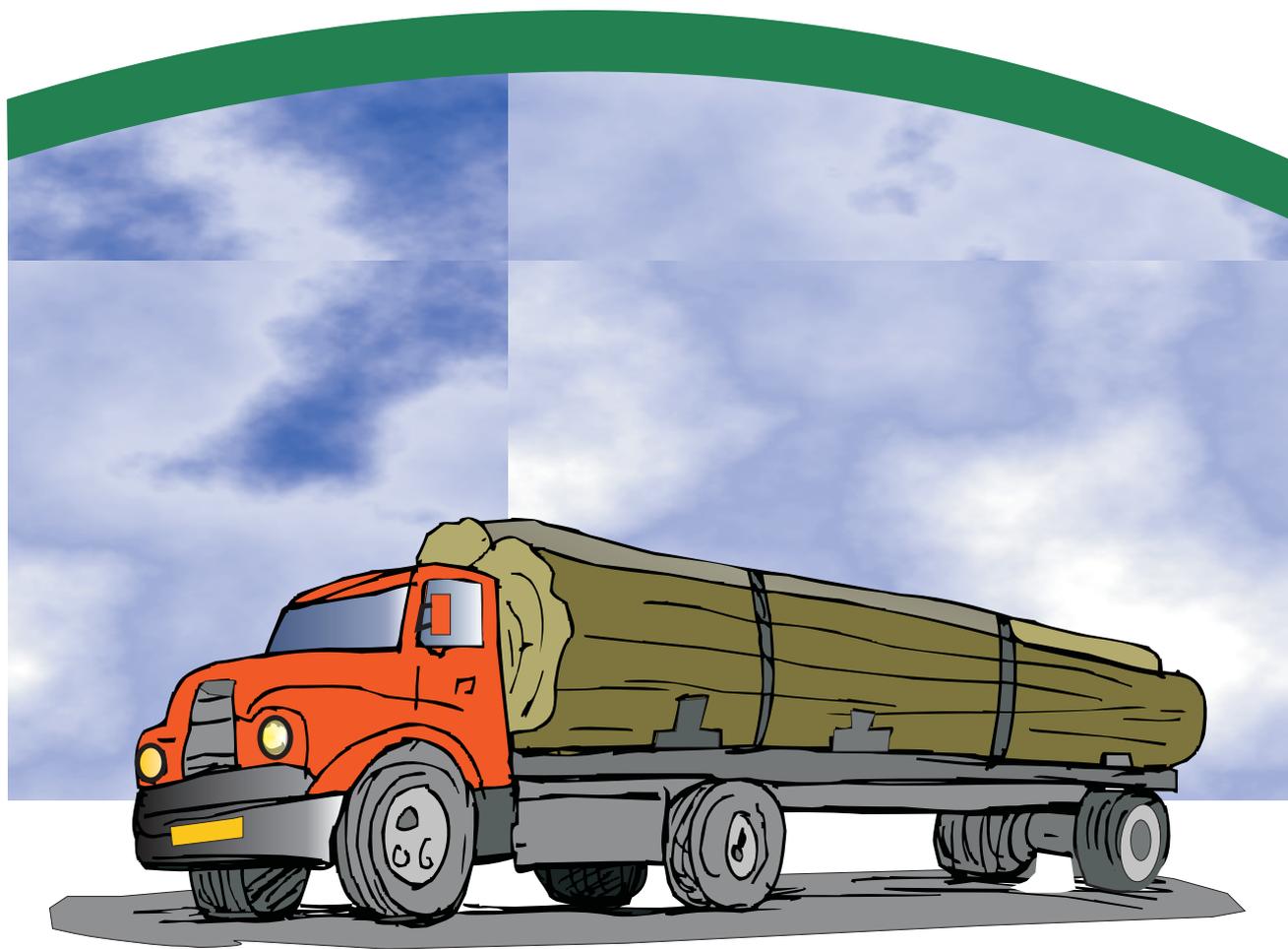


Understanding Ghana's Timber Legality Assurance System



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Tropenbos International Ghana

Kumasi, Ghana

March 2015

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Acronyms

| | |
|-------|---|
| CAR | Corrective Action Request |
| FC | Forestry Commission |
| FLEGT | Forest Law Enforcement Governance and Trade |
| FORIG | Forestry Research Institute of Ghana |
| GoG | Government of Ghana |
| LAS | Legality Assurance System |
| LI | Legislative Instrument |
| M-SIC | Multi-Stakeholder Implementation Committee |
| SMFE | Small and Medium Forest Enterprise |
| TIDD | Timber Industry Development Division |
| TLAS | Timber Legality Assurance System |
| TVC | Timber Validation Committee |
| TVD | Timber Validation Division |
| VPA | Voluntary Partnership Agreement |
| WTS | Wood Tracking System |

Preface

Ghana, in a bid to address the problem of illegal logging and its associated trade, has entered into a Voluntary Partnership Agreement (VPA) with the European Union. In this agreement, Ghana commits to trading in only legal wood both in the export and domestic markets. To ensure the successful implementation of the agreement a Timber Legality Assurance System (TLAS) is needed. This will help the parties to verify the legality of wood and wood products sold on these markets. This means that all actors along the wood supply chain need to know their responsibilities and requirements under the VPA/TLAS to comply fully in order to stay in business.

Thus, the primary focus of this material is to provide information to educate Small and Medium Forest Enterprises in Ghana's timber industry. The expectation is that once the target audience gain the appropriate information on what is required of them under the TLAS, they will be able to comply with the provisions of the system. It is also intended that the content of this paper could be used as training material for industry associations as well as Civil Society Organizations that have been monitoring and facilitating the implementation of the TLAS.

This booklet provides in detail what TLAS is and how it is to be implemented. It introduces readers to the origin of the European Union Forest Law Enforcement Governance and Trade /Voluntary Partnership Agreement in the context of international concerns and coalition buildup to fight illegal logging. It also discusses the main reasons for Ghana's signing unto the bilateral partnership agreement.

