

LOGGINGOFF

VPA Update: A year on from FLEGT licensing

A year after the [first FLEGT licences from Indonesia entered](#) the EU market (15 November 2016), it is expected that Ghana will soon become the second country to export FLEGT-licensed timber to the EU (see the Ghana update below), and the first in Africa. While this represents significant and highly symbolic progress, the greatest advance in the last six months has, however, been with the second plank of the FLEGT Action Plan: the EU Timber Regulation (EUTR), which makes it a criminal offence to put illegally sourced timber on the EU market.

In October 2017, the Dutch firm Boogaerdt Hout was found in breach of the EUTR for placing illegally sourced Burmese teak on the EU market. [Environmental Investigation Agency \(EIA\)](#), a UK NGO, [submitted this case to Dutch authorities in October 2016](#). A further two cases submitted by EIA – concerning World Wood and Gold Teak Holdings – are still being investigated by Dutch authorities. Boogaerdt Hout now has a two-month grace period to put its house in order, after which it will be fined €20,000 per cubic metre for any further non-compliant Burmese teak it places on EU markets.

With this decision, The Netherlands joins Denmark, Sweden, Belgium, Germany and the UK in ruling that teak imports from Myanmar do not comply with the EUTR. Cases submitted by EIA are still pending in both Italy and Spain. These actions are pushing the Burmese forestry sector to reform. As EIA's Faith Doherty states, "To support those who champion reform within the forestry sector in Myanmar, EIA is focused on EU-based operators who are aware of legal compliance within Europe, but clearly think themselves above the law. They should know better."

The Myanmar example illustrates that the EUTR can work effectively: the Myanmar Forest Department has already announced its intention to reform, including the adoption of new laws, in an effort to curb forest crime in the timber sector. The Myanmar Timber Enterprise (MTE) has also announced changes to its current system. Importantly, Myanmar is in negotiation with the EU to adopt a VPA.

Another positive development is the pro-active attitude of the European Commission to spur reluctant Member States into action. Following complaints from [ClientEarth in March 2017 regarding the number of checks](#), and from [Greenpeace in May concerning qualitative issues](#), in October the European Commission launched its first infringement proceedings against an EU Member State for failing to sufficiently enforce the EU Timber Regulation (EUTR). The Commission [sent a letter of formal notice](#) to Belgium for not adequately verifying wood placed on the Belgian market, in violation of the EUTR, which requires those placing timber on the EU market to identify risks of illegal harvesting and take measures to mitigate those risks. Indeed, between the EUTR's entry into force in 2013 and March 2017, Belgium carried out only 26 timber regulation checks.

Belgium now has two months in which to respond. If the Commission deems their response inadequate, it may refer the case to the European Court of Justice where financial penalties could be imposed. ClientEarth lawyer Diane de Rouvre said, "The Commission is sending a strong signal to all Member States that it is not enough to just have the EUTR on paper."

Other Member States, notably Spain and Italy, should take note.

AFRICA

Cameroon

VPA status: Entered into force 1 December 2011

For more than a year, the VPA process in Cameroon seems to be in limbo, and little progress has been made (see VPA updates from [June 2017](#) and [November 2016](#)). One critical question seems to have been resolved, however: the EU-Cameroon VPA stipulates that the agreement remain in force for seven years, to be renewed tacitly if neither party notified the desire to terminate the agreement by October 2017. As this has not happened, it appears that the VPA has been tacitly renewed.

During the past six months, VPA implementation has continued to focus exclusively on the development of a computerised forest information management system, SIGIFII, which was to have been finalised by the end of October 2017. However, at the time of writing, this has not materialised. All the next steps necessary to implement the VPA, including the announced revision of the legality grids, are 'on hold,' awaiting the development of SIGIFII.

The European Commission has contracted an external evaluation of SIGIFII to assess the extent to which the draft system is in conformity with the VPA and its practical feasibility. The conclusions and recommendations of this evaluation will determine the EU's future support not only for the VPA implementation process, but for improved forest governance in general. The results will help the EU to decide upon its assistance programme to the forest sector (PAMFOR).

Law enforcement on the ground is poor: Cameroon has had no formally recognised independent forest monitor (IFM) since 2014. NGOs have been working hard to close the independent-monitoring gap, gaining expertise and credibility in the area of IFM. Still, governmental follow-up of reported illegalities and sanctions remains marginal. NGOs and monitoring initiatives such as [Global Forest Watch](#) reveal that illegal logging is not only not decreasing, but increasing rapidly. The overall picture is darker than ever: forests are increasingly being converted for agricultural use, mining activities or infrastructure projects. Illegal logging is on the rise and impunity is rife.

