Common efforts to ensure and promote legal timber trade and good stewardship of the forest sector
# Implementing the Ghana-EU Voluntary Partnership Agreement: Annual Report 2012

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<td>ACP</td>
<td>Africa Caribbean Pacific</td>
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<tr>
<td>AMG</td>
<td>Ata Marie Group</td>
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<td>CIDT</td>
<td>Centre for International Development and Training</td>
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<td>Domestic Lumber Trade Association</td>
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<td>EFI</td>
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<td>Food and Agriculture Organization</td>
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<td>IIED</td>
<td>International Institute for Environment and Development</td>
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Introduction and background

Ghana has approximately 2.6 million hectares of forest reserve land. Of the 1.6 million ha that lies within the High Forest Zone, 715,000 ha is designated for timber production, with the remainder under protection. In addition, approximately 500,000 ha of unreserved forests as well as a further 2 million ha of crop land also produce timber.

Independent studies estimate the annual timber production of Ghana to be about 3.5 million m$^3$ of roundwood equivalent, half of which is destined for export markets. In 2012, the European Union (EU) accounted for 29% of the total value of Ghana’s timber exports of EUR 28.7 million. Within the EU, the top five importers of wood products from Ghana were Germany, Italy, France, Belgium and the United Kingdom.

From Figure 1, it is clear that in 2012, Africa was the largest market for Ghanaian timber exports, reflecting a diversification into other markets. It is worth noting however, that the average unit value of timber exports in 2012 to Europe was EUR 552/m$^3$ compared to that of EUR 274/m$^3$ for timber products destined for African markets. The expansion of the African market share in recent years can be attributed to increased intra-African trade and a decrease in demand for tropical hardwoods from markets such as the US and the EU due to the global economic downturn. Ghana remains keen to regain market share in both of these more valuable markets and hence its commitment to the VPA and FLEGT processes.

On 19 November 2009, Ghana became the first country to sign a Forest Law Enforcement Governance and Trade (FLEGT) Voluntary Partnership Agreement (VPA) with the European Union. The agreement is a public document and may be viewed and/or downloaded from the websites of the European Commission (www.ec.europa.eu/environment/forests/flegt.htm) or the Ghana Forestry Commission (www.fcghana.org/vpa).

Moving beyond the requirement to verify the legality of timber products being exported to the EU, Ghana had also committed to applying the same legality standards to all timber exports, regardless of their destination. Furthermore, Ghana had placed dealing with illegal logging to supply domestic demand firmly on the agenda during negotiations and in doing so, had broadened the scope of the agreement beyond the expectations of the EU. The level of ambition of the agreement reflects the Government of Ghana’s intention to use the VPA as a means of supporting their wider sector reform agenda and for using the verification of legality of timber as a stepping stone towards the certification of sustainable forest management.

Moving from negotiation into implementation, there are high expectations of what the agreement can and will deliver. Article 20 of the VPA on Reporting and Public Disclosure commits the Joint Monitoring and Review Mechanism (JMRM), the body established to facilitate monitoring and review of the agreement, to be ‘as transparent as possible’ in its workings. In this regard, it requires the publication of an annual report and stipulates a list of information that must be reported upon.

This report is the third annual report for the Ghana-EU VPA produced by the Secretariat of the JMRM. It covers the period January to December 2012. As the FLEGT licensing system is not yet operational, there remain a number of areas of required reporting, relating to the issuance of FLEGT licences, for which there is currently no information. The approach taken for these areas is to describe the nature of information that will be provided in subsequent reports.

February 2005
Informal consultations begin

December 2006
Formal request to EC to initiate negotiations

May 2005
National workshop confirming interest in entering into negotiations

March 2007
First negotiation session held in Accra in between these two dates there were negotiation sessions and video conferences

September 2008
VPA initiated

October 2008
Final negotiation session in Brussels

November 2009
VPA signed

January 2010
1st JMRM

December 2009
Entry into force of VPA

November 2010
2nd JMRM

March 2012
4th JMRM

July 2011
3rd JMRM

July 2012

2005
2006
2007
2008
2009
2010
2011
2012
2013
Legality Assurance System (LAS)

1.1 Development of LAS

The licensing of verified legal timber to the EU and other markets will rely on the successful development and implementation of a credible LAS. The foundation on which this system is built is the definition of legality around which there is multistakeholder consensus. The LAS also comprises a Wood Tracking System (WTS) that tracks the wood product from forest to port and a series of verification protocols that ensure that all other laws in the legality definition have been complied with. The following sections provide an update on the progress made in 2012 with the development of the LAS.

