



## A decade of VPAs: where have we been, where do we go?

“Our supermarkets have been converted in to crime scenes.” So said the Ford Foundation’s Director of Sustainable Development David Kaimowitz [at an event organised by Fern in the European Parliament in March](#) this year. The speech identified the uncomfortable reality that much food sold in Europe’s stores includes ingredients that come from tropical areas whose forests were illegally cleared for crops and pastures. Deforestation is increasingly and overwhelmingly driven by land clearances for agricultural plantations of soy, cocoa, oil palm, rubber and so on. At the Parliament event, Fern [launched a series of reports](#) urgently calling on the EU to take decisive action to reduce its role in large scale, illegal and unsustainable deforestation worldwide. To be successful, the EU will have to do something new, but it is not starting from scratch.

For more than ten years the EU’s Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan, and particularly the Voluntary Partnership Agreements (VPAs) between timber producing countries and the EU, have been establishing best practice and developing new models for trade negotiations that open the door to genuine governance improvements, which are vital to keep forests standing and secure the rights of communities who depend on them.

Regular readers of these Forest Watch VPA updates will already be aware of the significant governance changes that have been emerging over the last ten years, catalysed by VPAs and the participatory processes that accompany the agreements’ negotiation and implementation. The impact of VPAs has been uneven across different countries, but they have played a crucial role in achieving genuine governance improvements which can tackle some of the most fundamental causes of rampant deforestation. A few of the [most significant recent results](#) are highlighted on the next page, including [a film about governance and VPAs](#) released by Fern earlier this year.



This year the EU is reviewing the effectiveness of different components of the FLEGT Action Plan, including VPAs. [Online consultations are now open to gather your opinions - please contribute!](#) The report is due to be published in November, after which the European Commission will respond and make recommendations for the future of the Action Plan. It is crucial that the review, and the Commission’s response, fully reflect the powerful potential for VPAs to catalyse genuine long-term governance improvements. Some argue the absence of FLEGT-licensed timber indicates a failure of VPAs. On the contrary, it confirms the difficult challenge of unpicking the complex web of corruption, mismanagement and poor laws which in many countries make it virtually impossible to produce timber in a way which is legal, sustainable and socially just. In this regard, Fern believes VPAs have made more progress than any other international instrument.



Since FLEGT VPAs were first conceived, the world has changed. The major cause of large-scale tropical deforestation is now clearance of land to make way for agricultural crops, with many of the final products destined for the EU. Even so, the timber industry remains a major engine for deforestation. In March Fern released [Catching it All](#), a report which calls for FLEGT-like mechanisms to be considered for agricultural commodities, including incorporating conversion timber into new VPAs and developing a broader EU Action Plan on Deforestation and Forest Degradation. While it may not be possible to develop VPAs for palm oil or other agricultural commodities, there is still a lot to learn from VPA processes which could take us closer to a reality where the EU is no longer a major cause of global deforestation.

## 10 years of VPAs, what has changed?

A very brief overview of the most recent advances to which VPA processes contributed. For more detailed information, see previous Forest Watch Special VPA updates, or visit [www.loggingoff.info](http://www.loggingoff.info)



### 1. Guyana

Indigenous villages and the Forest Department are moving towards unprecedented dialogue and openness. The next step is for dialogue to translate into a change in government behaviour.

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### 6. Vietnam

The VPA legality assurance system (LAS) incorporates a definition of tenure which is more sympathetic to communities, and leans towards accepting CSO recommendations on the issue.

### 2. Honduras

At the insistence of civil society organisations (CSOs), VPA texts guarantee the rights of forest communities, including tenure rights and livelihood rights.

### 4. Ghana

In 2014, CSOs lobbied successfully for logging taxes to be raised for the first time in a decade. As a portion of these taxes are owed to local communities, this should eventually mean greater revenues for communities.

### 7. Indonesia

CSOs have used the transparency and monitoring requirements of the VPA to demand access to information about logging concessions. Extracting this information, and a ruling that it must be routinely made public, is a major success considering the forestry department has been identified as the most corrupt government department in Indonesia. Greater transparency paves the way for governance improvements across the board.

### 3. Central African Republic

The civil society platform formed to participate in the VPA process has been able to strongly influence the country's new draft constitution, ensuring the International Labor Organisation (ILO) Convention on Indigenous Peoples' Rights, the right to environmental information and justice, and improved natural resource sector transparency are all included. Following the coup and the ensuing political crisis, this represents a real opportunity for CSO-led governance reform in the country.

