

FLEGT-VPA: WHAT COMMUNITIES MUST KNOW!

What is Illegal logging?





Civic Response

Civic Response is a leading natural resource governance policy advocacy organization working to entrench resource rights. Founded in 2003 in Accra Ghana, by a group of well experienced activists with great concern for the poor governance in the sector, particularly the challenges of local forest communities, Civic Response works to advance the rights of communities that depend on natural resources for their livelihood, particularly forests.

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Preface

Ghana is known for her ability to develop very good policies but ironically, always face challenges with policy implementation and enforcement of laws. The forest sector has been no exception. A 1994 Forest and Wildlife policy developed after a thorough analysis of the challenges of the sector was only backed by a legislation for timber industry development which was hardly enforced. Satellite imagery of Ghana's forest resources showed that Ghana lost a great deal of its forest cover between 1990 and 2000 mostly through illegal logging and expansions of agricultural. Bad governance has been identified as the main reason behind the loss of Ghana's forest cover.

Forest governance is about who has decision making authority over forest resources; how institutions with responsibility for managing our forest resources are making and enforcing the laws including how stakeholder participation; how these institutions are held accountable; and how they are transparent in their actions. These were the ideals for good governance of the sector, something that civil society groups like Forest Watch Ghana has campaigned for.

Ghana, through the Ministry of Lands and Natural Resources and the Forestry Commission led Ghana into a Voluntary Partnership Agreement with the European Union to address the underlying governance challenges including weak law enforcement in the forest sector; and to better regulation of the timber trade. Though there are different interests from government and the logging industry, civil society sees this as a good means to improve the governance of forests in Ghana.

As a result of this effort to reform forest governance new Forest and Wildlife Policy (2012) has been passed. Forest laws have been clarified and all the scattered and pieces forest laws will be put together into one single law.

One main benefit of this forest governance reform is that most of the problems of local forest communities are being addressed. These include the tenure or ownership and management of trees in off-reserve, benefit sharing and community participation in forest decision making. Essentially, the rights of forest communities have been recognized as well as their important role in forest management.

It is against this backdrop that GIRAF I (2009-2013) and GIRAF II (2014-2016) projects became very relevant, providing the resources for CSOs to raise awareness on the rights and responsibilities of local communities, as well as the rights and responsibilities of the Forestry Commission and Timber Industry.

A lot has been done but there is still a lot left to be done. It is hoped that manuals, such as this and many others, will provide useful tools that can be used by CSOs to continue to enhance the capacity of other forest fringe communities in Ghana.

Knowledge is power. A well informed civil society, community and other forest stakeholders working together to support and also to hold duty bearers accountable for their stewardship is the best approach to ensure that forest resources are managed to improve the lives of the people, now and in the future.

Content

Acknowledgements	i
Preface	ii
List of Acronyms	v
Chapter 1: Introduction	1
1.1: Background and Rationale for this Manual	1
1.2: Scope of Training Manual	2
1.3: Intended Targets	2
Chapter 2: Methodology	3
2.1: Approach to Training	3
2.2: Resources Needed	3
Chapter 3: Training Content	4
3.1: Ice Breaker	4
3.2: What is Illegal Logging?	4
3.3: Who commits illegal logging?	6
3.4: Where does illegal logging occur?	7
3.5: Why does illegal happen?	7
3.6: Why is illegal logging dangerous?	9
3.7: What has been designed to stop illegal logging?	9
3.8: What are the benefits for local communities for Ghana's VPA with the EU?	13
3.9: What can you/community do to get the most benefit of FLEGT-VPA	14
References	16

List of Acronyms

EU	European Union
FC	Forestry commission
FLEGT	Forest Law Enforcement Governance and Trade
FSD	Forestry Service Division
LI	Legislative Instrument
SRA	Social Responsibility Agreements
VPA	Voluntary Partnership Agreement

Chapter 1: Introduction

1.1 Background and rationale for this manual

Ghana in 2008 signed a Voluntary Partnership Agreement with the European Union. This agreement is one of the approaches under the FLEGT Action Plan to support timber producer countries like Ghana to enforce their forest laws, as well as improve the protection and management of their forests. This agreement is, therefore, seen as a means to address the problem of illegal logging particularly from tropical countries.

