

DISCUSSION PAPER No. 307

# Can trade policies help promote sustainable forest management? AN ANALYSIS OF THE EU-GHANA FLEGT VOLUNTARY PARTNERSHIP AGREEMENT

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This paper analyses the implementation of the EU-Ghana Voluntary Partnership Agreement (VPA) under the EU's Forest Law Enforcement, Governance and Trade (FLEGT) initiative, which seeks to address illegal logging by improving forest sector governance and promoting trade in legally produced timber. It draws lessons for the EU on how trade and non-trade policy instruments can be used in a coherent and integrated way to sustain local policy reforms towards non-trade policy objectives in partner countries.

Through the FLEGT-VPA, the EU was able to integrate trade policies and development assistance into a coherent and coordinated approach that has helped sustain momentum on Ghana's forest sector governance reforms and generate progress on sustainable forest management. Importantly, the EU-Ghana VPA built on Ghana's sector reform objectives and national legislative processes, thereby ensuring legitimacy, local ownership and more effective enforcement. Independent monitoring, joint review and civil society engagement also proved crucial.

However, despite its positive impacts, the EU-Ghana FLEGT-VPA remains a work in progress. It has not yet established a functioning licensing system for Ghanaian timber exports to the EU, nor has it fully addressed concerns about representation and equity in Ghana's forest sector governance. The analysis shows that navigating deeply entrenched vested interests and inconsistent political leadership has been a challenge. It also highlights the risks and limitations of the FLEGT-VPA approach, including its reliance on the continued importance of the EU market and the risk that slow progress on VPA implementation leads to reform fatigue among key stakeholders.



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## Acronyms

CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
EC	European Commission
ECA	European Court of Auditors
ECDPM	European Centre for Development Policy Management
EPA	Economic partnership agreement
EU	European Union
EUTR	EU Timber Regulation
FLEGT	Forest Law Enforcement, Governance and Trade
JMRM	Joint Monitoring and Review Mechanism
MSIC	Multi-stakeholder implementation committee
NGO	Non-governmental organisation
NTPO	Non-trade policy objective
RESPECT	Realising Europe’s Soft Power in External Cooperation and Trade
SME	Small- and medium-sized enterprise
VPA	Voluntary Partnership Agreement
WTO	World Trade Organization

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## 1. Introduction

The European Union (EU) uses a range of external policy instruments, including trade agreements and development assistance, to pursue trade-related policy objectives in partner countries. However, the EU also seeks to use these policy instruments to pursue non-trade policy objectives (NTPOs) in partner countries. Indeed, the recent European Commission Communication on the EU Trade Policy Review emphasises the EU's intention to use trade policy instruments to achieve sustainability objectives, including in areas such as labour standards and environmental protection (EC 2021).

In this context, this paper aims to contribute to thinking on how the EU can use its trade and non-trade policy instruments in a coherent and integrated way to support and sustain local policy reforms towards NTPOs in partner countries. In particular, it examines the implementation of the EU's Voluntary Partnership Agreement (VPA) with Ghana under the EU's Forest Law Enforcement, Governance and Trade (FLEGT) initiative.

Using secondary literature, the paper analyses the FLEGT VPA approach adopted by the EU to address illegal logging and associated trade in Ghana. The paper describes the EU-Ghana VPA, its objectives, the implementation challenges it has faced and its achievements. It then analyses the EU's role in sustaining forest sector governance reforms in Ghana through the VPA, and the domestic political economy factors that have affected the EU's ability to sustain these reforms. The paper also highlights limitations of the FLEGT VPA approach before drawing lessons for future EU efforts to use trade policy instruments and complementary policy tools to achieve NTPOs in partner countries.

## 2. The FLEGT Action Plan, VPAs and EU Timber Regulation: a coherent package to tackle illegal logging and associated trade

### The FLEGT Action Plan

By the mid-2000s, there was widespread recognition of the environmental and social damage being caused by illegal logging and associated forest loss, and of international trade's role as a driver of illegal logging (Overdevest & Zeitlin 2016; McDermott et al. 2019). Despite consensus that measures were needed to tackle the problem of illegal logging, international initiatives to address sustainable forest management faced resistance from states, industry and civil society actors. The former were anxious about threats to their sovereignty, while the latter feared that an international convention would favour extraction over conservation (McDermott et al. 2019). In the absence of a multilateral solution, and recognising its responsibility as a major consumer of timber and timber products, the EU decided to act to address illegal logging and associated trade in illegally-harvested timber.