### 5. Liberia

The government's 2014/2015 budget includes US\$1 million for communities, in partial payment of the US\$ 1.4 million owed by the government and successfully claimed by communities through the VPA process (payment still pending).

The text of the new Land Rights Act (not yet adopted), will give statutory strength to the customary land rights of communities, enabling them to demand a proper income if they chose to rent land to timber companies, mining companies or others.

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## Africa

### Cameroon

**Official VPA status:** implementation phase since 2011

Researchers conducting the FLEGT Action Plan review ([see main article](#)) visited Cameroon in May. NGOs presented a [position paper](#) emphasising the need to continue the VPA process and highlighting areas of concern. Poor transparency remains one such difficulty. The long-awaited report of the Independent Auditor examining the legality and consistency of forest titles ([see previous VPA update](#)) has still not been published. The contract with consultants Agreco to fulfil the Independent Monitor position (with a role of monitoring compliance infractions of the VPA legality grid) expired in 2014, meaning that currently there is no formally recognised independent monitor. A new terms of reference for the role is being developed in consultation with the Community and Forest platform. In the meantime, NGOs are continuing to carry out external independent forest monitoring. National NGO Foder and the Rainforest Foundation UK have developed a 'real time forest monitoring' platform to systematise the monitoring activities of communities and indigenous peoples and improve the dissemination of findings (<http://monitor.mappingforrights.org/>).

A consultant has been hired by the European Forest Institute (EFI) FLEGT Facility to carry out VPA impact monitoring, as mandated under article 17 of the VPA. The German Development agency GIZ has dropped its long-held plan to fund a FLEGT facilitator in Cameroon (there has never been one), and instead intends to establish a 'demand driven FLEGT support system'.

A consortium of consultants has finally been appointed to complete work on the computerised database, SIGIF 2, in to which VPA chain of custody information is supposed to be inputted. The SIGIF 2 programme was initiated in 2010 but is still incomplete; it is now scheduled for launch in August 2015.

### Central African Republic

**Official VPA status:** implementation phase since 2012

Following an extended standstill on VPA implementation after the war, on 5 December a meeting of the Joint Implementation Committee (JIC) was held and co-chaired by the Head of the EU Delegation in CAR and the Minister of Water, Forests, Fishing and Hunting. This was followed in early 2015 by a few technical meetings to update the VPA roadmap, and discuss the financial agreement between the CAR government and the EU ([see previous VPA update](#)), which was suspended by mutual agreement in May. The government has now set up a committee comprising various stakeholders to address accusations from Global Witness that 'blood timber' was exported to the EU during the conflict.

The government recently completed a consultation process with communities in two regions on the complementary regulations for the legality grid, which concern community forests and compensation among other things. The results of the consultation are expected to feed into the drafting process which is being handled by legal experts from various ministries.

GDRNE, the local forest platform, is also actively involved in the ongoing constitutional review process. Three out of five recommendations from GDRNE were incorporated in the draft text approved by the transitional parliament in February, including mention of the ILO Convention on Indigenous Peoples' Rights; the right to environmental information and environmental justice; and revenue and contract transparency in the natural resource sector. A number of further recommendations on improving forest governance in the constitution also arose from local groups during the Bangui National Forum in May, and these will also be discussed by the transitional government. The new constitution will be voted on in a popular referendum later in the year, and pave the way to the country's first election since the military coup.

## Africa

### Cote d'Ivoire

**Official VPA status:** in negotiation since 2013

Work to develop the social principles of the VPA legality grid was suspended in late 2014 to allow time for implementing regulations of the August 2014 Forest Code to be drafted. The process for drafting the implementing regulations is still being agreed, but work has re-commenced on the social principles of the VPA in any case. Representatives of the civil society platform are taking an active role in this.

In November, the civil society platform secured a commitment from the Forest Ministry that they would have a role in drafting the Forest Code implementing regulations, which would have been an historic first for participatory processes in Cote d'Ivoire. However at the beginning of 2015 the ministry reneged on this commitment and announced the regulations would be drafted by a cabinet of lawyers and forest technicians, without civil society representation. The cabinet will consult stakeholders over the course of its 45 days of work (to take place over a period of three months), but it is not yet clear what form these consultations will take. The civil society platform is now lobbying to ensure these consultations are open, participatory and meaningful.

A draft of the VPA communications strategy has been completed (with civil society input) and is awaiting validation by the negotiating committee. NGOs are also involved in drafting the transparency annexe and in identifying and analysing the scope and nature of the domestic timber market in Cote d'Ivoire.

