
This information brief has been prepared by European and Congolese experts to inform the public about the VPA. *The contents of this brief cannot be taken to reflect the official opinion of the European Union.*

Further information and detail can be found on: http://ec.europa.eu/development/policies/9interventionareas/environment/forest/forestry_intro_en.cfm

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FLEGT Voluntary Partnership Agreement Between The Republic of Congo and The European Union

Briefing Note

June 2010



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



Illegal logging has a devastating impact on some of the world's most valuable remaining forests and the people that live in them and rely on the resources they provide.

The European Union's response to tackle illegal logging is set out in the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan in 2003. The cornerstone of this policy is the FLEGT Voluntary Partnership Agreement (VPA).

WHAT IS A VPA?

The FLEGT Voluntary Partnership Agreement (VPA) is a bilateral agreement between the European Union (EU) and wood exporting countries, which aims to improve forest governance and ensure that the wood imported into the EU has complied with the legal requirements of the partner country.

Although there is no obligation for any country to enter into a VPA with the EU, once agreed they are legally binding on both parties, committing them to trading only in wood products that can be verified as legal. Under these agreements exporting countries develop systems to verify the legality of their timber exports to the EU. The EU supports partner countries to establish or improve systems which verify legal compliance.

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Tim Lewis,
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On 17 May 2010 the Congolese government and the EU signed a Voluntary Partnership Agreement (VPA) committing to improving forest law enforcement, governance and trade (FLEGT).

This agreement represents an important step, both for the EU, which adopted the FLEGT Action Plan in 2003 and signed the first VPA with Ghana in November 2009, and for the Republic of Congo (ROC), which is engaged in reforming its forest governance and in implementing sustainable forest management policies.

ROC is the first central African country to sign such an agreement with the EU. VPA negotiations with Cameroon and the Central African Republic are ongoing, while negotiations with Gabon and the Democratic Republic of Congo (DRC) should commence soon. In Asia, Indonesia and Malaysia are currently negotiating VPAs as is Liberia in West Africa. Other tropical countries have also expressed an interest.

BACKGROUND

Forestry, Congo's second most important export sector

ROC covers 342,000 km² – roughly the same area as Germany or Malaysia, and around 65% of the country is forested. Around 3.5 million hectares of forest have been set aside as protected zones, while 19 million hectares are intended for production. ROC exports annually between 1 and 1.3 million m³ of timber (round log equivalent).

Around 2 million hectares are certified in accordance with the Forest Stewardship Council's (FSC) scheme, and the Congo is also home to 73,000 hectares of commercial plantations.

After oil, the forest sector is Congo's most important natural resource, representing around 5% of the country's GDP. The value of timber and timber-derived products is approximately 250 million Euros annually.

The Congo's primary export markets are the EU and China. The majority of exports to the EU are sawn timber, which originates in the north of the country. China primarily imports logs from the south-western part of the country. The principal national port for export is Pointe-Noire. A significant quantity of the timber from the north of the country is shipped through Douala in Cameroon.

OBJECTIVES AND SCOPE OF THE VPA

The agreement covers all timber production in ROC and all export and domestic markets

The ROC Government entered VPA negotiations voluntarily in order to demonstrate its commitment to forest governance and sustainable forest management. As part of efforts to date, in 2006 an independent forest monitor was appointed to improve law enforcement in the forest sector. In addition, the Government has committed to the VPA as it offers new market opportunities for timber and timber products from ROC.

The core aim of the VPA is to put in place the necessary framework of legislation, systems, controls and verification procedures to ensure that timber from ROC which is destined for the EU market has been acquired, harvested, processed, transported and exported legally. The VPA is part of the efforts made by both parties towards sustainable management of all ROC's forests.

In addition, ROC has made a commitment to use the same Legality Assurance System (LAS) for ALL commercial timber and timber-based products produced, processed and/or purchased in ROC. This includes all exports, whether or not destined for the EU, all timber which is produced and consumed domestically, and any timber which is imported or in transit.

FLEGT licensing is scheduled to begin in July 2011, when the LAS will be in place and fully operational. ROC will then be in a position to issue FLEGT licenses certifying the legality of timber and timber-derived products destined for the EU.

*Initialling of the VPA, 9th May 2009.
Image credit: Hussein/CE*



VPA NEGOTIATION PROCESS

The development of a genuine dialogue between ROC's stakeholders

Negotiations between the Government of ROC and the European Commission commenced in Brazzaville in June 2008, and continued through 14 video conferences and four formal face-to-face sessions.

