

Social safeguards in the Ghana-EU Voluntary Partnership Agreement (VPA) Triggering improved forest governance or an afterthought?



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Social safeguards in the Ghana-EU Voluntary Partnership Agreement (VPA).
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Synopsis

1. Social safeguards need to be an integral part of the Voluntary Partnership Agreement

Ghana was the first country to ratify a Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreement (VPA) with the European Union (EU). Both the EU and Ghana anticipate that implementation of the VPA will have positive impacts on sustainable forest management. It is also likely, however, that the strict enforcement of existing laws will have negative socio-economic effects on many people who are engaged in the forest sector, especially the informal part of the sector.

The development of social safeguards — as early as possible during the FLEGT implementation process — can help prevent or manage these impacts. It is unlikely that a single social safeguard mechanism will prevent all potential negative impacts. Rather, a coherent set of tailor-made mechanisms for specific target groups over the short and long term will have to be designed and must become an integral part of the VPA. The emerging Ghana VPA implementation process provides the opportunity to address this challenge, and to combat forest degradation while contributing to the livelihoods of people who depend on forests.

2. Mitigating negative social impacts in the implementation of the VPA

The Ghana VPA was ratified in 2009 and implementation plans have been developed; the first FLEGT licence for export will likely be issued in late 2011. Restructuring of forest legislation and the domestic market is included in the agreement but not as yet fully elaborated in implementation plans. The implications of these changes on the livelihoods of forest-fringe communities, chainsaw millers and small and medium forest entrepreneurs — the most affected vulnerable groups— need to be further addressed in VPA implementation.

To ensure that social safeguards that protect effective forest governance, equitable access to forests and benefit sharing are integral parts of the VPA process, the following process steps are needed:

- a. dedicate a special working group, in addition to the existing technical working groups, in the VPA implementation phase to elaborate social safeguards that will mitigate the likely negative socio-economic impacts of the VPA;
- b. strengthen ongoing forest policy and legislative review processes through a multi-stakeholder dialogue as a way to better incorporate social safeguards in law and policies;
- c. institutionalize the multi-stakeholder dialogue on domestic lumber supply/forest forums (for example through government funding) and ensure that VPA implementation is part of a broad societal debate on sustainable and socially just forestry in Ghana;
- d. strengthen the VPA development process in Ghana by supporting civil society, small- and medium-scale lumber industries, producer associations and community representatives so they can participate meaningfully in VPA implementation working groups and committees and in forest governance;
- e. carry out further research on those groups that are expected to be most adversely affected by the VPA implementation so that tailor-made safeguard mechanisms can be designed at the earliest possible opportunity;
- f. contribute to and learn from regional lessons and best practices in VPA design and implementation so as to mitigate negative implications for forest actors; and
- g. the EU should develop a briefing note in the FLEGT series elaborating social safeguards in VPA processes in order to clarify the concept of social safeguards in the FLEGT Action Plan.

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Background: Timber legality and social safeguards in Ghana

The European Union launched the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan in 2003 to combat illegal logging and its related trade. An important component of FLEGT is a Voluntary Partnership Agreement (VPA) between the EU and each timber-producing country. In 2009 Ghana was the first country to ratify a VPA with the EU.

During a workshop in Elmina, Ghana in November 2010, academics and policy-makers met to discuss the impacts of the VPA on the livelihoods of forest stakeholders in Ghana.¹ The meeting was a sequel to a workshop in Accra in October 2009.²

Participants at the Accra workshop had noted that the Ghana-EU VPA might have negative as well as positive impacts on the livelihoods of forest stakeholders. If legality requirements are rigorously upheld, those who depend on chainsaw milling activities in Ghana — an estimated 97,000 people, supplying 84% of the lumber in the domestic market — would be particularly affected.

Accra participants further noted that Article 17 of the Ghana-EU VPA mentions the use of social safeguards to mitigate any adverse impact on “the livelihoods of potentially affected indigenous and local communities as well as the timber industry, including those engaged in illegal logging.” The agreement does not, however, include an explicit definition of social safeguard mechanisms, nor does it set out who these mechanisms are intended for or how they are to be implemented.³ The Elmina workshop was intended to address this gap.

