

Implementation of FLEGT VPA in Ghana:

*Legality, traceability and transparency in
the timber production chain*



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the timber production chain*

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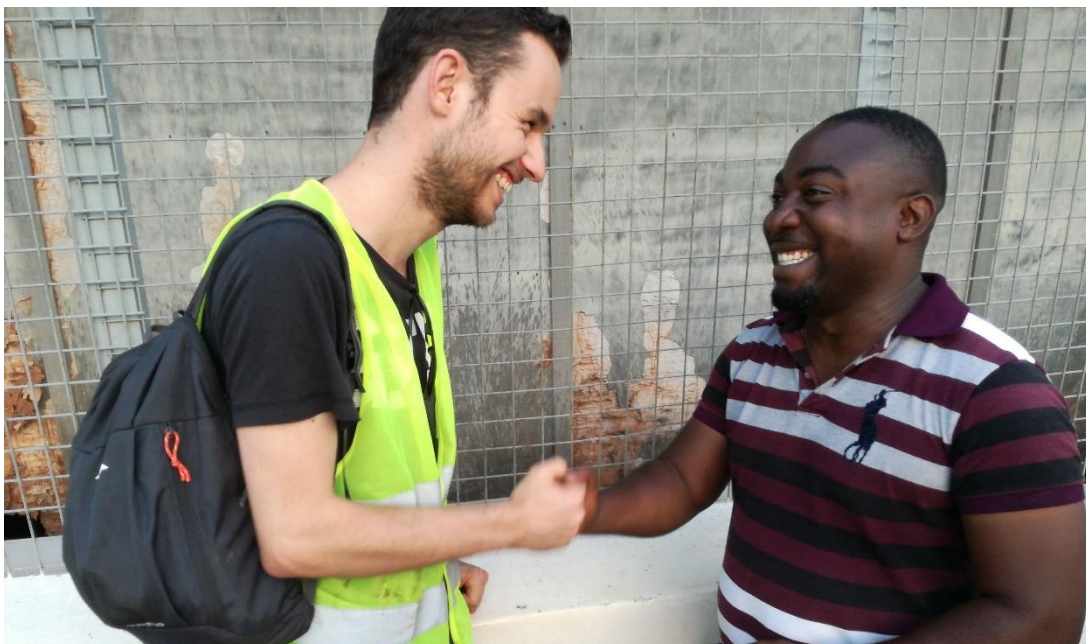


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Abstract

This thesis is a qualitative analysis of the Forest Law Enforcement Governance and Trade (FLEGT) Voluntary Partnership Agreement (VPA) implementation in Ghana. The goal of the study is to find out how the legal standard and traceability system of the VPA have been operationalized and implemented and how the concepts of legality, traceability and transparency interact in the implementation. Grounded theory with sensitizing concepts is used as the methodological approach in this thesis, for the inductive and holistic approach of grounded theory is well-suited in this explorative study on the VPA implementation in Ghana. Data consists of 20 semi-structured interviews and field observations.

The results show that the legality standard has been operationalized into seven legal principles with 22 criteria, concerning mostly the wood flow, but also some environmental and labor criteria. The legal principles have been partly operationalized into the Wood Tracking System (WTS), connecting them to critical control points within the timber production chain of custody. The implementation of the legal standard has addressed some policy gaps in Ghana's forestry regulations. However, the VPA has not provided a definition for non-compliance and illegality, possibly creating diverse interpretations among stakeholders. Furthermore, the implementation has met many challenges over the years. Capacity building has been emphasized as crucial in dealing with these challenges. The implementation of the WTS has created more visibility in the data of the timber production chain, leading to better enforcement. Nevertheless, the WTS induced challenges regarding technology, data ambiguity and lacking capacity among its users. The VPA has increased transparency within the legal verification process, creating more accountability in and credibility of the legal process.

In conclusion, this thesis indicates that traceability has positively affected legal enforcement and created more visibility in the data necessary for determining legality. However, not all legal criteria are traceable in the WTS, so complete legality cannot be established solely through traceability. Also, trade-offs exist between traceability and legality, as to how thorough traceability needs to be in achieving legality. Transparency also positively affected legality as higher transparency leads to higher legal compliance and more accountability to deal with corruption among even strong political figures. Finally, the traceability system has created more transparency for the Forestry Commission (FC) in the timber production and verification processes, but also for the public through the upcoming WTS portal. However, increased transparency in the WTS has led to contradicting visions between the FC and the CSOs, as to how much the WTS can be an open system. The FC warns for more transparency in WTS data, since it can lead to misunderstanding or misuse of this data.

Theoretical reflection on these findings discuss that stakeholder emphasis on capacity building can indicate a possible neglect of underlying problems of poverty and power imbalances that drive illegal logging. Capacity issues exist and drive illegal logging, but poverty and power need to be addressed as well. Furthermore, further analysis is desired to study the perceived benefits of transparency in the VPA implementation and in environmental governance overall. Lastly, quality and quantity of public information disclosure through a traceability system needs to be assessed to deal with the transparency shift in traceability systems and to study the predicted benefits of transparency.

Abbreviations

| | |
|-------|---|
| COP | Certificate of Purchase |
| CSO | Civil Society Organization |
| EU | European Union |
| FC | Forestry Commission |
| FLEGT | Forest Law Enforcement Governance and Trade |
| FSD | Forest Services Division |
| IM | Independent Monitor |
| JMRM | Joint Monitoring and Reviewing Mechanism |
| LAS | Legality Assurance System |
| LIF | Log Information Form |
| LMCC | Log Measurement Conveyance Certificate |
| NGO | Non-Governmental Organization |
| RMSC | Resource Management Support Centre |
| SRA | Social Responsibility Agreement |
| TIDD | Timber Industry Development Division |
| TIF | Tree Information Form |
| TRAU | Timber Rights Allocation Unit |
| TUC | Timber Utilisation Contract |
| TVC | Timber Validation Committee |
| TVD | Timber Validation Department |
| VPA | Voluntary Partnership Agreement |
| WTS | Wood Tracking System |

Chapter 1 Introduction

1.1 Illegal logging and the FLEGT VPA

Illegal logging is a main contributor to deforestation and ecosystem degradation. For decades it has been a major problem to track and monitor the trade in illegal timber, but the illegal logging industry has been estimated to already have cost billions of dollars per year worldwide (World Bank, 2004). Research has indicated that the continuation of the illegal logging industry is due to weak governance structures in the countries where the logging is taking place (Beeko & Arts, 2010). Many schemes for the restructuring of forest governance have been developed to create policies to tackle deforestation and illegal logging practices, but most of them are non-legally binding, e.g. certification schemes and public-private partnerships (FAO, 2014; Ochieng, Visseren-hamakers, & Nketiah, 2013).

A new scheme in attempting to curb the trade of illegal timber and halt the import of this illegal timber into the European Union (EU), is the Forest Law Enforcement Governance and Trade (FLEGT) action plan (Commission of the European Communities, 2003). Through the FLEGT action plan, countries can engage in a Voluntary Partnership Agreement (VPA) with the EU, to commit themselves to adopt agreed upon forestry policies and actions to reduce the consumption and trade of illegally harvested timber. In return, they get developmental aid in the implementation of the forestry policy reform, and the country gets access to the EU market after verification of its legally harvested timber (Commission of the European Communities, 2003). The VPA serves as a legal instrument to ensure that timber traded in and with the EU can be traced to legally harvested timber sources. In addition, it serves as a means to improve forest governance in the partner timber producer countries (Attah, Ioras, Abrudan, & Ratnasingam, 2009).

In September 2008, Ghana has been the first country to engage with and agree upon a VPA with the EU, which entered into force in December 2009. This VPA between Ghana and the EU on illegal logging has been important for, among others, two matters. Firstly, the problem of illegal logging in Ghana is substantial, for research shows that around 70% of all timber harvest is unrecorded illegal logging (Hansen & Treue, 2008). Secondly, the EU is the second biggest importers of timber from Ghana, with annually covering around 10% of the total timber export from Ghana (TIDD, 2016). Eventually, the final EU-Ghana VPA has been negotiated to have a broad scope, so that it applies to the domestic, EU and also non-EU market (European Community, 2010). The focus within the VPA on illegal logging and trade seems therefore well-fitting for the forest situation of Ghana.

Ghana has a total land area of 23.9 million hectares, of which it is estimated that the total forest cover is about 40%. The total forest cover includes the closed forests, i.e. existing forest areas, and open forests, e.g. plantations and agroforestry. The amount of closed forests has been declining by 46000 hectares per year, while the open forest areas increased by 74000 hectares per year. The closed forests are located in the South-Western regions of Ghana and are called the High Forest Zones, which also contain the most biodiversity (FAO, 2016). So far, Ghana has lost a lot of this closed forest, but is gaining a lot of open forests. This results in a shift from net deforestation to net reforestation, called a Forest Transition. However, it has been debated if these numbers by the FAO on forest gain, indicating a Forest Transition, correspond with the actual amount of forest cover increase, for example because additional savanna areas which are recently also accounted for as forest area (Oduro, 2016)

Although logging has been prohibited in many of the closed forest areas, most timber originates from these closed forest areas (Carlsen, Hansen, & Lund, 2012; FAO, 2016). The majority of the land is in public ownership, and since 1962 every naturally regenerated tree is vested in the President, meaning that the

government grants the logging permits and rights to the people (FAO, 2016; Hansen & Treue, 2008). Although chainsaw operations are legally prohibited since 1982 and logging rights are not granted to these operations, the use is still widespread and counts for most of the domestically consumed wood (Carlsen et al., 2012; Hansen & Treue, 2008)

The Ministry of Lands and Natural Resources has the overall responsibility for the governing of the forests and the Forestry Commission (FC) works on behalf of the ministry in managing forest and wildlife resources use and conservation (FAO, 2016). This Forestry Commission is also highly involved in and responsible for the implementation and operationalization of the FLEGT VPA. The most common logging rights that are granted to timber loggers are the Timber Utilisation Contract (TUC) and the Salvage Permit. The TUC is issued by the Ministry of Lands, Forests and Mines and is granted through the process of competitive bidding. The Salvage Permit is issued by the FC and can be granted to a logger when in a certain area trees need to be removed for infrastructure development purposes, e.g. road construction projects or buildings for government institutions.

Ghana is divided in ten regions, which can be seen in figure 1.1. Each of the regions is subsequently divided into multiple districts, 216 districts in total. Forest governing in Ghana is also divided into these regions and districts. Within the FC, each region has a Regional Manager who monitors and manages the forest governance and has to report back to the FC Headquarters in Accra. Each district within the regions also has a District Manager who is in charge of forest managers at the district level. The Regional Managers supervise all the districts and the District Managers need to report to the Regional Managers on activities and developments within the district they govern.

The VPA between the EU and Ghana has several components to ensure and monitor that timber is produced legally. The foundation of the VPA is the Legality Assurance System (LAS). The LAS consists of several elements. The first is the timber legality standard that defines what legally produced timber is and provides the regulations to comply with to meet the timber legality standard within the VPA. If one produces timber that meets the legality standard of the LAS, it is produced legally therefore meets the demand to trade domestically and internationally. Secondly, to ensure that the supply chain of timber indeed meets the standards of the LAS, the VPA has established a chain of custody system in the LAS, namely the Wood Tracking System (WTS). This WTS should be able to trace the entire timber supply chain, from the forest to the export destination. Then a FLEGT licensing authority will certify the timber to have met all the legal requirements. On top of this, a system of legal verification and validation is to be implemented, to check the timber compliance and license validity, which is called the Timber Validation Department (TVD). Finally, an Independent Monitor (IM) will be assigned to assess the implementation and effectiveness of the



Figure 1 Map of Ghana divided in the ten regions.
Source: <http://emapsworld.com/images/ghana-regions-map.gif>

procedures and reports to the Joint Monitoring and Review Mechanism (JMRRM). The JMRRM includes stakeholders from government, civil society and the private sector, together with national NGOs.

Although the VPA has been signed in 2008, there has not been made a FLEGT timber shipment from Ghana to the EU yet. The implementation of the FLEGT licensing is still in process. There are multiple steps and milestones to be worked to and achieved before actual implementation is possible. So far, progress has been made in the development of the WTS and the testing of the tracking system. At this moment, a trial shipment to the EU has been executed as a final testing procedure. After a successful trial shipment, the process will be assessed, and this final assessment will be adopted. When this assessment and adoption is completed, Ghana timber will be officially listed in the EU as FLEGT licensed wood¹.

This context on Ghana's forestry background and the design of the FLEGT VPA for Ghana leads to the first aim of this thesis. Little information in scientific literature has been available on how the Ghana-EU FLEGT agreement has constructed the legal standard to create FLEGT certified timber, and how the VPA has created the traceability system within the LAS. Thus, the **first aim** of this research is to **find out how the Ghana-EU FLEGT VPA has been operationalized into a legal standard and a traceability system within the LAS**.

1.2 Timber legality

The FLEGT standard is designed by a set of legal standards, which determine whether timber is legal or illegal. In such a case, we speak of timber legality. Two (groups of) countries dedicate themselves to legally binding principles to combat the illegal logging and trade. In this sense, Ghana takes responsibility in managing forest governance to tackle illegal logging and export of this timber, and the EU takes responsibility to import illegal timber no more (Wiersum & Elands, 2013). Timber legality as a type of forestry management is different from forest certification. While timber legality focuses specifically on tackling illegal logging by law enforcement, certification focuses on certain non-legal sustainability aspects surrounding illegal logging, such as environmental and social standards (Maryudi, 2016). The set-up from the VPA then differs also from historical efforts for reaching a global legally binding regime for forests, which has aimed for a global legal standard. The VPA goal is to develop, between only the negotiating partnership countries, a common definition of what constitutes legal compliance (Cashore & Stone, 2012).

Many aspects can affect the success of managing timber production through a legal standard. Research has shown that careful consideration of socio-economic aspects of illegal logging is necessary, for instance local communities who are dependent on logging practices for their daily livelihood, which through forest policy reform are suddenly considered illegal (Arts & Wiersum, 2010). Also the capacity of rural people involved in logging practices, might lack in administrative skills to fulfil the legal requirements of a timber legality standard (Wiersum & Elands, 2013). Furthermore, there are some concerns that legality verification could increase and enforce existing imbalances between large scale industrial and small-scale logging and increase poverty among people who depend on illegal logging practices (Arts & Wiersum, 2010; Nathan, Hansen, & Cashore, 2014). Therefore, although the FLEGT VPA is a legally based principle, it should also include environmental protection, property rights and focus on forestry dependent communities, apart from fees and logging and trade regulations (EU FLEGT Facility, 2009).

There are also positive aspects being expressed in research about this trend in timber legality. Research has shown that through legality standards, the next step to sustainability standards through certification is made easier (Carlsen et al., 2012; Cashore & Stone, 2012; Leipold, Sotirov, Frei, & Winkel, 2016). The focus on legal standards might also be a means to tackle corruption and weak enforcement in timber producing

¹ Email contact Chris Beeko 28 september 2017

countries, whereas the VPA is strengthening national sovereignty and domestic policy, rather than challenging (Attah et al., 2009; Cashore & Stone, 2012). Already, the FLEGT VPAs have resulted in significant improvement in forest governance in the timber producing countries, for instance increased civil society participation in the design and monitoring of the legality assurance systems (Overdevest & Zeitlin, 2014). Overall, there seem to be high expectations but also caution for the use of timber legality in tackling illegal logging and its associated sustainability concerns.

An emerging trend in legally binding agreements on forestry can be observed, which is remarkable. Over the past years, legal, state-led approaches to forestry have been viewed as hindering and insufficient in tackling the forest governance challenges (Cashore & Stone, 2012; van Heeswijk & Turnhout, 2013). The preference within environmental conservation has been for voluntary and market based initiatives (van Heeswijk & Turnhout, 2013). However, since Ghana agreed upon the VPA in 2008, fourteen additional countries have engaged in a VPA with the EU, namely Cameroon, Central African Republic, Ivory Coast, Democratic Republic of Congo, Gabon, Guyana, Honduras, Indonesia, Laos, Liberia, Malaysia, Republic of Congo, Thailand and Vietnam.

In this context of current preferences for environmental governance, the FLEGT VPAs address these preferences in an interesting manner: although the VPA is legally binding after signing, countries can enter voluntarily and FLEGT focuses on the market aspect of forest governance. The FLEGT VPAs aim for forestry policy reform through timber legality, but with a focus on trade and the development and improvement of forest governance in timber producing countries, therefore fits surprisingly well in the current views and trends on environmental governance. The VPA, in that sense, has the potential to link a market based governance approach with a good governance approach (Cashore & Stone, 2012).

So far, research on the effects of a timber legality approach in forest management has produced many insights on the benefits and pitfalls of this approach. At this moment, Ghana is in the final stages of implementation of the VPA as a timber legality approach, so it would be interesting to see the practical implications of the legality approach in Ghana's forestry sector. The **second aim** of this thesis therefore is to **study how the Ghana-EU FLEGT VPA works in practice**.

1.3 Traceability and transparency

The FLEGT agreement is also based upon another observed trend in environmental governance, namely the use of a traceability system. In fact, the LAS within the Ghana-EU VPA should rely heavily on the legal verification by this traceability mechanism, called the WTS. The WTS has two functions. Firstly, it is the chain of custody system for tracking logs throughout the timber production chain, so the legality of the source of the log can be determined and the flow of that log through the chain until the moment of trade can be monitored. Secondly, it also serves as a verification mechanism of the legal definition, as it will monitor the compliance of logs and logging operations against the legal standard (European Community, 2010).

Like legality, traceability is not a new concept, and it has been growing more popular in environmental governance. However, as traceability schemes have been growing in number, there is a change in function described in literature. Traceability used to be an economic concept, where its function was quality management and logistics in businesses processes (Mol, 2015). Tracing of resources and manufactured products for instance in seafood traceability was necessary to recall products in cases of food safety complications (Bailey, Bush, Miller, & Kochen, 2016). However, there is a trend going on within traceability where tracing for business purposes has extended into the realm of environmental governance (Bailey et al., 2016; Mol, 2015).

This shift in the type of traceability has affected the function and the audience for whom and what this traceability is being used for. Where traceability was first an internal business affair, its salvaged information can now also be used for legislation and verification purposes, for instance in proving claims of legality and sustainability for production processes. Mol (2015) describes four types traceability systems, by connecting it to the transparency within these systems, i.e. for whom traceability information is provided. He describes it as value chain transparency types, namely management, regulatory, consumer and public transparency. In table 1.1 the value chain transparency types are shown as in the study by Mol (2015).

| Table 1 Four ideal types of value chain transparency. Adapted from Mol 2015. | | | | |
|--|---|--------------------------------------|--------------------------------|--|
| Ideal type value chain transparency | Disclosure of Information by | Disclosure of information for | Example | |
| Management transparency | Upstream economic actors in chains | Downstream economic actors in chains | Total quality management | |
| Regulatory transparency | Economic actors in chains | Regulatory and inspection bodies | EU tracking and tracing system | |
| Consumer transparency | Economic actors in chains, certification bodies | Consumers and certification bodies | Eco-labels and certification | |
| Public transparency | Economic actors in chains, certification bodies | Public (citizen consumers) | Carbon disclosure project | |

Traceability is increasingly being used as the consumer and public ideal type. One can say that the use of traceability systems is shifting from management type systems to public type systems. Studying table 1, one can see that this has a profound effect on the actors who disclose information and the actors for whom information is disclosed for. Concluding, it has become evident that business and process information disclosure has shifted from management circles to public authorities and even to consumers (Bailey et al., 2016; Mol, 2015).

This traceability debate has led to a third concept of interest for this research, which is transparency. Transparency is, roughly, about the disclosure of information. Since in environmental governance the concept of traceability became a tool for legality and sustainability verification, with information flowing to public authorities and consumers, then what information can and should be disclosed about the supply chain? There has already been done a lot of research about the nature and desirability of transparency in environmental governance, about how and to what extent transparency should be applied (Gupta, 2010; Gupta & Mason, 2016; Mol, 2010). For instance, for supply chains, it is viewed that so far transparency had a positive effect on sustainability, but future increases in transparency do not necessarily lead to even more positive effects. For example, increased information availability has given NGOs powerful resources in environmental issues with states and industries. However, more transparency can also strategically create smokescreens of information, when the disclosed information is made deliberately and unnecessarily complex for the receiver, creating opacity through transparency (Mol, 2015).

In the Ghana-EU FLEGT VPA, transparency has a central role, which can be seen in several aspects of the structure of the agreement. Firstly, the JMRM, which is the reviewing body to assess the effectiveness and implementation of the FLEGT licensing, should work “as transparent as possible” meaning that the assessment reports should be made public (European Community, 2010). Information that will be made available regards timber harvest rights, areas and schedules, but also social responsibility agreements and damage compensation (European Community, 2010). Secondly, the TVD is the department that serves as the legal verification of operations by performing auditing and overseeing the status of implementation. Lastly, an IM, which will be a third-party reviewer, will report on the processes of implementation and effectiveness to the JMRM and these reports will be made public regularly (European Community, 2010).

To put this in the perspective of the transparency debate, it is interesting to scrutinize the nature and amount of information that will be produced according to the VPA's transparency policy. For example, which information is gathered through the traceability system and which information is made transparent for which audiences? These are questions the document of the VPA cannot give answers to, especially since they are the only country to not include an annex for transparency in their VPA. Implementing the WTS will produce large amounts of data, but Ghana is not legally obliged to make it public although there is a Right To Information Bill that should soon be passed by the government of Ghana (Lesniewska & Mcdermott, 2014).

Within the implementation of the VPA, the concepts of legality, traceability and transparency all come together. This provides an interesting opportunity is to scrutinize the interplay between these concepts within the context of the VPA implementation in Ghana. The **third and last aim** if this thesis is to **study how the concepts of legality, traceability and transparency interact in the VPA implementation**.

1.4 Research aim

The three research aims for this thesis are:

1. **Find out how the Ghana-EU FLEGT VPA has been operationalized into a legal standard and a traceability system within the LAS**
2. **Study how the Ghana-EU FLEGT VPA works in practice**
3. **Study how the concepts of legality, traceability and transparency interact in the Ghana-EU FLEGT VPA implementation**

Taking the three research aims together, the overall aim of this research is to **gain insight in how the legality standard and traceability system of the Ghana-EU FLEGT VPA have been operationalized and implemented in Ghana and how the concepts of legality, traceability and transparency interact in this implementation**. The results of this research will contribute to creating an understanding of these concepts within the implementation of the VPA in Ghana, by analyzing how this VPA has been operationalized into legal standard and the traceability system and how transparency is created through its implementation. By looking at how the WTS and the legal standard have been operationalized and implemented, these issues of legality, traceability and transparency can be put in practical context and studied.

The relevance of the results of this study will be twofold. Firstly, by studying the VPA implementation in Ghana, new insights can be gained on forest governance through a timber legality standard, which can be relevant to those who are active in forest governance and management or affected by its practice. This thesis can provide lessons learned for the design and implementation of ongoing or new FLEGT VPAs in other countries, who might deal with similar challenges that will arise from this research. Secondly, the results can help close the research gap on the interaction between traceability and transparency through a legality lens. Traceability and transparency are growing more popular in contemporary environmental governance, and research has indicated that this trend will continue. Future policymaking in ensuring timber legality that makes use of traceability systems or transparency regulations can be better understood and improved by gaining insight in how these concepts interact.

Chapter 2 Conceptual and methodological framework

2.1 Grounded theory and sensitizing concepts

This chapter will elaborate on the conceptual framework of this thesis. However, instead of fully elaborating a theoretical framework, this research will be based on the inductive approach of grounded theory, with three sensitizing concepts as theoretical guidance for the analysis (Bowen, 2006; Glaser & Strauss, 1967).

Grounded theory is a research method that uses the data collection and the analysis to construct a theory inductively, meaning that the theory is built with, during and after the data collection and analysis. The idea of grounded theory originates from getting grounded in the data and from that point discovering understanding from the collected data and texts (Glaser & Strauss, 1967). Grounded theory emerged in the late seventies of the last century by Glaser and Strauss as a response to the hypothetico-deductive approach to research, in which hypotheses are tried and tested on reality. The grounded theory approach rests on the idea that knowledge can also be regained through inductively generating theories from reality, by systematically collecting and analyzing research material (Wester, 1991). Therefore, this research does not start with the formation of hypotheses, but *“attempts to discover, understand, and interpret what is happening in the research context”* (Bowen, 2006).

This research has an exploring nature regarding the situation of the implementation of the VPA in Ghana. So far, little information is available in scientific literature as to how the legal standard and WTS have been operationalized and implemented, but also on how the stakeholders who will have to deal with the traceability system are experiencing this new system. What kind of ideas do these people have on how the system works, or how it should work?

The choice for using grounded theory was based on two reasons. Firstly, there was hardly any data or research to build on, especially regarding the traceability system that is to be implemented in Ghana. Before a theory could be used to study a hypothesis in the field, empirical data was needed to gain information and develop more understanding on the design and implementation of the VPA in Ghana. Secondly, the choice for grounded theory was also pragmatic. Due to time constraints in the period prior to the field work, grounded theory was a fitting solution to the problem of going into the field without a hypothesis or a theory. The inductive foundation of grounded theory in gaining understanding of a situation through data collection therefore fits well within the aim of this research.

However, the proposed research can be considered a semi-inductive approach, since the goal of the research is to study the interaction between the concepts of legality, traceability and transparency within the context of the Ghana-EU VPA implementation. Therefore, the method of grounded theory will be extended along the idea of sensitizing concepts to give guidance and direction to the methodology and analysis of grounded theory (Bowen, 2006). Sensitizing concepts are used as starting points for doing qualitative studies. The term sensitizing concept has been created by Blumer (1954) as opposed to the term definitive concept. He explains the difference as follows:

“A definitive concept refers precisely to what is common to a class of objects, by the aid of a clear definition in terms of attributes or fixed bench marks. This definition, or the bench marks, serve as a means of clearly identifying the individual instance of the class and the make-up of that instance that is covered by the concept.” (Blumer, 1954)

A definitive concept therefore is already defined by specific boundaries and specifications. These definitive concepts can be used to identify for example a situation for which a hypothesis is to be tested. By searching

for the boundaries and specifications within that situation, one can verify what has been hypothesized prior to the research. A sensitizing concept is something else altogether:

“A sensitizing concept lacks such specification of attributes or bench marks and consequently it does not enable the user to move directly to the instance and its relevant content. Instead, it gives the user a general sense of reference and guidance in approaching empirical instances. Whereas definitive concepts provide prescriptions of what to see, sensitizing concepts merely suggest directions along which to look.” (Blumer, 1954)

The sensitizing concept does not have the boundaries or specifications of the definitive concept and can therefore not be distilled from the research as such. The sensitizing concept is built from prior knowledge, but only with the intention to guide the research along these concepts. The meaning of the concepts can and will probably change during the research, but the goal of using the sensitizing concept is also to find its meaning within the research (Blumer, 1954; Bowen, 2006).

The sensitizing concepts that are to be used in this research will be: legality, traceability and transparency. These concepts are still unclear and undefined at the start of the research, so the sensitizing concepts approach is very useful in this study. This thesis will show how the concepts of legality, traceability and transparency are constituted and how they interact in the VPA implementation.

The concept of legality will be used to explore what constitutes as legal in the VPA and to explore how this corresponds with the actual implementation of the FLEGT VPA. This will be done by focusing on the steps of operationalization and implementation. The legal definition from the LAS in the VPA is linked to the operationalization of the WTS. The WTS serves not only as a chain of custody system but also functions as a verification to the legal definition: Making legality traceable. The VPA explains it as follows: “A wood tracking system (WTS) will enable the establishment of a chain of custody system as well as the monitoring and reporting of compliance against the legal definition.” (European Community, 2010). This WTS is on the brink of full-scale implementation, so the tracking system should be producing massive amounts of data in logging and processing anytime soon. Parts of this data will then be made available and public, according to the transparency policies within the VPA. The sensitizing concepts are all connected within the VPA implementation and in this thesis we can study the interactions between these concepts.