In May 2003, the European Commission (EC) published the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan. The FLEGT Action Plan introduced a framework for coordinated action by the EC and EU member states to promote good governance and just and equitable solutions for sustainable forest management in developing countries and to curb imports of illegally-harvested timber and timber products into the EU (EC 2016).

The FLEGT Action Plan aimed to tackle the issue of illegal logging and associated trade through a combination of policy measures and activities in the EU, and in timber-exporting partner countries, from both a demand and supply

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perspective (ECA 2015). On the demand side, the EC encouraged EU member states to adopt public procurement policies requiring all timber supplied to be verified as legal and encouraged EU companies to ensure that only legal timber entered their supply chains. In addition, the EC introduced legislative measures to prevent illegally-harvested timber from entering the EU market (EC 2016). On the supply side, the EC and EU member states would provide technical and financial assistance to developing countries to support improved forest sector governance and capacity building of government bodies and non-government actors (ECA 2015).

## Voluntary Partnership Agreements with partner countries

A key element of the FLEGT framework is the negotiation of Voluntary Partnership Agreements (VPAs) with interested timber-exporting countries outside the EU, particularly developing country timber exporters. These legally binding bilateral agreements aim to ensure the 'legality' of the timber and timber products exported to the EU, and to promote sustainable and inclusive forest governance in the exporting country (Overdevest & Zeitlin 2016). A country that enters into a FLEGT VPA with the EU commits to develop a national timber legality assurance system to verify the legality of its timber and timber products. This should be based on a definition of 'legal' timber agreed through an inclusive and participatory process (Brack 2019). Once this system has been developed, tested and found to be robust, it can begin issuing the FLEGT licenses that would then be required for timber exports to the EU (ECA 2015).

The EU for its part, commits under the VPA to facilitate access for FLEGT licensed timber to the EU market, and to support the partner country financially and technically to improve its forest sector governance and establish its legality assurance systems (ibid.). This support includes support for developing relevant policies, laws and procedures, for developing reliable monitoring and tracking systems and for building the capacity of government and non-government actors to improve forest sector governance (ibid.). Monitoring and review of the VPA is undertaken by a joint committee of representatives from the EU and the partner country. This joint committee is also responsible for resolving disputes and recommending changes and further capacity-building where necessary (Overdevest & Zeitlin 2016).

To date the EU has signed FLEGT VPAs with eight partner countries: Cameroon, Central African Republic, Ghana, Honduras, Indonesia, Liberia, the Republic of the Congo and Vietnam.<sup>1</sup> With the exception of Honduras, who only signed its VPA in February 2021, all these partner countries are taking steps to implement their VPAs. Indonesia is the only partner country so far to have met the conditions to issue FLEGT licenses. The EU is negotiating FLEGT VPAs with eight more countries.<sup>2</sup>

## The EU Timber Regulation

Alongside VPAs, the other main component of the FLEGT framework is the EU Timber Regulation (EUTR), which prohibits illegally-harvested timber being placed on the EU market. The EUTR, which entered into force in 2013, obliges EU traders that place timber products on the EU market for the first time to exercise due diligence to assess any risk that the product comprises or contains illegally sourced timber.<sup>3</sup> They can do so by developing their own due diligence system or by making use of a system developed by a third party recognised by the EC. However, timber products covered by a valid FLEGT license are considered to automatically comply with the requirements of the

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<sup>1</sup> See [FLEGT and VPA countries](#).

<sup>2</sup> Côte d'Ivoire, the Democratic Republic of the Congo, Gabon, Guyana, Laos, Malaysia and Thailand.

<sup>3</sup> See [https://ec.europa.eu/environment/forests/timber\\_regulation.htm#diligence](https://ec.europa.eu/environment/forests/timber_regulation.htm#diligence).

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EUTR,<sup>4</sup> and hence companies placing FLEGT-licensed timber products on the EU market do not need to carry out additional due diligence checks (Ashraf & van Seters 2019).

The EUTR was developed as a demand-side measure to complement the FLEGT VPAs, and to incentivise partner countries to conclude and implement VPAs. Without the EUTR requirement for an assurance of legality, there would be less incentive for partner countries to conclude and implement VPAs (Overdevest & Zeitlin 2016). Moreover, the EUTR ensures that partner countries that conclude and implement a VPA are not at the risk of trade diversion to competing non-VPA exporters with lower forest governance standards and weaker enforcement of forest sector laws (ibid.).<sup>5</sup>

### An innovative and coherent framework

The FLEGT framework tackles the problem of illegal logging and associated trade in an innovative way. By focusing on legality as defined by the law in producer countries, rather than by imposing European standards, FLEGT ensures respect for territorial rights and World Trade Organization (WTO) rules, while avoiding politically sensitive sovereignty concerns in partner countries and thereby increasing the likelihood of their participation in the FLEGT scheme (ibid.). Another innovative aspect of the FLEGT framework is that the VPAs mandate the participation of a broad range of partner country stakeholders in their implementation and the involvement of civil society actors and local communities in forest governance reforms. In doing so, the VPAs aim to stimulate an ongoing dialogue about sustainable and inclusive forest governance in the partner country (ibid.).

