Training module
Forest Law Enforcement Governance and Trade
Legality Assurance System implementation in Ghana

Introductory course
ACKNOWLEDGEMENTS

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Daphne Hewitt (IDL Group)
Richard Gyimah (Timber Validation Department)
The participants to both test training sessions
### ABBREVIATIONS AND ACRONYMS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>(E)NGO</td>
<td>(Environmental) Non Governmental Organization</td>
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<td>ACP</td>
<td>African, Caribbean and Pacific Group of States</td>
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<td>CEPS</td>
<td>Customs Excise &amp; Preventive Service</td>
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<td>FAO</td>
<td>Food and Agricultural Organization</td>
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<td>FC</td>
<td>Forestry Commission</td>
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<td>FFRT</td>
<td>Faculty of Forest Resources Technology (Sunyani)</td>
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<td>FLEGT</td>
<td>Forest Law Enforcement Governance and Trade</td>
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<td>FRNR</td>
<td>Faculty of Renewable Forest Resources</td>
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<td>FSD</td>
<td>Forest Services Division</td>
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<td>ITTO</td>
<td>International Tropical Timber Organization</td>
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<td>KNUST</td>
<td>Kwame Nkrumah University of Science and Technology</td>
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<td>KWC</td>
<td>Kumasi Wood Cluster</td>
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<td>MCT</td>
<td>Ministry of Communication and Technology</td>
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<td>MES</td>
<td>Ministry of Environment and Science</td>
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<td>MI</td>
<td>Ministry of Interior</td>
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<td>MTI</td>
<td>Ministry of Trade and Industry</td>
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<td>RIL</td>
<td>Reduced Impact Logging</td>
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<td>RMSC</td>
<td>Resource Management Support Centre</td>
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<td>SFM</td>
<td>Sustainable Forest Management</td>
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<td>TFF</td>
<td>Tropical Forest Foundation</td>
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<td>TIDD</td>
<td>Timber Industry Development Division</td>
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<td>TIF</td>
<td>Tree Information Form</td>
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<td>TVD</td>
<td>Timber Validation Department</td>
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<td>UDS</td>
<td>University of Development Studies</td>
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<td>VPA</td>
<td>Voluntary Partnership Agreement</td>
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<td>WAFPO</td>
<td>West Africa Forest Programme Office</td>
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<td>WD</td>
<td>Wildlife Division</td>
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</table>
CONTENTS

ACKNOWLEDGEMENTS ................................................................................................................................. 2
ABBREVIATIONS AND ACRONYMS ............................................................................................................. 3
1. INTRODUCTION ........................................................................................................................................ 5
2. OBJECTIVES .............................................................................................................................................. 6
3. TARGET GROUPS AND COMPETENCES .................................................................................................... 7
    3.1 Target group 1: Logging companies ..................................................................................................... 7
    3.2 Target group 2: Wood processors and traders .................................................................................... 7
    3.3 Target group 3: Government officials ................................................................................................. 7
    3.4 Target group 4: Interested persons ..................................................................................................... 8
4. STRUCTURE OF THE TRAINING .................................................................................................................. 9
5. CONTEXT .................................................................................................................................................... 10
6. FLEG T AND VPA ....................................................................................................................................... 11
7. LEGALITY ASSURANCE SYSTEM ........................................................................................................... 14
8. CHAIN OF CUSTODY ................................................................................................................................. 17
    8.1 Critical control points ......................................................................................................................... 17
    8.2 Chain of Custody .................................................................................................................................. 22
SOURCES .......................................................................................................................................................... 24
1. INTRODUCTION

The World Bank has estimated that up to 60% of logging in Ghana has been illegal (other estimates range from 43% to 60%). In the last 50 years, Ghana’s primary rainforest has been reduced by 90% and in the period 1990-2005 the country lost 1.9 million ha or 26% of its tropical forest cover. Large areas of forest have been destroyed by logging, gold mining and agricultural conversion for cacao. In times of depressed cacao prices, Ghana increased its exports of timber to generate the needed revenue. In addition, population growth has added to the pressure on resources.

Ghana has made considerable efforts to protect its forest resources and curb unsustainable logging. The government banned the export of raw logs in 1994, encouraged plantation development projects in degraded forest areas, and has placed 15% of its land area under some form of protection.