Access to information has nonetheless improved. The [VPA website of the Ministry of Forests](#), which contains precious information relevant for competent authorities and operators, was out of order for an extended period; however, it has been repaired and has been up and running since June 2017.

The joint EU-Cameroon VPA annual progress report for



2016 has been delayed and is not yet available. Still, the very fact that a joint report comes out every year is positive, especially compared to other countries, including Ghana, where annual reports have not been released for several years. The publication of joint annual VPA reports – key tools to assess progress – should be required without fail for all VPA countries.

Belgium is one of the main importers of Cameroonian timber. For many years, NGOs have expressed concerns about Belgium's weak enforcement of the EU Timber Regulation (EUTR): the number of due diligence regulation checks is embarrassingly low and the human resource capacity of the competent authority is particularly limited (one part-time staff member). In October 2017, the European Commission initiated legal proceedings against Belgium for failing to enforce the EUTR adequately. Stricter enforcement at EU level renews hope of improving enforcement efforts in Cameroon and other timber-producing countries.

The Central African Republic

VPA status: Entered into force 1 July 2012

State administration continues to be mostly absent outside the capital, with armed groups controlling vast areas of the hinterland. Recurring fighting between the Seleka rebels and Anti-Balaka militia has deepened instability in the northwest and southeast parts of the country. With the country at the mercy of armed groups, [rape and sexual slavery are being used as weapons of war](#) with total impunity. Civil society groups have called on the [newly established special criminal court](#) to begin dealing urgently with cases brought to its attention, in particular reports of violence against civilians committed by armed groups.

In September 2017, a [new government](#) was sworn in with Lambert Lissane Moukove, a member of the Nouredine Adam's Popular Front for the Rebirth of Central African Republic (FPRC), as Minister for Water and Forests. The FPRC is responsible for committing war crimes and human rights violations during the CAR conflict that killed thousands and displaced millions.

In this context, the VPA process has not formally resumed, although the VPA structures continue to meet and are working on the 2016 annual report. Civil society organisations (CSOs) remain at the forefront of efforts to keep forest governance on the political agenda. With support from Fern, the Plateforme pour la [Gestion des Ressources Naturelles et de l'Environnement](#) (GDRNE) met in June to discuss their contribution to the EU FLEGT Conference and to urge the EU to provide the

financial support necessary to reinvigorate the VPA. The platform also actively advocates for the participation of local communities and indigenous groups in the implementation of community forestry, despite recent setbacks concerning the location of the first pilots.

Fern's partner [Centre pour l'environnement et le développement durable](#) (CIEDD) is contributing to improved transparency and governance in the forest sector through its independent monitoring work. A monitoring mission took place in August and findings will be presented to the forest administration, forest companies, civil society and other stakeholders later this year.

CSOs lament the continued lack of information from the environment ministry regarding the Reduced Emissions from Deforestation and Degradation (REDD+) process, including the steps the ministry is taking to ensure that the newly agreed [grant of USD 1 million](#) to support CAR in [developing a comprehensive multi-sector National Investment Framework for REDD+ \(NIF\)](#) is put to good use. The NIF is expected to complement the design process of the National REDD+ strategy and to identify financing priorities for addressing the drivers of deforestation and forest degradation. Therefore, it is important that civil society stakeholders involved in the VPA process are able to contribute to its development and effective implementation.



Photo: Lewis Davis



Photo: Indra van Gisbergen

Côte d'Ivoire

VPA status: Negotiations began in February 2013

Update: Côte d'Ivoire and the European Union remain engaged in the negotiation of a voluntary partnership agreement. Despite the low frequency of negotiation sessions (only two formal sessions have been held since 2016, the last of which took place in May 2017), important progress can be credited to the negotiation process.

The VPA is based on existing legislation and regulations enforceable in the forest sector. In July 2014, Côte d'Ivoire passed a new Forest Code. The participatory drafting of the Forest Code implementing regulations launched in April 2016 was almost complete when a new legal reform process aimed at restoring Ivorian forests was undertaken by the Government, mid-2017; so far this process has been less participative.

