

# Implementing FLEGT

## Impacts on local people



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Implementing FLEGT: Impacts on local people

## Key messages

- The Forest, Law, Enforcement, Governance and Trade (FLEGT) Action Plan of the EU contributes to good forest governance, but needs to give more attention to the **legal duality** between the formal timber industry and the informal — often illegal — chainsaw milling practices for the domestic market. The EU must address this issue rather than leaving it up to the VPA countries.
- The multi-stakeholder process for the formulation of VPAs has contributed to **democratization** and improved recognition of stakeholders' rights in forest governance. However, the strict enforcement of present laws will have **negative socio-economic impacts** for the people, often marginalized, who are employed by the informal forest sector. This will be particularly problematic if chainsaw milling practices — formally illegal, but de facto tolerated — have to stop.
- **Social safeguards** are key in preventing and managing the negative impacts of timber legality regimes.
- To date, the EU and the VPA processes have **insufficiently addressed social safeguards**. Although the VPAs of Ghana and Republic of Congo mention the concept, no details are elaborated. This contradicts the United Nations Environment Program (UNEP) requirement that social safeguards need attention at the earliest possible planning phase.
- Social safeguards and associated livelihood issues can best be incorporated in the FLEGT process if a law enforcement approach is combined with **rights-based efforts**:
  - the identification and enforcement of communities' **socially just access** to and ownership rights of local forest lands;
  - legally defined and properly implemented **benefit-sharing mechanisms** between logging companies, forest land owners and local communities.
- Implementing social safeguards means further socio-economic and legal change. It should focus on improving several aspects of governance:
  - legal, policy and administrative arrangements for guaranteed and socially-just **access and harvesting rights** to forest resources;
  - fair and equitable timber **benefit-sharing mechanisms** for communities that depend on forests;
  - legal, administrative and policy recognition of **artisanal** forest exploitation and manufacturing practices;
  - development of **alternative livelihoods** and employment in timber exploitation and manufacturing sector;
  - **capacity-building** in communities to deal with the local consequences of the VPA and its social safeguards; and
  - expanding the **forest resource base** for local use and management.
- Social safeguard mechanisms should **avoid one-size-fits-all** approaches. Identification of specific measures should involve all relevant stakeholders.
- If social safeguards are not included or the instruments are of poor quality, the number of **conflicts** related to forests and trees might increase. This will compromise the successful implementation of the FLEGT/VPA and hinder sustainable forest management.



## Introduction

### Who bears the brunt when timber legislation is enforced?

Illegal logging and related trade is a daily practice in many timber-producing countries. A wide variety of actors is involved: from reputable timber companies to timber barons that go for cheap and easy profits to local people providing for their day to day needs. Increased international attention on the negative environmental, social and economic impacts of illegal logging has led to the development of timber legality programs to tackle the global problem of illegal timber trade. This has been widely cheered by industry, governments and NGOs alike. Who could possibly be against legal timber trade? However, there lies a clear ambiguity in the focus on legality and law enforcement. Though well intended to save forest and improve forest governance, timber legality programs might turn out to increase poverty among thousands of people involved in informal and often illegal logging practices for their daily income and survival. Mainly because many forest-related practices are officially illegal, though tolerated. This has so far received little attention in the development of timber legality programs and might undermine their implementation.

The European Commission (EC) launched the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan in 2003 to combat illegal logging and related trade. The cornerstone of FLEGT is the Voluntary Partnership Agreements (VPAs): tailor made agreements between individual timber exporting countries and the EU to ensure trade in verified legal timber products. VPAs aim to stimulate good governance, strengthen land tenure and access rights and increase effective participation of all stakeholders. This should help lead the way to sustainable forest management.

This policy brief outlines the need and possibilities for further developing the FLEGT action plan by explicitly considering livelihood issues and incorporating social safeguards. It is based on work within the “Illegal or Incompatible” research project funded by the Netherlands Directorate-General for International Cooperation. The project assesses the consequences of timber legality programs on local livelihoods. It is a partnership between Wageningen University and Research Centre, Tropenbos International and research organizations in Ghana and Indonesia. This policy brief is mainly based on the project findings in Ghana. This country was the first to ratify a VPA with the EU and hence offers an excellent opportunity to assess how livelihood issues are being dealt with in the FLEGT action plan.

This policy brief consists of three parts:

- Part 1. Legal timber and local livelihoods
- Part 2. Social safeguards: protecting people
- Part 3. Governance regimes for timber legality



## Part 1. Potential impacts of the VPA on local livelihoods in Ghana

### **FLEGT/VPA: dealing with the impacts of timber legality on local livelihoods**

When considering timber legality, much attention focuses on the enforcement of the existing forestry legislation. Such law enforcement does not result automatically in positive impacts on local livelihoods (Kaimowitz 2003).