The ROC's team included representatives from seven ministries as well as members of the private sector and civil society. The ROC's Minister of Forest Economy, Mr. Henri Djombo, actively participated at every stage of the negotiations, a testament to his Government's commitment to the process. The EU was represented by the European Commission, with strong support from Member States, particularly France, and from technical agencies such as the European Forest Institute (EFI).

In preparation for the negotiation process, the Government facilitated a national multi-stakeholder dialogue. It established an 11-member Technical Secretariat consisting of representatives of the Government, the private sector and civil society. Additionally, a National Consultation Group was constituted, bringing in various stakeholders with an interest in forest management standards. This included people from government agencies, timber industry federations, NGOs and local communities. A regional advisor from COMIFAC (*Commission des Forêts d'Afrique Centrale* – the Central African Forest Commission) provided technical support to the process.

This was the first time such a process had been used to encourage direct dialogue between the private sector, civil society and the Government of ROC. This dialogue will continue throughout the VPA implementation stage via a multilateral secretariat and a national consultation group.

International organizations including FERN, IUCN, REM and Forests Monitor provided technical and financial support to representatives and organizations of civil society in ROC, which enhanced groups' capacity to represent their interests while seeking effective solutions during the VPA negotiations.

During Brussels-based negotiations, public meetings were organised to allow debate and discussion with European NGOs, businesses, business organisations and other European and international stakeholders.

*Signature of the Agreement,
17th May 2010, Brussels.*

*Image credit:
Council of the
European Union*



*Image Credit:
IM-FLEG Congo (REM)*



DEFINING LEGAL TIMBER IN THE CONGO

A participative process with precise verifiers to define what is legal

The definition of legal timber and timber products in ROC covers both natural forests and commercial plantations. Two different, but similarly structured, definitions set out the legal and regulatory requirements for each type of timber depending on its source. These definitions together cover the four types of forest ownership/permit that exist in ROC under the November 2000 Forest Code.

The definition of legality articulates the key principles governing the production and processing of timber products. These principles are: (1) The necessary administrative pre-conditions for every forestry enterprise; (2) The right of access to forest resources within areas of operation; (3) Social obligations associated with individual concessions, such as the use of local labour, or the participation of local communities and indigenous people; (4) Forest management, harvesting and processing of timber; (5) Transport and sales of timber; and (6) Fiscal obligations.

For each of the principles, criteria, indicators and verifiers have been identified which will permit the legality of timber and timber products to be demonstrated prior to FLEGT licensing.

The definitions of legality have been field-tested by an independent body. The relevance and applicability of the various criteria and indicators have been carefully evaluated, and only the most essential have been retained.

ROC developed its definition of legality through a participative process, which included representatives from the private sector, civil society and government. The approach has resulted in a definition based on relevant and applicable criteria, which contribute to economic, environmental and social sustainability.

DEFINING LEGAL TIMBER IN THE CONGO

The means by which timber in ROC is defined as legal incorporates the principles of sustainability. Forest management plans must be submitted within three years of acquiring forest rights. These plans include all relevant forestry requirements such as allowable cut, species, minimum felling diameter and volumes, as well as social obligations. Local employment, health and safety issues, the rights of local and indigenous communities, contributions to local development, and measures to minimise environmental impact and protect biodiversity must also be addressed.

Stakeholders in the FLEGT process have also identified areas in which legislation in ROC requires clarification and/or reinforcement to guarantee and promote sustainable forest management and good forest governance. The FLEGT Agreement sets out these issues in considerable detail, specifying the type of regulation required, the objective of the regulation, and the process for achieving it. Examples of these issues include:

- Inclusion of local and indigenous populations and civil society in the development of management plans
- Participation of civil society in the process of title allocation
- Practical means of verification and enforcement
- Legislation protecting the rights of indigenous peoples.

*Image Credit:
Tim Lewis,
Handcrafted Films*



ASSURING THE LEGALITY OF TIMBER IN ROC

A robust, two-stage process

Under the terms of this agreement, ROC has established the general outline of a Legality Assurance System (LAS) designed to monitor the management and use of forest resources and implement all necessary controls. The aim is to ensure that only legal products are produced by, sold in, and exported from ROC. The LAS applies to all sources of commercial timber and timber products that are made, processed and/or acquired in the country.