Forest crimes including illegal timber trade has an estimated value of between 30 and 100 Billion US Dollars every year. This results in revenue losses of between 5-10 billion dollars to country governments. Timber revenues is one of Ghana's major foreign exchange earners, hence illegal logging reduces the ability of government to collect all the required revenue from timber logged. The European Union, which has been the major destination for this illegal trade has taken steps to correct this problem, hence its adoption of the Forest Law Enforcement Governance and Trade Action Plan.

Ghana, through this FLEGT-VPA hopes to end illegal logging, improve the governance of forest resources and enhance the management practices, and the sustainability of Ghana's forests for posterity. The VPA requires all stakeholders to play an active role. This means that local communities would need to play a bigger role in stopping illegal logging

and ensuring accountability for the management of forests. This manual is the result of a series of trainings from 2014 to 2016 for local forest communities. One major learning from the trainings is that clear communication to local communities and good understanding of the leverage the FLEGT-VPA provides can be a good trigger for forest law enforcement at the local level. It is this agenda that this manual seeks to address.

In every section, there are notes to the trainer, which provides useful insights and deeper explanation that they can share with trainees.

1.2 Scope of training Manual

The manual is focused primarily on bringing local forest communities to a rapid understanding of FLEGT-VPA and its benefits. It explains the following in greater detail:

- ◆ What is Illegal Logging?
- ◆ Who commits illegal logging?
- ◆ Where does illegal logging occur?
- ◆ Why does illegal logging happen?
- ◆ Why is illegal logging dangerous?
- ◆ How does FLEGT-VPA deal with illegal logging?
- ◆ What can a community do to get the most benefit of FLEGT-VPA?

1.3 Intended Targets

This manual is targeted at trainers of local communities living on the fringes of any forest undergoing harvesting but not limited to them. It also provides good information for any person with interest in understanding the importance

Chapter 2: Methodology

2.1 Approach to Training

The subject of illegal logging is not an unfamiliar concept to local communities, particularly the targets of this manual. The targets are likely to range from youth to old people. The training should therefore be adaptive and sensitive to the different learning approaches of age. Trainers should also tap into the indigenous knowledge or the prior understanding of participants, while adding international perspectives to consolidate the right things they know. Interactive presentations not more than 10 minutes on a subtopic is encouraged, so that the listeners can be drawn into the training.

Brief videos on FLEGT and VPAs are available. Where possible such videos can be used. The debriefing from the video can be used to launch detailed discussions on any point raised.

This training can be delivered for between 1 and 2 hours. The setting could be a classroom environment or a meeting place in the community.

2.2 Resources Needed

The resources required can vary depending on location and time of day. However, the following basic resources would help deliver this training:

- ◆ This training manual
- ◆ Pens and notebooks
- ◆ A Flipchart paper and stand
- ◆ Handouts on topics discussed
- ◆ Projector and projector screen

Chapter 3: Training Content

3.1 Ice Breaker

Prior to the training note the following:

- ◆ Select some useful stories and experiences that participants can easily relate to.
- ◆ Collectively, agree on the code of conduct for the period of the training. Keep to a code that is practicable.

Objective of ice breaker: To get participants' level of understanding of logging and their experiences

Ask the participants to show by hand or by acclamation those that have ever seen a logging process happen.

Ask those who responded positively to mention or recount anything they saw from before the logger entered into the forest till logs were carried from the forest.

- Be open to all responses from participants
- Encourage participants to share what they know because it will help them settle into the conversation/training
- Give some minutes to those with experiences to share them



**Guidance
to trainer**

3.2 What is Illegal Logging?

Ask participants what they understand illegal logging to be.

Illegal logging is the felling, or the transportation, or the processing, or sale timber and timber products, in violation of national and local bye-laws including cultural practices.

Points to Note and Stress:

- ◆ Illegal logging is not limited to felling trees without the approval of the Forestry Services Division.
- ◆ Illegal logging is not another word for chainsaw logging or lumbering.
- ◆ Felling trees on taboo days which is a violation of the local custom is also illegal logging.