The main policy instruments of the FLEGT framework - the FLEGT Regulation, VPAs and EUTR - are also coherent, combining development assistance and trade and environment policies in the EU and in partner countries in a mutually supportive manner (EC 2016). By linking improved forest law and governance to trade regulation, the FLEGT framework creates market incentives for legal compliance. The EUTR provides an incentive for countries to conclude and implement VPAs, while the risk of losing access to the EU market incentivises operators in partner countries to meet VPA requirements (Brack 2019). These market incentives are complemented by procurement policies, dialogues and financial and technical assistance to governments and civil society in partner countries to support VPA implementation and associated reforms for more sustainable and inclusive forest sector governance.

## 3. The Ghana-EU VPA

By 2005, the EU was ready to start discussing VPA negotiations with interested countries. At the time, the EU market accounted for around 60% of Ghana's timber exports (Beeko & Arts, 2010). The desire to preserve access to this important market led the Ghanaian government to engage in VPA discussions with the EU (Overdevest & Zeitlin 2016). The fact that the EU was also a major provider of development assistance to Ghana was also important. The possibility of securing sector budget support to advance key reforms in the forest sector was enticing for the Ghanaian government, especially given the ongoing and incomplete reform process in the sector and the fact that a number of projects in the sector were coming to an end (ibid.). In this context, Ghana began negotiating a FLEGT VPA in March 2007, and in November 2009 became the first country to sign a FLEGT VPA with the EU (Ghana-EU 2018). This was notable too, for the fact that Ghana was considered to be a significant source of illegally-harvested timber imported into the EU at the time (TEREA 2016).

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<sup>4</sup> This is also the case for timber products covered by a valid CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) license. See [https://ec.europa.eu/environment/forests/timber\\_regulation.htm](https://ec.europa.eu/environment/forests/timber_regulation.htm).

<sup>5</sup> A major driver behind the passage of the EUTR was the concern expressed by certain VPA negotiating partners, notably Indonesia, that additional regulations were needed to safeguard against such trade diversion (Overdevest & Zeitlin 2016).

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Under the VPA, Ghana committed to develop a timber legality assurance system to track timber along the supply chain, verify compliance with a stakeholder-agreed definition of legality and issue FLEGT licenses for verified legal timber product exports to the EU (Ghana-EU 2018). Ghana also signaled its intention to apply the same legality standards to harvested timber destined for non-EU markets, including the Ghanaian market (ibid.).<sup>6</sup>

## Implementing Ghana's FLEGT VPA has proven challenging

When the Ghana-EU VPA was signed, it was assumed that establishing and operationalising a legality assurance system would be a relatively straightforward technical exercise. The expectation was that Ghana would be ready to export its first FLEGT- licenced timber products to the EU within two years of VPA ratification, i.e. by the end of 2011 (Myers et al, 2020). Yet in Ghana, as in other VPA countries, operationalising a legality assurance system has proven more time-consuming, technically complex and politically and administratively challenging than originally anticipated (TEREA 2016; Brack 2019).

Ghana has made progress on its legality assessment system. It has developed and rolled out a wood tracking system and set up a Timber Validation Department in the Forestry Commission, as well as a multi-stakeholder Timber Validation Committee to oversee the work of the Timber Validation Department.<sup>7</sup> The Forestry Commission has taken steps to finalise the verification protocols and the systems for issuing FLEGT licenses. Nonetheless, while Ghana is described as being almost ready to issue FLEGT licenses, an independent review conducted in 2019 and 2020 concluded that the country's legality assessment system was still not ready to issue FLEGT licenses.<sup>8</sup>

Implementation of the Ghana-EU VPA has encountered practical difficulties such as intermittent power supply and internet connectivity (Overdevest & Zeitlin 2016). It has also been complicated by Ghana's weak administrative coordination and governance capacity, which in turn make it difficult for the Ghanaian government to effectively engage with large groups of stakeholders (Nketiah et al. 2018). Implementation of the VPA's broad commitments to forest governance reform has also meant addressing entrenched patron-client relations and tackling a series of politically tricky issues concerning land use and allocation of rights to natural resources, payment of Timber Rights Fees on concessions, observance of Social Responsibility Agreements and reorientation of the domestic market away from illegal 'chainsaw milling' (Overdevest & Zeitlin 2016). These issues were somewhat neglected during the early phase of VPA implementation, which focused largely on the 'technical' aspects of developing a wood tracking system (TEREA 2016). Only once these technical issues were more-or-less solved, did Ghanaian officials begin giving sufficient attention to more 'political' issues such as defining legality and reforming domestic laws for better forest sector governance (ibid.).