Figure 2 shows the sensitizing concepts and how they will be studied. The arrows between the concepts indicate the interactions, which can be to reinforce, to contradict or to clash. When the concepts **reinforce** the interaction is positive, so the concepts enhance one another in what they should accomplish. Concepts can **contradict** in meaning or practice, which is indicated by stakeholders having different readings of how the concepts could or should interact. When concepts **clash**, it means that to accomplish one concept, it prevents accomplishing the other.

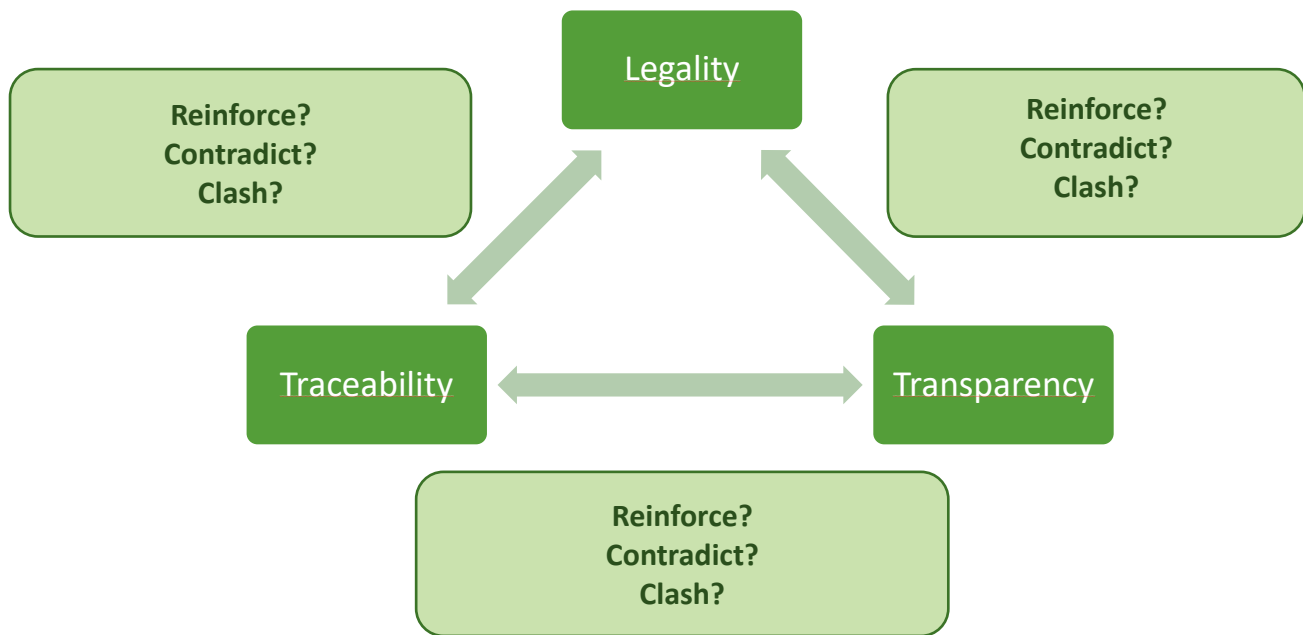


Figure 2 Conceptual framework. Interactions that will be studied between the sensitizing concepts legality, traceability and transparency.

2.2 Research questions

Based on the conceptual framework the research aims follow a certain order. Firstly, the operationalization of the VPA into the legal standard and traceability system will be studied. Secondly, the implementation of the VPA will be studied, and lastly, within the VPA implementation the interaction between the concepts of legality, traceability and transparency will be studied.

The three research aims can be translated into three main research questions, with several sub questions, which are as follows:

How has the VPA been operationalized into a legal standard and traceability system within the LAS of Ghana?

- How has the VPA been operationalized into the legal standard?
- How has the VPA been operationalized into the traceability system?

How does the VPA implementation work in practice?

- What are the effects on forest management?
- Which actors are involved in the implementation?
- What are the implementation challenges?

How do legality, traceability and transparency interact in the VPA implementation?

- How do these concepts reinforce?
- How do these concepts contradict?
- How do these concepts clash?

2.2 Research Strategy

2.2.1 Grounded Theory

The strategy that has been used to study the VPA implementation in Ghana is a qualitative analysis based on grounded theory (Glaser & Strauss, 1967; Strauss & Corbin, 1990). This means that step by step, theories

are developed based on the collected data and its analysis. To do so, it is important to make use of the constant comparative method, and this reflection on gathered data already starts during the fieldwork. Based on what has been found over the course of data collection, new directions and elements can be added to the data collection to follow the trail of information and add new information to the emerging theory (Wester, 1991). This creates a cyclic approach of data collection and analysis in the research:

1. Data collection based on the research questions
2. Analysis of the data based on emerging concepts
3. Reflecting on analysis and research questions

In the methodological approach of grounded theory, one goes through these steps a couple of times in order to find new information. The cycle of gathering new information stops when you reach information saturation, meaning that certain aspects or relations between aspects do not bring up new information (Wester, 1991).

The strategy of grounded theory is therefore well-suited to apply to the explorative nature of this study. There isn't much information available on the implementation of the Legality Assurance System (LAS), especially the traceability aspect of legality verification, so it was very useful to practice this follow-up approach on all the information that was found in the field.

However, to ensure that the research does not become too bogged down in an overflow of collected data, it is important to add a systematic structure to the research. This has been done through the use of sensitizing concepts (Blumer, 1954; Bowen, 2006; Glaser, 1978). The term sensitizing concepts has been introduced by Blumer (1954), and sensitizing concepts have been used as interpretive and guiding tools to perform qualitative studies in both data collection and analysis (Bowen, 2006; Glaser & Strauss, 1967). In this thesis the sensitizing concepts are legality, traceability and transparency. The argumentation for choosing these sensitizing concepts has been explained in the previous chapter.

Some might view this strategy to be a case study type of research. However, in the opinion of the researcher there are too many units of analysis in this thesis, namely legality, traceability and transparency; operationalization and implementation; different actors. This taps into the theoretical discussion on how many units of analysis a case-study can have, where some scholars would nevertheless interpret this thesis as a case study and claim that the case would just be VPA implementation in Ghana. However, if this study had focused on only one district or region within Ghana to study the VPA implementation, or would only study the traceability system implementation, it would make sense to use a case-study approach. The explorative nature of this thesis requires an open form of data collection and analysis to enrich the empirical knowledge on VPA implementation in Ghana. Based on the data collected through this thesis, new case studies can be carried out focused on specific items that emerge from this research.

2.3 Data collection

2.3.1 Documents

The documents that have been used in this thesis as data sources are the Ghana-EU FLEGT VPA document, and a plethora of existing scientific literature related to this thesis. The Ghana-EU FLEGT VPA is mostly used as a source of information for analysis. The scientific literature is used to provide the background information to which this thesis is portrayed, while it also forms the basis for the conceptual framework, and in the end is used to reflect empirically and theoretically on the results that have emerged from this thesis.

2.3.2 Interviews

The second source of data were interviews with stakeholders in the VPA implementation. The goal was to get a purposeful sample of stakeholders from the three sectors involved in the timber production of Ghana, namely stakeholders from government, industry and civil society. Selection of stakeholders for interviews was established by snowball sampling, e.g. referencing to colleagues, and convenience sampling, e.g. encounters with relevant stakeholders during field trip. Table 3.1 shows the total number of interviewees, their sector and their reference abbreviations used in the results. To respect the integrity and anonymity of the interviewees, they will be quoted without their names. Interviewees are indicated by the group they work for or belong to. The names of the interviewees are known to the researcher.

| <i>Table 2 List of interviewees on sector, number and abbreviation.</i> | | |
|---|---------------|---------------------|
| Sector | Number | Abbreviation |
| Industry | | |
| <i>Small-scale logger</i> | 1 | SL |
| <i>Large-scale logger</i> | 1 | LL |
| Civil Society | | |
| <i>Community Elder</i> | 1 | CE |
| <i>Civil Society Organizations</i> | 4 | CS1-4 |
| Government (Forestry Commission) | | |
| <i>Forest Services Division (FSD)</i> | 6 | FS1-6 |
| <i>Timber Industry and Development Division (TIDD)</i> | 2 | TD1-2 |
| <i>Timber Validation Department (TVD)</i> | 5 | TV1-5 |
| | (20 in total) | |

The interviews were conducted during fieldwork in Ghana between the 6th of November and the 24th of December 2017. The interviews were done in person by a single interviewer (indicated with “*interviewer:*” in quotes), and usually lasted approximately forty minutes. The questions asked during the interview were based on a semi-structured interview guide, which contained questions like “*What does it mean to be legal?*” and “*What would you consider to be the strong points of the traceability system?*” (Appendix A). The interview guide has been developed with questions on the implementation of the VPA in Ghana, with elements regarding the sensitizing concepts of legality, traceability and transparency. The interview guide contains typical questions that sometimes were related to a specific background or knowledge that only some interviewees had, so a selection of questions was made within each interview. Questions were not asked in the order as written in the interview guide but followed up on the answers during the interviews. Also, follow-up questions asking interviewees to expand on or clarify their answers were often used to get more complete answers. When information saturation occurred on a question over a couple of interviews, these questions were withdrawn from further interviews. Eighteen interviews have been recorded with consent of the interviewees, and those recordings have been transcribed verbatim. Extensive transcripts have been made based on written notes from those two interviews without recording.

2.3.3 Field observations

During the fieldwork in Ghana, the researcher has participated in a field audit performed by the Forestry Commission. During this field audit, the researcher had the role of independent observer, and had the freedom to observe the entire audit. These observations have contributed on understanding the VPA implementation in practice and has provided the researcher with a third source of information to triangulate with data from the documents and interviews.

2.4 Data analysis

2.4.1 Coding

Interview transcriptions were coded with the use of MAXQDA Standard 2018 data analysis software (MAXQDA Standard 2018, Release 18.0.7, Version 2016-02-01). This was done according to the process of qualitative coding. This means that within the transcripts the researcher looks for items that can be put in different categories. So, one starts with several categories and within those categories new items can be placed and create themes within those categories. Within this thesis that worked as follows: Firstly, all the transcription documents were scrutinized and every sentence of importance to the research was given a unique code. Subsequently, these codes were organized under the sensitizing concepts of Legality, Traceability and Transparency. Within these concepts multiple themes emerged that were specific to those respective concepts, and the initial codes were categorized and structured within these themes.

2.4.2 Principles, Perspectives & Practices

Lastly, to bring structure to the data analysis and the display of data, the results within each sensitizing concept have been ordered under the categories principles, perspectives and practices. Data on what has been established in the VPA can be found under *principles*, stakeholder views on VPA implementation can be found under *perspectives*, and the practical implications of the VPA implementation complemented with insights from field observations are displayed under *practices*.

Chapter 3 Legality

3.1 Principles

The following section will elaborate in detail on the legality standard that has been established in the VPA and on the legal structures that enforce the legality standard.

3.1.1 The VPA Legality Standard

The goal of the FLEGT VPA for Ghana was to create a legal framework under which timber could be produced legally and verified as such. As explained before, it was therefore needed to come up with a legal definition, which would cover the entire production of timber: from source to export. This has been done in the design of the VPA, through stakeholder consultation. To create this legal definition however, Ghana needn't to make entire new laws and regulations, but rather draw from existing legislation to combine these into one legal definition (European Community, 2010)(TV1). The resulting legal definition around which the VPA is centered, is therefore a collection of multiple Ghanaian laws and regulations regarding forestry governance.

The legal definition is set out in Annex II of the VPA, which consists of eight major components, which each correspond with several acts and legislative instruments of Ghanaian legislation. The legal definition is centered around the elements of timber source, transportation, processing trade and fees and taxes. The definition from the VPA can be found in box 5.1

Legal definition:

- a) in cases where the source and ownership is a felling permit:
 - i. timber originated from prescribed sources and the individual, group and owners concerned gave their consent to the logging of the resource;
 - ii. the logger, at the time of felling, held a valid Timber Utilisation Contract (TUC), issued by the Minister for Lands Forests and Mines ratified by Parliament following the prescribed competitive process;
 - iii. the logger at the time of felling, held a valid Salvaging Permit (SP) issued by the Forestry Commission; or
 - iv. the logger complied with forest operation procedures and standards prescribed by statute;
 - v. The logger at the time of felling has been granted replacement for timber rights;
- b) in cases where the source and ownership is a Certificate of Purchase (COP):
 - i. The COP was issued pursuant to a court order confiscating the timber;
 - ii. the wood was abandoned and sold by the Forestry Commission in accordance with statutory procedures;
- c) the wood was at all times transported in accordance with standards prescribed by statute;
- d) the wood was processed in accordance with standards prescribed by statute; and
- e) all vendors/exporters have valid license or permits to market timber;
- f) at the time of sale or export no accrued fees, rents or taxes, prescribed by statute were owing to the State; and
- g) at the time of sale or export, the logger had complied fully with obligations under Social Responsibility Agreements.

It was thereafter needed to be able to determine if Ghanaian sourced wood is in fact meeting the legal standard. Therefore, the legal definition has been operationalized into a Legality Matrix, which can be found

in Annex II of the VPA. This matrix contains seven principles, which each hold several criteria in determining adherence to the legal principles to validate legality. To receive a FLEGT license, these principles and criteria must be verified (European Community, 2010). The legal principles with their criteria are as follows:

1. **Source of Timber:** Timber should originate from the prescribed source and all concerned stakeholders gave written consent for the logging to take place. Criteria to verify this principle entail (1) forest management plan requirements, e.g. pre-harvest inventory, and (2) written consent of land owners.
2. **Timber Rights Allocation:** The logger is in a rightful possession of timber through the correct processes. Criteria to verify this principle entail (1) a Natural Forest or Plantation TUC issued by TRAU, (2) a Salvage Permit issued by FC, and (3) in case of confiscated timber, logger has a correctly auctioned confiscated timber permit.
3. **Timber harvesting operations:** The logger is in compliance with all forest operation procedures and standards. Criteria to verify this principle entail (1) stock survey (on-reserve) or pre-felling (off-reserve) was conducted, (2) logging was done according to harvesting requirements, (3) log measurement and recording, (4) timber corresponding to issued species and numbers, (5) stump and log marking, (6) execution and compliance to Social Responsibility Agreement, and (7) compensation payments.
4. **Transportation:** Timber is transported in accordance with transportation standards. Criteria to verify this principle entail (1) transportation with correct documentation on e.g. origin of timber, (2) transportation during legal time periods.
5. **Processing:** Timber is processed conform legal requirements. Criteria to verify this principle entail (1) timber processing facilities licenses and registration, and (2) processing practices.
6. **Trade:** Vendors have the required license or permit to sell timber. Criteria to verify this principle entail (1) FC permit for export, and (2) FC registration for domestic trade.
7. **Fiscal obligations:** Logger and vendor were not in default of any fiscal obligations. Criteria to verify this principle entail (1) stumpage fees, (2) ground rents, (3) export levies, and (4) corporate income tax.

It should be noted that these legal principles not only regard wood flow related aspects. Within the legal standard there are elements that touch on topics like environmental standards and labor regulations. For example, within criterion 3.2 there is established a number of environmental standards to which logging operations should ensure compliance e.g. water pollution. On labor related issues there are within criterion 5.2 aspects on health and safety requirements, e.g. fire prevention and injury prevention.

VPA illegality and non-compliance

In the VPA, there is no definition for what illegal timber is. It is stated however, that the FLEGT Action Plan is the first step to tackle the problem of illegal logging, in the sense that the implementation of the new system should ensure that wood from illegal sources does not enter the supply chain. The VPA should, according to the agreement, deal with illegal logging, but it doesn't define what is to be understood as illegal.

On the issue of non-compliance against the legal standard there is also no definition provided in the VPA. Whether something is non-compliant or non-conforming to the standard is still left open, for example in the role of the monitors to the standard:

The monitoring shall determine that all aspects of the LAS are functioning as intended and in particular identify any systemic failures evidenced by non-compliances (*non-conformity?*) observed and assess

the regulatory agencies requests for Corrective Actions and respective compliance with these, (European Community, 2010)

Important to notice is the “non-compliances (non-conformity?)” that is still in the text of the VPA. This can indicate that there was still confusion or disagreement at the moment of writing on what to name the situation of not following an aspect of the legal criteria as set-out in the legal definition. It becomes apparent that the issue of non-compliance is a matter which is developed over the course of implementation:

Mechanisms for handling non-compliance identified over the course of verification activities will be developed in detail in the pilot phase based on existing law enforcement procedures and regulation. (European Community, 2010)

3.1.2 Legal structures VPA

Similar as to how the legal definition in the VPA has been constructed from the existing Ghanaian legal regulations, has the VPA been built upon the existing legal enforcing structures of the Ghanaian Forestry sector. The Forestry Commission of Ghana already has had three major institutions who were in control of regulation and management of forestry. These three institutions are the Forest Services Division (FSD), the Timber Industry and Development Division (TIDD) and the Resource Management Support Centre (RMSC). In the following chapters their roles will be evaluated more thoroughly, but roughly speaking it can be said that the FSD is in charge of regulating felling up to and including transportation, TIDD from transportation until export, including the issuing of FLEGT licenses and trade permits and lastly the RMSC serves as a quality control center for yield selection and felling inspection (European Community, 2010).

This foundation of forestry regulation within the FC hasn't changed much, however the VPA has required more layers of legality verification. Before the VPA, quality control existed within FSD, TIDD and RMSC, in the sense that these institutions were responsible for examination their own functioning. In the implementation of the VPA, there have been two new layers of validation and control added to this system, namely the Timber Validation Department (TVD) and an Independent Monitor (IM). This new structure of legality verification through the TVD and the IM both constitute components of the Legality Assurance System (LAS) (European Community, 2010).

The TVD is a department within the FC that has been established within the VPA. After signing the VPA, the secretariat of the VPA negotiations has been used to form the core onto which the TVD has been constructed (European Community, 2010)(TV5). The TVD serves as the first layer of verification and validation of the implementation of the legal principles. It does so in performing two functions. Firstly, it serves as the unit of data reconciliation along the timber process chain, which will be elaborated upon in the following chapter, and secondly the TVD serves as auditor and measures the compliance to the legal standard. To measure compliance, the TVD monitors the regulatory outputs of the FC divisions that are responsible for the first layers of management and regulations, and it checks the status of implementation of the VPA standard. The TVD can then check if all procedures have been duly complied with according to the legal principles. The verification procedure of the legal principles can be found in the VPA in Annex V Table 2, which shows the responsible actors for the criteria that are to be verified by the TVD (European Community, 2010). These layers of legal verification have been visualized in figure 5.1.

The functioning of the TVD is also monitored through a specially established committee called the Timber Validation Council (TVC). The TVC has members from multiple different stakeholders, e.g. ministry, industry, police and CSO, and is chaired by the Chief Executive of the FC. It serves as an oversight body for the functioning of the TVD, on matters like transparency and independency. Also, the TVC can be addressed for

complaints about TVD verification operations, in e.g. FLEGT issuance verification, or other aggrieved parties (European Community, 2010).

The final layer of validation is the responsibility of a third-party verification entity called Scientific Certification Systems, which has been named the IM in the VPA. Its functions are similar to those of the TVD, in the sense that it monitors the procedural compliance of all institutions within the FC, but also the functioning of the TVD. Additionally, the IM also serves as the entity to identify weaknesses within the system and can provide recommendations for reform.

The LAS – Ghana

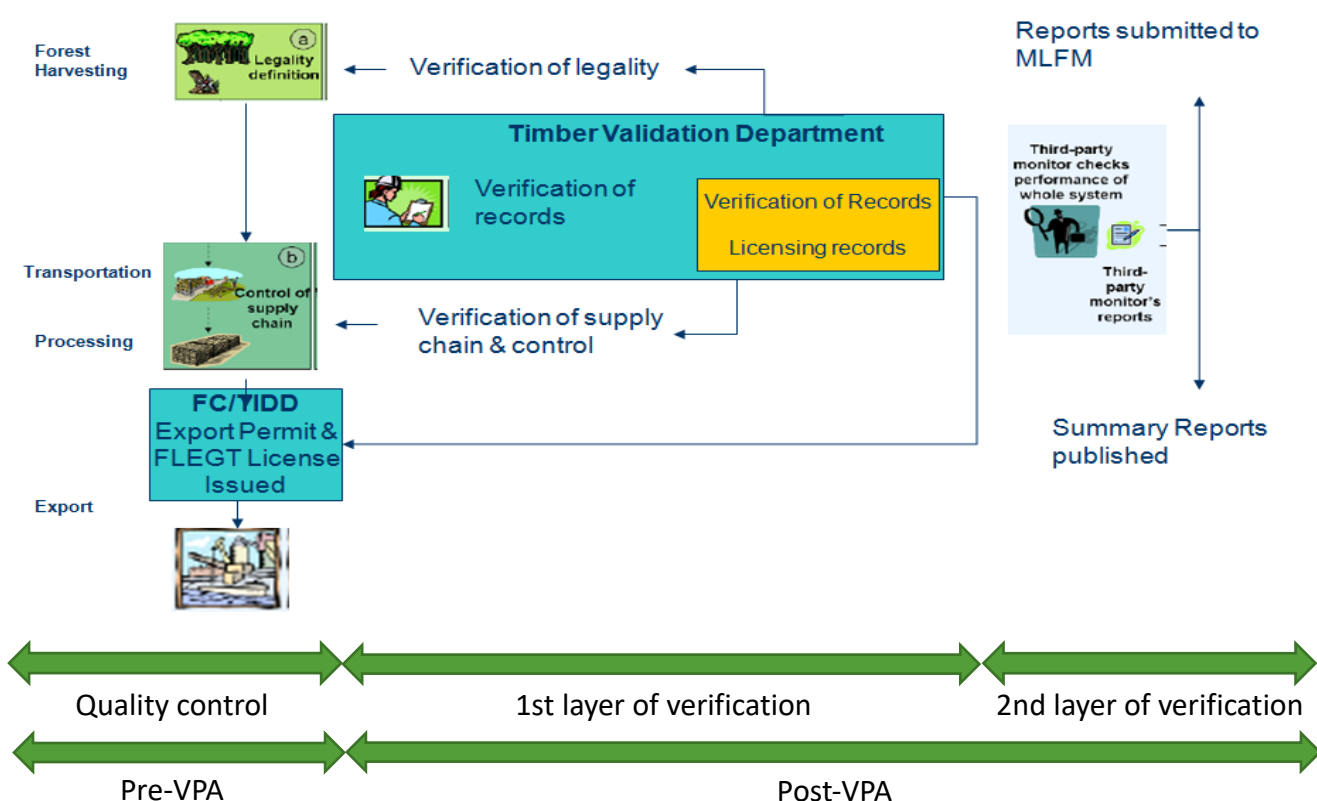


Figure 3 Visualization of the timber production chain and the legality verification layers as established in the pre-VPA situation and post-VPA situation. In pre-VPA, quality control only happened within the production chain performed by the responsible FC actors. In post-VPA, the TVD performs the first legality verification and the IM the second. Image adapted and edited from Ghana-EU FLEGT VPA (European Community, 2010).

3.2 Perspectives

The following section will provide perspectives and insights on the VPA implementation that emerged from the interviews. It deals with how stakeholders have experienced the implementation so far and how they work with a legality standard, i.e. when timber is legal or illegal.

3.2.1 Advantages VPA implementation

Interviews with stakeholders from FC, industry and NGOs revealed that the implementation of the VPA legality standard has resulted in several benefits. These benefits were expressed mainly about the new legality standard and the additional legal validation structures that the VPA implementation has brought forth.

The legal standard from the VPA has been regarded as an adequate legal framework to work with and address illegalities. FC staff expressed that, through this legal definition they have been able to address some legal gaps in the former legal framework. For example, according to one member of TVD staff:

And so, few areas that there were gaps, through the VPA we have been able to improve upon those legal policies. For instance, some of our laws were a bit conflicting, but through the VPA we have been able to come out with the, an overarching LI [Legal Instrument] that has harmonized all the laws. It was passed recently, I'm sure you heard it. So, at least, we have been able to address some legal gaps to our own laws, by having that LI in place. So now, people are clear about access to the resource and the Timber Rights Allocation processes have all been simplified. Earlier it was not clear and so we were having some challenges as to whether to give the right or not. But through this new LI, all forms of timber rights allocation have been clarified, so we've know what is a TUC, a plantation TUC and (...), so I think it's good now.

Interviewer: So the VPA has streamlined the legal process?

RG: Exactly. It has streamlined, especially things that has to do with the timber rights allocation. It has streamlined it, so which is good. (TV1)

Furthermore, satisfaction with the legal principles was expressed both on the fact that they covered “all the areas of the chain of custody, you know, from the issuance of timber rights, to export, to the fiscal obligations.” (TV4) and that they were made with the specific forestry issues of Ghana in mind.

Apart from the legal advantages, there were also practical benefits to the legality principles, expressed by both industry and FC staff. A logger stated that the legality standard “is guiding everybody, is guided by it ... you can work it, it's simple. You follow the logging manual, you follow the safety, you follow the environment, you make good relationship with the communities, and you will not have problem.” (LL) while an FSD staff member considered the standards “good, and useful for guidance” (FS1)

The legal principles also proved to be advantageous for timber companies on the international markets. This holds true for companies entering the timber markets, for applying the VPA legal standard give them a head start, in a sense that “...they can interface properly with their buyers in Europe and wherever, who require certain standards of doing business.” (TV5), but also for companies already active in certified timber export, “Because most of them have gone through this FSC certification. ... So because they have been through the system and they have aligned their system very well with the FSD, it's much easier. They understand the process better, they have structured their system very well, so the VPA is not so much of a problem.” (CS2).

Not only benefits from improved legal principles give companies an advantage on the international, also the enforced legal structures through TVD and IM validation are expressed as beneficial. A TVD staff member expressed that a strong verification makes the Ghanaian forestry sector more “prestigious” (TV3). An NGO viewed the stronger legal structures to increase legal compliance and eventually “put a very high value on our forests.” (CS3).

The reasons why the improved verification structures increase the system's validity are mostly because of the extra layers of verification that the have been established. Especially NGOs have expressed their satisfaction with these extra entities of control in the system. In their views:

“I know with this TVD verification audit, they will catch up. Because if sanctions are given to them, they will work things out and catch up.” (CS1)

“ So now, the TVD are now ensuring that the laws that have been on the table are now being obeyed by the forest companies.” (CS3)

“One way, or the other, even if the TVD audit fails to bring it up, the independent monitor will bring it up, and observers, civil society, we are also observing, and we are looking at how things are being done.” (CS4)

Lastly, a major benefit not even due to new legal principles or structures has come out of just the implementation process of the VPA. The multi-stakeholder approach of the VPA has proven to have provided NGOs a stronger foothold in Ghanaians forestry sector. As a member of local NGO states:

“So, I think based on how far we have gone, looking at the benefits we have accrued from the entire process so far. Even the fact that the space for consultation is now broader, the table is now broader, and now even civil society interaction with government is not confrontational anymore, but we are now more cooperative.” CS4

3.2.2 Defining timber legality

In order to gain understanding on the meaning of timber legality from the people who have to work with in, respondents were asked to define what it means to produce legal timber. Basically, when describing what makes a log legal, respondents used the seven principles from the VPA to define legality.

“The foundation for legality is the logging permit.” FS1

“Then, legal means it’s from the genuine source, it has passed all the, the procedures, it has been laid down.” FS2

In defining legal timber, emphasis was put on the source of the timber. The logger should be able to prove that the source is the timber is legal, meaning the forest area where the log is coming from is a designated timber production area. The logger is also expected to verify his right to log in that specific area, proving it with the felling permit.