### Gabon

**Official VPA status:** in negotiation since 2010

The VPA negotiation process seems to have made some progress over the last months as testing has begun on the LAS, which is to be followed by a large consultation of all stakeholders. Work to further develop the LAS and the traceability system is ongoing. Although multi-stakeholder VPA bodies have met several times since the VPA process was officially re-launched in October 2014, as yet there have been no EU-Gabon meetings.

However it is of concern that the LAS being tested does not appear to take in to account new legislation, including the (regrettably non-participatory) ongoing forest law reform process and the controversial Sustainable Development

Law. The Sustainable Development Law remains a concern because of its inclusion of the flawed system of 'offsetting', the inclusion of which could harm communities (see [previous VPA update](#)), and set a dangerous precedent for the continent.

CSOs have made serious efforts to improve their participation and representation by reorganising the platform and nominating a platform coordinator.

### Ghana

**Official VPA status:** implementation phase since 2010

An independent assessment of Ghana's LAS conducted in September 2014 found the system to be well advanced but not yet ready to deliver FLEGT licences. This was confirmed during the 8th technical session of the VPA Joint Monitoring & Review Mechanism (JMRRM) in March 2015. The roll-out of the first FLEGT licenses has, for now, been postponed to early 2016.

Some of the problems identified by the independent assessment will be overcome by including small mills and small producers in the wood tracking system. Other major issues include the conversion of certain concessions to Timber Utilisation Contracts; the development of forest management plans; and the treatment of 'Ministerial Permits', which were not considered eligible for FLEGT licensing during the negotiations as they were considered a 'loophole' which would allow logging companies to escape the much stricter requirements of other types of leases. The Minister for Lands and Natural Resources is pushing to amend the VPA Legality Definition to include ministerial permits and changing the current law to develop guidelines for them. CSOs are strongly opposed to this, and are considering seeking a legal interpretation from the Ghanaian courts.

In response to the independent assessment of the LAS, the civil society platform has decided to focus on ensuring that equitable and well implemented Social Responsibility Agreements (SRAs) are a key element of VPA implementation.

To that end, they will collaborate with the Forestry Commission to review the SRA guidelines, develop an SRA compliance checklist, and build a database of all SRAs in Ghana. Several NGOs, including Civic Response, have made extensive efforts to raise local communities' awareness of legality standards for timber production, and capacity to tackle forest infractions. This has now become very important as the delivery of the first FLEGT licenses in Ghana draws near.

## Africa

### Liberia

**Official VPA status:** implementation phase since 2013

With the Ebola crisis now contained in Liberia, the CSOs which continued to support communities throughout the crisis are reverting back to other challenges. VPA implementation is moving ahead, strongly supported by local CSOs and communities organised through Community Forest Development Committees (CFDCs).

The government's 2014/2015 budget includes US\$1 million for CFDCs, in partial payment of the US\$ 1.4 million owed by the government and successfully claimed by communities through the VPA process (see previous VPA update). However, instead of transferring the funds to the National Benefit Sharing Trust Board, the money has been allocated to the Ministry of Internal Affairs, causing more delay in payment.

The Forestry Development Authority (FDA) is strengthening its position to start acting as a true regulator, but needs more time and new staff to do so effectively. At the request of CSOs, the FDA has committed to not issue any more Community Forest Management Agreements (CFMAs) until the Community Rights Law and the Public Procurement and Concession Act have been harmonised. A committee, chaired by the NGO coalition is now addressing this harmonisation.

A set of six new VPA related regulations have been vetted and once validated they will further strengthen forest governance in Liberia. Another six additional regulations are in the pipeline and currently undergoing stakeholders consultations, including a regulation for Private Use Permits (see previous VPA updates).

The Program Concept Note (PCN) which is the implementation document for the Norway-Liberia agreement (see previous VPA update), is likely to be finalised soon with the World Bank, triggering the release of the first US\$70 million. However the World Bank has also come up with a worrying roadmap for biodiversity offsetting in Liberia's mining sector ([see this briefing note](#) for major concerns about biodiversity offsetting). Rather than focusing on offsetting, the mining industry should focus on properly paying for the right to mine, as [a new report by SDI](#) clearly shows. The report recommends policy changes which Liberia must adopt in order to address post-Ebola challenges in health, education and infrastructure, including maximising Liberia's income from the extraction of its iron ore and distributing mining revenues equitably.

The largest threat to forests remains palm oil, with some communities protesting while others hand over their

land to palm oil companies, often because they don't see any alternative. If and when the new Land Rights Act is adopted, expected by the last quarter of this year, communities outside the existing concession areas will have the statutory rights to their land and, if they decide to rent out their land, will be able to demand proper income from it.