The Ministry of Sustainable Development, Forest Economy and the Environment is the administrative body responsible for the implementation of the LAS. It comprises the Directorate General of Forestry and its two central directorates, the Internal Forestry Verification Department (IGEF) and its three divisional inspectorates, as well as 12 departmental Directorates with their enforcement units. There are two further autonomously managed bodies – the Service for Control of Exported Forest Products (SCPFE) and the National Centre for Forest and Fauna Inventory and Management (CNIAF). These bodies will also coordinate with the seven Ministries involved in the implementation of the LAS, including Commerce, Justice, Customs and Excise, Labour, the Environment, Health and Social Security. Coordination will be at both at national and local levels.

Verification of legality is carried out by means of both documentation and field visits, and is done in two stages.

Stage 1: A Certificate of Legality is issued when all obligations of a forestry enterprise have been satisfied. This includes registration, taxes, fees, environmental impact studies, community participation and social and labour agreements.

Stage 2: Using a national tracing and management system, the supply chain is monitored, beginning with the tree in the forest and continuing through until a product is loaded onto a ship for export.

Monitoring of forest enterprises: Certificates of Legality

The issuance of a certificate of legality is the end of the first stage of the assurance process, indicating that all stipulated conditions have been met. A forest enterprise will only receive a certificate if, in the preceding year, it fulfilled all of its legal obligations and has not committed any infractions in the current year. A certificate is valid for one year.

LEGALITY ASSURANCE SYSTEM IN THE CONGO

The verification process requires documentary control and site visits by all relevant administrative bodies. The frequency of these checks depends on specific criteria and indicators – some will be checked once per title period, while others may require monthly or quarterly validation. A great deal of attention has been paid to the credibility of legality assurance without burdening businesses with excessive paperwork.

The Internal Forestry Verification Department (IGEF) is the administrative body responsible for ensuring that all checks have been carried out and that the associated administrative bodies have all completed their required tasks. The IGEF may cancel a certificate if criteria and indicators of legality are not met.

It is anticipated that private certification schemes which already exist in ROC (e.g. the Forest Stewardship Council (FSC), Origine et légalité du bois (OLB) and Timber Legality & Traceability Assurance (TLTV)) will be considered for inclusion in the national LAS. An assessment comparing the standards of private certification schemes with those set out in the national definition of legality will determine which private schemes are acceptable. Only those schemes that meet all criteria, indicators and verifiers of the national system will be accepted. IGEF will be responsible for approval of private certification systems. The assessment reports as well as IGEF's decisions will be published. Those businesses which subscribe to a private certification scheme will not be exempt from holding a certificate, but inspections by the IGEF will not normally be required in addition to those of the private scheme. Certified forest enterprises will be required to submit all private audit reports to the IGEF in order to ensure that all legal requirements have been met prior to the issuance of a certificate of legality.

Verification and control of the supply chain

Monitoring the supply chain is the second stage in assuring legality. A national traceability system will be established, collating the data held by forest enterprises and the various administrative bodies. Those forest enterprises which subscribe to private certification schemes will be required to coordinate their data collection and reporting with the national system.

The Directorate General of Forestry is responsible for the implementation and maintenance of the national traceability and information management system.

Control of the supply chain relies on four elements: product origin, product identification, data registration and tracing the product throughout the supply chain. The system includes various tools, such as geo-referencing trees in relation to inventories, enhanced on-site inventory control, annual felling limits, better marking of logs and rough timber, liaison between various databases to control the supply chain and the integration of plantations and special permits into the system.

At present, ROC does not import timber, and there are only small quantities of timber in transit at Pointe-Noire. However, the traceability system will include any imported or in-transit timber, the legality of which will be checked at entry. Assurance and control procedures for this aspect of the system will be established during the system development phase.

In the case of non-compliance within the traceability system, any irregularities will be automatically identified and reported in the national traceability and information management system. This information will be supplied to IGEF in real time, prior to FLEGT licences being issued.

During the LAS development process, a manual will be created which will set out the sanctions and associated measures to adopt in the case of non-compliance with the legality requirements.

FLEGT licenses

A FLEGT license will accompany any shipment of legally produced timber and/or products. A FLEGT license will only be issued to a business in possession of a valid Certificate of Legality, that is, a business which has satisfied Stage one above. Additionally, all the necessary information related to the control of the supply chain for a specific shipment should be available in the national traceability and information management system. This will complete Stage two and the shipment will be allowed to proceed to licensing and export.