However, recent research by Chatham House showed that the level of illegal logging in Ghana has remained fairly constant in recent years; only a quarter of the logging can be attributed to the formal logging sector, whilst three-quarters is a result of artisanal chainsaw logging. Weak law enforcement and a lack of standardisation of domestic production are blamed for the failure to control this illegal activity (see list of URLs).

Ghana was the first country to enter into a Voluntary Partnership Agreement (VPA) with the EU, in September 2008. As more than half of Ghana's $200 million annual timber harvest is exported to the EU, the VPA should enable considerable progress in tackling illegal logging in the country.

The VPA is made instrumental through a Legality Assurance System (LAS).

To implement the various structures of the Legality Assurance System in an efficient manner, all organizations and persons involved in the supply-chain from the tree to the harbour or the local consumer must be aware of the demands and requirements as described in the LAS. This course is set up to provide the participant with the basic knowledge and information on the various institutions and their responsibilities in order to be able to perform the right, legal actions.
2. OBJECTIVE

The LAS module aims at equipping forest managers, wood processors, Government official and wood (product) traders with the basic knowledge on how to produce, process and transport wood legally.
3. TARGET GROUPS AND COMPETENCES

3.1 Target group 1: Logging companies

Within forest management organisations there are many critical control points to be identified and managed in order to produce legal timber.

Requested knowledge and competences:
- Literate
- Reasonable knowledge of forest laws

Competences to be taught:
- Increased knowledge of FLEGT, VPA, LAS
- Practical application legal aspects in their forest company
- Ability to ensure the legality of their timber

3.2 Target group 2: Wood processors and traders

Wood processing companies often have several critical control points where wood with known legal origin can be easily mixed with wood from unknown origin. Also on the road these risks exist and in order to be able to ensure legality, this target group has specific issues to deal with to obtain a FLEGT license.

Requested knowledge and competences:
- Literate
- Reasonable knowledge of laws regarding the processing, transportation and trade of wood (products).

Competences to be taught:
- Increased knowledge of FLEGT, VPA, LAS
- Practical application legal aspects in their wood processing or wood transporting company
- Ability to ensure the legality of their wood (products)

3.3 Target group 3: Government officials

Mainly government officials will have to maintain the LAS requirements and see to it that they are followed. This course may be interesting for those who do not do this as their core business, but are sideways related to it and just want more information or are new to the subject and want to start building up their knowledge.

Requested knowledge and competences:
- Literate
- Reasonable knowledge of forest law and laws regarding the processing, transportation and trade of wood (products).
Competences to be taught:
Increased knowledge of FLEGT, VPA, LAS

3.4 Target group 4: Interested persons

For persons outside the timber and wood processing branch, it can also be very interesting or useful to be trained in LAS aspects. Persons such as management staff, Government officials, researchers, teachers, environmental NGO’s are welcome to join the course and learn all relevant aspects.

Requested knowledge and competences:
- Literate
- Reasonable knowledge of forest law and laws regarding the processing, transportation and trade of wood (products).

Competences to be taught:
Increased knowledge of FLEGT, VPA, LAS
4. STRUCTURE OF THE TRAINING

Theoretical training (1 day)
   In a hall
   Seating places for the participants
   Blackboard or flip board with markers
   Maps (see 18. Summary of the maps)
   Text as under chapters 5 - 17
   Question round

Critical control point training (1 day)
Suitable saw mill / processing plant

Tasks to be fulfilled by the instructor
   Lecturing of the theory concluding with a question round
   Exercises related to the various subjects
   Explanation of the importance of each activity concluding with a question round and an open discussion.

Personnel
   1 instructor

Duration
   2 full days
5. CONTEXT

Illegal logging
Illegal logging and the international trade in illegally logged timber is a major problem for many timber-producing countries in the developing world. It causes environmental damage, costs governments billions of dollars in lost revenue, promotes corruption, and undermines the rule of law and good governance and funds armed conflict. It retards sustainable development in some of the poorest countries of the world. Consumer countries contribute to these problems by importing timber and wood products without ensuring that they are legally sourced. In recent years, however, producer and consumer countries alike have paid increasing attention to illegal logging. In 2003 the FLEGT Action plan was published.