“To be legal in the system would mean that you have actually obeying or acquiring all the legal documents, as prescribed by law, to log.” T7 SA

“Legal lumber comes with conveyance.” TD1

“It should be traceable, yeah rightly sourced, you have the right permits, you know, and you have the right documents covering it, you’ve been through the right processes to get those documents that are necessary you know, that you are operating within those legal, our legal framework within there, our legal regime of Ghana.” CS4

These perspectives on legality show a great emphasis on verifying legality through documentation. Attaining the documents throughout the process should prove as a test of legality, that you have operated according to the rules and regulations which is required to get the documents along the process chain. For example, the staff member of TIDD explains that logs coming with conveyance, which is the document needed for transportation, is enough evidence of legality, for having acquired that conveyance document should only be possible if all previous steps were in order. Concluding, following the process as it has been laid down in the VPA should suffice in guaranteeing legality of timber.

Interesting to notice is the difference in words used by the different actors to refer to legality. Practically, they are talking about the same standard, but the language they use depends on which aspect of the standard is used in the work they carry out. Actors from the TVD work with the legal verification protocols, in which they basically work all the way through the legal principles in the auditing process. In defining legality, they use the legal principles as to what it means to produce legal timber, for example:

“So, at the point in time where we are saying that all these seven principles are adhered to, then we are saying that we have a legal timber.” TV2

“If you don’t respect any of these seven [principles], the timber can’t be said to be legal.” TV1

As for the actors from the FSD and TIDD, in defining legal timber they referred to the concepts within the legal principles which apply to their responsibility in the control and verification of the process chain. FSD people used words like “genuine source” (FS2) and “felling permit” (T5 DM), which are among the first legal criteria the FSD has to deal with, while the TIDD actor referred to the transportation document as a first indicator of legality, for the production chain verification begins for the TIDD at that transportation document.

For members from industry, this went even a step further. When asked about the “legal principles” they failed to understand what the question exactly was about. During the interview, a colleague from the TVD stepped in to provide support to the researcher on the industrial lexicon. Apparently, legal principles are understood as logging manual among the industrial actors:

“Interviewer: So the legal principles that you have to adhere to? What do you think about that?”

[silence]

TVD: That is the logging manual that you have to go through. How is it, is it okay? Does it need revision? And if it needs revision, which area do you think it should?

For my opinion, up to now I don’t face any problems with the logging manual.” LL

To summarize the responses of what it entails to produce legal timber: The source must be correct, and the logger is in possession of a permit for that area, the tree is felled from the prescribed yield and obtains the necessary documentation throughout the process regarding measurements, transport and processing. The words to define legality somewhat differs between the respondents, but in essence everyone regards legal timber to be based on the same elements.

3.2.3 Illegalities vs. Non-compliances

However, when interviewees were asked to define what it means to produce illegally, there were made some distinctions between what illegal means. This had to do with how to define illegalities and in what sense non-compliance to the legal standard would mean something else. Non-compliance, in short, means that some or more criteria for legality have not been complied with. Opinions on this topic of illegalities and non-compliances seem to vary not only among respondents, but also between respondents from the same group of stakeholders or the same institution.

“Non-compliance results to illegality. Not having a certain document, makes the log illegal.” FS3

“If you are not complying with any aspect of the standard, then it’s an illegality. So, non-compliance to any of the requirements basically is an illegality.” CS2

As can be seen from these statements from a staff member of FSD and a representative from an NGO, illegalities in their view basically are the same as non-compliances. So, any non-conformity between the log and the Legal Principles makes the log illegal. There is made no distinction in wherever or whatever in the process is determined as non-compliant, it will result in an illegal product.

“If you log without a permit, then per definition it is illegal. Every tree outside the yield is illegal. In the process thereafter, we speak of non-compliance.” FS1

“But illegality generally, to me, it should refer to, maybe, doing things, even completely outside the system. Like, aha, like you have not even gone through the process. You decide to go and do anything

outside the system completely. You have not even attempted to do a single step of the system. You have no permit and you are felling. That is totally illegal.

Interviewer: So if you work outside of the, the legality system and the wood tracking system, that is illegal?

Yes, yes! That is illegal. Completely illegal. And non-compliance is within the legality system, you fail to adhere to certain requirements. That is what non-compliance is.” FS4

These perspectives show a certain foundation of legality, which is a permit and a yield. So, if a logger is felling without a permit, or within a valid permit but outside the yield, it is a non-compliance to this foundation of legality and therefore results in an illegality. However, if this foundation is correct, but certain aspects of for instance transportation or processing are not being done correctly, it's a non-compliance. It is a legal piece of wood, but down the line it hasn't been processed conform the standard.

“Interviewer: So for instance, what we see here that the trees are unmarked. Does it mean that he is illegal?

No. [...] But in response, what he is supposed to do, is what he has failed some part. Not all.

Interviewer: Yeah. So does it mean, that the wood is illegal?

No, no, no, no. It's not illegal. Only that he has not done the property [mark].” SL

This view of illegality from a small-scale logger confirms the previous idea of non-compliances along the line not leading to illegality. An absence of markings on logs, which is a criterion of the Legality Matrix, does not lead to illegal wood. The operator only failed to comply with applying the mark.

“RG: You can have several non-conformances. And so based on that you say the timber is illegal. So, you can say that illegality and non-conformance can be used interchangeably. [...] It is like you said, some of the non-conformances you can correct by paying penalties, but some, for instance, like, you didn't have any permit at all, no authority, then you went to fell, in that case it will be difficult to get a permit, because you have not gone through the due process. So the forest offence say you will be either imprisoned, or you be fined. But after fining you, you will still not get access to the timber, but unlike the felling outside the yield, after paying the fine, you can still get access to the timber. [...] So you, there is a due process that you have not followed. So that particular timber it can even be put for auction, so that qualified timber operators can go and buy, but not the offender who did it cannot have access to, yeah.” TV1

“So yes there is a fine line between a typical illegality and also a non-compliance. A typical illegality may always result in illegal logging, but some non-compliances may not necessarily lead to illegal logging, yeah.

Interviewer: Because certain non-compliances can be reversed by doing a certain action.

FA: Yes, exactly, exactly.

Interviewers: Yeah. So then the log bears some non-compliances, which can be helped.

FA: Exactly, exactly.

Interviewer: Which make it legal.

FA: Legal, yeah. Because uhm, we even say that every log that are felled from a forest reserve, should be entered into a felling register. The fact that that felling register has not been entered, doesn't make the log illegal, but rather there was a non-compliance of the part of, probably, an actor who should have done what he didn't do. And that can easily be reversed.” TV2

These definitions of illegality may provide insight into why some non-compliances are not seen as illegalities and some are. The responses again reflect that foundation of legality which constitute a felling permit for the timber. Felling without a permit is always an illegality, but what makes illegalities thereafter different

seems to be based on an idea of a correctability of the non-compliance, or a reversibility of the illegal action. Being able to correct whatever has been non-compliant about the felled timber can change an illegal log into a legal one. Felling a tree without the necessary attainment of rights to do so is an irreversible act which cannot be corrected, and therefore the felled tree cannot be turned legal again. Not entering logging data into a register is an act that can be amended, so after correcting this non-compliance the illegal log is a legal log again. The corrective action is connected to a penalty or fee that has to be paid in order to regain the ownership of the log. In essence, non-conformance to the legal principles results in illegality, but some illegalities can be amended through corrective action and payment of a penalty, while others cannot be corrected and will result in confiscation of the illegal timber.

However, the ambiguous definitions of non-compliances and illegalities that were collected through the interviews, show that there might be some confusion as to what is actually meant for a log to be illegal. During their explanation on the matter, the respondents often got inconsistent and confused in providing a straight-forward answer. The following quote serves as an example:

"I see a very thin line between that. So I will describe illegal as total not obeying as in triumphant over the laws. Yeah, and then probably non-compliance would mean the logger probably know, or is aware of actually to pay or not to pay, I should say, to not have a timber right. That probably is has expired, is has expired over some time. So, yes, and if it's not renewed, yeah that's one... it's quite, it's quite tricky. Yeah... Non-compliance... Illegality... Wow... [...] Yeah, to me, once you are not complying then as that moment it's illegal. I don't know if that contradicts my first answer, but I just have a second thought about it." CS3

3.3 Practices

The following section is a combination of data gained through field observations as well as interviews, to provide a more holistic perspective on how the VPA is put to practice by looking at it through the eyes of the researcher and stakeholders. Firstly, observations of the field audit in which the researcher has been a participant will be scrutinized, to provide some insight in the audit process, but also to elaborate on some observed aspects of compliance and non-compliance. Then some challenges as observed by the researcher or those derived from interviews will be analyzed as to how they emerged and how they are dealt with.

3.3.1 Field audit

Part of the data collection period in Ghana has been a field observation of an auditing team from the TVD. During that period, the researcher had the role of independent observer of the auditing process. As explained above, the role of the TVD is to perform an audit on the whole timber process chain, by checking how the FC institutions have been performing in regulating and managing forestry and checking up on logging operations to measure their compliance to the rules and regulations. In this section some observations on the auditing process will be shared on how the TVD contributes to the process of validation and verification of the legality standard.

The field audit is done by going through a certain verification procedure, which can be found in the VPA Annex V table 2. The auditing team goes to a certain district and starts at the local FC offices for the documentation review. In places where the WTS is fully rolled-out this can be done electronically in the WTS database, but areas which are not fully on the WTS document review means literally reviewing paper-based documents from the latest months. To determine which logging operations are subjected to an audit, the TVD picks operations with recent non-compliances based on the document review, but also some based on random sampling from the active operators in that area. When they enter the field, they follow the production chain for the audit. Starting at the forest floor, looking for stump markings and logging process requirements, e.g. environmental concerns and logging roads, following the timber through transport to

the processing facilities, where logs are converted to lumber. Following the timber up the process chain, they check certain critical control points for audit, which have been determined in the VPA. These critical control points will be further elaborated upon in the following chapter.

The main idea of the audit is to use triangulation to verify if legality is being upheld in the industry and by the FC institutions. Multiple data sources, methods and perspectives are constantly put to the test. Triangulation of methods can be found in the way the audit is set up. The first step of the audit is to do a document review, which means scrutinizing documentation on the latest logging activities in the audit area. Then the second step is a field audit in which the compliance is double checked. Data is also constantly triangulated between what is on the WTS database or the paper documentations, e.g. transportation certificates, with data from the field, e.g. stump markings, and with the official documentation copies that are and should be in possession of the logging operators. Lastly, to get multiple perspectives on what is reviewed during the audit, the audit group always consists of not only TVD members, but also members from the local FSD or TIDD office, the logging or sawing operators under review, and members from several NGOs who can independently observe and comment on the process. This triangulation was also noticed by an independent observer from an NGO, which stated his satisfaction with the thoroughness of data reconciliation and the lengths to which the TVD goes in the audit:

“Yes, they have been very professional, especially in the way they have been going about acquiring what we would term as uhm, objectively verifiable evidence. So you want evidence that uhm, is flawless, you know, that everywhere you hold it up you know that, okay it was a non-conformance, that was a conformance. [...] So I think they have been quite professional in making sure that all these things [data and documentation] agree.

Interviewer: The triangulation of the data?

The triangulation, exactly, exactly. And while we are observing them here, in some instances they had to make calls when someone said okay we don't have it here, it's at the district office, okay check it, see if this is there, they give them the reference number to check and see if that is there and then if they need to do all of that, even ask them to send pictures, you know? [...] So, we, I've realized, for example, we went out today, at one area they had to look for as much as up to thirteen tree stumps.”

CS4

One striking example for the need of triangulating data and perspectives happened during the field audit. The audit team came upon a small village of only five small houses, near an off-reserve timber production forest. To many surprise, the village had turned into a construction site, with dozens of large logs, mountains of sawing waste and several sawing machines. The audit team went to further investigate what had happened in that village, since the people were living in the middle of a giant sawing operation. The researcher engaged in a conversation with the village elder with the help of a TVD member who acted as a translator. The village elder explained that he knew nothing of why there had been set-up a sawing operation in the middle of his village and that he was very upset. He hadn't been consulted in the process and didn't know where to turn to with his problem. However, the interview got interrupted by an FSD officer, who explained that it was impossible that he didn't know anything about it, since the operation must be endorsed by the landowner and that if this operation was running there is consent by the landowner. She accused the man of lying to try and improve his situation, although the FSD officer was not familiar herself with the people from the village. The village elder then explained that indeed he is not the owner of the land, but the original landowner was dead, and the new owner is trying to sack them from the land by putting this operation in his village. This situation showed very well how important it is to have all actors in one place, so you can cross-check how certain situations have emerged in order to verify if all procedures have been met correctly. (CE)

Apart from verifying legality on the level of data reconciliation, the TVD also has enforcing power during the audit. For example, in processing facilities where the large logs are converted to small lumber, the TVD can place embargo on all the timber in the processing yard when there is uncertainty on the legality of the timber. For instance, when there were no markings visible on the logs in the log yard of a processing facility, the TVD placed an embargo on all logs until they were able to reconcile with the local FC institutions on the legality of these logs. Apart from logs can the TVD confiscate logging equipment in case of illegal logging. During the field audit, one local man was apprehended when unable to prove logging rights in a certain area, and his logging equipment was taken into custody.

Furthermore, enforcement by the local FC staff was also directly visible around the local FSD offices. Around every FSD district office that the audit team visited, there were several, sometimes up to ten, confiscated trucks with harvested timber. It was explained that trucks with timber were often randomly stopped for check-ups of documentation. If the truck driver is not able to verify his truckload is legally obtained, the entire truck with truckload is confiscated and placed at the local FSD office. Mostly, the driver is not the owner of the truck nor timber, so the owner has to come to the FSD office to claim his truck and illegally acquired timber. He can then, after paying a hefty fine for the illegal activities, get his truck back, but not the timber. The fine for illegal harvested wood is ten times the price of the stumpage fee for that tree. This timber will be put up for auction by court order, so, the timber will not go to waste. It is not possible for that harvester to buy that timber again through auction. However, illegal loggers are often not financially able to pay the fines, so they will not come and collect their trucks, which are then also sold by the FSD. In their views, either losing your truck and load or paying the enormous fines are strong measures against illegal logging, which make it very unattractive and risky for people to try and operate illegally.

Apart from observations on the strong effects of enforcement through confiscation and embargos, there was also a high level of compliance observed during the field audit. Especially among the large-scale operators it was visible that the VPA implementation has been successful, albeit slow. The audit team would often set out for an audit on an operator in the forest reserve, which meant a three to four-hour drive, across dirt roads, flooded roads, deep into the reserves. Even though these are hard to reach and located in remote areas, the logging operators have been very compliant with the legal standard. To inspect the compliance there, even a bush expert was needed to guide the team through the forest to the tree stumps, and after ploughing through thick bush the team would find an overgrown stump which was correctly tagged. And after inspection of the process chain record, it was clear that the other requirements had also been met, despite possibly some minor mistakes. This indicates a great deal of regulating capabilities and efforts on behalf of the FC and a high level of commitment by the logging operators. Of course, this is based on observations from one audit, done by one TVD team in one region, so it is difficult to generalize these findings to the whole FC and other regions. However, the observed enforcement and high compliance are a promising indication for the work done by the FC.

3.3.2 Health and safety observations

However, there was a striking non-compliance observed during the field audit at many milling operations. In the legal principles under criterion 5.2 it is stated that health and safety requirements are to be respected by employers and that this should be checked by the TIDD. Nevertheless, at many of the visited milling sites, it was observed that employers were walking on flip-flops, wearing no protective equipment, e.g. nose-mask, helmets or glasses, when operating in highly hazardous conditions. People were seen operating large sawing rigs, where chips of wood were scattered around at high velocity and sawdust filled the air, wearing no protection at all. During the audit of these milling sites, the TVD team leader gathered round the employer with all the present workers for a stern educative lecture on the importance of using protective equipment, and that this situation is totally unacceptable. However, unlike the situations of absent marks

on the logs in the log yard, there was placed no embargo on the logs and operations afterwards continued as before, even though a legal principle had been clearly violated.

This situation of the protective equipment needs some context, though. It has proved to be a major challenge for the FC to regulate protective equipment and also for employers to make sure that his employees are using the equipment. At the start of the audit, all the operators in the region are gathered for an opening meeting, where the TVD introduces themselves and the audit. The operators can then use this moment for questions and remarks on legality matters. During this meeting, the issue of protective equipment was raised, and one operator exclaimed: "I bought them gloves, they do not use it!" This plea was shared among many others and complemented with remarks that employees even sell the equipment that has been given to them. It seemed that employees do not value these safety measurements and their employers seem unable to help them understand the importance of protection.

In the interviews health and safety was also a recurring theme, especially related to the legality aspect of it. It is a debatable topic that shows there is difficulty in enforcing this principle on health and safety, but also the ambiguity of the term illegality. The following citations serve as examples for this discussion:

*"Let me ask you. Can we discredit a log, based on the fact that the person who harvested a log didn't cover its nose? [...] You see. So, this is non-compliance, you see. But does it make the log illegal? *long silence* So this one, the correct person doesn't have a cowl, so they go and raise a card, so the corrective action should come in and says: make sure that the people harvesting... So that log will not be affected, but subsequently if the district continues to harvest a log, you know, that will be hazardous to health for the people, health and safety, so that one the director can be sanctioned. Sanctioned, you know, if he continues, if you raise a card and still continues, we can block you, you see. But a log, a tree that has been felled outside yield, or felled close to waterbody. That one, straight, you know, if they, that one, the forest ranger has to act on even before the audit team goes in there. You see. It's an illegal log. But if you put the penalties, it become a legal. Because if you let the log rot too, that one too, you are losing revenue." TV4*

*Oh, okay, okay. *silence* Yeah, the logs in themselves are not illegal, but there's a component of, a behavioral component that is not permitted. Yeah. And should that qualify it as, or disqualify it... haha... uhm that is, that's, non-compliance is raised, alright. But what, what is becoming evident, I don't know if they talked to you the head of the audit team, but what is becoming evident is the challenges that we have in enforcing a principle, a criteria, also, that is outside our domain, because the health and safety rules are enforced by a, another department that is outside us. Uhm. So, that's, that's an interesting example, I see. Otherwise, I mean, unless there are more examples, I think that what we said in law is what we are, we are dictating on the ground as non-compliant. TV5*

3.3.3 Communities and the SRA

In Ghana there are many small communities who live near or in forest reserves. For them it is also illegal to log without a felling permit, just as it is for the operators who log for selling timber on the market. The problem is though, that they are often very much dependent on these forest activities to maintain their livelihoods, and they have been maintaining this lifestyle for a long time. As law enforcement is increasing due to the VPA implementation, the forest illegalities within the communities are suddenly emerging:

"They are illegal. I mean, once you are not issued with a TUC, or you are not given a permit to harvest, it is not now that it's illegal, it has always been illegal. So, it's an illegality, you have to go through the right process to do that. I think what you read, the problem you saw is that, now with the VPA, there is more of enforcement of the law, the law is now being enforced. What was already there. So, there is now like an enforcement. So, it was not that it was a legality, and that it's now an illegality, it is now

that it's the laws is really enforced. Initially if you go into the forest and cutting, maybe nobody would mind you. Now, with the coming of the VPA, the Forestry Commission has to now make sure that some of these things are complied to, that are not becoming an illegality. So, that's what's happening." CS2

So, the local communities have always been illegal according to Ghana's regulations on forestry, but these illegalities have come to light due to stronger enforcement. From now on, these communities can no longer perform their usual logging activities, for the FC is also enforcing the legal standard on them. To ensure that these communities can still benefit from the forests though, the VPA has introduced the Social Responsibility Agreement (SRA). This SRA is an integral part of the legal standard and can be found under criterion 3.6. The SRA works as follows: Companies who commence logging activities in a certain forest reserve, need to engage with the communities that live in or near this forest. Together with the FSD of that district, they set up the SRA in which agreements are made on how the communities are compensated for the logging activities. The compensation consists of 5% of the total stumpage fees paid by the logging operators:

"Through the SRA the communities are consulted and duly compensated for logging practices, getting 5% of the total stumpage. Through this compensation, for instance, the communities can then buy the logs they would normally harvest themselves." T5 DM

Apart from the compensating communities in the forests, the logging operators have to engage with the local communities. Through this closer cooperation between loggers and communities, the operators sometimes can help the communities in other aspects as well. One logger explains how this procedure works for him:

"We send a team to sign the SRA with them. After my people agree with them, we've done our SRA on site, they ask for help then need machine to come and to clear some land and this, this situation it come on me [...] I promise when I have machines I send the machines and do it for them." LL

The logger believes that this engagement between the communities and the logging operators can be durable and beneficial for both parties. The operator says he provides the communities with compensation and assistance, and in return the communities can also provide him with help against illegal loggers:

"The community, when they do illegal, they will not get big companies to suffice them the SRA. They illegal and they take it or something like this, all the community will not benefit. And when the illegal come and the farming come to the forests they destroy forest. They don't have future for their own family. The communities they don't like it. And also, we, sometimes we cooperate with community and we ask them for assist us to stop all this illegal and the lot of communities they cooperate with us.

Interviewer: And they think that is a good cooperation as well?

Yes, it's good cooperation. Because when you get to the elders in the towns, they think about future for own children. It's not like these young, young guys they need fast money. These people think about future.

Of course, this is only the perspective of the logger on this situation, but NGOs have also explained on the benefits that the SRA can bring to the communities. With the introduction of the SRA in the VPA, communities in the forests are now finally recognized as a stakeholder and have to be dealt with in order to perform logging activities in the forests. Already, some positive results from the SRA have been realized:

"Previously loggers were not paying attention to local communities. But now it looks like NGOs have actually advocated a lot and they are now very much aware. I can tell you in some communities where SRAs being put to good use, now SRAs build school, they are being used to build water systems. And

then just the community that we came from, they informed us that the SRAs from that community has been used to do rural electrification.” CS3

There are however also difficulties for the communities in getting the SRA. Firstly, these communities can be isolated and therefore unaware of what their rights are, with respect to the SRA (CS3). If these communities are unaware that they have a right on compensation through the SRA and the companies are not thorough enough in reaching these people, then communities will still miss out. Additionally, it is sometimes not clear which communities actually have a right to an SRA, for many communities are close to forest reserves and can claim compensation:

“With regards to one of the large companies that we had a complaint of from certain community, but that one borders on who is the right owner of the reserve. There are a lot of communities that are fringing the reserve. So, the only complaint, was that they were not recognizing them, as far as SRAs are concerned. But I will not blame them, because on records with them on doing SRA, it didn’t occur to them that maybe that part of the community also had to benefit. Aha. So, but everybody around the reserve feels they must be compensated.” FS4

This is the important role that the FSD has to play in regulating the making of the SRA, by being the mediator between the logging operators and the forest communities. This is seen as an active process, in which the FSD are bringing together all these stakeholders and have them “communicate and listen to each other to avoid escalation.” (FS3)

3.3.4 Challenges of VPA implementation

During the interviews, respondents were asked to explain what challenges they have been facing during the implementation of the VPA. This has brought forth a list of many challenges, within three recurring themes: Capacity, policy and resistance.

Capacity

Firstly, a lack of capacity has been one of the biggest challenges that have been faced in both industry and the FC. Mostly this had to do with a lack of skills or knowledge. Often has this resulted in non-compliance in logging operations or erroneous executions of the legal principles of FC staff. Logging operators, both large and small scale emphasized the importance of education and how it should be done frequently:

“The only problem that I am having is, that people need to be well-educated on the points. You know, if you are not educated, it needs to be rehearsed, sometimes.” SL

“Because you can bring somebody educate to come and carry chainsaw and do this, this this. And you educate with them, and later they will tell you: “oh masa, I forgot, oh sorry, I forgot.”” LL

However, the problem of a lack of capacity in knowledge and skills seems to be bigger among the small-scale operators. Large-scale operations mostly already have their business models aligned with the legal standards or already have chain of custody certification, but small-scale operations are struggling with grasping how to operate legally. This is also stressed by several NGOs that they should be educated on this aspect of legality:

“We have our own definition of what legality is, and uhm, if, most of them, or maybe some of them, are not very much aware of what we call legal. Is legality just getting a permit or just getting a TUC, what does legality entail. I mean, they don’t, most of them, the small ones, don’t understand the full details what Ghana’s definition of legality is.” CS2

Within the FC there was also a lack of capacity in knowledge and skills observed by the researcher. During the field audit, the TVD team discovered a high rate of non-compliance within the FSD and TIDD offices. Non-compliances were in faulty documentation, a neglect of keeping records correctly and in off-reserve areas a low compliance of pre-harvest procedures. However, this seemed to be no matter of unwillingness or corruption, the FC staff did either not grasp the gravity of their non-compliance or simply lacked understanding of procedure. It became apparent to the researcher that people felt shame in not knowing and dared not to ask their colleagues for help. The TVD team was very stern on their own FC colleagues when discovering these non-compliances and put high emphasize on this aspect of colleagues looking out for each other and helping each other.

Secondly, there is a capacity issue of logistics. Within the FC this is mostly an issue for the TIDD. There are many small-scale saw mills scattered across districts, which can move at any time. When they have finished in one locations, they pack up and move the entire operation to a next area. It might also be possible that these small saw mills aren't active for weeks only to start working for a couple of days. TIDD has to be present at active operations on a daily basis, but getting the staff on all these different places at the right time is a challenge and this can pave the way for illegal activities:

"The small-scale sawmill can move at any particular time, closer to the location of the material. And once they move closer to the raw material source, the scale of illegality rises, because they then have a better chance of doing things quickly without the presence [of TIDD]." TD2

A lack of financial and material resources is also a capacity challenge that arose during the VPA implementation. Small-scale loggers have been struggling to provide the prescribed equipment for their operations. It is forbidden and monitored that wood is not processed with chainsaws but with sawing machines. For small-scale operators, this has increased the productions costs, for they have to rent or buy this sawing machine. However, they do not have a strong market position to sell it for that increased value which can result in exploitation, as this small-scale logger explains:

"Depending how strong you are to argue your way. But if you are poor like me, if he says I give you, you know that it's sold at 10.000 and he's giving you 9.000, how can you respond?"

Interviewer: Because you need the money?