Participants at the Elmina workshop had two different interpretations of the Ghana VPA:

- The agreement was introduced as part of a law enforcement approach and as a first step toward sustainable forest management (SFM). This is the view of the state and the formal timber industry, who claim that law enforcement is a prerequisite for SFM. This interpretation is largely based on a belief in command-and-control mechanisms, negotiation and market-based incentives.
- During the formulation of the Ghana VPA it became increasingly apparent that the agreement could help improve forest governance if a multi-stakeholder approach was taken, one that incorporated more equitable access and control over forests and their benefits. This interpretation is common among civil society actors and small-scale timber producers. They claim that existing forestry laws are often ineffective and inequitable and need to be reformed before being enforced. Their interpretation advocates a forest management regime that is fair, equitable, inclusive and practical.

These two interpretations can coexist, and the second approach should be pursued vigorously during the ongoing process of forest legislative reform in Ghana. Legislation with equitable benefit-sharing is easier to enforce than legislation that focuses only on the industrial export timber market. As one of the domestic lumber traders in Elmina stated: “...if the law is unfair it will not work and you get crooks to jump to the opportunity and capture all the benefits.”



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What is a social safeguard?

The concept of social safeguards is mentioned but not elaborated in the EU FLEGT Briefing Notes⁴ and in the Ghana VPA. Generic definitions of social safeguards can be found in the policy guidelines of international organizations such as the World Bank and the United Nations Environment Programme. UNEP stresses the need “to prevent and mitigate undue harm to people at the earliest possible planning stage.”⁵ Safeguards can comprise both minimum standards and best practice guidelines. They can be interpreted narrowly or broadly and can be developed at an early planning stage or during policy implementation (Table 1).

Table 1. Types of social safeguards

	narrow perspective	broad perspective
developed in early planning phase	preventing adverse impacts, e.g., by means of incentives for stakeholders to adapt specific forest management practices	adapting livelihoods, possibly through forest-related activities such as artisanal milling
developed in implementation phase	mitigating adverse effects, e.g., through compensation or relocation	providing alternative livelihoods, possibly in agriculture, especially in areas with limited forest resources

Different interest groups affected by the VPA will require different tailor-made social safeguards mechanisms that are appropriate to their circumstances. For instance, small-scale businesses may require subsidies or tax incentives to change their practices, while forest-dependent communities may require land reforms or long-term institutional change to sustain viable agricultural production.

Main types of social safeguards

Six different categories of social safeguards emerged from the Elmina workshop:

- **Legal security for forest users** — to ensure legitimate access to and control over forest resources, based on sustainable resource use, for forest-fringe communities, artisanal forest exploitation and manufacturing practices;
- **Soft law enforcement** — to create incentives for adaptation by designing ways for people to adapt in the long term;
- **Benefit-sharing/compensation** — to formulate legal, policy and administrative arrangements that guarantee socially just forest benefit sharing and compensation mechanisms;
- **Capacity building** — to raise awareness and empower and develop the skills of the more vulnerable groups of forest users to make equitable use of forests and/or alternative livelihood opportunities;
- **Alternative livelihoods/employment** — to develop options for vulnerable people who are negatively affected by VPA implementation. Various experiences in the forestry sector have shown that there are no easy fixes for the challenges associated with finding viable alternative livelihoods. Livelihood options (in and outside the sector) must be carefully planned. Increasing the profitability of existing artisanal activities is preferred to developing entirely new ones. Relying on alternative livelihoods in the forest sector to offset all of the potential negative impacts of VPA implementation is unrealistic. Finding alternative livelihood opportunities calls for cross-sector approaches; and
- **Expanding the forest resource base** — such as afforestation, reforestation and other initiatives for local conservation, use and management.

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Social safeguard mechanisms

Mechanisms to implement these different types of social safeguards include legislation, policies and regulations; programs and projects; financial incentives; education and extension; and partnerships. Table 2 lists the specific mechanisms identified during the Elmina workshop. The list is not exhaustive but it can serve as inspiration for the Government of Ghana, the EU and other stakeholders in designing tailor-made impact mitigation and/or adaptation measures.