### Republic of Congo

**Official VPA status:** implementation phase since 2013

Implementation of the VPA in the Republic of Congo has shown encouraging signs of progress recently. A final agreement on the development of the LAS funded by the EU was signed and an independent auditor was recruited; to commence work in September 2015. The long overdue Joint Implementation Committee (JIC) meeting was held on 6-7 May in Brazzaville. This was only the second JIC meeting since the VPA was signed and many issues had to be dealt with including assessing progress and agreeing priorities for 2015.

Local CSOs continue to actively participate in the forest legal reform and in the work of VPA structures. In January, the forest platform PGDF organised a press conference to present their evaluation of the VPA process and a position paper on community forestry. While civil society participation has been adequate, PGDF regrets that little information is trickling down to forest communities and that the forest legal reform has stalled. CSOs hope that the draft new forest law will be submitted to the government in the first half of 2015, and that information dissemination and capacity building activities will be given more attention, as announced at the JIC meeting. With support from ClientEarth, PGDF launched consultations with communities in forest regions about which rights issues the new forest implementing decrees should address. The consultation ended in May and will shape the platform's input into the work of the national drafting committee as well as future advocacy work including with parliamentarians.

The REDD+ process is picking up steam. Congo's draft REDD+ strategy was presented and discussed with all stakeholders and the government's study on the national implementation framework for REDD+ is being finalised. The Congolese government published its Forest Carbon Partnership Facility (FCPF) midterm evaluation which could potentially trigger significant additional funding for REDD+ readiness preparations. Members of the civil society platform CACO REDD are asking that the REDD+ process be more inclusive and transparent, and for stronger linkages between the VPA and REDD+ to ensure policy coherence and build on governance gains brought by the VPA.

## Americas

### Guyana

**Official VPA status:** in negotiation since 2012

The early months of 2015 saw a positive move towards dialogue between indigenous villages and the Guyana Forestry Commission (GFC) (compared with the non-inclusive and opaque process reported in previous VPA updates). The Amerindian Peoples Association (APA) organised a seminar in the capital Georgetown to facilitate discussions on key elements for the Guyana Legality Definition and LAS. Representatives from indigenous communities, indigenous NGOs, other social and environmental organisations and relevant government agencies, including the GFC all participated and land tenure issues were publically discussed for the first time in the context of the VPA process. The indigenous representatives presented a joint statement at the closing of the seminar calling for their customary land claims to be addressed and their free, prior and informed consent (FPIC) to be obtained, in accordance with applicable international human rights standards, before any timber concession can be considered 'legal' under a VPA.

However increased dialogue has not yet translated into a change of government behaviour. The third draft of the legality definition (March 2015), does not incorporate provisions to ensure recognition of customary land rights and FPIC, and the government continues to argue that land issues do not constitute 'forest-based concerns' and therefore cannot be addressed within the VPA process. Indigenous communities, APA and NGOs in the EU will therefore continue to argue that respect for customary land rights and FPIC are vital components of any credible LAS.

In April 2015 the third formal negotiation session was held, resulting in a revised roadmap for concluding negotiations in 2016. In succeeding stakeholder meetings, GFC has stated that the signing should happen by March 2016, which seems an unrealistic timeframe given that the requirements for a meaningful consultation process have still not been fulfilled - the Communication and Consultation Strategy has not even been finalised.

On 16 May Guyana swore in a new President, David A Granger. His appointment is the result of an election in which a coalition of five political parties, including President Granger's APNU party, defeated the ruling 'Peoples Progressive Party' which had governed since 1992.

### Honduras

**Official VPA status:** in negotiation since 2013

The third round of formal VPA negotiations were held in January 2015, with a focus on three key areas; timber legality definition, products covered by the agreement, and the principles and criteria of the LAS. Nineteen timber products were identified as within the scope of the VPA, which will apply to the current export market, the domestic market, and 'potential markets' of the future.

Honduras' definition of legal timber recognises the role of indigenous peoples and Afro-Honduran people in good forest governance, while the legality matrices include guarantees for the legal security of communities' land tenure, security of forest-based livelihoods, and guarantees for the rights of indigenous, Afro-Honduran and settled communities in public forest lands. CSOs regard this as satisfactory progress, and are pleased with the broad participation and open dialogue that has characterised the process so far. The concerns and proposals presented by civil society during consultation workshops have been reflected in the impressive legality matrices. CSOs are now working to improve the texts further, and are looking forward to developing a proposal for robust LAS mechanisms. There is cautious optimism that, if the Government of Honduras maintains its open position and political will to continue with the VPA, the process could have a significant positive effect on forest governance in the country.

