber is considered legal; one VPA country does not produce ‘more legal’ or ‘better legal’ FLEGT-licensed timber than another VPA country.

**Acknowledgement on products**

Acknowledgement that a product uses FLEGT-licensed timber should be phrased as follows:

“This product is made of FLEGT-licensed timber from [name of VPA country].”

This acknowledgement can be used alongside branding that refers to national timber legality assurance systems, companies, and schemes assuring good forest management practices, sustainability, health and other characteristics of timber products.

**Acknowledgement in promotional materials**

Users of FLEGT-licensed timber can communicate about FLEGT-licensed timber in their promotional materials in the following way:

“Our products are made of FLEGT-licensed timber from [name of VPA country/ies]. The legality of the timber in our products is assured through [VPA country name(s)]’s national timber legality assurance system and FLEGT licensing scheme. FLEGT-licensed timber is considered to fully comply with the EU Timber Regulation. Customers who place our FLEGT-licensed timber products on the EU market do not have to undertake further due diligence.”

**Validity of FLEGT licences in markets outside the European Union**

FLEGT licences only apply to timber products that Voluntary Partnership Agreement (VPA) countries export to the EU if the products are included in the scope of the VPA. Timber products that have been verified as legal under the same system used for EU exports by a VPA country, but are exported to markets other than the EU do not obtain a FLEGT licence. Information about products exported to non-EU markets should not imply that products are FLEGT-licensed or use the acknowledgements above.
To describe such products, you can however refer to the VPA country’s national timber legality assurance system. In some markets, this supports operators in their due diligence or due care obligations.

One example is the following: “The legality of the timber in our products is assured through [VPA country name(s)]’s national timber legality assurance system which is backed by the EU FLEGT licensing scheme.”

Note however that this only applies to VPA countries that have included exports to all markets in their timber legality assurance system and only to products covered by the VPA.

**Company, product and service names**

Do not incorporate the words ‘FLEGT’, ‘FLEGT licence’, ‘FLEGT-licensed timber’ or similar words in product names, service names, trademarks, logos or company names.

**How do I describe FLEGT-licensed timber products?**

<table>
<thead>
<tr>
<th>Incorrect use</th>
<th>Correct use</th>
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</thead>
<tbody>
<tr>
<td>– This chair is FLEGT-licensed.</td>
<td>– This product is made of FLEGT-licensed timber from [name of VPA country].</td>
</tr>
<tr>
<td>– This table is from [name of VPA country] and uses FLEGT-licensed timber.</td>
<td>– This product is made of FLEGT-licensed timber from [name of VPA country].</td>
</tr>
<tr>
<td>– Our products are made of FLEGT-licensed timber.</td>
<td>– Our products are made of FLEGT-licensed timber from [name of VPA country/ies].</td>
</tr>
<tr>
<td>– The legality of the timber in our products is assured through a timber legality assurance system.</td>
<td>– The legality of the timber in our products is assured through [VPA country name(s)]’s national timber legality assurance system and the EU-backed FLEGT licensing scheme.</td>
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</table>

**Guidelines for branding and providing information about FLEGT licences**

For producers, processors, traders and their representatives operating in the European Union and in Voluntary Partnership Agreement (VPA) countries, such as:

– Timber trade associations in VPA countries
– Timber traders in VPA countries
– Timber producers and processors in VPA countries
– Timber trade associations in the EU
– Operators and traders in the EU market
<table>
<thead>
<tr>
<th><strong>Question</strong></th>
<th><strong>Answer</strong></th>
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<tbody>
<tr>
<td>Can I claim that my timber products are FLEGT-licensed?</td>
<td>Timber and timber products can only be FLEGT-licensed if they come from a VPA country that has an operational FLEGT licensing system, are listed in the VPAs product scope and are exported to the EU. You can indicate that such products are FLEGT-licensed in the following way: <strong>This product is made of FLEGT-licensed timber from [name of VPA country].</strong></td>
</tr>
<tr>
<td>My company sells products that have a FLEGT licence. How can I inform my customers about this? Is there a logo that I can put on my product?</td>
<td>The FLEGT licence does not have a logo. However, you can include the following statement about your product: <strong>This product is made of FLEGT-licensed timber from [name of VPA country].</strong></td>
</tr>
<tr>
<td>My competitor uses a FLEGT licence logo. I thought there wasn’t one? Where can I report this?</td>
<td>If you are in a VPA country, you can report this to the relevant authority described in the VPA. If you are in the EU, you can report it to the authority responsible for FLEGT in your country.</td>
</tr>
<tr>
<td>I represent a trade association in a VPA country. I want to explain the benefits of buying FLEGT-licensed timber from my country. How can I do this?</td>
<td>You can explain to customers that timber products from your country accompanied by a valid FLEGT licence are guaranteed to be legal and that they automatically are considered comply with the requirements of the EU Timber Regulation. You can find language to explain the FLEGT licence to your customers <a href="#">here</a>.</td>
</tr>
</tbody>
</table>
| I represent a trade association in the EU. My members are considering importing FLEGT-licensed timber from VPA countries. How can they explain the advantage of FLEGT-licensed timber to their customers? | FLEGT licences are not customer certificates. Once a VPA country begins FLEGT licensing, the EU will only accept FLEGT-licensed imports from that country if the products are listed in the VPA’s annex on product scope. Therefore, there is no consumer
I import timber products to the EU from a country that processes timber from a VPA country that issues FLEGT licences. Are the products I import still FLEGT-licensed? What can I tell my customers about the legality of the products I import?

If the ‘processing country’ is not a VPA country that issues FLEGT licences, then the products you import cannot be FLEGT-licensed. For such products you will need to undertake due diligence as required by the EU Timber Regulation (EUTR). In the due diligence you undertake to comply with the EUTR requirements you can refer to the FLEGT-licensed status of all or some of the raw material used by your product suppliers, and to the integrity of the supply chain controls and legality verification procedures in the VPA country.

I import timber products into the EU from a VPA country that has started FLEGT licensing but my business partner in that country is offering me timber products without a FLEGT licence. What does this mean for my business?

If the products you are offered are included in the product scope of the VPA, the competent authorities in your EU Member State will not permit the products to enter the market. If the products you are offered are outside the product scope of the VPA, they can enter the EU market but you will need to perform due diligence as required by the EU Timber Regulation.

Are there products that cannot be FLEGT-licensed?

Yes. If a VPA country prohibits certain products from export the products fall outside the scope of the VPA and therefore cannot be FLEGT licenced. Indonesia for instance prohibits exports of logs and large dimension sawn

You can explain to your members that a FLEGT licence helps them comply the requirements of the EU Timber Regulation. Operators placing FLEGT-licensed timber and timber products on the EU market do not have to exercise further due diligence. FLEGT-licensed timber and timber products are automatically considered to be legal under the EU Timber Regulation.
For timber producers, processors and traders operating in markets other than the EU or a VPA country:

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<th>Question</th>
<th>Answer</th>
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<tbody>
<tr>
<td>Can I claim that my timber products are FLEGT-licensed timber products?</td>
<td>FLEGT licences only apply to timber products that Voluntary Partnership Agreement (VPA) countries export to the EU. Timber products that have been verified as legal by a VPA country, but are exported to markets other than the EU do not obtain a FLEGT licence. Information about products exported to non-EU markets should not imply that products are FLEGT-licensed or use the acknowledgements above. To describe such products, you can however refer to the VPA country’s national timber legality assurance system. In some markets, this supports operators in their due diligence or due care obligations. One example is the following: “The legality of the timber in our products is assured through [VPA country name(s)]’s national timber legality assurance system which is backed by the EU FLEGT licensing scheme.” Note however that this only applies to VPA countries that have included exports to all markets in their timber legality assurance system and only to products covered by the VPA.</td>
</tr>
<tr>
<td>If FLEGT-licensed timber is transported to the EU from a VPA country through a third country, such as China, is the integrity of the FLEGT licence affected? In such cases, would the timber legality assurance system in the VPA country</td>
<td>If the FLEGT-licensed shipment is only transported through China, and does not become mixed with any other products while it is in China, the integrity of the FLEGT licence is not affected. After a FLEGT-licensed shipment leaves a VPA</td>
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offer any guarantee of legality?

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<th>Question</th>
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<tbody>
<tr>
<td>The products I trade are from a VPA country with an operational timber legality assurance system. However, they do not have a FLEGT licence because they are not exported to the EU. How do I demonstrate that they are legal? Will my customers benefit?</td>
<td>If your timber has been verified as legal by a VPA country using the systems described in the VPA, but does not qualify for a FLEGT licence because it is not exported directly to the EU, you can use the brand of a VPA country’s national timber legality assurance system. In some markets this supports operators in their due diligence.</td>
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For government officials:

- VPA country governments
- European Commission
- EU Member States
- Competent authorities
- Other timber-consuming countries

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<tbody>
<tr>
<td>I am a government official in a VPA country. I want to explain what my country has done to achieve FLEGT licensing and what this means. How can I do this?</td>
<td>You can say that FLEGT-licensed timber products from your country are guaranteed to be legal, according to the relevant laws of your country. You can find language to explain the FLEGT licence here. You can say that your country has, through a comprehensive multi-stakeholder process, put in place a robust, independently audited system for tracking timber and verifying its legality throughout the supply chain. You can find language to explain how your country has achieved FLEGT licensing here.</td>
</tr>
<tr>
<td>I am a government official responsible for public procurement in an EU country, it is the responsibility of the exporter or the EU importer (according to their contract) to ensure the legality of the shipment and thus the integrity of the FLEGT licence until the shipment arrives in the EU.</td>
<td>FLEGT-licensed timber is guaranteed to be legal. Using FLEGT-licensed timber in</td>
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</table>
Member State. How can I communicate about the benefits of using FLEGT-licensed timber in our procurement?

- Public procurement ensures that public money is being spent on products made from legally produced timber. The guarantee of legality results from an EU initiative to stop illegal logging, to foster good forest governance and sustainable forest management. You can find language to explain the FLEGT licence here and here.

For civil society:
- NGOs in VPA countries
- NGOs in Europe
- International NGOs

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<th>Question</th>
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<tr>
<td>I work for an NGO. I have found a problem with the FLEGT licensing process in a VPA country. I want to tell stakeholders in the EU and in the VPA country about this, so the system can be improved. How can I do this?</td>
<td>You can bring problems to the attention of the relevant authorities following the procedure described in the VPA. In Indonesia, for instance, if you find a problem with one of the licensing authorities you should raise this with the Ministry of Environment and Forestry. If you find a problem with an auditor, you should raise this with the relevant Conformity Assessment Body. If you find a problem with a Conformity Assessment Body you should contact the National Accreditation Body of Indonesia (KAN).</td>
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Other actors:
- Monitoring organisations in the EU
- Support programmes in VPA countries

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<th>Question</th>
<th>Answer</th>
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<tbody>
<tr>
<td>I work for a Monitoring Organisation in the EU. Now that FLEGT-licensed timber is available in the EU, what can I tell my clients?</td>
<td>You can provide your clients with information about the VPA countries that export FLEGT-licensed timber. The products covered by FLEGT licences are listed in each VPA’s annex on product</td>
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</table>
You can download ratified VPAs and consult the annexes on product scope here.

Answers to other questions your clients may ask may be found in the Frequently asked questions on FLEGT-licensed timber section.

4.2.4. Trade in FLEGT-licensed products

Voluntary Partnership Agreements (VPAs) promote trade in legal timber and timber products. To promote trade in legal timber and timber products, VPA partner countries develop systems to verify the legality of timber and provide legal products with a FLEGT licence. The EU considers FLEGT-licensed timber to be legal and allows it to enter the EU market. VPA partner countries commit to export only FLEGT-licensed timber to the EU.

In contrast, timber without a FLEGT licence from a non-VPA partner country faces rigorous controls before it can enter the EU market. This is because the EU Timber Regulation imposes penalties on EU operators who import illegal products.