Table 2. Mechanisms to implement social safeguards

type of social safeguard	mechanism
legal security for forest users	<ul style="list-style-type: none"> • revision of tree tenure systems to secure community/farmer access/rights to timber resources • access to land for secure investment in forestry, agro-forestry and agriculture • change in legislation to provide more equitable benefits and rights to forest resources
soft law enforcement	<ul style="list-style-type: none"> • creation of an enabling environment that supports small and medium enterprises by providing access to legal raw material and markets • changes to the export market and increased attention to the domestic market, including increasing the quota supplied by sawmills to the local market • conversion of illegal chainsaw milling into legal artisanal milling and related forest-based enterprises that can help supply the domestic market • assistance for the artisanal milling sector in pursuing new business opportunities
benefit-sharing/compensation	<ul style="list-style-type: none"> • pursuit of societal agreement on more equitable sharing of forest benefits • improved disbursement of royalties/stumpage fees to beneficiaries to better target the interests of communities and farmers • more detailed criterion on compensation for farmers in the VPA legality definition, particularly in terms of prior informed consent
capacity building	<ul style="list-style-type: none"> • ensured participation of communities (accompanied by extension, education and awareness raising) in policy processes • institutionalization of a multi-stakeholder dialogue on lumber supply for the domestic market (as linked to existing forest forums at all levels) to provide a recognized platform for the VPA-related dialogue • support of civil society to engage in forest governance programmes • enhancement of conflict-management capacity • improved communication and greater transparency through timely dissemination of relevant information to stakeholders • support for the development of stakeholder groups (especially informal/illegal users) to give them a voice in policy processes • provision of entrepreneurial training
alternative livelihoods/employment	<ul style="list-style-type: none"> • removal of allocated yield to provide timber to domestic lumber sector • use of off-cuts and waste from sawmills in the domestic market • development of plantations, both large and small • development of plant nurseries • support for viable livelihoods such as agro-forestry, agriculture and livestock rearing • research on viable alternative livelihoods to determine the factors that contribute to success and failure • promotion of the use of alternative non-timber construction materials, e.g., bamboo
expand the resource base	<ul style="list-style-type: none"> • afforestation (including plantations), reforestation, sustainable forest management and forest protection • establishment of a modified taungya system • involvement of domestic lumber actors in reforestation programmes • establishment of woodlots for charcoal production.



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Role of social safeguards in the Ghana VPA

The Ghana VPA explicitly recognizes the need for social safeguards in Article 17:

- “1. In order to minimize possible adverse impacts, the Parties agree to develop a better understanding of the livelihoods of potentially affected indigenous and local communities as well as the timber industry, including those engaged in illegal logging;*
- 2. the Parties will monitor the impacts of this Agreement on those communities and other actors identified in paragraph 1, while taking reasonable steps to mitigate any adverse impacts. The Parties may agree on additional measures to address adverse impacts.”*

The concept of social safeguards is not further elaborated, although the need to consider livelihoods is reiterated in several articles:

- Article 1 identifies the parties’ commitment to the sustainable management of all types of forests. This indirectly addresses social considerations, since SFM definitions and standards commonly include a range of social aspects, such as equitable sharing of the costs and benefits of forest management and tenure and livelihood issues;⁶
- Article 13 states that the VPA concerns not only the export market, but the domestic market (which affects the livelihoods of the communities and industries engaged in the informal/illegal timber sector);
- Article 15 states that supplementary measures are required to address the root causes and drivers of illegal logging and strengthen sector governance and the legal framework; and
- Article 16 calls for multi-stakeholder involvement in the implementation of the VPA.

The policy intentions outlined in these articles support equitable forest governance and forest-related livelihood issues. They imply involvement by multiple stakeholders in the implementation of the VPA, including those currently engaged in informal/illegal activities. Article 17’s recognition of the need to develop social safeguard mechanisms — acceptable to all stakeholders — is one of the pillars of the VPA. If the social impacts of the VPA are not mitigated effectively through well-defined social safeguards), the VPA cannot succeed.

The concept needs further elaboration, however, so that effective social safeguards can be developed.

