



4.3 Learning from FLEGT Voluntary Partnership Agreements

CHRISTOPHE VAN ORSHOVEN, SANDRA THIAM, NORA KRIEGER and JAN BOCK

Introduction

Almost half of all tropical deforestation between 2000 and 2012 was due to illegal conversion to commercial agriculture (Lawson 2014). This suggests that improved land-use governance with clear legal frameworks and effective law enforcement could significantly reduce forest loss. A failure to address governance is likely to make current public and private sector zero-deforestation initiatives futile.

The undermining governance issues often result from entrenched failings, such as limited capacities of forest administrations, weak institutional and legal frameworks, lack of transparency, and corruption. The challenges in addressing these should not be underestimated; they require political support, consensus building, multi-faceted coordination, and capacity building. Fundamentally, it means changing the way that governments, businesses, communities and civil society interact and work together. Numerous initiatives aim to address these challenges, but few can point to fully satisfying results. It is essential to capitalize on those initiatives that are effectively bringing visibility and support to forest and land-use governance. One of these is the EU Action Plan on Forest Law Enforcement, Governance and Trade (FLEGT).

What are FLEGT VPAs?

FLEGT is an innovative means of using trade instruments to strengthen forest governance and bring illegal forestry and land-use activities within the rule of law. Since 2013, the EU has required all companies trading in timber and timber products to demonstrate that all imports are produced in accordance with the laws of the source country, which are regulated through the EU Timber Regulation (EUTR). And to allow legal exporters to avoid the need to certify every shipment, the EU seeks to reach bilateral agreements with



ZERO-DEFORESTATION
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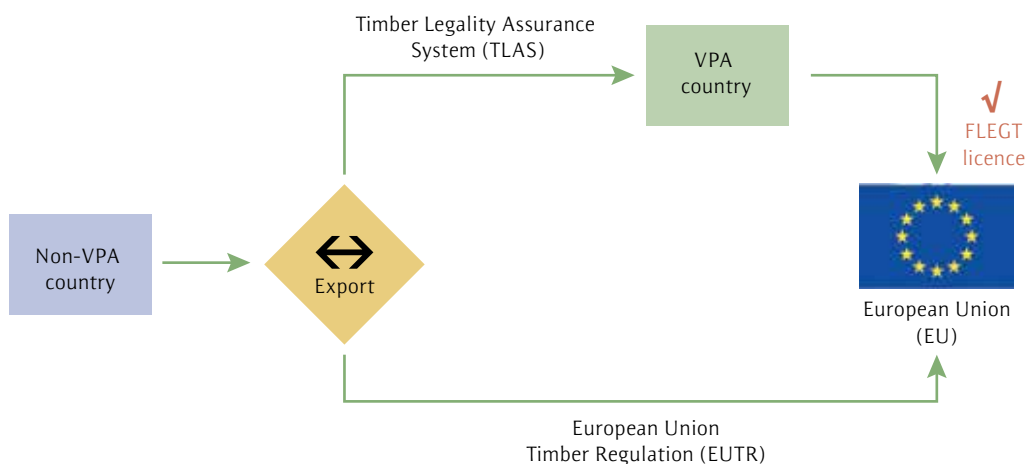
Christophe Van Orshoven and **Sandra Thiam** are REDD+ and FLEGT experts at the EU REDD Facility and EU FLEGT Facility of the European Forest Institute (EFI), Barcelona, Spain. **Nora Krieger** is FLEGT/Forest Governance expert and **Jan Bock** is Private Sector and Forest Finance expert, both at Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ), Eschborn, Germany.

timber-producing countries to improve law enforcement and effectiveness in forest governance and ensure legal compliance at the national level.

This is done through FLEGT Voluntary Partnership Agreements (VPAs). These bilateral trade treaties support efforts by timber-producing countries to combat illegal logging and strengthen trade in legal timber in the EU market. VPAs are a market mechanism designed to foster improved forest governance by opening up sector decision-making to national stakeholders interested in 1) clarifying rights, laws and regulations; 2) strengthening the enforcement of forest, environment, social and trade regulations; and 3) improving transparency, monitoring and accountability.

