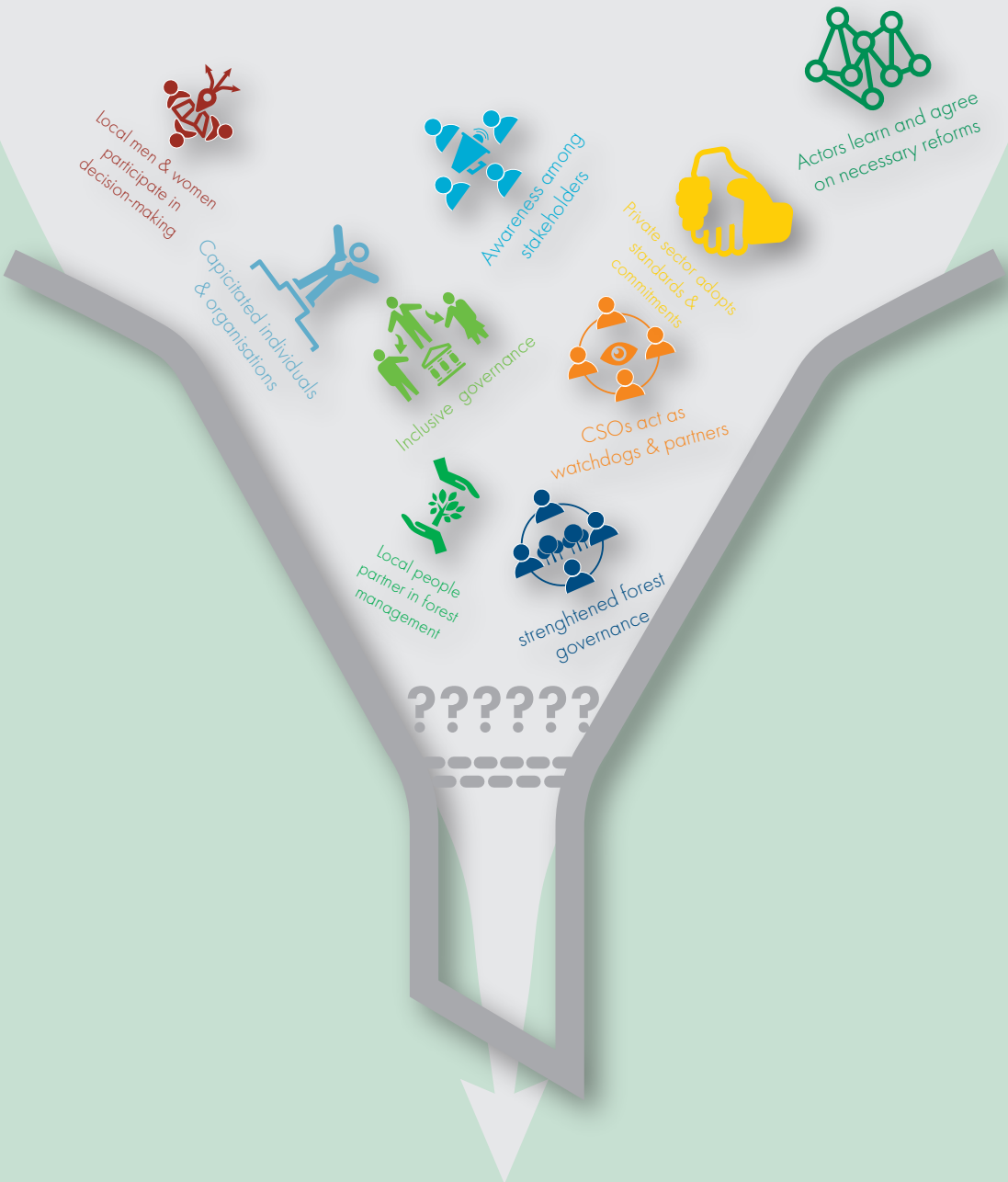


Scoping study on the relevance of FLEGT-VPA for sustainable agro-commodity (cocoa) Initiatives in Ghana

VPA-FLEGT
for sustainable, legal and equitable timber



Cocoa & Forest Initiatives
for sustainable, legal and equitable cocoa



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The opinions and views expressed in this publication are the sole responsibility of the authors and do not necessarily reflect the opinions and views of the Ministry of Agriculture, Nature and Food Quality of the Netherlands or of any of the parties consulted during the study.

Report: Scoping Study on the Relevance of FLEGT-VPA for Sustainable Agro-commodity (cocoa) Initiatives in Ghana

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August 2018



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Executive Summary

This short-term exploratory study was done mainly through extensive review of literature, including both grey and web-based information. It was coupled with key informant interviews and focus group discussions. It identifies the actual problems in the cocoa sector; causes of deforestation and extreme poverty in the sector. It goes on to propose necessary changes in the sector to resolve the drivers of deforestation.

It presents an analysis of the recent developments in the cocoa sector in Ghana, namely: The Cocoa and Forest Initiative, Cocoa Action and the Ghana Cocoa Forest REDD+ Programme, with the aim of providing understanding to the complementarity and gaps between the initiatives, identification of the actors involved and their relationships.

The EU-Ghana FLEGT-VPA is also assessed to identify the potential building blocks that could reinforce the CFI process, including: the elements of the VPA that would be of value to the existing initiatives in the cocoa sector; and what the CFI and other initiatives in the cocoa sector could learn from the FLEGT-VPA. Also discussed is the necessary modifications to adapt the building blocks for the cocoa sector. A quick comparison of existing cocoa standards (e.g. UTZ/RA, ISO) and legal requirements for forests and agriculture is made to identify overlaps and gaps between legality and sustainability in cocoa.

