



Making Voluntary Partnership Agreements (VPAs) work for forests, people and the climate

Civil society recommendations on the future of VPAs



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"[...] FLEGT remains an innovative, comprehensive and future-proof initiative, with the power to inspire a global movement to eradicate illegal logging. [...] A long-term commitment is needed to tackle the complex issues that enable illegal logging to still persist, and to achieve sustainable forest management in line with Sustainable Development Goal 15."

EU Commissioner Neven Mimica on the evaluation of the FLEGT Action Plan

This briefing note is intended to contribute to the ongoing debate about future support to the European Union (EU) Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan and in particular its Voluntary Partnership Agreements (VPAs).

The EU's FLEGT Action Plan was introduced in 2003 to curb illegal logging and related trade, promote sustainable forest management, and address some of the root causes of deforestation and forest degradation. Since then, it has reduced illegal logging, increased awareness of its detrimental impact, instigated forest governance reforms, and helped to clarify market requirements for the trade in legal timber in particular through the VPAs and the EU Timber Regulation (EUTR). As the EU considers future support to FLEGT, it is urgent that implementation is strengthened and that VPAs are strongly linked to the evolving political and economic landscape. In signing the 2030 Agenda for Sustainable Development and the Paris Climate Agreement, the EU and VPA countries committed to halt deforestation and forest degradation by 2020, and to protect and restore forests as a contribution towards limiting global warming to 1.5° Celsius. They must now translate these commitments into action.

Progress so far

An independent evaluation of the FLEGT Action Plan¹ and a report of the European Court of Auditors² confirmed the innovative design and continuing relevance of FLEGT. They noted FLEGT's important contribution to the international fight against illegal logging and associated trade, and the role it plays in improving governance in partner countries. This includes strengthening the participation of local stakeholders, particularly civil society organisations and in some cases forest communities, stimulating transparency and accountability, and triggering legal reforms to protect the rights of forest peoples and local communities. These findings are welcomed by civil society organisations who regard VPAs as integral to the forest governance improvements³ experienced in their countries. In particular, civil society organisations acknowledge that VPAs provide political space and structures that better enable them to be agents for change.⁴

¹ Evaluation of the EU FLEGT Action 2004-2014, published May 2016: <https://ec.europa.eu/europeaid/sites/devco/files/report-flegt-evaluation.pdf>

² Special Report No 13/2015: EU support to timber producing countries under the FLEGT Action Plan, European Court of Auditors, October 2015: http://www.eca.europa.eu/Lists/ECADocuments/SR15_13/SR_FLEGT_EN.pdf

³ Do FLEGT VPAs improve governance? Fern, May 2016: http://www.fern.org/sites/fern.org/files/impactreportFINAL_LOWRES_0.pdf

⁴ Tackling illegal logging, deforestation and forest degradation: an agenda for EU action, Environment Investigation Agency, Client Earth, Conservation International, Fern, Forest Peoples Programme, Global Witness, Greenpeace, Transparency International, World Wide Fund: <http://www.fern.org/sites/fern.org/files/FLEGT%20briefingnote%20deforestation%20designed.pdf>

Challenges

However, the evaluation noted that implementation needs to be strengthened, progress monitored, and challenges addressed. In most VPA countries, civil society organisations are concerned that full compliance with the agreement is far from achieved, and so far only Indonesia has issued FLEGT licences. Corruption and environmental degradation remain major concerns, and legislation in some countries is unclear, insufficient, unevenly enforced, and unable to integrate standards on human rights. Access to information, particularly for local communities, and transparency are still limited and on top of this, support for small-scale loggers to engage is weak. New threats to forests have emerged, including large-scale agriculture, mining, hydro-power-plants and other infrastructure investments, and are yet to be tackled properly.

Recommendations

The EU and VPA partner countries need to fully implement, strengthen, and streamline the VPAs. This should be done by:

- 1. Reinvigorating political will at the highest level for the VPAs**
- 2. Focusing on the governance elements of the VPAs**
- 3. Stepping up multi-stakeholder participation and oversight throughout the VPA process**
- 4. Making FLEGT licensing happen**
- 5. Monitoring and assessing the impact of the VPAs**
- 6. Connecting the VPAs with other key measures**

1. Reinvigorating political will at the highest level for the VPAs

The EU and its Member States play an important role in maintaining political momentum to achieve the benefits of the VPAs including clearer and fairer tenure laws, improved small scale livelihoods, proper revenue collection, and stronger multi-sectoral coordination. We therefore recommend that the EU:

- integrates ‘forest diplomacy’ into its climate diplomacy⁵

⁵ In 2016, the Council of the EU defined three strands that climate diplomacy has to build upon after Conference of the Parties (COP21): (1) continuing to advocate climate change as a strategic priority in diplomatic dialogues, public diplomacy and external policy instruments; (2) supporting implementation of the Paris Agreement, in the context of low-emission and climate resilient development; and (3) increasing efforts to address the nexus between climate, natural resources, prosperity, stability and migration.