VPA implementation in Ghana has stalled repeatedly. Following the conclusion of the VPA, there was little progress for several years. Unlike for subsequent VPAs, the EU did not make arrangements with the Ghanaian government and local stakeholders to monitor implementation progress during the (ultimately quite long) period between concluding the VPA and its ratification, and this resulted in lost momentum (Overdevest & Zeitlin 2016). This was compounded by a change of government in 2008 which necessitated efforts to rebuild understanding of and support for the VPA on the Ghanaian government side, almost from scratch. Changes in personnel at the Forestry

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<sup>6</sup> Article 13 of the VPA states that "Ghana shall endeavour to verify the legality of timber sold on domestic markets and of imported timber, using, where possible, the systems developed for the implementation of this Agreement" (Evaluation report).

<sup>7</sup> See <https://www.euflegt.efi.int/background-ghana>.

<sup>8</sup> See [https://www.euflegt.efi.int/ghana-news/-/asset\\_publisher/FWJBfN3Zu1f6/content/ghana-and-eu-finalise-assessment-of-ghana-timber-legality-assurance-system](https://www.euflegt.efi.int/ghana-news/-/asset_publisher/FWJBfN3Zu1f6/content/ghana-and-eu-finalise-assessment-of-ghana-timber-legality-assurance-system).

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Commission also lead to a significant loss of technical and political expertise among key domestic stakeholders (ibid.).

Changes in high-level political leadership also complicated efforts. For example, the Minister of Land and Natural Resources promised in August 2013 to stop awarding special administrative permits for timber harvesting without competitive bidding (a practice opposed by civil society organisations as a patronage device and in contravention of the legality definition of the Ghana VPA) (ibid.). But the minister who replaced him insisted that such permits were legal under Ghanaian law and should therefore be allowed to continue under the VPA (ibid.). Ghana's political leadership has also failed to consistently provide the resources and commitment needed to implement technical solutions (e.g. to finalise the wood tracking system) or legal reforms under the VPA, and has been slow to pass and operationalise relevant regulations, such as the Timber Resources Management and Licensing Regulation LI2254 (Nketiah et al. 2018).

Meeting the VPA's requirements for multi-stakeholder participation has also been a challenge. Civil society representatives have complained of insufficient civil society participation in the development of the wood tracking and legality assurance systems, contrary to the good multi-stakeholder collaboration established during the VPA negotiations (ibid.). Specific barriers to civil society participation have included poor organisation of local community representatives and their lack of capacity and inadequate access to relevant information, local non-governmental organisations (NGOs) taking the place of local communities, limited time and lack of resources for consultation and the Ghanaian government's failure to recognise communities' rights (ibid.).

Limited private sector engagement and advocacy has been yet another impediment to effective VPA implementation in Ghana (TEREA 2016). Private sector actors have participated in VPA-awareness workshops but few have participated in the development and testing of the Ghana Wood Tracking System or in capacity building sessions. One reason for this lack of participation is the understanding that the private sector would not be eligible for donor support and would have to finance its own participation (ibid.). Another reason is the low priority given to legal compliance in a sector where many operate in "survival mode" (ibid.). This was especially the case prior to the establishment of the EUTR, after which the Ghanaian private sector started to take the VPA process more seriously (Overdevest & Zeitlin 2016). The protracted nature of this process and relative lack of tangible results though, has led some private sector actors to lose faith in the VPA process (TEREA 2016). Engaging small- and medium-sized enterprises (SMEs) has been a particularly difficult challenge for facilitators of the VPA process (ibid.).