At the heart of each VPA is a timber legality assurance system (TLAS), which verifies that timber products are produced, managed, transported and transformed in conformity with national laws. Once timber products are verified as legal, partner countries can issue FLEGT licences to those products destined for EU markets. Once a VPA partner country begins FLEGT licensing, the EU will accept timber products from that country only if the products have a FLEGT licence. The VPA process enables national governments, private sector and civil society representatives to reach consensus on how to promote legal forestry activities that support economic, social and environmental goals. See Figure 1.

Figure 1. The two routes by which timber and wood products enter the EU market



Source: EU FLEGT Facility (EFI). Note: Once a country has a VPA with the EU, shipments no longer have to be individually verified.

Comparing approaches

To be effective, efficient and sustainable, the implementation of zero-deforestation commitments in commodity-producing countries requires approaches that go beyond the supply chain. Appropriate institutional and legal frameworks are needed to ensure the right conditions for zero-deforestation production, and to avoid leakage; i.e., shifting deforestation to other actors or areas, rather than eliminating it. FLEGT VPAs are national

approaches that aim to raise the bar for the whole timber sector and use trade as a lever to address forest governance challenges. Interesting comparisons can be drawn between the EU FLEGT Action Plan and emerging zero-deforestation supply chain approaches (Table 1).

Market access driving governance reforms in Vietnam

Commodity production and trade are determined in part by consumer behaviour, retailer and trader procurement, and consuming country regulations. The quest for market access provides a strong incentive for producers to comply with demand-side requirements, including environmental, social and governance criteria. This motivated Vietnam to begin the VPA process and embark on various forest governance reforms to ensure access to the European wood products market.

Vietnam is a global market participant and is primarily a wood-processing country. It sources timber products from more than 80 countries and exports to all major economies. Its timber industry supports more than 300,000 jobs and 3,400 enterprises; in 2014 the timber trade between Vietnam and the EU was worth US\$ 705 million. The aim of expanding exports to the EU, increasing access to other markets (such as the USA and Japan), and avoiding decline in market share due to international competition led Vietnam to formally enter the VPA process in 2010. Six years of negotiation followed, with changing contexts bringing additional arguments for advancing the process. In 2013, the EUTR came into force, and FLEGT licensing from Indonesia in 2016 may have further speeded up the negotiation process. In November 2016, Vietnam and the EU reached agreement in principle on the VPA and it is expected to be signed in 2017.

As this case shows, the EU FLEGT Action Plan uses the leverage of EU market access to promote supply-side action on legal timber in producing/exporting countries. Vietnam's commitments will also influence upstream supplier countries, since imported timber and timber products that will eventually be transformed in Vietnam and exported to the EU also require proof of legality. The EU FLEGT Action Plan is based on the understanding that both the demand and supply sides need to be addressed to meet major environmental challenges, and that efforts are required throughout the whole value chain. Particularly important is the need to put in place support and incentives to improve the governance of land-use and supply chains in order to control illegalities and deforestation.

Clarifying definitions and frameworks in Indonesia

Several public and private actors are announcing zero-deforestation commitments, using an increasing number of different definitions. To know where and how to source products according to local priorities, risks and governance challenges, however, requires a common understanding of terms. In Indonesia, the VPA stakeholders agreed on a definition of legal timber, clarified the legal framework relating to timber production, and identified how to address imprecise and inconsistent legal requirements and institutional arrangements. This collective action triggered a major reform, increasing independent oversight of the entire forest sector by professional auditors and civil society, clarifying roles and responsibilities, and improving accountability.

