

What are FLEGT VPAs?

They are **V**oluntary
Partnership **A**greements.

They are legally binding
bilateral trade agreements
which set out the
commitments and action
that the EU and timber
exporting countries will
take to tackle illegal
logging.



LOGGINGOFF is a joint initiative by NGOs from European and timber-producing countries involved in or monitoring the implementation of the EU FLEGT Action Plan, and specifically the implementation of the Voluntary Partnership Agreements.

Basics

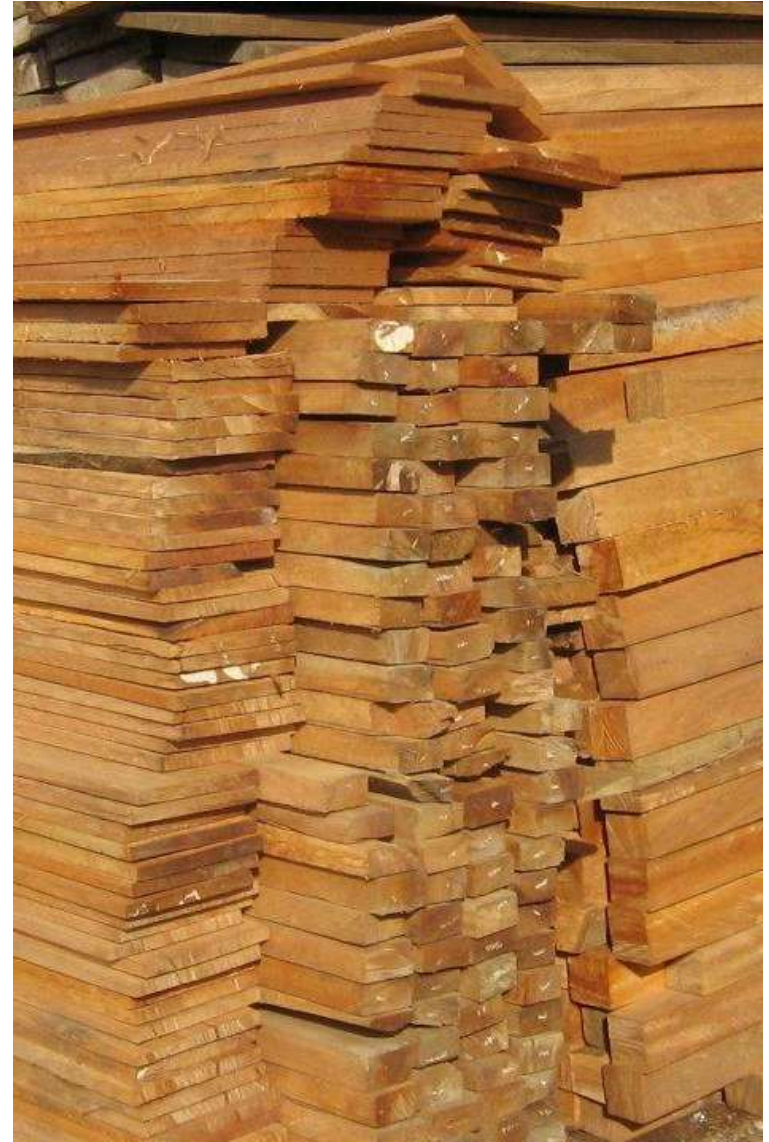
- The VPA process is undertaken **by two parties**: the **EU** on behalf of all its Member States and the **country government** of the timber exporting (and producing) country
- **VPAs set out the commitments and action of both parties to tackle illegal logging**, including measures to increase participation of rightsholders and non-state stakeholders; recognise communities' rights to the land; and address corruption
- VPAs are required to have the **buy-in of national stakeholders**, including NGOs, local communities, indigenous peoples, and the timber industry



Context

- VPAs are the central plank of the EU's Action Plan to address the illegal timber trade: the **Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan**.
- Other elements of this plan include :
 - (1) **Government Procurement Policies**
 - (2) **Financial due diligence**
 - (3) **Illegal timber regulation**

For more information on FLEGT, see:
[What is FLEGT](#)



Objectives

The EU Council Conclusions on FLEGT (2003/C 268/01) note that the VPAs must, among others, “*instigate forest sector governance reforms, more specifically they should:*”

- *strengthen land tenure and access rights especially for marginalised, rural communities and indigenous peoples;*
- *strengthen effective participation of all stakeholders, notably of non-state actors and indigenous peoples, in policy-making and implementation;*
- *increase transparency in association with forest exploitation operations, including through the introduction of independent monitoring;*
- *reduce corruption in association with the award of forest exploitations concessions, and the harvesting and trade in timber”.*



To achieve these objectives...