## The FLEGT VPA has contributed positively to forest sector governance reform in Ghana

Although the FLEGT VPA in Ghana has not yet succeeded in operationalising the systems required to verify compliance and issue FLEGT licenses, the processes involved in VPA implementation have created useful platforms to address politically sensitive issues relating to forest governance, corruption and social justice (Nketiah et al. 2018; Hansen et al. 2018).<sup>9</sup> According to some stakeholders and observers, VPA processes have also generated improvements in forest governance in Ghana, including declines in illegal logging, increased collection of logging taxes, reduced arbitrary administrative discretion in the award of concessions and permits and new mechanisms for exposing corruption (Overdevest & Zeitlin 2016; Brack 2019).<sup>10</sup> Efforts to establish a legality assurance system have

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<sup>9</sup> These include the Joint Monitoring and Review Mechanism (JMRM) overseeing implementation of the VPA and the multi-stakeholder implementation committee (MSIC).

<sup>10</sup> For example, most respondents to a FLEGT Independent Market Monitor survey of Ghanaian timber industry representatives indicated that the VPA process was improving forest governance in Ghana, helping control illegal chainsaw milling and having a positive impact in relation to the payment of fees for the use of forest resources (Ghana-EU 2018).

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also had a positive impact on the practice of the Forestry Commission and its capacity for sustainable forest management (Overdevest & Zeitlin 2016).

The FLEGT VPA process has helped trigger legal and policy reforms that have introduced greater clarity on legality in the forest sector in Ghana, e.g. by making it clearer what operators need to do to be in compliance with the law and what measures need to be used to assess legality.<sup>11</sup> This in turn makes it easier for the Forestry Commission and other relevant bodies to enforce relevant laws and address illegal logging. Capacity building under the VPA has also strengthened the capacity of government, private sector actors and civil society organisations to address illegal logging, including through verification, independent monitoring and the adoption of legal ‘artisanal milling’ practices.<sup>12</sup>

The VPA process has also improved transparency and reduced arbitrary administrative discretion in forest governance (Overdevest & Zeitlin 2016). The inclusion of various community rights and obligations on Social Responsibility Agreements with local communities in the VPA legality definitions has also increased recognition of community rights, empowered local communities to hold forest officials accountable (including through ‘forest forums’ and other bodies to assert their rights) (ibid.). This in turn has made an important contribution to ensuring equitable benefit sharing.

Perhaps the most commonly cited benefit of the VPA process in Ghana, though, is that it has generated more inclusive and participatory decision making and governance in the forest sector (Nketiah et al. 2018; Hansen et al. 2018). The VPA mandated broad stakeholder participation, and the VPA negotiations and processes for developing legality assurance and licensing systems opened political space for the participation of the private sector and civil society in the governance of forest resources in Ghana (Nketiah et al. 2018). Bodies like the Multi-Stakeholder Implementation Committee (MSIC) have provided a platform for diverse stakeholders to raise issues and have given NGOs and community-based organisations a sense that they have some power and are being heard in national-level policymaking (McDermott et al. 2019).

## 4. The EU’s role in sustaining forest sector governance reforms in Ghana

As the initiator of the FLEGT Action Plan, a party to the Ghana-EU VPA and a provider of technical and financial assistance to Ghana for forest sector governance reform, the EU has played a central and supportive role throughout the negotiation and implementation of the Ghana-EU VPA.

### Dialogue, engagement and pressure

Reflecting the political nature of the FLEGT-VPA process, the EU has participated in regular high-level dialogue and engagement with the Ghanaian government on the FLEGT-VPA and related forest sector governance reforms. EU and Ghanaian representatives, led by the Minister for Lands and Natural Resources on the Ghanaian side and the EU Ambassador to Ghana on the EU side, have met approximately twice a year through the VPA Joint Monitoring and Review Mechanism (JMRRM) to review implementation progress and identify issues that need to be resolved (Nketiah et al. 2018). The fact that (Ghanaian and European) civil society is also represented in the JMRRM has meant that civil society representatives have been able to use the body to raise concerns about forest sector governance

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<sup>11</sup> See <https://www.euflegt.efi.int/background-ghana>.

<sup>12</sup> See <https://www.euflegt.efi.int/background-ghana>.

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issues and VPA implementation in the presence of the EU, thereby putting pressure on the Ghanaian government to address these concerns (Overdevest & Zeitlin 2016). Ghanaian civil society actors have also benefited from the opportunity to engage with European counterparts and gain knowledge on how to play an effective advocacy role (Beeko and Arts 2010).