The study has highlighted relevant lessons to be learned from the FLEGT-VPA process that could strengthen the existing cocoa initiatives and preservation of forest landscapes. These lessons relate to having clarity in the legislative and policy environment and using deliberative multi-stakeholder processes to address the governance issues in the cocoa sector. The potential political and reform dimensions in the cocoa-sector initiatives as well as the present multi-stakeholder nature of the CFI are all discussed.

Attempts have been made to discuss the impacts of FLEGT-VPA on 'conversion timber' i.e. agriculture-driven deforestation and the links with existing cocoa initiatives, particularly focusing on the effectiveness of the FLEGT-VPA in addressing legality of conversion timber.

The study concludes that it would be an option for Ghana to develop its own national Cocoa standards drawing inspiration from existing legislation as well as on cocoa certification schemes such as UTZ/RA, or ISO standards.

From an examination of the connection between zero deforestation cocoa and wider EU efforts on a possible Action Plan on Deforestation (feasibility study just released) the proposals that there should be due diligence import regulation on forest risk commodities, it is considered that this could help resolve issues in the cocoa sector. The study identifies roles and responsibilities for different stakeholders.

The study concludes that if commitments to drastically reduce deforestation from cocoa are to be achieved, ambitious policy measures are needed. These must include reform of the governance framework for cocoa as well as smallholder agriculture in cocoa producer countries, for example: reform of the tenure system, productivity, production systems and cocoa pricing. Land-tenure

reforms and spatial planning will also need to allow adapting to the impacts of climate change. All countries will have to devise inclusive mechanisms to enable the difficult but crucial decisions to be made as to the best uses of their land. Reform in the main consumer countries for cocoa is equally important, and this can serve to reinforce the efforts of producer countries. As the world's largest consumer of cocoa, Europe - and the Netherlands, the world's largest importer - could play a role in this.

List of Acronyms

CFI	Cocoa and Forest Initiative
CMC	Cocoa Marketing Company
CSDS	Cocoa Sector Development Strategy
COP	Conference of Parties
CSO	Civil Society Organization
DA	District Assembly
EU	European Union
FCPF	Forest Carbon Partnership Facility
FLEGT	Forest Law Enforcement, Governance and Trade
FOB	Freight on Board
FRL	Forest Reference Level
GCFRP	Ghana Cocoa Forest REDD+ Programme
ICCO	International Cocoa and Coffee Organization
IDH	Sustainable Trade Initiative
ISO	International Standards Organization
JMRM	Joint Monitoring and Review Mechanism
LBC	Licensed Buying Company
MOFEP	Ministry of Finance and Economic Planning
M-SIC	Multi-Stakeholder Implementation Committee (of the VPA)
NCRP	National Cocoa Rehabilitation Programme
NDC	Nationally Determined Contributions
PBC	Produce Buying Company
PPRC	Producer Price Review Committee
RA	Rainforest Alliance
REDD+	Reducing Emissions from Deforestation and forest Degradation, Conservation and enhancing carbon stocks
TUC	Timber Utilisation Contract
VPA	Voluntary Partnership Agreement
WCF	World Cocoa Foundation

Chapter 1: Introduction

1.1 The Cocoa Challenge:

1.1.1 Importance of Cocoa Sector for Ghana:

At the global level, Africa remains the largest cocoa producing region. For the 2013/14 crop year, it was estimated that the continent produced roughly 3.2 million tonnes, representing 73% of global production with Côte d'Ivoire and Ghana being the leading producers (Gayi and Tsowou, 2016). Ghana is the second largest producer of cocoa globally (1.7 million ha harvested, 858,720 tonnes in 2016¹), and the commodity is the most important agricultural export product of the country. In 2013, cocoa accounted for 30% of Ghana's total export earnings and 9% of GDP (Ghana Cocoa Board, 2013). In addition, smallholders dominate cocoa production (est. 800.000 in Ghana).

In 2015/2016, Ghana produced 778,044 metric tonnes and exported 581,423 metric tonnes of cocoa which is 74.73% of total produced². Ghana, together with Côte d'Ivoire are the main cocoa suppliers to Europe, the largest cocoa market - importing in 2014 60% of global cocoa.³ The main single country export destinations in 2016 for Ghana were (ITC COMSTAT⁴): Netherlands, Brazil, Malaysia, USA, Japan, and Germany.