Examples of Illegal logging in Ghana include the following:

- ◆ Harvesting timber from an area which is not approved for logging.
- ◆ Harvesting of trees without authorization or without approval from the Forestry Services Division.
- ◆ Harvesting of different trees instead of what was permitted by the Forestry Services Division (FSD).
- ◆ Using chainsaw to mill timber logs into beams or boards.
- ◆ Transportation of logs after 6pm and before 6am.
- ◆ Non-payment or fulfilment of Social Responsibility Agreements (SRA).



- The laws: range from national level laws to the local level. These include the 1992 Constitution, Acts of Parliament, Legislative Instruments, Administrative Manuals for timber production, District Assembly Bye-laws and local customary laws. The laws that regulate the forest sector are not forest laws alone. Transportation laws, laws on taxes, social security, company laws, etc.
- Forest related laws number to about 22, some dating as far back as 1924. There is a process ongoing seeking to bring all these laws together into one single Act of Parliament. This will make sure that the legal arrangements for forest governance are clear, simple and easy to find.
- Illegal logging is not limited to the illegalities that happen in the field, but the entire timber production chain; from the point of setting up as a timber business to the point where timber is sold.

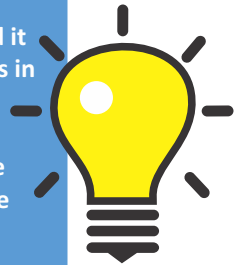
3.3 Who commits illegal logging?

Ask the community to identify who commits illegal logging.

Illegal logging is committed primarily by an individual or by a company. If an individual violates the laws from the process of harvesting to trade, the individual or company commits an illegality.

The state agencies, may indirectly contribute to illegal logging when then fail to perform their functions as required by law, the make timber production illegal. For instance, if the Forest Services Division fails to prepare a forest management plan for a forest reserve, any timber logged from that area amounts to breaking the laws of Ghana and therefore results in illegality.

- In Ghana, Forest Reserves are managed by the State through the Forestry Commission. The FC has three major divisions. The Forest Services Division (FSD) is the largest Division in FC and it directly regulates and manages logging activities in all forests in Ghana. The State is not the owner of forests, neither are logging companies. Ownership of the forests lies with the original stools and families from whom the forest lands were taken. This is one of the reasons why original owners receive timber royalties.
- Timber companies are mandated to only remove identified trees from an area be it a forest reserve or not and ensure that all the practices of their staff conform to the law.
- Chainsaw loggers are not the only people who commit illegal logging. Big companies also commit illegal logging.



3.4 Where does illegal logging occur?

Ask participants: based on the discussion of illegal logging so far, where does illegal logging occur?

Illegal logging can happen at any point from the forest to the point of export. This also means that an illegality can happen in the office and not necessarily in the mill or in the forest. For instance, if the company fails to pay the social security of its fulltime staff, the whole of the timber operation is at risk of illegal logging, unless it is corrected. Should a timber company also fail to pay the taxes required including failing to pay relevant district assembly and road tolls, illegal logging can be said to have happened.

3.5 Why does illegal happen?

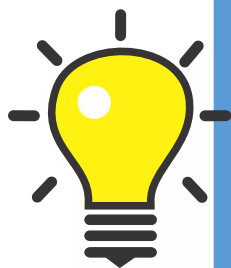
Ask the participants: why does illegal logging occur or why do people commit illegal logging.

There are generally two main reasons which result in illegal logging:

Negligence: This is when persons who are supposed to be responsible fail to act. It comes in various forms. It could be the failure of the Forest Services Division to perform its function such as develop forest management plans, ensure proper measurement of trees when it is felled, or not assisting timber companies and local communities to a consented social responsibility agreement. It could also be the failure of the logging company to understand the rules of logging operations and failure to explain these rules to its workers. For instance, when companies do not explain to their workers that carrying anything from the forest

(including non-timber forest products) apart from the felled logs puts the company at risk of committing an illegality. Ignorance of the law is not excuse. So failure to understand what the rules are could possibly result in someone committing an illegality.

