

Process to ratify timber trade agreements

The cornerstone of the European Union (EU) Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan is the negotiation of bilateral trade agreements with timber producing countries, known as Voluntary Partnership Agreements (VPAs). The aim of these agreements is to ensure that timber sold in the EU is legal.

The VPA process is undertaken by the EU on behalf of all its Member States. Although both parties (the EU and the producer country) enter into VPA negotiations voluntarily, when a VPA enters into force both parties are legally committed to only trade legal timber. The process leading to an operational VPA can be split into two stages: negotiation and ratification.

The negotiation process

The negotiation period aims for the parties to achieve agreement on the key elements of the VPA, especially the legality assurance system (LAS) which forms the basis of the VPA and is used to verify the legality of timber. If implementation of the agreement is to successfully achieve its aims, key stakeholders need to be involved in discussions, including civil society, the timber industry and rightsholders (such as indigenous peoples and local communities holding tenure rights). The negotiation period ends with the initialling of the agreement, normally including an EU-Partner Government ceremony marking the end of negotiations. The Commission negotiates on behalf of the EU, with representatives of the Member States contributing support to the EU negotiating team.



Kakum National Park in Ghana. Ghana was the first country to ratify an agreement.

The ratification process

The ratification period begins as soon as the agreement is initialled, and the agreement only enters into force once both parties have ratified. This process varies depending on the law making process in the timber producing country, but following the Lisbon Treaty's entry into force, in the EU it proceeds in two clear steps:

- i. The **'signing'** which ends when the EU Council, Commission and partner country sign the agreement. In preparation for signature, the VPA is translated into the 21 official EU languages. The Commission then proposes that the Council agree to sign the VPA, the Council decides if the VPA meets its expectations and if the Council agrees, the VPA is signed by the Presidency of the Council, the Commission, and the Partner Government.
- ii. The Commission then proposes to the Council that the agreement is **concluded** as the final step in its ratification. The Council sends the VPA to the European Parliament for its assent to the agreement. If the Parliament gives its consent, the Council adopts a decision,¹ which concludes the ratification of the trade agreement. The publishing of the decision marks the end of the ratification process from the EU side. As foreseen in the agreement, the EU Council then informs the other party that the ratification is concluded.

The process of ratification has to date taken from several months to over a year, but during that time, implementation of various parts of the VPA can begin, particularly measures which build capacity to implement the systems established through the VPA (such as awareness raising, training, developing policies around the LAS and legal reforms).

FLEGT licences will not be issued until the VPA enters into force and all the elements of the LAS put in place (agreement on laws and an independent auditor and systems to track, trace, and verify timber, etc). From the moment that the LAS is judged to be functioning properly and FLEGT licenses are issued and accepted in the EU, only timber verified as legally compliant can be exported from the partner country to the EU market and it must be accompanied by a FLEGT licence.

1. A decision is an EU legal instrument. A decision is binding on the person or entity to which it is addressed. The legislative procedure for adoption of a decision varies, and for trade agreements such as VPAs follows the 'Assent Procedure'. The Assent Procedure requires agreement of both the European Parliament and the Council of the European Union, but the Parliament can only agree or disagree to the text as a whole - it cannot propose amendments.

LOGGING OFF

This briefing note is developed 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 between the EU and timber producing countries. They intend to provide joint North-South civil society positions.

For information on each VPA see:

www.loggingoff.info or

<http://www.fern.org/campaign/forest-law-and-governance>

If you would like further information on this briefing, please contact the author:

Iola Leal Riesco, FERN: iola@fern.org or 0032 2 894 4693