The rationale for VPAs is that they create market incentives for legal timber. To date, six countries have ratified VPAs and are implementing systems to underpin FLEGT licensing. Nine other countries are negotiating VPAs with the EU.

Together, these countries supplied more than two-thirds of the tropical timber imported to the EU in 2012. Some of these countries depend heavily on exports of primary-processed timber to the EU. Other countries that currently export less to the EU may expect a VPA to increase exports to the EU.

However, VPAs have taken longer to agree and implement than anticipated. In part, this is because VPA processes address long-standing forest governance issues. As a result, at the time of writing, no country has shipped FLEGT-licensed timber to the EU. Thus, it is too early to assess the effects of VPAs on trade. The effects of VPAs on trade will depend on the:

- Scale and pace of economic recovery in the EU
- Arrival in the EU of the first shipments of FLEGT-licensed timber
- Full implementation and enforcement of the EU Timber Regulation

The delay in obtaining up-to-date trade statistics means, however, that when FLEGT-licensed timber is available on the EU market, the effect on volumes and values will not be clear until a year later. Nevertheless, the new independent market monitoring system will assess the impact on the tropical timber trade.
4.2.5. Domestic market measures in VPAs

Domestic timber markets in tropical countries are often bigger than export timber markets. However, domestic markets are usually poorly regulated. The small-scale, informal suppliers serving domestic markets often lack clear legal status or are illegal. The sheer number and scattered nature of small-scale, informal suppliers makes their activities difficult to control. Nevertheless, these small-scale operations provide livelihoods for many families and meet a big demand within countries for wood products.

In Cameroon, according to a study by the Center for International Forestry Research (CIFOR), the amount of timber harvested for domestic and regional markets increased ten times between 1996 and 2010. The domestic timber market employs 45,000 people, three times the number employed by export-oriented industrial companies. Chainsaw loggers operating illegally produce approximately 75% of the timber harvested for domestic use.

The informality of domestic timber trade in Cameroon and other countries deprives governments of tax revenue and contributes to unsustainable deforestation. In addition, the risk of illegally logged wood for domestic markets mixing with wood for export threatens the integrity of Voluntary Partnership Agreement (VPA) timber legality assurance systems.

Therefore, although VPAs were originally envisaged to cover international trade between partner countries and the EU, many partner countries have chosen to include domestic markets in their VPA.
**Challenges**

Domestic market governance challenges vary from country to country, and may include:

- Inadequate legal frameworks that make it hard for small-scale loggers to access timber resources legally
- Differing rules and regulations for export and domestic markets
- A lack of statistics about the domestic trade and small and medium-scale enterprises
- Unclear tenure arrangements, including conflicting rights among communities, forest owners and holders of logging permits
- Reluctance among members of the informal sector to formalise as taxation would reduce their profits
- The challenge of tracking wood moving between large numbers of small-scale operators
- The challenge of engaging small-scale operators in a VPA process when they lack organisation

**VPA-related opportunities**

VPA processes have provided opportunities to address these challenges by engaging stakeholders in domestic supply chains and identifying legal and/or policy reforms. In VPAs to date, opportunities have included:

- Making clear what is and what is not legal through participatory legislative reviews, as in Cameroon, Ghana and Liberia
- Developing new policies for domestic markets, as in Cameroon and Ghana
- Framing the VPA product scope to avoid harming small- and medium-scale enterprises
- Adopting simple rules for defining legal small-scale logging, as in Indonesia
- Formalising informal activities such as chainsaw logging, as in Liberia, which has developed a new regulation and included it in its legality definition
- Making land and tree tenure simpler and clearer
- Improving the monitoring and understanding of domestic markets
- Setting up new institutions and/or organisations of small-scale operators, such as cooperatives and smallholder associations
- Providing information and training to small- and medium-scale enterprises
- Promoting legality on the demand side, through public procurement policies
- Developing a tax system that motivates rather than punishes small-scale operators
- Monitoring the effects of VPAs on small-scale operators

The outcomes of stakeholder negotiations on domestic markets may or may not be embedded in a VPA. Rather than stipulating concrete reforms, most VPAs signed to date indicate that the details of reforms in domestic markets will be developed during the implementation phase. Therefore, it is important for stakeholders to maintain engagement in the process as it shifts from the negotiation to the implementation phase.
4.2.6. Transparency commitments

A lack of transparency in a country's forest sector is among the governance challenges that enable illegal logging to continue. A Voluntary Partnership Agreement (VPA), therefore, incorporates commitments by the partner country to make information available for public scrutiny to improve transparency and accountability.

Partner-country commitments to transparency appear in several places in a VPA text and annexes. Most VPAs have an annex on public disclosure of information that lists the information a partner country commits to make public.

Disclosing information strengthens governance in the forest sector and enables the implementation of the VPA to be monitored. Some VPAs also recognise the role of independent observers in monitoring and reporting on VPA implementation.

The commitments in a VPA text and annexes are, however, not the only ways in which a VPA promotes transparency. The very nature of a VPA process and the participatory approach to decision making exposes a country's forest sector to scrutiny.

Read more in the section on how a VPA can increase transparency.

4.2.7. Communication in VPA processes

Communication is important in each stage of a Voluntary Partnership Agreement (VPA) process. Communication tools help governments to structure outreach activities and share results. Communication reinforces, but cannot replace, a transparent participatory process. The purpose of communication in VPA processes is:

- To raise awareness of and engagement with the VPA process
- To facilitate consensus building in negotiations
- To meet transparency commitments described in the VPA
- To facilitate implementation of the VPA
- To raise the profile of the VPA and FLEGT licensed timber (as described in an article in each VPA signed to date)

Pre-negotiation phase

In the pre-negotiation phase, governments and other stakeholders undertake activities that foster interest in and engagement with a national conversation about the merits of entering VPA negotiations. Activities may include public meetings, parliamentary hearings, study tours, media outreach, targeted stakeholder meetings and participatory mechanisms through which stakeholders can engage with the VPA process.

Negotiation phase

Once VPA negotiations commence, communication activities shift. Stakeholders need effective means of communicating within and among their groups. In particular, it is important that stakeholder representatives with seats in negotiating structures are able to
share information with their constituents. Stakeholder representatives also need to feed information from their constituents back into national and bilateral negotiations. In addition, experience shows that when consultation is an interactive dialogue among different stakeholders, consensus can be reached more quickly and smoothly.

In the negotiating phase, in addition to an ongoing national dialogue, governments have used various tools to share information about the negotiations with the public. These include:

- Publishing policy briefs that explain what the government is negotiating for
- Creating websites
- Publishing ‘aides-mémoires' or other summaries of negotiating sessions
- Holding stakeholder briefings and press conferences to inform the media
- Organising radio and TV programmes to increase awareness and discuss issues

**Implementation phase**

The implementation phase includes communication activities that are outlined in the text or annexes of a VPA, such as:

- Publishing records of joint implementation committee discussions and the committee’s annual reports
- Public reports from the independent auditor
- Mechanisms to keep stakeholders informed of VPA implementation progress
- Producing targeted guidance to help stakeholders comply with a timber legality assurance system
- Creating websites to provide public access to additional information described in a VPA annex on public information
- Trade shows, media work and other marketing activities to promote the trade in FLEGT-licensed timber in the EU
- Television and radio broadcasts to raise awareness
- Communicating internationally about a country’s efforts to improve forest governance

**Communication strategies**

Some countries have also developed communication strategies or plans.

The Republic of the Congo included such a plan in a VPA annex on accompanying measures. The plan identifies target audiences, methods of communication and messages. Communication seeks to raise public awareness of the VPA and its benefits and strengthen stakeholder collaboration in implementing the agreement.

Under the EU-Indonesia VPA, the parties have agreed a joint communication strategy for the joint implementation committee, which is particularly important as Indonesia approaches FLEGT licensing.
4.2.8. Strengthened capacity

To promote trade in legal timber and timber products, governments and other stakeholders must have the capacity to:

- Enforce the law
- Hold people accountable
- Track timber and control supply chains
- Understand and comply with legal requirements
- Verify the legality of timber

However, such capacity is often lacking in timber-exporting countries, enabling illegal logging to persist.

Voluntary Partnership Agreement (VPA) processes can not only identify capacity gaps, but also help to fill the gaps. Capacity can be built either during the VPA process, or through the commitments the parties make in the text and annexes of a VPA. Most VPAs to date have described areas where a partner country has identified capacity gaps that need filling. Read more in the section on how a VPA can strengthen capacity.

4.2.9. VPA monitoring

To date, Voluntary Partnership Agreements (VPAs) have taken different approaches to monitoring the implementation and impacts of the agreement. Broadly, there are four main types of monitoring, each of which is described in more detail below:

- Independent auditing
- Independent observation
- Independent market monitoring
- Impact monitoring by the parties to the agreement

Independent auditing

Independent auditing is a key component of a timber legality assurance system (TLAS) and is compulsory in all VPAs. The purpose of independent auditing is to check that all aspects of a legality assurance system are working properly. An annex in each VPA provides terms of reference for the auditor. Read more in the section on independent audit.

Independent observation

Some VPA partner countries have created or acknowledged a role for independent observers to monitor forest law enforcement and governance as part of a VPA. Independent observers are usually civil society organisations. Observers' work can include:

- Assessing a VPA timber legality assurance system
- Assessing compliance with forest law, and reporting non-compliance
- Monitoring progress on transparency commitments, and legal and institutional reforms
- Tracking and recording law enforcement activities and responses to non-compliance
Checking that a VPA conflict resolution mechanisms work  
Assessing VPA impacts  
Providing information to an independent auditor  
Monitoring the work of an independent auditor  
Raising complaints about failures in the audit process  
Suggesting ways to improve systems and strengthen law enforcement, and legal and regulatory frameworks  
Assessing the forest sector in general

Different VPAs frame and define independent observation in different ways, according to what stakeholders decide. Broadly, however, there are two forms of observation, which are complementary and may work in tandem:

- **Observation formally integrated in the timber legality assurance system.** In some countries, such as Indonesia, the independent observer is an integral part of the TLAS. Independent observers work by agreement with the government and are formally recognised in the VPA. The formal role facilitates access to information and forests, and cooperation with law enforcement agencies.

- **Observation outside the timber legality assurance system, but recognised as contributing to a VPA.** In other countries, in contrast, an independent observer provides an external check on the TLAS and wider governance issues. This form of independent observation is done directly by civil society, and is not formalised with respect to the TLAS. In some cases, civil society organisations have decided to stay outside the formal system to safeguard their independence and to avoid being constrained by a specific role or scope. Informal observation depends on observers being able to access information and hold governments to account, both aspects of governance that a VPA can address.

In most VPA countries, stakeholders have had a long debate independent observation and whether it should have a formal role in a VPA.

**Cameroon.** The VPA does not recognise independent observation as such, but notes that civil society observation is a source of information for the independent auditor. The VPA notes that independent observation is a potential tool but not a compulsory part of the legality assurance system.

**Central African Republic.** The VPA notes that observation by civil society should be part of the legal reform process. It acknowledges the potential for independent observation to be part of the TLAS but notes a current lack of capacity. The local NGO platform involved in the VPA process has developed an independent observation strategy and envisages agreeing a permanent mandate with the government.

**Ghana.** Civil society organisations decided they could be stronger advocates outside the system than inside it. As a result, they chose not to work under a formal agreement with the government. The VPA makes no mention of independent observation.

**Indonesia.** In the VPA, the independent observer is called independent monitoring, and includes civil society organisations, individuals and communities. The VPA formally
recognises independent observers as an integral part of the TLAS. The observers are considered a source of information for the independent auditor. The role of observer is performed primarily by JPIK, an informal network of more than 60 member organisations and more than 300 individuals. JPIK members may reassess the certificate of legality held by any operator. They can file complaints about operators, audit companies, the independent auditor, the licensing authority or the accreditation authority of the audit companies. JPIK can also raise complaints about wider issues, such as cases of corruption. The network is seeking official documentation from the government to confirm its right to access information and sites.

