



Collecting Evidence of FLEGT-VPA Impacts for Improved FLEGT Communication

Desk Review-Ghana

Note: A preliminary version of this desk review version has been sent mid-April 2019 to FAO/EFI technical committee. Content has been revised in June 2019 with the integration of comments received and suggested further readings. This desk review is a living document which can be regularly updated with new references and information.



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Introduction

We structured the desk review around four selected thematic areas: (1) sustainable forest management and forest conditions, (2) relations between, and development of, the formal and informal forest sector, (3) jobs and employment, and (4) governance, law enforcement and compliance. The first three themes were pre-selected during discussions with FLEGT FAO-EFI, and the last theme was selected after having received the highest level of interest from sector experts during the “Thematic Area Survey” (conducted through SurveyMonkey between February 17th and March 1st). This survey also informed the creation of sub-themes within each theme.

The online survey was also an opportunity to receive further recommended reading **related to the VPA process in Ghana**, which, along with those received from FLEGT FAO-EFI and found through research, were read and then analyzed using **NVivo** software. This software enables the extraction of the most relevant information (related to VPA impact within the four themes and sub-themes) from each document so as to group it per theme/sub-theme. We then used this extracted information to write the main findings for this desk report.

This desk review was used to understand the local context and situation within the four thematic areas at the time of VPA signature/ratification and today (when available). It was also used to design a questionnaire to be implemented within a group of forest sector experts in Ghana having institutional knowledge of the VPA process.

We rely on a **list of documents related to VPA in Ghana recommended by Ghana VPA experts**. The **bibliography** is provided at the end of this document. We noticed an academic debate around VPA’s impacts in Ghana which helps understand why there might be some diverging statements on a single topic. This should be taken into account while reading this literature review.

Ghana’s VPA was signed and ratified in 2009.

THEME 1: (Sustainable) forest management and forest conditions

1.1 Traceability

The development of a nationwide Wood Tracking System (WTS) for the Timber Legality Assurance System (TLAS) was one of the biggest challenges in the initial part of VPA implementation (Overdevest and Zeitlin, 2018). After a first failed attempt to develop the system from 2009 to 2011 (EFI, 2014), the **WTS was finally completed by the AMGG consortium and fully rolled out in 2016** (EFI, 2016). This **electronic** tracking system has replaced the Ghanaian Forestry Commission's (FC) paper-based system (EU FLEGT Facility, 2017) and is aimed at insuring traceability of timber flows in the **export and domestic markets** (TEREA, 2016). Ghana's FC is a key stakeholder as it led the development of the WTS (Fern, December 2018; Overdevest and Zeitlin, 2018).

This section is based on various documents such as the EFI annual reports, Fern VPA Updates, the Evaluation of the EU FLEGT Plan (TEREA, 2016) and academic papers (Overdevest and Zeitlin, 2018; Hansen, Rutt, and Acheampong, 2018; Carlsen, 2014). Most of them often refer to the TLAS rather than directly to the WTS, which might be explained by the fact that the **TLAS was still not operational in 2018** (Hansen, Rutt, and Acheampong, 2018), whereas the WTS was already completed. The information gathered from these documents remain, however, relevant for this section since the WTS is the cornerstone of the TLAS.

1.1.1 Implementation of the traceability system

The literature is rather positive on the implementation of the WTS. In 2016, the staff of the FC tried to fool the system by deliberately include data discrepancies at various points in the supply chain. **The system has been successfully able to highlight potentially corrupt practices and to identify the individuals responsible for the problem entries** (EFI, 2016). The overall **credibility and integrity of the WTS** was demonstrated by Ghanaian Civil Society Organizations (CSOs) (Fern, December 2018). It has also been argued that the WTS has improved transparency within the chain of custody (Fern, December 2018) and facilitated the update of sustainable forest management plans (Overdevest & Zeitlin, 2018). **The last step before issuing FLEGT licenses is the final assessment of the LAS readiness** (Fern, December 2018).

Hansen, Rutt, and Acheampong (2018) however highlight the “disproportional amounts of money, time and attention to supply the required databases, equipment, and measurements and verification”.

1.1.2 Enabling implementation factors

Improved mobilization of civil society (CS) into a national platform and **increased multi-stakeholder processes** are important in enabling the implementation of the LAS as it ensures the legitimacy of the process and helps holding government officials accountable (Overdevest and Zeitlin, 2018; Carlsen 2014). According to Fern (December 2018), Independent Forest Monitoring groups have enhanced the credibility of the WTS and complement the FC's law enforcement.

In addition, several initiatives aimed at **increasing the capacity for compliance and enforcement** of the WTS have been taken (EFI 2016 & 2017). For example:

- An upgraded IT and power supply was installed in six priority districts in order to ensure effective functioning of the system (EFI, 2016);
- The FC staff has been trained on use of the tracking system, data management and handheld devices (EFI 2016; Fern, June 2017);
- Friends of the Earth trained communities and forest district offices to support real time monitoring in Nkawie and Goaso (EFI, 2016).

Moreover, over the past few years, the FC has been commended by Fern for its **political willingness** to work with CSOs (Fern, December 2018) and its commitment to transparency (Fern, June 2017). Relations between government, civil society and industry have reportedly strengthened (*ibid.*).

Finally, **the Timber Transparency Portal, a hub to make forest information publicly available, was launched in 2018** and provides information such as the type and specification of timber logged, contract, area logged, destination and vehicle transporting the timber (Fern, December 2018). It provides public access to key information linked to the GhLAS. It is also expected that this portal could serve as a tool for the international private sector to carry out due diligence on their supply chains in Ghana (EFI, 2016).

1.1.2 Inhibiting implementation factors

Challenges raised for the failed pilot WTS mentioned by Overdeest and Zeitlin (2018) include over-centralization, design inflexibility, excessive costs, intermittent internet access in remote locations, insufficient involvement of FC officials, private businesses, and CSOs in the system's design and testing, and lack of forestry experience of the contractor. **Some of these issues seem to have been tackled.** As mentioned earlier, initiatives were taken to ensure that priority districts have enough power supply and the FC seems to have shown willingness to involve CSOs in the process and to be more cooperative over the past few years. It is not known if the other issues such as over-centralization or design inflexibility have been tackled and several other challenges seem to remain today.

In 2015, the FC had to define a strategy to finance itself the WTS as at the time the investment and running costs were still paid by the EC (TEREA, 2016), thereby implying that the **WTS implementation costs might be an issue.** Moreover, FC and the sawmillers respondents in Carlsen's research (2014) consider the lack of FC resources as a challenge to the national roll out of the TLAS.

A big assumption for the TLAS to work is that government actors responsible for launching this system will voluntarily give up current opportunities for personal benefits in favor of a system aimed at eradicating these opportunities. However, it is also argued that **law enforcement practices provide opportunities for bribes and kickbacks for some government officials** (Carlsen, 2014). According to chainsaw operators, FC enforcers were "not to be trusted" (Carlsen, 2014). Moreover, according to the same respondents, progress on VPA initiatives in general was challenged at the time by diminishing interest among government officials (Carlsen, 2014).

The TLAS only monitors and impacts a minority share of the annual harvest since it only encompasses formal operators, whereas the most substantial source of timber comes from the widespread illegal logging carried out by informal operators. In other words, **the harvest of the informal sector significantly exceeds that of the formal sector but remains unseen by the TLAS.** The inclusion of the informal sector in the TLAS represents a challenge (Carlsen, 2014).