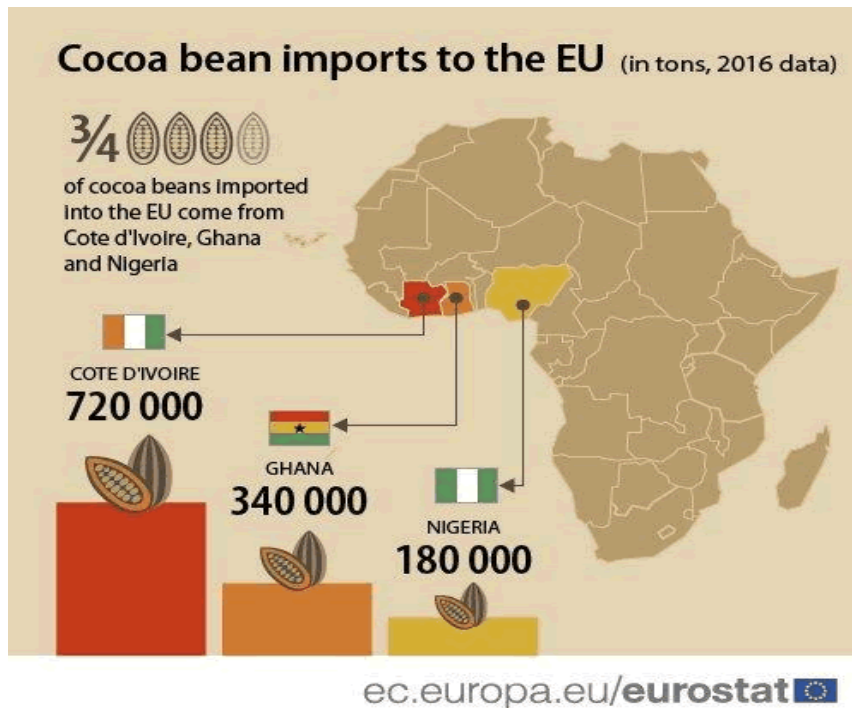


Figure 1: Cocoa beans import to the European Union from West Africa

¹ FAOSTAT

² https://cocobod.gh/weekly_purchase.php

³ <https://atlas.media.mit.edu/en/profile/hs92/1801/>

⁴ www.trademap.org

1.1.2 Challenges of the Cocoa Farmer and Sustainable Production

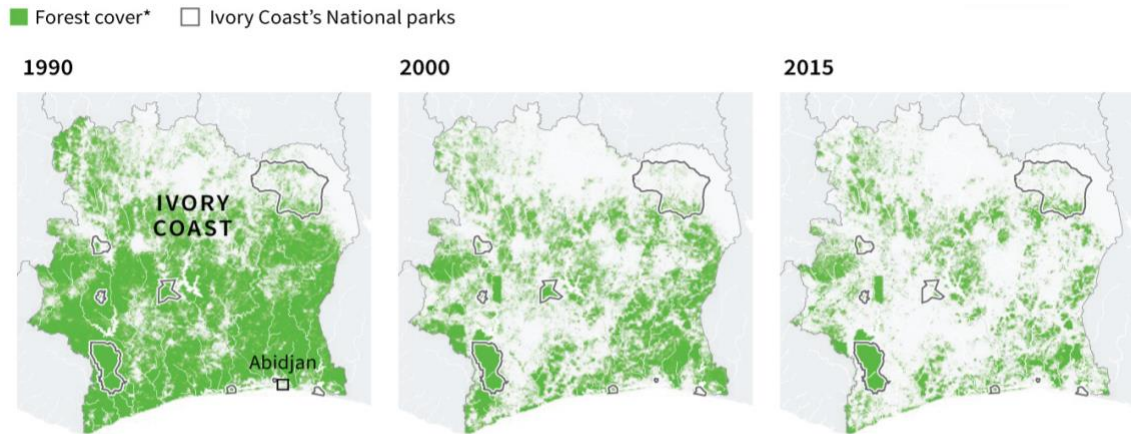
Despite the importance of cocoa to the national economy, the cocoa sector faces several challenges. Prominent among them are low productivity, low returns to the farmer, the aging farmer and aging farms (Antwi et al, 2017). Pests and diseases and land tenure issues are other challenges. Besides these, due to the low productivity, the effects of climate change and increasing population in the face of limited availability of suitable lands, there has been some incursions of cocoa farms into forest reserves such as Bia Torya, Sukusuku and Manzan, resulting in deforestation. Cocoa farmers are also highly vulnerable to low and volatile prices, and have no social security or insurance against crop failure and in their old age. Cocoa farming in Ghana also presents a poor business model for the farmer and until recently there has been little innovation. It is therefore not attractive to the youth. Moreover, there is very low value addition, as most of the beans are exported in the raw form.

1.1.3 Cocoa and Deforestation in Ghana

Increasing demand for agro-commodities to satisfy global, regional and local needs has led to competing claims for forestlands. In Ghana for instance, the expansion of agricultural lands has been the primary driver of deforestation and degradation in the high forest zone for the past century. The role of cocoa in deforestation in Ghana is rooted in the 1948 Forest Policy which designated trees outside the gazetted forest reserves to be cleared for agriculture and infrastructure development. In fact, one of the key reasons for creating forest reserves was to provide conducive micro climatic conditions that would favour the growing of cocoa. Thus, the extension of cocoa farms outside forest reserves did not raise any concerns in the past. Recently however, with very little or no arable lands left outside the permanently reserved forest estates and with increasing population, there have been cases of serious incursions of cocoa farms into forest reserves. Some of these farmers may already have old cocoa farms elsewhere, but most of the farms in the forest reserves are from first-time growers, who perceived cocoa farming to be lucrative and have moved into the reserves to start their own farms.

There is also the case of 'admitted farms and settlements'. At the time of creating the forest reserves, there already existed some farms and settlements; these were calved out of the reserved areas. With time however, these farms have been expanded and the settlements have grown beyond their original boundaries, with the people encroaching on the forest reserves for farmlands.

In response, various initiatives have been established to address the impact of cocoa production on forests. These include Ghana's Cocoa Forest REDD+ Programme and the 2017 Cocoa and Forest Initiative (CFI) aimed at de-linking cocoa production from deforestation. Earlier the World Cocoa Foundation launched its Cocoa Action Plan together with cocoa companies to create a sustainable and viable cocoa production with 300,000 cocoa farmers in Ghana and Côte d'Ivoire.



*Any surface sized 1 hectare or more with a tree canopy density of at least 30 percent.
Source: MapHubs Forest.