In many tropical countries, legislation on forestry and timber production focuses only on the formal forest sector, and pays little attention to small-scale forestry activities. These activities, often informal, play a major role in supplying the domestic timber market and involve a large number of local people, whose livelihoods largely depend on forest resources and services.

As a result of their lack of attention to local forestry activities, forestry laws are often anti-poor in nature. Their strict enforcement may have negative impacts on local people, including rural communities living at the forest fringe and unskilled labourers.

### **Timber production in Ghana**

In November 2009 Ghana was the first country to sign a VPA with the European Union (EU) on legal timber trade for both the export and the domestic market (Beeko and Arts 2010). In Ghana, as in most tropical countries, forests are a major part of local livelihoods, providing a variety of timber and non-timber forest products and services for household or commercial use as well as employment. The importance of forests for local livelihoods is reflected in three main characteristics of the Ghanaian forest sector: a dual economic structure, complex legal arrangements on forest, tree and land tenure and competing claims and interests of actors engaged in timber exploitation (Owusu et al. 2010; Marfo 2010).

#### *Dual economic structure*

The Ghanaian forest sector consists of a formal and informal or local timber industry. The formal timber sector is mostly export-oriented while the informal sector provides the bulk for the domestic market. The number of people employed (often part time) in the informal timber sector equals the number employed in the formal forestry industry (Table 1).

Informal timber production is characterized by small-scale chainsaw milling (CSM). Chainsaw milling is the on-site conversion of logs into lumber for commercial purposes using chainsaws. These practices contribute to forest degradation due to uncontrolled logging and inefficient and wasteful methods. CSM was officially banned in 1998; despite its illegality and Forestry Commission efforts to stop it, CSM is a daily occurrence in many places. At the internationally financed timber market in Kumasi, most of the lumber sold is chainsawn.

**Table 1. Dual economic structure of the Ghanaian timber sector**

|   | <b>Formal forestry industry</b>  | <b>Informal local forestry industry</b>                                 |
|---|--|---|
| <b>Economic structure</b>               | officially registered logging firms, industrial sawmills and secondary/tertiary processing mills     | small-scale CSM crews, informal timber trade and small scale processing |
| <b>Supply to domestic timber market</b> | 16%  | 84%   |
| <b>Number of people employed</b>        | estimated employees in production and manufacturing: 103,000   | 97,000 people directly and 200,000 indirectly                           |
| <b>Annual timber harvest</b>            | Annual Allowable Cut: 2 million m <sup>3</sup><br>actual harvest in 2005: 1.6 million m <sup>3</sup> | 2.5 million m <sup>3</sup>  |
| <b>Legal situation</b>                  | controlled by forestry legislation   | de jure banned, but de facto tolerated                                  |

Sources: Hansen and Treue 2008; Mayers et al. 2008; Marfo 2010

### *Complex legal arrangements for forests and land tenure*

Ghana has a complex legal structure in respect to access to and ownership of forest resources. Land tenure differentiates between on-reserve and off-reserve forest lands. Forest lands are owned by local communities and vested in stools (chiefs and families), but all naturally-grown forest trees are under state control and managed by the Forestry Commission. Only companies holding a government-issued Timber Utilization Contract are allowed to cut trees.

The forest policy recognizes the rights of local communities to have access to the forest resources for maintaining a basic standard of living. Communities can obtain harvesting rights (Timber Utilization Permits) for the exploitation of timber for non-commercial and development purposes. Concomitantly, they are responsible for the sustainable use of such resources. Land-owners must give permission to commercial timber exploitation firms to cut forest trees growing on their land.

Local communities are entitled to 5% of the timber revenues, either in cash or in kind. Although these principles have been elaborated in various benefit-sharing arrangements, the implementation of these legal arrangements is often constrained (Table 2).

### *Competing claims*

Forest and tree related conflicts exist in both on- and off-reserve areas. Some competing claims and interests are between actors engaged in timber exploitation and evolve around illegal logging and Social Responsibility Agreement negotiations in on-reserve and off-reserve areas. Examples are conflicts among chainsaw operators and communities versus timber operators. Off-reserve conflicts evolve around competing land uses, e.g., pastoralists versus farmers and farmers versus timber operators. Also conflicts between users of off-reserve forest land and resources (farmers, timber operators, tree planters) and the Forest Services Division occur (Owusu et al. 2010). These conflicts can be exacerbated by VPA implementation.