1.1.4 Environmental impacts

There is **no information related to the environmental impacts of the traceability system.** There is, however, information on the impact of the WTS on **Sustainable Forest Management (SFM).** Contrary to Overdeest and Zeitlin's (2018) argument that the WTS has significantly contributed to sustainable forest management practices, Hansen, Rutt and Acheampong (2018) question if the TLAS is really a step towards sustainable forest management. Even if the TLAS was fully rolled out and may reduce illegal logging by more strictly enforcing logging regulations, they argue that: **"the management rules upheld through the TLAS have been outdated ever since they were invoked in the early 1990s'.** As a result, **these rules and the TLAS do not ensure sustainable forest management."**

1.1.5 Economic impacts

According to Hansen, Rutt and Acheampong (2018), the **introduction of digital stock maps thanks to the VPA** will make the allocation of yield (the selection of trees that can be felled in the compartment) cheaper and faster as compared to the paper-based system.

1.2 Forest conversion and deforestation

The Evaluation of the EU FLEGT Plan (TEREA, 2016) is the main source of information on the topic of deforestation. Other documents used here include the academic papers of Carlsen (2014), Hajjar (2014), Hoare (2014) and Hirons *et al.* (2015). Little information was found and since the sources date back to 2014-2015, they do not allow us to have a clear idea of the current situation in terms of deforestation and conversion.

1.2.1 Deforestation

The main causes of deforestation in Ghana are agricultural expansion, legal and illegal logging, urban expansion, infrastructure development and mining (Hoare, 2014). **The lack of land and tree tenure security** is, for example, a big issue. Naturally occurring trees, whether on private or communal lands, belong to the government. According to Hajjar (2014), there is thus **little incentive for farmers to protect trees** on their land and evidence has shown that farmers sometimes destroy timber trees on their property due to the lack of benefit from these trees and the prospect of crop damage. Indeed, even if the law stipulates that the person holding the land where timber is allocated for logging must give their consent to the logging and be compensated for any crop damage, there is a low percentage of timber contractors who seek consent, and when they do, they pay very little. Farmers often illegally sell trees on their land to chainsaw millers in order to directly benefit from the timber. This issue is not being addressed by the VPA, and leaves out a principal driver of deforestation (*ibid.*). From 1990 to 2010, the average annual deforestation rate in Ghana was 2 per cent (FAO, 2010, in Hoare, 2014).

Before the signature of the VPA, when the FLEGT Action Plan was adopted by 2003, the Ghanaian forestry sector **faced severe illegal logging, causing deforestation, forest degradation, and considerable environmental damage** (TEREA, 2016).

An important part of the forest resources has been lost due to harvesting over the past decades and whilst the demand on the domestic market is increasing, the pressure on the remaining forests increases too and resources are still rapidly disappearing. **Strategies have been adopted to tackle the supply issue such as plantations and imports from other countries, but these have not been successful** due to a lack of money for establishment and maintenance of plantations, and the high cost of extraction and transport respectively (TEREA, 2016).

1.2.2 Conversation rate

No information.

1.2.3 Environmental impacts

Almost no information was found on environmental impacts except a small reference to climate change effects like **floods and droughts** (TEREA, 2016).

1.2.4 Economic impacts

Deforestation and forest degradation are known to have adverse socio-economic consequences for forest-dependent people (Hansen, Rutt and Acheampong, 2018). Indeed, by 2003, when the FLEGT Action Plan was adopted, the Ghanaian forestry sector faced severe **illegal logging, causing among other things considerable social damage and losses in revenue for the Government** of Ghana (TEREA, 2016).

It is argued that **the government does not fully realize the potential contribution the forestry sector can make to the national economy**, on the one side by generating income, and on the other side by avoiding losses due to limited tax payments, and avoiding costs, due to climate change effects like floods and droughts. More attention to and investments in the Forestry Sector are needed (TEREA, 2016).

1.3 Certification and permits

This section is based on the readings of the EFI annual reports, Fern VPA Updates, the Evaluation of the EU FLEGT Plan (TEREA, 2016) and academic papers (Carlsen, 2014; Overdeest & Zeitlin, 2018; Hajjar, 2014 and Hirons *et al.*, 2018).

1.3.1 Types of certification (voluntary or compulsory) and criteria to get certification

Timber in Ghana stems from the High Forest Zone (HFZ) which covers an estimated area of around 8.5 million ha. **The State is responsible for issuing permits via the FC.** These permits are granted both to timber produced in **forests reserves** (in total 1.6 million ha) and timber that is grown on farmland (**off-reserves** 6.6 million ha) (Planning Branch, 1999, in Carlsen, 2014).

There are **three types of logging permits** for natural forest (private plantations are privately managed):

- Timber Utilization Contract (**TUC**): written contract signed by the sector Minister and ratified by the parliament of Ghana (NEPCon, 2017) granting a timber harvesting right
- Timber Utilization Permit (**TUP**): small-scale permit which can be issued to rural communities or NGOs for social or community purposes and when timber is not for sale or exchange (Carlsen, 2014)
- Salvage Felling Permit (**SFP**): signed by the Chief Executive of the FC (NEPCon, 2017), permits to harvest singular trees in areas undergoing development such as road construction, expansion of human settlement or cultivation of farms (Carlsen, 2014)

The process for certification and FLEGT licensing was quite hard to understand with the documents at our disposal for the desk, however, an article found on the FLEGT Independent Monitor website (FLEGT IMM) was helpful to understand the certification system and explains that: "Once a tree is felled, its details (number, species, volume, source) are first registered on a Tree Information Form and then, when ready for transport, re-entered on a **Log Measurement and Conveyance Certificate (LMCC)** with details of destination included. This LMCC accompanies the log all the way from the forest to the mill."

For exports, the company must then apply for a FLEGT license (Europe) or Export Permit (other export markets) with the Forestry Commission's (FC) Timber Industry Development Division (TIDD), Ghana's licensing authority. The application must be accompanied by the sales contract and relevant documentation, including a related log input/product output data sheet. This documentation will then be checked online by the Timber Validation Department (TVD/FC) and subsequently the FLEGT-license will be issued. For domestic sales, companies need to apply for the Domestic Timber Inspection Certificate (**DOTIC**) (*ibid.*; EFI 2016).

It is argued that the preparations for issuing FLEGT licenses such as the joint testing and evaluation of the GhLAS, helped expose and address issues of forest governance, corruption, and social justice (Overdeest and Zeitlin, 2018). For example, for FLEGT licenses to be issued the VPA requires that all companies negotiate **Social Responsibility Agreements (SRAs)** with adjacent communities for all commercial logging permits (including salvage permits) (*ibid.*; EFI, 2016).

The decision on Ghana's readiness for licensing start is pending the outcome of the final joint assessment of the GhLAS, which has been launched in March 2019 (EFI, 2019).

Few references were found on **voluntary certification**. Yet the area of forests with voluntary legality verification and certification is considered a significant indicator of attitudes towards illegal logging and the sustainable management of forests. In recent years, the area of natural forest verified as legally compliant has increased considerably, from zero in 2006 to 450,000 ha certified under the FSC Controlled Wood standard in 2012. No forest had received certification for legal and sustainable production by the end of 2012 (Hoare, 2014). The **EUTR has reportedly had a positive effect on FSC Controlled Wood and Chain of Custody (CoC) certification** because FSC certified timber is, in the eyes of the big companies, the best option to show compliance with Due Diligence requirements. However, as forest reserves are managed by the FC and the concessionaires are only permitted to log inside of the forest management units, certification for the *FSC SFM standard* would result more complicated (TEREA, 2016).