G. Cabrera, 18/04/2018



Figure 2: Forest cover change in Cote d'Ivoire between 1990 and 2015

Degradation of Pamu Berekum Forest Reserve in Ghana

- Reserved in 1932, with a forest area of 189 sq. km
- Forest Area in 1990 = 91 sq km (98 sq km lost in 58 years)
- Forest area in 2000 = 1 sq km (90 sq km lost in 10 years)

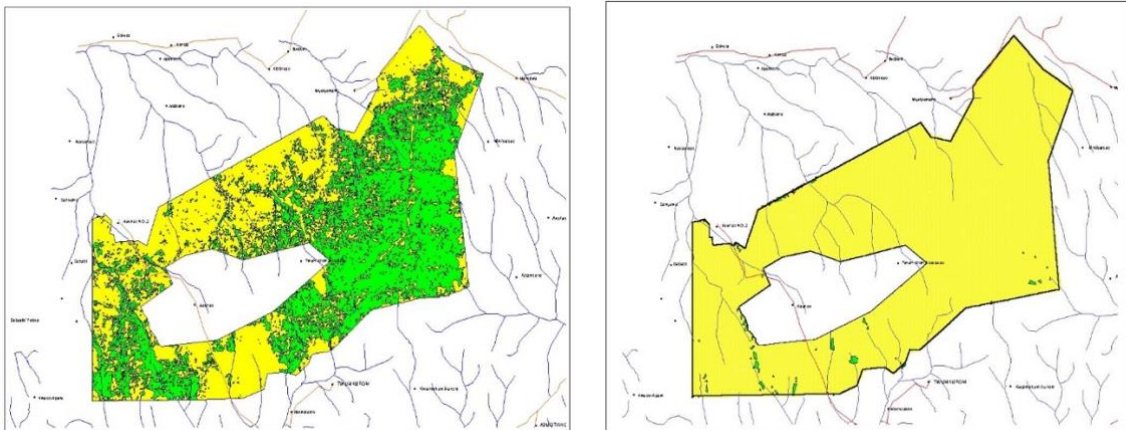


Figure 3a: State of the Forest Reserves in 1932

Figure 3b: State of the Forest Reserve in 2000

1.1.4 Climate Change

Cocoa trees (*Theobroma cacao*) are understory rainforest trees and are sensitive to drought. Historically, cocoa was planted in mixed forest systems. Today, new varieties can grow in the full sun in a monoculture system. Cocoa grown in the full sun is more susceptible to climate change than those with shade trees. Climate change affects rainfall patterns, soil moisture, soil temperature and evapo-transpiration: when combined with unsustainable and inefficient farming practices, this puts cocoa yield at risk. The figure below presents the anticipated effect of climate change on land suitability for growing cocoa. Shade-grown cocoa is not only more climate-resilient, but can also provide habitat for forest fauna and flora.

Laderach et al (2013) concluded that the lowland areas at the margins of the current cocoa growing zone, including the already drier savannas regions will be most affected by climate change. Overall, the area with favorable climatic conditions for growing cocoa will shrink. In addition, cocoa production may already be impacted by the increased variability in rainfall and droughts (for example in El Nino years).

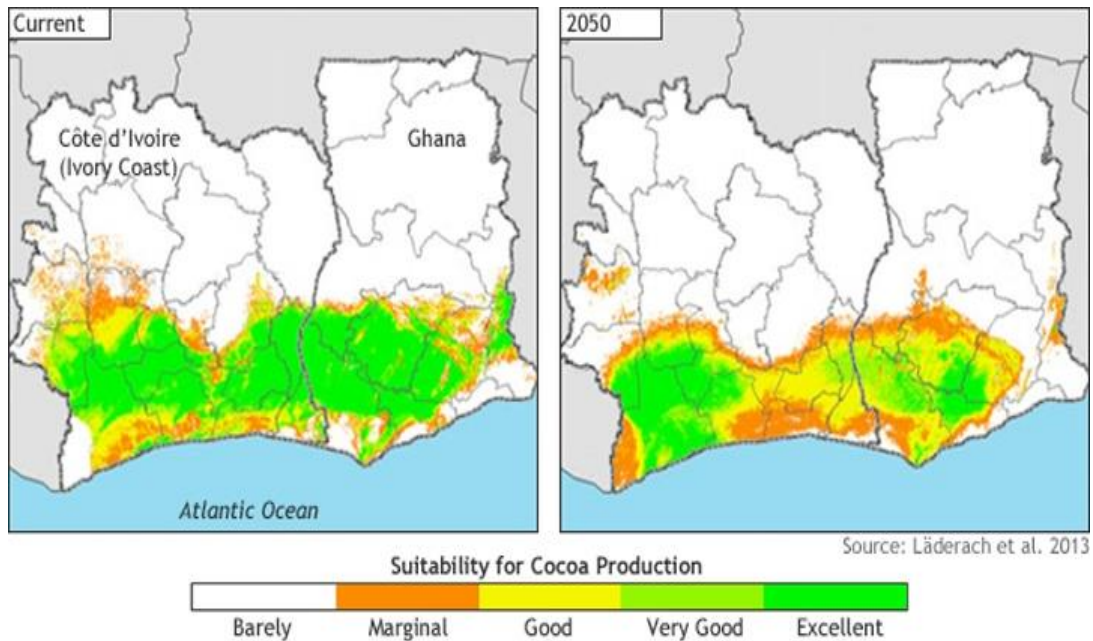


Figure 4: Suitability Map for Cocoa Growing Regions in Côte d'Ivoire and Ghana by 2050

1.2 Ghana's Commitments to Sustainable Development

Ghana has a history of implementing development plans to increase the well-being of its people. Its economy has grown with over 7% per year on average since 2005 and Ghana became a middle-income country in 2010. Offshore oil reserves could boost Ghana's GDP, contributing about USD 3 Billion between 2011 and 2015⁵. Although poverty has decreased significantly, the 6th Ghana Living Standards Survey (2014) shows that poverty remains prevalent in many areas (mainly rural people depending on subsistence farming: 37.9% of rural people are poor) and inequality remains high (GSS, 2014). An estimated 6.4 million Ghanaians live in poverty. The UN characterizes the poor as those subsisting on a per capita income of less than \$1.90 a day (approximately \$694 per annum). The average income of the Ghanaian cocoa farmer is \$300 per annum which is below the UN threshold (Fern, 2018).