Acknowledgments

This booklet was designed by TBI Ghana as a training material under the project: '*Supporting intermediaries with information and guidance to comply with the Legality Assurance System (LAS) and engage in policy advocacy on the domestic market reform in Ghana*'.

The material was prepared by Mr. Chris Beeko of the Timber Validation Department of the Forestry Commission. The draft document was reviewed and edited by the Project Team at TBI Ghana.

Ms. Jane Aggrey, painstakingly reduced the material into simpler English, appropriate for the target group for the project. The illustrations were done by Mr. Joseph Adu, under the guidance of Ms. Aggrey.

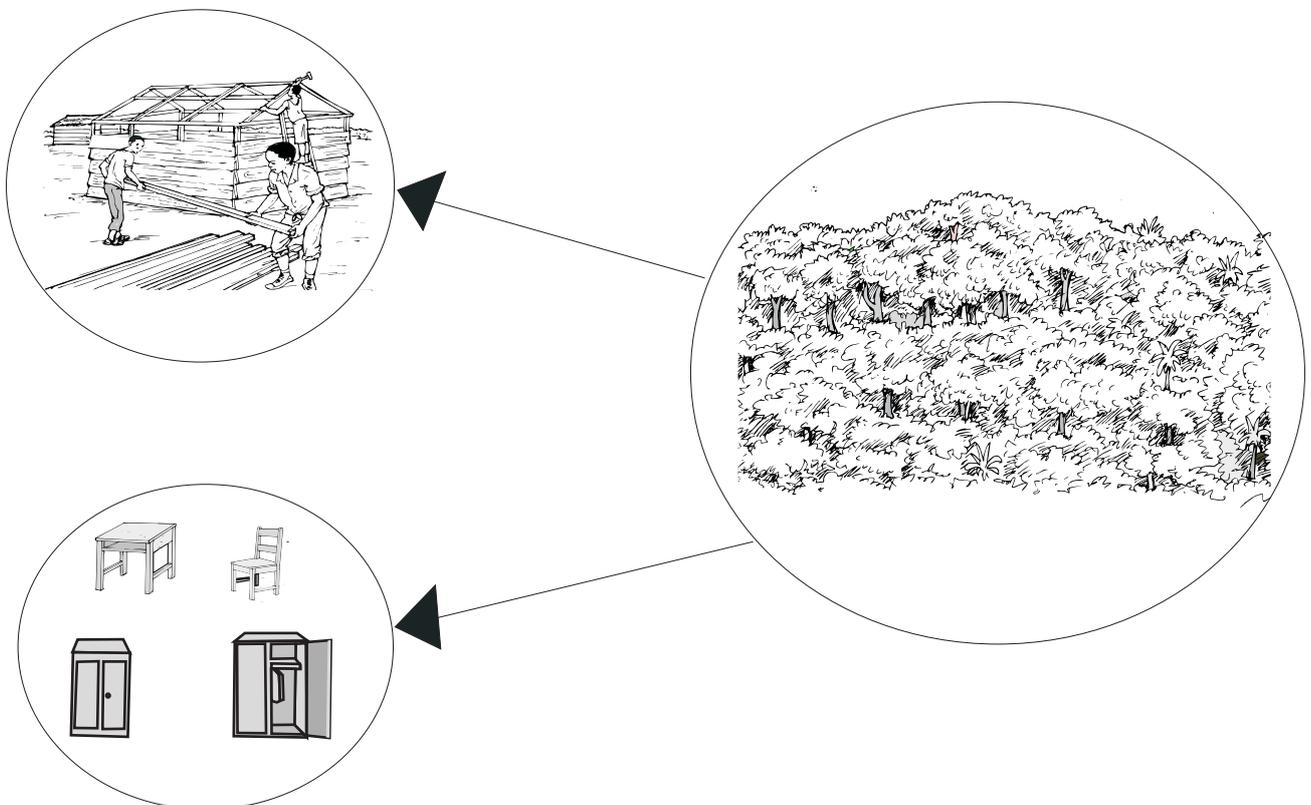
The entire project was funded by the European Commission, for which we are very grateful.

K. S. Nketiah

March, 2015

This communication material has been prepared as a briefing note to inform the general Ghanaian public about the Timber Legality Assurance System (TLAS) and how it is to be carried out. The aim is to, introduce readers to the origin of the European Union Forest Law Enforcement Governance and Trade Voluntary Partnership Agreement (EU FLEGT VPA) in the light of international concern and coalition build-up to fight illegal logging. The document also discusses the main reasons Ghana signed the VPA.

The main focus of this material is to educate Small and Medium Forest Enterprises (SMFEs) in the domestic timber industry on the TLAS component Ghana's VPA. This includes lumber traders, carpenters, loggers, small scale saw millers and wood workers. The belief is that once SMFEs gain better understanding of VPA and how it is to be implemented, they will be motivated enough to willingly comply with TLAS.