**Table 2. Legal arrangements in Ghana for distribution of forest benefits to communities**

| Type of forest benefit   | Benefit sharing arrangement for local stakeholders   | Constraints to equitable distribution within forest-fringe communities   |
|--|--|--|
| Share of formal timber royalties in form of stumpage fees, land rents, etc.                        | 10% for Office for Administration of Stool Lands<br><br>of the remaining 90%:<br>25% to the traditional tribal stool; 20% to the Traditional Authority; 55% to the District Assembly | - the Forestry Commission takes 50% to cover management costs<br>- no sharing with farmers or other social groups<br>- no statutory requirement for accountability to local people   |
| Social Responsibility Agreement (SRA) on funding of community development activities               | not less than 5% of stumpage value to community development  | - elite capture; de facto extension of timber royalty<br>- conflicts about involving native people and migrants<br>- involvement of community stakeholders in contract negotiation is uncertain<br>- communities' negotiation position weak: no access to information on real stumpage value |
| Timber Utilization Permit (TUP) exploitation of timber for non-commercial and development purposes | timber for community development   | - focus on community rights to use timber for collective purposes, but not on rights of individual households to use timber for domestic purposes<br>- logging companies use TUPs for production, depriving communities of this opportunity  |

Source: Owusu et al. (2010); Marfo (2010)

## Potential impacts of the VPA on local livelihoods in Ghana

The enforcement of timber legality regimes can have positive and negative effects on local livelihoods (Table 3). Legality standards and related policies should therefore have a two-edged focus, i.e., positive effects should be fostered, while negative impacts need to be minimized or avoided.

Legality requirements could affect different user groups in different ways (Owusu et al. 2010):

- **Forest fringe communities** may find their customary practices of collecting forest products for commercial purposes prohibited by legality programs. The emphasis on law enforcement leaves little room for a rights-based approach that enforces local rights over forest access and benefit-sharing. This will reduce forests' contribution to local livelihoods. Moreover, the emphasis on law enforcement and control by the state may limit the rights of local people in forest conflicts. Communities are not homogeneous, however. Forestry related rights may be different for original settlers and recent immigrants, or for traditional chiefs and other community members.
- **Chainsaw operators** still provide 84% of the domestic supply, even though chainsawn lumber production has been banned. If the CSM ban is strictly enforced, chainsaw operators will lose their means of livelihood. If they continue to operate in spite of the enforcement, they will face a higher risk of conviction. Conflicts are expected to increase in either case.
- **Micro and small timber manufacturers** rely mostly on locally produced and chainsawn timber, as legal sawmilled timber is too expensive or unavailable; approximately 40,000 carpenters in Ghana depend on illegal timber. A timber shortage is foreseen if the CSM ban is enforced.





In order to prevent or mitigate such negative livelihood impacts, it will be necessary that timber legality programs are not only focused on a law enforcement approach, but also on a rights-based approach. This requires the explicit incorporation of social safeguards in timber legality schemes.

**Table 3. Potential impacts of the VPA on local livelihoods**

| Potential negative effects  | Potential positive effects   |
|---|--|
| Less employment in (and income from) illegal logging  | Improvement in forest conditions increasing natural livelihood assets                                  |
| Enforcement of “anti-poor” aspects of forest laws:  | Legalization of small-scale forest activities provides opportunities for secured livelihood activities |
| - Legal denial of customary forest use rights   |  |
| - Enforced ban on small-scale practices such as CSM   | Increased attention for forest-related rights of local people and better enforcement of these rights   |
| - Focus on technical issues of legal timber production and tracking systems without consideration of benefit sharing mechanisms   | Better control over equitable distribution of timber benefits among different local stakeholders       |
| Empowerment of a government bureaucracy that condoned illegal forest activities over the past decades might result in a lack of administrative transparency and justice | Increased attention for informal and formal means to solve local forest conflicts                      |
|   | Improved multi-stakeholder dialogue for good governance  |

Source: Owusu et al. (2010)

The FLEGT/VPA process has both positive and negative impacts. Companies will gain market leverage for trading in verified legal timber to the demanding European and U.S. markets. The process may improve livelihood assets, but forest fringe communities, chainsaw operators and micro/small forest enterprises could lose important current and future livelihood opportunities if rights-based efforts are neglected. Negative social effects are likely to worsen conflicts related to forests and trees instead of improving them; this could compromise the implementation and aim of the VPAs regarding poverty alleviation, livelihoods and sustainable forest management. These negative social impacts are not offset by the positive impacts on the formal timber industry. The consequences of timber legality programs on local livelihoods depend partly on how these initiatives are implemented:

- A technical law enforcement approach focuses on identifying and enforcing a timber licensing scheme to control the origin of timber and timber exploitation by legally recognized organizations, with prescribed operational procedures and timber tracking.
- A rights-based approach identifies and enforces the socially just access and ownership rights of local communities to forest lands; legally defined mechanisms for equitable sharing of benefits between logging companies, forest land owners and local communities; and appropriate payment of timber permit rights and export fees to the government.