1.3.2 Verification criteria fulfilment after obtaining certificates

The FCs' **Forest Services Division (FSD)** is responsible for operational tasks, including the day to day management of the forest resources, the issuance and control of logging permits and control of transported logs and timber products (TEREA, 2016).

1.3.3 Enabling implementation factors

According to FC respondents and sawmillers in Carlsen's research (2014), **technical and financial support to LAS establishment** and **capacity building of FC staff** is a main contribution of the VPA and could thus be considered as an enabling implementation factor. The **multi-stakeholder processes** established in relation to the **domestic market policy** are considered the most important VPA contribution by the EU and NGOs, helping to ensure legitimacy of the VPA process (*ibid.*). These statements are however referring to the VPA in general and it is thus not clear whether CS and local communities are effectively part of the certification and permits process or if the SRAs really take local communities into account.

Respondents from the EU and the NGOs appear to rely strongly on the **ability of civil society to hold government officials accountable** (*ibid.*). This can be exemplified by the watchdog role played by CS in the issue of "**special**" permits¹ and how their concerns have been addressed (EFI, 2014; Fern, Nov. 2013; Fern, Nov. 2016).

1.3.4 Inhibiting implementation factors

Two major obstacles to issuing FLEGT licenses often mentioned in the documents are the **conversion of old leases into TUCs** and the illegal "**Special**" Permits².

There was an impasse between the government and the private sector about how to **convert existing logging permits to TUCs** by bringing them in line with the latest legal requirements, and paying communities unpaid Timber Rights Fees (TRF) associated with the existing licenses. The government went to court to resolve this issue (Fern, Nov 2016).

According to Ghanaian forestry legislation all timber utilization contracts should be awarded through competitive bidding but prior to the VPA, this rule was frequently violated, while large numbers of **special permits** (also called "ministerial permits") were awarded to firms non-competitively (Overdevest and Zeitlin, 2018). These were allowing companies to sidestep normal obligations, but a draft of legal instrument was created in 2016 in order to eliminate the possibility to issue these arbitrary special permits (Fern, Nov 2016).

¹ See more information on "special permits" in the next section.

² These issues are particularly well explained in the Evaluation of the EU FLEGT Plan (TEREA, 2016).

However, **Ghana enacted in November 2017 a new legislation that addresses the issue of the special permits**, which clarifies the granting of special permits and requires existing special permits to be converted into TUCs (Timber Trade Federation, 2017). The legislation **also addresses the issue of the conversion of old leases into TUCs** and requires that the conversion process takes place in the next following 6 months (Timber Trade Federation, 2017). According to the Timber Trade Federation (November, 2017), “parliamentary approval of the new law is an important milestone on the way towards FLEGT licensing”.

The allocation of Salvage Permits for rosewood has also been a matter of great concern to civil society, due to its potential to undermine the VPA successes. These permits were becoming a loophole allowing people to harvest a species that was threatened. This issue has been solved in 2019 with the ban on rosewood harvesting (GNA, 2019).

Other challenges include the fact that:

- **The VPA design is considered by some stakeholders as little realistic** in terms of time frame and expectations of the delivery of FLEGT licenses and there was “no fixed planning with the VPA process being flexible to the conditions of the country” (TEREA, 2016).
- Forest management plans for remaining forest reserves had yet to be developed in 2015 (Fern, Dec. 2015);
- Focusing on land titling often disregards women’s existing resource use and ownership rights under customary law (Hajjar, 2014);

1.3.5 Environmental impacts

The issue of the conversion of old permits to TUCs led the FC to accelerate the permitting process in order to prevent trees being cut down illegally (Overdevest & Zeitlin, 2018). It is not mentioned whether this accelerated process had a (negative) environmental impact but it would be interesting to look through this.

1.3.6 Economic impacts

It is argued that the VPA contributes to **increased tax income to the government of Ghana**. According to Chatham House, the government loses € 100 million annually due to non-payment of Timber Rights Fees (2005, in TEREA, 2016).

1.4 Social conflicts and forest communities’ livelihood

This section is essentially based on academic papers (Hajjar, 2014; Carlsen, 2014; Hirons *et al.*, 2018; Overdevest and Zeitlin, 2018; Hansen, Rutt and Acheampong, 2018); the Evaluation of the EU FLEGT Plan (TEREA, 2016) and to a lesser extent the Fern VPA Updates.

1.4.1 Livelihood conditions of forest communities

Since local communities’ livelihood rely a lot on forest resources, the Ghana **VPA contains commitments to protect them through SRAs and monitoring of its socio-economic impacts**. However, in 2015 there was still **no indication of significant VPA contributions towards poverty reduction**. The rapid **degradation of forest resources has led to increased competition** for raw material among loggers, millers and chainsaw operators (Carlsen, 2014) and CSOs are concerned that “**strict legality enforcement could have a devastating impact on local livelihoods**” (Lesniewska and McDermott 2014, in Overdevest & Zeitlin, 2018). The VPA also threatens the livelihood of illegal millers (see section 2.1.2 Enabling and inhibiting factors to formalization).

CSOs produced a list of priority information important for forest communities and civil society. In 2015, **communities were said to be more aware of the VPA, its consequences and their rights** with respect to SRAs and have started to claim those. However, what remains rather unclear to them is what benefits they can get from protecting their forest (TEREA, 2016).

Complaints mechanisms were developed and fully implemented in 2016 but CSOs expressed concern that they “only provided for complaints from the private sector in relation to the issuance of FLEGT licenses and did **not include procedures for dealing with concerns from affected communities**, farmers, or other stakeholders” (EFI 2016).

1.4.2 Land use rights allocation

The need for legal reform in tenure is mentioned as a key issue in several documents and **has not yet been addressed with the VPA process** (TEREA, 2016; Carlsen, 2014; Hajjar, 2014; Hiron *et al.* 2018; Fern, November 2017). It is argued that addressing tree tenure is a necessary condition for sustainable management and for having an effective domestic timber policy (Carlsen, 2014). According to tree tenure legislation, communities are owners of the land, but management of trees is delegated by law to the state, more specifically to the FC. If a farmer wants to harvest a tree, he will have to apply and pay for a permit, whether the tree is on his land or not. There is thus no incentive for farmers to leave or to protect trees, leading to (illegal) logging and deforestation. While the farmer has no incentive to protect his trees, it is argued that the FC is not able to control illegal logging (TEREA, 2016).

Privatization and formalization of tenure might have detrimental impacts on the largely informal rights of local resource users (Hiron, *et al.*) and have **led to legal disputes and sometimes violent conflicts** over land claims and jurisdiction among chiefs. And similar risks may hold with transferring tree resource rights (Hajjar, 2014). Indeed, Hiron *et al.* (2018) challenge the idea that formalization is requisite for SFM and reveal that farmers’ control and access to benefits from trees on their farms are notably higher in the ‘illegal’ chainsaw dominated informal sector than in the ‘legal’ state-based system. **As the VPA aims to eradicate all informal on-farm timber production, it threatens existing local rights and benefit capture while diminishing incentives to maintain trees on farms.** In other words, efforts to capture all of Ghana’s timber production under the VPA risks deepening existing **marginalization and criminality** of resource users, many of whom are poor. If implemented the VPA would further undermine the already tenuous levels of control farmers have over their trees and the benefits associated with them. Focusing efforts in the timber sector on enforcement of existing laws such as the payment of compensation, while well intentioned, actually obfuscates the inequalities enshrined in the existing legal framework (*ibid.*)

1.4.3 Balanced distribution of benefits for forest communities

It is argued that the **VPA implementation has not changed benefit sharing practices**, and by extension, the forestry concession system that for over 8 **decades has failed to secure forest sustainability and social equity**. Other changes such as enhanced enforcement of SRAs and more transparent allocations of timber rights are improvements, but they do not fundamentally change the tenure and benefit sharing arrangement, which by any standard is inequitable (Hansen, Rutt, Acheampong, 2018).