SL: Yes! And you are poor. So, you accept it." SL

Apart from the industry, there were also people who were resource dependent on the forests, who had to be supported. They were operating illegally for they had no other options:

"Then most of the people here depend on the forest resource for their livelihood. [...] So managing it is... is always very difficult. This is what the people depend on for their livelihood. Now, the concessions have been given to the people to manage, they are also there. So what would they do. Okay, then we have to do illegalities to... to... to survive. So it's one major issue. So we need to provide other alternatives for them, for that their dependency on the forest resource use." FS2

FC institutions have also dealt with resource issues. For example, during the yield inventories done by the FSD, measurements of the trees have to be recorded for triangulation of the documents. With issuance of the documents, the specifications of the trees are checked to ensure it's the same tree. However, FSD staff are often dealing with instruments which are not capable of measuring accurate enough. This creates variation in the measurements across documents and results in extra work of data reconciliation and remeasuring. (FS2)

Policy

Apart from capacity issues, there have also been some issues regarding policy and politics along the line which has resulted in an implementation process taking almost ten years since ratification. Two issues had to do with the fact that the VPA has been built upon existing legislation. Firstly, there had to be made some legal reform:

“And so, few areas that there were gaps, through the VPA we have been able to improve upon those legal policies. For instance, some of our laws were a bit conflicting, but through the VPA we have been able to come out with the, an overarching LI that has harmonized all the laws.” TV1

Several new legal reforms have passed since the start of the VPA implementation, regarding for example granting of timber rights, damage compensation, plantations and conversion of existing contracts into TUCs. But apart from straightening out these legal gaps, there is a second challenge that still has to be addressed in the legislation. Since the VPA is constructed from several older forestry laws, the regulations are sometimes outdated with the contemporary issues at hand:

“There has been old principles that we have been applying all along. But, for me, I think some of the principles needs to be revised, we need to look at it again. And my reason for us to look at again stems from the fact that some of our logging manuals is long overdue. It is been, it was written too long a time, some may date back as in, in 1990’s and if we’re in 2017 we are still going by the same principles, then it leaves much to be desired.” TV2

Furthermore, the FC has been dealing with political interference in the implementation of the VPA. High political figures like ministers have been interfering in FC enforcement and implementation. Some examples of how politicians cause conflicts in the work of the FC:

“You see the politicians want to take control of the management of the forest, or they want you to... they want to direct you! As to what you have to do as a manager. So if you don’t do what they want, then there’s always that kind of... battling. Between you and them. “Our people must enjoy, they must eat. Why you preventing them from getting money out of the forest.” Then if that’s the case, we not allow you to work here. You have to be transferred because you don’t support what they’re doing. You go and arrest them, send them to the police station, the politicians will go underground, see the police, see the judge, the case is gone. If they will fine them, just a penalty, which is not deterrent enough. You see.” FS2

“there was a government who came and motivating the youth that they should just go and do everything illegally and they will support them to send it wherever they want to sell. And it becomes like that and it doesn’t help. For that matter, if you are commission stuff and working against that, they can either transfer you, or interdict you. So sometimes you see it, and you become quiet, because it’s from high level. You can’t say anything. Though you can even wish to take action, but as you knew something could be done to you, so you keep quiet.” TV3

The situation has fortunately gotten better since the changing of the government. This has taken a lot of effort from the FC in creating awareness among politicians as to why the FC operates as they do, and how it is in everyone’s benefit to do so. This FSD staff member explains how they created this political atmosphere:

“But now, after the election, we, the new management that came in, stood on our ground. No, we will not allow this thing to continue. [...] So when we came in, we decided: no, we ensure that we do the right thing. So every time they come, they tell you: please, this people can’t go, this is not right. In our

procedures, you cannot do this, this is the procedure. So we then, we started educating them, started educating them. It's now that they are beginning to understand some of the issues. [...] I said them, you pass through the right procedure to acquire concession salvage permit, so that they can work legally. So we started doing that, and I think it's now getting into their head, it's, it's better now. Yes. If they know they can't influence you, they are always afraid of you. They know this man will not compromise. So they will not even go to him." FS2

Lastly, there has been some challenges in gaining the trust of the people for the VPA implementation. For example, *"Initially people were like is this really going to see the light of day. Not just one of those three to four-year projects initiatives."* (CS4) or *"They will leave it, they will not follow it. The government will leave it, this government will change."* (LL). People did not have much trust in new initiatives or in their government commit to the VPA. However, *"people have been made aware that FLEGT is here to stay"* (FS3) and is now almost fully rolled-out.

Resistance

With introducing something new, there is bound to be some resistance. Implementation has been challenged with resistance from within the FC but also from industry and civilians. From within the FC resistance was centered around a fear of change:

"He fears change, because not too sure whether he has the competences, the capacity to move along for the new thing. So that meant a good deal of, a good deal of uhm, training, orientation programs." TV5

However, there were also people who saw the change as a challenge to their way of doing things. This resistance to the change could come from *"people who would rather, the system, the status quo was retained"* (TV5) for they benefited from that status quo, or a fear for a hindrance of their operations which created *"apprehension, so they didn't understand it much, and they thought, oh, the Forestry Commission is going to, you know, clamp them down"* (TV1).

Resistance from within the industry not only had to do with apprehension to a change of the system, but also that they felt that a VPA was an unnecessary agreement for the forestry sector of Ghana. Many from the industrial sector had to be sensitized on why certified timber on the market is becoming more important in the contemporary timber business, where the importing actors from outside of Ghana played an important role:

"The resistance wasn't particularly about the GWTS, it was about the whole VPA. Some of them said: we're not interested, we don't need the VPA, we are moving away from Europe to other regions [...] Yeah, so, uhm, over time we tried our best to get this B to B engagement, B to B engagement is business to business engagement, so, we get out buyers from Europe to engage them. [...] that told them that, well, the market is changing, if you want to keep contributing to that market these are the things you must have. And I think slowly, the mindset began to change, especially now that Indonesia is on the market. It's not been that smooth for them as well, as that greenling, greenling promise was concerned, but uhm, it is, it is now becoming clear, that you have, you are in a much better position to do business with Europe if you have a FLEGT license." TV5

Lastly, there have been resistance incidents of a different order. In some areas in Ghana, extreme violent behavior against the local FC staff has been a major problem. During the field audit, our TVD team was advised to stay in the hotel after dark, for their safety could not be guaranteed. Since the implementation of the VPA, enforcement has increased on small illegal activities in the forest reserves. This has created

intense frictions between the local FC offices and the local people, which has led to violent incidents where offices have been surrounded with angry mobs and FC staff members have been assaulted in the reserves.

“So sometimes we are even in danger. Even when you are in your house, you are afraid. They will be calling for you. We will kill you, you done this, you see what we will do to you! So when you are working you are always afraid. Yes. You need to be very careful where you go, especially in the night. You don’t have to be walking alone. You see, sometimes you need to hide your identity when you get to some place.” FS2

To deal with this problem the FC is using a two-way approach: strong enforcement and education. To deal with the violent situations at hand, the FC offices now have armed guards around the offices, patrolling the area and joining FC staff in the field. But that is not a solution to the problem, they realize. The most important thing they do to stop the violence is engage with the people:

“Educate these people who are now angry about how they still can make a legal living in forestry. We want to help them meet the regulations, so that they can work legally again, and they don’t have to resort to illegal logging or violence.” FS3

Future challenges: Uncertainty

After dealing with the current challenges at hand, some respondents already set their sights on challenges that might emerge in the future. During the interviews, a certain cautiousness was expressed regarding the legal principles. Many loopholes and gaps within the forestry regulations have been addressed so far, but these were often discovered during the implementation process which is still ongoing. Therefore, respondents voiced their uncertainties if the current legal framework will be sufficient in addressing the problems of illegal logging over time:

“So unless it’s come fully, we will know the loopholes in the system. It’s now, it’s not fully implemented. But when we start the full implementation, and then each company, especially the domestic markets, if that one comes on board, then we will be able to know the weaknesses in the system.” FS2

One respondent expressed his concern for an uncertain future for Ghana’s forestry on a different aspect of VPA implementation. He wonders if the current situation, where Ghana is getting a lot of international aid in completing the implementation process, is coming to an end, and Ghana has to continue on their own.

“What has been agitating my mind borders on, what happens if the... what we are seeing now comes to an end. Because, for how long is the EU going to sponsor, these things? Finally, when we take off fully as a country, and whatever assistance that we are getting now is withdrawn, what, what extra strategy is in place, to consolidate the modest case and sustain it. It is something which has been put in my mind, and I’m wondering whether you’ll be in the right position to answer. [...] Now, now we have sponsors, we have problem with logistics, they provide money. We need, they provide money, we need, they provide money. And I’ve been wondering, as a country, what is the level of preparedness, to be able to thrive it, after all these forms of assistance are withdrawn. Because they will not be there forever.” FS6

3.3.5 Capacity building and enforcement

To tackle these implementation challenges, two responses to the issues emerged as being most important and effective: capacity building and enforcement. It appeared from the challenges the FC was dealing with, with regards to the legal standard, that people lacked understanding of legality as it has been established in the VPA. It has been stressed multiple times, by both the FC and CSOs, how this understanding has to be improved in order to make the implementation of the VPA succeed:

"The resistance is all about education. We need to educate them for... You know, when you don't understand something, you always resist." FS2

Especially, the role of the FC herein is emphasized to be crucial, as they could provide guidance in the forms of education and training for the industry:

"They [industry] need to be trained, they need first and foremost to start with awareness creation, which I think we as civil society organizations, we are doing our best. But then they [FC] should move on from awareness, just awareness creation to really build their capacity. Like documentations and all those things." CS2

"So, there are really ways in which we can break down compliance to scale. So that small and medium scale enterprises can also comply. If people need a policy company manual, we just need to help them. If we say this policy manual, this is all that we're asking for, and you could really have one company manual and have the policy statements all in there. A policy statement is simply an already made decision: if this happens, what are you going to do? So, you could just put that in there, but usually they are thinking about all the bad things." CS4

The breakdown of compliance as set out in the legal definition can provide a lot of clarity for the industry, but one FSD staff member stresses the fact that *"forestry is a profession, and with a profession comes terminology"* (T5 DM). It can only be simplified insofar, so if you want to perform the profession, education is inevitable.

It becomes clear that capacity building is needed to solve this lack of understanding. Due to misunderstandings, non-compliances build up in the system and resistance against the VPA increases. This has, among other things, resulted in delaying the process of implementation of the VPA, and also created conflict situations between FC staff and the people they have to govern.

However, capacity building in education and training alone is not sufficient for the FC to implement the VPA. As the FLEGT, also implies, enforcement is an important part of forest governance, and should be complementary to the capacity building: *"A matter of carrots and sticks"* (TV5). On the one hand, smooth people into the process, give them time and tools to adapt to a new system. On the other hand, provide leadership in implementation:

"We are enforcing this, we are going with it and they have to move along with it." TV5

A good example for this was provided by one TIDD staff member. One of the roles of the TIDD in the FC is guidance of the industry in helping them implementing the VPA. In the example, he explained how in cases of non-compliance, logs and trucks can be confiscated by TIDD. There is then an opportunity for the operators to buy back the logs and cars, which is a costly business:

"Sometimes what happens, it is sold back to him again, at the higher priced, okay. Because he already spent milling, and he is going to buy it again, so he has spent double. So, it's a bitter pill, it's a bitter pill." TD1

Although this buying back will cost the operators a lot of money, it did not seem like it was really enforcing legality. So more drastic measures had to be taken:

"Sometimes when you use the selling and buying, selling and buying, selling and buying, it's kind of like you're encouraging them. It's like you're encouraging them. See that after all if I go in and pull this illegally and bring it back. It's sold back to me. So, Forestry, we were one step ahead, yeah, through the support of [district and regional] office and the task force. We moved all their machines. The machines,

everything was scattered and taken away. They impounded it, and everything was sold. I think that was the much better solution, they were really hurt with this, than just buying and selling, buying and selling.” TD1

This example shows the importance of enforcement. People should be given the opportunity to make mistakes and learn from these mistakes, but this should not become the mode of operating. One should always be encouraged to operate legally and not rewarded for operating illegally.

Eventually, it becomes a matter of inclusion and exclusion. Through capacity building it is possible for the FC to include as many as possible in the process of VPA implementation. People who want to comply, but cannot, due to a lack of resources or knowledge, should be provided with the possibility to get included. For if they are excluded, these people will resort to illegalities, creating conflict situations and it ultimately does not help solve the problem of illegal logging.

Nevertheless, it was important to show leadership to the industry by enforcing the legal principles of the VPA. It gave the loggers a sense of importance to comply with the standard, for they might be excluded at all if they persist in resisting to the changes:

“You don’t change, sorry, you have problems. So, we give them timelines, that by such and such a time, if we don’t see you on the system using it, you have yourselves to blame.” T18 If capacity building and enforcement are well executed, it might just lead to taking out the illegalities while securing the well-intended loggers:

“What will happen now is the rules are tightening up. Okay. The mode of entering, getting a concession and permit, is tightening up. So those can’t fit in, are just falling out, naturally. They will just put out of business. Sometimes we didn’t even have to sack them, they just put out of business. Okay, those who are actually mean to do it, will find all other means to get a at least a concession permit to operate. It will be difficult, but those who are meant to do the business, who are serious, will survive. And those who can’t follow the rules will naturally, they’ll put out themselves.” TD1

3.4 Key-issues

Required legal reform

In this chapter on legality within the VPA implementation, several key issues emerged from the VPA, interviews and observations that are important to address and emphasize. Firstly, the established legal principles and improved legal structures have been well received. The legal changes have been considered an enrichment for FC’s work, as the legal principles are a comprehensive collection of rules and regulations that have proven to be feasible and practical. The interviews demonstrate this as well, as interviewees interpretation of legality was congruent with the VPA and each other.

Illegality/non-compliance

However, the VPA does not define timber illegality or how non-compliance to the legal standard leads to illegality. Judging from the responses from the interviews on the questions on illegality and non-compliance, there is little agreement on this matter as well. This ranges from people who think that one non-compliance leads to illegality, to people who consider some non-compliances no illegalities at all. A lack of clarity from the VPA on this matter might be leading to an ambiguous use of the terms illegality and non-compliance. An important example can be seen in the cases of health and safety, where a high level of non-compliances regarding protective equipment and hazardous working conditions was observed. It remains unclear if these non-compliances on the operation site result in illegal timber, based on the readings of illegality by the different actors.

Implementation resistance

Many challenges have been met, and some already overcome, in the implementation of the legality standard of the VPA. Many of the challenges had to do with a lack of capacity, e.g. knowledge, what resulted in resistance to the implementation of the VPA, and sometimes even violent resistance against FC staff.

Capacity building needs

Improving awareness and understanding on the meaning and goal of timber legality can contribute in overcoming these implementation challenges and helping ameliorate resistance. This will contribute to including people in the VPA implementation process.

Chapter 4 Traceability

4.1 Principles

The following section will elaborate in detail on how traceability has been established in the timber production chain based on the VPA.

4.1.1 WTS critical control points

Traceability has been attributed a major role in ensuring timber legality within the VPA. The WTS serves as a chain of custody to follow timber through the production chain, from the forest floor to export. The WTS monitors compliance against the legal definition electronically, but it's making use of physical tagging of the timber. Every log gets a unique number that is applied with paint as a tag, and that number is what can be followed through the process chain in the WTS. So, the WTS is a digital traceability system, but the logs itself are not digitally tagged.

In order to establish legal compliance through a tracking system, critical control points for timber legality have been established in the VPA. These are points that all timber products must pass as they move through the supply chain. These control points serve as the main data to be collected and verify timber legality. The critical control points that have been identified and the actors responsible for monitoring and data supply of those control points are as follows:

i. Source of Timber

This critical control point relates to the first legal principle of the VPA. It has to be verified if the wood comes from a legally designated area, which means that the area is a wood production area by law. The institutions responsible for determining the source of timber range throughout the FC. FSD provides management plans for the production areas, and RMSC performs quality control on these plans. TIDD ensures that imported wood comes from a legal source in the country of origin through import documentation.

ii. Timber Rights Allocation

This critical control point relates to the second legal principle. A timber logging right can have the form of a Timber Utilisation Contract (TUC), Salvage Permit or a plantation Felling Permit. TUCs are obtained through a public bidding process, which is the responsibility of Ministry and Parliament. Salvage Permits and Felling Permits are issued by the FC.

iii. Stock Enumeration (VPA Appendix I²)

This critical control point relates to the third legal principle, specifically criterion 3.1. Based on collected field data, FSD creates a stock map from the "stock", i.e. standing trees, in the timber production area. To create this stock map, the FSD gives every tree a unique number within the compartment and this number is inscribed with a knife in the bark of the trees. The logging yield is determined by the FSD based on the stock map which is then endorsed by the RMSC. The determined yield is forwarded to TVD for verification.

² Critical control points iii to xii have appendices in the VPA that visualize the traceability process. Appendix I from the VPA can be found in appendix B in this thesis as an example, the others can be found in the VPA.

iv. Tree Felling and Log Production (VPA Appendix II)

This critical control point also relates to the third principle, specifically criterion 3.3. FSD is responsible for most of what happens at this control point. Three documents are produced at this control point, which are the Tree Information Form (TIF), Log Information Form (LIF) and the Log Measurement and Conveyance Certificate (LMCC). Based on the stock map, the FSD has tagged the trees with their appointed stock number by inscribing the number with a knife in the bark. When the logging operator cuts the tree, he applies that number on the remaining tree stump and on the produced log. When the produced log is cut in more pieces, the number gets a sequential number added to the tree tag, e.g. tree with tag 3 creates 3 logs with log numbers 3-1, 3-2 and 3-3. The data of the felled tree is collected by both the logging operator and the FSD. The logging operator uses it to create the LIF and the FSD uses it to create the TIF. The TIF is electronically generated on handheld devices, which upload the information to the central database as soon as the handhelds connect to the internet.

Before the tree can be transported for processing, the logging operator should get permission for transport. This permission is given after the FSD has issued the logs the LMCC. The information for the LMCC is based on a comparison of the LIF and the TIF, to triangulate if information gathered by the operator and the FSD corresponds with the tree that is to be issued an LMCC. Copies of the TIF, LIF and LMCC are transmitted to the TVD for a final step of data reconciliation.

v. Post Harvest Audit (VPA Appendix III)

This critical control point relates to the third principle, specifically criterion 3.2. After harvesting is completed, i.e. full yield is harvested or logging contract expiration, the RMSC does the final check-up on the area where is harvested. The RMSC checks if the logging operator has adhered to the harvesting requirements, but also if stock survey has been done correctly and if the logging operator has committed to the prescribed yield. The report from the post harvest audit will be made electronically available to FSD district and regional office, and also at FC-HQ. TVD will also receive the information for data reconciliation.

vi. Log Transport and Inspections (VPA Appendix IV)

This critical control point relates to principle 4, specifically criterion 4.1. This control point is completely the responsibility of the TIDD, where they check if every log is transported with correct documentation. The TIDD also checks if all transported logs are tagged, and if the origin of the log corresponds with the route and destination of the truck. They will perform these checks randomly and unannounced, but also at fixed check points along the roads. Reports from TVD are transmitted to TVD for data reconciliation.

vii. Confiscated Timber (VPA Appendix V)

This critical control point relates to principle 2, specifically criteria 2.3, which regards what the procedure is for confiscated timber. FC has the capabilities to confiscate illegally harvested timber. This timber is then only able to be sold by Court Order through the process of public auctioning. The winning bidder will receive a Certificate of Purchase (COP) from the FSD, and this COP will be electronically registered. The logs obtained through COP will receive a tag.

viii. Wood Imports (VPA Appendix VI)

This critical control point relates to principle 4, specifically criteria 4.1. In the case of imported wood, TIDD and TVD will report on the incoming shipments, and evaluated on export documentation. In the harbor, TIDD measures and tags the imported logs, which hereafter can be issued a specific LMCC for imported wood. From here onwards, the same process for wood harvested in Ghana applies to the imported wood.

ix. Log Arrival at Processing Plant (VPA Appendix VII)

This critical control point relates to the fifth principle. It is required of sawing operators to provide daily declaration of log arrivals at the processing plants, in which they provide information on LMCCs, date and time and the transporting truck. Large processing plants also have to record the location of the logs in the log yard at all times. TIDD performs checks on if the present logs bear tags and if the tags match with the declared information. All data on log arrivals will be forwarded to TVD, who reconciles this data with the LIFs and LMCCs in the system.

x. Log Processing (VPA Appendix VIII)

This critical control point relates to principle 5. After every shift, the sawing operator declares all logs and log pieces which were processed during the shift. All information on the processed logs, e.g. date, time and log tags, must be linked with the logs from which the pieces are made. Therefore, bundles of processed wood are traceable to the constituent log. The WTS will be able to use conversion factors based on e.g. diameter, species or quality of the wood, to determine the input and output of the processing plants. The TIDD oversees this data collection process and performs random inspections at the sawing operations. Records of these inspections are electronically available for data reconciliation, where the records of the production are checked with log arrivals.

xi. Processed Wood (VPA IX)

This critical control point is also related to principle 5. After processing, the processed wood bundles are marked with a processed wood tag. It is TIDD responsibility to perform checks before the bundles are loaded for transport. Trucks are also issued a numbered way bill. The wood bundle tag is connected to data on e.g. species, number of pieces and the way bill number of the truck. TIDD can therefore ensure at checks that the trucks are carrying the appointed wood bundles. This information is made available to TVD for data reconciliation to determine if producers are declaring the correct bundles. FC and TIDD HQ are provided with monthly reports.

xii. Export of Processed Wood (VPA Appendix X)

The last critical control point also relates to principle 5 and deals with the export of processed wood bundles. Exporters submit a request for export. Information available in the electronic central database shows the entire wood flow through the supply chain, i.e. from tree source to processing, and results but also data reconciliation and audits by TVD. If no discrepancies of information in the system are found, the TIDD can issue the FLEGT license to the wood for export. Details of the exporter are then linked to the FLEGT licensed wood.

4.1.2 WTS design

The software for the WTS has been specifically designed for Ghana's Legality Assurance System (LAS). Over the past years of VPA implementation, the design has been changed to make the WTS more suitable to forest management practice. The WTS had to be designed from scratch, so in its development there was a lot of trial and error, and going back and forth to find out what worked best. In a first phase, there was a product developed for the WTS by experts in IT and traceability systems. However, this one eventually was not able to meet what was established in the VPA on how the WTS should function in Ghana's forest management. (TV5)

The lesson learned from this initial developed system was that in order to create a system that functions in Ghana's forest management and with the VPA, a certain development consortium was required. The consortium should be composed of people with expertise in forest management, forest traceability and

software development. The background of forestry was needed to create the software that can function within the frame of forest management, specifically the LAS in Ghana. This group of mixed expertise has created the Ghana Wood Tracking System as it is being used today. (TV5)

However, even within this more functional traceability system, development is still an ongoing and evolving process. Prototypes were created and tested in the field. Based on experiences of FC staff of these pilot projects, the WTS has been reshaped and further developed (TV4, FS6). NGOs have also been included in the testing phases of the WTS (CS4). An example of what has evolved and changed throughout the testing and implementation of the WTS is the type of traceability. Tracing for the WTS has changed from a log-based traceability to a volume-based traceability. Firstly, the idea was to trace a processed piece of lumber all the way back to the log and even the stump from which it came. However, due to extremely rising costs and increased bureaucratic efforts for processing operators, the choice has fallen on volume-based traceability. This means that legality of logs specifically is ensured until the processing facility gates. Then based on the input-output ratio at the processing facility, i.e. the ratio between incoming logs versus processed timber, the WTS is able to reconcile the legality of the output volume (TV5).

The WTS at this moment is performed on two electronic platforms. Firstly, there is the Thin Client, which is a desktop or laptop computer application. Within this Thin Client, FC staff is able to monitor data on the logs throughout the production chain, and also reconcile or edit this data. Handheld computers have been developed for the FC staff in the field, in which it is only possible to enter data, e.g. yield numbers, and create forms, e.g. the LMCC. The handheld device can work offline when entering data or creating forms. The moment the device connects to the internet, all the gathered data is synched to the database of the WTS, which then can be checked on the Thin Client (TV4).

4.2 Perspectives

The following section will provide perspectives and insights from interviews regarding the implementation of the traceability system of the VPA, the WTS. It explains how the WTS has changed forest management for the FC.

With the implementation of the WTS, nothing has changed much in what every custodian has had to check and submit, in the sense of documentation and data. The major difference is that everything was previously done only on paper. All documents only existed on paper-basis, and that was what the FC had to rely on for judgements on the legality of the wood. What the WTS has done, is provide a digital platform on which all the data salvaged by the FC institutions can be stored for reconciliation, and all documentation that timber has to acquire along the process chain, can be stored and traced electronically. This electronic system for tracking the timber production has changed forest management in Ghana. This section will elaborate on these changes and how they changed forest management for the better, based on perspectives gained from interviews. The four themes that emerged as positive changes are about data collection, visibility, exposure and enforcement.

4.2.1 Data collection

Firstly, the introduction of the WTS has provided a positive change in the data collection by FC staff. Especially the FSD has a big responsibility to provide the system with all kinds of data, e.g. yield selection and tree measurements. Nowadays, the FSD uses handheld computers which, when connected to the internet, synchronize the collected data directly to the WTS database, whereas this data collection normally had to be done by hand and paper systems. Entering data through the handheld has proved to make work easier for the FSD staff:

"A good system because right now, we are running away from this paperwork kind of thing. And this one particular good thing about it, is about TIFs capturing, for instance. Those days, the supervisor used to go to the field, pick data, physical data, measure diameter that kind of thing, take reckoner, and try calculate the volume per tree on the TIF. But right now, it has been made simple. The system has got an in-build calculation system, so right now you just put the diameter, the length and you get the volume. Automatically, yeah. So, it has eased the work of the supervisors." FS4

The handheld computer helps with data collection, by calculating the measurements, e.g. log volume, but also by giving direct feedback on the input. This automatized input process has resulted in more effective, efficient data collection and thus a more correct database. Data collection is susceptible to human errors, but when using the handheld, it has become possible to minimize these mistakes:

"So, the advantage of the tracking system is that, if the tracking system is well-used, then it will be able to figure out, you know, we cannot enter same numbers in there, codes or whatever." CS1

"the repetition of number and other things, if you are using the system, it doesn't happen." TV3

As a result, the collected field data is of better quality. The WTS assists in the data collection through calculations and direct feedback on input, therefore the whole process will become more efficient. The data collection in the forests by the FSD is the foundation for the WTS, for all documents along the process chain rely on that data. Based on measurements and the tree tags, the yield is given to the logging operator, which is examined in the other documents, e.g. TIF and LMCC, after that. Getting the correct data at the beginning is essential for good traceability:

"Uhm, I think the strong parts has been probably the commitment level, for me, regarding the field stuff, because uhm, I think for us to be in a better position to trace these logs, it means that the ground information needs to be correct. Because if we are getting a wrong ground information, then it means that tracing whatever from a certain level back to the ground becomes very impossible. [...] I think that even if you take the electronic system, which is the WTS, it is still the ground information that are the main input into the system, and so if that level of commitment is so strong, then it means that we are capable of building a strong traceability system within the whole control chain." TV2

The implementation of the WTS has therefore resulted in a two-way commitment in making sure that the correct data is provided. For traceability to occur, the timber must be tracked until the end of the process chain, but this can only be done correctly if the information from the forests is provided accurately.

The WTS also provides the possibility for FC managers to automatically generate reports. Instead of collecting data by hand and going through all relevant documents, by the click of a button it is now possible for them to instantly create the report. Also, instead of having to deliver everything on paper to relevant offices, managers can collect the necessary information on distant offices from their desks through the WTS.