Livelihood issues can receive focused attention only if law enforcement is combined with rights-based efforts. This requires the explicit incorporation of social safeguards in timber legality schemes.



## Part 2. Social safeguards: protecting people

### FLEGT and social safeguards

The EC communication on the FLEGT action plan states: “the challenge is to ensure that actions to address illegal logging, particularly enhanced law enforcement, do not target weak groups, such as the rural poor” and “Efforts will be focused on promoting equitable and just solutions to the illegal logging problem which do not have an adverse impact on poor people.” The European Commission (2007) identifies the need to consider social safeguards in order to minimize adverse impacts on local communities in the design and implementation of VPAs.

This is reflected in the first officially approved VPA between Ghana and the EU. Article 17 of this agreement explicitly refers to social safeguards and states that “In order to minimize possible adverse impacts, the Parties agree to develop a better understanding of the livelihoods of potentially affected indigenous and local communities as well as timber industry, including those engaged in illegal logging.” Article 17 of the Republic of Congo VPA also refers to social protection and mitigating negative effects of the VPA on communities (Kiyindou and Leal Riesco 2010). These statements illustrate that it is generally accepted that in formulating VPAs not only the principles of legality should be considered but also precautionary principles with respect to undesirable social effects (Box 1). However, in the current legal texts no further details can be found.

### Norms on forest exploitation and law enforcement

When considering the relevance of social safeguards in timber legality regimes, two issues require attention: the types of legal norms for timber exploitation and the type of law enforcement. In respect to legal norms for forest exploitation the legal norms can concern technical and administrative issues, financial issues and social issues (Table 4). In timber legality schemes usually detailed attention is given to the first two categories. These norms are well-established in the professional forestry sector.

#### Box 1. Social safeguards: some basic principles

Several international organizations, such as the World Bank and UNEP, have formulated the concept of social safeguards in international policy regimes. According to UNEP, “*Social safeguards concern the adaptation and integration of precautionary social principles and considerations into projects and programs. The objective of such safeguards is to prevent and mitigate undue harm to people at the earliest possible planning stage. Safeguards can appear as a combination of minimum standards and best practice guidelines.*” Three issues need attention in formulating social safeguards:

- norms on social obligations in relation to policy;
- principles and norms for controlling compliance with these norms in a socially-inclusive manner; and
- mitigation measures to minimize the undesirable social impacts of policies.



Norms with respect to social issues are often less explicit. Most of them were only recently recognized as a result of the introduction of new policies to make forestry more socially responsible by assuring equitable access to forest resources and schemes for forest benefit sharing. These new policies not only aim at stimulating better forest management, but also at a more equitable use of forests and livelihood improvement of forest-dependent people.

**Table 4. Legal norms for forest exploitation**

| <b>Types of legal norms for forest exploitation</b> |   |
|---|---|
| Technical and administrative issues                 | - timber exploitation as an ecologically sustainable practice. Important issues concern the cutting of officially assigned timber species and quota in assigned exploitation blocks, fulfilment of requirements for damage-controlled logging, etc. Requirements regarding timber tracking throughout the marketing chain are also important in order to attest that the marketed timber has been legally exploited.  |
| Financial issues                                    | - payments of different types of timber duties. Examples are fees for exploitation rights, stumpage fees, transport fees or export fees.  |
| Social issues                                       | - fulfilment of social obligations by timber exploitation companies. These legal requirements are traditionally mainly focused on safe and socially responsible labour conditions. Increasingly, they also concern social responsibilities of timber exploitation groups with respect to local communities. Examples are benefit-sharing schemes or reimbursement of damages to community forest resources.<br>- forest access rights and benefit sharing by local communities. |

There are two approaches to law enforcement (Colchester et al. 2006):

- hard enforcement of existing forestry laws, including criminalization of violators through arrests, filing of charges, court judgments and imposition of punishments; and
- soft enforcement, in the form of providing incentives for adherence with the law, or symbolic penalties.

The first approach is based on strict legal considerations; the second is based on social considerations. For instance, the second approach addresses the need to develop appropriate and accountable systems in respect to juridical services for dealing with legal infringements. Such systems concern proper arrangements for access to legal courts and arbitration services, and attention to social safeguards that prevent legal requirements having undesired social effects. Attention is also given to proper governance arrangements enabling improvements of inadequate legal regulations.