- all social, environmental and economic issues linked to forest use must be discussed, and failures addressed
- weaknesses and injustices in the laws must be identified, and changes proposed through a process that involves all stakeholders
- legal requirements must apply to all timber products and all exports, not just timber destined for the EU market
- transparency and accountability must be improved through monitoring, reporting and public access to information



Elements

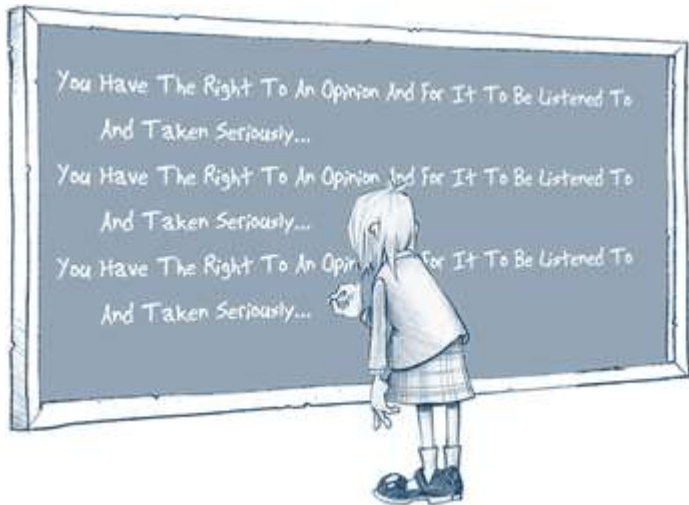
A VPA includes three main elements:

- a) **Defining legality**, or deciding which laws will be enforced for the purpose of the agreement
- b) Developing a **Legality Assurance System (LAS)** (including timber tracking, government legality controls, and systems to verify the legality of the timber)
- c) **Independent audits** of the whole system, to ensure credibility of the export licenses.



a) Defining legality

- The legality definition outlines the **set of laws that will be enforced and monitored** in the context of the FLEGT agreement



- ‘Legality’ is based on the laws and procedures of the timber producing country in question, and must include laws addressing **social, environmental and economic issues**

- The definition must be developed through **extensive participation** of all stakeholders and rightsholders



b) Legality assurance system (LAS)

The LAS is the main tool for guaranteeing legality. It consists of:

- **The "legality grid"**: A matrix which outlines the laws, verifiers and indicators used to monitor enforcement of laws
- **Chain of custody**: The wood tracing system which ensures only timber verified as legal will be exported or sold. Verified and unverified timber should be kept separate
- **Verification of legal compliance**: The way the government or third party verifies no illegally sourced timber enters the chain of custody.
- **Licensing**: A FLEGT licence is issued to timber verified as legal, and this allows it to be shipped to the EU



c) Independent audits

An independent auditor is hired to ensure the system is working. Their terms of reference (ToR) are defined in an annex to the VPA.

Independent audits can also be complemented by **independent monitoring/observation**, providing information on governance failures.

Independent audit

- is a compulsory element of a VPA
- all agreed VPAs include annexes defining the ToR for the audits
- its role is to check the system works

Independent Monitoring/Observation

- is not an integral part of the VPA
- in Cameroon and the Rep of Congo, the need for an independent monitor/observer is part of the VPA agreement
- This monitor/observer checks malfunctions in forest law enforcement and provides information to the independent auditor. The role is often played by NGOs



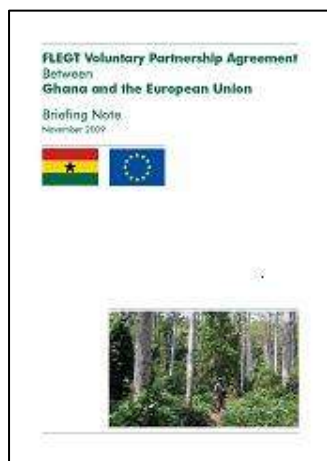
What does a VPA look like?