## Financial and technical support

The EU's influence on the FLEGT-VPA process (and related forest sector governance reforms in Ghana) has also stemmed from its role as a major provider of development assistance to Ghana. The "politics of development assistance" encouraged a quick conclusion to the VPA negotiations, since the conclusion of the VPA was a "trigger" for development assistance from the EU and other development partners (ibid.). Once established, the VPA provided a guide for identifying areas where technical and financial resources were needed for effective implementation (Overdevest & Zeitlin 2016). EU (and EU member state) development assistance for Ghana under the FLEGT initiative has been significant, and has included support for developing technical systems, support for capacity building - for government, for the private sector and for civil society - and support for consultative and participatory processes (Beeko and Arts 2010). The EU and EU member states have also funded research and analysis that has informed consultative processes, VPA implementation and dialogue with the Ghanaian government (and non-state actors) on forest sector governance reform (Ibid.).<sup>13</sup>

## A market incentive

The significance of the EU market as an export destination for Ghana's timber, particularly at the time the FLEGT-VPA process was getting off the ground, was another important aspect of the EU's 'role' in supporting forest sector governance reform through the FLEGT-VPA process. After an initial loss of momentum following the VPA negotiations, a broad coalition of public and private actors began leading a renewed push for VPA implementation from about 2011 (Overdevest & Zeitlin 2016). Key participants in the coalition included the Forestry Commission and the large forestry firms that accounted for more than half of Ghana's timber exports, and who had already invested in preparation for VPA licensing. The main impetus for the Forestry Commission and large private industry's efforts was a shared concern about the impact of the EUTR and the consequences of failing to implement the VPA on Ghana's ability to export timber to the EU and other western countries (ibid.).

## 5. Domestic political economy factors

The success of FLEGT VPAs depends on more than just the EU playing a supportive role. It is determined largely by the commitment of partner countries to establish the necessary governance arrangements to address illegal logging and associated trade, and to improve forest sector governance reform (ECA 2015). In Ghana, as elsewhere, a key factor within the political economy of governance reform in the forest sector is the confluence of interests of government officials and other important stakeholders. In Ghana various alignments of interests have provided traction for the conclusion of the Ghana-EU VPA, but they have also complicated efforts to achieve full and effective VPA implementation.

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<sup>13</sup> For example the EU-funded project on 'Developing Alternatives for Illegal Chainsaw Milling' See: <http://www.tropenbos.org/file.php/390/focus-group-1-annai.pdf>.

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## The FLEGT VPA aligned with Ghana's forest sector reform objectives

Ghanaian stakeholders had a significant interest in preserving access to the EU timber market and to EU development assistance. The Ghanaian government was also interested in the opportunity the VPA provided to further its own forest sector governance reform objectives. In particular, the Ghanaian government wanted to address illegalities associated with accessing, sourcing and transporting timber, avoidance of taxes, price distortions created by underpriced illegal timber, corruption in the exercise of discretionary powers and disregard of the law by private sector and forestry officials (Nketiah et al. 2018). The VPA provided an opportunity for the Ghanaian government to further these sectoral objectives by formalising the timber sector and stimulating increased legal compliance by the private sector and forestry officials in the country, including through transitioning from a paper-based tracking system to an electronic system that would minimise human interactions and the potential for corrupt and illegal activity (ibid.).

In a context of increasing domestic demand for timber and growing concerns over the depletion of Ghana's timber resources, the Ghanaian government put the issue of illegal logging to supply the domestic market (and other non-EU export markets) on the agenda during the VPA negotiations (Ghana-EU 2018). This broadened the scope of the VPA beyond EU expectations. It also reflected the Ghanaian government's intention to use legality verification under the VPA as a "stepping stone" towards sustainable forest management, as well as broad consensus among government, business and civil society in Ghana on the need to tackle illegality in supplying the domestic as well as export market (Overdevest & Zeitlin 2016).

## Tackling entrenched problems and vested interests has been challenging

Forest sector governance reform in Ghana is a highly political process that involves tackling deeply entrenched problems and vested interests. Sustained commitment by political leaders is thus crucial for making and sustaining progress. Indeed, its importance has been reflected in the stop-start nature of VPA implementation in Ghana, which has partly resulted from changes in political leadership in the country. As noted above, these changes in leadership have brought with them different perspectives on, for example, the use of special administrative permits for timber harvesting (seen by many as a patronage tool), and have contributed to fluctuations in the level of commitment displayed towards efforts to finalise technical solutions and operationalise legal reforms (Nketiah et al. 2018).

## 6. Limitations of the FLEGT approach

A 2015 evaluation of the FLEGT Action Plan by the European Court of Auditors (ECA) noted some major shortcomings of the FLEGT framework, such as the fact that financial support under FLEGT was not well designed and targeted, that the FLEGT Action Plan lacked specific objectives, milestones and monitoring procedures and that the overall objectives of FLEGT depended heavily on the commitment of other major producing and trading countries to fight illegal logging and associated trade (ECA 2015). Beyond these shortcomings, the experience of VPA implementation in Ghana has highlighted further limitations in the FLEGT approach.