Formally, benefits from state timber concessions are shared through the distribution of **stumpage fees**. These are distributed between the District Assemblies (55%), Administrator of Stool Lands (10%), Traditional Councils (20%) and Stools (25%), after the Forestry Commission has taken 40–60% for management fees. **The percentage of these fees which indirectly reach the farmers depends on the Stool and District Assembly, but are generally considered to be low, effectively zero** (Hiron *et al.*, 2018).

It is argued that none of the farmers interviewed in Hirons *et al.* (2018) study were aware of any benefits related to the distribution of stumpage fees.

Timber Rights Fees must be paid when existing licenses are converted to TUCs and are supposed to mostly benefit communities in which concessions are located. Historically though, these fees have rarely been paid, resulting in the loss of about \$100 million each year, according to some sources (Fern, Dec 2015).

Communities are also formally entitled to benefit from timber operations on their land through the **Social Responsibility Agreements (SRAs)**, already existing before the VPA process, which represent 5% of the stumpage fees on the concession and are designed to deliver social amenities and compensation to forest communities (Hirons *et al.* 2018) such as construction or maintenance of roads, construction of school buildings, electrical poles, etc. (Hansen, Rutt, Acheampong, 2018). **According to VPA legislation, compliance with SRAs is required for issuance of FLEGT licenses** and is generally considered critical not only for ensuring that local communities get a fair share of the benefits from timber revenues, but also for mobilizing their support for preventing illegal chainsaw milling (Overdeest and Zeitlin, 2018). However, these agreements are not always respected (Hirons *et al.*, 2018) and they only represent a very tiny contribution to livelihoods³ (Hansen, Rutt, Acheampong, 2018).

³ This share (5%) is in itself nominally low, but further erodes when compared to the total taxation revenue, or even worse, the market value of the timber harvested (Hansen, Rutt, Acheampong, 2018).

THEME 2: Relation and development of the formal and informal forest sector

2.1 Impact on small producers

According to the Timber Industry Development Division (TIDD), **the Ghanaian private forest sector is very diverse ranging from a few big timber companies, 15-20 medium-sized millers and a huge number of very small millers, either artisan (legal) or chainsaw millers, operating illegally** (TEREA, 2016). In this section we focus on the small producers as they play an important role in the forest sector and face multiple challenges related to the VPA process (a majority of the big companies fully comply with the legal requirements). **The major topic that has to be addressed by Ghana along the VPA process is the presence of chainsaw millers on the timber market.**

In this section we mostly rely on the Mission Aide Mémoire (2015, in TEREA, 2016) and on four relatively recent academic papers (Hajjar, 2014; Carlsen, 2014; Overdevest and Zeitlin, 2018; Hirons *et al.*, 2018). However, the numbers and references used in the papers and the field missions carried out are sometimes relatively outdated.

2.1.1 Proportion of formal and informal small producers

While large-scale enterprises focusing on exports dominate the regulated formal forest sector, SMEs characterize the informal sector that supplies the domestic market (Hajjar, 2014). Officials of the Government of Ghana state that the percentage of illegal timber has reduced significantly since the introduction of the VPA. Yet this decrease is especially due to timber harvested by large and medium companies, while the production of illegal chainsaw timber has been affected marginally.

It is essential to be familiar with the context of the forest sector regulation in Ghana in order to understand why there is a large proportion of illegal timber produced by smallholders. Chainsaws were introduced in the 1960s' and chainsaw loggers became widespread during the 1980s'. In 1991 the Trees and Timber Regulations were promulgated in order to regulate the use of chainsaws. However, indiscriminate logging continued and chainsaw milling (CSM) was judged responsible of the rapid degradation of forest resources. **CSM was therefore banned in 1998 with the Timber Resources Management Regulations (TRMR)**. In accordance with the TRMR, the administration has directed sawmills to supply domestic markets with 20% of their production. Yet, this regulation is not effectively enforced, and as international market prices are higher than domestic prices, the large majority of sawmill production is exported (Carlsen, 2014). Given the high demand and the lack of timber supply on the domestic market, chainsaw millers continued to operate illegally and to sell their production on the national market.

The proportion of illegal timber on the domestic market and the share of operators producing informally remain uncertain. Marfo (2010) estimated in 2010 that **84% of domestic timber was illegal, and the majority of this illegal timber was produced by some 97,000 chainsaw operators who process the trees on farms rather than in mills** (Hirons *et al.*, 2018). For the same year, Hoare (2014) estimated that two-thirds of timber production was illegal and that large-scale producers accounted for one-quarter of illegal production and chainsaw milling for the remainder. Since then, she argues that there has been little progress towards reducing illegal chainsaw milling. Formal production by small-scale producers in the off-reserve forest has increased, but given the scale of illegal artisanal production, the pace of change is considered too slow. In 2014, 90% of the timber for the domestic market was estimated to come from illegal chainsaw millers and 7% to come from legal small-scale sawmills. Illegal logging on the export market was lower but remained an issue on the export market, particularly in the

case of rosewood (Hoare, 2014).⁴ Yet, according to TERE (2016), the enforcement of the 1998 became stricter with the VPA process and the Forestry Commission (FC) estimated that 50% of the timber in the domestic market was legal in 2015.

2.1.2 Enabling and inhibiting factors to formalization

Due to the ratification of the VPA, the illegality of chainsaw milling received more attention. **Artisanal milling has been promoted and chainsaw operators have been encouraged to reconvert themselves into artisanal millers selling legal lumber to the domestic market** (Overdeest and Zeitlin, 2018). The new artisanal millers indicated that the developed alternative of artisanal milling gives them a chance to not fear police harassment anymore and to live a normal life, although most of them are still struggling to earn a decent living (TERE, 2016). Moreover, the FC works with timber associations in order to drive out illegal logging and to target small companies for registration, and the TIDD has organized three workshops with the aim to promote legality among small operators (EFI, 2015).

Yet the reconversion of chainsaw milling is difficult and **most of the chainsaw operators lack the resources necessary to accomplish the desired changes accompanying formalization processes**. Some projects have started to address their needs, but results are punctual and ambivalent, and not much effort was made to support this group in finding alternative livelihoods (TERE, 2016). The concern is that **the loss of livelihood of the illegal loggers, the lack of alternative livelihoods, the limited access to resources, and the lack of financial means to invest in alternative ways of living may force those people to continue illegal practices**.

Moreover, the **quickly developing economy of Ghana**, the expansion of industries, the need for building material and furniture, and the need to produce at low costs lead to a growing demand for wood products on the domestic market (Hajjar, 2014). **The informal supply chain is also facilitated and tacitly supported by the government**: According to Hajjar (2014), up to 60% of illegal timber is consumed for government projects, and government enforcers along the supply chain benefit from “informal payments” for allowing the illegal activities to carry on.