"Writing reports and those things that was giving challenges to most of the staff, but for now the system itself generate all this things, so it does even become some advantages to them. Because, you can even waste sitting there to write a report and that things again, the system itself generates. And at first too, before the certain district level, you have to travel all along to the regional office to submit your report. But for now, the district manager will just do everything and then the regional manager will also have access to the system. So the traveling and all those things are now over." TV3

The automatization of processes through the WTS has also been met with gratitude by people from the timber industry. By dealing with less paperwork and automated processes, certain aspects of business have become easier for operators as well:

"It's the best, because the processes will be easier, simple and facilitating. [...] It's enhancing the work. It's easier to do transaction with the commissioners in respect of the companies to as of the previous time." SL

4.2.2 Visibility

Mostly mentioned as the biggest improvement that electronically tracking timber through the WTS has brought, contrary to a paper-based system, is the increased visibility of the process. The WTS has provided the FC with a new way of keeping track of the timber production chain. Working with only paper has been a tedious task, where getting an accurate view of the process has been very difficult:

"We cannot continue collecting data on paper and working with it. You cannot be reconciling eleven-thousand forms and expect to be accurate." TV5

The strength of the WTS lies in the synchronization of all the information gathered by the FC. All the data that is collected and documents that are issued are made available on the WTS, providing an overview at a glance. This is being really appreciated by FC staff:

"One of the good points is that because it's in the system, we are able to synchronize all the information gathered from stock survey team, TIF, to even billing, we can put into the system and at any time we can get all this information quickly. And with the system, if it's working perfectly, especially within our checkpoint, what it gives are, when you enter the details of the trees in it, it will lead you to the source. So, it's to help you to determine whether the logs are coming from a legal or illegal source." FS2

This synchronization of data is also very helpful when changes in documentation need to be implemented. The FC makes a lot of use of codes and abbreviations on the documents. For instance, the RMSC determines which abbreviation or code belongs to which tree species. Changing these abbreviations used to cause a lot of confusion and mistakes in documentation:

"Well, the species, sometimes they'll be changing and changing and changing, the RMSC. Those people who are in charge of the species. Sometimes they'll be changing and they go to a district and they said uhm, they say they don't have any idea of it. They still know the old one. But for now, because of the system, whenever they change it, it will directly come into the system. At first, for the manual, when they were changing it, communicate it, but for now it will come straight into the system." TV3

This increased visibility in the process makes it a lot easier for FC staff to deal with mistakes, which are called "red flags", in the system. When data is synchronized with the WTS, the system automatically reconciles the entered data with what is already in the system. If there are discrepancies between the entered data with what is already in the system, a red flag pops up which alerts the managers that there is something wrong. The WTS shows the FC staff directly which cases need some attention:

"Vetting too is much easier, because anything that is not appropriate it is flagged. So if it is flagged, you don't even need to go through every single tree, you just look at the flagged ones in the system and know that is a problem, yeah, and you can quickly put on intervention to that." FS4

So, the WTS let the FC managers deal with a lot more information more accurately. Instead of plowing through all the paper documents, the manager can rely on a system that functions as a filter for the overload of information that the manager has to deal with. It was practically impossible to manually go through all

the documents as a manager, for it would simply take too much time. A lot of information therefore got lost in the paperwork and never reach the supervisors for verification:

“For the manual process, TIFs are prepared manually, they send to the accountants, it doesn’t even go to district manager, the accountant prepares the bills. So, this around the district manager won’t even see it. Or, a lot of TIFs, he can’t have the time to go through all this TIFs to check, yes, to check the yield on the form. So, a lot of things they are able to go through, you know, overlook it, a lot of things bypass them or some of these things. But now, this electronic system, you don’t need to just go through every TIFs. You know, the DM’s duty, you know, before the TIF is billed, you know, before the stumpage is billed for contractor to pay, the district manager must approve that TIF, you see. And, the moment he sees a red flag on the TIF, that tells him there’s something wrong. So, he check, and then sees what has happened. Unlike the manual, how would you know.” TV4

On top of that, the WTS provides visibility from a distance. For example, the headquarters of the FC is in Accra, where the FSD and TIDD also have their main office. From there, implementation of the VPA is regulated and through the WTS it is now possible to monitor the process as well:

*“Apart from coming there physically to see, the database is also being monitored on daily basis.
Interviewer: So, you’ll be actually able to follow implementation from Accra what is happening in... Northern Region?
Yes, everywhere.” FS6*

More visibility in the timber production chain hasn’t only positively affected the work of the FC, but also the timber industry. The electronic reconciliation of data has given the industry insight in their own production. Initially they weren’t all too happy with the idea of creating this visibility in their activities, but it has helped them in discovering some interesting activities in their own operations and also in keeping an overview of the processes:

“when we started the whole VPA program, industry was very apprehensive about, I mean, this sort of traceability and the very detailed work that we have to do, that they think it will disturb their work and bring the unit cost high for them. But then, once the law is a law, so when we insisted over time, they are now beginning to understand and eventually some are even, some industry players are telling us that it is helping them to also track their costs. Yes. Because the field men could be doing things... Haha! Outside their view, but now it’s showing up. You have this LIF showing on the system, but you don’t see boats connecting to it at this point, you know, some of those things have started coming up. When the top management of the sawmills have time to look at what is going on.” TD2

“As a big company we used, before this controlling wood system, we used to lose a lot of money. Now with the new controlled system, it’s saving us and protecting us, even with the community, with forestry is saving us and protecting us.” LL

4.2.3 Exposure

The WTS has improved the accuracy of data collection, while also giving the FC more visibility in the whole timber production chain by making all data and documents available on one platform. This increased visibility has resulted in higher exposure on illegalities. Every non-compliance or anomaly that enters the system is immediately marked with a red flag which urges the attention of the responsible managers. This exposure of non-compliances to the system is what is making the WTS such an effective mechanism in tackling illegal logging:

"The system is such that, if you bring in any foreign material, which is now generally captured, there is an in-built mechanism which will betray you. The software has an in-built mechanism, which will show by indicating red flags. And the moment red flags raise their heads, they suggest that something has gone wrong. So, it is in the end going to succeed, to make the theft of timber unattractive. It will be unattractive, because even if you succeed in doing it, the system will betray you along the path. And therefore, to me, the biggest advantage we stand to gain, is about the security and the integrity of the resources. [...] You cannot hide." TD2

This exposure through the WTS leads in several instances to less illegalities. Firstly, people have become very much aware of this exposure. It is now known that if you try to work around the system, the system will flag your actions: *"You cannot hide anywhere and pretend. There is a satellite on everybody."* (TD2). All your actions are recorded in the WTS and are there to see for, for instance, the managers and the TVD.

Secondly, because of the flagging system of the WTS, it is very difficult to enter illegalities into the system to try and legalize illegal timber. Where previously it would be possible to acquire the necessary documents for illegally harvested timber, the system immediately exposes that something is amiss:

"So, if something is taken from outside, it's not possible for you to take it into the system. You know like I said, if it's not captured from the initial process, if it is intentionally put there, it will be flagged. So, you know that, just looking at the records, you know that this is illegal." FS4

Then again it is not an option for illegal loggers not to try and get their timber on the WTS, because at many checkpoints along the road throughout Ghana they check if the timber is registered on the WTS:

"we also have our staffs at the checkpoint, we have our scanner machine. Wherever you get and they scan and it's not on the GWTS, meaning they will impound your, your lumber." TV3

Trying to make illegally acquired timber enter the legal streams has become very difficult. This has to do with the synchronization of all information in the WTS. Every new data entry is reconciled with what is already there in the system. FC staff often has been dealing with political influence, pressuring them to approve illegal timber and issue the necessary document for it to continue along the production chain. However, it is now not enough to influence one person in the chain to fix a document for the illegal timber, because due to the WTS you have control the data entry from the begin to the end:

"Because for this GWTS, whatever you do, starting from the basis to top, you still have to, if it's off-reserve they have to get a pre-felling, if it is on[reserve] they have to get a stock survey, from there to. So, for political influence, unless you get all those things before you can move your truck, from the sources to where you going to dispose, still you having the political backing, if our staffs are there, checking all these things." TV3

4.2.4 Enforcement

The WTS is aiding the FC staff in creating visibility in the data and exposing illegalities in the timber industry. Therefore, the FC has gained power to enforce their rules and regulations on illegal loggers. The increased enforcing capabilities of the FC have tipped the scales in favor of doing business legally and the people are starting to realize this, as this member of the NGO explains:

"We've seen that here, that people have really seen that, uhm, the rules of the game have changed, as you say. So if at first you could uhm, do a lot of maneuvering and just write anything, you can't do that now, because with the GWTS in place, any information that has been populated from stock survey, up to whatever stage, up to where the logs are measured, whatever has been entered, you know, it's easy

to verify that. It's so easy to verify that, so you don't have the situation of, okay, it's no longer with me, I don't have copies, it's here, it's there, you know we don't have that situation anymore, yeah." CS4

For example, the WTS can serve as an easy-access evidence resource for the TVD to determine if certain activities have been illegal:

"Someone brings the DOTIC [domestic trade certificate] again, for example, and the input-output form, for example, and then he could just go to the WTS and then he sees: okay, this Ceiba pentandra, you've written here, is not on the LMCC, it's not in the GWTS. So, it makes verification really fast and really easy. But probably at first he would have said, no it's at the office, you know. And so by time you are leaving here, you can't take him with you to the office. There would be a lot of inconvenience. He can't do his work here, you see. But then right here and then, he is able to, the auditor is able to just go online." CS4

The WTS also helps the FC in getting the much-needed political cooperation to enforce Ghana's forestry regulations. Through the WTS, the FC has gained the tools to demonstrate the political domain what forest management is about to make them understand the importance of the work the FC is doing:

"It's like, if we are able to involve all the politicians for them to know what is actually going on, you get the support from them. It's like most of them don't even know what is actually going on, what is the system. What it is about. So, if you involve the [politicians] to know, this is what we are doing, this is the system. We need your backing! This is the reason why we are doing that. At least it will help bring some sanity into the system." FS2

Getting the government to follow up on the legal principles is an essential part to solving the problems of illegal logging. Government development initiatives in Ghana use large quantities of wood, which is bought mostly on the domestic market. Because of the WTS, it is not even possible for the government not to adhere to the regulations which have been established in the VPA:

"And the most important aspect of that law, is that the government, which is the greatest consumer of domestic wood, should acquire it's timber from legal sources. Because we believe that if we succeed in doing that, then more than 50% of the domestic timber problem would have been solved, in terms of illegal acquisition. [...] And that is a product of the WTS." FS6

The industry is also pushing for faster implementation of the WTS, for they see it as a way that they are finally able to take on the traders of illegal timber on the market. To harvest timber illegally is a lot less expensive than the legal process, for illegal loggers can evade all taxes and fees. Therefore, illegal timber could be sold at lower prices than legal timber. There are indications that some actors from the industry hope that illegal timber will be removed from the market because of the WTS:

"Some of the operators, especially some actors, the big, big companies, who export, they are very, very mad for this WTS. Waiting for its existence, because according to them it will help them a lot. Because if you are whole implementing this system, those illegal loggers they will also be wiping away from the system. Because if this GWTS is coming and it's all about the legalities, meaning the illegal loggers will also move away from the system. Because, now we are challenging them with, we are challenging them on market. They don't buy the trees, they don't pay the stumpage, and the big companies they are paying the stumpage, they are doing it, so these challenge them in the market." TV3

Overall, the implementation of the WTS can be summarized as follows:

“These laws are not new. They have been with us over the years. Except that when things were all paper-based, it made implementation quite difficult. And now that everything is supposed to go digital, the anticipation and the science we have seen, went to the fact that enforcing those laws, already known laws, already existing laws, will be much more easier than it used to be.” FS6

4.3 Practices

The following section is a combination of data gained through field observations as well as interviews, to provide a more holistic perspective on how the WTS is put to practice. Firstly, it explains how the WTS and the TVD audit are different aspects of verification, but also complementary to each other. Secondly, it deals with the challenges of the implementation of the WTS.

4.3.1 TVD audit and the WTS

During the data collection period in Ghana, the researcher has been part of the auditing team of the TVD in the role of independent observer to the audit. This section will use these observations to describe how the WTS has become an integral part of the audit process and how the TVD audit serves as complementary to the traceability of timber in Ghana.

The audit process and the WTS work very much alike, in the sense that to verify the legality of the wood flows from the forest floor all the way up the timber production chain. As explained in the previous chapter, the way the TVD verifies legality is by constantly triangulating information and the WTS plays a key role in this.

Firstly, the WTS facilitates the TVD in choosing the audit sample. It is impossible for the TVD, and also not its aim, to audit all operations. The TVD performs random inspections on operations to complement the inspections done by local FSD and TIDD offices. Whereas in previous paper-based times the auditing team had to go through many documents to sample operations for audit, the WTS is now used as a basis for the TVD to act upon. The WTS is a source of information on operations and provides data on past defaults and non-compliances. The TVD can use this data to create a sample of operations that have a high priority, based on historical violations of the legal standard. However, not only operations that have had compliance issues are selected, but also other active operations in the audit area.

The audit process then starts at the forest floor. The TVD team searches for tree stumps within the compartment. The goal is to check if the tree stumps have been marked with their unique tag with the correct paint. This is a check for compliance on the part of the logging operator, but it's also to check if stock enumeration has been carried out correctly by the FSD. This means checking if the if the inscribed number, if still visible after logging, on the tree corresponds with the painted number. When it's not visible, then the team tries to assess the number from the surrounding trees, e.g. if the surrounding trees are numbers of twenty-something, then the painted number should also fall within that range.

Multiple tree stumps are checked to gather evidence on compliance, but also to collect several tags to reconcile with the WTS. The painting of tree stumps alone is evidently insufficient verification of legality, so based on the collected numbers of the tree stumps, the TVD can go into the WTS and check compliance on the rest of the control points. In the WTS they can check if all requirements have been met prior to the felling, e.g. timber rights and pre-harvesting regulations, while it is also possible to track the specific log further up the chain, e.g. transportation, processing and the acquirement of necessary documents.

While the FC stores information digitally in the database, operators still get paper documents for their own administration. This is also requested by the TVD for some checkups with the WTS. That way they can see if all documents in possession of the operators have been submitted to the WTS and if what is in the WTS corresponds with what's on the documents.

After the logging operations have been audited, the TVD moves further up the timber production chain to the saw mills where the timber is processed. As required by the VPA, all logs at the site should have a tag, so that is the first item that is being checked. In addition, the numbers are collected to review with the data in the WTS. Same as with the loggers, the processing operators need to provide documentation, in which they have to account for all present logs in the log yard.

Following the visiting of the logging and processing sites, the TVD returns to the district offices of the FSD and TIDD to check all the collected evidence with the documents and the WTS. If any infractions are found, the TVD issues corrective action reports to the concerning FC offices. These corrective action reports are also processed to the regional managers and the FC-HQ.

As mentioned in the previous chapter, the researcher wasn't the only independent observer to the auditing process. At all times there were representatives from different NGOs present to observe the TVD audit. During the interviews they were also asked to give their view on the field audit:

"Yeah, so, uhm, for that aspect of traceability, we are on course. The information that they are picking, that is the way to go. You pick information from the stump, or you pick the scribe number, then you trace it, okay. Checking the LIF, which they do, checking the LMCC, which they also do. So, I think gradually, we are following, even though we have not gone into the point where we need the TIDD guys around to also continue the traceability, which from here that is the next step, yeah. We will be visiting there. So, all you know for the traceability system, in terms of legality, to me, the auditors are following the right path." CS1

"When someone brings an LMCC, for example, or someone brings a uhm, maybe final product, right, like domestic lumber inspection certificate, a DOTIC, someone brings that, they check on the uhm, GWTS to see if whatever has been there on the DOTIC agrees with the input-output form and whether that also agrees with what has been stated, you know, in terms of stock numbers, volume and all of that, even the species. You don't want people to mislabel species and then create their own trees and things like that. So I think they have been quite professional in making sure that all these things agree." CS4

Unfortunately, the VPA had not been implemented fully during this period of data collection, hence no FLEGT licenses were being issued at that time yet. Therefore, the researcher has not been able to witness the process of issuing of a FLEGT license or how the TVD should audit that issuance.

The TVD audit however, not only functions as a verification of the critical control points along the timber production chain. During the audit, the TVD is able to verify those elements in the legal standard that are not integrated within the WTS. Several criteria from the legal standard do not have a place in the WTS, and that is where the TVD audit comes in. For example, environmental standards are a big aspect of the auditing process. Checking for littering at the operation sites, concerns regarding felling damages in forests and waste management are aspects of timber production that the TVD takes into account during the audit. This TVD member explains it as follows:

"And through this Wood Tracking System, we are able to detect most of the things that are on quantities, but things that are qualitative, that is where the audit also comes in, like Social Responsibility Agreement, environmental logging standards, SRA commitment, we, through the audit, are also able to check. So, the Wood Tracking System only focuses mainly on the quantities of the wood properties, and also some legal aspect, yeah. So, the Wood Tracking System is complemented by the work of the audit, to give a full picture of the legality of the wood." TV1

4.3.2 WTS challenges

The implementation of the WTS has met some challenges along the way and is not in full gear yet at the time of writing. It has taken over five years to develop and implement the system, but the implementation process seems to near its completion. From the interviews, it became clear that the biggest challenge to overcome had to do with internet connectivity and dealing with a technological innovation, apart from some other issues. This section will elaborate on how these challenges have emerged and how they stagnated the process of implementation.

Connectivity

Internet connectivity is one of the most important components of the WTS. As explained before in the previous section, the system is based on synchronization of data gathered by all FC institutions, on which the compliance of a log to the critical control points can be determined. Imagine when the internet fails you, then the whole aspect of tracking the wood through the system becomes useless. Internet connectivity has been a problem on two fronts. Firstly, internet coverage throughout Ghana is often wanting or very slow. This is hampering the implementation process and data collection a lot, but the country has been improving on this problem:

“We are a developing country. So, internet’s... you go to places you can never get internet connectivity there. They are supposed to be everywhere, every part of Ghana, but you go to some places, this here around is 3G. But I go to some districts, some are around 2G, and some still have first... the connection, you know. But the good thing is that different, as I said, this roll-out program, is assisting forestry commission to get our own dedicated internet facility. So, that one will clear this challenge.” TV4

Secondly, the servers that should provide the country with an internet connection haven’t been able to provide a stable connection. This has to do with power-related issues that Ghana as a country is dealing with. If the power goes out in an area where the internet servers are located, every computer that is dependent on that server for its connection cannot access the internet anymore. This is a problem that is not only creating difficulties for trying to synchronize data with the WTS, but the WTS database itself goes down and FC staff can’t access the WTS for information. That’s why some people advocate for a paper system next to the electronic system:

“The electronic should be there, because here we have a lot of problem with our network. The network can fail at any time, any point in time. It’s not reliable. So, I think it [paper and electronic] should go hand in hand for the time being. Then with time as picking up, it’s picking up. We have some back-up system, then. But for now, to just take away the paper, it will be a lot of trouble. A lot of trouble and challenges. And people love to see paper, to know that this is it. For the meantime people love the paper. It’s more some hardware.” TD1

Technology

The WTS is one of many modern innovations to replace a non-digital system. Automatization has made work easier for the FC, as explained in the previous section, but it hasn’t been met with much enthusiasm. The implementation of this innovative tracking system has been received with a lot of resistance, but that was not at all a surprise, or so they explained:

“In every human endeavor you are bound to encounter this. Nobody will accept it readily. If there are people who are skeptical and would think it would not even work. [...] Whatever innovation, no matter how promising it may be, initially people are bound to be skeptical.” FS6

However, this resistance to technology does come from a point of view in a developing country, where technology hasn’t been that long around and still is very much developing in their everyday lives:

"You know, some people fear, they have a phobia for technology. So introducing IT to existing processes, like, you know. You know, some of them say I don't even use a phone for Whatsapp, so why do you want me to force to learn this thing, so that's it." TV4

Especially the group of older staff members within the FC have had a hard time adjusting to a new electronic system. A lot of them are born before the computer and lack very basic understanding of computers and technology, while they often are in managing positions within the offices. The implementation of the WTS has been tough for them:

"They are old, and how to go about the computer and the system is very startling to them. To settle, they find it difficult. To be controlling the mouse and other things, they find it difficult." TV3

This group of older generation staff members saw the introduction of innovation to the existing system as a threat to their positions and their jobs. This fear of being exclusion resulted in a great deal of resistance on their part:

"We have young ones, and we have people who are just about exiting the system. And it so happens that those who are close to exiting the system, have been not comfortable, or very comfortable, with change. Especially change that has to do with the use of new technology. Yeah, so, for some, some staff, that was a threat to their, to their way of doing things and their positions. Something new is coming and I'm not comfortable, it might take me out, you know. And to some also, uhm, it was to their advantage to keep the system on paper, as we had it." TV5

But the struggle with changing from paper to electronic and learning how to deal with this technology was a struggle for mostly everyone within the FC. A great deal of training in computers and software was needed to help everyone understand the WTS and how to work with it. And not only once, but frequently several trainings:

"All our technical staff, they are supposed to be conversant with the use of the handheld computers, but there are some you go and train them, when you leave they will not practice it again. Next time they will call that they have forgotten. You have to go and retrain. This is for any new innovation, some of these things are bound to occur, but I know a time, when everybody grasps the whole system. It will be a thing of the past." FS6

For if they do not understand the system, they will not use it properly or not at all. And if some are not using the system, it will create red flags of missing information. According to the system this means they are defaulting against the legal standard, but it can also mean that they simply lack understanding in using the system at all:

"Some of the district, sometimes we go and teach and according to them, they haven't yet understood so we still have to go back. So that is all the challenges we are having, but those people they are not uhm, they are against the system, but I don't know. But all they are telling us, is they still don't have created understanding, so we still have to come back and teach them. That's why we can't see their data on the WTS. So, I don't know that they are against the system, or it's true they don't understand."

This appearance of possible ambiguous red flags has turned into a challenge that the FC has been dealing with in the implementation of the WTS. For the people in the field it is the situation that they use a handheld computer to add data to the WTS database. They work offline, but once they go offline, the information is synched to the database and from then on inaccessible to the person who added the info. Apparently, this has created a fear of putting information in the system, for if they upload the wrong information by accident, it will be flagged and they lost the possibility to correct it themselves:

"If you enter the details into the system, into the handheld, and then you send it, you don't have opportunity to edit it. Yes. So once you don't have the opportunity to edit that, it means that whatever you sent in becomes a document that will be used, you know, in referencing to you. And so people are reluctant, because they feel that if I don't have the ability to edit, then why do I have to force myself in sending something that could be used against me in any day. And so that is also another challenge that is, you know, put in some fear and panicking in people trying to sync certain data. If they make a genuine mistake, it means that they don't have a, a way of getting it corrected, and that is a challenge to them. And so they think that, you know, for me to do something, I need to be careful. And so I think that is also a way that is letting people draw back." TV2

The exposure that the innovation of the WTS has brought into the system is considered an added value to forest management in Ghana, but it also makes people fear the backlash this exposure can bring to their person. Working under the radar is now something of the past, and your actions are recorded and visible within the WTS. The red flags that the WTS produces however, do need to be considered with a lot of nuance and understanding of the process:

"Well, a red flag is a red flag. So, when it materializes, you must, you must deal with it, or one must deal with it. Uhm. Why it materializes is another issue. Right. So, once a red flag materializes, we go, and we seek to correct it. So, [...] sometimes the red flags can be explained, and you can see the logic behind it." TV5

Another issue that has been a recurring factor of creating red flags in the system, which do not necessarily mean that there is a non-compliance to the legal standard, is the fact that the database that the WTS uses is still incomplete. As explained before, data from the forest floor until the moment of trade is constantly reconciled to assess if the critical control points have been duly covered. However, implementation has been phased out across many regions, so one region can have a fully implemented WTS, while the other hasn't even started the roll-out process:

"One of the red flags we also realized, was absence of data in a particular dataset in a process chain. So, if you wanted to, you've done your volume input-output reconciliation, or you are trying to do your input-output reconciliation, and you are pulling data across the process chain, there's missing data in the chain. It will give a red flag. And the, it will only mean that there's historical data that was captured before the system rolled on in that particular district, which has not come into the system. And what you have to do, is to look for that data and put it in the system, and it's able to then move on. It is not always uhm, malfeasance or cheating." TV5

So, implementing a technological innovation is a challenge, and learning how to use and interpret the innovation is difficult. It needs a great deal of deep understanding of the process and therefore people need to be taught and trained often and thoroughly how to use the WTS. However, at one point it is important to push through and enforce to deal with the mistakes that are occurring in the system, and this starts on the level of the FC managers, according to this member of an NGO:

"There's this possibility of making mistakes. That's why we have [to go] more digital. Digital, in a way, even though humans are going to make input, but in a way, it's going to minimize the mistakes. You get it. So, to me, the implementation aspect, what is really causing this slow pace of the implementation aspect, is law enforcement. We need to enforce. There should be sanctions, for managers who are feeling reluctant to do it. There should be sanctions." CS1

To go and fully use the WTS is an important aspect to deal with possible future technical challenges. New challenges are bound to arise in the process to full implementation:

“There’ll be always room for improvement. But we have to begin using the system fully, so we can identify all the bottlenecks or challenges. So now, more or less, we are in a role out phase, it is not hundred per cent operational in all the areas, but we believe that as we fully role out, we will be able to see more challenges and so that we can upraise them.” TV1

Equipment

Apart from dealing with the implementation of a technological innovation and connectivity challenges, there have been issues with getting the equipment necessary for using the WTS. The WTS makes use of desktop computers for data reconciliation and handhelds for data collection. However, initially there were a lot of issues that FC staff did not have enough or adequate computers to do their work on the WTS:

“You know the gadgets provided is not enough. Like, two supervisors usually share one tablet. So, it’s like if he’s ready to take it, another person working on it, he has to wait. It put some delays in the system.” FS2

Which is also the case for the actors of the industry who are the timber processing operators. For now, they are not yet included in the data collection directly, but in the future it will become their responsibility. However, if they have to use an electronic system, they want the equipment:

“Yeah, they are, they are already complaining that if, if you ask me to do this, then you have to buy me computers, you have to do this, so for, from the onset we don’t have a lot of computer to give everybody. So, it’s the TIDD man who has the computer. For now. But as we move forward, and we understand each other, and the computer will be available at the mill site for them to also do that.” TD2

WTS input security

Finally, one member of the TVD shared his concern on the way input is gathered in the WTS. The WTS is based on critical control points that timber has to pass which should verify it has been processed according to the standard. However, the system does not restrict input on, for example, data on critical control point 4, when data on critical control point 3 hasn’t been completely met. This should be changed, he explains:

“I think that using the system itself, as a traceability point, uhm, in terms of, you know, the WTS, I was of the view that there should be some form of security input into the system, in such a way that, assuming I’m supposed to enter a particular, I’m supposed to check a certain box. If that box is not checked, then it means that a certain page should not be allowed to open for me, you get it. And so if, assuming I send in a TIF, if I don’t have a TIF it means that nobody should be in a better position to also issue an LMCC, and if I don’t have an LMCC for a particular log, I don’t think that this page should be open for somebody to issue and LMCC. So, I was think that the system should be made in such a way that nobody can move from one point to another, whilst that end has not been completely filled. And so, if that system is in place, that security system is in place, then you will be compelled by circumstances to sort whatever problems we have, before we move to the next order of stuff. And I think that is a link, which for me has not been properly sorted out, yeah.” TV2

4.4 Legality through traceability

In the interviews, the researcher engaged in open discussions with several actors on what the role of traceability in timber legality is. To which extend does the traceability function as a verification mechanism of legality? Is traceability through the WTS sufficient in establishing legal timber, or is there more to it?

4.4.1 Traceability as legality verification

In general, traceability is seen as an essential part of legality verification. The WTS is a tool in which many aspects can be checked of the legal standard, that can give a good indication of legality. A lot can be found in the WTS, based on the unique tag of the log that is to be examined. If traceability is performed correctly, the tag is connected to all steps in the production chain. For example, if a log is found on a truck at a checkpoint along the road, then through the WTS it should be possible to trace it all the way back to its origin in the forest and verify its legality:

"We should be able to get back to source. And then if we are trying to do it back, take a step backwards, we should be able to connect the dots." CS4

So, through the WTS, traceability is a means to verify legality, but it can also be said that traceability is a means to legality. All timber should be registered in the WTS. All the boxes should be ticked off within the WTS, or else legality cannot be confirmed:

"The source is known, and it went through all the procedures with the right documents; it must be traceable." FS3

One can even say that if the process of acquiring legal timber is not traceable it can be considered illegal:

"But it is illegal when you, you... it doesn't pass through the system. Doesn't have the TIF..."

Interviewer: When it's untraceable, actually?

E: Untraceable! Yes! If you can trace some of the steps, to know that, no, started from stock survey, TIF has been captured, but along the line that chain got broken, so that one become non-compliance." FS2

If you cannot trace it back to its origin, you have no means to verify if indeed all legal requirements have been met. Being able to undoubtedly verify timber legality is what the traceability system should bring to the forestry sector of Ghana. It takes out the questionability and uncertainty of the work that the FC has to do, for they can always fall back on the WTS as their first source of information on legality:

"Interviewer: So the traceability would you say is the foundation of the legality?"

Exactly, exactly, yeah, yeah, yeah. I mean without that, it would be difficult, anyone could lift anything from somewhere and then bring it onto the system and then we say, okay, yeah it is legal." CS4

However, traceability of timber does not equal legality of timber. Although it seems self-evident, there was only one interviewee who made this remark explicitly. It is required for timber in Ghana to be traceable in the WTS, but traceability is not the goal in itself. It should be traceable to the legal source:

Interviewer: Because I get the idea that, uhm when we say it's traceable, then it's legal. Would you almost say that, or...?