National stakeholders recognise that, thanks to the FLEGT-VPA, participation of the civil society and the private sector in the design of the Forest Code application texts has become effective. For the first time, other administrations such as the Ministry of the Environment, the Ministry of Agriculture, the Ministry of Land Planning and non-governmental actors are engaged in dialogue relating to the development of a new forest policy and a strategy for forest rehabilitation and restoration. This, in a context where the development of the cocoa and rubber industry threaten the remaining forest cover.

The year 2017 triggered a vast documentation process of the procedures relating to forestry activities. The need for written procedures was identified during the workshop on the establishment of a legality verification system, organised in November 2016 by the European Forest Institute (EFI). To date, 11 directorates and departments

of the Ministry of Water and Forests (MINEF) have documented their procedures, and a draft guide to forest management procedures is being developed.

Finally, MINEF has set up a geographic information system, which includes a statistical database for the management of logging perimeters; it will be completed as of next year, using geo-referenced maps. This is an important innovation in the forestry sector and a step towards the establishment of a timber traceability and legality verification system.

Democratic Republic of Congo

VPA status: Negotiations began in 2010

The Democratic Republic of the Congo (DRC), the country in the Congo Basin region with the largest area of forests (more than 155 million hectares), has been negotiating a VPA with the EU since 2010. These seven years of negotiation have been a slow "off" and "on" process, constantly interrupted by the troubling general political context and frequent changes at top political levels. The fact that presidential elections have been postponed until 2019 and are heavily contested by the opposition affects the negotiations as well as donors and their diplomatic priorities.

Over the past year VPA negotiations have made little, if any, progress. At the end of 2016, a VPA facilitator was appointed, funded by DFID. The VPA facilitator has helped advance some work on the legality grids and transparency. However, the facilitator's mandate and UK Department for International Development (DFID) funding will soon come to an end (end 2017), which is likely to bring the VPA process to a complete standstill.

DRC is one of the most difficult contexts in which to establish a meaningful VPA, and the EU intends to explore whether other options exist to engage in an alternative manner there. What such alternative options may entail remains to be seen.

NGOs believe that improving forest governance in the DRC requires political engagement. They recommend that the EU and its Member States step up high-level forest diplomacy and play a more active role to ensure coherent donor policies and coordination. It would be sensible for EU action in the area of forest governance to complement other existing initiatives, such as the [Central African Forest Initiative](#) (CAFI) and all international support to REDD+. (Yet it must be noted that the REDD+ process in DRC is currently also in crisis. Conflicts between ministries have practically put all REDD+ activities on hold at the expense of keeping space for dialogue open.)

The DRC exports more than 80 per cent of its timber to the EU, and [NGOs report](#) that most timber exported from DRC is illegal. Fighting illegal logging is no doubt a priority and may become even more so in years to come. It is therefore essential to maintain space for multi-stakeholder dialogue about the legality of the timber trade, and – even in a difficult political context – VPA negotiations are instrumental in doing so. Support to CSOs engaged in independent monitoring is equally crucial to fostering change in the DRC.

Given the DRC's current political context, if the EU intends to take a step back to reflect about how to engage in DRC, then the EU must nevertheless urgently prioritise action within the EU. Competent authorities in key importing countries such as Belgium must step up efforts to implement the EUTR properly. Stronger enforcement of the EU Timber Regulation, such as that [undertaken by the Commission against Belgium in October 2017](#), is to be encouraged.

Ghana

VPA status: Entered into force December 2009.

Ghana has been implementing the VPA agreement since 2009; it is soon to issue its first FLEGT licence.

In the last six months, Ghana has completed the end-to-end testing of the electronic traceability system, from tree stump to export destinations in Europe, and is drawing lessons to improve and correct deficiencies. The internal audits of forest administration and timber companies by the Timber Validation Department continue routinely.

The Timber Validation Committee, which supervises and safeguards the independence and credibility of the Timber Verification Department, has dissolved in the transition to the new government elected in December

2016. A new committee is expected to be set up by the new administration and is expected to have CSO representation.

Selected individuals from civil society have also been trained to observe periodically the audits of the Timber Verification Department. The aim is to observe how the auditors do their work, to provide audit experience of the observers and to improve civil society's understanding of the practical application of the legality verification system. The Independent Monitor is also soliciting information from relevant stakeholders to begin an audit of the entire Ghana Legality Assurance System. This could potentially be its first comprehensive audit, besides previous 'witness' audits.