Finally, **chainsaw milling also receives strong support from local communities, and particularly farmers, who benefit from informal payments and supplies of timber** (Hajjar, 2014). The timber regulation makes the distinction between naturally occurring trees, owned by the state regardless of land ownership, and privately planted timber, belonging to the person who planted it. Hiron *et al.* (2018) state that while concessionaires are not allowed to harvest trees on farms without permission from the person with the right to use the land (the farmer), in practice they often do. Many local farmers do not have the ability to control the timber companies’ activities on their farms. The formal system of permitting gives leverage to concessionaires to pressure farmers to allow their trees to be harvested in exchange for compensation. Many farmers are incentivized to collaborate informally with chainsaw operators as it allows them to better control their trees and to get greater benefits (Hiron *et al.*, 2018).

2.1.3 Business environment

According to Hajjar (2014), **SMEs in the forest sector in Ghana face a large number of challenges linked to their business environment**: difficulties associated with operating in the informal sector, lack of tenure security, excessive bureaucracy, poor market access and information, lack of access to credit, weak bargaining power, and insufficient business training. Artisanal millers, in particular, are struggling with problems related to the existence of illegal sawmills, access to raw material, access to equipment,

⁴ Levels of illegal production and trade are estimated based on three indicators, namely expert perceptions survey, wood-balance analysis and analysis of trade date discrepancies.

and profitability of operations (TEREA, 2016). **If the issue of illegal chainsaw millers is successfully addressed by the Government of Ghana, the VPA may have a positive impact on the business environment of millers.**

The VPA process seems to positively impact the organization and the political power of small producers. According to TERE (2016), ten artisanal millers associations have been established in Ghana since 2010. They have been sensitized, trained in practical aspects, supported with a business plan and provided with mobile saws. Yet, some technical problems have been reported, such as machine break down or late delivery. The private sector also participated in the VPA process and VPA awareness gatherings, even if a large number of private actors are yet to be involved and their capacities are to be strengthened with respect to the WTS and VPA process (TEREA, 2016). According to the executive of a small-scale timber company interviewed by Hansen, Rutt and Archempong (2018), “small-scale timber firms did not have much influence in the formulation of the VPA”.

2.1.4 Exportation opportunities

According to Hiron *et al.* (2018), 75% of the timber production is used domestically and the remaining 25% is exported. In 2003, when the FLEGT Action Plan was adopted, approximately 55% of the timber exported from Ghana was destined to the EU market (TEREA, 2016). In 2016, only 11% of the exported timber was destined for Europe (Hiron *et al.*, 2018). **Exports to Europe decreased with the VPA process while there is an increase in the domestic and regional market and an increase in trade to Asian countries, especially China and India** (TEREA, 2016).

The decrease in export volume to the EU is not considered to be EUTR related, but rather due to the lack of primary species (category 1 species), requested by the EU market (TEREA, 2016). Moreover, there are expectations that FLEGT licensing might allow the trade to the EU to recover. According to the small number of FSC certified larger companies, they have not been affected by the EUTR. Small millers also indicated that they have not been affected by the EUTR either as they focus on the local market. However medium millers, who export to the EU, were confronted with a lot of questions of buyers and part of them with suspension of contracts.

The VPA does not seem to give an opportunity to small producers to export, as they are either still operating illegally (CSM) or because Ghana sees artisanal millers as an opportunity to address illegal chainsaw milling and to supply legal lumber to the domestic market.

2.1.5 Market competition

Due to the scarcity of timber resources, the number and size of the mills have changed: twenty years ago there were nearly 200 large mills, while today only 20 mills are operational between large and medium enterprises. The rest have either stopped business or have split-up into smaller units (SMEs), using mobile sawmills and moving closer to the resources (TEREA, 2016). **The VPA seems to increase the market power of large companies who can easily comply with the VPA and EUTR, while marginalizing small resources users** (Hiron *et al.*, 2018), who do not have full oversight of the cost implications for their enterprises resulting from administrative and/or labor requirements as they do not implement the required changes yet, and often do not have the capacity to comply with the requirements (TEREA, 2016). Moreover, according to the executive of a small-scale timber firm, there is an unequal playing field in bidding for TUC: “how can a small firm bid for the same concession with a bigger timber firm?” (Hansen, Rutt and Archempong, 2018).

Chainsaw operators and NGOs interviewed by Carlsen (2014) explain that the **ban on CSM was the result of powerful saw millers not wanting competition. On the other hand, SME sawmill owners**

explain that illegal loggers are unfair competition, causing direct cost of protection of their concessions, losses of raw material in case of theft and higher costs due to local scarcity (TEREA, 2016). Chainsaw operators argue that the saw millers' chase of high profits is creating a supply gap in the domestic market since higher prices can be attained on the international market, whereas saw millers argue that the chainsaw operators are outcompeting the saw millers from the domestic market as they are depressing domestic market prices (Carlsen, 2014). **The decrease in illegal logging through the VPA would increase the competitiveness of the saw millers on the domestic market.**

2.2 Value chain improvement

There is little information regarding the forest sector's value chain in the reviewed literature. However, it seems that **the VPA process has a substantial positive impact both on traceability and transparency along the value chain.**

In this section we mostly rely on the Mission Aide Mémoire (2015, in TERE, 2016), on two relatively recent academic papers (Hajjar, 2014; Hansen, Rutt and Archempong, 2018), and on both EFI and FERN reports, which focus on outputs of the VPA rather than impacts.

2.2.1 Traceability along the value chain

According to TERE (2016), **the Wood Tracking System (WTS) is operational and covers all exports and the domestic market.** However, the large share of informal/illegal wood on the domestic market is not tracked by the WTS.

The **TLAS, which is not yet operational**, should allow electronic and real-time tracking of all raw and processed timber from the production site, through the successive steps of transport and processing, to the end user on the domestic or export market (Hansen, Rutt and Archempong, 2018). However, considering the big group of SMEs that is yet to be trained and guided on how to comply with the VPA requirements and the huge group of illegal chainsaw loggers, many of which have not yet been convinced to change their practices, **the effective implementation of the TLAS might still require considerable time and efforts, especially for the groups that operate only in the domestic market** (TERE, 2016).

2.2.2 Transparency, access to information and communication

Transparency, access to information and communication strategy related to the forest sector seem to be the major improvements of the VPA process. Regarding the VPA process overall, information from the Government is shared in a timely manner (FERN, June 2015). Updated copies of aide memoires and their annexes from all meetings of the Joint Monitoring and Review Mechanism JMRM are made available on the website of the Forestry Commission (EFI, 2016). Moreover, the government has made information on existing special permits publicly available (FERN, November 2016). In November 2017, Ghana passed the Timber Resources and Legality Licensing Regulation 2017 which makes provision for key information related to the management of the sector to be published on the website of the Forestry Commission (EFI, 2017). Ghana has also worked with EFI to train potential users of the web interface for timber legality information (FERN, November 2016). **The Timber Transparency Portal, a hub to make forest information publicly available has been launched in 2018** (Forest Watch Ghana, 2018) and provides information such as the type and specification of timber logged, contract, area logged, destination and vehicle transporting the timber (FERN, December 2018). The operational Wood Tracking System (WTS) has also improved transparency within the chain of custody by providing information from the initial logging to exporting of timber products (FERN, December 2018). However, there are still some issues regarding transparency and access to information along the value chain.