## Ensuring access to the EU timber market is no longer as crucial as it was

When the EU and Ghana began negotiating a VPA, the EU accounted for about 60% of Ghana's total timber exports. A decade later, only around a third of Ghana's timber exports were destined for the EU, as China, India and other African countries emerged as new markets for Ghanaian timber products (Nketiah et al. 2018). This trend reflects the considerable changes that have occurred in global timber trade patterns since the FLEGT Action Plan was

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introduced. The EU remains a major timber importer, but its relative importance to exporting countries has decreased as China has become the world's largest importer of timber products and other Asian countries like Vietnam have emerged as important processing hubs (EC 2016). Domestic and regional markets in Africa, Asia and Latin America have also grown significantly (ibid.).

The decreasing importance of the EU as a market for developing country timber exports reduces the EU's leverage to achieve its FLEGT objectives. In Ghana, the declining relevance of the EU market has apparently diminished the enthusiasm of local actors to pursue the necessary reforms to finalise VPA implementation (Nketiah et al. 2018). While the Ghanaian government wants to ensure that the VPA standard of 'legality' applies to its timber exports to non-EU destinations (and to timber placed on the local market), other non-EU markets for Ghanaian timber typically do not place the same level of demand in terms of legality assurance as does the EUTR. As a result, exporters to these markets have less incentive to push the Ghanaian government to finalise VPA implementation.

### Local stakeholders perceive the FLEGT VPA to be an externally imposed agenda that will have unfair consequences

While the EU-Ghana VPA was designed to reflect national consensus on forest sector governance in Ghana, thereby respecting Ghana's sovereignty, perceptions nonetheless emerged among Ghanaian stakeholders that the FLEGT agenda was being imposed by the EU and that it would "legitimise and stabilise a forest governance regime that is widely viewed by Ghanaian stakeholders... as deeply unfair" (Hansen et al. 2018). In particular, the focus on legality and the perception that Ghanaian non-state actors did not have sufficient say in determining the specifics of VPA implementation have led to the belief among some stakeholders that the VPA will benefit big timber firms that export, while reinforcing the marginalisation of illegal loggers and forest communities (Myers et al. 2020).

Indeed, many illegal loggers lost their livelihoods once the VPA contributed to stricter enforcement of restrictions on chainsaw milling (TEREA 2016). Moreover, the criminalisation of the chainsaw millers that dominate supply to the local market has contributed to perceptions that the VPA process favours access to the European market over local market access (Myers et al. 2020). This in turn raises questions as to whether FLEGT-VPA reforms are creating a dynamic of improved forest sector governance and more sustainable timber harvesting and trade in Ghana generally, or whether they are just creating silos of sustainability in terms of Ghanaian timber exports to the EU.

### The FLEGT framework does not address 'legal' drivers of deforestation

While the implementation of the FLEGT VPA in Ghana has helped address illegal logging in Ghana, neither the VPA, nor the broader FLEGT framework, address legal forest conversion for agriculture or other uses. In Ghana this is important, as outside of designated Forest Reserves there are few legal constraints limiting deforestation for cocoa production in the country (Nketiah et al. 2018).<sup>14</sup> The FLEGT VPA, with its focus on illegal activities, has not changed this. This shortcoming is significant given the fact that global (and European) political attention has shifted from a focus on illegal logging to a broader concern about deforestation and the role of forests in climate change adaptation and mitigation (EC 2016).

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<sup>14</sup> Deforestation through cocoa production is a major challenge in Ghana and neighbouring countries. The EU seeks to address this through a new initiative to finance multi-stakeholder dialogues at national and regional level in Côte d'Ivoire, Ghana and Cameroon (see [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_21\\_193](https://ec.europa.eu/commission/presscorner/detail/en/IP_21_193)). Among other things, EU support under this initiative will be used to train cocoa farmers on reforestation and promote further action on tackling deforestation.

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## 7. Lessons from the FLEGT VPA implementation in Ghana for EU trade policy

The recent EC Communication on the EU Trade Policy Review sets out the EU's intention to use trade policy tools, including trade agreements and "autonomous" policy instruments, to achieve various sustainability objectives, including in relation to tackling deforestation (EC 2021). The experience of FLEGT-VPA implementation in Ghana can be instructive in this regard, as it presents a number of lessons in terms of how trade agreements and complementary policy instruments can be used to sustain sustainability objectives with, and in, partner countries, and also demonstrates the risks and limitations inherent in such approaches.