Civil society and EFI facilitated a learning visit to Indonesia with a team of stakeholders to observe, exchange ideas and draw lessons for launch, rollout and implementation of the FLEGT licensing scheme. Some major lessons were the need to strengthen communications from producer countries to enhance consumer awareness of what FLEGT licences mean, and for EUTR competent authorities to be able to access Indonesia's national database of information on timber legality. This has spurred efforts to develop the web interface for timber legality information for Ghana. Since this trip, Ghana has also worked with EFI to train potential users of this web interface.

The progress on legal reform is good. A new Legislative Instrument, which mandates transparency in the timber sector, resolves the problem of arbitrary 'special permits' by the minister and is expected to pass in November 2017. This significantly addresses the legal bottlenecks and administrative challenges encouraging illegal logging and holding back the delivery of FLEGT licences. Another positive development: in partnership with civil society, the Forestry Commission has advanced in developing a web-based forest information hub, which will give the public access to information beyond what is available in the Ghana wood-tracking information system.

Civil society is trying to build synergy between the forest-monitoring work they are doing, and what the government is doing, in order to help avoid duplication and encourage the government to respond effectively to illegal logging identified by civil society monitoring.

Work is also advancing on Impact Monitoring. The various impact areas have been identified and the indicators and means of measuring for impact are being finalised with the various stakeholder groups.

On a more negative note: The allocation of permits for "salvaging" of rosewood has been a matter of great concern to civil society, due to its potential to undermine the VPA successes. These permits were becoming a loophole allowing people to harvest a species that was threatened and otherwise illegal, motivating several

missives to the Minister for Lands and Natural Resources and press releases. The issue is expected to be addressed before or by the Joint Monitoring and Review Mechanism (JMRM), the multi-stakeholder body responsible for implementing Ghana's VPA.

Processes for tree tenure reform has been slow, considering the pace at which it was launched earlier this year. The main bottlenecks are the legal implications for individual ownership of naturally occurring trees and the subsequent allocation process. A small multi-stakeholder group is expected to submit proposals with options for addressing this current hurdle.

The JMRM meeting expected to take place in November will likely agree on terms of reference and the start of the final assessment of the Ghana Legality Assurance System (LAS) prior to issuing Ghana's first licences.

Liberia

VPA status: Entered into force 1 December 2013

Liberia is in an anxious state after the first round of elections on 10 October 2017 as the outcome is uncertain and a threat of violence is in the air. Nevertheless, the structures established by the Forestry Law and the Community Rights Law and enhanced by the VPA process continue to function.

For the last six months local NGOs have continued to work with local community bodies, both CFDCs (community forestry development committees – communities in areas of logging concessions) and CFMBs (community forestry management bodies – communities in a community forest management area) to enhance their capacity to govern and manage funds. Compared to other countries in Africa, in Liberia, by law, communities should get a relatively high percentage: 30 per cent of land rental fees and \$1.50 per m³ extracted in commercial concessions and up to 55 per cent of all logging revenues from (large-scale) community forestry operations.

This transfer of community funds into National Benefit Sharing Trust accounts is a major impact of the VPA, achieved through effective NGO advocacy. As a result, in the past three years, three disbursements were made to the Trust's accounts for a total of nearly US\$ two million. Supported by local NGOs, affected communities are now using these funds to initiate local development projects, including building schools and health clinics; 22 projects have been funded to date, using US \$735,430 of the disbursements. Specific attention is being paid to ensure that women are being heard in this process.

Another positive development is the elaboration and implementation of an annual operational plan for Liberia's

VPA, following the last joint implementation committee (JIC) meeting in April 2017. It is also positive that both the CFDC and the CFMB Union – formed in 2016 – are now being represented at VPA monthly stakeholders meetings. Though still early to measure their impact, emerging issues affecting community forest management areas are beginning to be highlighted by CFMB members via the VPA multi-stakeholders monthly meetings, notably the need to prioritise incorporation of requirements for community forestry in the VPA legality matrix.

On a more troubling note, the Forestry Development Authority (FDA) filing system and website are not up to date. Key documents are missing, making independent assessment of their actions difficult. The initial findings of a mock audit also indicate several issues of noncompliance by logging companies that the FDA has yet to address.

It is hoped that the next JIC meeting, expected in December, will address these concerns and that the FDA will finally present its proposal for a debarment list – a roster of companies that should be excluded from logging contracts because of their behaviour during the civil war from December 1989 to 2003. Initial intergovernmental consultations have been held.