Liberia. The VPA recognises independent observation as a role for civil society and as a means of providing information to the independent auditor.

Republic of the Congo. The VPA outlines a role for civil society in observing the activities of logging and timber processing companies, and in providing information to the independent auditor. The VPA also notes that local civil society organisations should carry out independent observation as part of the TLAS.

Who is the independent observer?

In some countries, civil society organisations were already doing independent forest monitoring (see below) before the VPA process began. In other countries, the role is new. Although independent observers are usually nongovernmental organisations, private-sector stakeholders can also act as independent observers. NGO observers and private-sector monitors could feasibly work together.

Independent forest monitoring

Independent forest monitoring predates the EU Forest Law Enforcement Governance and Trade (FLEGT) Action Plan and VPAs. Independent forest monitoring is distinct from VPA independent observation in that it assesses legal compliance in the forest sector. Although VPAs do not generally recognise independent forest monitors, monitors can still contribute to a VPA process. Countries with independent forest monitors that have entered or completed VPA negotiations include Cameroon, the Democratic Republic of the Congo and the Republic of the Congo. Independent forest monitors are usually national or international nongovernmental organisations.

Impact monitoring

In all VPAs, the EU and VPA partner country make a joint commitment to monitor the economic, social and environmental effects of the agreement. Monitoring examines whether a VPA is having the desired outcomes. Monitoring informs government policymaking as assessments reflect the effectiveness of policies. Monitoring also can identify unintended negative effects for the parties to address and mitigate in line with a VPA article on social safeguards.

To implement the monitoring commitment, a VPA joint implementation committee establishes a monitoring framework that meets stakeholder needs. Areas to monitor may include institutional effectiveness, trade flows and market dynamics, illegal logging, forest
condition, livelihoods and poverty, and economic development. The process to develop a monitoring system may require additional analysis and consultations to set baselines and explore options. The process should engage stakeholders to ensure their priorities are monitored over time.

- **Cameroon’s VPA.** In 2014, the joint implementation committee established in a multi-stakeholder working group to develop a methodology to follow the social, economic and environmental impacts of the VPA. The joint implementation committee is responsible for endorsing the methodology.

- **Ghana’s VPA.** The joint implementation committee created a multi-stakeholder subcommittee that worked with a consultant to consolidate the EU and Ghanaian priorities into a set of outputs, outcomes and impacts to monitor.

- **Indonesia’s VPA.** The joint implementation committee established a multi-stakeholder technical working group to develop and test a national VPA impact monitoring system. The implementation committee is responsible for endorsing the system.

**Independent market monitoring**

The purpose of independent market monitoring is to assess how EU and wider markets respond to FLEGT-licensed timber. Among other things, the independent market monitor will analyse how FLEGT licensing affects trade flows, market developments and timber prices. The independent market monitor will provide VPA partner countries and the EU with reliable statistics that demonstrate the market performance of FLEGT-licensed timber.

The European Commission has awarded a five-year contract to the International Tropical Timber Organization to conduct independent market monitoring, starting in 2014. Key objectives of the contract are to:

- Collect, analyse, report and distribute information on the acceptance and trends of FLEGT-licensed timber in the EU market
- Improve knowledge and understanding of the impacts of VPAs on timber prices, trade and market trends globally, especially with regard to VPA partner countries
- Ensure VPA countries and the EC provide reliable statistics and information on the trade in FLEGT-licensed timber
- Respond to requests from and inform decisions by the VPA joint implementation committees
- Provide independent, timely and accurate information on market impacts
- Contribute to monitoring the impacts of the FLEGT Action Plan and to inform its implementation
- Develop a long-term strategy for sustaining the independent market monitoring role in consultation with the EU and VPA partner countries

**5. VPAs and good governance**

In most timber-exporting countries, weak forest governance is a key factor in the scale and extent of illegal logging. Voluntary Partnership Agreements (VPAs) have the potential to
improve forest governance by promoting legislative clarity, transparency and participation in decision making, and by improving institutional coordination and accountability.

There is, however, no standard text on governance in VPAs. Rather, it depends on stakeholders to frame debates and decisions according to their priorities, and to embed text that reflects their needs in the VPA. Each stakeholder group has different governance priorities.

For governments, the most important issues may be law enforcement or economic sustainability of the forest sector. For legally operating private-sector stakeholders, the priority may be to eliminate unfair competition from illegal logging, while keeping costs down. For civil society organisations, community rights or government accountability may be the main issue.

The multi-stakeholder participation integrated in all VPA processes enables each group to have its say and to work with other groups to find shared solutions to governance challenges. The participatory process is fundamentally different from the way most governments make policy and can prompt big changes, which take time to develop and implement.

The feature that makes a VPA special is that governance reforms are not imposed from outside a country, but are identified and developed within a country. The EU and timber-exporting country then embed the reforms in a legally binding VPA.

5.1. How a VPA promotes good forest governance

Forest governance encompasses decision-making processes and institutions at local, national, regional and global levels, such as:

- Who decides what about forests
- How they make decisions
- How they implement and enforce policies, laws and rules
- How they are held accountable

Forest governance matters because forests generate important state revenue. Forest governance is also important to local communities because it directly affects their livelihoods. Forest governance is important to regional and international communities because of the role of forests in carbon and water cycles. However, many countries manage forests mainly as state resources, granting rights to exploit them to private entities.

Decisions about the use and/or ownership of forests are often not transparent. People disagree about who should use and benefit from forests. Governance issues such as these lead to conflict over forest resources.

Weak governance in a country's forest sector can:

- Unfairly benefit select or powerful groups
- Harm weak or marginalised groups
Deplete natural resources by failing to manage them for the long term

Weak forest governance allows illegality to persist, which impedes national efforts to manage forests for sustainable development.

In contrast, when forest governance is good, transparency, accountability, participation and other traits (see box ‘What makes governance good?’) support and reinforce each other. Good governance underpins legality in a country’s forest sector. Recognising this, the EU Forest Law Enforcement Governance and Trade (FLEGT) Action Plan sees Voluntary Partnership Agreements (VPAs) as tools to improve forest governance. Among other gains, VPAs agreed to date have:

- Proved the most participatory decision-making processes ever to take place in partner-countries’ forest sectors
- Included major transparency commitments
- Provided the much-needed legal and institutional clarity that underpins legality, law enforcement and accountability
- Strengthened the capacity of national governments and stakeholders to deliberate on and develop shared solutions to illegal logging

Gains stem from parties’ commitments in VPA texts and annexes, as well as through VPA processes. An analysis by David Booth and Sue Unsworth of what works in development cooperation, shows that VPAs have achieved governance gains because they have:

- An iterative approach to problem solving
- Invested in building relationships
- Made efforts to broker common interests
- A long-term commitment
- Local leadership in addressing local issues
- Leadership by people who understand the political context in which they operate

What makes VPAs particularly innovative with respect to governance reforms is that they avoid external pressure on a country to improve governance. Instead, national stakeholders and government, through a participatory process, decide the governance challenges to address and the standards to achieve.

Related sections describe in detail how VPAs can improve different aspects of forest governance:

How a VPA can increase transparency

How a VPA can increase participation

How a VPA can increase legislative and institutional clarity

How a VPA can increase accountability

How a VPA can strengthen capacity
What makes governance good?

**Coordination.** Government departments communicate and coordinate to share information, inform each other and thus enhance overall enforcement of the sector.

**Accountability.** People take responsibility. Institutional responsibility is clear and articulated. Systems are overseen by independent checks. Governments address the concerns of civil society and people with grievances have access to redress and remedy.

**Capacity.** Stakeholders have the time, money, skills and knowledge they need to make and implement decisions. The ability to run systems that contribute to a well-managed forest sector is in place.

**Clarity.** The legislative landscape and institutional roles and responsibilities are clear to all stakeholders.

**Credibility.** Systems have broad stakeholder support and are open to independent monitoring and reporting.

**Transparency.** Governments and companies make information accessible to the public, and processes and decision-making are open and inclusive.

**Participation.** Stakeholder representatives are able to take part in decision-making processes.

**Law enforcement.** Violations are addressed transparently.

**Fairness.** Policies and laws treat stakeholders equitably and include measures to mitigate negative impacts on poor people. Respect for the law is not a disadvantage.

**Free, alert civil society.** Citizens and the media are informed, aware and free to question governments and companies without fear of reprisals.

How VPA processes can address governance challenges

Even before a VPA is fully operational and FLEGT licensing is in place, a VPA process can promote better governance by revealing poor practices. Below are two examples.

**Ghana.** The usual way for loggers to obtain a timber utilisation contract is through a transparent competitive bidding process. Parliament must ratify the award of an allocation. However, one law allows the Ghana Forestry Commission to award a ‘special permit’ at its discretion. During the VPA process to define legal timber, Ghanaian civil society organisations refused to include this ministerial route to allocating timber as a legal mechanism. Civil society organisations felt that ‘special permits’ were inconsistent with competitive bidding and, therefore, undermined good governance.

After parties agreed the VPA, the minister continued to issue special permits. In 2013, civil society groups wrote to the joint implementation committee, the JMRM, flagging their concern. The EU raised this with the Ghanaian government, which initially reacted by saying that the special permits were not illegal. The EU indicated that none of the timber produced
under special permits could obtain a FLEGT licence, as the definition of legality annexed to the VPA did not include this type of permit. Discussions then took place between the ministry and civil society representatives, with the result that the ministry at the time (2013) agreed that no further special permits would be issued.

**Indonesia.** The Indonesian Independent Forestry Monitoring Network (JPIK) consists of more than 60 organisations and more than 300 individuals. The network acts as an independent observer in the VPA, by monitoring the timber legality assurance system (called SVLK) and reporting forest crimes.

In 2014, JPIK published a report that found problems with:

- Traceability of raw materials
- Issuance of permits
- Conflicts related to boundaries and tenure
- Verification of the legality of timber produced by converting natural forests to other uses
- Weak enforcement of the SVLK and the lack of sanctions for non-compliance by permit holders

JPIK noted that there has been no attempt to investigate some SVLK-certified companies involved in proven cases of corruption or known to have received illegal timber. JPIK says permit issuance procedures should be included in the legality standard to prevent issuance of certificates to problematic permit holders. JPIK also calls for greater transparency of data and information in the implementation of the SVLK, as well as improvements in filing and resolving complaints from stakeholders.

The 2014 revision of the SVLK took up some of JPIK’s suggestions. The Indonesia-EU Action Plan on VPA Advancement, which the parties to the VPA agreed in January 2015, also takes up some suggestions.

### 5.1.1. How a VPA can strengthen capacity

**Why capacity matters**

Good forest governance depends on the knowledge, skills, systems and resources government and other stakeholders need to:

- Control supply chains
- Verify the legality of timber
- Monitor and punish forest crimes
- Self-organise and engage with decision-making processes
- Comply with legal requirements and adapt business functions
- Coordinate activities
- Communicate effectively
Often, however, gaps in capacity within governments, the private sector and civil society contribute to governance failures. Voluntary Partnership Agreement (VPA) processes can identify and help to fill such gaps. Building capacity can happen both during a VPA process and as a result of the commitments the parties make in a VPA text and annexes.

**How a VPA process can strengthen capacity**

*Participation in a VPA process* can itself build capacity. Stakeholders gain knowledge by generating and sharing information, for example. Governments learn skills through trial and error, such as by managing consultations.