1.1.1 Wood Tracking System: development

As described above, a Wood Tracking System enables the establishment of a chain of custody from forest to port or retail yard for those wood products destined for either export or the domestic market. The description of the WTS included in Annex V of the VPA makes reference to the use of information technology (IT) at various points in the supply chain, to enable electronic reconciliation of information at critical control points.

In December 2012, the tender process to identify a service provider to support the development of a national WTS was concluded and a contract was signed with a consortium led by the Ata Marie Group (AMG).

The purpose of this contract is to design, develop, install and implement a fully functioning system for tracking wood in Ghana from its origin or point of entry through processing and manufacturing and to the final point of sale or export. This system should incorporate controls sufficient to meet all requirements as set out in the VPA.

The contract signed with AMG has a three-year timeframe and an elaborated WTS development timetable covering this period will be agreed early in 2013. As AMG is an organisation with over 20 years experience in developing forestry-based IT systems, the intention of the Forestry Commission is to agree an accelerated schedule for the development of the WTS.

1.1.2 Legality verification protocols

In Annex V of the VPA, describing Ghana’s LAS, there is a table that sets out the control procedures to be undertaken by various institutions in order to verify compliance with the legality definition set out in Annex II. During the development of the LAS, the outputs of these control procedures will be verified through the creation of a set of verification protocols or a ‘legal timber verification manual’.

In 2011, first drafts of these protocols were completed. The application of the protocols described in the manual was then field-tested in order to develop a legality compliance report. In 2012, the manual was further revised to reflect the findings of the field-testing. It is expected that in 2013, consultation on this manual with key stakeholder groups will continue, with a view to finalising the documents by the end of the year.

1.1.3 Licensing procedure

The licensing procedure for timber exports is also described in Annex V of the agreement. The Timber Industry Development Division (TIDD) of the Forestry Commission is the designated licensing authority but they will rely on information from the Timber Validation Department (TVD) to confirm legal compliance. Work to develop and test licensing procedures will take place in 2013. Once the licensing system is operational, this section will report in greater detail on how this licensing procedure operates.
1.1.4 Complaints system

Under the VPA, the purpose of the complaints system is to provide a mechanism for those who have concerns about the functioning of the LAS to seek redress. In Annex V of the VPA, it was agreed that a multistakeholder Timber Validation Council (TVC) would be established to provide oversight to the functioning of the TVD and that it would be this Council that would receive and deal with complaints.

In July 2012, the FLEGT Legislative Instrument (LI) was passed by Parliament. This LI makes provision for the creation of a 'Timber Validation Committee' (referred to in the VPA as a 'Council'). The establishment of this committee will take place in 2013 and once in place, it will elaborate procedures for dealing with complaints from various stakeholders. A list of representatives on that Committee is provided in section 5.2.2. The details of the complaints and resolution procedure will also be covered in the verification manuals currently under development.

Once the licensing system is operational, this section will report on the number and nature of complaints received and will also provide information on how these complaints were resolved.

1.1.5 Non-compliance mechanisms

In the issuance of FLEGT licences, the basic assumption is that where non-compliance with any element of the legality definition is observed, a licence will not be issued for that product until such time as this non-compliance has been addressed. It is therefore essential that for the efficient working of the LAS, there are clear and effective procedures for dealing with cases of non-compliance as and when they are identified. Procedures for dealing with non-compliances and the formulation of corrective action requirements will be addressed in the verification manual currently being developed. Once the licensing system is operational, this section of future reports will describe the nature of any non-compliance identified and actions taken to address these.

