

# Tenure Trends

April 2013



## Will FLEGT-VPAs make or break local timber producers and forest communities?

*As the EU Timber Regulations come into force, clarity and leadership are still required on the question of community rights...*

On March 3, 2013, the European Union's (EU) Timber Regulations banning the import of illegally-sourced timber came quietly into force amidst the hope that it would mark a turning point in the global battle against tropical deforestation and poor forest governance. However, what constitutes "legal" timber remains unclear--especially for the artisanal producers and local communities in exporting countries who risk becoming increasingly marginalized.

While negotiation processes for the trade agreements between the EU and exporting countries [known as Voluntary Partnership Agreements, or VPAs, a component of the EU Forest Law Enforcement Governance and Trade ([FLEGT](#)) Action Plan] have been widely touted by governments and civil society for their informed consultation and incorporation of communities and local civil society, concerns remain among advocates for local forest owners and producers.<sup>[1]</sup> In the [six countries](#) that have finalized VPAs, regulations on timber production have historically favored large commercial producers and either criminalized artisanal production, or established onerous regulatory barriers that are nearly impossible for local, small-to-medium scale forest enterprises to comply. The same countries are known for their weak or ambiguous recognition of community tenure rights to forest land and resources, undermining communities' ability to defend their rights against the unsustainable exploitation of their resources by outside interests.

With this in mind, it remains to be seen whether the VPAs will serve as a tool to strengthen community and small scale producer rights as intended, or if they will become the wedge that further excludes communities from formal markets. If the latter happens, the EU, and all involved in making sure the VPAs are successful, will have missed a massive opportunity to lay the foundation for more sustainable forest management and local development.

**Plentiful Forests, Happy People?** [The EU's FLEGT approach and its impact on human rights and private forestry sustainability schemes](#) by Buhmann and Nathan, highlights the concern that historical patterns of exclusion, such as the absence of established rights standards and local political will to implement necessary reforms, will be reinforced by VPA agreements since, according to the [EU] Timber Regulation, "*recognized tenure and use rights must be based on formal recognition.*" The authors warn that the process of defining "formal recognition" or legality may further entrench the exclusion of communities and local producers in countries where rights are already weak.

Eba'a Atyi et al, go beyond Buhmann and Nathan's assessment to identify the burden on local producers posed by the cost of compliance in [Impacts of international timber procurement policies on Central Africa's forestry sector: The case of Cameroon](#). Since the regulations would be applied evenly to community forest enterprises and concessionaires, their analysis reveals that certification compliance would (in aggregate) cost community forests in Cameroon US\$ 9.3 million. This means that per hectare compliance would cost communities US\$ 14.71, compared to US\$ 6.90 for concessionaires. The authors estimate that--without external support--these costs will likely drive local producers out of business.

These cautions and warning on FLEGT are only one side of the coin. For many, FLEGT has the potential to be pro-poor, especially if local civil society in FLEGT countries is empowered, included in the "legality" definition, and enabled to fully participate in domestic and export markets. So, how do we make sure that FLEGT--now that it's up and running--doesn't break those whose livelihoods are dependent on small scale production? Some commentators, including Eba'a Atyi et al, have called for a postponed implementation of the VPA for the domestic market until regulations more inclusive of informal-sector producers are put into place. A "two-tier" certification system that recognizes the imbalanced access to capital and technical information between large formal producers and small (often informal) producers could lower the regulatory barriers for small enterprises and communities, while gradually working to improve their capacities and sustainability.

With these potential, and very real risks for communities in mind, [FERN's February 2013 report, Improving Forest Governance: A Comparison of FLEGT VPAs and their Impact](#), provides a strong reminder of FLEGT's achievements and potential to open political space for civil society and the international NGO community to advance reforms. The report notes that each of the finalized VPAs--except for Indonesia's--has identified specific legal reforms required to clarify or strengthen community and indigenous rights, or the rights of small-scale producers. Rather than debating the inevitable hang-ups a new framework will encounter, organizations dedicated to improving the livelihoods of local producers and those who care about the environmental benefits local management brings, must uniformly call for FLEGT to respect communities' rights. Because, unfortunately, most of the reforms identified in existing VPAs are still in the planning stage, leaving current certifications to be based on existing legal regimes. The report also concludes that, given the increasing marginalization of the forestry sector by the agribusiness and extractive industries, success will require extending multi-stakeholder processes to these sectors, which are becoming the dominant players in forest areas.

In the absence of clear political will and secure tenure rights, it is unclear if the necessary reforms will keep pace, leaving the status of local rights on uncertain grounds. As the global reach of the FLEGT framework expands, it is essential that all actors do their utmost to support communities' rights. Only then will it be able to truly ensure the sustainable management and governance of tropical forests.

### Resources Reviewed

Buhmann, K & I. Nathan. 2012. Plentiful Forests, Happy People? The EU's FLEGT approach and its impact on human rights and private forestry sustainability schemes. Nordic Environmental Law Journal.

Eba'a Atyi, R. et al. 2013. Impacts of international timber procurement policies on Central Africa's forestry sector: The case of Cameroon. Forest Policy and Economics.

FERN. 2013. Improving Forest Governance: A Comparison of FLEGT-VPAs and their Impact. Brussels: FERN.

## References

1 Colchester, M. 2006. Reflections on the Social dimensions of Verification in FLEGT Processes: Issues, Risks and Challenges. Thinkpiece for Verifor Experts Meeting, 27-28 April 2006, Palma de Mallorca; Chatham House. 2013. Environment, Energy and Resources Meeting Summary: 21st Illegal Logging Stakeholder Consultation and Update Meeting. 7-8 February, 2013. London: Chatham House.

## About Tenure Trends

**Tenure Trends alerts the global development community to important news, events and research findings regarding tenure, rights, and development in the world's forests.**

It is published by the Rights and Resources Initiative (RRI), a global coalition of 14 Partners and 120 international, regional, and community organizations advancing forest tenure, policy, and market reforms. It is prepared by the Rights and Resources Group, the secretariat of the RRI Coalition. The views presented are not necessarily shared by the agencies that have generously supported RRI, nor all of the Partners of the Coalition. If you would like more information or would like to receive future editions in French or Spanish please send a message to [Jenna DiPaolo](mailto:Jenna.DiPaolo@rightsandresources.org).



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