The VPAs

The VPAs are a central plank of the EU FLEGT Action Plan. VPAs are legally binding bilateral trade agreements between the EU and timber-producing countries that set out the commitments and actions that the EU and timber-exporting countries need to take to tackle illegal logging, including measures to increase participation of civil society actors, strengthen communities’ tenure rights and address corruption.

Six VPAs have been signed to date – between the EU and Cameroon, Central African Republic, Ghana, Indonesia, Liberia, and the Republic of the Congo, and more are under negotiation. It is estimated that 90 per cent of the value of all cross-border trade in tropical timber and timber products from countries is derived from countries engaged at various stages of the VPA process.

efforts to ensure that forests are a strategic priority in policy dialogues with forested tropical countries, and to achieve effective and inclusive VPA implementation processes. This forest diplomacy should be led by the European External Action Service (EEAS) and EU country delegations. Such diplomacy should aim to encourage important actors such as China to engage in the VPAs and other forest governance processes; and

- ensures that the VPAs continue to be part of high level political dialogues with partner countries, and steps up its support to forest protection and small scale livelihoods.

2. Focusing on the governance elements of the VPAs

VPA countries have committed to build good forest governance and put in place reliable timber legality assurance systems (TLAS) covering all timber sources and their complete chains of custody. Progress on both fronts has been slower than anticipated with technical complexities, costs and capacity gaps, systemic corruption and lack of government ownership hampering both. While governments need to step up their efforts to develop a strong TLAS, this should go hand-in-hand with effective governance and legal reforms.⁶ We recommend that:

⁶ The legality definition is central to a country’s TLAS. It identifies the how a VPA partner country will determine legality of timber, and describes the process for gathering evidence to monitor compliance with these obligations. Timber and timber products must be able to prove that they comply with this definition in order to receive FLEGT licences. See: <http://www.euflegt.efi.int/legality-definition>

- the EU and its Member States strengthen their support for legal and governance reforms that embed international human rights, environmental and anticorruption standards and have a bearing on forests and forest peoples' rights. This should include: stepping up collaboration and coordination between the EU and Interpol, relevant United Nations agencies, and VPA countries through the national VPA structures, and other relevant EU and international fora;
- the EU and VPA countries ensure that VPA workplans include specific, time-bound governance milestones for developing and implementing coherent, human rights compliant legal reforms. Workplans should also include milestones for implementing transparency measures, addressing findings from independent audits and independent forest monitoring reports, and ensuring effective functioning of VPA structures, and participation of local stakeholders. These governance milestones should be assessed by countries on a regular basis through joint progress reports and accompanied by high-level multi-stakeholder dialogues to address any gaps and delays; and
- the EU supports greater involvement and capacity building of judicial and oversight bodies to ensure fair and proper law enforcement, and corruption monitoring.

3. Stepping up multi-stakeholder participation and oversight throughout the VPA process

One of the strengths of the VPA process is that it requires stakeholder participation in jointly crafting solutions and providing complementary and independent views. This principle should be upheld as it is beginning to deliver significant results in terms of finding solutions that work in the country context. Preventing illegal logging, deforestation and climate change is urgent, but changing behaviour across a sector takes time and building trust among stakeholders is key. We recommend that:

- the EU and its Member States continue to support effective and meaningful participation of diverse and independent groups of civil society actors including direct participation of representatives of local and indigenous communities in VPA processes through access to adequate resources and capacity building. This could include inputs related to key decisions on issues such as objectives and activities, and annual assessments of the VPA process through activity reports and independent audits;
- the EU and VPA countries enable effective independent forest monitoring by civil society organisations and communities. Both the EU and partner countries should acknowledge the risks taken in monitoring forests, and find concrete measures to ensure the security of independent forest monitoring bodies. The findings of this monitoring should be discussed freely and publicly by stakeholders,

and recorded in annual country progress reports, to assess gaps and lead to corrective actions; and

- the EU urges VPA countries to provide effective space for civil society groups and community representatives to express their opinions freely and independently. Reports of potential or actual restrictions on civil society representatives in VPA countries should be discussed and addressed by the EU and VPA countries.