Ghana implements the Sustainable Development Goals (SDGs), as well as international climate change commitments. In 2015, Ghana presented its Intended Nationally Determined Contribution (INDC). Amongst the priority sectors are - not surprisingly - sustainable land use, food security and sustainable forest management. Actions include efforts to enhance resilience in climate vulnerable landscapes, reforestation, increasing the average yield per hectare of cocoa farmers, maintain resilience and conserve biodiversity in cocoa-forest landscapes.

⁵ <http://www.reportingoilandgas.org/ghana-earned-over-3bn-from-petroleum-revenue-between-2011-and-2015/>

1.3 Ghana's Efforts towards Addressing Illegal Logging

Ghana entered into a Voluntary Partnership Agreement (VPA) with the European Union to trade in only legal timber and wood products to the EU markets and also the domestic market. The VPA is a multi-stakeholder process in the producer countries to resolve governance issues, reform laws and improve enforcement of laws to address illegal logging. As a complementary action, the EU has introduced legislation (European Union Timber Regulation - EUTR) that prohibits the import of illegal timber and imposes a due diligence obligation on companies. This dual approach has resulted in a radical shift within the timber sector. It is improving transparency within timber supply chains and changing practices within the private sector. These actions have prompted significant governance reforms in producer countries provide lessons for other forest risk commodities.

1.4 The study objectives, expected outputs, methodology and format of report

1.4.1 Objectives

The main objective of the scoping study was to assess the essential building blocks of the Ghana FLEGT-VPA and the added value these would make to the ongoing initiatives in the cocoa sector that are presently taking place in Ghana; and what building blocks of the FLEGT-VPA-approach could interact with and strengthen these.

1.4.2 Expected Outputs

The main output of the assignment is a validated report on the relevance of FLEGT-VPA for sustainable agro-commodity (cocoa) initiatives in Ghana.

1.4.3 Methodology

The study was mainly done through extensive review of literature, including both grey and web-based information. It was coupled with key informant interviews and focus group discussions. It drew on the enormous technical knowledge of the study team and the far-reaching experience in the FLEGT-VPA process as well as their in-depth appreciation of the cocoa sector in Ghana. The study also used information from recent engagements with the governments of France, Netherlands, Germany and participation in Amsterdam Declaration partners meeting as well as EU Parliament (DEVE COMMITTEE/DROI SUB-COMMITTEE) joint hearing on *"Cocoa and Coffee - devastating rainforest and driving child labour: the role of EU consumption, and how the EU could help"* which was held on Wednesday 11 July 2018 in Brussels.

1.5 Format of the Report

This report starts with an introductory chapter which gives a brief overview of the cocoa sector and Ghana's efforts towards addressing the challenges in the sector; it also gives the objective, expected outputs, methodology applied for the study and the organization of this report. Chapter 2 provides detailed information on the Cocoa Sector in Ghana, including a discussion of the various initiatives in the Sector. Chapter 3 focuses on Governance as a challenge in the cocoa sector and how it manifests in the sector. Chapter 4 focuses on the FLEGT-VPA between the EU and Ghana; it considers the progress made, its achievements and challenges, and provides the success factors. It concludes with lessons that could be useful to the cocoa sector. Chapter 5 looks at Sector Transformation that will

facilitate the adaption of lessons from FLEGT-VPA to the cocoa sector. Chapter 6 draws some conclusions and make recommendations based on the findings and analyses carried out by the study.

Chapter 2: Understanding the Cocoa Sector in Ghana

2.1 Basic facts and figures on the cocoa sector

Overall cocoa production in Ghana has been increasing steadily (see figure 5) as the area of land under cocoa production also expands. The harvested area increased from 693,249 hectares in 1990 to 1,683,765 hectares in 2015-2016⁶. The average yield per hectare in Ghana is low with about 300-400kg/ha, compared to 800kg/ha in Indonesia and a theoretical maximum of 1,500 kg/ha (Oomes et al, 2016). The increasing production has therefore been mainly the result of expanding production areas and extension of farms into forest areas, leading to massive deforestation, especially in the off-reserve areas. The low level in yield can be attributed to factors which include aged and low yielding trees; stressed cocoa stands resulting from removal of shade trees; pests and diseases; poor farm management practices; elderly farmers with little or no training; lack of adequate investment in farms due to lack of access to finance and knowledge on farm renovation; and insecure tenure that acts as a barrier to replanting (Roth, Antwi & O'Sullivan 2017).