In order to participate in a meaningful way, stakeholders often need to strengthen their capacity first. Governments, EU institutions, EU member states, civil society groups, nongovernmental and international organisations, timber associations and private companies can all play roles in building capacity to participate in the VPA process. Activities to build capacity include:

- Support for platforms that enable stakeholders to organise themselves, discuss issues, and develop negotiating positions
- Training on technical issues, such as wood tracking
- Training on organisational issues, strengthening advocacy such as the development of position papers, negotiating and fundraising
- Research and analysis of legal texts
- Support to identify areas where private-sector compliance may pose challenges and steps to address such challenges
- Building understanding of market requirements and market information needs
- Support for exchanges among VPA stakeholders in different countries
- Providing technical assistance to governments and others
- Support to enable stakeholders to participate in meetings
- Funding to employ coordinators of NGO coalitions

As a VPA process proceeds, other capacity gaps often become apparent. Gaps include the capacity of state authorities to fulfil their existing mandates, for instance to manage forests and enforce laws. There may also be gaps in the capacity of governments, the private sector and civil society groups to implement a VPA and monitor its impacts. Field testing the timber legality assurance system may, for instance, expose a need for capacity building in the private sector.

The VPA process is effective in assessing capacity across the entire forest sector. VPA partner countries usually have not assessed capacity in the forest sector before although capacity is essential for good forest governance. Capacity needs that the VPA process identifies may include:

- Technical and organisational training for governance agencies, the private sector and civil society
- Technology, software and equipment
- Additional staff or skills
- New organisations, such as cooperatives of small-scale private-sector stakeholders
– New institutions, such as agencies that verify timber legality or issue FLEGT licences

In exposing capacity gaps, the VPA process emphasises the inherent complexity of the forest sector, and why the challenges to oversee it. The VPA process also raises the visibility of capacity gaps, which enables politicians to focus on correcting them. Countries respond to capacity gaps in different ways.

Some VPA partner countries address capacity building in negotiations and outline needs for capacity building in an annex on accompanying measures, the annex on the timber legality assurance system or elsewhere in the VPA. A statement of needs can help secure national budget support or donor assistance to enhance capacity.

Other countries state that they understand their capacity gaps and will address them during the implementation phase of the VPA. Whether or not a VPA mentions capacity building, what matters is that the process reflects on capacity gaps, priority actions and the resources needed.

5.1.2. How a VPA can increase transparency

**Why transparency matters**

Transparency in the forest sector matters because stakeholders need to be able to access information about laws, policies, procedures, decisions and business activities that affect them. Transparency is an important component of good forest governance because:

– It underpins legality, accountability, legal clarity and participation
– It reinforces credibility
– It limits opportunities for corruption
– It enables independent scrutiny of the sector
– Markets increasingly need to understand supply chains and their impacts
– It makes the rights and responsibilities of forest stakeholders clear

In contrast, a lack of transparency in a country’s forest sector can undermine Voluntary Partnership Agreement (VPA) commitments and can hide and even enable crime and corruption. A lack of transparency allows powerful individuals to profit illegally by allocating logging concessions to friends and relatives, and makes it possible for companies to harvest and sell timber without the relevant permits, fees or taxes.

A lack of transparency also means governments lose revenue and communities may lose control over their land. Without transparency, citizens also struggle to take part in making decisions about forest resources.

Transparency is often debated. Studies provide evidence of just how much conflict a lack of access to information can create among stakeholders. The VPA process minimises such conflicts and reduces the potential for conflict by making forest governance more transparent.
**Viewpoint: Matthew Walley, representing forest communities in Liberia**

"People feel cheated. We see log trucks leaving their forests, but despite our requests, no one tells us how much and what species, so how can we know we are being paid the correct amount for the timber?"

Source: Global Witness. 2012. African timber-exporting countries failing to meet access to information commitments. Press release. 9 October 2012 [Read online]

**How a VPA can increase transparency**

The text and annexes of a VPA, as well as the VPA process, can promote transparency in several ways.

**Visibility.** The VPA process itself is highly visible. It opens up and even exposes a country's forest sector to national and international scrutiny.

**Stakeholder participation.** The EU advocates broad stakeholder participation in negotiating and implementing a VPA. Broad participation creates transparency around important aspects of a VPA, such as the legality definition, other aspects of the timber legality assurance system and necessary legal reforms.

Transparency enables stakeholders to voice their opinions, debate issues, and influence a VPA text and annexes, and the VPA process itself. An article in the main text of each VPA reinforces the importance of stakeholder involvement during VPA implementation.

To date, all countries that have signed VPAs have included representatives of civil society and the private sector in national implementation structures and joint implementation committees.

Read more in the section on [How a VPA can increase participation](#).

**Communication.** Countries have approached communicating about the VPA process differently. Approaches include publishing policy briefs and summaries of negotiations, holding press conferences, setting up websites during VPA negotiations and publishing reports of the joint implementation committee. Read more in the section on [Communication in VPA processes](#).

**Independent auditing.** The independent audit is a compulsory component of a VPA timber legality assurance system (TLAS). The audit contributes to transparency by reviewing and reporting on the TLAS. The auditor submits reports to the EU and VPA partner country (usually to the joint implementation committee) and produces a public report. Read more in the section on [independent audit](#).

**VPA annex on public information.** A VPA annex on public information identifies the documents and information that stakeholders think should be made publicly available to strengthen governance in the forest sector and to enable monitoring of the implementation of the VPA. Such information is critical to the work of independent observers. Some VPA partner countries have created websites to share information, for example [Cameroon](#) and
the Republic of the Congo. Read more in the section of VPA Unpacked on the VPA annex on public information.

**Institutional clarity.** The VPA process clarifies who is responsible for what in a country's TLAS. Parties document responsibilities in the text and annexes of the agreement, and in the procedures that are developed later in the implementation phase. Clear responsibilities improve understanding of who is accountable for law enforcement and what stakeholders need to do to comply.

**Legislative understanding.** In many countries, stakeholders struggle to access texts of legislation, let alone understand legislative requirements. VPA discussions on a TLAS’ legality definition encourage governments to put relevant legislation in the public domain for stakeholders to assess and discuss. In VPA processes to date, support programmes have focused on capacity and resources to help make legislation available and make legislative frameworks more transparent.

**Challenges in implementing transparency commitments**

Transparency makes it easier for stakeholders to understand, implement and monitor a VPA. Transparency also reinforces the credibility of FLEGT licensing among national stakeholders, and EU importers and consumers. However, most timber-exporting countries have not paid much attention to transparency in the past. Thus, it can take time for governments to implement their VPA transparency commitments.

Some countries need to develop systems and procedures to manage and share information. In some cases, information may already be in the public domain but may be difficult to find and share. In other cases, such as in Liberia, electronic versions of most laws do not exist and hard copies are rare.

Delays to VPA implementation may occur because governments tend to focus on technical aspects of implementation, such as the TLAS, rather than on governance reforms. Stakeholder engagement also tends to wane when negotiations end and implementation begins. Stakeholders either move on to other issues and/or are not proactive in finding ways to advance governance reforms.

Another challenge is that, in the short term, moves to increase transparency shed light on the forest sector and may expose a country to criticism. The paradox is that countries undertaking reforms are more exposed to criticism than countries that are not encouraging transparency. In the long term, however, countries that improve transparency can expect to gain because more and more markets demand information on how a country manages its forest sector.

**Example: Information and accountability in Indonesia**

The Indonesian Ministry of Forestry publishes a list of all companies legally verified under the TLAS on its website. Auditors and importers can use this list to check the validity of an export licence. The site has provision for submitting queries to the Licensing Information Unit, which stores information on each licence in a database. EU competent authorities can also interrogate the system and send queries to the unit. In future, competent authorities
will have direct access to the information provided to the licensing authority for issuing a licence.

5.1.3. How a VPA can increase accountability

Why accountability matters

To be accountable, governments, companies and individuals must do what they have promised to do. They must take responsibility for their actions and be prepared to answer for the results. Accountability contributes to good forest governance in several ways:

- It benefits national interests by improving procedures and systems for allocating forest resources, and collecting taxes and other revenues
- It increases the legitimacy of state institutions
- It allows communities affected by logging operations to raise grievances with companies or the authorities
- It makes the sector fairer for legally-operating companies by reducing opportunities for illegal logging, and by identifying and punishing illegal activities
- It imposes checks and balances on state power

A lack of accountability, in contrast, enables illegal logging to thrive. The lack of accountability can diminish the rule of law and can weaken the state if people lose faith in the ability of institutions to perform as they should.

How a VPA can increase accountability

A Voluntary Partnership Agreement (VPA) helps to clarify and document the roles and responsibilities of forest sector stakeholders and the procedures they should follow. A VPA increases the legitimacy of the state with respect to its responsibilities for forests. A VPA also provides non-state stakeholders with the means to hold those in power to account if the state fails in its duties.

Accountability depends on aspects of good governance, such as transparency, clarity and the capacity to hold power to account. Each aspect reinforces the others. VPA processes can contribute to improving accountability in several ways:

**Participation.** First, the VPA process itself requires the participation of stakeholders. Participation ensures a degree of openness and provides opportunities for people to voice their concerns. The participatory consultation process creates a space for stakeholders to understand their respective roles, rights and responsibilities, and builds capacity to demand accountability. Accountability depends, in part, on the capacity and willingness of stakeholders to participate in negotiations and legal reforms. See the section on how a VPA can increase participation.

**Strengthening legal clarity and law enforcement.** A timber legality assurance system (TLAS) sets out what private-sector stakeholders must do to demonstrate legality in order to trade. The system gathers evidence to verify legality. It also makes clear the role of those checking compliance, and the procedures to follow if non-compliances are found. Independent audits
of a timber legality assurance system further check that companies and government agencies are doing what they are required to do. The robustness of the TLAS, therefore, strengthens accountability across the sector and enables enforcement agencies to impose sanctions on lawbreakers. See the section on how a VPA can increase legislative and institutional clarity.

**Grievance mechanisms.** VPAs set out mechanisms to resolve complaints and conflict. For instance, all VPAs make provision for stakeholders to raise issues with joint implementation committees by writing to both the EU and authorities in the VPA partner country. Joint implementation committees discuss matters raised at meetings. Some VPAs also make special reference to whistle-blowers.

**Other VPA outputs**

The text and annexes of a VPA may enhance accountability in other ways, such as by:

- Requiring information be made public (see How a VPA can increase transparency)
- Including benefit-sharing agreements in the VPA text
- Outlining transparency commitments and planned legal reforms
- Publishing a roadmap for implementation that enables stakeholders to track progress towards goals
- Stating that complaints about the independent auditor may be made to the joint implementation committee
- Allowing VPAs to recognise the role of independent observers, usually civil society organisations

Read more in the section on Independent observation

**Example. Liberian communities hold government to account**

The Liberian national forestry reform law (2006) contains provisions establishing communities’ rights to a share of certain revenue streams from the forest sector. For example, communities are entitled to 30% of the Land Rental Fees paid by logging companies, as well as fees per cubic metre of timber harvested within their community.

By 2013, however, none of the communities had received a share of the Land Rental Fees, despite raising the issue in various fora. After Liberia ratified the VPA in 2013, community representatives on the Joint Implementation Committee raised their concerns. The government agreed to redistribute the community share of funds to the National Benefit Sharing Trust, as foreseen in the national forestry reform law. The Government of Liberia has now paid the first US$1 million into the trust.

This first transfer of Land Rental Fees to the trust is widely seen as an important success for the VPA. When the trust is operational, communities will be able apply for money to help fund community projects. The trust’s board is chaired by an NGO coalition and its members include representatives of communities and government.
5.1.4. How a VPA can increase legislative and institutional clarity

Why clarity matters

Legislative and institutional clarity means that legal requirements and institutional roles and responsibilities are clear and consistent. Clarity is an important aspect of good forest governance as it enables stakeholders to understand rights, responsibilities and obligations.

Clarity in the legal framework can for instance enable countries to adopt simple and consistent regulatory tools, which stakeholders can easily understand. Such clarity depends on a degree of transparency and provides the foundation for accountability.

In contrast, the absence of clarity in a country's forest sector can create social, economic and/or environmental problems. Problems arise, for example, if it is unclear:

- Who has rights to land or trees
- What is legal timber and what is not
- Which of several conflicting laws apply in a given circumstance
- What timber companies are obligated to provide to local communities
- Which institutions are responsible for different aspects of forest governance

Clarity is therefore directly relevant to Voluntary Partnership Agreements (VPAs) and their timber legality assurance systems.