4. Making FLEGT licensing happen

FLEGT licensing is a key tool to build and maintain the credibility and accountability of the TLAS. Such improvements will show how sustainable governance in the forestry and timber trade sectors has improved. We recommend that:

- the EU and VPA countries support the strengthening of the TLAS. Both parties should ensure immediate and credible responses in cases of non-compliance;
- the EU and VPA countries should consider implementing measures to assist small and medium enterprises (SMEs) and community based forestry practices to comply with the requirements of the VPA. Such measures should not however undermine the credibility of the TLAS. Options could include exploring simplified systems of supply chain control of less valuable sources, allowing for time-bound exceptions within the TLAS and excluding SMEs from complying with some obligations of the legality definition for a limited period of time; and
- the EU should ensure effective independent market monitoring under the VPA. Such monitoring would demonstrate the EU market incentives and support (or lack thereof) for FLEGT licensing, and encourage producer countries to improve the governance of their timber sector.

5. Monitoring and assessing the impact of the VPAs

The challenge of demonstrating VPAs' impacts has been exacerbated by a lack of proper monitoring and evaluation mechanisms, and the absence of a clear theory of change at producer country and EU level. At the same time, it is difficult to establish causality between the VPAs and governance impacts since this involves measuring moving targets, reconciling the views of different stakeholders, recognising the large diversity of country processes and objectives, and acknowledging gaps in collecting and processing data. We recommend that:

- the EU encourages VPA countries to develop a realistic and balanced workplan that is updated to reflect the evolving objectives of the VPA process in the country. Progress against the objectives, milestones and activities set out in

the workplan, and any wider impacts should be captured in joint annual progress reports;

- the EU and VPA countries develop a robust monitoring and evaluation framework at the country level to assess the extent to which both governance and technical milestones are being met, ensuring that the framework for routine monitoring and evaluating has the support of government, companies and civil society, and is inclusive and deliberative; and
- the EU and VPA countries set up a global advisory body run by and reflecting the diversity of VPA countries and local, EU, and international stakeholders to monitor implementation results through regular progress reports, country assessments, reports from the independent auditors and independent forest monitors, as well as proxy indicators in areas such as investment climate, corruption, Nationally Determined Contributions (NDCs),⁷ and Sustainable Development Goals (SDGs).

6. Connecting the VPAs with other key measures

Although illegal logging remains a problem in the forestry sector, most tropical timber entering the EU today does not come from logging concessions, but from land converted to other uses, often illegally.⁸

The EUTR is the principle demand-side measure under the FLEGT Action Plan. Yet poor enforcement in a certain number of Member States, non-harmonised penalty regimes and implementation delays by Member States have hindered its effectiveness.

At the same time, the development landscape has evolved since 2003 to include new frameworks such as the Paris Climate Agreement, Agenda 2030 and its 17 SDGs, and the new EU Consensus on Development. Efforts to tackle illegal logging and deforestation can only be successful and contribute to global development and climate objectives if local peoples' land rights are strengthened and secured. There are proven links between secure community land tenure rights, sustainable management of forests and decreased deforestation. The risks of unsustainable use following on

from communities being squeezed by other land-users are also well known.⁹ We recommend that:

- EU country delegations and Member States encourage stronger linkages between VPA and EUTR authorities, and other EU trading partners including those working to tackle illegal conversion timber and illegal timber from forestry concessions. This could take the form of visits by EUTR authorities to VPA countries and other timber producing countries, and regular information exchanges with civil society organisations involved in independent forest monitoring and mandated independent forest monitors;
- the EU strengthens coherence and stimulates linkages between the VPAs, the SDG framework, NDCs, and sectoral policy measures including on land-use planning, agriculture, mining and infrastructure development; and
- the EU develops an Action Plan on Deforestation and Forest Degradation that addresses the EU's global responsibility to protect forests and respect the rights of forest peoples.



⁷ The Paris Climate Agreement stipulates that each Party shall prepare, communicate and maintain successive nationally determined contributions (NDCs) that it intends to achieve. These contributions specify participating countries' adaptation and emissions reduction targets for the period up to 2030. See: http://unfccc.int/focus/ndc_registry/items/9433.php

⁸ Stolen Goods, Fern, March 2015: http://www.fern.org/sites/fern.org/files/Stolen%20Goods_EN_0.pdf

⁹ Securing Rights, Combating Climate Change: How Strengthening Community Forest Rights Mitigates Climate Change, World Resources Institute, July 2014: <http://www.wri.org/sites/default/files/securingrights-full-report-english.pdf>