## Principles and criteria for timber legality in the Ghana VPA

### *Legality standard*

The Ghana VPA text includes a detailed list of legal definitions for issuance of FLEGT timber export licences, based on national legislation and legal reform processes (Table 5). The principles in the Ghana VPA clearly show that the agreement mostly considers the legal practices of the timber industry. Although it explicitly states that a scheme will be developed to include the domestic timber market, it makes no reference to the fact that the CSM industry, which provides 84% of the domestic timber market, is de jure illegal. The VPA text also indicates that further legal reform is needed to assure effective timber legality, but again makes no reference to the CSM industry.

**Table 5. Principles identified in the Ghana VPA text**

| Main categories                        | Legal compliance identified in the Ghana VPA   |
|--|--|
| Technical and administrative practices | <ul style="list-style-type: none"> <li>- Forest management plan with delineated timber exploitation areas</li> <li>- Timber Utilization Contract for specified categories of timber</li> <li>- Timber inventory and harvesting plan</li> <li>- Harvesting permits in respect to species, volumes and timber measuring and marking</li> <li>- Formally documented timber transport</li> <li>- Licensing and registration of industrial processing units</li> <li>- Timber trade regulations in respect of permits for export or domestic markets</li> </ul> |
| Financial issues                       | <ul style="list-style-type: none"> <li>- Fiscal obligations such as payment of stumpage and related timber fees, export fees and corporate income tax</li> </ul>   |
| Social issues                          | <ul style="list-style-type: none"> <li>- Consent on timber exploitation by individual or group land owners</li> <li>- Preparation of and compliance with Social Responsibility Agreement with local communities</li> <li>- Compensation of crop damage to farmers</li> <li>- Health and safety for labourers</li> </ul>  |

### *Social safeguards*

Although social issues have been identified in the Ghana VPA, their principles and criteria are not defined in as much detail as that provided for timber legality. The legality definition is based on existing legislation in respect to specific social issues. The agreement introduces the principle of social safeguards, but does not further elaborate them. Rather, the Ghana VPA states that social safeguards will be further detailed during the implementation phase. The law reform process might also cover aspects of social safeguards. This belated attention to the details of social safeguards contradicts the UNEP requirement (Box 1) that social safeguards need attention “at the earliest possible planning phase.”





## Main types of social safeguards

When considering relevant principles and criteria for social safeguards, two categories of community rights should be the main focus: access and benefit rights for local and poor people; and the legal means to secure these rights and benefits.

### *Access and benefit rights for local and poor people*

Social safeguards should enable continued access to and benefit sharing for timber resources by the people who directly depend on these resources for their daily livelihoods. Three main categories of people depend on these resources: forest fringe communities, chainsaw operators and micro/small timber manufacturers. Forest fringe communities are mainly affected by the legislation on forest access and benefit-sharing. People engaged in the artisanal timber trade and manufacturing primarily depend on the legislation regarding timber trade and manufacturing.

### *Legal means to secure these rights and benefits*

Many tropical countries have a long history of local forest-related rights not being respected by the economically more powerful actors in society and of local people not having access to the legal means to resolve such conflicts. Both national and international forest policies increasingly emphasize the need for legal arrangements that recognize the rights of forest-dependent communities and enable them to have access to administrative and juridical means (e.g., courts and arbitration services) to resolve forest conflicts.

Furthermore, social safeguards should be related to the system of law enforcement. Soft approaches towards law enforcement are especially relevant in ensuring that the norms on socially responsible timber exploitation and trade are fulfilled. Law enforcement should do more than pay attention to adherence to official regulations on benefit-sharing. It must also provide social safeguards in the form of measures to minimize possible adverse impacts on forest fringe communities and labourers in the timber industry.



Implementing FLEG: Impacts on local people

The EU has indicated that VPAs should have no undesirable negative impacts on indigenous people, forest-dependent communities or poor people. Achieving this requires the integration of precautionary social principles in the program. Several international organizations have identified the need to incorporate social safeguards at the earliest possible planning phase of a policy. This has not been the case in the FLEG process.

It has been proposed that this principle be further elaborated in the initial implementation phase. There is an urgent need to introduce social safeguards in the program and to monitor their progress in the agreement's development and application. If this is neglected or the mechanisms are poorly designed, there will likely be adverse effects on various social groups that will undermine the effectiveness of the VPA.