Table 1. Comparison of FLEGT VPA and supply chain approaches

EU FLEGT Action Plan and VPAs	Zero-deforestation supply chain approaches
Origin	
<ul style="list-style-type: none"> ▪ Government efforts to devise a solution to poor forest governance and illegality; e.g., through G8 and regional FLEG initiatives ▪ Increased consumer awareness of the link between illegality and tropical forest destruction ▪ Private-sector demand to eliminate unfair competition ▪ Consumer countries' acknowledgement of their responsibility 	<ul style="list-style-type: none"> ▪ Driven by the private sector in response to environmental campaigns, climate change and growing corporate social responsibility commitments ▪ The New York Declaration on Forests (2014) and the Amsterdam Declaration (2015), demonstrating an increasing level of private- and public-sector engagement
Mechanism and nature of commitments	
<ul style="list-style-type: none"> ▪ Demand-side measures (e.g., EUTR) and supply-side measures (e.g., VPAs) ▪ The EUTR prohibits placing illegally harvested timber products on the EU market, requiring operator due diligence ▪ VPAs between the EU and timber-producing governments, implemented at the national level, that define legal timber, a timber legality assurance system (TLAS) and modalities for independent audits 	<ul style="list-style-type: none"> ▪ Voluntary commitments ▪ Great variety in definitions, timelines, level of accountability and means of implementation (e.g., certification, individual company commitments, partnership approaches) ▪ Mostly supply chain initiatives, although some initiatives couple supply chain approaches with jurisdictional approaches
Focus	
<ul style="list-style-type: none"> ▪ Legal production of timber products, with requirements differing from one country to another depending on the national context, legal framework and stakeholder dynamics ▪ Underlying governance issues – not directly concerned with deforestation or forest conversion 	<ul style="list-style-type: none"> ▪ Reducing or eliminating deforestation from supply chains ▪ Various definitions and approaches used (e.g., zero gross vs. net deforestation, zero illegal deforestation, high conservation value (HCV) approaches)
Scope	
<ul style="list-style-type: none"> ▪ Timber and timber products (specifics defined for each country) 	<ul style="list-style-type: none"> ▪ The main globally traded forest-risk commodities (palm oil, soy, beef, pulp and paper, cocoa)
Geographic focus	
<ul style="list-style-type: none"> ▪ 15 countries were negotiating or implementing a VPA at the end of 2016: 8 in Africa, 5 in Southeast Asia, and 2 in Latin America ▪ Indonesia issued the first FLEGT licences in November 2016 	<ul style="list-style-type: none"> ▪ Some focus on producers of palm oil, timber, pulp and paper, including Indonesia, Malaysia, Côte d'Ivoire; overlap with VPA countries ▪ Some focus on producers of soy and beef, including Brazil, Argentina, Uruguay, Paraguay and Bolivia; no VPA overlap

These experiences show that governments and national actors must define what zero-deforestation means in their jurisdiction in order to enable stakeholders to understand their rights, responsibilities and obligations. Bringing diverse groups together to discuss complex issues regarding legal frameworks and lack of enforcement in the forest and land-use sectors is challenging, but it also improves the quality of decision-making, strengthens institutions, and increases the credibility of policy reforms.

Underpinning accountability in Liberia

Lack of information on natural resource management and commodity flows fuels corruption, illegal activities and conflicts between companies and communities. Even large corporations that are keen to meet zero-deforestation pledges often appear to lack information on their own complex supply chains. That applies particularly to commodities such as palm oil or beef, which are produced by thousands of smallholders and go through complex networks of suppliers and processors.

In Liberia, the VPA defines the information to be made publicly available on request under the country's *Freedom of Information Act*. The open and participatory manner in which the VPA was developed, and the agreement to make forest sector information public, have encouraged civil society organizations (CSOs) and local communities to push for accountability. Implementation of the VPA has contributed to public awareness of laws and regulations and strengthened public and private accountability; for example, in relation to benefit-sharing arrangements with forest-dependent communities. Although it is too early to fully assess the VPA's impact, CSOs have stated that access to information from government and the private sector has improved. But the implementation of the Act has been disappointingly slow, and forest authorities are failing to publish reports on penalties imposed and paid, or on volumes of confiscated timber sold (Fern 2015).