Box 1. Lessons from the region

During the Elmina workshop, representatives from Cameroon, Liberia and the Democratic Republic of Congo (DRC) shared lessons of interest to Ghana, including development of social safeguards, as it moves toward VPA implementation:

- an extensive sensitization campaign on illegal forest use, benefit sharing and community rights in **Cameroon** empowered local communities to engage meaningfully in the VPA design process;
- in **Liberia**, civil society (non-government organizations) and communities were represented on the VPA steering committee, which gave more scope for community interests to be included in the VPA design process;
- specific attention was paid in **Liberia** to communities’ forming associations to amplify and channel their individual voices;
- independent forest monitors (independent observers) were prominent in the VPA design in **all three countries**, offering additional opportunities to consider community livelihoods; and
- law reforms that brought more community rights to forest use took place in **Liberia** before the VPA started, making it easier to design an agreement that responded to community livelihoods.

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Conclusion

Although VPA implementation is expected to have a positive impact on the forest sector in Ghana, strict enforcement of current laws are likely to have negative socio-economic implications for some people, especially in the informal forest sector. The development of social safeguards during the design or the early planning of FLEGT implementation processes can help prevent or manage these impacts.

Social safeguards should be an integral part of good forest governance. It is unlikely that a single social safeguard mechanism can prevent all potential negative impacts. Rather, a coherent set of tailor-made mechanisms for specific target groups over the short and long term will have to be designed and incorporated in the implementation phase of the VPA. The emerging Ghana VPA implementation process provides an opportunity to address this challenge and to combat forest degradation while contributing to the livelihoods of people who depend on forests. The VPA design process in Ghana to date offers important lessons for the EU about the need to consider how to further develop the FLEGT process from a trade agreement to an approach that stimulates socially equitable and sustainable forest management.

¹ Representatives of research institutions and universities in the Netherlands, Denmark and Ghana, including the Forestry Research Institute of Ghana and Kwame Nkrumah University of Science and Technology, participated in the workshop. Ghana's Forestry Commission, the EU, and civil society organizations, including Care International Ghana and Tropenbos International Ghana, also participated. Forest users were represented by small-scale domestic lumber producers, timber trade and processing associations and wood manufacturers. In addition, delegates from Cameroon, Liberia and DRC shared their lessons on mitigating the anticipated negative impacts on livelihoods and on VPA design and upcoming implementation in their respective countries.

The workshop was part of the "Illegal or Incompatible?" research project funded by the Ministry of Foreign Affairs, Directorate-General for International Cooperation of the Netherlands. The project is a partnership between Wageningen University and Research Centre, Tropenbos International and research organizations in Ghana and Indonesia. Its goal is to increase the understanding of how VPAs affect local livelihoods and how to incorporate governance mechanisms to mitigate possible negative impacts.

² The proceedings of the Accra 2009 workshop and other "Illegal or Incompatible?" research data can be found at www.vpa-livelihoods.org.

³ After the Accra workshop in 2009, the policy brief, Implementing FLEGT: impacts on local people, was published in 2010. It is available at www.vpa-livelihoods.org.

⁴ For an overview of all EU/FLEGT Briefing Notes, see: http://www.illegal-logging.info/item_single.php?item=document&item_id=449&approach_id=

⁵ <http://www.unemg.org/Cooperation/EnvironmentalandSocialSafeguards/tabid/2895/Default.aspx>.

⁶ See for example the revised ITTO indicators and criteria for the sustainable management of tropical forests or FSC standards.



The European Commission launched the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan in 2003 to combat illegal logging and related trade. The research project, “Illegal or Incompatible? Managing the consequences of timber legality standards on local livelihoods,” assesses the consequences of FLEGT timber legality standards on local livelihoods. The project is funded by the Dutch Ministry of Foreign Affairs, Directorate-General for International Cooperation and is a partnership between Wageningen University and Research Centre, Tropenbos International and research institutions from Ghana and Indonesia.

This policy brief outlines the need and the possibilities for further developing the FLEGT action plan by explicitly considering livelihood issues and incorporating social safeguards. It is based mainly on project findings in Ghana and specifically on the outcome of a policy/science workshop held in Elmina, Ghana on November 25–26, 2010. Ghana, the first to ratify a Voluntary Partnership Agreement (VPA) with the EU, offers an excellent opportunity to assess how livelihood issues are being dealt with in the FLEGT Action Plan.

For more information:
www.vpa-livelihoods.org