In developing social safeguards the following aspects warrant specific attention:

- Avoid one-size-fits-all approaches to all social groups:
  - Stakeholders have different needs and aspirations. Different social safeguards are therefore needed for different actors, such as forest fringe communities, chainsaw operators, and micro- and small forestry enterprises.
- Take the following into account when developing social safeguards:
  - Legal, administrative and policy arrangements should be formulated that guarantee socially just access to forest resources, harvesting rights and timber benefit-sharing mechanisms for forest adjacent communities.
  - Legal, administrative and policy recognition is required for artisanal forest exploitation and manufacturing practices and programs for their further development need to be developed based on sustainable forest use and management.
  - Alternative livelihoods for groups of poor people who are negatively affected by the VPA scheme, e.g., as a result of losing jobs in outlawed timber enterprises, need to be developed. These livelihood activities should be carefully planned in relation to existing and acceptable economic opportunities. Increasing the profitability of existing artisanal activities is preferable to creating new livelihood activities.
  - Sustainable employment in the timber exploitation and manufacturing sector needs to be further developed.
  - The forest resource base needs to be expanded for local use and management.
- Involving representative stakeholders is key to the successful incorporation of social safeguards in the VPA process:
  - Specific stakeholder platforms/committees to elaborate the social safeguards in the VPA need to be established in the earliest possible phase of the process.
  - Capacity building in local communities is required to deal with the social consequences of the VPA and to monitor and evaluate the process and impact of VPA implementation.
  - People who are negatively affected by the implementation of timber legality standards need to be included in the planning and monitoring of the mitigation program.
- Identification of and communication about administrative and juridical means to resolve forest conflicts needs to be provided.



## Part 3. Governance regimes for timber legality

### Relevance of Ghana's experiences to the overall FLEGT process

VPA implementation has the potential to cause adverse effects. As demonstrated by the Ghana VPA, managing these adverse effects is a challenge. This is relevant for other VPA countries as well. During the stakeholder negotiation processes in countries such as Cameroon, Liberia and the Democratic Republic of the Congo, it has been a major challenge to combine a legality-based approach with rights-based initiatives. VPA documents in Ghana, Cameroon and Republic of Congo indicate the need to further develop principles and criteria in respect to social issues. If these issues are not addressed, illegal timber cutting — especially for local needs — and related forest conflicts are likely to continue. This will undermine the implementation of the VPA.

The experiences from several African countries illustrate that the VPA process has created high expectations among local stakeholders. They are particularly interested in the possibility of combining the development of verified legal timber for export with the improvement of the livelihoods of tens of thousands of people who depend on forests. The momentum created by the VPA process should be maintained. It requires explicit attention to the further identification and implementation of social safeguards in emerging VPAs.

### Two approaches to timber legality and governance schemes

The EU FLEGT action programme stimulates good forest governance as well as timber legality (van Bodegom et al. 2008). Originally, the EU targeted export timber for the European market. In many countries that are formulating a VPA, however, it has been recognized that legality schemes could be extended to include domestic timber. As in Ghana, they have also identified the need to include further social safeguards, even though they have not yet been systematically elaborated. During the process of VPA negotiations two contrasting approaches to linking timber legality and governance were apparent (Table 6).

**Table 6. Contrasting approaches towards linking timber legality and governance**

| Governance of the traditional export timber sector  | Governance of forests and livelihoods  |
|---|--|
| Legal issues mainly concern the adherence to technical norms on commercial timber production and payments of timber exploitation and trade related duties.                | Legal issues concern a range of public and private interactions in the allocation, use and trade of forest resources and related benefit-sharing mechanisms.   |
| It is expected that involving more stakeholders in the formulation and control of these legal issues will improve transparency and accountability regarding these issues. | In this approach, attention is focused not only on the principles, norms and procedures related to enforcement of laws and regulations on legality of commercial timber, but on those related to socially-equitable use of forest resources and on social safeguards for possible negative repercussions on livelihoods. |



As a result of the EU requirements, much attention was paid to the traditional timber sector approach during the formulation phase of VPAs. The need to further adjust legality principles in respect to regulating forest livelihood relations was also identified, although in general this notion was not further elaborated. Rather, it was identified as needing further attention during the implementation phase of the VPA program. Hence, there is a need to consider how the FLEGT regime can be strategically adjusted to incorporate livelihood issues and social safeguards. A major question is how the program should deal with the present legal duality of the formal timber industry and artisanal CSM timber sector. In order to plan further adjustments, it is useful to distinguish different policy scenarios.