Stakeholders must be able to obtain information about laws, policies, decisions and business activities that affect them. Transparency underpins the accountability of public and private actors, limits opportunities for corruption, and assists markets to understand supply chains and their impacts. Public and private monitoring systems and tools that allow for input from various actors and sources are now becoming increasingly available. This fosters transparency and prompts governments and the private sector to act more quickly and ensure that their forest-risk exposure decreases over time. However, improving transparency in the land-use sector remains a challenge. Private actors and governments have been slow in moving beyond commitments to actually making information available. Major efforts are still needed and further progress will depend on the implementation of key measures such as information management systems and publication and dissemination strategies. A shift in attitude toward greater openness and information sharing is also required within the forest administration.



Participation and early testing in Honduras

Putting legal and sustainable commitments for commodity production and related trade into practice includes implementing necessary systems and reforms across entire commodity supply chains. In addition to specifying the commitments in each jurisdiction, implementation may require significant changes to common practices, and often it is only then that governments and other stakeholders realize the challenges of compliance. Extensive dialogue and early testing of new approaches increases understanding and helps in finding innovative solutions.



In Honduras, the participation of a broad stakeholder platform supporting VPA negotiations has been crucial. Civil society, forest producer organizations and indigenous peoples in particular have contributed to the wider dissemination of forest-related laws and

regulations, and have strengthened the political process for formal recognition of indigenous rights through free, prior and informed consent. A decisive moment was the participatory and transparent field testing of elements of the timber legality assurance system. This also created awareness and a common understanding among the many stakeholders of forest governance challenges in Honduras. These challenges include low capacity and scarce resources, poor monitoring systems, unclear legislation, land tenure and access rights issues, burdensome bureaucracy, and weak inter-institutional and cross-sector coordination mechanisms. Field testing offered a broader and more realistic view of the need for legal reforms, law enforcement, decentralization and strengthening of relevant institutions, and effective cross-sector coordination.

Although implementing zero-deforestation commitments is challenging, broad participation reduces conflict, builds trust, and makes it much more likely to reach practical, equitable and credible decisions that reflect a broad consensus. Participatory pre-testing of mechanisms aiming to achieve zero-deforestation supply chains is another way of overcoming implementation challenges, to create a detailed and objective evidence base for forest and land-use governance reforms and of zero-deforestation land-use strategies.

Conclusions

Zero deforestation commitments send strong signals to commodity markets; commodities that do not meet requirements are likely to see reduced market access and increased difficulties in finding buyers. But implementing zero-deforestation commitments faces manifold challenges, especially poor governance in commodity producing countries, which drives unsustainable land-use decisions and forest clearance. Learning from experiences of commodity and trade approaches such as FLEGT VPAs can help to define the elements of the enabling environment that are needed to make zero-deforestation production and related trade a reality.

VPA processes have shown that market access and trade provide strong incentives to commodity producers to comply with demand-side requirements, including environmental, social and governance criteria that can trigger forest and land-use governance reforms. Dialogue and cooperation between public and private stakeholders in producing countries is very important in understanding mutual interests, reaching broad consensus, and facilitating implementation. But the concept of zero-deforestation must be better defined at national or jurisdictional level, and legal and institutional frameworks need to be clarified and enforced, since they enable stakeholders to understand their rights, responsibilities and obligations. Credible monitoring and reporting systems also need to be built. Transparency increases the accountability of public and private actors, limits opportunities for corruption, and assists markets to understand supply chains and their impacts.

For more information

- VPAs: www.euflegt.efi.int/vpa-unpacked
- FLEGT licensing (including news on Indonesia): www.euflegt.efi.int/flegt-licensed-timber
- EU and FLEGT: http://ec.europa.eu/environment/forests/illegal_logging.htm

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Lawson, S. 2014. *Consumer Goods and Deforestation: An analysis of the extent and nature of illegality in forest conversion for agriculture and timber plantations*. Forest Trends Report Series. Forest Trade and Finance.