EU FLEGT Action Plan
The EU FLEGT Action Plan sets out a programme of actions that forms the European Union’s response to the problem of illegal logging and the trade in associated timber products. The ultimate goal of this FLEGT Action Plan is to improve sustainable forest management by law enforcement. Law enforcement should be based on credible legal structures that are consistent, understandable, enforceable and supportive of basic SFM.
6. FLEGT AND VPA

The long term aim of the FLEGT Action Plan is sustainable forest management. Definitions of legally-produced timber should therefore incorporate laws that address the three pillars of sustainability – i.e. those aimed at economic, environmental and social objectives.

The action plan sets out a range of measures that aim to combat the problem of illegal logging. These focus on seven broad areas:

1. **Support to timber-producing countries**
   The support to the timber producing countries focuses on improved governance structures, policy reforms, improved transparency, capacity building and training and support for the development of community-based forest management.

2. **Activities to promote trade in legal timber**
   There are two parts to this programme area. The first aims to work with EU’s trading partners who are primary timber producers, while the second focuses on the role of other major timber-importing countries in international trade.

   These are the major two, as is already indicated by the name of the Action Plan. The other five areas of support are the following:

3. **Promoting public procurement policies**
   The action plan encourages the EU member states to implement policies that favour sustainable and verified legal timber in their procurement contracts. Six EU member states (Belgium, Denmark, France, Germany, Netherlands and the UK) currently have or are developing systems which will require proof of legal (or sustainable) origin for central government purchases of timber and wood products.

4. **Support for private sector initiatives**
   The action plan also encourages private sector involvement, including support to build private sector capacity in producer countries. EC and member state grants to support GFTN and the Tropical Timber Action Plan are examples of this type of activity.

5. **Safeguards for financing and investment**
   There are cases where investment in the forest sector has encouraged illegal logging, for example by installation of processing capacity not matched by the available resources, as is the case in Ghana. The action plan aims to encourage banks and financial institutions to take long-term legal supply, as well as environmental and social factors into account when conducting due diligence assessments for such investments.

6. **Use of existing legislative instruments or adoption of new legislation to support the Plan**
   The EU is investigating whether existing Community or Member State legislation can be used to combat forest illegality. This has included, for example, how existing money laundering legislation can be applied to forest crimes, inclusion of other tree species to the CITES appendices and examination how ways in which national legislation, such as that covering stolen goods, can be applied in the timber trade.
7. **Addressing the problem of conflict timber**

   The Action Plan commits the EU to develop a more robust definition of conflict timber and to better recognise in development cooperation programmes links between forests and conflicts.

**VPA**

The cornerstone of FLEGT is the Voluntary Partnership Agreement between the producer and EU countries. The first VPA ever, was between EU and Ghana, which was ratified 20 November 2009. The goal of this VPA is to ensure that wood or wood products that come into the EU from Ghana are legal.

**The contents of a VPA are as follows:**

- Consistent forest law promotes SFM
- Track and trace timber
- Transparency in forest governance
- Independent monitor
- Licensing procedures for timber export

**The VPA consists of a few key elements**

- Social safeguards
  - Minimise adverse impact on local communities and poor people (example: signed Social Responsibility Agreement)
- Stakeholder involvement
  - Regular consultation
  - Include private sector
  - Prevent undue burdens on small scale

The development of each VPA is based on negotiation process between Europe and the producer country. There is always a joint implementation committee which in Ghana’s case consists of Ghana, EC and member states from the EU.

The original planning of Ghana was to have the first FLEGT license in December 2010, but this has been extended and hopefully the first FLEGT license will be issued in 2011. Annual reports are part of the VPA: the producer country has to submit annual reports in which the developments of the country are described towards the goals set in the VPA. The duration of each VPA is undefined. If one of the parties wants to end it, there is an advance notice of a year.

**Envisaged output:**

- Priority EU development assistance to FLEGT related measures
- Reinforcement of Governmental reforms
- Improved access to EU markets
Increased revenues from tax and duties (may exceed costs of licensing system)
Increased revenues to finance poverty programs
Additional enforcement to combat illegal activities
Foundation to assist private operators towards SFM certification
Improved international reputation of Ghana’s commitment to good governance
7. LEGALITY ASSURANCE SYSTEM

As we already know: an important part of each VPA is the establishment of a licensing scheme to ensure that only timber products that have been produced in accordance with the national legislation of the exporting country are imported into the EU. Under the licensing scheme, import into the EU of timber exported from Ghana will be prohibited unless the timber is covered by a valid license. However, trade in timber products from non-partner countries will be unaffected until the ban on the import of illegal timber into the EU comes into effect which is per 3 March 2013.