How VPAs can increase clarity

A significant component of a VPA process is a multi-stakeholder dialogue to agree on what constitutes legal timber. This dialogue involves stakeholders in reviewing existing laws and regulations in a timber-exporting country to identify which to apply in the VPA legality definition. The dialogue provides opportunities for forest stakeholders to identify imprecise and inconsistent legal requirements and/or institutional arrangements.

For a dialogue to take place, stakeholders first need to be able to access and understand existing laws. Stakeholders can then discuss laws, first within their stakeholder groups and then with other stakeholder groups, to highlight inconsistencies and propose solutions. The process to improve clarity, therefore, depends on both participation and a degree of transparency.

To date, multi-stakeholder deliberations on legality definitions in VPA processes have identified conflicting:

- Legal interpretations of timber felling procedures
- Rules for allocating contracts, with one rule calling for competitive bidding and another rule allowing ministerial discretion
- Responsibilities among government agencies for environmental impact assessments

The process of defining legality often reveals such inconsistencies, contradictions and/or overlaps in a country's laws and regulations. The process can therefore identify the legal reforms that are necessary to develop a legality definition that satisfies all stakeholders. For
example, VPAs have identified legal and/or regulatory reforms that are required to recognise customary rights, community forests and domestic markets.

In addition to improving legal clarity, a VPA process also improves institutional clarity. The VPA annexes that describe a timber legality assurance system (TLAS), joint implementation committee, FLEGT licences, independent audit and public information all make clear who is responsible for what. Clear roles and responsibilities are the basis for improved accountability in the forest sector.

**Example. Legal clarity in Indonesia**

In Indonesia, more than 900 laws and regulations apply in some way to the forest sector. As well as the number of laws, the laws are confusing and at times incoherent.

In 2003, four years before VPA negotiations started, civil society organisations began a process to clarify forest legislation and develop a legality definition. Participation by government and industry in this process increased after VPA negotiations began in 2007. By the end of 2008, a multi-stakeholder group had presented the government with a legality definition and a proposal for a TLAS. Within six months, the government and stakeholders had revised the proposals and incorporated them in new legislation.

In place of the hundreds of existing laws, stakeholders had identified a subset of laws and regulations that together provided a legality definition that met their interests. Under the VPA, Indonesia has a single chain of custody standard and legality definitions for seven types of forestland.

The VPA process has made legality in the forest sector much clearer in Indonesia. The VPA provides indicators and verification measures that auditors can use to assess legality. The new legality definitions make it easier for the police to enforce the law and for the justice system to prosecute illegal loggers. The private sector has largely welcomed the new definitions.

Since 2009, Indonesia's TLAS has been subject to a series of multi-stakeholder reviews. Reviews consider implementation lessons and the initial results of the EU-Indonesia joint assessment of the system. The reviews have resulted in changes to the 2009 legislation, including revisions that reduce the burden of compliance on small-scale producers of low-risk timber.

### 5.1.5. How a VPA can increase participation

**Why participation matters**

Participation means that people engage with policy processes that may affect them. There are degrees of participation, ranging from simply being told about a policy process to having a say and being able to influence outcomes. One way to visualise this is as a ladder, where each rung represents a greater degree of participation than the rung below.
Participation is an important aspect of good forest governance because it enables stakeholders to influence decision-making processes that affect them. Participation also brings benefits to decision-making processes by making them more likely to reach practical, equitable and credible decisions that reflect a broad consensus among stakeholders.

Participation may also reduce conflict and build trust among stakeholder groups. By improving relations between stakeholder groups that previously have had poor relations, participation may promote greater equity in policymaking.

However, prior to Voluntary Partnership Agreement (VPA) negotiations, stakeholder participation in decision making in timber-exporting countries was rare. In particular, communities owning and using forest resources for their livelihoods were excluded from decision making about forests.

**How VPAs increase participation**

VPA processes are unprecedented in the level of stakeholder participation and influence. VPA processes foster participation both in the VPA process itself and as a result of the commitments the parties make in a VPA’s text and annexes.

VPAs are the first trade agreements developed through inclusive multi-stakeholder processes that have had impacts on decision making in the forest sector. In many timber-exporting countries that have entered VPA negotiations, there has never before been such an inclusive, participatory process.
The EU advocates broad stakeholder participation in negotiating and implementing a VPA in order to ensure an agreement is credible. In addition, VPAs are different from other projects that involve stakeholder participation because of their longevity, their coverage of national policy and international trade, and the high level of political engagement.

The space that a VPA process creates for multi-stakeholder participation can become more secure over time. If stakeholders bring information and value to the process, governments increasingly see them as partners. Initially, however, each major stakeholder group faces challenges:

- A VPA process affects and involves different ministries with different agendas and coordination among these ministries is not easy
- Private-sector stakeholders tend not to be well organised and do not always see the business value in committing to the lengthy meetings that a VPA process involves
- Civil society groups may struggle to represent their diverse interests and are often perceived by governments and private sector to be problematic

**Participation in the pre-negotiation phase of a VPA process**

Before a timber-exporting country enters into VPA negotiations with the EU, it has to ensure that there is a consensus of support among stakeholders for a VPA process. To reach consensus among stakeholders it is essential that stakeholders are informed. This means stakeholders need to understand what a VPA could do for them and how it could serve their interests, as well as what a VPA is likely to require of them.

Government agencies, civil society organisations or organised stakeholder groups, such as timber trade associations, may lead efforts to engage and inform stakeholders. EU institutions and other international organisations often provide support for such activities. Support can take the form of workshops, public meetings and outreach via the media. Stakeholder mapping exercises can also strengthen participation (see box ‘Stakeholder mapping’).

**Stakeholder mapping**

Stakeholder mapping is a tool that can help identify who may be affected or who may affect a policy or process. Those affected may include representatives of government ministries and departments, large and small private-sector stakeholders across the supply chain, civil society organisations, indigenous peoples and communities.

Mapping exercises may involve desk-based studies, visits and discussions with groups directly or indirectly affected by the forest sector. A mapping exercise may also include meetings at which stakeholders discuss and check the results. In a VPA process, governments and stakeholder groups often use a mapping exercise to help identify stakeholders and stakeholder groups that should participate and the support they may need to enable them to engage.
Stakeholder mapping can promote inclusive participatory VPA processes. However, stakeholder mapping can also close space for participation if, for instance:

- It is not comprehensive, leaving out important stakeholders
- Governments manage the exercise in a ‘top-down' way rather than working with stakeholder groups that do their own mapping
- Governments consider the mapping exercise as fixed and final, rather than as an iterative process

**Participation in the negotiation phase of a VPA process**

Stakeholder involvement in VPA negotiations means that the EU and the partner country can develop an agreement that has broad support. Such broad support facilitates effective implementation.

In the negotiation phase of VPA processes to date, most governments have developed a participatory consultation process that involves stakeholders a VPA could affect, stakeholders who will implement it and stakeholders who have an interest in it. While the responsibility for organising a consultation process lies with the government of the partner country, each stakeholder group is responsible for organising consultation within its group.

Stakeholder mapping exercises can help broaden participation to ensure that all relevant stakeholders participate (see box ‘Stakeholder mapping'). Experience shows that the more interactive the dialogue, the more solutions it generates and the less time it takes for stakeholders to reach consensus on issues. Stakeholder participation, therefore, strengthens the practicality and credibility of a VPA, ensures country ownership and drives improvements in governance.

VPA negotiations create several opportunities to foster participation. Discussions around the legality definition, for example, bring diverse interests to the table. As a VPA text and annexes take shape, they can incorporate commitments to continue participation in the implementation phase.

Governments can find it a challenge, however, to set up multi-stakeholder structures and processes that enable stakeholders to share their views.

Different countries have taken different approaches. In Vietnam, the government undertook extensive community consultations to gather concerns. In Liberia, communities were not only consulted but were also given seats on national negotiating structures. In Honduras, regional level multi-stakeholder platforms feed into national discussions.

Experience shows that it is important for stakeholder groups to select their own representatives. Representatives must be accountable to their constituencies. Stakeholder representatives need effective means of sharing information from negotiations with their constituencies and feeding the views of their constituencies into negotiations.

To enable stakeholders to participate, a VPA process must consider issues such as the time, skills, money and other resources stakeholders need to understand and engage with the process effectively. Stakeholder platforms may require support and investment in:
– Educating and raising awareness among a broad range of stakeholders, including rural and hard-to-reach constituencies
– Communicating technical and legal information to people with a wide range of languages, literacy and educational backgrounds

Some stakeholders are well organised and informed while others, such as communities and small- and medium-scale enterprises, are often not. A survey by Tropenbos International in the Democratic Republic of Congo in 2014 found, for instance, that 90% of stakeholders had no information about the VPA negotiations underway. To address this, Tropenbos International organised training on issues concerning artisanal logging and the VPA for representatives of local governments, communities, artisanal loggers and civil society.

**Participation in the implementation phase of a VPA process**

It is as important for stakeholders to participate in the implementation phase of a VPA as it is for them to participate in the negotiation phase. Participation in the implementation phase means that rather than simply complying with the agreement, stakeholders have a say in how the agreement is implemented. By participating in the implementation phase, stakeholders keep informed of progress and can take part in some of the work to be done, improving the likelihood of success.

However, it is common for participation to wane as a VPA process shifts from negotiations to implementation. Participation may decline partly because the formation of a VPA joint implementation committee takes place only after both parties have ratified the agreement. Forming a joint implementation committee can take quite some time after negotiations end.

Also, bilateral meetings, which often mobilise stakeholders and structure activities in the VPA negotiation phase, are less frequent in the implementation phase. To help address the problem of delays in forming joint implementation committees, the EU and VPA partner country may create an interim joint implementation committee as soon as negotiations end. Interim committees mean that official meetings can continue to take place and mobilise stakeholders.

The **text and annexes of VPAs** vary in the degree to which they anchor ongoing stakeholder participation, but all refer to it. The level of detail does not limit the extent of participation and there is an expectation among stakeholders on both sides that participation will continue into the implementation phase.

Each VPA emphasises ongoing stakeholder participation in an article in the main text and provides further detail in its annexes, which describe the roles of stakeholders in overseeing and monitoring implementation. Roles may include participation in **national implementation structures**, in **joint implementation committees**, as sources of information for **independent audits** or as **independent observers**.

Each VPA states that the EU will hold regular consultations with stakeholders on the implementation of the VPA. Regular consultations fulfil EU obligations under the 1998 Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters.
Examples of participation in practice

In Ghana, civil society did not initially have representation on the national VPA steering committee. When civil society groups protested, the government created space for them on the committee. As the VPA process proceeded, civil society groups played important roles in drafting the legality definition, field testing Ghana's computerised wood-tracking system and in the legal reform process created by the VPA.

In Indonesia, stakeholder consultations are now standard for any changes to the timber legality assurance scheme. For instance, the latest revision of national regulations resulting from the VPA joint evaluation involved four regional consultations and a national consultation of 300 stakeholders. Following the consultations, a multi-stakeholder legal drafting committee completed the revision. Civil society organisations, government, the private sector and the auditors work together to improve the system. In 2014, Indonesian civil society groups mandated seven representatives to follow the VPA process for five years and defined ways for representatives to inform the wider network. In addition, one of the seven represents civil society on the VPA joint implementation committee.

In Liberia, nongovernmental organisations requested space for community representatives at the VPA negotiating table. The request resulted in seven seats for community representatives and four for nongovernmental organisations. The representatives developed systems for feeding back information to communities and for communities to feed information to negotiators.