1.2 Independent Monitor

The role of the Independent Monitor is to periodically audit the procedures and control measures within the LAS, thereby providing assurances of the credibility of the licensing system as a whole. Annex VI of the VPA describes in detail the terms of reference for the Independent Monitor, from the tasks to be carried out to their reporting requirements.

Once operational, the Independent Monitor will issue two reports. The first will be a full and detailed report on the functioning of the LAS for review by the JMRM. The second report will be a public summary based on the more detailed report that summarises key findings and any systems failures identified during the audit.

In 2012, the assessment of proposals for the role of Independent Monitor was completed and a preferred bidder was selected. This service provider will be formally engaged and begin work in 2013.

Photo: Tim Lewis, Handcrafted Films
The objective of the VPA is not simply to verify the legality of timber exports to the EU but to also strengthen forest governance more broadly. Through the process to reach national consensus on a legality definition, a number of areas were identified where legislative reform would be required.

Annex II of the VPA describes a two-tiered approach to this legislative reform: short term reforms and medium term reforms. The first tier of legal reforms envisaged in the agreement were those not requiring extensive reform and that could be effected through subsidiary legislation within the first year after signature of the VPA. These reforms were mainly focussed on the necessary legal backing to enable the functioning of the FLEGT licensing scheme.

The second tier of reforms were those requiring extensive consultations and possible constitutional amendment and included areas such as tree tenure, the strengthening of stakeholder rights, a review of benefit sharing arrangements, and policies and supporting legislation to deal with illegal logging to supply the domestic market. The timeframe for this second tier was estimated at 3–5 years.

In July 2012, the Timber Resource (Legality Licensing) Regulations, LI 2184 were passed by Parliament. Also referred to as the FLEGT LI, they provide for the establishment of the Timber Validation Committee, setting out its functions, membership and other details relating to the workings of this Committee. They also cover general provisions on the issuance of FLEGT licences. To ensure consistency with the VPA, the regulations draw directly on text from Annexes IV and V of the Agreement.
Domestic market

When negotiating the VPA with the EU, there was strong support from both the private sector and civil society for the decision to include the issue of illegal logging to supply the domestic market in the VPA. Although chainsaw milling for commercial purposes has been banned since 1998, tackling this issue effectively remains one of the greatest environmental and socio-economic challenges that successive Governments have faced.

In 2012 the collaboration continued between the Timber Industry Development Division (TIDD) of the Forestry Commission and Tropenbos International Ghana on the domestic market. The domestic market policy developed through this collaboration was approved by the Ministry of Lands and Natural Resources.

The domestic market policy is structured around five specific objectives as follows: (i) to meet the demand for timber on the domestic market from legal sources; (ii) to eliminate illegal timber production and trade; (iii) to promote good governance in the supply of timber on the domestic market; (iv) to promote industry modernization and retooling for improved efficiency; and (v) to promote community based enterprises as alternative livelihoods for forest fringe communities.

With project funding from a number of sources, Tropenbos International Ghana was able to develop and pilot models of artisanal milling, a system proposed to supply legal lumber to the domestic market. Under the project, former (illegal) chainsaw operators and other actors in the trade were trained in the establishment and operation of trade associations. They were also trained in the management of small scale businesses.

3.1 Public procurement policy

With estimates that approximately 84% of domestic supply is from chainsaw milling, the Government of Ghana stated its intention in Annex II of the VPA, to develop a public procurement policy for verified legal timber. The objective of this policy is to eliminate chainsaw lumber from the supply chain of government-funded contracts.

In 2011, the Forestry Commission worked with the National Procurement Authority to draft a public procurement policy for verified legal timber. In 2012 the Commission embarked on extensive consultations with a range of key Government institutions and other stakeholder groups with a view to seeking Cabinet approval for the policy. By the end of 2012 however, it was clear that further consultations with organisations such as the Ghana Real Estate Developers Association (GREDA) would be necessary.
4. Trade in FLEGT-licensed timber

As stated in article 1 of the VPA, a key objective of the VPA between Ghana and the EU is to ensure that ‘all imports into the Community from Ghana of timber products covered by this Agreement have been legally produced’. Once the FLEGT licensing system is operational, this section of the annual report will focus on reporting statistics relating to the trade in FLEGT licensed timber products. Information reported upon will include:

- Volume of FLEGT licensed timber exported from Ghana to the EU
- Volume of FLEGT licensed timber received in the EU
- The number of FLEGT licences issued by Ghana
- The number of FLEGT Ghana licences received by EU
- EU licence verification processes
- Details of any problem cases

4.1 EU and other international markets

In October 2010 the EU adopted Regulation No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market, commonly known as the EU Timber Regulation (EUTR). By explicitly recognising FLEGT-licensed timber as meeting its requirements, the Regulation creates a strong market advantage for such products.