Deliberate attempt to cheat the public: Another major reason for illegal logging is the desire to cheat. Some acts of illegal logging such as mislabeling of logs, switching tree species and numbers, removing tree stumps from the forest, logging at night, logging and milling trees without approval and other similar acts are all as a result of a desire to steal from the forest, a public good. Such people are very mindful that their acts are illegal, yet they do that to enrich themselves while the larger community or society pays the price. It can be explained that these people are like thieves, who are taking what they have not paid for or what they have not been assigned to.



An argument can be made for poverty, lack of jobs, and others as reasons for illegal logging. It is important to note that such factors are the underlying factors and not necessarily the direct factors. These things cannot be used as excuses to justify illegal logging. This is because the same reasons can be advanced for other crimes, yet none of such crimes can ever be justified. Anyone who goes against socially accepted norms is seeking both directly and indirectly to undermine the way the community or society is organized.

If this point arises in the training, take time briefly to explore this explanation.

3.6 Why is illegal logging dangerous?

Ask: Why do you think illegal logging is dangerous?

Illegal logging is dangerous for several reasons:

- ◆ By their activities, illegal loggers cheat the public from getting the benefit of timber.
- ◆ Some illegal loggers arm themselves with guns to do their operations, posing a security threat to the local community or even forest managers.
- ◆ Illegal logger actions destroy the forest
- ◆ Some actions of illegal loggers destroy or erode our cultural values. For instance, illegal loggers go into the forest on taboo days or worse, they log in sacred groves.
- ◆ Illegal loggers destroy your farms and food crops without paying the compensation that the laws expect. The law expects loggers who log legally, to pay compensation which is fair, adequate and prompt.
- ◆ Illegal logging denies a community of most social benefits, particularly when these trees are logged without the payment of the necessary forest taxes.

3.7 What has been designed to stop illegal logging?

Ask the participants: What do you think should be done to stop illegal logging, particularly those who want to cheat the public?

- ◆ When reports are made to the District Forest Manager about any illegal activity, he can quickly

mobilize his people to go to the area.

- ◆ The Forestry Commission has set up an armed rapid response force which can quickly mobilize and go to any bush to see and stop what is happening.
- ◆ Ghana has signed a FLEGT-VPA with the European Union to receive support to stop illegal logging in Ghana.

Notes to Trainers

Allow for a variety of answers. Probe the answers provided by participants, using the basic tools for probing an issue. Such as how, who, when, where. Get participants to appreciate the fact that the solution to the problem would also require local collaboration, rather than government alone. Based on the solutions offered, this should provide the space for trainer to introduce the EU FLEGT Action plan.



Note to trainer

The European Union, after coming under severe pressure from civil society, and the market to eliminate illegal timber from the European Trade, the EU Commission introduced an Action Plan called the Forest Law enforcement Governance and Trade (FLEGT). This action plan seeks to use a variety of methods and approaches to solve the problem of illegal timber entering into the European Union market. One of the major pillars of the FLEGT Action Plan is the support to timber producing countries (voluntary partnership agreements) to stop illegal logging through better enforcement of laws governing forests.

Note to trainer

Another is the European Timber Regulation (EUTR) which forbids any person from trading in timber in EU unless he has thoroughly investigated the source of his/her timber supply, and is convinced that no illegality has happened. Therefore when a timber shipment arrives in the EU but has committed some illegalities as mentioned above, the timber would be seized and the European Company importing the product would be taken to court and could be sanctioned. Sometimes the bad publicity the company will get is far worse than whatever sanction will be imposed on them.

For this reason, companies in Europe, importing timber from Ghana, are very interested in knowing about the status of the company they are buying from in Ghana.

This means that timber companies can easily lose their European markets or contract when they do not comply with laws such as signing and fulfillment of SRA, Compensation, and Consent from farmers for logging in farms. Companies now know that not obeying the law is bad for their business.

A country that has signed a Voluntary Partnership Agreement with the European Union and exporting timber to the European Union will have found it easier than a company who is exporting timber and timber products from a country that has not signed this agreement.