Although the Legality Assurance System is applied to all timber, FLEGT Licenses will only be issued for Europe-bound shipments. The legality of shipments destined for countries outside of the EU (e.g. CEMAC, China or West Africa) will be confirmed by the system, but they will not carry FLEGT licenses. Similarly, timber of foreign origin that is in transit will not receive Congolese FLEGT licenses, though they will receive an official document detailing the timber's provenance.

FLEGT licenses will be issued by SCPFE following a decision from IGEF, and then delivered to the forest enterprise which requested it.

Independent Audit

The Agreement requires that the LAS be subject to an independent audit by a third party in order to ensure that all provisions of the agreement are functioning satisfactorily. All reports from the independent auditor will be made public.

The independent auditor will be expected to use all information available in order to complete the most effective audit possible. Information may come from specific sources such as individual reports, annual reports or data from the national traceability and information management system. Equally, information may be gathered during interviews with, for example, private certification schemes, independent observers from civil society, representatives of stakeholders or local communities, local authorities, businesses, NGOs, administrative bodies involved in the LAS, neighbouring countries' authorities if relevant, or any other source that might be useful.

VPA IMPLEMENTATION

A joint implementation committee will meet twice annually to oversee the agreement

The Voluntary Partnership Agreement establishes a Joint Implementation Committee, which will oversee the implementation of the agreement and facilitate dialogue between the parties. The Government of ROC and the EU will each nominate representatives to the committee.

The Committee will take any necessary decisions to ensure that the agreement is functioning as it should. The Joint Implementation Committee will meet at least twice per year and decisions will be made by consensus. The Committee will publish an annual report which assesses the progress made under the Agreement, including for example statistics regarding the quantities of FLEGT licensed timber and timber derived products which have been exported to the EU; specific actions undertaken to implement the agreement; the number of FLEGT licenses issued by ROC, and quantity of the same received by the EU; actions taken to prevent illegal timber importation; incidences of failure to adhere to the agreement in ROC and actions taken, as well as actions taken to prevent illegal export of timber to countries outside the EU.

With this in mind, ROC has created a technical, multi-stakeholder secretariat bringing together representatives of the Government, the private sector and civil society. It is envisioned that this secretariat will function as a support system for the Agreement and that its multi-stakeholder nature will encourage a balanced, transparent process throughout implementation of the VPA. The Technical Secretariat's tasks will include:

- Analysis of independent auditor's reports
- Preparation of documents to be used during meetings of the Joint Implementation Committee
- Follow-up of assurance procedures carried out by different departments
- Follow-up of the communication plan
- Follow-up and suggestions of appropriate measures to facilitate the implementation of the agreement, including support for the reinforcement of capacity for both the private sector and civil society
- Examination of any legislative and/or regulatory proposals which arise from negotiations

INFORMATION DISTRIBUTION AND TRANSPARENCY

All information relative to the forest sector will be made available

Transparency and communication are essential elements of the agreement. Transparency will foster dialogue between stakeholders and help to overcome difficulties which may be encountered in implementing and managing the agreement. Among the documents made public will be:

- The complete text of the agreement, its appendices and any subsequent amendments, as well as any legislation relevant to the definition of legality.
- Forest production statistics such as export volumes by concession, timber species information, value, products and operators.
- The process of granting concessions and concession holders – lists and maps of concessions and concession holders; annual allowable cuts; documents relating to forest exploitation and management such as forest management plans and environmental impact assessments.
- The methodology and results of verification, including verification reports and independent auditor reports.
- Forestry taxes assessed and collected; fines levied and paid.

*Image Credit:
Tim Lewis,
Handcrafted Films*



SUPPORT MEASURES

In order to implement the Agreement, emphasis is placed on improvement of capacity and development of the national traceability system

Specific measures will need to be taken to ensure successful implementation of the agreement, which will require human, technical and financial resources. It will be necessary to strengthen capacity at IGEF and in civil society, new legislative and regulatory proposals will need to be developed, a communication plan will have to be put in place and the Technical Secretariat will need to be put on a sound footing. The Government of ROC has also made a priority of independent observation of forest activities and governance by civil society, which will necessitate the creation of an appropriate structure within civil society.

In order to reinforce the ROC existing monitoring system, a project financed by the European Development Fund (€2 million) and co-financed by the Government of ROC (€1.08 million) is expected to be implemented between 2009 and 2011. Another source of support is envisaged through a regional program of the European Development Fund.