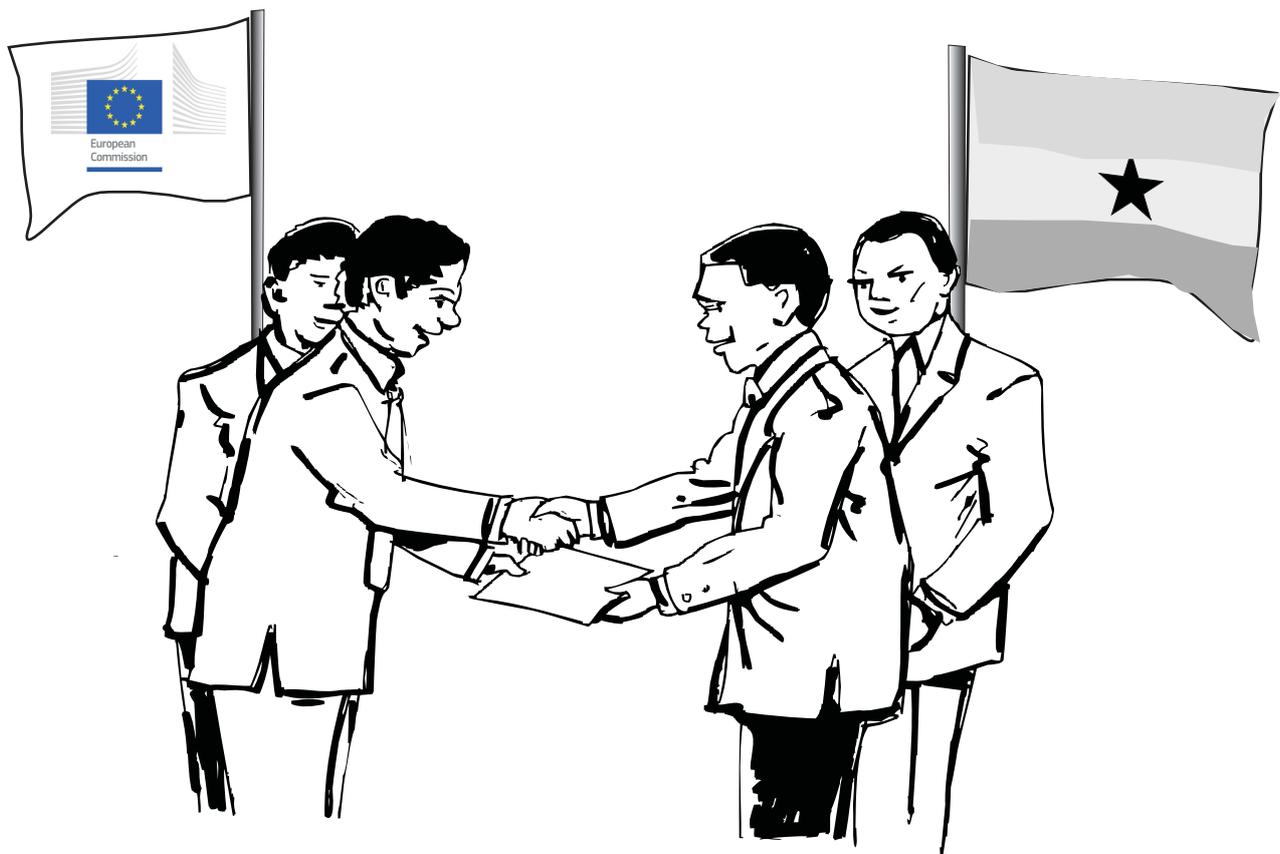


Illegal logging has attracted a lot of attention worldwide. It forms part of the major agenda of several international meetings. From these meetings, it has been agreed that the burden of dealing with illegal logging should not rest only on the shoulders of developing countries producing timber. It is important for consumer nations to control their markets for illegal wood products. This has given strength to bilateral agreements as a practice to fight illegal logging.



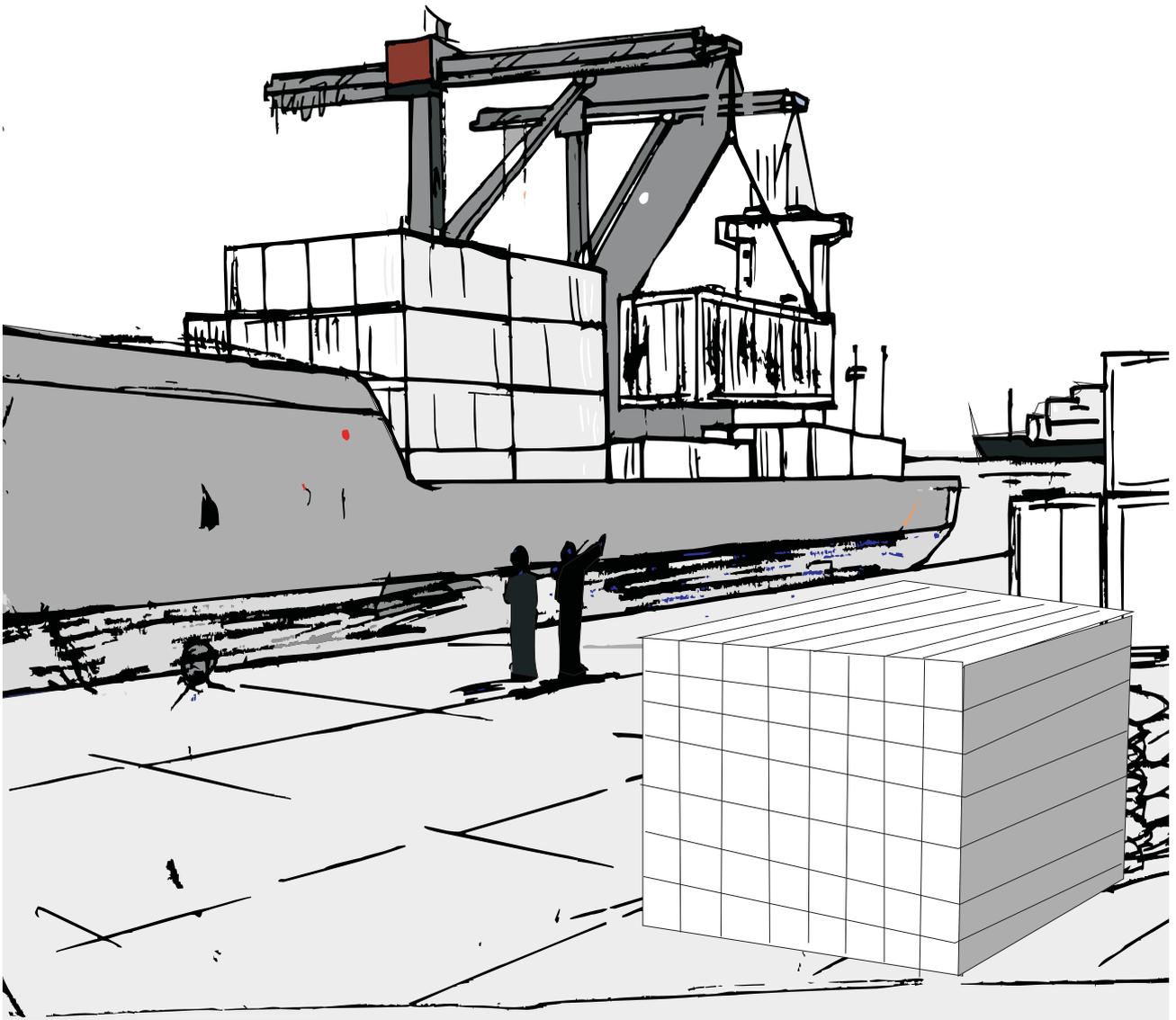
Holding on to bilateral agreements as weapon, the European Union created the EU Forest Law Enforcement, Governance and Trade (EU FLEGT) Action Plan in 2005. The basis of the EU *Plan* is the system of Voluntary Partnership Agreements (VPA). The name suggests that nations which sign the agreement do that at their own free will. However, once the VPA is formally signed, it becomes a legally binding instrument for both *nations* to trade only in legal wood products.