Yeah, maybe, it, it, it, it's partial. It's not hundred per cent that if it is trace-, because if it is traceable, but not legal. If, for instance, your requirements or legality is not met. So, for instance, we can, we can trace the timber that was felled outside the yield to a forest. But is it legal? Yeah, then because some requirements of legality was not met. You can say it's not legal, but you can trace it to where it came from, yeah. TV1

Ultimately, the goal of the VPA is to tackle illegal logging, and that starts at the source from which is logged. The WTS provides the clarity on the legality of the source of the timber that is to be verified, and that is what the WTS is primarily about:

“Our main aim is for us to trace a certain wood, wherever we find it, to its source to see whether it was legally, or illegally produced. And so, if we are able to do that, then we say that that is the fulcrum, I think, which we are all fighting for.” TV2

Apart from the fact that traceability does not equal legality in the verification of a legal timber source, it should also be noted that traceability does not cover all aspects of legality. As mentioned earlier in this chapter, the audit process is complementary to the traceability of the WTS. Not all elements from the legal standard serve as input for the WTS, e.g. the environmental standards as established in criterion 3.2 or health and safety requirements as established in criterion 5.2 of the legal standard. FSD and TIDD carry out the first checks on these aspects of logging and processing, which is verified by the TVD audit afterwards and once more by the Independent Monitor. To assess if the timber has met all the legal requirements, a combination of traceability through the WTS and verification through the FC offices is needed, to come to a complete picture of timber legality. Only complying with the required input of the WTS is not sufficient to produce legal timber:

“Interviewer: If all the required things in the Wood Tracking System are ticked off, then you speak of a legal log, but there are certain things that are not uhm, serve as input for the Wood Tracking System that can be non-compliant?

Which we combine at the end of the process chain, I mean at the end of the process chain, our process chain, so, at the end of the day we are not only looking at the wood flow, wood flow compliance or wood flow reconciliation. We are looking at the work that you saw in the field. Audit. We combine the two things to get our full report on the legality of a log. Yeah.” TV5

Timber legality is more than just verification of the wood flow compliance, it is also the aspects around the practices of timber logging and processing that have to be checked and have to be in compliance with the legal standard. However, it remains unclear to the researcher if all actors are aware of this idea, that only the WTS is sufficient to determine timber legality. Apart from the TVD staff, the general notion of legality revolves very much around determining the legality of the wood flow through traceability, whereas this quote serves as a comprehensive example:

“The main purpose for traceability is to check illegal logging from the source. You get, you get the point. So, the most important thing to take note off, why, what is the purpose of FLEGT license? The Forest Law Enforcement Governance and Trade, and so we are trying to use the law to check whether any law has been broken, regarding the governance and then trade rules. Did you take your tree from approved permit area, or approved TUC area? Yes? Where is your bundle number? You plug it in, you check the boats, the boats came from log three, of this forest reserve, at this location, with the permit approved on this date. So, uhm, what we are doing to is, what is the most important thing, it's the source, whether you took your material from the right place. Whether you haven't broken any law, you haven't evaded any tax, and things like that. That, that is the basic thing about...

Interviewer: So, the source and all the documentation from that point onwards? Yes, yes.” TD2

Finally, the importance of physical verification by the audit team is also stressed, by explaining how sometimes the data within the WTS gives no definite answer to some uncertainties of legality that arise in the system when data is contradicting:

“It is important, because, you know, it's in the system, but they're not verified physically now, so the auditors must go into the field to verify. You see. That all these things, because, it's fine. The tree, you know, with tree number five, which is [species] Wawa, was actually in the yield, harvested. It recorded as harvested. And you go to the field, it could be that he is, but actually tree number five that one

wasn't nice, so they actually felled tree number seven. Which is close to tree number five, which is also Wawa. You see. So, you have to go to the field and you investigate. So, the audit team will go over whether the tree was swapped, or... So, it's very important." TV4

4.4.2 Traceability systems for legality

Lastly, in the discussions on legality and traceability there was a recurring theme on how the traceability is determined at the end of the process chain. From the saw mills onwards, traceability changes from log-based to bundle based. Logs are processed into wood bundles and the bundles are tagged with a new number for traceability. From the separate pieces in the bundle it is not possible to tell from which specific log it was made, but from its bundle you can establish which logs made up the bundle. To assess the legality of a wood bundle, one can look into the WTS for each log that was used in that bundle and see if those logs have met all the requirements. In essence, piece-specific traceability is lost, which actually was the original intention of the WTS. However, after the pilot phase, it was a weighing of what is needed to perform traceability to that level and what you gain by it:

"So, originally, [log specific traceability] was what we were trying to achieve with the first company, so it wasn't entirely their fault that they had so many problems. We were trying to trace, as some would say, the egg to the chicken. That was quite some nightmare. Yeah, so, we were trying to trace consignments or components of consignments to the stump in the forest. It may be possible, but what is the advantage, cost advantage? The cost benefit of doing that. So, out a point, we've been looking at the system again as it was, to achieve legality. The critical thing is to make sure that all that is entering the mill, is legal. Yes. And from then on, you, we devised a mass-balance approach to continue the process. And that's how the system has now been. So our, the critical thing is to make sure that everything that is entering the mill is legal, and how we are able to reconcile output volumes with that legal input. TV5

So, the traceability in total is now based firstly on ensuring that all timber entering the mill is legal, so upon entering the processing facility all legal requirements have been met. Secondly, by assessing the input-output ratio of mills, one can determine if there haven't been illegal logs sneaked into the processing. In principle, the idea is that the volume that goes in, raw material, cannot ever be as big or bigger than the volume that goes out, processed wood. In the processing you lose a lot of material, and this should be visible in the input-output ratio. The WTS is even able to calculate the conversion ratio for the species and log volumes, to estimate how much processed wood can come out of one log.

Ghana's traceability system around the mills is thus based on a legality check at the milling gate and reconciliation of input-output ratios. A change which has been very much welcomed by the timber processors and the FC staff that has to assess the processing:

"It is the, I mean, we have made life easier for them by going this route, than by going the strict consignment to stump approach.

Interviewer: A good middle ground.

That's right." TV5

What resulted is a balance between how thorough your traceability is and what you want to prove is legal. Some think this balance has been found:

"Yeah, I think that, if we are able to trace from the product end, I mean, the package that is delivered to the market, if you can trace from the package, it should be enough.

Interviewer: If you can prove for that package this is a legal source?

Yes! Once you plug in the bundle, whatever indicators on it, the numbers and all that, then you can get

the boats. You see, the boats keep coming, that is the key thing. If you can identify the boats, then you can easily identify the parent logs from which they were produced to make the final products.” TD2

While others want to reconsider if the link between the now established traceability and legality is sufficient in achieving timber legality:

“I think that the weakness of our system, uhm, has to do with uhm, you know, the way, at some point in time at the mills, how for me it is being looked at. Now, at the mill, what we are seeing is that we are interested in the volume of what goes into it and what comes out. But for me, I believe, we shouldn’t be only interested in the volume. If we are saying that we need to do a complete traceability, then at least every log that enters into the system, should be able to tell us how much volume that came out. And so, it should be traced per log basis, because after all we are saying that we want to trace right from a product level down to a stump. And if you are tracing to a stump, you don’t trace through a volume. You rather trace to a particular tree, which has a specific unique number. So, if we are at the mills, we are now looking at volume conversions into an input and output. Then for me I think that, that is uhm, that is not a stronger link.” TV2

4.5 Key issues

Increased process visibility

In this chapter on traceability and the implementation of the WTS, several key issues emerged from the VPA, interviews and observations that are important to address and emphasize. Firstly, the WTS has digitalized the existing procedures of timber production, which has resulted in improved data and more visibility into the collected data. Through this increased visibility, there is more exposure on illegal activities and it has enhanced the enforcing capabilities of the FC.

Innovation challenges

However, introducing a technological innovation like the WTS comes with challenges, where the biggest challenges were connectivity and technology related. The developing infrastructure of Ghana does not fully support an internet-based traceability system yet, and people fear the technological change that the WTS was bringing to their work. Fears concerned being excluded from a system one does not understand, so the WTS would be a threat to one’s job or position.

Informational ambiguity

Understanding of WTS not only brings technical challenges, e.g. dealing with equipment, but also challenges on the information the WTS provides. The WTS performs data reconciliation and any discrepancy induces a red flag, upon which must be taken action. However, these red flags occur all the time and interpretation of the causes behind them requires deep understanding of both the process of timber production and the traceability system itself.

Legality vs. Traceability

Lastly, traceability is a key element in establishing timber legality, in that it provides insight in the timber production chain. It is the visualization of the wood flows, providing information on many steps in the process, which is necessary to determine the legality of the wood. However, traceability does not entirely cover the requirements of legal standard, such as labor and environmental aspects of the standard, so legality cannot be determined on traceability alone. It remains the question though, if this notion is generally acknowledged among the FC staff.

Chapter 5 Transparency

5.1 Principles

The following will elaborate in detail on how transparency has been established in the VPA and the informational organization of the FC.

5.1.1 Transparency in the VPA

The VPA does not have a transparency section at the time of writing this thesis. There have been discussions on amendments and additions to the VPA recently, and in the near future a revised version of the VPA from 2008 will be published. This revised version of the VPA will possibly have a specific transparency annex added, in which the transparency guidelines and regulations will be elaborated upon.

However, Article 20 of the VPA on Reporting and Public Disclosure provides some information on transparency, specifically on the reports of the Joint Monitoring and Reviewing Mechanism (JMRM). The function of the JMRM as established in the VPA is as follows:

The JMRM shall conduct regular joint missions to review the effectiveness of the Agreement as well as its impact based on the information available. It shall record the efforts Ghana has made to be transparent by, inter alia, making publicly available information about harvest rights, areas designated for harvesting, harvesting schedules, timber rights fees, and harvest related payments, and information on social responsibility agreements and crop damage compensation awards. (European Community, 2010)

The activities of the JMRM should be “as transparent as possible” (European Community, 2010) and the results from their reviews are to be made public in a yearly report. The report includes a number of items regarding the VPA implementation and enforcement, and also on the issuance of FLEGT licenses.

What cannot be made public is put under Article 22 on Confidential Information. This article is dedicated to the protection and security of information regarding “trade secrets or confidential commercial information” (European Community, 2010). Information that is not considered confidential is information on the name and address of the FLEGT license holder and importer, and of course the information disclosed by the JMRM.

Lastly, with the introduction of the Timber Validation Department (TVD) and the Independent Monitor (IM), the VPA has brought more transparency in the legality verification system. As written down in the VPA, the TVD has been created with the goal to “[respect] the principles of independence, transparency and credibility” (European Community, 2010). For the IM, transparency of legal verification is increased through the publishing of “a public summary report based on the full report and summarising key findings and systems failures identified” (European Community, 2010)

5.1.2 Information provision FC and non-FC

Apart from the public disclosure of information as agreed upon in the VPA, there is a transparency hierarchy within the FC. Based on the responsibility of the office that you work in, certain access to the information in the WTS is granted to you, which is then sorted out in access levels based on the hierarchical position within the FC. Most access to information in the WTS is given to FC staff at the headquarters in Accra. At the highest level, there is the superuser who has overall access to the system and can add people or take people out of the WTS. Then there are the FC administrators, who also have access to all the information,

who are in charge of the entries of timber rights in the system. At the next level are the directors of the FC offices, e.g. FSD and TVD, who have access to all the information regarding their department. Then the Regional Manager has access to all the information concerning his division from the districts within that region. Finally, the District Manager manages all information from within that district, together with the Assistant District Managers. The staff itself only gets access to information that is specific for their task.

For non-FC stakeholders, like CSOs and environmental NGOs, it is possible to get access to information. The first option is to request the information at the TVD, which is the data reconciliation department and has the authority to grant information. For example, if a certain NGO wants information on the issuing of felling permits in a specific district, they can request for that information and why they need it. The second option for the public to access information is being developed at the time of writing. The FC is developing a portal to the WTS specially designed public use, in which one can access all the information that is open to the public. It will serve as a real-time source of information to, for example these NGOs, which takes out the mediating function of the TVD in providing information through requests.

5.2 Perspectives

The following sections will provide perspectives and insights from interviews regarding transparency within the WTS and VPA implementation. It highlights different or common perspectives on the extend of transparency.

5.2.1 Data accessibility

During interviews with FC staff and NGOs, it became clear that information accessibility to the WTS was a sensitive topic. The ideas about how accessible data from the WTS should be often differed greatly. NGOs are advocating for an open WTS, at least as open as possible within the trade disclosure regulations. They want to see especially how the industry is performing regarding legal compliance:

“It can be so open. Except for very sensitive business information. Trade secrets or contract details, that is okay, but the nature of the contract, the types of non-conformances that have been identified, corrective action requirements that have been raised, how responsive districts are, probably at the end of the year can we know what has been the close out rate? How has this been performing in case of closing out a non-conformance, uhm, where sanctions need to be applied?” CS4

However, the NGOs are not only interested in information from the industry, but also on how the FC is performing and how or if they are enforcing the legal standard. They see themselves as the control organ on the monitoring and regulating done by the FC, and if they have to vouch for the VPA to be successful, they need a complete view on how legality is enforced by the FC:

“How has the FC been res... been proactive in applying those sanctions? Because, sometimes its own people are the defaulters and we want to know, are they really cracking the whip? Or are they looking elsewhere? And that is why civil society is on board, we want to see can we stand on any international platform, anywhere in the world and then also uhm, endorse. Which is something we want to do! We want to endorse Ghana’s Wood Tracking System. We want to endorse that Ghana’s Legality Assurance System is really firm, we want to do that, you know. But, we, we, we want to be sure that, whatever we are vouching for, is really what is there in the ground, you see. So if, if all this information is available, how much close out are they doing? Uhm. Are the companies doing it? Is the FC cracking the whip? If it’s its own members, if it’s prosecution, are they really doing it, you know? So we want to know, we realize that governance is really, is really taking place, and, which is one of the core pillars of FLEGT, you know, improve forest governance, then we know that we are really, really getting there.” CS4

This is based on the idea that the system should not only rely on the self-regulating capabilities within the FC, for it would be the FC monitoring their own compliance:

"You know, it's like, dog biting dog. You don't see the impacts, you get it. You cannot be judge in your own court." CS1

One striking example given was regarding the Salvage Permit, which is a felling permit given to loggers when due to projects for infrastructure development, e.g. road constructions, certain trees need to be cleared from the development site. These permits are given by the FC, but information on why these permits are given and for what development is not openly accessible.

"If, for example, civil society wants to know how many salvage permits have been released in this year. Which places have the highest salvage permits, and civil society wants to know, does it really correspond with the measure of development going on there? Because salvaging is usually tied to development. We have the development and salvage. So, if you have so many salvage permits in a region, assuming yeah, just an assumption that information is there, then we would be wondering, okay, so what is really going on there? Let's go and see."

Interviewer: What is that development for?

Exactly! You see, so, if there is nothing there, then we have reason to question. So now assuming we want to know how many salvage permits are there, for example, and Forestry Commission may say, no, bring a letter, and we'll make sure if we can let you have that information, then we are like, what is really in there?

Interviewer: What do you want to hide?

Exactly yeah, but assuming it's open, you give it to us, probably do nothing with it, just look at it, and we can say, okay, salvage permit, okay." CS4

Transparency should maybe even be extended to actors outside Ghana. This level of transparency in the data will give the system a certain credibility to the outside, for whatever you would want to know about FLEGT certification in Ghana the information would be there for everyone to scrutinize. As a buyer of FLEGT wood, this would give you the security that one knows exactly what is bought:

"So, if, if all that information is available, then whoever is in Europe or China can just go online and then get the information for themselves. So, the system will testify for its own self. And when you do that, you'll, you'll gain that trust of uhm, all other interest groups, you know, rather than the others who are trying to..."

Interviewer: That they know what they are getting?

Exactly, compared to all others that try to hide information." CS4

Non-disclosure of any information in the system provokes mistrust on the ones left out of the circle of information. It is not that non-disclosure necessarily leads to corruption or illegalities, but you can't be certain if it didn't if you don't have access to the information. Basically, these NGOs say: let the data attest for good governance of the forests on FC behalf.

In addition, the system in which information is provided by the TVD to non-FC actors has its difficulties as well. The idea is that any information can be requested by anyone, but this situation keeps outsiders still very much in the dark. It's like asking for the needle in the haystack by requesting every single piece of hay until one of them turns out to be a needle:

"I think that we can go that far. Because now the TVD, the Forestry Commission as a whole, uhm, they would always say whatever information you want, ask, and we will make it available. Yeah, they would always say that."

Interviewer: But what if you don't know what to ask for?

*B: If you don't know, exactly! *laughs* Yeah. So, if it's just there then you can go for it. And this is something I think they can do easily." CS4*

Evidently, the FC has their reasons for not making the system as open as the CSOs might want it to be. This has to do with several aspects of the information generated in the WTS. The information within the WTS is sensitive, for it is connected to people and companies. Unrestricted access to this information is a risky matter for when this information falls in the wrong hands. Information on the WTS can be posed in certain ways to make something seem illegal, when in reality nothing was out of order. This can be done by accident, but some fear that this can be used to frame someone for illegalities:

"They have access to the system, but they are asking for more, which is dangerous for everybody. [...] Should one, who just wants to be cynical, he sees that the contractor has been given thirty trees to fell, harvest. Out of these thirty trees, the contractor has cross-cutted out the trees about sixty logs. You start counting the logs as a tree. You see, the moment the contractor unloads about forty logs: Ey! That contractor was given thirty trees, but he has felled forty!

Interviewer: So, you think that they might not understand the process good enough to...

They might understand the process, but some people can be very mischievous. Just to cause a concern, or, you know, maybe don't like the contractor or, you see." TV4

This shows the essence of information restriction to non-FC actors. The FC is collecting a lot of information on logging operators, and they have the responsibility to handle that information with due diligence. These industrial actors must trust the FC with their information, in order to protect their integrity as a company:

"There's all these things you have to tread cautiously. And this people they are also, you know, stakeholders. They are big stakeholders. They don't have to do anything that would tarnish the image. They are afraid of their business, you see. Also, come strongly at you, there'll be court action you see, at them." TV4

However, it is not just "mischievous" actors that can do harm with information. The information generated in the WTS can be difficult to understand and situations can be interpreted in many ways. As explained in the previous chapter, the WTS creates red flags when discrepancies occur within the system, for example when trees under the same unique number are issued as a different species on the TIF and the LMCC. The red flag is an indicator for the FC to check on the issue that has emerged and not an indicator of illegality. For example, it does not even provide a decisive answer on who caused the data discrepancy. It is the responsibility of the TVD to find out why and where the red flag occurred and deal with this ambiguity of data:

"Well, a red flag is a red flag. So, when it materializes, [...] one must deal with it. Why it materializes is another issue. So, once a red flag materializes, we go, and we seek to correct it. [...] sometimes the red flags can be explained, and you can see the logic behind it. Let me give you an example. In the audit, one recurring red flag that we must deal with, is the harvesting of undersize trees. Now, again, you may have noticed it is the Forestry Commission that does, or endorses the stock survey, and therefore approves the yield for the contractors. So, once we detect that a tree that is less in diameter than what we permit has been felled, to us the system is a red flag, straight away. And, so, you issue a warning, or corrective action requirement to the contractor who felled the tree. And then he comes and tell that, yes, I've felled this tree, but it was in your yield, you gave me the yield. So, the red flag is no longer for him, it is for the guy who gave the yield, which is one of our guys." TV5

In this situation the red flag was connected to the logging operator, but actually was caused by, for example, FC staff measurement errors. This kind of information is why the FC remains reluctant on full disclosure of the WTS data, for they first need to reconcile all the information themselves before then can conclusively take corrective action. It might be possible that a logger gets appointed a red flag based on a mistake on behalf of FC. So, if that information would be publicly accessible, the integrity of the logger is endangered due to an exposure of an illegality which is no fault of his.

“So, what happens is that, the DM [...] they don’t just act on [red flags], they go and investigate. You see. So that’s what I’m saying, if you go and investigate, the contractor felled Wawa, you see, and the contractor, the forester who have at the same time made a mistake, entering TRT, instead of TRI, he didn’t check and see the data. These are genuine mistakes. And the fact is that, ratings for Wawa, you know, maybe the ratings for TRT is higher than Wawa, so why will he even? You see. So, some of these mistakes, genuine mistakes that people can commit.” TV4

This is another situation where understanding of the process is essential to understand what happened in the emerging of the red flag. The forester entered the wrong species code into the WTS, which occurred in a discrepancy across the chain, so a red flag was appointed to the logger’s activity. In this case, the change of species on the forms resulted in the logger having to pay a higher fee for a more expensive tree species. Assessing this situation, it would be illogical that the logger would want higher costs, to the fault will probably lie somewhere else.

So, it is for those reasons of possible misunderstandings or wrongful tarnishing of integrity that the careful consideration of information accessibility is pleaded for. There is public access to the audit reports and reports on corrective actions on the emerged data discrepancies. In these reports the dust has been cleared around the situation, which should provide them with all the information anyone would need:

“They have access to care reports, that’s the most important thing. Yes, the audit reports, that’s the most important thing. Because, that is the biggest of our reports, they have access to our reports, so. All the data we carried out, they have access to reports, so.” TV4

Nevertheless, during the time of implementation of the WTS, non-FC actors have gained increased information accessibility even though *“the design was not meant for NGOs to have, because this is a government institution, to have a full accessibility to it.”* (TV1). If this trend of increasing transparency of the WTS continues, it is important to make everyone aware on how the WTS works and what the information means. This role is the responsibility of the FC, but also asks for an open-minded approach from, for example, the NGOs who want this access:

“Well, again, here they need to come without preconceived notions, to ask to learn how red flags are generated. I think we have managed a little, we still have quite a lot of work to do, but we find a way to let them understand what I’m explaining to you. A red flag doesn’t mean somebody has done something criminal. It has, it’s going to take education, it’s going to take orientation, interaction between us, uhm, and as I said, they must discard that notion, until they’ve properly understood how the system works and why certain things are generated the way they are generated.” TV5

5.2.2 Transparency of the verification process

Whereas no consensus among stakeholders on the level of transparency of data in the WTS exists, very similar perspectives occur on the influence of transparency in the timber industry. Generally, increased transparency of the system is a highly appreciated and is often linked to positive changes in forest management in Ghana. Transparency even gets attributed to be one of the drivers that has led to a successful design and implementation of the FLEGT VPA:

“And when you’re talking about transparency in forestry, we’re not only talking about how the wood is collected from the field and processed through mills for export. We are talking about how the rules around all that are made, I guess you know it, the rules that enables us to, and get a law enforcement regime. All that. So, the transparency involves, involves all this and you need the collective input of all the systems to be able to get a well-functioning resource management regime. Okay, so, without transparency, a lot of, we wouldn’t get where we have gotten today, so, to me it’s a great, a great element in the whole talk about governance in the forest sector.” TV5

This has to do with the role that transparency has in forest governance. Before the introduction of more transparency in Ghana’s forestry, forest management occurred behind closed doors, leading to shady activities. However, the FC has now opened their doors to the public, and the light of transparency is now on everyone:

“You continuously need the probing, or the throwing on of light, if you like, on the system. The moment the light withdraws or dims, then characters are told they can do all kinds of funny things. So, its light is continuously required. People who do not behave right, they know they are not behaving right. And anyone who does not behave right, doesn’t like publicity about his, if you like, unrighteousness. So, it is transparency that brings the publicity and the light. So, we need it, we need it in there. And as you said, forest management is not only about taking trees and processing and milling them. It’s even more about how policies are evolved around the management regime, how decisions are made around the management regime, and all those processes must have a great deal of light shed on it, all the time, for us to maintain the right atmosphere.” TV5

Transparency creates a certain accountability. If the light is on your activities, you can be held accountable for your actions. When the light withdraws, the accountability disappears as well. As explained in the previous chapters, the VPA has introduced more layers of legal verification by the introduction of the TVD and even a second round of verification by the IM. Through these added layers of legal verification, a great deal of transparency has been introduced the regulation of the FC in the timber industry. Knowing that these layers of control will shine their light on what you do makes you work very carefully:

“Yeah, it’s a very good thing, because if you are doing something and there is an independent monitor, you are always careful. You put in place all the systems for us to work, because somebody is observing, to see whether you are doing the right thing. Somebody at the back watching, to see what you are doing is right. So, it’s serves as a check for you, to ensure no I have to do this, these are the procedures.” FS2

“And even in our case as a Forestry Commission, there have been additional layers of monitors. Formally, it used to be the district, the region, the Resource Management Support Center. But TVD has come to add, and there are independent monitors. So, it means now it is open to everybody everywhere, and there is no way anybody can hide in it. Even if you have skeletons in your cupboard, you are asked to open it, it becomes a problem. But if you only have what is supposed to be kept in the cupboard and you are asked to open it, you don’t have any problem. So now, it is forcing probity, accountability and transparency on everybody! Yes. No option.” FS6

On top of that, the TVD or IM check-ups are randomly carried out. The idea that your work can be put under the microscope at any time makes cheating the system more difficult:

“Everybody can come at any point, so they are aware of that, so it also helps that. [...] It makes them more careful, that they, if they do anything, anyone can come, and report and it can cause problems for them, so it makes them be on the lookout and more careful.” TV1

In the audit process carried out by the TVD, they make use of the high level of transparency. As observed by the researcher, the audit is carried out by bringing the involved actors together in open discussions on the topics of the audit. The goal is to create awareness among the stakeholders on the audit process and the outcomes of the audit. By doing this openly, accountability becomes known to the involved actors and people are more likely to behave according to the standard:

"I think if we are talking about good governance, then one thing that features prominently in governance systems is about accountability and transparency. [...] A way of deterrence is that if you know an offence is committed, it will easily be detected and punished. And shamed. Then it means that it puts everybody on its toes. So if people that begin to see that clearly, my actions today will be judged by people who are not among my peers, but who are from elsewhere, then it means it compels me to sit up and that is why, you know, in, during our audit process, we gave you and everybody who, like the civil society organizations, who were party to the audit team as observers, the ability to see, to sit in opening meeting, to sit in closing meetings and then to observe even during our documentation, to know that, yes, we are, we don't have anything to hide and so each processes whatever we do should be clear to the public eye." TV2

Transparency has created an atmosphere to be held responsible for your actions and to be called out for it. This creates the risk for people who want to work illegally to be exposed to naming and shaming, making illegal activities less attractive. This risk exists for all people involved at all levels of society, even in the higher political spheres:

"Yes, no one wants to be embarrassed, because this time it cannot be hidden. And the, it will place a check on everybody.

Interviewer: Even high political figures.

Yes. Because the law is not respected of persons." FS6

This is essential to forest governance, since often political influence has hampered timber legality enforcement, due to corruptive actions and undermining of the system. Increased transparency of the process sheds light on even these political figures, and might deal with their influence in illegal logging, by pointing at their responsibilities and how their actions contradict the role of the politician:

"I think transparency is capable of doing so many things, because if something is being done wrong, and it's being done in the eyes of the public, then it compels even a politician to quickly run away from it. Because if a politician will be brought into the picture, to say that he is doing A, B and C, and which frowns on the very fiber in which they are there to implement, then it means that he will be prepared to run away. Because the same people he is serving, will one day stand up and say that based on A, B and C, we think that we cannot allow you to represent us." TV2

The people have gained some power to look into the process and see what is going on, even at higher political spheres. But not only from within the country does transparency place a check on everyone, also the EU, partner of the FLEGT VPA and investor in its implementation, is watching, and expecting results:

"The whole world is also watching. More so when the whole project is being sponsored by the EU. They will sit in the European Union and be looking at what is happening here, so that when they realize that, out of their contribution they have succeeded in ensuring transparency, they all border on the same thing. [...] And whatever investment that have gone into it, would have been used as a good resource. That is what they are expecting to hear." FS6

One interviewee even linked transparency to peace. Transparency creates accountability and that will decrease illegalities in the system. Illegalities, shady businesses and corruption lead to conflicts in the country, so if transparency deals with these problems, it will help make the world more peaceful:

“If we have nothing to hide and we go open for everybody to know and understand what is happening, to me it, it argues well for peaceful coexistence. Because some of the troubles that we have in the world, in many forms, the way our many natural resources are managed, if any group of people become aggrieved, that they are being cheated, they can resort to violence. [...] And under the VPA too, the situation is being improved. So, transparency, accountability, to me, can help to promote peace, yes. [...] So, security of the resources, secure peace, promote harmony, promote peaceful coexistence, promote...”