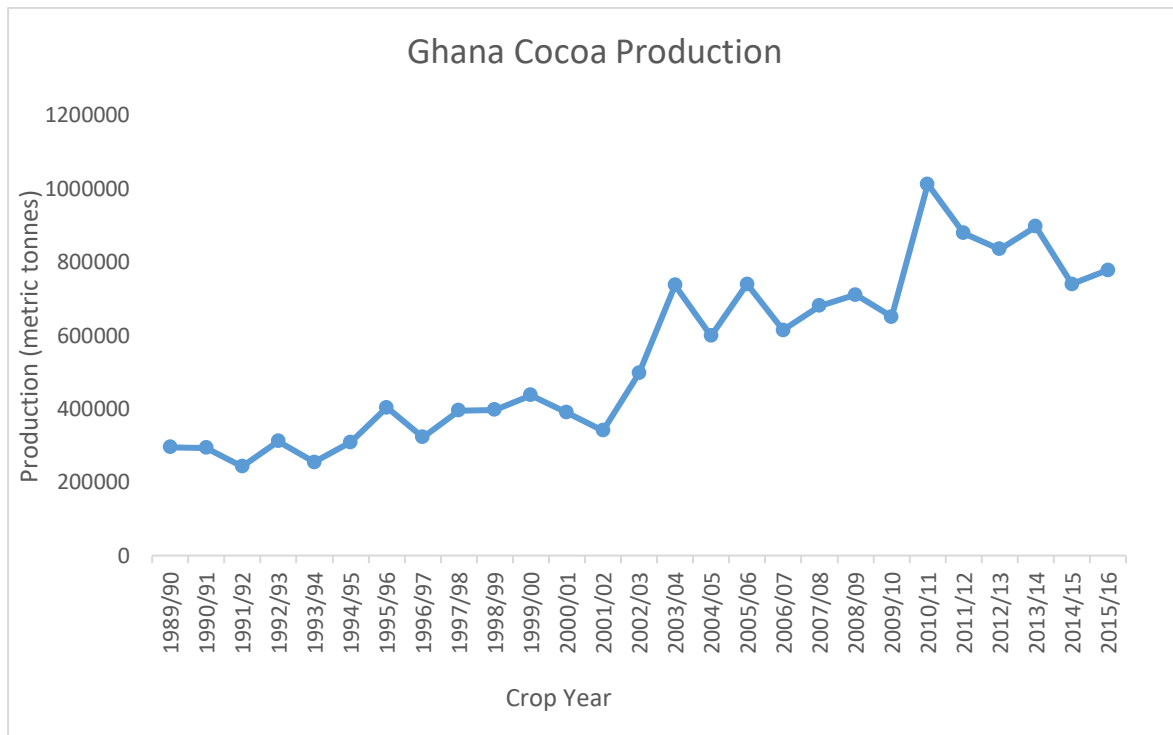


Figure 5: Trends in Ghana's Cocoa production

⁶ FAOSTAT

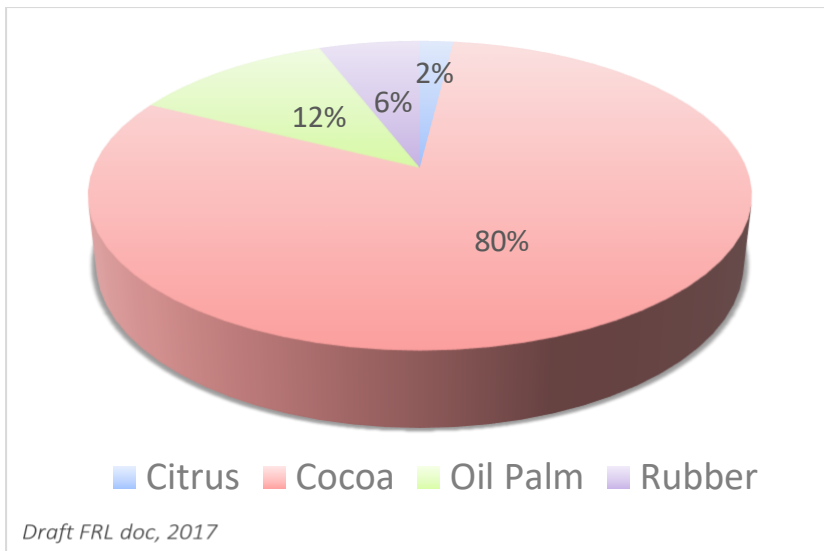


Figure 6: Contribution of Agro-commodities to Agriculture-driven deforestation

The cocoa-producing high forest zone of southern Ghana had an average annual deforestation rate of 1.7 percent between 2000 and 2010, with approximately 110,000 ha of forests converted to agricultural land per annum during the period 2000-2015 (total of 1,650,000 hectares). This amounted to 75 percent of the region's total deforestation, and approximately one third of this agricultural conversion was due to cocoa expansion (Government of Ghana, 2016, cited in O'Sullivan et. al (2018)). The importance of cocoa to the economy is a push factor for its continuous cultivation and this is a threat to Ghana's forests as large tracts of forest lands will be cleared both legally and illegally for cocoa cultivation (MLNR, 2018).

2.2 Political Economy of the Cocoa Sector

The Ghana Cocoa Board (COCOBOD) is a statutory public body to regulate the cocoa industry in Ghana. It is the central administrative body with subsidiaries concerned with the various operation and servicing aspects of the cocoa industry in the country. Because of the importance of the cocoa sector, COCOBOD receives much political interest from the top hierarchy of government. Historically, the COCOBOD evolved from an organization that was set up to purely address cocoa farmers' concerns around pricing, to its current form of being the main umbrella body for decisions around all aspects of the cocoa value chain in Ghana. It has undergone various transformations since its establishment, in addition, its current constitution and mandate reflect the modern trends in the industry, especially in the light of Ghana's socio-economic and political aspirations. The functions of COCOBOD centre on the production, research, extension, internal and external marketing and quality control. These functions can be categorized into two broad sectors; Pre-harvest and Post-harvest which are performed by specialized divisions of the Board.

Table 1: Functions of COCOBOD grouped into Pre-harvest and Post-harvest sector

Pre-harvest Sector:	Post-harvest Sector:
Functions of this sector centre on issues such as extension services, production of quality planting materials. All these revolve around actual cocoa production at the farm gate and are performed by the Cocoa Research Institute of Ghana (CRIG), the Seed Production Unit (SPU) and the Cocoa Health and Extension Division (CHED).	The Post-harvest activities of COCOBOD consist of quality control measures, which farmers must follow for their produce to be bought at the buying centers by the licensed buying companies. The Quality Control Division (QCD) and the Cocoa Marketing Company (CMC) undertake these functions.