In June 2012, the implementing regulation for the EUTR was adopted and further guidance notes to further clarify the regulation were developed. Work continued with various private sector organisations and trade associations to raise awareness of the obligations that this regulation places on operators within the EU in preparation for the coming into force of the regulation in March 2013.

In November 2012, the Australian Parliament passed the Australian Illegal Logging Prohibition Act, making it an offence to import timber and timber products containing illegally sourced timber. Regulations that are due to come into force in November 2014 will set out a detailed list of products covered by the Act, along with the operational framework for importers and processors. Further information on this Act may be found on the website of the Australian Government’s Department of Agriculture, Fisheries and Forestry (http://www.daff.gov.au/forestry/policies/illegal-logging).
5 Institutional strengthening

5.1 Capacity building

The implementation of the VPA is a responsibility shared by Government, the private sector and civil society. The nature of capacity building required to support each group covers the spectrum from awareness-raising on the requirements of VPA, to training in new skills necessary to effectively implement the LAS. The following sections describe in further detail the support provided to each group during the period under review.

5.1.1 Civil society

A number of capacity building programmes were instituted by civil society organisations with support from a variety of sources. It is not the intention in this section to provide an exhaustive list of all initiatives funded but rather to highlight a selection of those that took place during 2012 in order to illustrate the nature of capacity building support being provided by these initiatives.

EU FAO ACP FLEGT Support Programme funded a project by Tropenbos International Ghana to support initiatives aimed at artisanal milling. To encourage the migration from chainsaw milling to more sustainable livelihood options, TBI Ghana, under the EU supported project on illegal chainsaw milling, also provided training in nursery formation and plantation establishment. Plans are far advanced to also train interested members of these associations in woodlot establishment and charcoal production.

Through a business sector advocacy challenge fund from Danida, TBI Ghana also facilitated a study tour by members of the Domestic Lumber Trade Association (DOLTA) to Guyana. The capacity of the Association to advocate was also strengthened through the grant.

5.1.2 Industry

In 2012, with financial support from the Forestry Commission, representatives of the Ghana Timber Association (GTA) and the Ghana Timber Millers Organisation (GTMO) collaborated to conduct a series of meetings with their respective membership on various aspects of the VPA, but with a particular focus on the LAS. In this regard, information was provided on: the legality definition; the range of products covered by the Agreement; institutional arrangements for the LAS; FLEGT Licensing Procedures; and the role of the independent auditor.
5.1.3 Forestry Commission

The main focus of capacity building activity within the FC in 2012 involved training of the verification and auditing staff of the TVD. Two members of staff of the department and a selected District Manager from the Forest Services Division (FSD) were supported by the European Forest Institute’s FLEGT Facility to undertake a course in ‘Principles of Forest Auditing’ in South Africa. The study program was a strategic initiative intended to provide staff of the TVD with a set of skills that will be applied in the implementation of the legality verification protocols and by extension, will ensure the successful implementation of the LAS.

5.1.4 Other Government departments

There are a number of Government departments that will have a clear role to play once the LAS is operational. These include the Ministry of Trade, the Ministry of Finance and Economic Planning, Customs, Excise and Preventative Service, and the Environment Protection Agency. During the period under review capacity building of these institutions was not considered to be a priority. Once the design of the WTS has been finalised and the associated verification procedures have been elaborated and field-tested, capacity building support to the relevant institutions will be elaborated in consultation with their representatives.

5.2 Institutional structures

To support the implementation of the LAS, it was necessary to create new institutional structures. The following sections describe the role of these structures and the current status of their development.