Introduction into LAS
Elements of a Legality Assurance System (LAS) include:
- A definition of legally-produced timber
- Control of the supply chain
- Verification
- Issuance of FLEGT licenses
- Independent monitoring of systems by 3rd party

For the development of LAS, there are two options. Changes can be implemented into the existing systems and/or new systems can be introduced. In Ghana, a combination of both options is being put in place. For both options the key component is a detailed plan that sets out clearly-defined, time-bound actions for implementing the changes into the existing systems or the introduction of the new system.

Shipment-based or operator-based licenses
There are two approaches for developing and implementing legality assurance systems resulting in shipment-based licenses or operator-based licenses. For both approaches, verification of production from the forest concession is necessary.
With shipment-based licenses, it needs to be verified that the chain of custody (CoC) of an individual batch of logs is secure upon which each consignment of timber products is licensed individually. This is the approach taken by Ghana.

With operator-based licenses, verification of the timber processor’s secure chain of custody system has to take place after which the licensing authority ascertains a particular operator that has a system to control the legal origin. After such a control system has been implemented, the operator will be audited periodically by the licensing authority.

**LAS in Ghana**

The legality definition in Ghana is based on 7 principles and 22 criteria. These seven principles are:

1. Source of Timber: Timber originated from prescribed sources and concerned individual, group and owners gave their written consent to the land being subjected to the grant of timber rights.
2. Timber Rights Allocation
3. Timber harvesting operations: The logger held a TUC issued by the Minister and ratified by Parliament following the specified competitive process or Logger held a Salvage Permit issued by the Forestry Commission.
4. Transportation: The logger complied with forest operation procedures and standards specified by statute.
5. Processing
6. Timber was at all times transported in accordance with standards prescribed by statute.
7. Trade: All vendors/exporters have valid licence or permits to market timber.
8. Fiscal obligations: Neither the logger nor the vendor was at the time of sale or export in default of fees, rents or taxes, prescribed by statute.

**The LAS – Ghana**

**Institutions**

In Ghana, involved institutions include:

1. the Timber Industry Development Division (TIDD) which is the licensing authority issuing FLEGT licenses and export permits;
2. the Timber Validation Department which is the verification entity;
3. the Forest Service Division (FSD) that does control interventions;
4. the Resource Management Support Centre (RMSC) that is in charge of the post-harvest audit;
5. an independent monitor which is yet to be defined

**Wood tracking system**
A wood tracking system follows the wood from the forest to the harbour of the export country. This system is based on the Critical Control Points upon which will be elaborated in topic 3 ‘Keeping Track’. Helveta has been contracted to develop the system for Ghana. The timber validation department (TVD) applies a verification manual in verifying the legal status of the wood (products).
8. CHAIN OF CUSTODY

8.1 Critical control points

An important part of the LAS is the wood tracking system that monitors the wood flow from forest to harbour. In order to be able to have a good monitoring system it is required to identify Critical Control Points (CCP) as well as to keep records of all data that are involved in the wood harvesting and processing.

The definition of a Critical Control Point is: “an area with risk for mixture of legal wood with wood from unknown origin”.

There are CCP’s on a national level as well as CCP’s within companies. To identify them a risk assessment can be performed. After the CCPs have been identified, the aim is to find the best method to control and minimize the risk of mixing.

Examples of critical control points include:
- Forest storage areas where illegally harvested logs may be added to those harvested in a legal manner.
- Logs arriving in a log yard where logs from unknown source might be mixed with legally harvested logs.
- Sawn timber being stacked on pallets where timber from legally sourced logs may be mixed with those from illegal sources.

**CCPs within the forest**

To control and minimize the risk of mixing within the forest, one should:
- Mark the trees before felling
- Mark the logs after felling (this should be the same number as the trees before felling)
- Manage log landings: inventory and distribution
- Keep records of truck dispatch and log delivery

The above is the responsibility of TIDD, FSD and the company itself.

If all forests have been inventoried and marked, then further down the chain only the purchased wood from abroad will need to be identified extra.