*Image Credit:
Tim Lewis,
Handcrafted Films*

FREQUENTLY ASKED QUESTIONS

What is ROC's interest in this Agreement?

ROC was already involved in a process of reforming its forest sector with the aim of achieving truly sustainable management. The country also became aware that European Markets wanted legally verified timber. For ROC, the VPA represented a tool with which to consolidate sectoral reform, improve its international image, maintain its access to the European market and benefit from the support of the European Union.

FLEGT LICENSES AND COMMERCE

Which products are covered by the license?

The VPA with the Congo covers all exports of timber and timber-based products, going beyond the five core categories set out by the EU FLEGT Regulation (2005).

Products covered by the agreement are logs, sawn wood, plywood, wood veneers, parquet, particle boards, timber frames, tools and wooden furniture. Wood with an energy-based use (charcoal, briquettes and pellets, fuel wood) is also covered by the legality assurance system set out in the agreement.

How important is the EU as an export market for Congolese timber?

ROC is one of the largest exporters of timber from the Congo basin, primarily from its own Pointe-Noire port or via Douala in Cameroon. The primary destination for exported timber is the European Union (around 40% of exports in log terms), though Asia is becoming increasingly important (37% of exports go to China). The European Union is the primary market for processed timbers (56% of sawn timbers and 75% of wood veneers). Portugal, Spain, France, Germany, Belgium and the Netherlands are its key markets.

Aren't VPAs just another form of commercial restriction?

On the contrary, VPAs offer the timber industry in ROC the opportunity to strengthen existing markets and develop new commercial opportunities.

The introduction of purchasing policies by some public and private EU operators means that today, acceptance of timber and timber derived products from ROC is limited, as an assurance is required that the timber has been legally-sourced.

These assurances sometimes include certification of sustainable forest management according to standards set out by programmes such as the Programme for the Endorsement of Forest Certification Schemes (PEFC) or the Forest Stewardship Council (FSC). Committing to a VPA and so establishing FLEGT licenses for its timber will better place ROC to respond to changing markets.

Are markets other than Europe changing?

In an amendment to the “Lacey Act” passed in 2008, the United States of America made it an offence to market illegal timber in the United States. Merchants selling in the United States will look for guarantees from their suppliers that the timber and timber products they trade come from legal sources to demonstrate that they have exercised ‘due care’, as required by the Lacey Act. The Legality Assurance System developed within the framework of this FLEGT Agreement should thereby reassure American buyers. Australia is also currently considering legislation to combat illegal logging and the trade in illegal wood products, as are other countries. Together, the above measures combined with European measures should increase the general demand for legally verified timber on international markets.

If EU-bound timber exports will shortly require a FLEGT license, what is there to stop the private sector in ROC simply exporting to other markets?

The VPA does not specify which markets the private sector in ROC may export to. However, within the framework of the VPA, the country has committed to verifying the legality of all timber and products, whatever the destination market. Shipments of timber destined for the EU will receive FLEGT licenses. Those destined for other markets will not receive FLEGT licenses, but will nevertheless have had their legality verified.

Elsewhere, should other importers require proof of legality, as the Lacey Act amendment has made likely in the case of the United States, the system can easily supply certificates as the timber will have already been verified as legal.

What is the link between VPAs and the EU ‘Due Diligence’ requirement?

The European Union is currently developing legislation which will oblige individuals or companies operating in the EU to exercise ‘due diligence’ when supplying timber and timber derived products. This legislation will reduce the risk of illegal timber being sold on the European market and is currently under debate at the European Council and Parliament. The draft legislation expressly recognises that FLEGT-licensed timber meets all legal requirements, and as such, it should encourage the European private sector to seek out legally verified sources, and in particular FLEGT-licensed products originating from a country with a VPA.

Will the market price for FLEGT-licensed timber be higher than un-verified wood?

Buyers’ response to FLEGT-licensed products is still unknown, as none is yet available on the international market. While the European Commission and the ROC authorities do not anticipate significantly higher prices, increased demand is anticipated, particularly in important markets such as the UK, France, the Netherlands and Denmark. In these countries central government procurement policies stipulate that all timber-derived products that are purchased by central government agencies must be certified as legal. These policies typically apply to government procurement contracts, which represent between 5% and 25% of total timber consumption, depending on the country. The European Commission and ROC as well as other VPA-signatory countries such as Ghana, will encourage all European Member States to accept FLEGT licenses as proof of compliance with public procurement policies.

BEING SURE OF THE LEGALITY OF TIMBER

On what basis is legality defined within the VPA?