A major reason for the establishment of the COCOBOD by the colonial government in 1947 was the concern over market-sharing and price-fixing arrangements among the foreign trading firms; and the desire to stabilize domestic prices to producers in the face of sharp fluctuations in the world market prices. This system operated until the early 80s: government determined the official producer price and announced it before each buying season. Reforms carried out beginning from the 1980s through 1990s to the present have restructured COCOBOD significantly (Essegbey & Ofori-Gyamfi, 2012). Currently, COCOBOD is a relatively slimmer organization with five main subsidiaries, namely, Cocoa Health and Extension Division (CHED), Quality Control Company (QCC), Produce Buying Company (PBC), Research and Cocoa Marketing Company (CMC). Government control of the cocoa sector is strong with a monopoly on the export of cocoa by the CMC, quality control and a system of price stabilization.

The sector reform in 1984/85 saw government's role in producer price determination ceded to a Producer Price Review Committee (PPRC) from the 1983/84 cocoa crop season. Since then, the PPRC determines all prices including producer price, margins for LBCs, tax and the amount for COCOBOD. The Membership of the PPRC includes representatives of farmers, Ministry of Finance and Economic Planning, Bank of Ghana and COCOBOD and is chaired by the Minister for Finance and Economic Planning (MOFEP), (Tei Quartey, 2013).

The PPRC determines the farm-gate price annually, which is set as a percentage of FOB⁷ price. Cocoa prices have been set from 50% of FOB in 1989, through 65% in 1999/2000 to 70% as of 2001/2002 until today. The second Cocoa Sector Development Strategy (CSDS II) intends to continue the policy of paying at least 70% of the net FOB price as producer price to cocoa farmers. Although the price-stabilization system is intended to protect farmers from the volatile prices on the world market, fixing the price also has its negative effects. Farmers do not benefit from high prices and hard foreign currency, which would enable them to save money and invest. Control over cocoa pricing opens the door for political exploitation of farmers, a tool politicians have been using. Despite the PPRC process and the publication of its decisions, the transparency of decision-making is criticized (SEO Amsterdam, 2017). The annual producer price increased from 56% of the FoB in 1998/99 to 70% in 2004/05 (Ministry of Finance 1999) and 76% in 2011/12. Currently the farm-gate price is annually fixed at 70% of the FoB price of forward sales by COCOBOD; however, the realised farm-gate price as a percentage of the ICCO price was recently only 48% (2014/2015). The farm-gate price is \$1,789 per tonne, while the international market price is about \$3,500 per tonne, meaning farmers receive less

⁷ 'Free-on-Board' price = term of sale under which the price invoiced or quoted by a seller includes all charges up to placing the goods on board of a ship at the port of departure specified by the buyer.

than half the actual world price for cocoa (as the ICCO price indicates). The price for a bag of cocoa beans in 2014/2015 is GHS 425 (\$ 112)/64 kg (Laven et al, 2016).

According to the COCOBOD, there is the need for an enhanced institutional and stakeholders' coordination and focused dialogue among all players to agree on a common strategy to tackle the challenges in the cocoa sector. To this end, the Cocoa platform was established under an UNDP environmental sustainability project to boost sustainable production in Ghana through enhanced partnership and cooperation among stakeholders. The platform was to convene all cocoa sector stakeholders in Ghana to review key policy issues, exchange ideas, and share experiences through plenary sessions. Although COCOBOD took up the platform at the end of the project, the new phase of the platform was intended to be led by the private sector with support of COCOBOD. This has however not been the case leaving the platform defunct.

2.3 The Cocoa Value Chain

The cocoa value chain involves several steps before getting to the consumer. These are growing; harvesting; fermenting and drying; marketing; packing and transporting, roasting and milling; pressing and chocolate making. Different stakeholders play different roles along the chain. In the Ghanaian context, the value chain starts with the farmer who is responsible for the growing, fermenting and drying of the cocoa. The dried beans are sold to a buying agent (Licensed Buying Company: LBC). LBCs are licensed by COCOBOD to buy cocoa at a fixed rate of the FOB-price for COCOBOD. There are currently about 48 LBCs in Ghana. COCOBOD (CMC) is the only first trader of Ghanaian beans locally and at the international market. Traders/processors who purchase from CMC in turn sell them to chocolate companies before finally reaching the consumer, through marketing outlets. The LBCs in Ghana include amongst others Produce Buying Company (PBC), Ecom, Nyonkopa and Cargill. The traders/processors include Touton, Ecom and Cargill, while the chocolate companies include Mars, Nestle and Mondelez. Approximately 80% of global cocoa traders active in the Ghana market are members of the World Cocoa Foundation (WCF), an international membership organization of more than 100 companies in the cocoa value chain.

Ghana mainly exports beans and does little processing. In 2016, Ghana exported 581,375 metric tonnes of cocoa beans, 29 metric tonnes of cocoa paste and 19 metric tonnes of cocoa butter. External marketing of cocoa is the sole prerogative of Cocoa Marketing Company (CMC), which exports cocoa but also sells cocoa to local processors. For a long time, the cocoa value chain has been dominated and controlled solely by the COCOBOD. However, quite recently due primarily to the de-regularization of the marketing sector a lot more diversity has been introduced. LBCs such as Touton and Olam Ghana are now undertaking a lot more innovative roles in the value chain and are now making lots of downstream processing which is diversifying the value chain of cocoa on the domestic market.