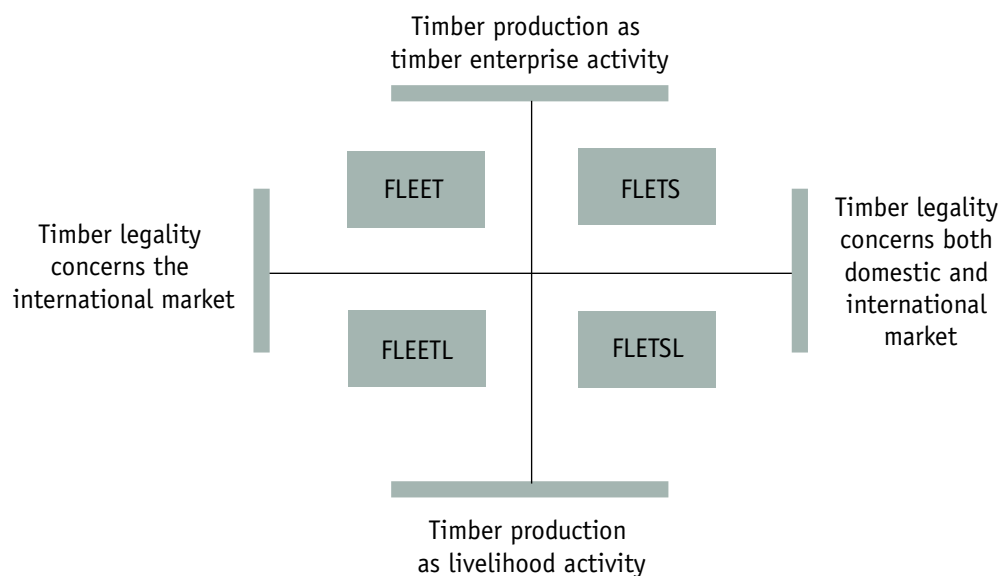
### Policy scenarios for linking timber legality and governance

As demonstrated by the Ghana experience, two competing principles underlie the basic approach of timber legality initiatives:

- should the program focus on legality or improving livelihoods?
- should the program focus on industrial timber production for the export market or should it also include artisanal timber for the domestic market?

Four policy scenarios on how to link timber legality and governance can be distinguished (Figure 1 and Table 7).

**Figure 1. Policy scenarios for linking timber legality and forest governance**



Source: Wiersum 2010



**Table 7. Policy scenarios and principles of timber legality and forest governance**

| Scenario |   | Characteristics  |
|----------|---|--|
| FLEET    | Forest Law Enforcement for Export Timber  | <ul style="list-style-type: none"> <li>- mainly international trade agreement with focus on improved governance and control on timber production laws and regulations for the formal forest sector</li> <li>- policy implementation mostly based on hard law enforcement in respect to fulfilling criteria for sustained yield and other contractual agreements for timber harvesting, timber tracking and payments of export duties</li> </ul>  |
| FLETS    | Forest Law Enforcement in integrated Timber Sector                                    | <ul style="list-style-type: none"> <li>- mainly sustainable timber production agreement with a focus on the need to adjust timber legality regulations with legal recognition of diversity in small, medium and large forest enterprises</li> <li>- policy implementation mostly based on hard law enforcement in respect to legal criteria for sustained yield, payment of duties and organization of business enterprises</li> <li>- attention to development of artisanal forest enterprises</li> </ul>   |
| FLEETL   | Forest Law Enforcement for Export Timber and forest-related Livelihoods               | <ul style="list-style-type: none"> <li>- combined international trade and forest governance agreement with a focus on improved control of regulations on timber production and trade and on benefit sharing by local communities</li> <li>- policy implementation mainly focused on hard law enforcement in respect to fulfilling criteria on sustainable export timber production and commercial timber tracking, and on contractual agreements for benefit sharing at the local and national level</li> <li>- attention to social safeguards for forest fringe communities</li> </ul>  |
| FLETSL   | Forest Law Enforcement in integrated Timber Sector and for forest-related Livelihoods | <ul style="list-style-type: none"> <li>- combined timber sector development and forest governance agreement with livelihood considerations integrated in timber legality norms</li> <li>- focus on improved control over existing timber production regulations, and on further adaptation of forest laws, paying explicit attention to artisanal timber enterprises and benefit sharing by local communities</li> <li>- policy implementation based on combination of hard and soft law enforcement, with attention to criteria for sustainable timber production and timber tracking, and for benefit sharing at the local and national level</li> <li>- attention to social safeguards for groups who are unduly disadvantaged by legality norms</li> </ul> |

Source: Wiersum 2010

The EU FLEGT action plan was originally based on the FLEET scenario, but the VPA experience in several tropical timber-producing countries suggested the need to extend the approach and gradually move to an FLETSL scenario. An important question is how the EU can facilitate such a change in scenario, and which actions it can take to prevent the need to implement the technical and administrative requirements of the FLEET approach from resulting in a lack of attention to further policy adjustment.



Implementing FLEGT: Impacts on local people

During the past decades much attention has been given to stimulate decentralization in the governance of forest resources. The principle of recognizing and stimulating a variety of forest management regimes has not yet been incorporated in the governance of timber trade. There exists a legal duality between the formally recognized timber sector and the informally tolerated artisanal timber sector.