Viewpoint. Obed Owusu-Addai on participation in Ghana's VPA process

"We are really now at the table with government and industry in the management of forests in Ghana, so FLEGT has been a wonderful opportunity for us in Ghana, especially from civil society point of view... in the very short term we are expecting that the system will become robust with a lot of civil society participation, not only civil society but even community participation in the management of the forest sector in Ghana, so we are really anticipating a lot of changes and we have started seeing some of it happening already and it looks good, the future looks very good."

Obed Owusu-Addai, Civic Response, host of Forest Watch Ghana / Source: EU FLEGT Facility interview 2014

6. VPA structures

Voluntary Partnership Agreement (VPA) processes bring negotiators and other stakeholders together in new or existing structures and forums to, among other things:

- Share information and perspectives
- Debate issues
- Develop negotiating positions and position papers
- Negotiate the content of a VPA
- Implement aspects of a VPA
Some VPA structures, such as platforms of nongovernmental organisations or associations of timber traders, gather members of individual stakeholder groups. Other VPA structures, such as technical steering committees and national negotiating teams, have multi-stakeholder membership.

The governments of timber-exporting countries engaged in VPA processes decide how to organise VPA structures to meet the different interests of national stakeholders. Some VPA structures, such as negotiating committees, are national while others, such as joint implementing committees, are bilateral.

6.1. National VPA negotiating structures

In the negotiation phase of a Voluntary Partnership Agreement (VPA) process, the government of a timber-exporting country uses the structures it has created to:

− Develop and articulate negotiating positions
− Engage the EU in bilateral negotiations
− Draft the text of a VPA and its annexes

Each country creates negotiating structures according to its context and needs. As a result, negotiating structures vary from country to country. In most VPA processes, a minister or other representative of the ministry responsible for forests leads a negotiating team or committee. The negotiating team receives technical and political input from other structures and stakeholders to frame negotiating positions.

To date, national negotiating structures in VPA processes have included representatives from several government ministries. This is because several ministries are stakeholders with important interests in the VPA process. In addition, the laws and regulations that make up a country's legality definition fall under several ministerial jurisdictions.

Separate sections illustrate the negotiating structures created by Cameroon, Ghana, Liberia and the Republic of the Congo.

Stakeholder representation in national negotiating structures

In most countries that have engaged in VPA negotiations, representatives of the private sector and civil society organisations have participated in the negotiations. Participation has been achieved either through membership of the negotiating team and/or its technical advisory committee, or through consultation processes. For example:

− In the Republic of the Congo, the government not only created a multi-stakeholder negotiation and steering committee team to draft and consolidate positions, but also established a multi-stakeholder 'general assembly'. The general assembly discussed negotiating positions with a wide group of stakeholders (100 representatives from the private sector, civil society and government). The assembly was a mechanism to enable interaction and dialogue in order to reach consensus.
- In Ghana, Liberia and the Republic of the Congo, steering committees set up multi-stakeholder working groups to draft annexes to the VPA text, such as those on the legality definition or the timber legality assurance system. In other countries, steering committees employed experts or consultants to draft annexes.

- Liberia is currently the only country to have involved community representatives in a negotiating structure, giving them seven seats on the technical steering committee.

Some countries struggle to ensure stakeholder participation in negotiating structures. Experience shows, however, that such representation helps negotiations and adds credibility to a VPA. Without multi-stakeholder participation:

- Decisions have less input from stakeholders and risk being rejected later
- The flow of information between stakeholders and government is limited

Experience also shows that participation works best when stakeholders choose their own representatives. In some countries, the government chose a civil society representative for the multi-stakeholder negotiation team. In each case, it became clear that the appointee did not have the support of their constituency. Learning from this, governments removed their appointees and asked civil society organisations to choose their own representatives.
6.1.1. National negotiating structures in Cameroon

**Steering committee**

The steering committee's role was develop negotiating positions and draft VPA annexes, in consultation with stakeholders. The committee’s members included:

**Government**: Representatives of the Ministry of Forests, the Presidency; Prime Minister’s Office; Ministry of Trade; Ministry of External Relations; Ministry of Justice; Ministry of Economy, Planning and Management of the Territory; Ministry of Finance (Customs and Taxation Department)

**Private sector**: Representatives of the Cameroon Wood Supply Group; National Association of Young Timber Loggers and Wood Processors; Professional Syndicate of Industrial Processors and Exporters of Special Forests Products; General Surveillance Society
Civil society: One seat for the EC Forest Platform Cameroon, and one seat open to a civil society representative with experience of the topic under discussion

Parliament: Two parliamentarians joined in 2008, the year after negotiations began

Negotiation committee

The negotiation committee's role was to negotiate a VPA with the EU. It had the same membership as the steering committee but with the addition of the Minister of Forests.

Stakeholders

Stakeholder structures included four private sector groups and a civil society platform.

6.1.2. National negotiating structures in Ghana
**Steering committee**

The steering committee oversaw the VPA process and developed negotiating positions through consultation with stakeholder representatives. Its members included:

**Government:** Eight representatives of government agencies and ministries

**Private sector:** Two representatives from the Ghana Timber Millers Organization

**Civil society:** Two representatives (one from Forest Watch Ghana, the other representing broader civil society)

**Working groups**

Four technical working groups provided recommendations on the following VPA negotiation elements:

- The legality definition
- Legality assurance system
- Industry restructuring
- Domestic market

A fifth working group gathered the recommendations of the other groups into a coherent framework.

Each working group had at least one representative from each of the three main stakeholder groups (government, the private sector and civil society)

**VPA secretariat**

The VPA secretariat provided coordination and technical support to the VPA process. It comprised three staff from the Forestry Commission, which also housed the Secretariat.
6.1.3. National negotiating structures in Liberia

**Steering committee**

The steering members were nine government representatives, three private sector representatives, four NGO coalition representatives, seven community representatives.

**Negotiating committee**

The negotiating committee's members were the Minister of Agriculture, nine government representatives, one private sector representative and one civil society representative.

**Stakeholder platforms**

Stakeholder structures included the following:

**Private sector:** Liberian Timber Association; Association of Liberian Loggers

**Civil society:** NGO Coalition for Liberia (24 member organisations)

**Communities:** Five platforms representing 15–20 communities
6.1.4. National negotiating structures in the Republic of the Congo

**Negotiation committee**

The negotiation committee's members were the Minister of Forests, nine government representatives, two private sector representatives and three civil society representatives.

**Steering committee**

The steering committee's role was to develop negotiating positions and draft VPA annexes, in consultation with stakeholders. Most annexes were drafted by a small group of committee members and external experts. The committee met weekly, and shared its reports with stakeholders involved in the process. The committee's membership was the same as that of the negotiation committee, with the exception of the Minister of Forests.
General assembly

The role of the general assembly was to assess and validate documents the steering committee had created for the negotiating committee to use in bilateral negotiations. The general assembly had approximately 100 members drawn from the private sector, civil society and administration.

6.2. VPA focal points

Most partner-country governments establish a national focal point to coordinate the Voluntary Partnership Agreement (VPA) process. The focal point may be an individual or a structure, either within or outside an existing government agency. Governments may identify focal points during or before VPA negotiations. Focal points may continue to coordinate a VPA process during the implementation phase:

- In the Central African Republic, the government appointed a civil servant in the environment ministry as the focal point to function as the secretariat for the VPA National Coordinating Committee. The civil servant handled the administrative and logistical aspects of the process and had one assistant.
- In Ghana, the government appointed a civil servant in the Forestry Commission as a focal point in addition to existing duties.
- In Indonesia, before formal VPA negotiations began, the Ministry of Forestry formally identified a group of 12 civil servants to serve as the focal point. The group conducted activities to raise awareness and deliberate on the VPA both in the ministry and in other relevant government agencies. The group also developed material to support the Indonesian position, coordinated activities among government and other stakeholders, and organised the multi-stakeholder workshops that led to the decision to start negotiations.
- Laos established a focal point early in the pre-negotiation phase. The multi-stakeholder structure involved three ministries, the private sector and civil society.
- Liberia established an independent four-person technical secretariat to facilitate the VPA process. When negotiations ended, the government tasked the technical secretariat with coordinating VPA pre-implementation activities during the interim period between negotiations ending and ratification. Following ratification, the joint implementation committee became operational.

6.3. VPA joint implementation committees

In each Voluntary Partnership Agreement (VPA), the EU and partner country create a joint implementation committee. The main purpose of the committee is oversee VPA implementation. The committee has both technical and political meetings. Committee members represent the EU and the VPA partner country. An annex to the VPA, or the main text, describes how the joint implementation committee operates.

However, a joint implementation committee only becomes operational when both parties to a VPA have ratified the agreement. This means there can be a gap in oversight of
implementation in the period between the parties signing a VPA at the end of the negotiation phase and ratifying it.

In many VPA processes, therefore, the parties have created an interim joint implementation committee to provide oversight in the period between signing and ratifying a VPA.

Some VPA partner countries have different names for the joint implementation committee. In Ghana, for instance, the committee is called the Joint Monitoring and Review Mechanism. In Cameroon, it is the Joint Implementation Council.

**Activities of the joint implementation committee**

The main text of a VPA, or an annex, describes the purpose, principles and operation of the committee. See the section of VPA Unpacked on the annex on the joint implementation committee.

Most VPAs also have a separate annex detailing an implementation schedule. This schedule is the basis for a joint implementation committee to create a work plan and monitor progress.

Among other things, the committee:

- Agrees to the implementation schedule and evaluates progress
- Sets a schedule for implementation, annual work plans and milestones
- Deals with complaints or concerns from stakeholders in the partner country or the EU
- Oversees the joint evaluation of the timber legality assurance system to determine when the system is ready
- Recommends a date for FLEGT-licensing to become fully operational
- Reviews reports of the independent auditor and the independent market monitor
- Resolves disputes that arise between the parties
- Reviews and recommends amendments to the VPA annexes
- Sets up a framework to monitor the social, environmental and economic impacts of the VPA, and to respond to the findings of impact monitoring
- Publishes key conclusions of committee meetings and an annual report

In some countries, joint implementation committees have become platforms for stakeholders to raise governance issues related to forests that are not embedded in the VPA.

**Annual reports of the joint implementation committee**

Annual reports of joint implementation committees may provide information on:

- Progress in achieving VPA objectives and on matters relating to VPA implementation
- The volume of trade in FLEGT-licensed timber
- Action to prevent exports or imports of illegally-produced timber products, or to prevent placement or trade of illegally-produced timber in the domestic market
- Cases of non-compliance with the FLEGT licensing scheme and the action taken to deal with them
Composition of the joint implementation committee

Co-chairs. The co-chairs of joint implementation committees are a senior government official from the partner country, such as the minister responsible for forests, and a senior official of the EU delegation in the partner country, such as the head of the EU delegation.

EU. The EU delegation in the VPA partner country takes the lead for the EU and invites representatives of EU member states to join the EU team. EU member states most likely to participate are those with an interest in forestry, an interest in timber trade with the partner country or those with a relevant development cooperation programme in the country.

VPA partner country. The partner-country delegation usually includes representatives of the government forest regulatory agency, FLEGT licensing authority, ministries and government departments involved in implementing the timber legality assurance system, such as customs, and other ministries or departments in charge of finance, international trade, and/or foreign affairs. In most VPAs ratified to date, partner-country governments have included representatives of the private sector, civil society organisations and/or communities in joint implementation committees. Alternatively, governments have established ways for the committee to provide feedback to stakeholder structures. Some VPA partner countries have provided seats on the committee for parliamentarians and/or traditional authorities.

Observers. Each joint implementation committee has a particular dynamic and set of participants invited to join meetings. The two parties invite stakeholders and other observers to join meetings by mutual consent. Observers may:

- Provide specific expertise, for example consultants reporting on findings
- Seek to understand the needs and concerns of the VPA, for example donor partners
- Act as members of the team for a particular purpose, for example to represent EU member states or civil society organisations in the partner country. These members would be in addition to individuals who are formally part of the committee

Secretariat. In most VPA partner countries to date, the government has provided a secretariat to support the joint implementation committee in arranging meetings, coordinating activities and communicating. In Indonesia, the secretariat will be based in an Indonesian government structure, but will be headed jointly by the EU delegation and the Ministry of Environment and Forestry.