The Land Rights Act is a key piece of legislation that will determine who owns Liberia's land. It is important for indigenous and traditional rights as well as future development in Liberia, and was presented to the House of Representatives prior to the elections. The House passed the bill in August. This version was, however, shrouded with potential conflict. As a result, the Senate could not find the required quorum to concur with the House of Representatives. No further progress will be made until after the elections, after which the CSO working group on the Land Rights Act and other local NGOs will aim to inform the new Parliament and President about the required changes to the draft.

For now, everybody's first concern is a peaceful conclusion to the elections.

Republic of Congo

VPA status: Entered into force 1 March 2013

The Republic of the Congo (Congo) signed a FLEGT-VPA with the European Union on 17 May 2010; this entered into force 1 March 2013. By signing the agreement, the Congolese government committed to ensure that its entire timber industry meets the legality and traceability requirements of the Legality Assurance System (LAS).

The Système Informatisé de Vérification de la Légimité, the computerised timber legality assurance system (TLAS),

has recently become operational; training for forest officials will commence in late 2017.

Congo is experiencing an acute economic crisis and is anxious to refill the state coffers. It is betting on economic diversification to emerge from recession and to generate revenues for the country. However, these commendable objectives do not match with persistent governance challenges and impunity in the forest sector.

In 2016, Congo signed an agreement to move toward sustainable palm oil production. Despite this, the government – and in particular the agriculture ministry – are sending mixed messages about their intentions regarding commercial agriculture development. In September 2017 it urged the much-decried Atama company to pursue a palm oil development project, although the forest ministry had suspended the company's deforestation permit in mid-2017 ([FW 226](#)). Additional disturbing reports from civil society ([OCDH](#)) indicate that illegal conversion under the guise of agriculture expansion is robbing Congo of its forests and impoverishing local communities. This is one of the key reasons that the World Bank FCPF decided to delay approval of Congo's Emission Reduction Programme Document ([FW 227](#)).

On a brighter note, after years of stagnation, the draft Forest Code was finally submitted to the secretary general. Through the VPA platform, civil society was consulted throughout the reform; however, platform members have not seen the final draft and fear that their contributions on free, prior and informed consent (FPIC), transparency, benefit-sharing and community forestry may have been watered down. The next step is

parliamentary review and adoption although these could still be a long way off.

A mission of the Central African Forest Initiative (CAFI) that awarded an initial grant of USD 698,000 to Congo to develop its REDD+ National Investment Framework visited Brazzaville in September to discuss progress with drafting the plan and to consult with key stakeholders. On the occasion of the visit, CSOs recommended building on the VPA consultation process and mechanisms to ensure that CAFI is truly inclusive and transparent. CSOs also urged CAFI to pay sufficient attention to capacity needs and the importance of the investment plan to clarify community tenure rights.

CSOs are able to participate effectively in most components of the VPA process and actively contribute to discussions of the VPA technical group, which meets regularly. A meeting of the Joint Implementation Committee is scheduled in November to discuss more strategic issues, including governance reforms and licensing. More recently, CSOs were invited to comment on the independent auditor's manual, a compulsory component of the TLAS. This manual guides the auditor in receiving and assessing complaints, an important step forward in a country where complaint mechanisms are a welcome innovation.

A capacity-building workshop was organised for VPA stakeholders to discuss and develop a national strategic plan for the VPA in 2018 - 2022. The plan is being developed in a participatory way and will take stock of recommendations from a national VPA evaluation conducted in October.

Congo's official FLEGT VPA website is up and running



Photo: Forum pour la Gouvernance et les Droits de l'Homme (FGDH)

again, and some information on legislation and bids is available online. However, much-needed information on revenues and contracts is missing, obscuring the picture of the forest sector's contribution to the economy and what communities are entitled to. The ministry published a newsletter that features information about the VPA and the latest [annual report](#) provided an overview of progress and challenges in 2016.

ASIA

Indonesia

VPA status: FLEGT licensing started 15 November 2016

In November, Indonesia will celebrate its first anniversary of FLEGT licensing. However JPIK, the Indonesian independent forest-monitoring network, is extremely concerned about the lack of enforcement by the SVLK, Indonesia's flagship Timber Legality Assurance System.

In a report published jointly with EIA in June 2017, [Still permitting crime](#), JPIK highlights that, despite repeated complaints submitted to government enforcement officials and certification bodies over the past two years, a palm oil concession continues to clear forests illegally and the timber cut is certified legal under Indonesia's SVLK. The certification body has ignored JPIK's complaints, and the body designed to hold the certification body accountable, KAN – the National Accreditation Committee – has similarly failed to take account of such infractions, says the report.

