



European Union Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreement in Ghana

Introducing needed change or reinforcing business as usual?

Hansen, Christian Pilegaard; Rutt, Rebecca Leigh; Acheampong, Emmanuel

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Logs en route to sawmill. Photo: Jens Friis Lund

European Union Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreement in Ghana: Introducing needed change or reinforcing business as usual?

Introduction

The European Union (EU)'s Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan is a forest conservation and development intervention that has raised great expectations in many countries since its enactment in 2003. FLEGT symbolizes the EU's assumed responsibility to tackle illegal logging and trade of illegally harvested timber products. A key element of the FLEGT Action Plan is the negotiation of bilateral Voluntary Partnership Agreements (VPAs) between the EU and tropical timber producing countries. Aimed at supporting partner countries to stop illegal logging by improving forest governance and regulation, the VPA process clarifies the definition of legal timber in

the country of origin, and outlines a Timber Legality Assurance System to verify and certify legality. A joint committee with EU and partner country representatives (government agencies, civil society, and private sector) oversees and reviews the implementation of the agreement. Currently, seven countries - Ghana, Cameroon, Republic of Congo, Central African Republic, Liberia, Indonesia, and Vietnam - have entered VPAs with the EU.

The VPA processes are receiving praise from FLEGT practitioners as well as some international and domestic civil society and international scholars. But an emerging body of research is also shedding light on a range of unintended and

un-acknowledged outcomes of VPAs and in general, casting doubts on their efficacy against deeply entrenched interests and practices.

This policy brief takes a closer look at Ghana, considered a VPA frontrunner, to qualify the largely positive depiction painted of VPA processes. Drawing from a recent publication by Hansen, Rutt, and Acheampong (2018) and its review of the rich literature on forest governance as well as 160 semi-structured interviews with relevant actors in the country, we pose critical policy recommendations to move beyond business as usual in Ghanaian forest governance (as well as development interventions there), and toward more transformative change.

VPA in Ghana: the positive narrative

Beeko and Arts (2010: 221) assert "...that the national forest discourse of Ghana has been re-shaped by the VPA process, that the traditional forest sector has been opened up, that new forest rules have been designed and that power relations have changed in favor of so-called fringe actors". This echoes the assessment of Ozinga and Leal (2010: 1) who found "the multi-stakeholder consultation process worked well" and that "the Ghana-EU VPA was signed (...) with the consent of all stakeholders". It also echoes Overdeest and Zeitlin (2016; 2018) who find that the VPA implementation in Ghana: (i) is providing an effective platform for NGOs and other domestic stakeholders to raise problems; (ii) the FLEGT Joint Monitoring and Review Mechanism has been a crucial platform for accountability, learning, and recursive problem-solving; (iii) the timber tracking system developed as part of the VPA implementation has made a significant contribution to sustainable forest management practices; (iv) resulting in more strict enforcement of Social Responsibility Agreements (SRAs) which thereby has made a significant contribution towards equitable benefit sharing; and (v) that major policy reforms have addressed domestic market issues, notably a public procurement policy and an artisanal milling strategy. Overall, they conclude: "The VPA implementation process has proven a remarkably incisive framework for exposing such issues layer by layer, identifying their root causes, and thrashing out mutually acceptable solutions through iterated deliberations among local stakeholders, supported by the EU" (Overdeest and Zeitlin, 2016: 61).

A qualifying analysis with a historical perspective

Paying close attention to the history of forest governance in Ghana, we take a critical look at the positive interpretations of the VPA process presented above, and discuss the implications for sustainable and equitable forest management in the country.

VPAs: A step toward sustainable forest management?

VPA implementation has supposedly resulted in progress on at least three aspects of sustainable forest management: the development of a Timber Legality Assurance System, the revision of forest management plans, and the elaboration of digital stock maps. We look at these three developments in turn:

Firstly, the Timber Legality Assurance System, which should entail electronic and real-time tracking of all raw and processed timber from the forest to the end user on the domestic market or export point, will in practice largely fail to engage meaningfully with the majority of the production for the domestic market. This is because, under Ghana's current legal framework, the vast majority of domestic production is considered illegal and out of reach of the Timber Legality Assurance System.

Secondly, many of the revised forest management plans rely on outdated inventory data and appear mainly as deskwork; most of the text is generic and general, not specific to the forest reserve in question.

Thirdly, the introduction of digital stock maps - a product of the Timber Legality Assurance System - will surely make the allocation of yield (the selection of trees that can be felled in the compartment) cheaper and faster as compared to the paper-based system. Yet, digital stock maps do not redress the fundamental challenges related to calculation of a sustainable harvest level, because the procedures (rules) that are used to calculate the harvest level have lost their validity.

Does the VPA support equitable benefit sharing?

Under current Ghanaian law, the state holds the right to grant concessions for native timber grown in forest reserves as well as on farmlands, outside

Policy Recommendations

For substantive change in the Ghanaian forestry sector toward sustainability, equity, and eventually legality, we suggest that the stakeholder dialogue and policy discussion focus on the following issues:

On-farm trees:

1. Legal reforms that provide farmers formal rights, including rights to retain, harvest, and sell for profit, trees they nurture on their farms. This is critical to resolving many challenges of the domestic market, and entails an end to all on-farm forest concessions. Measures are also required to ensure that farmers can benefit from those rights, e.g. assistance in marketing and tree growers' associations.
2. The abolishment of the Timber Legality Assurance System for on-farm timber. Rather, a simpler 'proof of origin' labelling scheme that distinguishes on-farm from forest reserve timber must be developed.