The FLEGT idea came to being because of the causes of illegal logging. These include outdated and intolerable forest laws as well as ineffective implementation and enforcement of such laws. It is also thought that to identify and reject illegally sourced wood from entering the market, a Legality Assurance Scheme (LAS) is needed. In moving the FLEGT initiative forward, the EU invites countries into a voluntary, bilateral arrangement to develop systems and structures to implement the initiative. Ghana responded and signed the VPA in 2009. Currently, outstanding issues identified in an independent assessment of the LAS are being addressed. It is hoped that the first FLEGT license will be issued in mid 2015.



3.1 Why did Ghana enter into the VPA?

For Ghana, the idea and beliefs behind the EU FLEGT gave a lot of assurance that the problem of illegal logging and trade in associated products could be tackled. Again, one of the immediate advantages of the VPA was the guarantee that Ghana can continue to sell on the relatively profitable EU timber market. Apart from this, the VPA will support the aim of Ghana's Forest and Wild Life Policy. The thought of legality was seen as the most practicable step towards sustainability.



3.2 How will Ghana benefit from the FLEGT VPA?

The VPA implementation is expected to bring five main benefits to Ghana as followings.

Improvement in forest governance and regulation: The VPA allowed Ghana to sharply define for itself what 'legal timber' is. This means that the definition was derived from the country's laws and regulations. In defining it the forest law requirements were made applicable, consistent, understandable and enforceable.



Also, the main areas of development in the country which include social, economic and environmental issues were covered. Again, Ghana had the opportunity to improve its forest governance and regulation, reinforce laws and promote sustainable forest management during the VPA negotiation stage.

Opportunity for stakeholders to be involved and make their voice heard: During the VPA negotiation process, forest stakeholder groups in Ghana were provided the opportunity to participate in developing national legality standards, and to reach an agreement on forest rights. This has helped to create broad support for the fight against illegal logging and forest governance improvement. The process created the entry point for the establishment of multi-stakeholder platforms that enabled a formal participation of stakeholder groups in the forest policy and implementation processes.