Prior to the issuance of any permit to harvest timber, [EIA and JPIK had exposed the illegal deforestation and degradation](#) of hundreds of hectares of natural forest; this has also been systematically ignored by the government of Indonesia.

Another area of concern is the lack of transparency. The SVLK allows civil society to play a role as an independent monitor, which includes the right for civil society to visit companies and request documents on the legality of the timber. In practice, however, independent forest monitors face significant challenges to obtain proper information. For example, [JPIK does not have access to all information on timber products management, especially documents on timber transport and handover](#).

Finally, JPIK raises the lack of coordination between ministries, but also between national and provincial authorities in the enforcement of the SVLK. In particular, the provinces and districts are not yet well trained or equipped to implement the SVLK, nor do they have clarity on their responsibilities and obligations in terms of on-the-ground monitoring.

Although Indonesia and the EU may hail the first-year anniversary of FLEGT licensing with optimism, deficiencies and weaknesses of the implementation system should be a serious concern for both parties and must be improved as soon as possible.

Laos

VPA status: In formal negotiations since 2017

The VPA process in Laos has moved forward significantly in the past six months, and stakeholders are continuing to work together closely. The first face-to-face negotiation between EU and Lao was held in April 2017 and a video conference negotiation session was held in October.

While there is strong political will and conceptual agreement toward achieving a FLEGT VPA through an open, multi-stakeholder process, the logistics of coordination and the complications of the FLEGT work are the next challenge. Nonetheless, Government stakeholders, who normally struggle to collaborate across sectors, seem to be working together well under the FLEGT structure. This includes strong cooperation between the Ministry of Agriculture and Forestry and the Ministry of Industry and Commerce. Efforts by the FLEGT standing office to include CSOs in the steering and planning processes will improve the quality of coordination as well.

Civil society themselves have made great efforts to increase their participation as the VPA process moves forward at a swift pace. With little funding since May for CSOs to support their core functions in the VPA process, it has been difficult for them to join and contribute significantly, but they have done what they can. They have joined all technical working groups while waiting for funding to become available, including through the FAO-FLEGT programme.

A civil society study tour to Indonesia also gave the CSOs an opportunity to learn the structure and concepts of the Indonesian SVLK system and explore possibilities for applying lessons there to the Lao context. They felt that the strong participation of Indonesian CSOs in the development and implementation of the SVLK system was an important lesson to the Lao CSOs about how their engagement could produce a more beneficial outcome.

Enforcement of 2016 Prime Minister Order 15 banning the harvest and export of timber has continued with unprecedented success. The Order has effectively halted all timber trade, both legal and illegal, so the challenge will be allowing trade to resume under the framework of the TLAS. Provincial-level decisions to shut down non-compliant timber sector enterprises have affected family-level carpentry businesses due to their inability to comply with the requirements of legality, such as business



licensing. Stakeholders have held several discussions and have expressed commitment to resolving the issue.

The public nature of the enforcement of Prime Minister Order 15 indicates that the government is open to public access to information and reporting of illegal activities. Lao CSOs will work to address these issues in the upcoming weeks.

Malaysia

VPA status: In negotiation since 2006; stalled since 2014.

Negotiations toward a VPA between the EU and Malaysia have not progressed. Sarawak's refusal to be part of the agreement, and in particular, its refusal to open its logging operations to legal scrutiny through the VPA's Timber Legality Assurance System (FW 205) continue to present one of the main challenges to concluding the negotiations. NGOs' role is still unclear and limited to attending stakeholder consultation meetings or workshops.

Vietnam

VPA status: Initialled in May 2017; preparation for ratification is ongoing.

The ratification process has been underway since Vietnam and the EU initialled the VPA on 11 May 2017. The full VPA text and associated annexes have only recently been made available to the public, in Vietnamese, through the [government \(VNForest\) website](#), which made it impossible for CSOs to comment on the draft before it

was initialled. International organisations (FAO, WWF, [GIZ](#)) and CSOs (SRD, CED and PanNature) supported VNForest financially in conducting a pre-ratification VPA impact assessment; they also organised three workshops (facilitated by VNForest- and FAO-appointed consultants) with government agencies; enterprises operating in the timber industry; and households involved in plantation, harvesting and timber processing activities.