### Integrating trade policies and development assistance into a coherent and coordinated approach can be an effective way of sustaining reforms in partner countries

Through the passing of the EUTR and the negotiation of the VPA with Ghana, the FLEGT initiative capitalised on the importance of the EU market for Ghana's timber exports to create effective market incentives for the Ghanaian private sector to engage with the FLEGT-VPA process and to work with the Ghanaian government towards more sustainable management of Ghana's forest resources. At the same time the significant financial and technical assistance provided by the EU, and its coordination of complementary assistance from EU member states, helped ensure that FLEGT-VPA-related reform process were inclusive and participatory, built the capacity of public and private actors in Ghana to participate effectively in these processes and play constructive roles in pursuit of better forest sector governance and supported the development of the technical systems needed for ensuring more sustainable timber trade between the Ghana and the EU.

### Building on partner country reform objectives and national legislative processes ensures greater legitimacy and ownership and more effective enforcement

In Ghana, as elsewhere, the FLEGT-VPA process was designed to tackle illegal logging and associated trade in a "pragmatic way that respects the sovereignty" of the partner country (EC 2016). By building on the Ghanaian government's forest sector governance reform objectives, including for the domestic market, and focusing on legality, the FLEGT-VPA process in Ghana has reinforced, rather than undermined Ghanaian state authority in relation to sustainable forest management (McDermott et al. 2019). It has also ensured the buy-in from Ghana's political leadership that was needed to make progress in a challenging reform area and created a solid foundation for EU-Ghanaian engagement to sustain progress. Embedding the FLEGT approach in Ghana's own laws has also ensured greater enforceability of the changes needed for more sustainable forest management in the country (Nketiah et al. 2018; McDermott et al. 2019).

### Independent monitoring, joint review and civil society engagement are crucial for sustaining reform processes in partner countries

Given the politically sensitive nature of forest sector governance reform in Ghana, the inclusion in the VPA of provisions for independent monitoring, for joint implementation review by the EU and Ghana and for civil society engagement was instrumental in identifying and addressing political and administrative challenges that have emerged in the implementation of the Ghana VPA. These provisions have empowered Ghanaian civil society actors to expose issues on the ground and hold public officials accountable for addressing them and to contribute to efforts to develop solutions (Overdevest & Zeitlin 2016). Provision for monitoring, review and stakeholder engagement are

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particularly important in relation to reforms that seek to formalise a sector that has been operating informally for decades and that therefore risk negatively impacting the livelihoods of tens of thousands of operators, many of whom lack alternative livelihood opportunities (TEREA 2016).

### Bilateral agreements typically take time, creating risks of reform fatigue

Slow progress on the EU's FLEGT Action Plan is partly attributable to the fact that the FLEGT approach involves bilateral agreements (the VPAs), which as the Ghana case illustrates, typically take significant time to be implemented. Even relatively straightforward trade agreements can take years from initial negotiations to full implementation, and FLEGT-VPAs are far from straightforward, involving complex and time-consuming processes (TEREA 2016). Furthermore, slow progress on VPA implementation, like in Ghana, runs the risk of contributing to a "cyclical, yet worsening, FLEGT fatigue" and a growing sense that the FLEGT approach is not working (Rutt et al. 2018).

### Considerations for EU trade policy

The EU's new trade policy aims to promote the sustainable management of natural resources, including forests. It highlights the role of trade agreements in addressing deforestation, but also recognises that trade agreements are not the only policy tool at the EC's disposal. In this regard, the Communication makes reference to sustainability standards and responsible business conduct to bring about more sustainable supply chains (EC 2021). It also makes reference to the EC's intention to put forward legislation addressing deforestation and forest degradation (ibid.).

The case of the FLEGT-VPA in Ghana reinforces the point that trade agreements need not be the main tool through which sustainability-related NTPOs are pursued by the EU. Ghana has concluded a bilateral economic partnership agreement (EPA) with the EU, and, unlike the EPA between the EU and Cameroon, the EU-Ghana EPA makes no reference to forest governance objectives. Instead, these objectives are tackled through complementary initiatives, including the EUTR, Ghana-EU VPA and the financial and technical support provided by the EC and EU member states to support VPA implementation. While this particular approach has faced numerous challenges in Ghana, it represents an innovative and coherent way of combining different EU policy instruments to achieve NTPOs with and in partner countries, and one that could potentially be tweaked to address sustainability objectives in other sectors and countries.

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