Forest reserves:

3. A full assessment of forest reserves and a revised paradigm for determining where logging may still be an option and under what conditions, intensity, and frequency.
4. Substantive revision of forest reserve management plans that, through meaningful engagement of communities, better reflect situated needs and interests rather than promoting uniform models oriented toward only a few products (timber).
5. An updated forest taxation regime that captures the true resource value; revision of (stumpage fee revenue) benefit distribution practices to reflect conservation and livelihood needs.

We are not suggesting that this would be an easy transition, neither to agree on, nor to implement, but these issues must be at the core of any meaningful forest governance reform discussion.

of forest reserves. Farmers and rural dwellers have no rights to the revenue from the harvest. Instead, farmers may claim (tokenistic) compensation for damages to their crops resulting from on-farm timber logging. In addition, Social Responsibility Agreements (SRAs) must be established between timber operators (concession and permit holders) and local communities that outline the provision of benefits by operators to the local community. While VPA implementation has resulted in increased attention to and strengthening of SRA procedures, the SRAs themselves are ruled by a taxation regime that largely siphons benefits away from communities toward other actors. The value of the SRAs is by regulation stipulated to be maximum 5% of the stumpage fee revenue. The latter fee, paid by the timber contractors, is very low compared to the value of the timber harvested because it has not been updated as stipulated in the regulation. So the value of the SRAs constitutes an extremely low share of the timber value, and can hardly be considered as substantial contributions to equity. Worse, they also legitimize and stabilize a forest governance regime that is widely viewed by Ghanaian stakeholders, not least those with on-farm timber, as deeply unfair.

Does the VPA tackle domestic market issues and the informal sector?

The domestic market is key to any efforts to address governance and sustainability in Ghana. The timber harvest to supply the domestic market is likely to be twice the export harvest, and "chainsaw operators" who are considered illegal under current law cover 85% of the domestic harvest. Some argue that VPA implementation has effectively tackled domestic market dilemmas thanks to two developments: a public timber procurement policy and an artisanal milling strategy. Yet, while a public timber procurement draft policy was prepared, it has never been promulgated and so is not being implemented. The artisanal milling strategy stipulates that the informal operators that currently supply the domestic market, the chainsaw operators, should receive support, training, tools and permits to legally supply the domestic market. This timber is to be sourced from off-cuts and low value timber rejected by concessionaires. Yet, such sources will only be able to supply a fraction of the domestic demand. And if artisanal millers gain permits, it will eat into the standing timber available to current concession holders, raising

new questions and challenges in this zero-sum game. It appears, strangely, that the artisanal milling strategy assumes an endless resource availability that is defied by current conditions. Most importantly, the focus on public procurement and artisanal milling reveals the lack of a realistic discussion of forest and tree tenure reform within the VPA. The VPA agreement (Annex II) refers to legislative reform aspirations including of forest tenure and rights, but without any specifics. We suggest that if the VPA is fully implemented in its current form, existing marginalization will be exacerbated.

The VPA as an effective platform for information sharing and policy debate?

Interviews with representatives of NGOs involved in VPA negotiations suggest the process has been unique from a historical perspective, and praise the VPA for embracing difficult conversations to identify meaningful solutions. However, our interviews also reveal that actors in the timber industry and communities generally feel excluded from the VPA process.

This is not in any way to discount the efforts of those facilitating the VPA process in Ghana to engage diverse stakeholders. We agree that in a historical perspective the process has been unprecedented. Nonetheless, it does show that it is a tremendous task to involve all stakeholders, even with the best of intentions. It also reaffirms the wellknown difficulties of engaging more vulnerable (e.g. community) and less powerful (e.g. small-scale enterprise) stakeholders.

Are the joint monitoring and review mechanisms promoting accountability, learning and problem solving?

The VPA also entails a FLEGT Joint Monitoring and Review Mechanism (JMRM) committee that brings together representatives of public sector, civil society, private sector, and the EU.

Overdevest and Zeitlin (2018: 4) praise the Ghana JMRM committee platform for allowing civil society “to raise forest governance concerns in the presence of the EU delegation, thereby putting pressure on the Ghanaian authorities to address them.” While the committee may be a step forward, we contend – as the present brief illustrates - that the most critical and thorny political issues are yet to be addressed.

Conclusion

While we agree that the VPA has helped establish new fora for dialogue in the forest sector in Ghana, we argue that it has not to date fundamentally changed the forest governance regime. Specifically, the VPA implementation has not changed tree tenure and benefit sharing practices, and by extension, the forestry concession system that for over eight decades has failed to secure forest sustainability and social equity. Our evidence contradicts depictions of Ghana’s VPA experience as wholly positive and entailing substantive dialogue, recursive problem solving, and policy learning. Rather, and paradoxically, we argue that the VPA implementation in Ghana is serving to stabilize and reproduce the very forest governance regime that it set out to reform – a process that is much less innovative and much more business as usual.



Chainsaw lumber being carried from production site to road
Photo: Christian Pilegaard Hansen

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Further readings

This brief builds on:

- Hansen, C.P., Rutt, R., Acheampong, E., 2018. Experimental' or business as usual? Implementing the European Union Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreement in Ghana. *Forest Policy and Economics* 96: 75-82.

Authors

Christian Pilegaard Hansen¹, Rebecca Rutt¹, Emmanuel Acheampong²

¹ Department of Food and Resource Economics, University of Copenhagen, Denmark

² Department of Silviculture and Forest Management, Kwame Nkrumah University of Science and Technology, Ghana

Series editors

Tirza Julianne van Bruggen,
Inge-Merete Hougaard, Mariève Pouliot
Department of Food and
Resource Economics
University of Copenhagen
www.ccdr.ku.dk
www.ifro.ku.dk/english

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