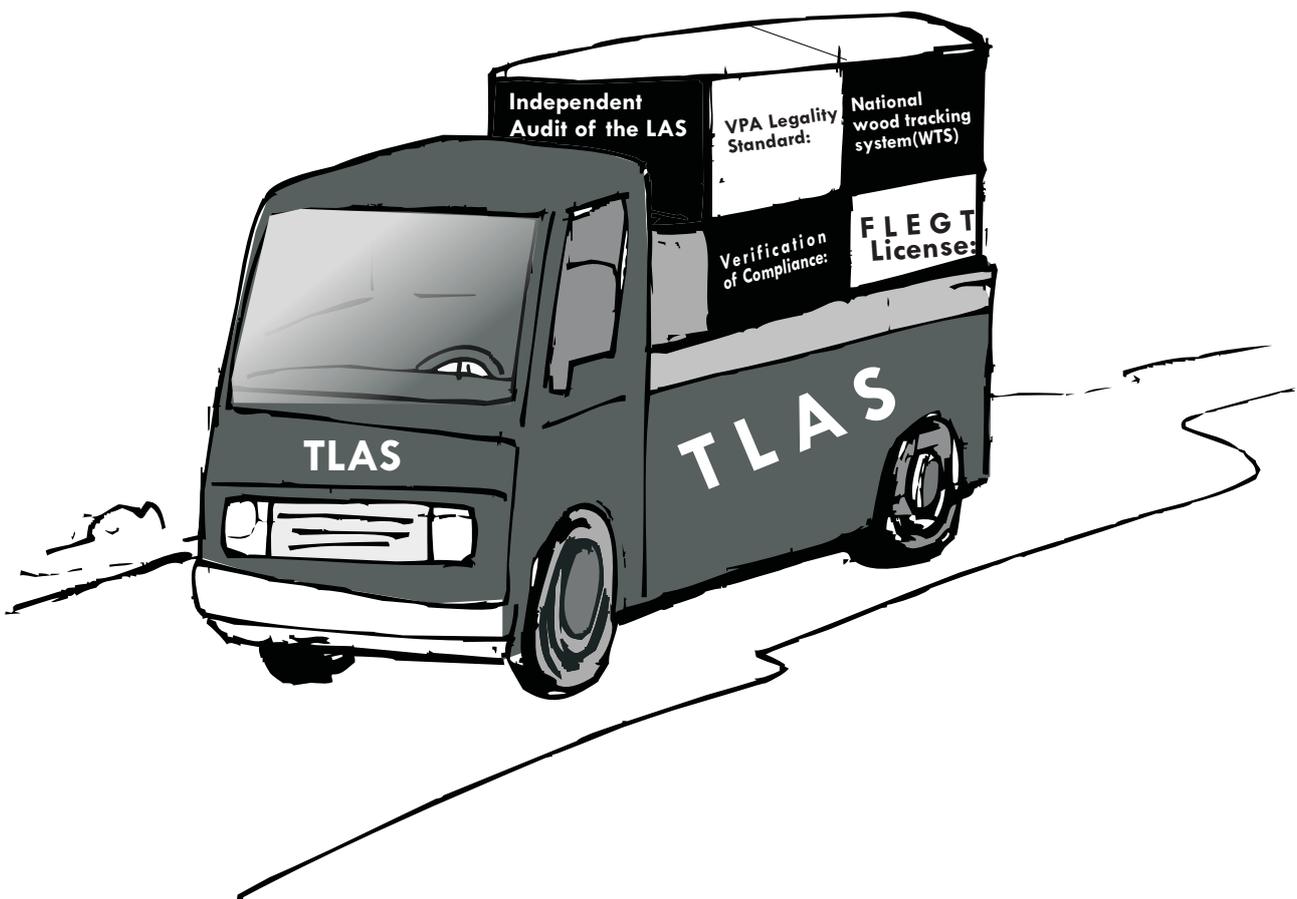


Ensuring legal sourcing and production of timber: The main vehicle for implementing the VPA is a strong Timber Legality Assurance System (TLAS). This system allows Ghana to verify that timber and timber products are sourced and produced legally, and to award a 'FLEGT licence' to each verified consignment.

Contributing to national development objectives: It is expected that the VPA can also support Ghana in achieving its development objectives. These could include alleviating poverty, securing employment, increasing government revenues, improving the capacity of government and the private sector, strengthening the rule of law and securing the rights of people who are dependent on forests for their livelihoods.

TLAS the main vehicle for implementing VPA has five main elements.

1. **VPA Legality Standard:** - This standard outlines all the legislative and regulatory requirements to be consistently carried out and confirmed before a FLEGT license can be issued.
2. **National Wood Tracking System (WTS):** The tracking system is to ensure that timber entering the supply chain comes from legal sources and that timber flows are controlled throughout the whole supply chain.



3. **Verification of Compliance:** - This consists of a number of codes of conduct that will consistently confirm the legality of timber for both domestic and export markets according to the requirements of the legality standard and the wood tracking system.
4. **FLEGT License:** - A document issued to individual consignments that have passed the LAS confirmation tests.
5. **Independent Audit of the LAS:** An assessment of the LAS to:
 - check completeness of LAS implementation,
 - identify non-compliance/system failures, and
 - report on findings

This is done by an independent auditor appointed by Government of Ghana (GoG) and approved by the GoG-EU Joint Committee.

5.0

What is the legal basis for implementing TLAS?

The Legality Licensing Regulations, (L.I. 2184) provides the legal basis for implementing the TLAS. The main purpose of the regulation is to provide a licensing scheme that will control the import and export of timber products in Ghana to help check the trade in illegal wood and wood products. The Legality Licensing Regulation sets forth the guiding principles and procedures for applying and issuing timber legality licences in Ghana. The law applies to all timber products that are harvested within the country or imported for either export or sale on the domestic market.



The following are special entities to ensure the effective implementation of the TLAS.

Timber Validation Department (TVD); This is the verification entity under the TLAS. It currently exists as a department of the Forestry Commission. The TVD performs its roles with the character of an internal auditor to the relevant Forestry Commission divisions and departments as well as the timber industry. Independence, credibility and transparency are principles that guide the TVD in performing its duties.

Timber Industry Development Division (TIDD): This division of the Forestry Commission is the authorised entity to issue legality licences in Ghana. Only timber products that pass the verification test will be issued legality licences. Timber products destined for the EU will be covered by FLEGT licences.



The Timber Validation Committee (TVC): This is an independent body that regulates the activities of the TVD as a measure to assure credibility, independence and transparency. The TVC has been formally inducted into office in April 2014 and it is chaired by an Appeals Court Judge.

The 11-member, multi-stakeholder by law has power to protect the processes involved in the LAS administration and issuance of legality licenses. Again the TVC is to investigate and settle complaints arising from decisions on the issuance of legality licences.

Complaint Procedures: The TVC is responsible for managing complaints that will arise during the verification and validation processes to issue FLEGT license. In that, the TVC ensures that clients and stakeholders are given independent, fair and confidential assistance in dealing with complaints. Hence, the overall accountability of the complaint management system rests on the TVC. This means, it is the duty of the TVC to periodically monitor and review how the complaint management policy and procedure are being implemented. The detailed procedure for managing complaints is currently being developed. With this, all complaints will be received at the TVC secretariat.



The national wood tracking system (WTS) is a sub-component of the TLAS. The WTS is a mechanism to monitor and track compliance of operators from the forest gate to the point of export or on the domestic market. The system adopted by Ghana is mainly electronic in nature. However, the existing paper based mechanism will be used as a back-up when necessary.



7.1 How does the WTS ensure Compliance?

In order to ensure an organised and focused monitoring and tracking of compliance, the TLAS identifies a number of distinct areas along the supply chain. These are areas where forest operators are required to conform to certain contractual responsibilities specified by relevant law and procedures. These distinct areas are called critical control points in the TLAS administration. The main task of the WTS is to collect information on state of compliance by operators with respect to their agreed duties as required per the contractual requirements along the supply chain. The information are put together as they are collected at these control points as well as those collected during

Processing. This is done by the TVD. At any point where there is noncompliance red flags are raised and termed flash points. These are the areas where investigations and verifications are done through field audits. At the point of application for a FLEGT license; the WTS is questioned to ensure that there are no outstanding red flags or Corrective Action Requirement (CAR) from field audits. If there are no such CARs the operator's application for FLEGT licence or Export Permit is issued.