According to the executive of a medium size timber firm interviewed by Hansen, Rutt and Archeampong (2018), “most people do not know about the VPA”.

Some special efforts have also been made in order to strengthen community capacity and knowledge about the new forest policy and forest benefit-sharing regimes. **Several NGOs have made huge efforts to raise local communities’ awareness of the legality standard for timber production and of SRAs.** Forest Watch Ghana (FWG) is informing local communities and the public about the VPA (FERN, November 2013), and CSOs produced a list of priority information important for forest communities (FERN, June 2017).

2.2.3 Technology improvement (equipment, production mechanisms...)

Before the beginning of the VPA process, there were many large mills. **Today, only 20 large mills are operational, and SMEs mainly use mobile sawmills and move closer to the resources.**

2.2.4 Benefit sharing along the value chain

See section 1.4.3 for balanced distribution of benefits for forest communities. There is no additional information regarding benefit sharing along the value chain in the reviewed literature.

2.2.5 Effective tax collection

According to Hajjar (2014), **chainsaw milling constitutes a large loss of revenue to the central government** (estimated at 25 million Ghana Cedis per year). The TIDD strengthened its capacity to regulate tax collection by frequently changing checkpoint locations, introducing more frequent controls and moving the collection of export taxes from the port to further upstream, which has had a positive impact (EFI, 2016).

2.3 Domestic market

The domestic market is key to any efforts to address governance and sustainability in Ghana. As mentioned, timber harvest to supply the domestic market is much larger than the export harvest, and **currently 85% of the domestic harvest is covered by chainsaw operators who are considered illegal under current law** (Hansen, Rutt and Archeampong, 2018). It is thus essential to know whether the VPA is decreasing illegal wood on the domestic market.

In this section we mostly rely on many different documents: Mission Aide Mémoire (2015, in TERE, 2016), five relatively recent academic papers (Hajjar, 2014; Carlsen, 2014; Overdeest and Zeitlin, 2018; Hirons *et al.*, 2018; Hansen, Rutt and Archeampong, 2018), and FERN and EFI reports.

2.3.1 Promotion of legal wood on the domestic market

The VPA includes an article encouraging the government of Ghana to apply the licensing scheme to timber sold on domestic markets (Hajjar, 2014). According to Overdeest and Zeitlin (2018), **the will to include the domestic market within the VPA and the TLAS came from the Ghanaian side**, which is an important first step in the promotion of legal wood on the domestic market. The goal is to eradicate informal timber production and chainsaw logging and ensure that only licensed timber is sold both internationally and domestically (Hirons *et al.*, 2018).

As mentioned earlier, a substantial share of illegal timber is traded on the domestic market. According to FC, NGOs and chainsaw loggers, the lack of legal domestic supplies is driving current illegal chainsaw logging activities (Carlsen, 2014), despite the chainsaw milling ban of 1998. On the other hand, saw millers argue that chainsaw operators are outcompeting the saw millers from the domestic market as they are depressing domestic prices (Carlsen, 2014).

A domestic market policy was approved in 2012 with the aim to meet the demand for timber on the domestic market from illegal sources (EFI, 2014). There has also been a push for waiving taxes on sawn lumber imports into Ghana, in order to help meet the shortage of legal lumber in the domestic market (FERN, December 2015).

The domestic market policy approach can be summarized as follows (Hajjar, 2014):

- ❖ Decrease the demand for illegal timber through a public procurement policy (more information in the following section).
- ❖ Push the large-scale sawmills to supply the domestic market with the timber they are legally obliged to place on the domestic market.
- ❖ Get artisanal millers to supply the market by transforming some of the illegal operators into legal ones through a change of milling equipment, capacity building and registration (artisanal miller strategy).
- ❖ Educate and convince the domestic lumber traders to only trade in legal timber and to require legality verification documents.
- ❖ Promote the transition to artisanal milling or to alternative livelihoods, within or outside the forest sector.

Overdevest and Zeitlin (2018) suggest that the VPA implementation has effectively decreased the level of illegal timber on the domestic market thanks to the public timber procurement policy and the artisanal milling strategy. Yet according to Hansen, Rutt and Archeampong (2018), it is difficult to assess whether illegal logging has reduced in recent years, and if so, what the likely causes are. Moreover, the authors explain that the artisanal miller strategy is unrealistic as Ghana's forest reserves have been largely depleted and exports remain more lucrative. In the long term, supplying the domestic market with legal timber will have to involve reforestation and the development of new plantations (Overdevest and Zeitlin, 2018). Furthermore, according to Hirons *et al.* (2018), there is yet no estimation of the costs related to the incorporation of the whole timber production under the TLAS and no assessment of the feasibility of effective enforcement of legality within the domestic market. Moreover, the topic of competition for raw material between saw millers and chainsaw operators, and the issue of the lack of incentives for farmers to collaborate with formal operators seem to be omitted by the domestic market policy proposal. For these many reasons, **the efficiency of the domestic market policy is uncertain.**

According to EFI (2014), TIDD organized workshops with local associations in order to promote legality among small operators. However, **"it is remarkable that hardly any attention seems to be paid to raising awareness of the Ghanaian consumers about purchasing illegal timber"** (TEREA, 2016).

2.3.2 Domestic procurement policy

As mentioned earlier, one part of the domestic market policy is the public procurement policy which objective is to decrease the demand for illegal timber and promote the production of legal timber on the domestic market. According to Carlsen (2014), **a public procurement policy prescribing the use of legality verified timber in government financed contracts has been submitted for Cabinet approval in 2014.** The draft was reviewed by Cabinet which has requested further details on how it would work in practice before approving it (EFI, 2018).

Official loggers (GTA) and saw millers argue in favor of the effectiveness of a public procurement policy whereas the lumber dealers and the NGOs argue that the public demand is not sufficient to drive a domestic demand for legal wood (Carlsen, 2014). The procurement policy will only affect a limited share of the demand. Moreover, it is argued that the formalized artisanal millers will be more likely to sell

their products on international markets as the prices are higher. **The public procurement policy has still not been approved and, once again, its effectiveness is uncertain.**

2.3.3 Level the playing field

As mentioned earlier, **the domestic market in Ghana is characterized by the competition between illegal chainsaw millers and artisanal millers.** Chainsaw operators argue that the saw millers' chase of high profits is creating a supply gap in the domestic market since higher prices can be attained on the export market, whereas saw millers argue that the chainsaw operators are outcompeting them from the domestic market as they are depressing domestic market prices (Carlsen, 2014). Once again, **if the issue of illegal chainsaw millers is successfully addressed by the Government of Ghana, the VPA may level the playing field on the domestic market.**

2.3.4 Economic impact of domestic market development

The quickly developing economy of Ghana, the expansion of industries, the need for building material and furniture, and the need to produce at low costs lead to the development of the domestic market (Hajjar, 2014). The domestic market development can be seen as positive on the Ghanaian economy as forestry is an important economic sector in the country.

However, **there is a worry that an emphasis on legality will negatively impact local livelihoods highly dependent on the informal sector** (Hajjar, 2014). Marfo (2010) estimated that approximately 650,000 people are dependent on it for their livelihood. The Ghana VPA contains explicit commitments to ensure that this does not occur, including provisions for enforcing payment of stumpage fees to local communities through SRAs, as well as monitoring its socio-economic impacts. But reform of the domestic market and reconversion of chainsaw milling remain extremely difficult long-term challenges (Overdeest and Zeitlin, 2018).