## Asia

### Indonesia

**Official VPA status:** implementation phase since 2014

Indonesia's Ministry of Environment and Forests has been forced to release information about commercial forest activities, following a six-month trial brought by the NGO Forest Watch Indonesia (FWI). The ruling, handed down by the country's "Central Information Commission," requires the ministry to provide details about logging permits and commercial logging plans, which is stipulated as information that must be made available under Indonesia's LAS (called the SVLK in Indonesia). See [this month's Forest Watch](#) for the full story.

An evaluation of how well Indonesia's LAS is functioning is under way - this is a requirement under the VPA (Annex VI). Late last year Indonesia and the EU held the first JIC meeting since the VPA was ratified in April 2014. The JIC endorsed a joint communication strategy and agreed to establish a secretariat to put it in to practice. and technical



## Asia

working sessions on the VPA annex review, VPA monitoring mechanisms and the joint LAS assessment conducted by independent consultants.

More than 30 representatives from the government, private sector and civil society participated, including officials from the government agencies appointed as JIC members and one representative each of the private sector and civil society from the Indonesian side. The civil society representative delivered a statement highlighting the importance of strong implementation of the EU Timber Regulation, implementation of the VPA transparency annexe, and the position that the scope of VPAs should be consistent across VPA countries.

Indonesia has established a multistakeholder technical working group, which includes the EU FLEGT Facility, to develop a national VPA impact monitoring system. The findings will feed into an update of the Indonesia-EU joint action plan on VPA implementation expected in 2015.

### Laos

**Official VPA status:** in negotiation since 2012

While there has not yet been a formal negotiation session, domestic civil society has been organising itself from a base of very low capacity and poor networks, and has made progress. A scoping study conducted by Village Focus International (VFI), provided a basis for reaching out to CSOs beyond the capital. Following a workshop in the north of the country, more CSOs including regional groups, have now joined the FLEGT CSO platform. The platform is working towards transitioning from having a 'temporary steering committee' to having five elected representatives to participate in VPA processes. An election was organised (attended by the EU Ambassador, as well as a representative from the Lao government), but the result was eventually nullified because of a flawed procedure. Lao civil society therefore still needs to get organised if it is to play a meaningful role in deliberative VPA processes.

While donor coordination meetings, convened by GIZ, are ongoing, Laos still lacks the buy-in from highest levels of government to begin formal VPA processes, and there is little prospect of formal progress without this.

### Malaysia

**Official VPA status:** in negotiations since 2007

Following the flurry of VPA-related activity in Malaysia in 2014 (see previous VPA updates), momentum has disappeared again. While negotiations are still formally open, the EU is not seeking to push the process forward unless the Malaysian government actively invites this,

which does not seem likely in the near future. The major obstacles to the VPA process in Malaysia remain, namely; a non-participatory process, Sarawak's refusal to take part in the negotiations, and the government's ongoing refusal to recognise the customary tenure rights of indigenous communities.

### Vietnam

**Official VPA status:** in negotiation since 2010

Some small steps towards meaningful recognition of the role of CSOs in the VPA process have been made; following a disappointing lack of awareness about CSOs (see last VPA update), the head of VNFOREST (the forest department in Vietnam) has since publicly thanked CSOs for their valuable contributions, particularly for the Livelihood Impact Assessment report - such a public acknowledgement is seen as a positive sign but of course there is still a long way to go.

Poor transparency is hampering progress. The most recent draft of the LAS, from November 2014, has still not been made public. The lack of a formal observer role for civil society also continues to constrain them. The platform is seeking a formal role for CSO-led independent forest monitoring. In May, the Vietnamese NGO SRD submitted a concept note for this work to the government, which aims to use the findings of the well-received livelihood impact assessment as a starting point from which to develop baselines for CSO-led monitoring to use. Initial results are expected in 2015.

CSOs are continuing to advocate for legal reform through the VPA process (for instance via a review of the report on review of Forest Protection and Development Law), but the government insists that as the regulations exist regardless of the VPA process, it is not a suitable forum to discuss reforming them. CSOs are attempting to frame their arguments in terms of addressing the gap between regulation and implementation in order to keep governance issues on the agenda within the VPA. Progress is slow.

A member of the CSO network steering committee was nominated as a member of Programme Executive Board of UN REDD phase II, and the network members participated in a consultation workshop on REDD+ in April. The network will continue to discuss how to ensure REDD+ and FLEGT work is integrated.