National legislation and regulations governing forest, commerce, the environment, work, agriculture, land ownership and international treaties signed and ratified by ROC were all taken into account during the national process of defining legal timber.

Criteria and verifiers are based on national law; it has further been tested for its relevance and applicability in-country by an independent contractor. Furthermore, areas in which national legislation requires clarification and/or improvement have been identified and new provisions will be incorporated into the legality criteria once adopted.

How will the national Legality Assurance System for the VPA differ from the current system?

Under the current system, an Export License (AVE) is issued following checks. However, only specific aspects of legality are taken into account, notably forest management and taxation. In addition, the monitoring system currently in place does not allow for real-time data collection and reconciliation. As a result, buyers remained unconvinced of the legality of timber from ROC.

The Legality Assurance System that has been developed within the framework of the FLEGT Agreement will be more complete than at present and will cover all criteria included in the national definition of legality. Some verification will be paper-based, some will be field-based, resulting in the issuance of a certificate of legality which will be valid for one year on condition of no subsequent infractions. IGEF will be responsible

for the issuance of the certificate of legality, and will have its powers extended and its capacity strengthened accordingly. In parallel, the national tracing system will allow efficient monitoring as timber moves through the supply chain, from tree stump to export. If a business holds a certificate of legality, and if the verifiers in the monitoring system show that the timber it produces is legal, then IGEF will authorise the issue of a FLEGT license.

Who will issue FLEGT licenses in the Congo?

Licenses will be issued subject to instruction by IGEF, through SCPFE, the agency which is currently responsible for issuing AVEs.

What happens if a company does not comply with the indicators set out in the definition of legality?

Once the FLEGT licensing system is operational, all timber that does not conform to the legality criteria will be identified as such and will not receive a FLEGT license. It will thus be barred from entering the EU. Any failure to adhere to regulations set out in the legality criteria will be subject to sanctions, as defined in the Congolese law enforcement and judiciary framework. In serious cases the timber can be seized and all future operations banned. With any infraction, a company’s certificate of legality will be rescinded.

What happens to illegal timber?

Depending on the level of illegality, the timber may be seized. Seized timber will be used for charitable purposes such as the manufacture of desks and chairs for schools.

Within the VPA framework, all timber produced by ROC for export to the EU will be licensed as legal, but what happens if timber from other countries is processed in the country and exported to the EU?

Currently, no timber is imported into ROC to be processed before re-export. There is, however, timber in transit – imported in order to be re-exported as such from Pointe-Noire. The government of ROC understands the importance of assuring international markets that FLEGT licensed products should not be tainted by accusations of laundering illegally-obtained timber imported from other countries in the region. It is for this reason that the legality of imported timber and timber in transit will be checked at the point of entry in the country. This timber will be appropriately marked and entered into the traceability system, then tracked when in ROC, ensuring that there is no mixing.

What happens to timber from ROC that is exported via Cameroon? Will the FLEGT license be Cameroonian or Congolese?

Timber from ROC that goes through the Cameroonian port of Douala destined for the EU will be regarded as ROC timber and will carry an ROC FLEGT license. Timber from ROC that is processed by factories in Cameroon becomes Cameroonian. As Cameroon is also party to a VPA, we anticipate that such timber will be entered into the Cameroon Legality Assurance System once it passes onto Cameroonian soil and into Cameroonian factories. Once it has been processed in Cameroon, the timber will carry a Cameroonian FLEGT license if exported to the EU. The FLEGT license will show that the country of harvest is ROC, but that it is regarded as a Cameroonian product.

Does the VPA address the issue of illegal wood in the domestic market?

The system to be implemented in ROC will apply not only to Europe-bound exports, but will also include assurance of the legality of all exports and imports of timber, as well as timber destined for the domestic market. During the negotiation of the Agreement, ROC committed to tackling the problem of illegal timber in the domestic market at the same time, in order to avoid setting up a two-tier legal system. Even when timber is destined for the domestic market, ROC wishes to apply the same verification procedures in order to assure the legality of all wood in the country and to maintain the integrity of the national supply chain.

Image Credit:
IM-FLEG Congo (REM)



LEGALITY AND SUSTAINABILITY, PRIVATE CERTIFICATION

How does the VPA address issues of sustainable forest management?

The 2000 ROC Forest Code is based on the principles of sustainable forest management. The management plan, compulsory for all permanent forest concessions, is a useful tool and is based on current understanding of sustainable forest management. By effective application of a development plan, and by obeying laws and regulations, businesses can manage the forest in a legal and sustainable manner.