7.2 How will WTS red flags be dealt with?

Red Flag reports from the WTS are mainly put into two main categories. The first category refers to issues that do not necessary mean a prescribed law has been broken or a procedure has not been followed. Such minor red flags could come about as a result of a contractor's number appearing twice in the system or wrong species identification. Such cases will be referred to the relevant FC departments or Units for immediate correction. However where the red flag is as a result of an operator neglecting duties as legally set in the WTS procedures, these will be promptly followed with field verification. The result of the field verification could either clear the operator for or lead to refusal of FLEGT licence.



The verification protocols provide direction on processes and procedures for verifying legal compliance. The verification protocols provide a uniform approach to verification. This ensures as well as promote the credibility of non-compliance violations that will be reported. The verification protocols were first field tested in March 2014 with Civil Society Organisations participation and it showed very promising results.

The verification protocols are applied to two main parts of the Legality Assurance System.

- A . compliance to the general legality requirements, and,
- b. the supply chain from the forest gate to the point of export or consumption on the local market.

The purpose is to clear doubts on possibility of mingling timber products for which licence has not been obtained with timber products for which license have been issued for the purposes of exporter sale on the domestic market.

A field audit determines how well the FC and its operational Divisions/Departments as well as the forest operators have complied with the legality standards. There will be, on the average, one audit visit to every district/operator per audit cycle within the year. Whilst fulfilling the requirements of the TLAS, the verification field audits are also designed to enhance the regulatory function of FC. It also provides assurance to domestic and international markets on the legal status of timber and timber products.



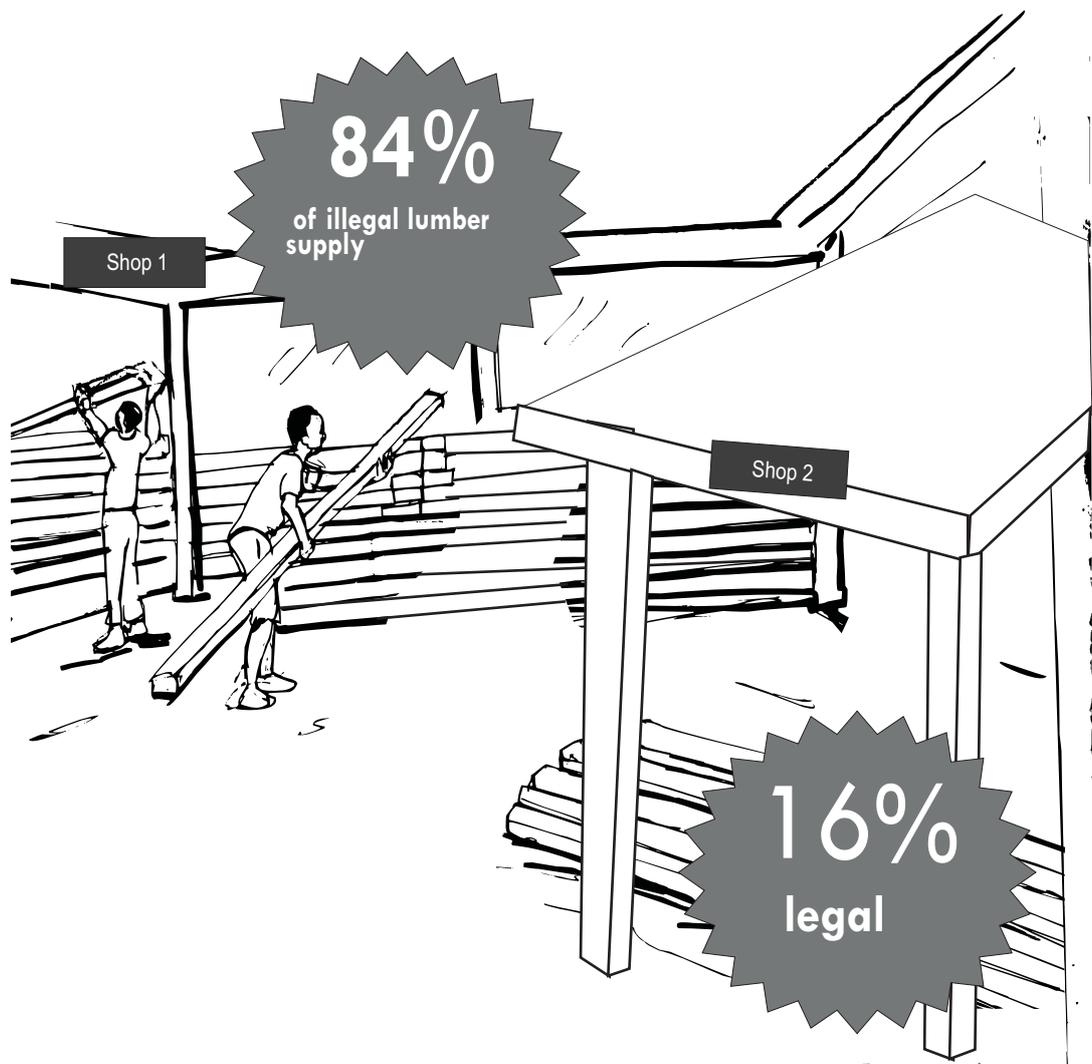
The field audits are also meant to put in place corrective measures to address non-conformance to legal timber standards as well as identify areas for improvement. Another function of the field audit is to put measures in place to enforce sanctions and reward systems.

10.0

Will the TLAS implementation affect the domestic timber market?

A national survey conducted by TIDD/FORIG in 2009, estimated that the domestic market alone consumes up to 664,350 cubic meters of lumber and plywood annually. However, over 84% of lumber supplied to the domestic market can be described as originating from illegal sources.

The implications of the VPA and its legality regime for the domestic market can be severe. Full compliance with VPA legality requirement will imply that, only about 16% of the currently available annual wood consumption could be supplied to the domestic market.



11.0

How can TLAS affect SMFE?