6.4. National VPA implementing structures

Partner countries set up formal and informal structures to oversee implementation of a Voluntary Partnership Agreement (VPA). Partner countries may also create new departments in government agencies to undertake implementation tasks, such as:

- Gathering data from production companies
- Performing field verification
– Reconciling data along the supply chain
– Monitoring and reporting on producer compliance with the legality definition
– Issuing FLEGT licences
– Monitoring the issuance of FLEGT licences

**Overseeing implementation**

Each VPA partner country has created an informal committee or secretariat whose roles in implementation include:

– Guiding and assessing the work of implementing the VPA
– Publicly reporting findings
– Responding to claims of non-implementation
– Preparing national position papers and other documents for the joint implementation committee

In all VPA partner countries, these committees include representatives of government, the private sector and civil society organisations. In some partner countries, other stakeholders, such as parliamentarians and representatives of indigenous peoples, are also members of these implementation committees.

**Cameroon** established a National Monitoring Committee and mandated its composition by decree. The fixed membership includes representatives of the Prime Minister’s office, the National Assembly, five government ministries, civil society, indigenous peoples, the private sector and people who depend on communal forests. The committee invites observers to attend its meetings.

**Central African Republic.** The multi-stakeholder National Committee for Implementation and Monitoring (Comité National de la Mise en Œuvre et Suivi – CNMOS) oversees VPA implementation. CNMOS provides the VPA joint implementation committee with insights from national stakeholders. The members of CNMOS include representatives of government ministries, the National Assembly, the private sector and civil society. The committee is also the national mechanism for stakeholder consultation. CNMOS informs and exchanges information with a broad group of stakeholders. The Central African Republic also created a Permanent Technical Secretariat (STP – Secrétariat technique permanent) to organise and facilitate VPA implementation activities and stakeholder participation. STP has four permanent staff and is embedded in the Ministry of Forests, Water, Fishing and Hunting.

**Ghana.** The VPA Secretariat in Ghana’s Forestry Commission coordinates implementation of the VPA. In addition, Ghana has formally established a Multi-stakeholder Implementation Committee. This group serves as the Ghana delegation in meetings of the joint implementation committee. Members include representatives of several government ministries and agencies that have responsibilities for aspects of the VPA, and the VPA Secretariat. Other members of the committee include a parliamentarian, a traditional authority and representatives of civil society and the private sector. The sector minister leads Ghana's delegation to the joint implementation committee.
Indonesia. The joint implementation committee is supported by a secretariat, led by both parties, and located in the Ministry of Environment and Forestry. At the time of writing, Indonesia had established two multi-stakeholder working groups under the joint implementation committee:

- A technical working group, which deals with impact monitoring
- A joint working group, which oversees implementation of the Indonesia-EU Action Plan on Advancement of VPA Implementation

EU-Indonesian exchanges take place every second month in joint working group and joint expert meeting formats, always inviting relevant stakeholder groups. Civil society has its own platform focusing on the timber legality assurance system, and has identified representatives for EU-Indonesian meetings. Private sector verification companies meet in a timber legality assurance system certification forum.

Liberia. After VPA negotiations ended, the national negotiating team evolved into the Liberia Implementation Committee. This committee meets mainly to prepare for joint implementation committee meetings. Members represent government ministries and agencies, private sector and civil society organisations. A broader National Multi-stakeholder Monitoring Committee also provides input to the joint implementation committee. The 26 members include members of the Liberia Implementation Committee and representatives of government agencies, civil society, the private sector and communities.

Republic of the Congo. A national, multi-stakeholder Technical Secretariat monitors, guides and supports implementation of the VPA in the Republic of the Congo. Members represent the government, private sector and civil society. Among other things, the Technical Secretariat prepares documents for meetings of the VPA joint implementation committee.

6.5. National VPA stakeholder structures

Individual stakeholders cannot all participate in a Voluntary Partnership Agreement (VPA) process directly. They can, however, organise themselves into groups and choose representatives to take part on their behalf. These groups include trade associations, unions, NGO networks and civil society platforms. Their roles in VPA processes may include:

- Deliberating on aspects of a VPA to agree stakeholder positions and articulate these positions in national and bilateral negotiations
- Appointing representatives to multi-stakeholder structures, including national negotiating structures
- Communicating with constituents about the VPA process and its implications
- Supporting implementation of a VPA and monitoring the impacts

In most VPA processes, formal or informal groups of stakeholders already existed or formed before negotiations began. The effectiveness of such groups depends in part on how well they communicate the views of their members in national and bilateral VPA negotiations and how well they channel information from the negotiations back to their constituencies.
Representation is also a challenge. Private sector groups, such as trade associations, tend to have a membership of large companies rather than small-scale operators such as chainsaw loggers or furniture makers. Participation by small-scale operators depends, therefore, on the extent to which they organise themselves and are aware of VPA processes.

It can also be a challenge for civil society platforms to represent the plurality of members' views and priorities. Members may focus on a range of issues such as gender, human rights, environment or poverty.

**Example. The Liberia Chainsaw and Timber Dealers' Union**

The Liberia Chainsaw and Timber Dealers' Union represents artisanal chainsaw operators and small-scale stakeholders in the Liberian forest sector. The union became involved in the VPA process after negotiations had ended, and the EU and Liberia had signed the VPA. Since then, the union has trained more than 200 members on the VPA process, and given voice to its constituents in the implementation phase of the VPA.


**Example. Vietnamese NGO network on FLEGT**

The Vietnamese NGO network on FLEGT is a platform of 40 member organisations. Members have knowledge and experience of groups that depend on forests, including ethnic minorities, household-based and other small enterprises that process wood, and people who own land, but do not have land titles. Since its formation in 2012, the network has:

- Built the capacity of its members to engage with the VPA process
- Consulted communities about aspects of the VPA, such as the legality definition and timber legality assurance system
- Provided the Vietnamese government with written comments based on consultations
- Conducted research and published reports on legal reform in the forest sector and on the potential impacts of a VPA on livelihoods

The network does not have a seat on Vietnam's negotiating structures. However, it has influence, as the government of Vietnam is legally required to consult on new legal documents and trade agreements, and because the EU may follow up on some of the points the network makes. The network chair hopes the network will also have a role in VPA implementation and/or monitoring.

Source: EU FLEGT Facility interview 2014

### 6.6. EU VPA structures

The section on [EU stakeholders](#) describes the roles of EU institutions and other bodies, such as the Council of the European Union, European Parliament, European Commission and EU
delegations. In addition to these bodies, other structures with specific roles in Voluntary Partnership Agreement (VPA) processes include:

**The FLEGT Committee**

The FLEGT Committee coordinates EU policies under the [EU Forest Law Enforcement Governance and Trade (FLEGT) Action Plan](https://ec.europa.eu/environment/forests/flegt/index_en.htm). The European Commission chairs the committee. Members represent each of the EU member states.

**EU negotiating teams**

The EC negotiates VPAs on behalf of the EU, represented by a chief negotiator and an official who serves as VPA focal point. To date, negotiations in Asia have been led by the EC Directorate-General Environment. Negotiations in Africa and South and Central America have been led by the EC Directorate-General Development Cooperation.

Representatives of EU member states, the EU delegation, European Commission colleagues in Brussels and experts from the EU FLEGT Facility support the EU negotiating team. The negotiating team also interacts with European stakeholders in the European Union and with the FLEGT facilitator. The FLEGT facilitator has a neutral role and acts in the interests of a VPA, supporting both parties in the negotiations.

The EU negotiators may also interact with in-country experts and with relevant projects, such as those funded by the EU, EU member states, FAO and other donors.

**Competent authorities**

Competent authorities are the authorities that EU member states have designated to receive, accept and verify FLEGT licences. In some EU member states, the competent authorities are customs or other authorities responsible for border control. Other EU member states assign this function to other government services.

**7. Glossary**

**C**

**CEEAC**: See [Economic Community of Central African States](https://en.wikipedia.org/wiki/Economic_Community_of_Central_African_States)

**COMIFAC** (*Central African Forest Commission*): An intergovernmental organisation in Central Africa that aims to manage the region’s forests sustainably. COMIFAC has 10 member states: Burundi, Cameroon, Chad, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Republic of the Congo, Rwanda and São Tomé and Príncipe. COMIFAC was established in March 1999 in the Declaration of Yaoundé. See the [COMIFAC website](https://www.comifac.org/).

**CITES** (*Convention on International Trade in Endangered Species*): Intergovernmental agreement to ensure that international trade in specimens of wild animals and plants does not threaten the survival of endangered species.
CITES permit: Document confirming that the product traded follows the requirements stipulated under the Convention on International Trade in Endangered Species (CITES). Timber accompanied by a CITES permit will be accepted as legal under the EU Timber Regulation. The EUTR due diligence procedures therefore do not need to be applied to timber with a CITES permit. CITES permitted species will not receive a FLEGT licence as they will receive their own CITES certificate.

Competent authority: Under the EU FLEGT Regulation, the authority or authorities designated by each EU member state to verify FLEGT licences. Under the EU Timber Regulation (EUTR), the authority designated by each EU member state to monitor compliance by operators and to verify that monitoring organisations are fulfilling their obligations. In some EU member states, the EUTR competent authorities are customs or other authorities responsible for border control. Other EU member states assign this function to other government services. In some EU member states, EUTR and FLEGT competent authorities are the same institutions (and even people). See the List of Member States’ Competent Authorities responsible for implementing the FLEGT Regulation and the List of Member States’ Competent Authorities responsible for implementing the EU Timber Regulation.

Conflict timber: Timber traded by armed groups, the proceeds of which are used to fund armed conflicts. The UN Security Council coined the term ‘conflict timber’ in 2004 in Resolution 1521.

Conformity assessment body (CAB): Conformity assessment means checking that products, materials, services, systems or people measure up to the specifications of a relevant standard. In VPAs, a conformity assessment body may be responsible for verification of compliance with the timber legality assurance system. A conformity assessment body demonstrates competence by adhering to relevant standards, in particular relevant ISO/IEC normative documents, preferably by seeking accreditation against those standards.

Corrective action: In VPAs, an action to be taken by an actor in the timber legality assurance system to correct individual non-compliance(s) or system failures identified by the verification agencies or the independent audit.

D

Directorate-General for International Cooperation and Development (DG DEVCO): The European Commission’s Directorate-General responsible for designing European international cooperation and development policy and delivering aid throughout the world. DG DEVCO is, together with DG ENV, one of the Commission DGs leading the implementation of the EU FLEGT Action Plan. Among others, DG DEVCO leads VPA negotiations with African countries and with some Latin American countries, and delivers bilateral development assistance to support the implementation of FLEGT goals.

Directorate-General for the Environment (DG ENV): The Directorate-General for Environment is the European Commission department responsible for EU policy on the environment. It aims to protect, preserve and improve the environment for present and future generations, proposing and implementing policies that ensure a high level of
environmental protection and preserve the quality of life of EU citizens. It also makes sure that Member States apply EU environmental law correctly and represents the European Union in environmental matters at international meetings. DG ENV is, together with DG DEVCO, one of the Commission DGs leading the implementation of the EU FLEGT Action Plan.

Due care: Under US law, due care requires a person to undertake certain steps to ensure that he or she is not violating the law. Due care is applied differently to different categories of persons with varying degrees of knowledge and responsibility.

Due diligence system: A system operators use to minimise the risk of placing illegal timber or timber products on the EU market. The three key elements of a due diligence system are: 1) Information: the operator must have access to information describing the timber and timber products, country of harvest, species, quantity, details of the supplier and information on compliance with national legislation. 2) Risk assessment: the operator should assess the risk of illegal timber in his or her supply chain, based on the information identified above and taking into account criteria set out in the EU Timber Regulation. 3) Risk mitigation: when the assessment shows there is a risk of illegal timber in the supply chain that risk can be mitigated by requiring additional information and verification from the supplier.