A Joint Implementation Framework (JIF) was drafted after consulting a range of stakeholders. However, some CSOs felt that the consultation served more to note their area of expertise and the financial support they could offer the government, rather than to seek CSO participation as an independent network for monitoring. The government has made no commitment to accommodate or fund any independent monitoring mechanism, although this was proposed by the VNGO-FLEGT Network during negotiations.

The Stakeholder Engagement and Co-ordination Mechanism establishes a multi-stakeholder implementation core group comprising the Timber Industry Association, research institutions, tree grower organisations, CSOs including VNGO-FLEGT network members, FLEGT project holders and VNForest. The JIF defines the roles and responsibilities of this group, but how it will function is still unclear.

Regarding transparency, the VPA text and annexes have been translated into Vietnamese and uploaded onto the VNForest website. The draft JIF has been shared among members of the Multi-stakeholders Implementation Core Group, and relayed by the VNGO-FLEGT network to its members for information and comment. However, the

LATIN AMERICA

Vietnamese VPA/FLEGT office is not obliged to report progress on VPA preparations to the public on a regular basis, and information on funds received and spent by the government for the process is not forthcoming.

CSOs have never been official members of the negotiation team nor the VPA's transition (preparation) team, but in the past six months, CSOs have generally been able to participate more in the VPA process than previously, attending meetings and consultation workshops run by VNForest, and through their involvement in drafting the JIF matrix and in the pre-ratification VPA Impact Assessment.

However, the bigger question is whether CSO participation in drafting the JIF guarantees their role in independent monitoring. On this CSOs remain doubtful. In the context of Vietnam, "stakeholder engagement" means consultation on the government's terms, and falls short of stakeholder ownership.

Finally, concerning law enforcement, the prime minister's ban on illegal logging in natural forests is still in force. In the past six months, a number of illegal logging cases were first picked up by the media, and only subsequently did authorities take action to intervene, which explains public concern about the effectiveness of law enforcement.

LATIN AMERICA

Guyana

VPA status: Under negotiation since 2012

Local organisations such as the Amerindian Peoples Association (APA) continue to have serious concerns that, as previously reported, the draft VPA between the EU and Guyana still lacks effective protections for the customary lands and rights of indigenous peoples in Guyana.

In 2017, the government of Guyana conducted community consultations on the VPA, as documented on the Guyana Forestry Commission (GFC) FLEGT website on stakeholder engagement, reporting on national consultations, and a matrix summarising the comments and questions collected during outreach sessions. Critics suggest that the consultations appear to be more information-sharing than genuine consultation: issues raised repeatedly by rights holders on land rights drew response from the GFC that land tenure difficulties and unresolved land claims cannot be addressed through FLEGT.

The main point of contention surrounds the fact that the VPA's legality definition and the legality assurance system

(LAS) do not reference solid safeguards for customary rights to traditional lands and forests directly, nor do they make reference to Guyana's Constitution and the protections that the Constitution affords to indigenous peoples. Although the Constitution is mentioned in some draft VPA documentation, it does not form part of the legality compliance system.

The National Technical Working Group (NTWG), the government body leading negotiations on Guyana's side, also asserts that land tenure issues cannot be addressed directly under the VPA as the topic is beyond the competence of both FLEGT and the GFC; tenure falls within the competence of other government agencies. It further insists that reference to the Constitution's safeguards is "inappropriate." Stating that VPA signature is imminent, the NTWG has offered to set up a multi-stakeholder roundtable to discuss land tenure once the VPA is signed. It further adds that "all parties have agreed" to an approach based on ongoing discussions.

Despite these claims, indigenous organisations like the Amerindian Peoples Association (APA) and village leaders require more than the promise of discussion, as they have repeatedly stated: they demand objective safeguards for their rights in the main sections of the VPA in accordance with the Constitution and related international treaties ratified by Guyana, pointing out that the lack of effective national legal protections for customary lands affected by forestry concessions has long caused forest conflicts. They fear that, if adopted as currently formulated, timber concessions and harvesting may go ahead on untitled community customary forests in contravention of their legitimate rights. This would violate also their right to free, prior and informed consent (FPIC) as timber could be harvested and exported under FLEGT on indigenous lands with impunity.

In June 2017, the indigenous leaders from the APA and village leaders travelled to Brussels in June 2017 to raise their concerns. Their reception by EU representatives was, reportedly, unhelpful. In one instance, the leaders were even advised by a policy specialist that the EU policy on Indigenous Peoples applies, not to FLEGT, but only to development cooperation.