2.3.5 Environmental impact of domestic market development

According to TERE (2016), as the demand on the domestic market is increasing, the pressure on the remaining forest is increasing too. Strategies to solve the future supply problem through plantations and import from other countries have not been very successful due to the lack of funding for plantations and the high cost of importing timber.

Chainsaw milling is blamed for deforestation due to lack of regulation and inefficiencies in milling (Hajjar, 2014). As chainsaw millers are currently the major providers of timber on the national market, the development of the domestic market would have a negative environmental impact. Once again, **if the issue of illegal chainsaw millers is successfully addressed by the Government of Ghana, the VPA may curb the negative environmental impact due to the domestic market development.**

THEME 3: Jobs and employment

3.1 Job creation

The documents reviewed present no information regarding the creation of jobs.

3.1.1 Job creation related to legal timber development

There are no references to job creation in the documents reviewed. Instead, there are concerns with the **possibility of job losses** due to the VPA implementation (TEREA, 2016).

3.1.2 Public procurement policies including local workforce utilization as criteria

No information.

3.1.3 Environmental impacts of job creation

No information.

3.1.4 Economic impact of job creation

No information.

3.2 Professionalization and improved qualifications in the forest sector

The documents reviewed present no information regarding the professionalization of the forest sector.

3.2.1 Capacity building (skills, qualifications, diplomas)

No information.

3.2.2 Capacity building (specific equipment & technologies)

No information.

3.3 Working conditions and rights

This section is mostly based on the progress described by the EFI Progress Reports. However, there is no information on all the following subsections except for some information about labor unions.

3.3.1 Securing employment through contracts

No information.

3.3.2 Affiliation to social security, health and accident insurance, etc.

No information.

3.3.3 System of staff career and promotion tracking

No information.

3.3.4 Labor unions

The EFI progress reports present some concrete events concerning the **development of private sector associations** in the forest sector such as the establishment of the Domestic Timber Trade Network (DOTTNET) made up of buyers and sellers, to oversee and ensure flow of legal timber along the supply chain (EFI, 2016) and the progress with the finalization and adoption of the constitution for the new private sector “Federation of Ghana Forest Industries” (EFI, 2017 & 2018).

3.4 Gender equality and social inclusion

Gender issues are not mentioned in the literature reviewed.

3.4.1 Gender is taken into account in job creation

No information.

3.4.2 Social inclusion is taken into account in job creation

No information.

THEME 4: Governance, law enforcement and compliance

4.1 Forest management and governance

This section is mostly based on the EFI annual reports, the Evaluation of the EU FLEGT Plan (TEREA, 2016) and some academic papers (Carlsen, 2014; Hajjar, 2014; Hansen, Rutt & Acheampong, 2018).

4.5.1 Forest governance (status)

According to TERE (2016), overall, all stakeholders involved consider that **forest governance is improving**, and that training and awareness creation led to a better understanding of the regulations. Other improvements mentioned are the increased registration of companies by TIDD, increased number of border controls, improvement of the regulatory environment, improved quality of audit reports and the new electronic system that allows faster and safer registration of similar information as was collected before and the improved monitoring of SRAs (TEREA, 2016).

As mentioned in section 1, **there are still some important issues that need to be addressed** such as the public procurement policy, the effective conversion of old concessions into TUC, the acceptance or not of special permits issued at the discretion of the Minister, the clarification on tree and land tenure and benefit sharing (Carlsen, 2014; Hajjar, 2014; Hansen, Rutt and Acheampong, 2018). Moreover, the forest governance regime has been disregarded through illegal logging by formal and informal operators.

4.1.2 Participation

The overall **multi-stakeholder engagement within the VPA negotiation is considered as one of the main achievements of the overall VPA process** in Ghana (TEREA, 2016). Ghana is considered to have an unprecedented multi-stakeholder nature on the VPA negotiation process, which has “radically altered the negotiating and policy-making landscape”. These circumstances are considered as unique and have set the standard for other VPA countries (Hansen, Rutt and Acheampong, 2018). The VPA process allowed **civil society in Ghana to become stronger** and form functional networks of NGOs that coordinate better, avoid duplication and where possible speak with one voice by developing direct lines of communication with GoG.

However, there are still some **concerns about the engagement process in the VPA implementation**. Some representatives of villages claim that they have been invited to meetings but that their views were not taken into account while some others simply felt left out of the VPA process: “The FC invites a few timber firms but several NGOs. Therefore, when it comes to deciding on issues, the industry’s views are always not taken” (Hansen, Rutt and Acheampong, 2018). There also seems to be concerns with the representation within the formal sector, mainly that “small-scale timber firms belonging to the Ghana Timber Association (GTA) did not have much influence in the formulation of the VPA” (Hansen, Rutt and Acheampong, 2018). According to EFI (2016), the engagement of the private sector is limited because of the weak capacity of trade associations. Moreover, **the implementation process is perceived as less inclusive and participatory than the negotiation process** (FERN, 2014). In the EFI report (2014), concerns are raised by civil society about the decline of the deliberative process. Concerns were also expressed by non-Government representatives concerning the infrequency with which the M-SIC

meets (EFI, 2015). It is also mentioned that relevant information is still not always provided to participants in advance of discussions, which limits the ability of stakeholders to deliberate on issues (EFI, 2015).

Yet it seems that participation improved since 2017, and according to EFI (2017), **national stakeholders are relatively satisfied with the degree of participatory decision making in the sector**. In 2018, the M-SIC has become basically a channel through which the Government communicates information to other stakeholders that is of relevance to upcoming meetings (technical and formal) of the JMRRM (EFI 2018).

4.1.3 Public awareness on forest protection and “protective functions”

There has been growing awareness and change of mentality in the private sector and civil society. The **FLEGT initiative is considered to have raised awareness of issues related to the forest sector and climate change** and increased transparency which is believed to have resulted in better governance (TEREA, 2016).

4.1.4 Law enforcement capacity to enforce forestry legislation

The **capacity of the different stakeholders in Ghana was already considered as relatively strong** (before VPA negotiations) compared to many other countries engaged in negotiations. Still, the **VPA process has resulted in improvement in implementation and law enforcement capacity**: “Staff in the field have arrived at a better understanding of the rules and regulations and are applying them more consequently” (TEREA, 2016). This is agreed both by civil society and private sector: it is stated that “forest governance and law enforcement have been enhanced to a considerable extent and that there is improved administration and improved compliance” (TEREA, 2016). In 2014, there were several capacity building activities taking place in Ghana including **training courses and the creation of courses** for executing verification functions (EFI, 2014). In 2015, with the establishment of the Timber Validation Department (TVD) and Verification Protocols, training of larger FC units in respect of GhLAS and its functioning were implemented (EFI, 2015). In 2017, Ghana completed its Compliance and Enforcement Training of all FC staff (one of the first training programs of its kind applying to all 850 staff – EFI 2017).

4.2 Effective law enforcement

Overall, the TLAS is seen as a **mechanism capable of reducing illegal logging by more strictly enforcing logging regulations** which is also considered as a step towards sustainable forest management (Hansen Rutt and Acheampong, 2018). The EFI progress reports refer to the TIDD designation as licensing authority along with the establishment of a Verification Framework and electronic wood tracking system which enables the issue of FLEGT licenses (EFI, 2014). During 2015 and 2016, detailed procedures for handling non-compliances have been developed and the process of raising, monitoring and closing corrective actions are active (EFI, 2017).