A VPA is composed of a set of articles outlining the basic principles of the agreement, the **'main text'**, and a set of **annexes**.

The number of annexes can vary between different VPAs, but together they should cover issues such as which laws will be monitored for the purpose of the agreement , and how technical systems of verification and traceability will work



The contents of a typical VPA



| | |
|------------------|--|
| Main text | Around 30 Articles establishing the agreement principles and structures |
| Annex 1 | Product scope (which timber products are covered by the agreement) |
| Annex 2 | Legality definition (the set of laws whose enforcement will be monitored prior to awarding a FLEGT license) |
| Annex 3 | Description of the Legal Assurance System (LAS) |
| Annex 4 | Conditions for the import of timber products into the EU from the FLEGT partner country |
| Annex 5 | FLEGT License (demand, delivery, validity and other conditions) |
| Annex 6 | Terms of reference for the Independent Auditor of the system |
| Annex 7 | LAS Assessment Criteria (criteria to determine the functioning of the system) |
| Annex 8 | Implementation Schedule |
| Annex 9 | Accompanying Measures (list of measures needed to ensure a good implementation of the agreement) |
| Annex 10 | Information (list of documents that will be placed on the public domain) |
| Annex 11 | Functions of the EU-FLEGT country Joint Implementation Committee |



How is a VPA agreed?

- **Pre-negotiation** starts when a timber producing country shows interest in starting a VPA. During this time, both parties explore the interests and constraints of engaging in such a process
- **VPA negotiations** follow. During negotiations both parties aim to reach an agreement on the key elements of the VPA, including the legality assurance system (LAS) and any other measures that will have to be in place for the implementation
- **Initialling** of the VPA signifies the end of negotiations and often includes a ceremony between the EU and timber exporter
- This is followed by the **ratification** process



When is a VPA legally binding?

Both parties enter into VPA negotiations voluntarily, but a signed VPA commits both parties to only trade legal timber.

- A VPA only enters into force once both parties have **ratified**.
- The process of ratification has so far taken from several months to over a year, but during that time, parties can start developing the agreed LAS
- FLEGT licences will not be given until the VPA has been ratified and the elements of the LAS put in place. From that moment onwards, only FLEGT timber can be exported from the partner country to the EU market