The preparation of the legality criteria and identification of new legislation to be elaborated and adopted were done with the aim of developing a framework which would promote sustainability in both natural forests and plantations.

Is certified timber accepted as legal within the ROC's VPA framework?

Currently, ROC has the largest area of forest land in certified concessions in central Africa. In order to avoid duplicate auditing, forest businesses that currently hold a private certificate of legality or sustainability which is recognised by the IGEF will have the option of obtaining a FLEGT certificate of legality without having to undergo further verification procedures. They will merely have to supply the IGEF with an audit report from their private certification scheme.

All private certification schemes can be formally recognised by the IGEF, as long as they can demonstrate that they are based on credible, independent audits and a methodology which takes into account all obligations set out in ROC's definition of legality. Any evaluation the IGEF makes of individual certification schemes will be made public.

A national traceability system has been established to trace timber in ROC. It is hoped that this system will be able to communicate electronically with traceability systems established by private companies as part of their participation in private monitoring schemes.

REFORMS

What type of legislative reforms will be implemented?

During negotiations, discussion between the various stakeholders (governments, the private sector and civil society) identified some issues in the ROC's regulatory framework which require strengthening or reforming. A process for preparing and adopting new regulations was adopted during system development.

The areas of concern are as follows:

- Improvement of the legal framework dealing with community forests
- Silvicultural practice in plantations
- Participation of civil society representatives in processes for allocating forest concessions and other forest rights
- Modalities for involvement of local communities, indigenous populations and civil society in forest concessions management and in preparation and follow up of corporate social agreements (*cahier des charges*)
- Modalities for monitoring and verification
- Legislation safeguarding the rights of indigenous peoples
- A framework for environmental impact assessment studies

COMMUNITY IMPACT

What is the impact of the VPA on those communities that depend on the forest?

One of the criteria included in the definition of legality is that of social obligations, and in particular how local and indigenous people might be affected by the agreement.

However, certain gaps in the legal framework were discovered during the negotiation process, and the Government has committed to improving them through a reform process in the following areas: Community-based forest resource management; participation of civil society in the allocation of forest rights; ways and means of involving local and indigenous peoples in the management of forest concessions and in development of regulations; enforcing the rules and agreements between communities and companies.

The Government anticipates that it will adopt the law on indigenous peoples currently in preparation.

What will happen if there are unforeseen negative impacts on the way of life of local communities and indigenous peoples?

Under the terms of the Agreement, both parties have committed to developing a better understanding of the way of life of these groups, including those that engage in illegal logging. How these groups are affected will be studied during the implementation of the Agreement, and, if necessary, measures will be taken to counteract any negative impact.

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IM-FLEG Congo (REM)



IMPLEMENTATION

When will the Congo issue the first FLEGT licenses?

According to the implementation schedule, ROC expects to issue its first FLEGT license in July 2011.

What happens if the system is not ready in July 2011?

ROC and the EU will jointly evaluate the system established by the Agreement in order to confirm that it is working correctly. Only then can the two Parties decide that they are ready to export and import only timber that carries a FLEGT license in their bilateral trade. This evaluation will take place in May 2011 and should provide a basis for deciding whether the system is ready and licenses may be issued. If the system is not yet functional, the two Parties will agree on a new time schedule.

Who is funding the VPA Legality Assurance System?

The System has been designed in such a way that the routine operating costs should be covered by revenue generated by forestry activities. However, implementation of the VPA will involve important changes in how the Government and the private sector function. In addition to money that has been budgeted to implement these changes, ROC has received support from the 10th European Development Fund, which will go towards set up costs for the traceability system. Other support is in the process of being identified, including an FAO programme and a further programme from the European Forest Institute (EFI), both of which are financed by the EU.

What progress has there been since the conclusion of negotiations in May 2009?

A number of things have happened. The project aiming to develop the traceability system, financed by ROC and the EU, was signed on the 9th May and launched in Autumn 2009. In June 2010 detailed development of the procedures necessary for legality assurance have started, together with an analysis of capacity building requirements. Additional analysis will be carried out on the development of the training program designed for IGEF, the Internal Forestry Verification Department. The first sessions of technical training will take place in Autumn 2010, with the support of the FAO's intra-ACP programme, financed by the European Development Fund. This program will also support the process of reform or drafting for legislative areas that have been identified as a priority in the national VPA dialogue.