The main documents analyzed in this section were the EFI Annual progress reports along with the Evaluation of the EU FLEGT Plan (TEREA, 2016).

4.2.1 Number of enforcement missions, paper investigations, government findings, etc.

In 2016, the TVD completed two **audit cycles** (11 districts were covered during the first audit and 15 districts were covered during the second cycle). 69 Corrective Action Requests (CARs) were raised against FC and its divisions and 78 CARs against companies (EFI, 2016). If the operators fail to fulfil this request, their certificate will be frozen. The two audit cycles completed during 2017 covered companies that export as well as supply to the domestic market (EFI, 2017). In 2018, a first audit cycle was completed, and the TVD raised a total of 34 CAR during the first set of this audit cycle (EFI, 2018).

4.2.2 Denunciations from independent forest monitoring

Civil society developed along the implementation process an interest in independent forest monitoring and started to receive project funding to support work in this area. The government also agreed to provide civil society access to key information that they requested in order to strengthen their capacity to carry out independent forest monitoring (EFI, 2014). In 2015, a group of 12 civil society **Independent Observers were trained and became operational** (EFI, 2015). In 2016, civil society secured an FAO grant that enabled them to develop a portal to facilitate both due diligence of EU operators and independent observation by CSOs (EFI, 2016). Since 2017, civil society has been invited as an observer to TVD's verification audits (EFI, 2018). CSOs also collaborated with the Forestry Services Division (FSD) by **reporting forest infractions** in real time and CSOs provide the FSD with evidence of infractions to enforce action and apply penalties (FERN, Dec. 2018). Moreover, the development of **"Forest Fringe Communities (FFC)"** is mentioned as having a positive impact on the arrest of perpetrators (TEREA, 2016).

The documents also often mention the role of the **SCS Global Services, the Independent Monitor appointed in Ghana**, which conducted its first audit of the Ghana GhLAS in 2015 and presented the findings the JMRRM (EFI, 2015).

4.2.3 Compliance incentives

The documents often refer to the **lack of compliance incentives** or the overall inadequacy of the existing ones. There is a "lack of financial incentives within the current formal legislative framework for farmers and forest-fringe communities to engage in forest conservation and nurturing of on-farm trees (Hansen, Rutt and Acheampong 2018). Moreover, the development of Community Forestry Committees (mentioned above) have patrolled forests during years without receiving any financial support (TEREA, 2016). However, it is **expected that once licenses start to be issued the level of compliance will increase** since companies will not want to be excluded from the license benefits (TEREA, 2016).

4.3 Grey areas in existing regulation

The information on "grey areas" in existing regulation is mostly based on the EFI Annual progress reports, FERN VPA updates as well as academic literature (Hajjar, 2014; Hansen, Rutt and Acheampong, 2018).

4.3.1 Relevant, complete, systematic and inclusive forest and land-use regulations

FLEGT is seen as a vehicle that brings in the much-needed reforms in the forest sector. The 2015 EFI progress report mentions a legislative reform and its results in key areas: Imported/transit timber (completion of the legality definition reference); Plantation management (convention d'exploitation of plantations); Rules outlining allocation committee membership with regards to PEAs; Registration of companies in the 'chambres consulaires'; Special engines in forest concessions (rules to guide use of those engines); Compensation for crops damaged (procedures for compensation) (EFI, 2015). Moreover, in 2018, Ghana submitted a final VPA amendment proposal to the JMRRM that included an updated legality definition (EFI, 2018).

Yet there are still some concerns that the reforms implemented **target improved forest governance at the downstream of the supply chain leaving outside root causes at the beginning of the supply chain** linked to the legislation concerning **land and tree tenure**. The reforms have been limited in reforming who holds the rights, ignoring the need to incentivize the farmer/landowner/community to not cut and sell their trees indiscriminately (Hajjar, 2014). Moreover, the management of trees is under the control of the FC and "If a tree collapses, it may rot on their land, but the farmer cannot sell it. This seems unfair to the farmer and does not stimulate in any way resource conservation" (TEREA, 2016).

It is also mentioned that the VPA legality definition has included positive aspects of existing laws and left out others that were considered not to reflect good governance, such as the **“special permits/ministerial TUCs”**. Those practices are not compliant with the VPA but can still be considered legal in view of older laws which might lead to the rise of confusion and disputes. The Joint Review of the TLAS showed that only 4% of all timber delivered complies with the VPA legality definition, while in the actual sense of the law (non-removed older laws), a much larger percentage of the timber is legal. So, there is a **difference between “VPA compliance” and “legality” according to the current legal context** (TEREA, 2016).

In **2017**, there was **progress on the legal reform** as a new Legislative Instrument, which mandates transparency in the timber sector, resolves the problem of arbitrary ‘special permits’ by the minister which addresses the administrative challenges encouraging illegal logging and holding back the delivery of FLEGT licenses (Fern, November 2017). In 2018, there were advances in clarifying the legal framework regarding leases: the new (2017) Timber Resources Management and Legality Regulations (LI 2254) provide greater clarity and a roadmap of the process and its requirements (Fern, June 2018).

4.3.2 Regulation in favor of SFM

There is little information concerning regulation in favor of SFM. We can mention the importance of the development of the SRA guideline and code of conduct, institutionalized in the recently adopted Timber Resources Management and Legality Licensing Regulation, as contributing to **increased awareness and enforcement of SRAs** (Hansen, Rutt and Acheampong, 2018).

4.4 Sanctions

This section is mostly based on the EFI annual progress reports.

4.4.1 Frequency of controls

EFI (2016) claims that “69 Correction Action Requests (CARs) were raised against FC and its divisions and 78 CARs against Companies during its 2015/2016 audits, demonstrating enforcement is taking place”.

4.4.2 Transparency (publicly available) over status (level of implementation)

The only information found about publicly available information is **the publication of annual reports and aide memoires** by the JMRRM and the JIC which deal with an implementation stage rather than the application of sanctions (EFI, 2014; EFI, 2015; EFI, 2018).

4.3.3 Adapted sanctions

No information.

4.5 Potential causes of ineffective law enforcement

This section is mostly based on academic papers such as Carlsen (2014), Hajjar (2014), Hansen, Rutt and Acheampong (2018) and Overdeest and Zeitlin (2018).

Chainsaw logging has been linked to the **limited capacity and resources** within the Forestry Commission (FC) and, perhaps more prominently, to **bribery, political agendas and corruption** which challenge the prospects of state agency support to initiatives aimed at changing this practice. The VPA initiatives are also often undermined by the **lack of interest among government officials and pressure from powerful interest groups** (Carlsen, 2014).

The focus on **scapegoating techniques** has also been responsible for the weak law enforcement. It is then difficult to effectively reform and enforce the law without addressing these “business-as-usual interests” (Hajjar, 2014).

Another source of ineffectiveness are the **irregularities in the SRA implementation**, especially in relation to who decides the terms of the agreement (e.g. the local community or chief), poor accountability, and a broad lack of citizen participation (Hansen, Rutt and Acheampong, 2018).

Being the **first VPA to be agreed, there was no baseline for the process**, which had to be made up by the participants. Moreover, several political challenges (elections and new government) delayed Ghana from advancing in the process and a “**loss of momentum**” in the VPA process is often mentioned (Overdevest and Zeitlin, 2018). The new momentum only picked up in 2016, under the new political regime, which has clearly stated its commitment to pursue the VPA process (Fern, June 2017).

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