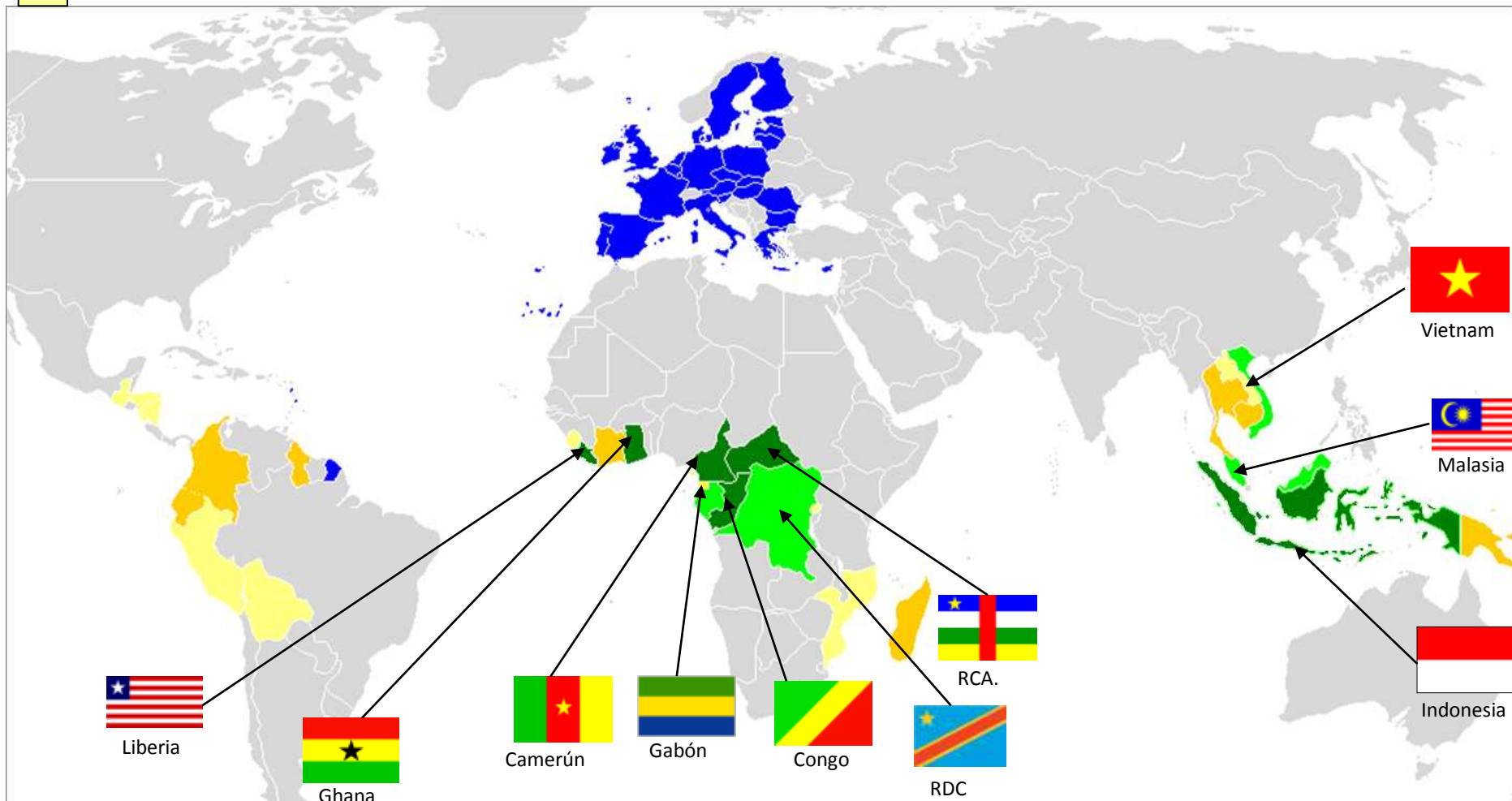
For more information on the negotiation and ratification process, see

www.fern.org/ratification



FLEGT partner countries

- FLEGT licenses (do not exist yet)
- Implementation of the system
- Formal negotiations
- Towards negotiations
- Preparation, developing consent
- Introduction on VPAs



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The online resource for information on
Voluntary Partnership Agreements



Challenges of VPA negotiations

- **Proper stakeholder involvement**

Involving everyone with a right/stake on forest use is **essential to define challenges and support** for the resulting VPA as well as to ensure its **legitimacy**. Identifying interests and ways of getting the right people to input in the negotiation is **complex**, and slows down the process.

- **Enough time**

There is a very thin line between **maintaining interest** and **allowing time** for effective participation.

- **The will to reach a consensus**

All sides must be willing to make concessions and reach a consensus.



VPAs are a big investment but they...

- **Strengthen cooperation:** Government, civil society and the private sector see the advantage of working together
- **Increase capacity:** Providing space for rights/stakeholders to participate in political processes improves civil society's capacity to be involved in the decisions that affect them
- **Help improve governance:** VPAs create the framework for rights/stakeholders to discuss complex issues, get to the bottom of forest governance problems and come up with solutions
- **Define joint producer - consumer action:** VPAs combine trade and development perspectives. They aim to address problems first and provide funding second



VPA implementation: policy into practice

- **How do we continue to ensure participation during the development and monitoring of the systems?**

- **How do we maintain the momentum**

There could easily be a drop in energy after intensive negotiations.

- **Keeping focused on governance reform**

Funding will come alongside implementation, it may be difficult to ensure that actions focus on governance reform and not just establishing traceability systems





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Online
resource for
information
on VPAs

You will also find more
information about FLEGT VPAs
and other related issues at
www.loggingoff.info

If you would like further
information about the FLEGT
action plan and how it is being
implemented, please contact

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