Interviewer: So, it will decrease the amount of conflicts you say, because it's, it's just open.

Yes, open yes. And the world will become a peaceful place.” FS6

5.3 Practices

The following sections is a combination of data gained through field observations as well as interviews, to provide a more holistic perspective on how transparency within the VPA implementation is put to practice.

5.3.1 Field audit transparency

As independent observer to the audit carried out by the TVD, the researcher has experienced the level of transparency first-hand. The researcher was granted full-access to every part of the process of the field audit. This meant for example being able to sit in every meeting, like the opening and closing meetings with the FC staff. In the opening meetings were aspects of the audit process discussed and the researcher was introduced as independent observer to all staff members. The TVD used the closing meetings to discuss what they would write in their reports about the audit, like all the non-compliances they encountered in the field.

During the audits in the field, the researcher was also present at every step of the process. The audit team discussed openly all the observations they made along the way. At the end of the field audit, the TVD team also held a closing meeting with the logging or processing operator, to which the researcher also would be present. In this closing meeting all observations were discussed, and the operator learned that the TVD would report all insights to the local FC offices, so they would know what to expect as corrective action requirements on their operations.

As mentioned before, during the audit there were also independent observers from several CSOs present. These observers were from very different types of CSOs, for some were representatives from very small local NGOs and some from internationally oriented environmental NGOs. They enjoyed the same all-access role as the researcher, so they were also constantly present at every moment of the audit. During the audit a change of independent observers occurred when the audit team continued the field audit to a following district.

This role of independent observers to the TVD audits wasn't originally established in the VPA. It is a role that the CSOs of Ghana have strongly advocated for:

“It was something that civil society has advocated for. Of course, there is an independent monitor already, in the VPA, who actually also do this one audit of the system. But we of civil society are saying that we have to be involved in the process, because the forestry commission would also be auditing itself, kind of. The Forestry Commission they are auditing themselves, they are all departments within the Forestry Commission.” CS2

So, for one thing, the CSOs wanted to perform an extra check on the TVD audit of the FC offices, for the TVD is also an institution within the FC. With these CSOs present, they could make sure that the audits are well-executed. But also, the relation between the IM and the FC wasn't as independent as the CSOs would like a third-party monitor to be:

"And well, the independent monitor, he is independent, but who employed him?"

Interviewer: The Forestry Commission.

Yes. So, we of civil society, we are really independent. And they don't pay us. Nobody pays us. Forestry Commission doesn't pay us, government doesn't pay us, so is we come in, we also provide a kind of... a third eye. To ensure that the whole process is more transparent. Not because we don't trust the Forestry Commission, but you know, if we are involved too, it makes the whole process more credible. Even when international partners hear about it, they know that the process is more credible. So the Forestry Commission does not just auditing itself, and a third party that it has employed also, but civil society who are not funded by the Forestry Commission, who has nothing to do with the process, we don't have any interest. I mean if we talk about double interest... the timber company is not paying us, Forestry is not paying us, just independent. We are just there to make sure things are done. It makes the process just more credible. So, I think with our involvement, transparency is guaranteed." CS2

The independent observers of the TVD audit are in no way sponsored or funded by the institution they are observing, so that would make them really independent. Having these CSOs on board as observers will provide another perspective on legality enforcement through the TVD audit, and will also check on the TVD if they are not compromised in their work:

"It's good that there's independent observer like us, so that we can... because I am also writing down the NC's that I see, so in their reportage, in their report, are they going to report, on the same issues that, you know, and if not. Then, my, my report will be something they also have to look at. Because if I'm reporting on this, and I know you are also an observer and you will be taking all these things. So, it's good that, yes, the observing role as a layer is part of this whole VPA thing. It will help to implement the lay down procedure, legality procedure well... Because we don't want some way of, you know, you compromising on the standard. So, we are following, and we've really opened our eyes to see how best they are implementing, they are triangulating for. Because we want to strengthen the system. We want to break down the illegality logging and all that. So, indeed, indeed, it's a good idea, it's a good idea. And we are looking, we are watching." CS1

During the audit, the independent observers will participate in the same process as the TVD, making notes of all the non-compliances they encounter and observe what the TVD is reporting on. This way, there is an extra triangulation layer built within the audit process:

"That's why we share information. If I say something, I have to make the lead also know. The lead also sees something, fine, he calls me and also testify to myself, so that, fine, we all know that this is the real situation. We don't want a situation that, you know, you come and report on things which are not real. We want to report on real issues. So basically, that is how it's going to be." CS1

5.3.2 Divided and shared responsibilities of legal verification

Transparency of actions is present in the legal verification process across the timber production chain. At every critical control point the responsibility for the continuance of the process is handed over to a different FC officer. It works as follows:

"You see, for this transparency, it starts from the stock survey. It is different people who do the stock survey for the GWTS. After that, it's different person who also do the TIF, it's different person who do

the LIF, it's different person who do the LMCC. So, meaning, if there is anything to be changed, meaning, you have to see all those people, before you can manipulate anything in the system. And it's... they can't. Whatever you do is there. If you go and change anything else, your name will be there. That is showing who has changed this thing. So, the transparency always starts from the stock survey, to the LMCC. Because it's different persons altogether, who do all these activities. But at first, one person can do the stock survey, and the TIF and do this and do this. But for now, if you do that, your name will be attached to the stock survey, will be attached to the TIF, will be attached to... So, you see that there is one person who is doing all these things, and that is not in our manuals of operation, in this Wood Tracking System.” TV3

This shows that in previous times the entire documentation across the timber production chain could be the responsibility of just one FC officer, which is currently not permitted anymore. In the system you are not allowed to perform all the documentation on one log, but the responsibility of all the different documents should be divided among different FC officers. This makes bringing illegal wood into the legal production stream more difficult than before. To attain all the documents along the production chain for an illegal log, one now has to bribe many FC officers, instead of just one.

However, some of the steps of the process are also process a shared responsibility among FC staff. For some documents there is a shared verification needed, like for the LMCC issuance. These documents connect the responsibility of the FSD and the TIDD, for it is issued before transportation to the processing facilities. This way there is also a check among FC staff and between FC institutions on the legality of the procedures. On top of that, all the information on documentation and verification also reaches the district and regional managers through the WTS. In the WTS they monitor and verify the FC activities in their respective district or region. This can possibly reduce corruption in the system, so this timber logger explains:

“Because the new system is to place how you are supposed to do this. And it works in hand with checks and balances. So that the forest officers will be doing this, the region supervisor will be doing this, in totality you see that there will be checks and balances around it.” SL

The FC staff experience this transparency every step of the way. From the interviews it becomes clear that they believe that a high level of transparency is very vital to the legality process and that it has a central role in their work:

“Yeah, transparency is very, very important. And the, as far as I'm concerned, what we do, with regards to all these processes, very, very transparent. Yeah, they are very, very transparent. We have been very transparent, and I think the system, uh, is also, the transparency is well-integrated in the system as well. Because, you do everything to the knowledge of everybody, so it's there. We are actually adhering to transparency, yeah. It's, it's, it's there.” FS4

5.4 Legality through transparency

From the interviews it becomes clear that transparency of the timber production chain will lead to more compliance to the legal standard. Before the increased transparency in Ghana's forestry many processes were kept in the dark, which resulted in more corruption and cheating of the system. The VPA has brought more transparency by introducing added layers of legal verification through the TVD audit and the IM audit. CSOs have also gained more access to the legal verification process in their position of independent observer to the TVD audit. Everyone's actions are put under the microscope for everyone to see. Transparency give insight in the process and therefore creates a legal process:

“So, I think that transparency should be our guiding principle going into the VPA, if we want people to see us as to what we are doing, then it means we should open up more to the public. So that people could see it and see what people are not doing right. And I think that these things will help tackle illegal activities.” TV2

“Because, you do everything to the knowledge of everybody, so it’s there. We are actually adhering to transparency, yeah. It’s, it’s, it’s there.

Interviewer: Yeah. And do you think that that transparency also makes sure that there is no more cheating in the system?

Yes. Aha. It’s, it ensures that everybody knows what is going on.” FS4

Transparency brings the risk of being exposed on your illegal activities. Instead of working in the dark and many procedures going unnoticed, there is now the light of transparency on the legal verification process. If one tries to perform illegalities, it is now being done in the eyes of the public. Illegalities and publicity do not go well together, so making the process open to the public makes people behave according to law:

“The moment the light withdraws or dims, then characters are told they can do all kinds of funny things. So, it’s light is continuously required. Many of the people, of course, people who do not behave right, they know they are not behaving right. And anyone who does not behave right, doesn’t like publicity about his, if you like, unrighteousness. So, it is transparency that brings the publicity and the light, and then people... So, we need it, we need it in there.” TV5

So, it is the constant presence of transparency that ensures legality is maintained. A lack of transparency gives people the possibility to behave like they would not do if they would have been put under the light of transparency.

5.5 Key issues

Growing information provision

So far, the VPA does not really provide guiding principles on a transparency policy. There is information on public disclosure of evaluation reports, but a transparency annex is on the way that will provide more clarity on the transparency rules and regulations on the VPA. There is however a transparency of information within the FC established on hierarchical access, so information access based on one’s rank and responsibility within the FC. For non-FC actors, it is possible to gain access to information at request and in the near future there will be a portal designed for NGOs to the WTS for access to certain types of information on the WTS.

Conflicting WTS accessibility

The NGOs have advocated for more access to WTS data, for they want the WTS to be more transparent. Access at this moment is limited and gaining information on a request basis makes getting a clear image on legality difficult. FC staff warns for higher accessibility for non-FC to WTS data. The information on the WTS is not conclusive on illegalities and needs investigative efforts in understanding as to why discrepancies emerged in the system, e.g. genuine input mistakes. With unlimited access to the WTS data, FC fears a danger in misuse and misunderstanding of data. In this case, does more transparency of WTS data lead to better understanding, or is the mediating role of the FC necessary?

Enhanced accountability

Nevertheless, increased transparency of the process of forest management in Ghana is broadly valued. New layers of transparency are introduced with the TVD and the IM verification, and even CSOs participate in

the audit process as well. This increased transparency results in less and less working behind closed door, what used to give the opportunity for actors to perform illegalities. Transparency of the process makes illegalities risky. Through transparency, actors' actions are put in the spotlights, creating accountability claims for these actions. If one can be hold accountable, then one can be accused of illegal activities. This risk of being named and shamed for illegalities makes performing illegal activities unattractive. Essentially, transparency works as a tool for enforcing the legal standard.

Increased credibility

Lastly, CSOs have pushed for inclusion in the TVD audits. As of now, independent observers are present at the TVD audit, who have access to all aspects of the audit. The CSOs pushed for this audit transparency for two reasons. One being the possible non-independence of the IM, since the IM is appointed by the FC, and the other being that the TVD is an FC institution and would audit other FC institutions. Adding the CSOs as independent observers to the TVD audit has increased the credibility of the audit process.

Chapter 6 Conclusion and discussion

6.1 Conclusion

How has the VPA been operationalized into a legal standard and traceability system within the LAS of Ghana?

How has the VPA been operationalized into the legal standard?

The Legality Assurance System (LAS) has a legality standard which has been operationalized into seven legality principles, with 22 criteria to assess compliance to the legality principles. The principles are regarding the granting of logging rights, harvesting requirements, transportation, processing, trade and fiscal obligations. The criteria are mostly about wood flow related issues, i.e. how the logs should move up the timber production chain. However, there are also some criteria regarding environmental standards and labor requirements like health and safety standards.

Compliance to the criteria is assessed by three steps of verification, of which two have been established within the Forest Law Enforcement Governance and Trade (FLEGT) Voluntary Partnership Agreement (VPA). Firstly, quality control of the timber production chain is performed by the Forest Services Division (FSD) and Timber Industry Development Division (TIDD), as it has been done in pre-VPA times. Since the implementation of the VPA, two additional layers of legal verification are carried out: one being the audit performed by the Forestry Commission (FC) through the Timber Validation Department (TVD), and the other being the audit performed by the third-party Independent Monitor (IM).

How has the traceability system been operationalized?

The legal principles have thereafter been partly operationalized into a traceability system, namely the WTS. Some of the legal criteria have been made traceable through the Wood Tracking System (WTS), to electronically monitor the wood flow criteria of the legal compliance of the logs. These criteria are linked to certain Critical Control Points, which are stages in the timber production chain that every log has to pass in order to get a FLEGT license.

The platforms on which the WTS is performed consists of two elements. Firstly, handheld devices that are being used in the field to gather field data and create the forms along the production chain. The second is a Thin Client, a desktop application used for data reconciliation and other forms of data input. The system has been designed and developed by the FC, in a consortium with expertise of software development, forest traceability and forest management. Especially expertise on forest management proved necessary to make the WTS suitable for tracing logs within Ghana's forest management.

How does the Ghana-EU FLEGT VPA implementation work in practice?

What are the effects on forest management?

With the implementation of the VPA, the legality principles and the WTS, several positive effects on forest management have been established. The VPA has provided Ghana with a much-required policy reform, both from the EU perspective and Ghana's FC perspective. Ghana's rules and regulations on forestry were sometimes outdated or conflicting, and the VPA has brought some harmonization in these regulations, e.g. the granting of timber logging rights. The legality standard as established in the VPA is a comprehensive collection of rules and regulations, which has harmonized Ghana's legislation on forestry. The new legal structures of legality verification through the TVD and IM have created accountability among actors in the

timber production chain and have made the system more credible. Increased transparency through for instance the presence of an IM has led to higher legal compliance and less space for illegalities, e.g. corruptive political influences.

The introduction of the WTS has given the FC more visibility into the process of timber production and the data generated in this process. Instead of reconciling all the data by hand and on paper, the WTS now electronically reconciles data on discrepancies and exposes these as red flags in the system. Enforcement by the FC on these data discrepancies has become easier through the visibility created by the WTS. However, accessibility to WTS data by non-FC actors has been an ongoing debate, since CSOs want more openness. FC warns for an open WTS, for the data in the WTS can be ambiguous and inconclusive on illegalities, and therefore is susceptible to misunderstanding or misuse.

What are the implementation challenges?

The implementation of the VPA has met major challenges. For the legality side of implementation, most challenges had to do with a lack of capacity, for example a lack of knowledge to adhere to the legal principles. The introduction of the WTS also revealed capacity problems, since many staff-members of the FC found it difficult to deal with the technology. These capacity issues have led to resistance to the VPA implementation, contributing to the delays in fully rolling out the VPA over the last years. In some places, even violent actions against FC staff and offices occurred by local groups of people who resisted to VPA implementation. Building capacity among all these actors is seen as essential to deal with the resistance issues.

Additionally, a mismatch has been observed in readings of the meaning of illegality versus non-compliance. Firstly, within the VPA there is no conclusive answer on what an illegality is and how that could be different from non-compliance to the legal standard. This mismatch also was present among interviewees. The interviews showed that some actors believe one non-compliance leads to illegality, while others applied more nuance to the difference between non-compliance and illegality. Observed health and safety non-compliance in the field and different readings of interviewees on this non-compliance reflects this mismatch in practice.

Which actors are involved in the implementation?

The capacity issues on complying to the legal standard and using the traceability system have led to resistance to the VPA, for people feared exclusion in the new system. There are fears of not meeting the legality standard, e.g. for small-scale logging operators or local communities, but also fears that the technology will take people out of their jobs. This resistance to the WTS was especially prevalent among older FC staff, who feared that they were not capable of keeping up with the technological innovation. Therefore, building capacity is essential to continue the process of implementation, and include all stakeholders in the process.

Furthermore, over the course of VPA implementation inclusion of stakeholders has grown, both in access to the legal process and to data. Firstly, after strong advocacy, CSOs have become part of the TVD audit as independent observers to the audit. Secondly, there is an increased information accessibility to the WTS data. A portal is under development to provide the public with real-time access to a yet to be determined amount of information.

How do legality, traceability and transparency interact in the VPA implementation?

To find out how these concepts interact within the VPA implementation, the results have been evaluated in a pairwise comparison, which is also visualized in figure 8.1. The concepts are compared on if they reinforce their function, whether they contradict in meaning and where they clash in practice. No contradicting or clashing issues between legality and transparency have been observed in the data.

Legality ← reinforce → Traceability

Traceability through the WTS has improved enforcement of the legality standard. The WTS contributes to legality enforcement by making the process and the data more visible for the FC. Data that does not match with the legal standard, or forms that lack certain requirements are now automatically reconciled and exposed by the WTS and made visible to the FC to act upon. The FC then analyzes why the red flag emerged within the WTS and can act to correct the mistakes.

Traceability and legality are very interlinked in the VPA for Ghana. Certain legal criteria regarding the wood flow through the timber production chain are verified through the WTS, so traceability has become a tool to ensure legality on these aspects of the timber production.

Legality ← contradict → Traceability

It is important to notice, however, that traceability and legality are not the same thing in this VPA for two reasons. Firstly, timber can be entirely traceable, but not legal. For example, all data on a felled tree is made available in the WTS, making it traceable through the entire process chain, but the tree was felled outside the appointed yield. Secondly, although certain aspects of the legal standard are made traceable and verifiable in the WTS, this is not so for the complete legal standard. Not all legal criteria serve as input for the WTS, e.g. environmental standards on logging, and the audit performed by the TVD is necessary to provide the complete picture on legality.

Legality → clash ← Traceability

The extent of traceability for the timber products has changed over the course of implementation, by taking into consideration the balance between the effort of accomplishing full traceability and achieving legality. Based on costs and advantages, it has been determined that the traceability changed, from the moment of processing, from tracing logs to tracing volumes. The costs of establishing traceability per log after processing happened were so high, that it did not weigh up to the scale of legality that was achieved by it. Especially the industry welcomed this change to volume-based traceability, but questions were raised in the interviews on how well legality can be established with this volume-based approach.

Traceability ← reinforce → Transparency

The WTS has made the timber production process and its legality control more transparent for the FC. FC managers have gained insight in the process from behind their computers, because the WTS exposes data discrepancies in the system through the red flags. It has even been made possible that implementation across Ghana can be viewed from the FC headquarters in Accra through the WTS.

In addition, the WTS has been transforming into a transparency platform for non-FC actors. The traceability system actually was not intended for non-FC actors, but requests by the CSOs has made the FC consider giving non-FC people access to some still to be determined parts of the WTS data through a specially designed WTS portal.

Traceability ← *contradict* → *Transparency*

Traceability and transparency have been contradicting concepts over the course of implementation of the WTS. The WTS has been designed as a tool for the FC. The FC is responsible for the data input and for the data reconciliation. This has however been challenged by the CSOs, who push for more transparency in the traceability system. It becomes evident that the views on for whom traceability is performed, i.e. how transparent the traceability should be, are contradictory among actors from the FC and the CS.

Traceability → *clash* ← *Transparency*

The concepts of traceability and transparency clash in accessibility to the WTS data. CSOs have advocated for a more transparent WTS. In their eyes transparency would make the system more credible and provide insight in the process. The FC have made clear that handling the WTS would require knowledge of the data collection and processing, and that other groups might lack this knowledge and will not create the insight through transparency that is desired. The informational ambiguity in the WTS could lead to misunderstanding and misuse if transparency of the data is increased.

Transparency ← *reinforce* → *Legality*

Increased transparency of the legal process has been perceived to have a positive effect on legal compliance. A lack of transparency gives space and opportunity for illegalities. If transparency of the process increases, then illegalities decrease. Accountability of one's actions is created through transparency, and because people can be held accountable, it is more likely that they will comply to the rules and regulations.

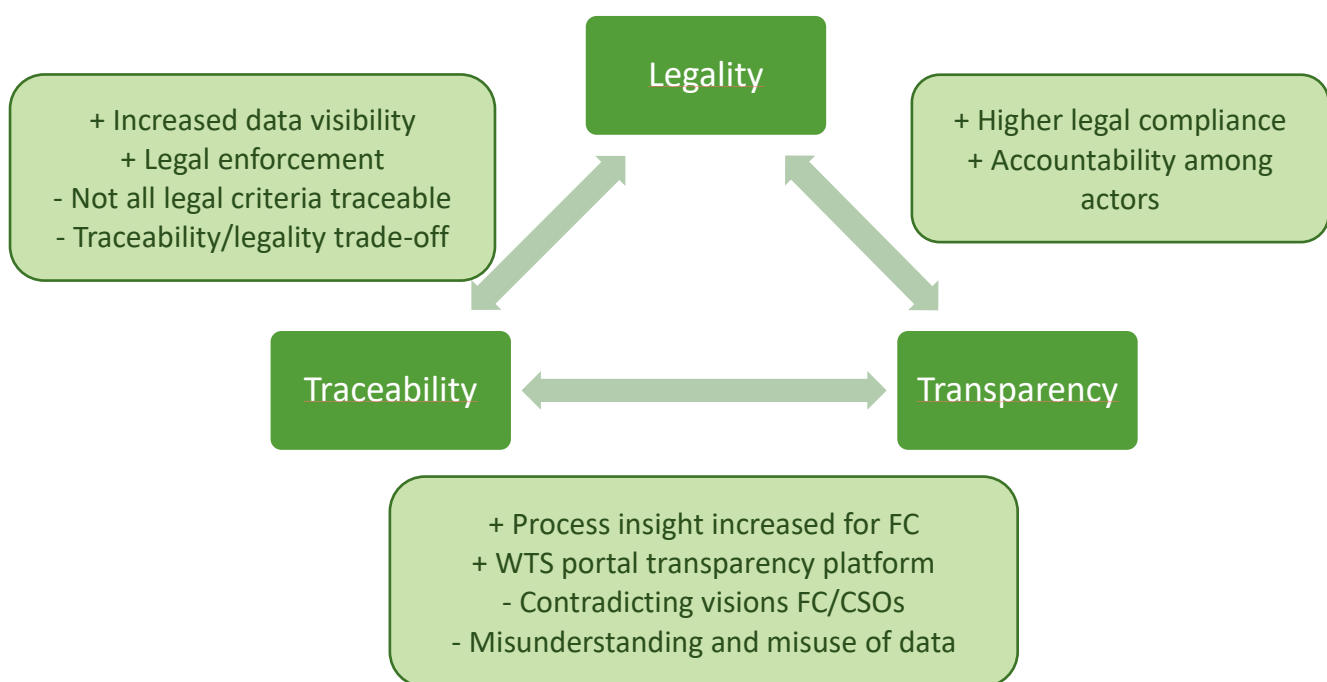


Figure 4 Visualization of the interaction of the concepts legality, traceability and transparency in the VPA implementation. + indicates an enhancing interaction i.e. reinforcing, and – indicates a hindering interaction, i.e. contradicting or clashing.

6.2 Reflection

6.2.1 Empirical reflection

The results from this thesis can be compared to similar studies done on VPA implementation. Some of the results found in this thesis do reflect what others have found as well, even some on VPA implementation in Indonesia. Firstly, Overdevest and Zeitlin (2014) have observed that the VPA has enhanced the capacity of domestic CSOs to participate in governance. This thesis has shown that indeed over the years of VPA implementation in Ghana, CSOs have gained a more important role in legality verification. At this moment, several CSOs, both international and domestic, have gained a position as independent observer at the TVD audit, and received training to fulfill that role in the audit. Additionally, that study found that through the Legality Assurance System and the elements of transparency, traceability and auditing, the CSOs have gained tools to expose and challenge corruption. This is not only true for the CSOs, who indeed have gained more access to the legal process and data, but also for the FC, who have increased visibility in the timber production chain to hold actors accountable for their activities and responsibilities. The interviewees explained that even powerful political actors will be less inclined to practice corruption or illegalities due to the risk of exposure through the increased transparency of the legal process and enhanced visibility in data on the WTS. However, the WTS is not fully rolled-out yet, so it is still not possible to monitor the full timber production chain yet and see all the effects it has on forest management.

Another study on the VPA implementation in Ghana performed by Carlsen (2014), acknowledges that the LAS can deal with corruption of government actors, but questions if implementation will actually happen. This is because there is an underlying assumption that those corrupt actors, who are inherently responsible for the implementation, will voluntarily implement the policy that will tear at that position from which they benefit. It brings up the question why anyone in that kind of power would willingly change the system to take away that power. This also came to light in some of the interviews, that the FC met resistance from people who liked the system the way it was for personal benefits. Increased transparency, and the accountability that transparency induces, has been mentioned to deal with this problem. As mentioned before, the interviews suggest that even powerful actors can be held accountable for their actions now, since there is more transparency within the system.

The research done by Ramcilovic-Suominen & Hansen (2012) has pointed out that in forest law compliance there are instrumental aspects, e.g. enforcement, but also normative aspects, e.g. fairness or norms, influencing why rules are obeyed or violated. The topics that emerged from this thesis on non-compliance to the legal standard were mostly instrumental, for example the level of enforcement and the possibility of sanctions. This study by Ramcilovic-Suominen & Hansen showed also the normative perspectives on why some rules are complied with and others violated. Apart from accountability, there weren't any other normative aspects of non-compliance that emerged from the interviews in this thesis. What might have caused this difference between this thesis and the study done by Ramcilovic-Suominen & Hansen, is the fact that most of the interviewees were FC staff. It makes sense that these actors are more aware of the instrumental perspectives and not so much the normative perspectives on non-compliance. However, it would be very important and interesting to create awareness among FC actors on these normative aspects of non-compliance. This would give them more insight into the reasons why they encounter non-compliances in the field and how to deal with these non-compliances.

Obidzinski et al. (2014) found similar results in Indonesia on capacity issues among small-scale operators. The VPA implementation in Indonesia is dealing with a significant number of illegalities among small-scale loggers and this study found that understanding of the timber legality standard is limited among these

actors. This is a problem that also emerged in this thesis, where the FC staff emphasized the need for education and awareness on legality to facilitate the small-scale loggers to higher compliance.

What did not come up during the interviews of this thesis at all, was the problem of ownership rights that Ghanaians seem to struggle with. This is a phenomenon that many other studies have encountered and addressed so far (Arts & Wiersum, 2010; Hansen, 2011; Hansen & Treue, 2008; Lesniewska & Mcdermott, 2014). This problem regards the law that all naturally growing trees are owned by the state. The government therefore holds the right to give the permission to log these trees. There is a compensation arrangement, but the benefits from these compensations do not necessarily flow to the affected actors, creating friction between communities, industry and government (Lesniewska & Mcdermott, 2014). Surprisingly, this did not emerge as a challenge during the interviews, since the researcher was unaware of this problem during the fieldwork and none of the interviewees mentioned it themselves. Several possibilities can be thought of why this problem did not emerge. Either the interviewees did not want to discuss the issue or were also not aware of the issue. There were few actors among the interviewees who could be directly affected by the ownership rights problem, so that could explain why it was not mentioned as a challenge. It could also be that the upcoming revised version of the Ghana-EU VPA will deal with this issue, and therefore it was not addressed by the interviewees.

Lastly, Lesniewska & Mcdermott (2014) mentioned that although CSOs were participating during the negotiation phase of the VPA, there was a lack of formally established mechanisms to ensure ongoing CSO participation. Nevertheless, CSOs have regained participation in the VPA implementation since the time of that research in 2014, as they are now independent observers on TVD audits. It remains the question however, if this role of independent observer will be formally integrated in a revised version of the Ghana-EU VPA.