Similarly, during the field-testing of the LAS in Guyana, June 2017, a prominent member of the NTWG reportedly encouraged leaders to endorse the Legality Definition and LAS as written – to the extent of obtaining the signature of one village leader without his knowledge. Only after the letter was brought to the attention of that leader was it revealed that a signature was next to his name on a document supporting the findings of the field-testing. The APA reiterated its position that, had the APA been involved in the preparatory work of identifying communities for field-testing, critical gaps could have been identified in the LAS. Further, the APA repeatedly

asked the EU team to visit conflict areas; this apparently never happened.

The APA submitted a legal opinion to the NTWG in July calling for the inclusion of the Guyana Constitution's safeguards in the Legality Definition and LAS; they were again advised in writing by the NTWG that this was inappropriate. As the APA and the villagers' increasing rights and governance concerns are not being addressed, they are currently reviewing community strategy on the whole VPA process.

Before the text of a flawed VPA is finalised, concrete steps to align its provisions with EU human rights and policy commitments regarding governance and tenure must be prioritised by both negotiating partners. Without these, the very credibility of the VPA is in play.

Honduras

VPA status: Negotiations began in January 2013.

Since undertaking the process in 2013, and after five rounds of negotiations, the EU and Honduras are very close to concluding a VPA. With the active engagement of all stakeholder groups (representatives from the government, CSOs, private sector and indigenous peoples' groups), Honduras has continued to make steady process toward laying the foundations for ratifying and implementing a VPA.

Such widespread involvement is no small achievement: in a complex situation such as Honduras' and given its difficult history with violence against environmental defenders, the quality of its commitment to the engagement of all stakeholders is particularly praiseworthy.

Honduras' strong unity of purpose was noted when a [delegation of MEPs visited the country in October 2017](#) to speak first-hand with stakeholders and to assess the progress made. MEP Lola Sánchez, who headed the delegation, marvelled at the diversity of participation, and noted particularly the "Indigenous communities, the private sector, civil society, all rowing together, in the same direction." The favourable perceptions of the MEPs were heartening given that the European Parliament will be called upon to ratify the eventual agreement.

Even prior to ratification, the preparation for VPA implementation has produced a number of positive effects.

[Field tests of the VPA system of verification](#) of the legality of timber undertaken last year were generally positive and provided key information about the existing weaknesses: steps have been and continue to be taken to address these. For instance, in broadleaf forests (mahogany, cedar), where there are many indigenous

peoples as well as many illegalities, given the high value of the timber, gaps were identified in verification and control of the supply chain. Specific measures have been included in the TLAS to address those gaps.

In fact, throughout the process, the Honduran government has been open about shortcomings and willing to address these: e.g., in order to implement the VPA's annex on transparency and access to public information, measures have been put in place to uphold the transparency on which the participation of vulnerable groups hinges.

It is hoped that the conclusion of the VPA will give impetus to existing measures, such as encouraging the full implementation of Honduras' National Strategy Against Illegal Logging, adopted in 2010.

Another positive impact would be to increase the momentum behind the drafting of a bill on FPIC that is currently being discussed among stakeholders: although FPIC is not strictly a forest law, it is crucial for the indigenous communities who rely on forests for the livelihoods. Donaldo Allen, from the Confederation of Indigenous Peoples of Honduras (CONPAH), already credits the VPA's stakeholder engagement with progress made toward agreeing the draft FPIC bill, noting that all indigenous peoples groups had been consulted.

This is a critical time for Honduras, and one major source of uncertainty tempers the high hopes surrounding the conclusion of the VPA: general elections are due to take place on 26 November 2017, and Honduras will elect a president and 128 members of its National Congress. [All Honduran stakeholders](#) have expressed the need to conclude the negotiations soon: the priorities and attitude of the incoming government cannot be guaranteed, as recent elections globally have shown.

If the VPA is not agreed before the change of government in January 2018, the negotiations are likely to be delayed, undermining the considerable efforts of preceding years. A great deal of work has gone into the field tests, the participatory processes and defining the content of the VPA: Honduras feels ready and hopes to be able to sign very soon.

These occasional Forest Watch Special - FLEGT VPA updates represent civil society perspectives of VPA processes around the world. They are curated by Fern, and are a collaborative effort of civil society representatives accros numerous countries, including the co-managers of LoggingOff.info, the online resource for civil society perspectives on VPAs.

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