Strict enforcement of VPA is likely to lead to the virtual collapse of the domestic timber business and associated job. It is estimated that up to about 74% of employees in this sector will lose their jobs whilst the economic situation of other members in the domestic timber market business will worsen. It is also perceived that, given the high technological infrastructure that the VPA uses to track compliance, any effort to ensure compliance could involve high capital investment.



12.0

VPA designed to address expected changes on the domestic market resulting from LAS implementation.

To get the best out of VPA implementation, a regulatory impact assessment has indicated that TLAS implementation needs to be strengthened with other policy measures. These measures are known as Supporting Measures. These are a range of programs that have to be implemented alongside the LAS. These include ensuring adequate supply of legal timber for the domestic market.



13.0

How can SMFEs benefit from VPA supporting Measures?

It is expected that if the TLAS as well as all the supporting policy measures are effectively implemented, the VPA could provide in the medium and long term the following benefits to Small and Medium Forest Enterprises (SMFEs).



Increased opportunities in value chain for exports

If the TLAS is applied to all domestic and export timber, the VPA could lead to timber outputs being regarded as 'always legal'. This should improve exports to many markets. As a result, for products where SMFEs are part of the value chain, this overall improvement in exports could lead to increased sales and more stable markets. These will be an encouragement for SMFEs to invest their own labour and capital.

Less distortion in markets

The presence of illegal timber products on the domestic market makes processing legal timber uncompetitive. Curbing illegal logging through the correct implementation of the LAS and its supporting measures will help reduce such unfair competition and stabilize local timber market. Again communities and smallholders that sell legal timber are likely to enjoy higher prices, whilst processors will benefit from a level playing field through improved governance. It is also expected that decrease in illegal timber supply would lead to an increase in raw material cost. This will favour small local processing enterprises that are closely aligned with sources of legal timber.

Improved business environment

One of the high points of the VPA process is the strength to stimulate improvements in governance alongside the implementation of TLAS. It also has the potential to address the regulatory complexities that often create opportunities for corruption. Such corrupt practices adversely affect SMFEs.

Effective monitoring of governance performance

The VPA and its processes create platforms and entry points for other stakeholders to participate in effective governance monitoring. This is partly as a result of the monitoring instrument to be put in place through the LAS implementation. There is space for independent and third party participation and monitoring activities. This is expected to give the opportunity for SMFEs to take interest and participate in governance monitoring in the sector.

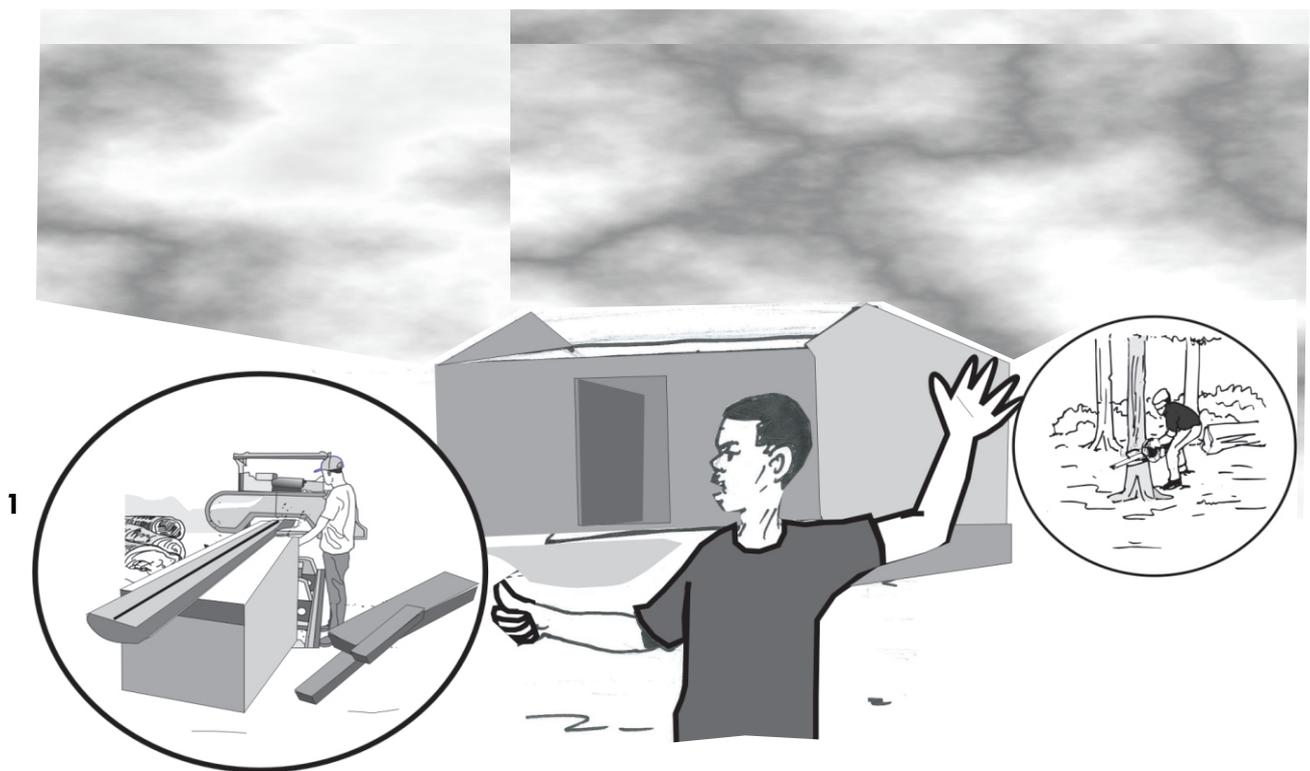
Following the commitment to ensure legal timber is traded on the export and domestic markets, the VPA supporting measures outline areas of activities to promote legal timber trade on the domestic market. These include actions to strengthen regulatory structures for the domestic market and promote alternative livelihoods. The other areas of focus include promoting investment in developing rubber wood and bamboo as well as the utilisation of lesser used species.



15.0

What is being done to ensure the supply of legal wood onto the domestic market?