It is called Voluntary Partnership Agreement because a timber-producing country will have to decide to want to go into partnership with the European Union to get support to stop illegal logging. Once the agreement is signed, it is a binding agreement on both the country and the European Union.

**Note
to trainer**

The VPA that Ghana signed requires Ghana to develop a system which is trustworthy and credible and can detect any illegal logging and make sure that product is not sold. When Ghana was negotiating this agreement with the EU, she decided to include the domestic market. This means that not only exporters will have to go through the rigorous process of examination to ensure that no illegal material or illegal action happens with the production of timber, but also local traders with timber for sale in our timber markets and other places will have to show verifiable proof that it is legal and has not broken any law of Ghana.

The VPA in simple terms means that the EU is helping Ghana to implement her own laws which deal with the management and production of timber.

Ghana, through the Forestry commission is developing a system to ensure every timber produced in Ghana can be easily verified to show that it complies with all laws in Ghana.



What is the New Thing about the VPA?

The new thing about the VPA is that it will ensure that the laws are complied with. If the laws are not followed then it means that the timber cannot be sold in Ghana, traded to Europe or even traded to any other country in the world.

3.8 What are the benefits for local communities for Ghana's VPA with the EU?

Ask participants: What do you think are your benefit because of this VPA?

Allow for variety of responses, but ensure that all of them are well and clearly linked to the result of law enforcement, and compliance with the laws.

- ◆ Farmers will be compensated adequately and promptly from trees felled in their farms.
- ◆ Communities living on the fringes of forests will have their Social Responsibility Agreements signed and implemented.
- ◆ Farmers who do not want timber in their farms cut can more strongly enforce that.
- ◆ District Assemblies and Nananom will get better timber royalties through the enforcement of payment of taxes for every timber felled in their area.
- ◆ Forest managers cannot do 'anything' they want to do. They are equally accountable and are supposed to do only what the law allows them. This means the Forest Managers will improve on their professionalism.



The Forestry Laws require that every company working in the forest should negotiate social agreements with communities that live in the 5km radius of the logging area. The company through this SRA is to abide by all the cultural norms of the communities including observing taboo days and sacred sites. The company additionally is supposed to pay up to 5% of the stumpage value of the timber for the community to use for social amenity development. This 5% of stumpage can be paid into a community account, or be paid in building materials for the social amenity or could be paid as the delivery of a particular service agreed by the community. This agreement is supposed to be a written document signed between the community and the logging company and witnessed by the Forest Manager and District Assembly.

3.9 What can you / community do to get the most benefit of FLEGT-VPA

Ask participants: How can we benefit from the FLEGT-VPA that Ghana has signed?

It is simple. If anyone commits an illegality in the production of timber, that person cannot be allowed to sell his/her timber and timber products on the local market or export the timber to European Union or anywhere. Even if the timber has been sold, it can be seized in the European Union when a report is made that the timber company produced the timber without obeying all the necessary laws of Ghana, including the customary laws at the local level.

The community will have to report any such illegality to the Forestry Commission or to NGOs to pursue the matter:

Report to the Timber Validation Department:

There is a new department in the Forestry Commission called the Timber Validation Department. The work of the department is to check to see that timber is produced in a way that complies

with all the laws of Ghana. As part of its work, it check on the Forestry Services Division and on logger alike to be sure that no illegality has happened. Once you report this issue to the Department, it will use its systems to investigate and make sure that the particular problem is addressed in the way that the law requires.

Report to NGOs: Any forest sector NGO particularly members of Forest Watch Ghana can assist with raising your complaint with the Timber Validation Department to make sure that your challenge is addressed.

What are some of the illegalities that local communities can easily identify?

- ◆ Logging without signing and implementing a social responsibility agreement
- ◆ Logging in a sacred grove
- ◆ Logging and transporting timber on community taboo days
- ◆ Transporting timber logs after 6pm
- ◆ Logging a tree on a farm without the consent of the farmer or the land owner

Non-payment of compensation for crops destroyed during logging

FLEGT-VPA: Helping Ghana to better manage and protect our forests!

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