This duality has been recognized in programs on timber legality, but no concrete suggestions have been identified yet how to deal with this duality. Rather, discussions on this issue have been postponed to the FLEGT/VPA implementation phase. This brings about the hazard that the technical-administrative requirements of implementing the presently identified legality standards, will take attention away from the need for further policy development and law reform.

The further adjustment of timber legality regimes requires the recognition of a wider range of principles and norms for timber legality than is presently the case. The following principles need further attention:

- A change in focus on legality as involving technical and economic issues to a focus on legality also involving social issues. Notably social norms in respect to benefit-sharing and social safeguards need further attention. This requires the stimulation of structural innovations in the forest sector with specific attention to equitable rights on timber resources and legalization of artisanal timber production.
- The presently dominant approach of hard law enforcement should be complemented by a soft law enforcement approach aimed at providing incentives for developing alternative labour and income earning opportunities for local people involved in illegal harvesting and manufacturing, and for rural communities that are at present involved in illegal timber cutting.

When incorporating these principles in timber legality programs, two main questions should be considered:

- Should the program have only a legality focus or should it also include an explicitly formulated livelihood improvement focus?
- Should the programme focus on legal timber production for the export market or on legal timber for both the international and domestic market?

On the basis of the answers on these questions four policy scenarios have been developed to address these issues: FLEET, FLETS, FLEETL and FLETSL.

The EU FLEGT action program was originally based on the FLEET scenario, but the VPA experience in several tropical timber-producing countries suggested the need to extend the approach and gradually move to an FLETSL scenario. Important questions are how the EU can facilitate such a change in scenario, and how to ensure that the need to implement all technical and administrative requirements of the FLEET approach does not result in a lack of attention to further policy adjustment.

## References

- Beeko, B. and B. Arts. 2010. "The EU-Ghana VPA: a comprehensive policy analysis." *Commonwealth Forestry Review* 12(3): 221–230.
- Colchester, M. et al. 2006. *Justice in the forests. Rural livelihoods and forest law enforcement*. CIFOR, Indonesia.
- European Commission. 2007. *Forest law enforcement, governance and trade*. FLEGT Briefing notes 1–7. Brussels: European Commission.
- Hansen, C.P. and T. Treue. 2008. "Assessing illegal logging in Ghana." *International Forestry Review* 19(4): 573–590.
- Kaimowitz, D. 2003. "Forest law enforcement and rural livelihoods" *International Forestry Review* 5: 199–210.
- Kiyindou, N.C. and I. Leal Riesco. 2010. Counter Brief Logging Off. A civil society counter-brief on the Republic of Congo – EU VPA.
- Marfo, E. 2010. *Chainsaw milling in Ghana: context, drivers and impacts*. Wageningen: Tropenbos International.
- Mayers, J., G. Birikorang, E.Y. Danso, K.S. Nketiah and M. Richards. 2008. *Assessment of potential impacts in Ghana of a Voluntary Partnership Agreement with the EC on forest governance*. London: International Institute for Environment and Development.
- Owusu, B., K.S. Nketiah, J. Aggrey and F. Wiersum. 2010. Timber legality, local livelihoods and social safeguards: Implications of FLEGT/VPA in Ghana. Proceedings of a workshop in Kumasi, Ghana. Tropenbos International Ghana, 118 pp. and appendices.
- van Bodegom, A.J., D. Klaver, F. van Schoubroeck and O. van der Valk. 2008. *FLEGT beyond T: exploring the meaning of "governance" concepts for the FLEGT process*. Wageningen University and Research Centre, 56 pp. and appendices.
- Wiersum, K.F. 2010. "Scenarios for developing timber legality regimes." *ETFRN News* 52.



The European Commission launched the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan in 2003 to combat illegal logging and related trade. The research project, “Illegal or Incompatible? Managing the consequences of timber legality standards on local livelihoods” assesses the consequences of FLEGT timber legality standards on local livelihoods. The project is funded by the Dutch Ministry of Foreign Affairs, Directorate-General for International Cooperation and is a partnership between Wageningen University and Research Centre, Tropenbos International and research institutions from Ghana and Indonesia.



This policy brief outlines the need and the possibilities for further developing the FLEGT action plan by explicitly considering livelihood issues and incorporating social safeguards. It is based mainly on project findings in Ghana. This country, the first to ratify a Voluntary Partnership Agreement (VPA) with the EU, offers an excellent opportunity to assess how livelihood issues are being dealt with in the FLEGT Action Plan. The policy brief consists of three parts:

- Part 1. Legal timber and local livelihoods
- Part 2. Social safeguards: protecting people
- Part 3. Governance regimes for timber legality

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