5.2.1 Timber Validation Department

The Timber Validation Department is described in Annex V of the VPA as performing the following functions:

- Auditor in the operations of actors in the forestry sector. In this respect it will check on the status of implementation of regulatory function as prescribed by law and contained in the definition of legality framework.
- Reconciliation of datasets generated through field operations within the sector for the purpose of enabling the issuance of system based licences.

In 2010 the TVD was established as a Directorate at the headquarters of the Forestry Commission. In 2011, two new staff were recruited into this department, bringing the size of the team to five. No further recruitments to this team were made in 2012. For 2013, it is expected that field verification teams will be deployed to support the implementation of the LAS.

5.2.2 Timber Validation Council (Committee)

In July 2012, LI 2184 was passed, making provision for the creation of the Timber Validation Committee. Although the text of Annex V of the VPA referred to a Council, the status of this body was changed to that of a Committee in the regulation. This change was necessary to ensure that the TVC did not appear to be a parallel body to the Forestry Commission and in no way alters the ability of the TVC to operate in the way envisaged during VPA negotiations. Membership of the Committee is as follows:

- a) a chairperson appointed by the Minister acting on the advice of the Commission
- b) the Chief Executive of the Commission
- c) one representative not below the level of Director from
  i. the Customs Division of the Ghana Revenue Authority nominated by the Commissioner-General
  ii. the Ministry of Lands and Natural Resources and
  iii. the Ghana Police Service
- d) one representative from Judiciary nominated by the Chief Justice
- e) one representative of the Trades Union Congress
- f) one representative from the private sector with the requisite qualification
- g) one representative from the timber industry
- h) one representative from the National House of Chiefs and
- i) the Director of the division or department of the Commission responsible for verification and validation of applications for licences.

The establishment of this Committee will take place in 2013.
Upon conclusion of the VPA negotiations, the Government of Ghana gained recognition from both the private sector and civil society as having worked to ensure effective consultation with all stakeholders to develop an agreement for which there was strong stakeholder support. It was therefore important that in implementation, the same spirit of consultation should remain.

In 2010 a Multi-Stakeholder Implementation Committee (M-SIC) was constituted to oversee the overall implementation of the VPA and co-ordinate the delivery of outputs to ensure that the objectives are achieved in line with the content and time schedule set out in the agreement.

During 2012, the M-SIC met only three times: in March, May and July. Some of the key issues discussed by this Committee were:

- Preparation for the 2012 JMRM meetings
- Memorandum of understanding with DFID to secure funding to support VPA implementation
- Engaging EU Customs to clarify how to deal with timber in transit
- Discussion and adoption of priority thematic areas for impact monitoring framework
- Formation of task teams to provide dedicated and expert support to the timely delivery of key milestones in the VPA implementation plan
- Preparations for the Regional FLEGT Conference in October 2012

Photo: Clare Brogan
Communications

Although there are a number of projects and programmes that include communication on FLEGT and the VPA as one of their objectives, it was acknowledged that there was a need for the development and implementation of a coherent communication strategy for the VPA. Work on this got underway in 2011 and progress on this is reported on in greater detail in section 7.2.

7.1 Promotion of verified legal timber

It has been agreed that once Ghana is producing FLEGT-licensed timber, considerable work will need to be done to promote these products. With the LAS still in development, it was considered premature to begin work in this area. Once the licensing system is operational however, this section of the report will reflect on progress with promotional activities for FLEGT-licensed timber products.

7.2 National VPA communication efforts

In the latter half of 2012, the M-SIC formed a multistakeholder task team to finalise the draft national VPA communication strategy. The strategy has an implementation schedule spanning a period of two years commencing from June 2013.

The purpose of the national VPA Communication Strategy is to inform and educate key stakeholders and the wider Ghanaian public about the means through which the VPA will address illegal logging and the trade in associated products.