E

Economic Community of Central African States (ECCAS, CEEAC): ECCAS is an economic community of the African Union for promotion of regional economic cooperation in Central Africa. It aims to achieve collective autonomy, raise the standard of living of its populations and maintain economic stability through harmonious cooperation. There are 10 member states: Angola, Burundi, Cameroon, Central African Republic, Chad, Republic of the Congo, Democratic Republic of the Congo, Equatorial Guinea, Gabon and São Tomé and Príncipe.

EU delegation: Formerly European Commission representations, EU delegations fall today under the European External Action Service as EU Embassies and are European Union's diplomatic representations around the world. Most EU delegations are responsible for EU relations with a single country, some oversee relations with a group of countries or a region and some are dedicated to organisations such as the African Union, ASEAN or the United Nations. See also European External Action Service (EEAS) and the EEAS website.

EU FAO FLEGT Programme: A five-year initiative between 2012 and 2016, which provides support to timber producing countries to implement projects that target aspects of the EU FLEGT Action Plan. The EU FAO FLEGT Programme is funded by the European Union and implemented by the Food and Agriculture Organization of the United Nations (FAO). The Programme is a successor programme to the ACP-FLEGT Support Programme (2008-2012). See EU FAO FLEGT Programme website.

EU FLEGT Action Plan: The EU Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan is the European Union’s response to the problem of illegal logging and associated trade in timber and timber products. Agreed by EU member states in 2003, the EU FLEGT Action plan recognises the role of the EU as export market for countries where
levels of illegality and poor governance in the forest sector are most serious. The Plan includes actions to engage the EU in joint work with timber exporting countries with the view to improve forest governance and reduce the trade in illegal timber and timber products.

**EU Timber Regulation (EUTR):** Regulation (EU) No 995/2010, which lays down the obligations of operators who place timber and timber products on the market to counter the trade in illegally harvested timber and timber products. The European Union Timber Regulation (EUTR) is one part of the EU’s FLEGT (Forest Law Enforcement, Governance and Trade) Action Plan which aims to reduce illegal logging worldwide. The EUTR makes it an offence to place for the first time illegally harvested timber and timber products onto the EU market. Furthermore, operators who place timber or timber products on the market for the first time must have due diligence system to mitigate the risk that this timber has been illegally harvested. The EU Timber Regulation entered into force on 3rd March 2013 and it is directly applicable in all EU member states. See the European Commission’s EUTR website.

**European Commission (EC):** The EU's executive body, which represents the interests of Europe as a whole (as opposed to the interests of individual countries). The term 'Commission' refers to both the college of commissioners and the institution itself – which has its headquarters in Brussels, Belgium with offices in Luxembourg. The Commission also has offices known as 'representations' in all EU member countries. See European Commission website.

**European External Action Service (EEAS / EU delegation):** The European Union’s diplomatic service. It helps the EU’s foreign affairs chief – the High Representative for Foreign Affairs and Security Policy – carry out the Union’s Common Foreign and Security Policy. EEAS delegations (known as EU delegations) operate around the world. See EEAS website.

**European Forest Institute (EFI):** An international organisation established by European states, which conducts research and provides policy support on issues related to forests. EFI hosts the EU FLEGT and REDD facilities. See EFI website.

**European Union (EU):** The political and economic union of 28 European countries. The EU operates through a system of supranational independent institutions and intergovernmental negotiated decisions by its member states. See EU website.

**FAO ACP FLEGT Programme:** The Forest Law Enforcement, Governance and Trade Support Programme for African, Caribbean and Pacific (ACP) countries was a four-year initiative between 2008 and 2012 to address forest law enforcement, governance and trade issues in ACP member countries. The ACP FLEGT Programme was funded by the European Commission and implemented by the Food and Agriculture Organization of the United Nations (FAO). The Programme had two main components: providing assistance to ACP country stakeholder groups in putting the European Union (EU) Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan into practice; and supporting the collection, analysis and dissemination of FLEGT-related information and lessons learned among the
stakeholder groups. In 2012, the ACP-FLEGT Support Programme was followed by the larger EU FAO FLEGT Programme (2012-2016). See also EU FAO FLEGT Programme.

FLEGT (Forest law enforcement, governance and trade): Acronym of forest law enforcement, governance and trade. The term may refer to a) the EU initiative to tackle illegal logging: the EU Forest Law Enforcement Governance and Trade Action Plan; see also EU FLEGT Action Plan, b) activities to implement the EU FLEGT Action Plan or c) other activities that relate to forest law enforcement, governance and trade but take place outside the scope of the EU FLEGT Action Plan.

FLEGT Committee: A committee that coordinates European Union policies under the EU FLEGT Action Plan. The European Commission chairs the committee. FLEGT Committee members represent each of the EU member states.

FLEGT licence: An export licence issued by a VPA partner country for timber or timber products destined for the EU market. The licence certifies that the timber or timber products exported under that licence are legal. Timber or timber products accompanied by a FLEGT licence will be accepted as legal under the EU Timber Regulation. Importers therefore do not need to apply EUTR due diligence procedures to FLEGT licensed timber or timber products. See also FLEGT-licensed timber.

FLEGT licensing scheme: The issuing of licences for timber and timber products destined for export to the European Union from a VPA partner country, and its implementation in the European Union following provisions on border controls.

FLEGT Regulation: EC Regulation No 2173/2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Union. The EU FLEGT Regulation makes it illegal to import timber and timber products into the EU from countries with whom the EU has concluded a Voluntary Partnership Agreement (VPA) unless the exporting country has issued that timber with a FLEGT licence to confirm its legality. The EU FLEGT Regulation only relates to timber imported from producer countries, which have ratified VPA agreements with the EU, and only once the timber legality assurance system agreed in the VPA is operational. EU member states have passed domestic legislation to implement this regulation. See the full text of the FLEGT Regulation.

FSC (Forest Stewardship Council): FSC is an international not-for-profit, multi-stakeholder organization established in 1993 to promote responsible management of the world’s forests. Its main tools for achieving this are standard setting, certification and labelling of forest products.

G

Green public procurement: See Public procurement.

H

Harmonised System Nomenclature (HS Nomenclature): An internationally standardised system of names and numbers that classifies traded products. The HS nomenclature was developed under the auspices of the World Customs Organization. The EU and its member
states are contracting parties to the Convention on the Harmonized Commodity Description and Coding System. The HS Nomenclature comprises 5000 commodity groups. The Combined Nomenclature of the EU integrates the HS Nomenclature and comprises additional eight-digit subdivisions and legal notes to address the needs of the Community. See also HS codes.

J

**Joint implementation committee (JIC):** In VPAs, an EU and partner country joint committee whose main purpose is to oversee the implementation of the Agreement. The committee has both technical and political meetings. Committee members represent the EU or the VPA partner country. A VPA, in its main text or an annex, describes how the joint implementation committee operates. Some VPA partner countries have different names for the joint implementation committee. In Ghana, for instance, the body is called the Joint Monitoring and Review Mechanism. In Cameroon, the committee is composed of two bodies: the Joint Monitoring Committee and the Joint Implementation Council.

L

**Legality definition:** Each VPA defines ‘legal timber’ based on laws and regulations of the partner country. The national legality definition sets out the legal and regulatory requirements that must be met before a FLEGT licence can be issued. The laws cover the economic, environmental and social aspects of forest management and timber processing. The definition also provides criteria and indicators to be used for checking compliance with those laws. The legality definition is one of the core elements of a VPA timber legality assurance system.

**Legally produced timber:** Timber or timber products that have been harvested, processed and traded in accordance to the laws of the countries where the activities take place.

**Licensing authority:** The authority or authorities designated by a VPA partner country to issue and validate FLEGT licences.

**Log landing:** A landing is an open area used for processing and stacking logs before they are loaded onto a log truck. It is the ‘front room’ of most timber harvests where machinery is stored and many field decisions are made.

M

**Market participant:** An actor, private or public, involved in forestry, or transformation or trade of timber products

**Multi-stakeholder process:** A convening of civil society, the private sector, the public sector and other stakeholders to promote better decision making by ensuring that the views of the main actors concerned about a particular decision are heard and integrated at all stages, through dialogue and consensus building. The approach aims to create trust between the actors and solutions that provide mutual benefits (win-win). The approach is people-centred and everyone involved takes responsibility for the outcome. Because of the inclusive and
participatory approaches used, stakeholders have a greater sense of ownership for decisions made. They are thus more likely to comply with them. See also stakeholder.

O

Operator: Under the EU Timber Regulation, any natural or legal person that places timber or timber products on the EU market.

P

PEFC (Programme for the Endorsement of Forest Certification Schemes): The Programme for the Endorsement of Forest Certification Schemes (PEFC) is a non-profit international organization promoting sustainable forest management, and an international umbrella organization providing independent assessment, endorsement and recognition of national forest certification systems.

Public procurement: The buying of goods and services by government organisations. ‘Green’ public procurement is a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured. Public procurement is one of the measures in the EU FLEGT Action Plan. The Plan proposes to guide contracting authorities in the EU member states on how to deal with legality when specifying timber in procurement procedures.

R

REDD+ (Reducing emissions from deforestation and forest degradation): A mechanism created by the United Nations with the view of making forests more valuable standing than felled. Under the REDD+ mechanism, the carbon storage services of forests are quantified and assessed, and funds are given to provide incentives to conserve or enhance forests stocks.

S

Shipment: In trade, a shipment or consignment is a cargo transported under the terms of a single bill of lading or air waybill, irrespective of the quantity or number of containers, packages, or pieces. In VPAs, a shipment is a quantity of timber or timber products from a VPA partner country, which is covered by a FLEGT licence. A shipment is sent from a VPA partner country by a consignor or a shipper, and is presented for release at a customs office of an EU member state for free circulation in the EU market. In the context of VPAs and FLEGT licensing in particular, shipment and consignment are synonyms. See also consignment and shipment-based licensing.

Shipment-based licensing: In VPAs, shipment based licensing is a licensing system where a licence demonstrating legal compliance is issued by the licensing authority of the VPA partner country for each shipment exported to the EU.
**Stakeholder:** The stakeholders in a process or an activity are the people, companies and institutions that can affect or can be affected by that process or activity. Forests have many economic, environmental and cultural values at local, national and international scales, so any forest policy will have many stakeholder groups. In the case of VPAs, stakeholders in the timber-exporting country and the EU include governments, private sector actors, civil society organisations, communities and/or indigenous people. See also multi-stakeholder process.

**Supply chain:** A timber supply chain is a system of organisations, people, technology, activities, information and resources that move and transform timber and timber products from the point of harvest or import to its final sale.

**Sustainable forest management (SFM):** A dynamic and evolving concept that aims to maintain and enhance the economic, social and environmental value of all types of forests, for the benefit of present and future generations.

**T**

**Timber legality assurance system (TLAS):** The main element of a VPA. A timber legality assurance system enables a VPA partner country to define what is legal timber, verify whether timber products have been harvested, transported and traded legally, track timber and timber products from their origin to their point of exports, issue FLEGT licences for legally verified products to be exported to the EU and subject the entire system to independent auditing.

**Trader:** Under the EU Timber Regulation, any natural or legal person who in the course of a commercial activity, sells or buys on the internal market timber or timber products already placed on the internal market.

**V**

**Verification of legality:** The means assessing that timber and timber products comply with the law. In VPAs, verification assures that the requirements of the legality definition and the supply chain controls, as defined in the timber legality assurance system, are met.

**Voluntary Partnership Agreement (VPA):** A legally binding bilateral trade agreement between the EU and a timber-exporting country outside the EU. Each VPA aims to ensure that timber and timber products imported into the EU from a partner country comply with the laws of that country.

**VPA partner country:** Any timber exporting country that enters into negotiations to conclude a Voluntary Partnership Agreement (VPA) with the European Union.