The European Commission will also, in the course of 2010, launch the call for proposals on support for civil society initiatives for the implementation of the VPA. Finally, regular meetings take place between the EU and the ROC secretariat in order to monitor any developments in anticipation of the inauguration of a FLEGT Joint Implementation Committee to oversee the Agreement.

AUDIT AND FOLLOW UP

Who will carry out Independent Audits of the LAS?

An independent group with proven auditing skills and a deep knowledge of the forest sector in the Congo basin will be given the task of auditing. The audits will be financed, in the initial phase, by the EU, and chosen by tender. The auditor will be selected on the basis of demonstrated skills and credibility on an international level. Complete independence is of the utmost importance and all efforts will be made to avoid conflicts of interest.

How often will the Independent Audits take place?

The frequency of audits will be determined by the Joint Implementation Committee. They will take place at least three times a year for the first two years, though this number could be reduced if the Committee feels appropriate at a later date. Unannounced audits will always be an option.

How will Independent Auditing link with existing Independent Observation of the forest sector in ROC?

The Agreement stipulates that civil society will play an important role in the independent observation of forest activity and governance in ROC in parallel with the Independent Audit. While the independent auditor will focus on an analysis of the Legality Assurance System, with field and documentary checks, the role of the independent observer will be to observe when laws are infringed and how well law enforcement is functioning. Information provided by independent observers will clearly be very useful to the independent auditor in assessing the credibility of the LAS. Currently, the Independent Monitoring of Forest Law Enforcement and Governance project (IM-FLEG), financed by the EU, is contributing to the development of ROC's civil society capacity for independent observation in the sector.

How is implementation of the agreement followed up and tested?

The VPA will establish a Joint Implementation Committee in order to facilitate follow-up and control of the Agreement. ROC and the EU are responsible for choosing their representatives on this committee. It was created in order to facilitate dialogue and regular exchange of information between the two parties during the implementation of the Agreement and it will publish an annual report, detailing activity, progress and relevant statistics. The Joint Implementation Committee will also analyse reports issued by the FLEGT Independent Auditor and take any measures deemed necessary in order to ensure the credibility of the Agreement and the LAS that underpins it. It will also be responsible for analysing the different impacts of the Agreement, including those on local communities and indigenous populations.

How are stakeholders involved in the VPA following implementation?

For this purpose, ROC has created a technical, multipartite secretariat bringing together representatives of government, the private sector and civil society. It is designed to support implementation of the Agreement. It is hoped that its multipartite nature will contribute to a balanced, transparent process throughout the full period of the Agreement's implementation.

How will the public be informed about progress and challenges that arise during implementation of the VPA?

The Congo has made clear commitments regarding transparency, and all information on the forest sector and the VPA will be made public, including reports from the independent auditor. In addition, ROC has developed a communication strategy which considers all parties involved, to ensure an interactive dialogue during all phases of VPA implementation.

How can I get a copy of the agreement?

The text of the agreement, including annexes, will be publicly available following ratification by the two parties. It will be published in the Official Journal of the European Union and will also be available on the Commission's website and that of the Government of ROC.

What is the agreement's duration?

The agreement will last 7 years, and is renewable for successive 5-year periods.

ABBREVIATIONS

AVE	Export license (<i>Autorisation de vérification à l'export</i>)
CEMAC	Economic and Monetary Community of Central Africa
CNIAF	National Centre for Forest and Fauna Inventory and Management
COMIFAC	Central African Forestry Commission (<i>Commission des forêts d'Afrique centrale</i>)
EFI	European Forest Institute
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FLEGT	Forest Law Enforcement, Governance and Trade
FSC	Forest Stewardship Council
GDP	Gross domestic product
IGEF	Internal Forestry Verification Department (<i>Inspection Générale de l'Economie Forestière</i>)
IM-FLEG	Independent Monitoring of Forest Law Enforcement and Governance
IUCN	International Union for Conservation of Nature
LAS	Legality Assurance System
NGO	Non-Governmental Organisation
OLB	Verification of Legal origin of Timber (<i>Origine et légalité des bois</i>)
PEFC	Programme for the Endorsement of Forest Certification Schemes
REM	Resource extraction monitoring
SCPFE	Service for Control of Exported Forest Products (<i>Service de contrôle des produits forestiers à l'exportation</i>)
TLTV	Timber Legality & Traceability Verification
VPA	Voluntary Partnership Agreement