6.2.2 Theoretical reflection

Legality: Capacity building to compliance

Capacity building has emerged in this thesis as an essential aspect of the VPA implementation. The stakeholders in the interviews have mentioned capacity building very often as one of the key elements towards a successful implementation. A lack of knowledge and skills have been pointed out to be hampering compliance to the legal standard. By building capacity among non-complying stakeholders, illegalities can be reduced. Capacity building is therefore highly linked to tackling illegal logging. This idea is of course not new or specific to Ghana's situation and is commonly mentioned in research on illegal logging (Akamani, Wilson, & Hall, 2015; Cashore & Stone, 2012; Hansen, 2011; Obidzinski, Dermawan, Andrianto, Komarudin, & Hernawan, 2014; Overdevest & Zeitlin, 2014). However, when reflecting on this scientific literature, one can see that a lack of capacity is only part of the problem of illegal logging for many reasons.

The results of this thesis show that illegal activities for small-scale loggers and local communities have been very often linked to a lack of knowledge or awareness on the VPA or timber legality in general. The idea was widely shared that education and assistance are *the* answer to illegalities among these groups. Although this is indeed an aspect of persisting non-compliance, scientific literature shows that the economic aspects of illegal logging are of equal or even greater importance. For example, it has been determined that timber legality approaches such as the VPA often provide insufficient economic incentives for people to switch from illegal to legal practices (Hansen & Treue, 2008). Research has shown that non-compliances to timber legality standards are often committed due to poverty and the need to support livelihoods (Boakye, 2018; Ramcilovic-Suominen & Hansen, 2012). Given the economic status of many of these people whose capacity should be raised, it's understandable that they resort to illegalities, especially since illegal activities are still

more profitable than operating legally (Hansen, 2011). Therefore, the inequality of wealth among stakeholders needs to be addressed in order to steer people in poverty away from illegal practices.

To increase compliance among the local communities, an approach is needed of capacity building combined with improvement of well-being and livelihoods (Akamani et al., 2015). However, most of Ghana's timber production is for the domestic market, executed by these groups where illegal logging is highly prevalent. To improve the economic status for these groups will be very costly and difficult (Hirons et al., 2018). The VPA has built in some compensation opportunities for local communities through the Social Responsibility Agreement (SRA). Through the SRA, communities receive financial compensation from logging activities near them, and NGOs interviewed for this thesis have acknowledged the benefits that SRAs can bring to these communities. However, especially these rurally located groups were underrepresented at the VPA negotiations, so it is questionable if their needs are adequately addressed in the final product (Lesniewska & Mcdermott, 2014; Overdevest & Zeitlin, 2014).

On top of that, it is debatable whose capacity is being built and whose capacity should be built in the VPA implementation. So far, CSOs have undergone a lot of capacity building in Ghana. This can be seen in the results of this thesis, e.g. the inclusion of CSOs as observers to the TVD, and also in other research (Lesniewska & Mcdermott, 2014; Overdevest & Zeitlin, 2014). It has also been explained in this thesis that capacity among FC staff is being built to help them gain the skills and knowledge to work with the technology of the WTS. However, building capacity of the rural people who perform illegalities can divert attention from another underlying problem that actually drives illegal logging. The illegal timber market is driven by the urban population who have a high interest in buying cheap illegal timber, and who can even stimulate these illegal activities (Hansen & Treue, 2008). Creating more awareness and increase knowledge on timber legality should therefore also very much apply to the people who buy illegal timber on the domestic market and directly or indirectly drive this production of illegal timber.

The focus on capacity building in the VPA implementation is understandable and important, but this would only address part of the problems and drivers of illegal logging. The question remains if the VPA is actually tackling these inherent problems of poverty and wealth inequality that drive illegal logging and deforestation. Building capacity among people in poverty is determined to be insufficient in addressing their direct livelihood needs. The result could be that these people are still non-compliant to the legality standard when the VPA is fully rolled-out in Ghana, while large scale logging operators are expected to be fully compliant by that time. Eventually, VPA implementation could enforce or maybe even increase the existing power imbalances between large-scale industrial actors and the small-scale loggers or livelihood forest users (Lesniewska & Mcdermott, 2014). A reflection on Ghana's VPA is needed to scrutinize for whom this agreement is made, since the people low in power and wealth have been under-represented in its design, and whose direct problems seem to be only partly unaddressed in its implementation, while at the same time this group accounts for most of the illegal logging.

Transparency: Governance by disclosure

The processes of legal verification have become increasingly transparent over the course of implementation of the VPA. Firstly, because new layers of transparency have been established in the VPA for the legal verification process, with the introduction of the TVD and the third-party IM. Secondly, transparency increased due to pressure from CS, who wanted even more openness of the system. There are now representatives from CSOs present at the TVD audit, to increase transparency of that part of legal verification.

From this trend of increased transparency and the views on transparency that have emerged from the interviews, it is evident that the idea of governance by disclosure, i.e. governance through transparency, is

very dominant and widely shared among stakeholders. This can be seen in several examples in which transparency is linked to other concepts of governance, as has been described by Gupta (2010). Firstly, the links that are being made between transparency and accountability in the interviews. Sometimes this link is literally mentioned, but more often in constructions such as: *“Somebody at the back watching, to see what you are doing is right.”*. Transparency creates accountability, which compels people to behave according to the legal standard.

Furthermore, transparency creates empowerment among those in less powerful positions to reach even powerful high political figures. Therefore these less powerful actors can hold powerful actors accountable on their actions. *“If something is being done in the eyes of the public, then it compels even a politician to quickly run away from it. [they will say] we cannot allow you to represent us.”*. To give the public the opportunity to see what is going on in the political spheres, grants them the power to voice their expectations of good forest management by the politicians. Politicians therefore will likely steer clear from illegalities and corruptive actions, in the fear of being publicly exposed for it and the consequences bound to this exposure.

Lastly, transparency as *a right to know* can be seen in the inclusion of CSO representatives in the TVD audit. From the interviews, it became apparent that CSOs were not completely satisfied with the construction of the TVD and the IM performing the legality standard. The IM might have conflicting interests, and the public was then still dependent on reports from either the TVD, a FC institution, or the IM, an institution appointed and paid by the FC. Therefore, more transparency of the legality verification was desired and advocated for by the CSOs, to satisfy the access to information that the CSOs claim to have a right to know and need.

Transparency therefore leads to accountability, empowerment and knowledge, leading to higher legal compliance by tackling issues like corruption and conflicting interests. Eventually, transparency will therefore lead to more effective forest management and law enforcement, having a positive impact on forest governance. Qualitatively speaking, this is in accordance with what is theoretically established in literature so far, but a quantitative analysis is required to measure causality and effects between transparency and forest governance or deforestation through illegal logging.

Traceability: Shifting to a public WTS

The WTS has gone through a typical shift over the course of implementation. The function of the WTS, as written down in the VPA, was a chain of custody of the timber production chain, but also a system for monitoring and reporting of compliance against the legal definition. As explained in the previous chapters, the information for the WTS is gathered by and for the FC, to check for compliance to several legal criteria. However, advocacy from the CSOs has changed for whom the WTS is providing data. At the time of writing, a portal to the WTS is being developed for non-FC actors to have a real-time access to a yet to be determined amount of information on the WTS. The WTS is therefore becoming a traceability system which not only functions as a source of information for legal monitoring for the FC, but also as a transparency platform for the public.

As explained in chapter 1 of this thesis, Mol (2015) makes the distinction between four types of traceability systems, relating to by whom and for whom traceability is performed: Management, Regulating, Consumer and Public. Management traceability is the classical business-type traceability for quality control; Regulating traceability is used by regulating authorities like government and EU; Certification traceability is traceability for certification purposes like eco-labels; and lastly Public traceability gives information access to the public. While the initial WTS, as agreed upon in the VPA, has elements of the Regulating and Certification type of traceability, it is now shifting towards a Public type of traceability. Information access to the WTS was previously only reserved for the FC, but slowly the public is added to the information disclosure. This shift

is certainly not new or unsurprising, as similar shifts in other traceability systems have been described in scientific literature (Bailey et al., 2016; Mol, 2015).

What is also not new or unsurprising are the challenges associated with this shift in transparency of traceability systems. As explained thoroughly in the previous chapters, the WTS is a system which challenges its users at the FC to understand what the ambiguous information on the system means and how to act on this information. Actors from the FC have therefore expressed concerns on opening up the WTS data to the public, for information in the wrong hands can lead to misunderstanding and misuse of data, e.g. people who want to use information to frame illegalities on someone. It can be said that the WTS is a traceability system with the purpose of regulating the timber production chain, and the information in it is meant for regulators to use, not the public. There is a need for technical and professional understanding when dealing with the WTS. The CSOs advocate for an open WTS to provide them more insight in the process of legal verification, but it is questionable if opening the WTS up to the public actually will lead to an increased insight for the public.

The transparency shift within the WTS can lead to laymen being given expert information: A Regulatory or Certification traceability system turning into a Public system, resulting in a shift from an expert audience to a public audience. Although transparency is associated with positive changes in forest governance, it is unclear if a complete transparent WTS will lead to these positive changes and therefore if that transparency is desirable. Openness of the traceability process however, is still highly wanted and understandable. Nevertheless, it makes sense that using an expert-oriented traceability platform for a public audience is undesirable.

The to-be-developed WTS portal for non-FC actors can play an important role in this. If it were to provide a direct and transparent access to WTS data, then misunderstanding and possible misuse of the data is likely to occur. However, the WTS portal could also provide the audience with a selection of processed data, where informational ambiguity has been resolved by FC investigation and enforcement. This would give the public more insight in the traceability process and enforcement on data discrepancies, without exposing them to expertise-required data. However, reconciling and processing data before it reaches the public might not live up to the level of transparency that the CSOs would like to see in the WTS. There needs to be found a balance where information can be shared from the WTS to the public and achieve a high level of transparency without creating misunderstanding of the process and the data among the public.

This balance between the quantity and quality of information of shared information is addressed in the research on transparency by Michener & Bersch (2011). In this study, they argue that transparency is constituted of two elements: visibility and inferability. Visibility of information within transparency is defined as information that should be “reasonably complete and found with relative ease”. Poor visibility means that information is incomplete and unlikely to be found. If the information has a high visibility, it means that it can be acted upon. Inferability says something about the quality of the information, i.e. the extent to which the shared information can be used to draw conclusions. This can be affected by inaccuracy or deliberate obscurity of information, but also the mediation of shared information. Raw data that is used by scientists, policymakers or technicians is usually mediated before it reaches the public, i.e. modified for public use. The problem with mediating information for public use is the pitfall of a selection bias, where the mediator decides which information to share and which not to share. Additionally, mediated information is less suitable for verification, since information is lost after mediation.

Now that the WTS is shifting to a traceability system that will provide information to the public, the visibility and inferability of the public information needs to be considered. Already, CSOs aimed for full visibility and high inferability, asking for an open and real-time access to the WTS. Meddling with the inferability to

mediate the information to the public creates the risk for misrepresentation and manipulation of information (Michener & Bersch, 2011). A high inferability is therefore desired to get credible information, but this thesis showed the difficulty of sharing high quality raw data with the public. Also, high visibility of transparency is desired to get a complete picture of the available information, but research has shown that high quantities of shared information actually can create a smokescreen of information (Mol, 2015). By using the concepts of inferability and visibility, it might be possible to study how quantity and quality affect understanding in the shifting transparency levels within traceability systems. This can eventually provide insights in how to disclose which kind of information in a traceability system with a public audience.

6.3 Research and VPA recommendations

Future research is needed to find out what the level of transparency is that the WTS can and should develop. While the idea of using the WTS portal as a platform for processed data has been suggested in this thesis, it should be researched if this idea is feasible and desirable by all stakeholders. It is essential to find out the information needs and desires of the different stakeholders that have to use the WTS, either in providing information to it or extracting information from it. By bringing together these different stakeholders, one can get answers to questions like: What information do the CSOs want to have access to? And what information do the FC and the industry feel comfortable or uncomfortable with in disclosing to the public? It is important to search for middle grounds in this situation to avoid future failure or misuse of the WTS, since the effects of the WTS on forest management have been very promising so far.

Lastly, this thesis has explained how the VPA has contributed to some very promising positive changes in forest governance in Ghana: The VPA has given Ghana's forest regulations a highly needed policy reform; the WTS has given the FC more visibility in the process and enhanced their enforcement capabilities; and increased transparency has created more accountability and higher legal compliance. However, due to the qualitative nature of this research, a quantitative analysis of the actual effects after full implementation is much-desired. Firstly, there is a need to assess if illegal logging is declining when the LAS is fully operational. For example, interviews have indicated that non-compliance enforcement on illegal logging through fines can sometimes give the impression of encouraging illegal activities. The WTS can play an important role in gathering data for this assessment. Secondly, it would be interesting to assess if after full implementation deforestation rates are decreasing. Do we then have the same deforestation rates as in pre-VPA times, with the difference that it has turned legal? The FLEGT action plan is designed by the EU to tackle illegal logging and improve forest governance in these partner countries, so an analysis on its effectiveness is essential for future development and practice of FLEGT.

For the VPA implementation in Ghana, this thesis proposes some recommendations. Firstly, the results in this thesis showed that views on the interpretations of non-compliances of procedures in timber production were diverse in how they relate to illegalities. The VPA has offered no conclusive definition on illegalities so far. It would be highly recommended to determine what illegal timber constitutes and how to deal with non-compliances to the legal standard. This thesis can indicate that a lack of clarity in the agreement can create multiple readings of illegalities and therefore can lead to confusion in issuing FLEGT certification in the future.

Additionally, in the interviews with the FC staff the researcher noticed an absence of mentioned challenges regarding poverty and normative motivations that can lead to non-compliance. The studies mentioned in this discussion chapter have shown that these aspects play an important role in why people cannot or will not comply with the legal standard. That these aspects were not mentioned in the interviews can indicate a lack of awareness of these problems among the interviewed FC staff. It would be crucial for FC staff to understand the complete picture of the non-compliances they encounter in the field, in order to adequately

assess why non-compliances have occurred at all. Creating awareness of these issues and providing FC staff with this knowledge can enhance the successful implementation of the VPA in Ghana.

6.4 Methodological Reflection

One of the strong aspects about this thesis is the triangulation of methods and data. Text analysis in the VPA, interviews with stakeholders and field observations were combined to get a holistic understanding of the LAS and its implementation. In the case of non-compliance in health and safety regulations, the thesis showed that the VPA contains legally determined labor conditions, which were not complied with in the field. By asking in-depth questions to stakeholders on the effect of non-compliance on timber legality, it became apparent that what is in text and what happens in practice was sometimes incongruent and why.

During fieldwork one also has to deal with the aspect of sheer luck in encountering the right conditions and a fortuitous timing of entering the field. In this case it meant that in week two of the fieldwork in Ghana there was a TVD audit scheduled to a very interesting region with many forest reserve areas. Luckily, the FC had been very open and helpful in assisting the researcher and granted the opportunity to join the TVD audit as independent observer. This made it possible to see the legal verification put to practice, get a feeling of how forest management is executed in Ghana and reach several interesting and important people for interviews.

This thesis aimed for a representative group of stakeholders for the interviews. This has succeeded in the sense that, eventually, interviewees were from industry, civil society organizations and government. Also, because the researcher was able to join the TVD audit as independent observer, it brought the opportunity to reach stakeholders who were otherwise not reached. However, joining the TVD audit also brought a dependency on the audit group to provide the researcher with a time frame for interviews. This often resulted in rescheduled or canceled interview appointments, or interviews that had to be cut short. On top of that, due to linguistic barriers it was not possible to have in-depth interviews with some of the hard to reach stakeholders, e.g. small-scale loggers or local communities. The CSOs have therefore been used as representatives for these groups, for example one local NGO who helps small-scale loggers with legal compliance.

Furthermore, the TVD audit that has been used for acquiring information on the practice in the field, is only representative to a certain extent. The observations were done in one region, within three districts with tens of logging and processing sites. There are limitations to the conclusions that can be drawn from these observations. For example, the region where the observations were performed has tropical conditions, while observations performed in the North of Ghana would have had savannah-like conditions, which would imply very different issues. However, the TVD auditing teams work through protocol, so the observations on this particular audit can be seen as representative for audits performed by another auditing team.

Lastly, after writing the interview transcriptions, it came to the researcher's attention that the questions were most often answered confirmatively. It even occurred that interviewees confirmed the statement in the question, whereupon the interviewee continued the answer explaining something in contradiction with the affirmative answer. Reflecting on this phenomenon, the explanation can be twofold. Firstly, sometimes the questions were somewhat steering to an affirmative answer, like "So do I understand correctly that you...", which makes it easier for interviewees to respond affirmatively. However, after experiencing social interactions in Ghana for two months of doing research, it can be said that Ghanaians are very polite when being asked questions. The experience is that they rather confirm your question to be polite, while actually disagreeing with the statement. These two aspects of doing interviews are seen as lessons learned for doing future research.

Getting these confirmative answers can indicate a bias in the findings of this research. The results and conclusions therefore can be affected by this bias. It was important to reflect on the findings empirically and theoretically to compare the results in this thesis with results in other studies. Discrepancies between what has already been established and what has emerged in this thesis does not necessarily mean that there is a bias, but it is important to reflect on how and why these discrepancies can emerge. This is especially the case with sensitive topics like wealth and power, therefore this thesis provided an extensive piece of discussion on this matter with regards to capacity building and VPA implementation in tackling illegal logging.

Bibliography

- Akamani, K., Wilson, P. I., & Hall, T. E. (2015). Barriers to collaborative forest management and implications for building the resilience of forest-dependent communities in the Ashanti region of Ghana. *Journal of Environmental Management*, 151, 11–21. <https://doi.org/10.1016/j.jenvman.2014.12.006>
- Arts, B., & Wiersum, F. (2010). *Illegal or incompatible? Managing the consequences of timber legality standards on local livelihoods. Timber legality, local livelihoods and social safeguards: implications of FLEGT/VPA in Ghana. Proceedings of an international workshop, Ghana, October 8–9, 2009. Kumasi, Ghana: Tropenbos International Ghana Workshop Proceedings No. 8.*
- Attah, A., Ioras, F., Abrudan, I. V., & Ratnasingam, J. (2009). The Voluntary Partnership Agreement: the Ghanaian and Malaysian experience. *International Forestry Review*, 11(3), 311–318.
- Bailey, M., Bush, S. R., Miller, A., & Kochen, M. (2016). The role of traceability in transforming seafood governance in the global South. *Current Opinion in Environmental Sustainability*, 18, 25–32. <https://doi.org/10.1016/j.cosust.2015.06.004>
- Beeko, C., & Arts, B. (2010). The EU-Ghana VPA: a comprehensive policy analysis of its design. *International Forestry Review*, 12(3), 221–230.
- Blumer, H. (1954). What is wrong with social theory? American sociological review. *American Sociological Society*, 19(1), 3–10.
- Boakye, J. (2018). Understanding motivations for violation of timber harvesting regulation: The case of chainsaw operators in Ghana. *Forest Policy and Economics*, 87, 85–92. <https://doi.org/10.1016/j.forpol.2017.10.020>
- Bowen, G. A. (2006). Grounded theory and sensitizing concepts. *International Journal of Qualitative Methods*, 5(3), 12–23. <https://doi.org/Article>
- Carlsen, K., Hansen, C. P., & Lund, J. F. (2012). Factors affecting certification uptake — Perspectives from the timber industry in Ghana. *Forest Policy and Economics*, 25, 83–92. <https://doi.org/10.1016/j.forpol.2012.08.011>
- Cashore, B., & Stone, M. W. (2012). Can legality verification rescue global forest governance? Analyzing the potential of public and private policy intersection to ameliorate forest challenges in Southeast Asia. *Forest Policy and Economics*, 18, 13–22. <https://doi.org/10.1016/j.forpol.2011.12.005>
- Commission of the European Communities. (2003). *FLEGT proposal of an EU action plan*. Brussels.
- EU FLEGT Facility. (2009). *What Is a Voluntary Partnership Agreement ? EFI Policy Brief 3*. Joensuu. Retrieved from www.efi.int
- European Community. (2010). *Ghana-EU VPA*. Brussels.
- FAO. (2014). *State of the World's Forests*. Rome.
- FAO. (2016). *State of the world's forests*. Rome. <https://doi.org/10.1146/annurev-environ-020411-130608>
- Glaser, B. G. (1978). *Theoretical sensitivity: advances in the methodology of grounded theory*. Sociology Press. Retrieved from <https://books.google.nl/books?id=73-2AAAAIAAJ>
- Glaser, B. G., & Strauss, A. L. (1967). *The Discovery of Grounded Strategies for Qualitative Research. Observations.*
- Gupta, A. (2010). Transparency in Global Environmental Governance: A Coming of Age? *Global Environmental Politics*, 10(3), 1–9.

- Gupta, A., & Mason, M. (2016). Disclosing or obscuring? The politics of transparency in global climate governance. *Current Opinion in Environmental Sustainability*, 18, 82–90.
- Hansen, C. P. (2011). Forest law compliance and enforcement: The case of on-farm timber extraction in Ghana. *Journal of Environmental Management*, 92(3), 575–586. <https://doi.org/10.1016/j.jenvman.2010.09.021>
- Hansen, C. P., & Treue, T. (2008). Assessing illegal logging in Ghana. *International Forestry Review*, 10(4), 573–590.
- Hirons, M., McDermott, C., Asare, R., Morel, A., Robinson, E., Mason, J., ... Norris, K. (2018). Illegality and inequity in Ghana's cocoa-forest landscape: How formalization can undermine farmers control and benefits from trees on their farms. *Land Use Policy*, (December 2017), 0–1. <https://doi.org/10.1016/j.landusepol.2018.02.014>
- Leipold, S., Sotirov, M., Frei, T., & Winkel, G. (2016). Protecting “First world” markets and “Third world” nature: The politics of illegal logging in Australia, the European Union and the United States. *Global Environmental Change*, 39, 294–304. <https://doi.org/10.1016/j.gloenvcha.2016.06.005>
- Lesniewska, F., & McDermott, C. L. (2014). FLEGT VPAs: Laying a pathway to sustainability via legality lessons from Ghana and Indonesia. *Forest Policy and Economics*, 48, 16–23. <https://doi.org/10.1016/j.forpol.2014.01.005>
- Maryudi, A. (2016). Choosing timber legality verification as a policy instrument to combat illegal logging in Indonesia. *Forest Policy and Economics*, 68, 99–104. <https://doi.org/10.1016/j.forpol.2015.10.010>
- Michener, G., & Bersch, K. (2011). Conceptualizing the Quality of Transparency. *1st Global Conference on Transparency*, 28.
- Mol, A. P. J. (2010). The Future of Transparency : Power, Pitfalls and Promises. *Global Environmental Politics*, 10(3), 132–143.
- Mol, A. P. J. (2015). Transparency and value chain sustainability. *Journal of Cleaner Production*, 107, 154–161. <https://doi.org/10.1016/j.jclepro.2013.11.012>
- Nathan, I., Hansen, C. P., & Cashore, B. (2014). Timber legality verification in practice: Prospects for support and institutionalization. *Forest Policy and Economics*, 48, 1–5. <https://doi.org/10.1016/j.forpol.2014.11.001>
- Obidzinski, K., Dermawan, A., Andrianto, A., Komarudin, H., & Hernawan, D. (2014). The timber legality verification system and the voluntary partnership agreement (VPA) in Indonesia: Challenges for the small-scale forestry sector. *Forest Policy and Economics*, 48, 24–32. <https://doi.org/10.1016/j.forpol.2014.06.009>
- Ochieng, R. M., Visseren-hamakers, I. J., & Nketiah, K. S. (2013). Interaction between the FLEGT-VPA and REDD + in Ghana: Recommendations for interaction management. *Forest Policy and Economics*, 32, 32–39. <https://doi.org/10.1016/j.forpol.2012.07.003>
- Oduro, K. A. (2016). General discussion and synthesis. In *Ghana's high forests: Trends, scenarios and pathways for future developments* (pp. 117–137). Wageningen.
- Overdevest, C., & Zeitlin, J. (2014). Constructing a transnational timber legality assurance regime: Architecture, accomplishments, challenges. *Forest Policy and Economics*, 48, 6–15. <https://doi.org/10.1016/j.forpol.2013.10.004>
- Ramcilovic-Suominen, S., & Hansen, C. P. (2012). Why some forest rules are obeyed and others violated by farmers in Ghana: Instrumental and normative perspective of forest law compliance. *Forest Policy and Economics*, 23, 46–54. <https://doi.org/10.1016/j.forpol.2012.07.002>
- Strauss, A., & Corbin, J. M. (1990). *Basics of qualitative research: Grounded theory procedures and*

techniques. Basics of qualitative research: Grounded theory procedures and techniques. Thousand Oaks, CA, US: Sage Publications, Inc.

TIDD. (2016). *Annual report 2016 timber export.*

van Heeswijk, L., & Turnhout, E. (2013). The discursive structure of FLEGT (Forest Law Enforcement, Governance and Trade): The negotiation and interpretation of legality in the EU and Indonesia. *Forest Policy and Economics*, 32, 6–13. <https://doi.org/10.1016/j.forpol.2012.10.009>

Wester, F. (1991). *Strategieën voor kwalitatief onderzoek.* Muiderberg: Coutinho BV.

Wiersum, K. F., & Elands, B. H. M. (2013). Opinions on legality principles considered in the FLEGT/VPA policy in Ghana and Indonesia. *Forest Policy and Economics*, 32, 14–22. <https://doi.org/10.1016/j.forpol.2012.08.004>

World Bank. (2004). *Sustaining Forests: A Development Strategy.* Washington, D.C. [https://doi.org/10.1016/0304-3878\(77\)90033-5](https://doi.org/10.1016/0304-3878(77)90033-5)

Appendices

Appendix A: Interview guide

Introduce myself

- Provide the letter of recommendation by Chris Beeko
- Who am I
- What am I doing here in Ghana: doing research for finishing my masters degree in forest and nature conservation at Wageningen University
- My research is part of a broad research from the Wageningen University, about traceability within timber, palm oil and fish. I focus on the timber here in Ghana. I want to know how the tracking system for timber is developed and implemented here.
- Why are you selected and how?

Introduction interviewee

- Would you be so kind to explain who you are, a bit about your background?
 - o First personally then professionally

WTS development and implementation

For my research I am interested in the development and implementation of the WTS

- Would you please explain how the Wood Tracking System is (being) implemented?
 - o Who were involved in this development?
 - o What systems are being used? Platforms, software etc.
- How would you explain what the current situation is on the implementation of the WTS and field audits?
 - o What are the challenges to overcome?
- How is the implementation of the WTS being received?
 - o By themselves
 - o By their surroundings
- What would you consider to be the strong points of the traceability system? And the weaker points?
- Do you think the WTS works like a legal verification system in practice?

Traceability data

- What kind of data is being produced for the WTS, specifically from your part?
- How is this data processed?
- What data do you think is most important to be collected through the WTS?
- For whom will this data be accessible?
 - o How, where, how long?
- Do you see challenges in the data generation of the WTS?
- Do you experience resistance from actors regarding data collection through the WTS?

LAS

- Would you please tell me what you think about the legal definition in the LAS?
- What would you consider to be the strong points?
- Or the weaker points?
- What does it mean to be legal?
- What does it mean to be illegal?
- When engaging with local communities, what do you discuss with them?
- What about the concern of local communities now being illegal?
- Scientific literature voices concern about small-scale timber loggers to be sidelined with the VPA's focus on legality and the use of the WTS. Do you think this sidelining of small-scale timber loggers can happen because of FLEGT?
- Do you feel that the focus on timber legality will help tackle illegal logging? Why, or why not?

Transparency

- In the VPA the word transparent is being used a lot. Do you think that the transparency is important for the new system to be successful?
- Do you think the transparency created through the traceability system will increase validity and accountability of the production chain? Custodians in the chain, the products itself.

Appendix B: WTS critical control point I descriptive chart Descriptive chart as can be found in appendix 1 of the Ghana-EU FLEGT VPA on page 50.

Appendix 1-10 — WTS Descriptive Charts

Appendix I: Stock Enumeration — On-Reserve