Responsibility for the implementation of the strategy will be shared between the key stakeholder groups involved in the VPA implementation. In this regard, organisations such as the Domestic Lumber Trade Association (DOLTA) will begin their awareness and education campaign among their membership in 2013.
7.3 Publicly available information

During the negotiation of the Ghana VPA, the inclusion of an annex on transparency/information disclosure was not discussed. Article 20 of the agreement however, states that the JMRM shall record the efforts Ghana has made to be transparent by, among other things, making publicly available information about harvest rights, areas designated for harvesting, harvesting schedules, timber rights fees, and harvest related payments, and information on social responsibility agreements and crop damage compensation awards. Future reports will include details of what has been done to collate and publish such information.

In the fourth meeting of the Joint Monitoring and Review Mechanism (JMRM) in March 2012, civil society acknowledged that ‘in general there was a willingness to disclose information, however further work was needed to facilitate ease of access’. The Forestry Commission website currently includes the following information:

- Forest and wildlife policies, laws and regulations
- Timber trade statistics, collated on a monthly basis and also reported on annually
- Revenue disbursement reports for timber royalties
- Manuals of Procedure for Forest Management Planning
- Aide mémoires from each of the four meetings of the JMRM

In 2013, civil society will gather together a list of key sector information that they would like the Forestry Commission to make publicly available.

7.4 Reports and events

In October 2012, Ghana hosted a regional conference on ‘Experiences from the VPA process in Central and West African countries’. The conference was organised by the FAO’s ACP FLEGT Programme in collaboration with the Forestry Commission, the European Forest Institute and the EU-funded Strengthening African Forest Governance project managed by the Centre for International Development and Training at the University of Wolverhampton. The purpose of this event was to facilitate the exchange of experiences between representatives of key stakeholder groups in VPA partner countries. To inform discussions at the conference, a compendium of papers was published highlighting lessons from processes in the region thus far. This compendium is available to download in full from the website of the FAO’s FLEGT Programme (http://www.fao.org/forestry/eu-flegt/en/).
Monitoring

Each VPA includes a commitment to monitor impacts, and national impact monitoring frameworks will be developed at the country level for each VPA. The purpose of impact monitoring will be to determine whether, through the implementation of the agreement, the desired changes in forest governance are being realised, and also to identify any negative impacts of implementation so that measures may be taken to mitigate these impacts.

Ghana and the EU committed to work together to develop a national impact monitoring framework for VPA implementation. In late 2011, the M-SIC established a working group on impact monitoring to initiate this process. Through a stakeholder workshop in February 2012, eight draft impact areas were identified, around which further consultation could take place.

To guide discussions on the development of national impact monitoring frameworks, the EU commissioned ProForest to draw together existing work and elaborate options for monitoring the broader governance, environmental, economic and social impacts of VPAs. Using this report as a basis and through further consultation with interested EU Member States, the EU identified nine draft impact areas, which will form the basis of further discussion with Ghana on the development of the joint framework.

8.1 Impacts

Once the national monitoring framework has been developed and FLEGT licensing is operational, this section will report on the key impacts being observed as a consequence of VPA implementation and also those measures being taken to mitigate any adverse impacts.

8.2 Joint Monitoring and Review Mechanism (JMRM)

The Joint Monitoring and Review Mechanism (JMRM) is tasked with monitoring and review of the implementation of the agreement. In other VPA partner countries, this body is referred to as the Joint Implementation Committee (JIC). Article 19 of the VPA sets out the responsibilities of the JMRM. Among others, these include:

- Review, agree and publish annual reports
- Recommend the date upon which the FLEGT licensing system should become fully operational
- Review reports of the independent monitor
- Issue public summary reports based on the findings of the IM
- If necessary, establish subsidiary working groups for areas of work requiring specific expertise

On the side of Ghana, representation to the JMRM is led by the Minister of Lands and Natural Resources. On the side of the EU, representation is led by the Head of the EU Delegation in Ghana.

The inaugural meeting of the JMRM took place in January 2010. The fourth meeting of this body took place in March 2012. Aide mémoires from all four meetings are available to download from both the EU and Forestry Commission websites.
This annual report was jointly prepared by the Joint Monitoring and Review Mechanism Secretariats of the European Commission and Ghana to inform the public about progress in implementation of the Ghana-EU Voluntary Partnership Agreement.

Photo: Tropenbos International Ghana

Common efforts to ensure and promote legal timber trade and good stewardship of the forest sector