Since the signing of the VPA, the search for other ways to supply legal wood to the domestic market has intensified. Through an extensive stakeholder dialogue, a policy decision was reached. The decision was that saw mills and artisanal millers supply legal wood to the domestic market. What remains are the modalities to ensure the successful implementation of the artisanal milling concept which is very young.



Public Procurement Policy for the domestic market

The overall goal of the domestic market policy is to promote the production, processing and trade of legal timber on the domestic market as a contribution toward sustainable forest management.

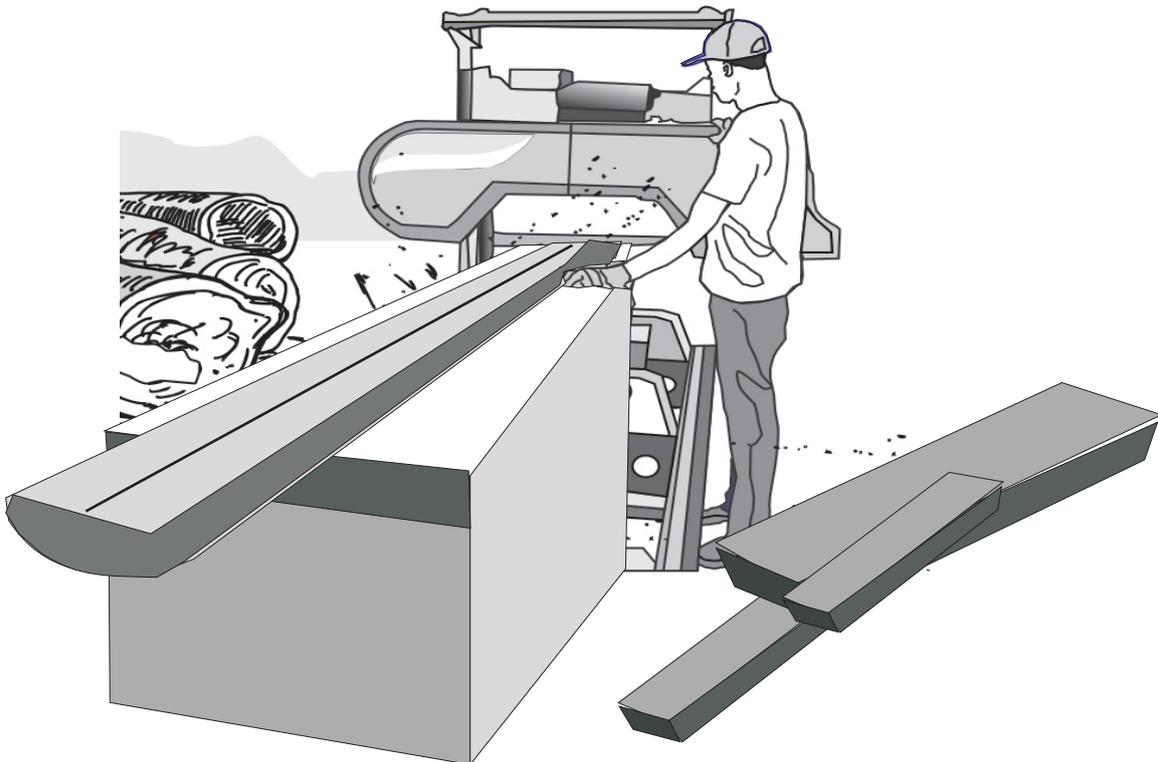
The public procurement policy for timber is one of the main strategies in the domestic market policy. The driving force of the policy is to use the purchasing power of government to twist the domestic market in favor of legally and sustainably produced timber and timber products. Under this policy, state institutions (procurement entities) and their contractors, sub-contractors and agents working on public projects are required to use only legal timber and timber products for public projects. The policy document is currently awaiting parliamentary accent for implementation to begin.

Policy measures for the supply of legal wood to the domestic market

Tropenbos International has been leading the initiative in the development of the artisanal milling concept. This was done through multi-stakeholder expert meetings as well as multi-stakeholder consultation workshops at the district level. The concept has widely and intensively been discussed. The definition of artisanal milling as well as who qualifies to be an artisanal miller have been outlined. Other aspects of the operational modalities including the scope of operation, terms for registration and licensing, equipment types to be used as well as sources of raw material have also been articulated. Currently, the concept is undergoing field testing on pilot bases in a number of forest districts.

What is Artisanal Milling and who qualifies as an Artisanal Miller?

Under the concept, "Artisanal milling is small-medium scale milling of timber from specified legal sources by a trained, certified, registered and licensed Ghanaian artisan, using licensed portable saw milling equipment that excludes any form of chainsaw machines and capable of recovering at least 50% of dimension lumber from logs for the domestic market only. This may be processed in-situ or ex-situ" An artisanal miller can be an individual or group registered entity. An individual artisanal miller must be a Ghanaian as defined by the Constitution of Ghana. For group registered entity, all shareholders must also be Ghanaians belonging to an Artisanal Millers Association This means non-Ghanaians are not permitted to own or operate an artisanal machine.



16.1 What are the expected benefits of the artisanal milling concept?

The range of benefits expected to be derived from the successful implementation of the artisanal milling concept include the following. The concept:

- a. will help satisfy the purpose of VPA, addresses illegality and improve good forest governance,
- b. could help to deal with conflicts related to resource access, production, supply and procurement as access to resources for domestic timber needs is further enhanced,
- c. Improve the efficient use of timber resources as the prescribed milling equipment for artisanal millers has been shown to be more efficient.
- d. Support the implementation of the policy on supply of legal timber to the domestic market.
- e. The concept operates within the context of existing legislation, provides opportunities for livelihood support (employment) and help cultivate and promote growth of businesses in the wood sector

By making knowledge work for forests and people, Tropenbos International contributes to well-informed decision making for improved management and governance of tropical forests. Our longstanding local presence and ability to bring together local, national and international partners makes us a trusted partner in sustainable development.