2.3.1 Cocoa Traceability

All cocoa beans from Ghana can be traced to communities. At the LBC level, it is possible to trace cocoa to farmer level with about 70% certainty. The remaining 30% could be due to aggregation or bulking of small purchases from farmers to make up to 64Kg per bag. It is difficult to track illegal cocoa from forest reserves because traceability systems are often based on yield estimates per farm by individual sourcing companies. A farm which could be selling to multiple companies is monitored independently by different sourcing companies. If it appears to produce much more beans than its

farm size would allow, this could potentially be due to selling beans produced in other areas such as those located in forest reserves. However, farmers may present farms outside reserves to different companies for mapping and company data will therefore indicate that there is no sourcing from forest reserves. However, farmers can present the same farm to multiple companies for mapping and sell cocoa from other areas as originating from the mapped farm. Clearly, the farmer has a big window through multiple sales based on different sourcing companies' yield estimates to sell beyond what they can produce. This is difficult to track with the current sourcing and data sharing arrangements, which means beans produced in forest reserve areas can end up in the supply chain, making it difficult to exclude deforestation-based cocoa from supply chains. Until there is data sharing and pre-competitive arrangements to trace cocoa from reserves the farmers can out-smart the current system (Dwamena, 2018).

2.4 Climate change adaptation (shifting climate zones: move or adapt)

Cocoa is highly sensitive to changes in climate, particularly to temperature due to its effects on evapotranspiration (Anim-Kwapong & Frimpong, 2005) and is known to thrive well with minimal but sustained water availability throughout the year. Climate change has wide-ranging effects on the environment and agriculture and related sectors. It also affects social and economic aspects of the economy, including food security. Climate change is characterized by erratic and extreme weather conditions; protracted dry seasons and heavy rainfalls affect both humidity and soil moisture. Heavy rains also cause leaching of soils leaving them acidic, which again does not favour the growth of cocoa. Cocoa farming is both a direct and indirect driver of deforestation in Ghana (UNEP, 2008), and the nation's Cocoa Forest landscape has one of the highest deforestation rates in Africa, at 3.2% per annum (MLNR 2018). The interconnectivity between cocoa cultivation, deforestation and climate change is a cause for alarm for stakeholders within the sector.

Because of climate change, the frontiers of the cocoa growing zone of the country is drifting southward, as the dryer savannah belt pushes further down south. In fact, with business as usual scenario, it has been estimated that cocoa growing in eighty years hence, may no longer be possible. In the meantime, due to heavy rains in the south-western zone, soils are acidic due to much leaching; cocoa therefore cannot achieve optimal growth and productivity.

2.5 Analysis of Current Initiatives Addressing Cocoa Challenges

The challenges within the cocoa sector if not addressed can hinder the achievement of some of the sustainable development goals (SDG) especially 1, 2, 5, 12, 13 and 15. To this effect, several initiatives including policies, plans and programmes have been activated at the national and global levels. We here examine some of the key initiatives and their potential to stem deforestation and ensure sustainability of the cocoa industry.

2.5.1 Ghana National Actions

The government of Ghana has already introduced several reforms. Over the years it developed and implemented Cocoa Sector Development Strategies I and II, with the following objectives: (1) increasing production; (2) pay at least 70% of net FOB price to the farmer; and (3) at least 60% of cocoa is processed locally. Ghana has achieved the objectives 1 and 2; the third objective is yet to be realized; so far less than 30% of the production is processed locally. However, the achievement of objective 2 does not reflect the expectations of farmers. The National Cocoa Rehabilitation

Programme (NCRP) seeks to replace about 400,000 hectares of diseased and old cocoa trees with improved plant varieties. Some progress has been made, but it is expected that under the Cocoa and Forest Initiative (CFI), this will be given a great boost.

2.5.2 Ghana Cocoa Forest REDD+ Programme

Another action by the government of Ghana to reduce deforestation and increase yield in the cocoa-growing regions is the Ghana Cocoa Forest REDD+ Programme (GCFRP). The GCFRP will leverage private sector investment in cocoa and government funding and combine this with payments from emission reductions from the Forest Carbon Partnership Facility (FCPF) to help deliver results. The programme seeks to significantly reduce carbon emissions resulting from cocoa expansion into forests through the promotion of appropriate climate-smart cocoa production approaches, build climate-resilience in the cocoa sector to secure rural livelihoods and sustain national development as well as curb illegal timber harvesting and mining, while incorporating shade trees in cocoa farming systems.

The programme is anchored on five pillars that comprehensively address key barriers to forest conservation and sustainable cocoa production. These pillars are:

- institutional coordination and measurement, reporting, and verification;
- landscape planning within hotspot intervention areas;
- increasing yields via climate smart cocoa;
- risk management and finance; and,
- legislative and policy reform – including tree tenure (Government of Ghana, 2016)

The GCFRP aligns with relevant sector policies including Forest and Wildfire Policy of 2012, Ghana REDD+ Strategy and seeks to take actions at scale, beginning with the cocoa sector. The process also has the potential to reform governance of the sector, and nest other private sector initiatives in the implementation landscapes. The development of a benefit sharing plan for the results-based payments from emission reductions could also help farmers realize the co-benefits of introducing trees in cocoa landscapes.

2.5.3 Climate Smart Cocoa Standard

There is currently a Technical Committee in place charged with the responsibility of coming up with a clear definition and standards for climate Smart Cocoa (CSC) Production, which will be subsequently subjected to a wider stakeholder review and validation. The goal of the climate smart cocoa standard is 'To facilitate the adoption of site-specific sustainable practices that ensure higher yields, conservation, protection, management and use of cocoa landscape resources for better living standards'. Examination of the development trajectory of the Climate-Smart Cocoa (CSC) standard indicates that it has considered several major initiatives, including the Ghana REDD+ Strategy, i.e. GCFRP. The standard is built on five pillars, namely:

- Sustainably increase cocoa and agricultural productivity and incomes
- Adapting and building resilience to climate change
- Mitigation, reducing and/or removing GHG emissions and ending deforestation and degradation in cocoa sector
- Enhancing food security and focus on diversification in the cocoa landscape
- Enhancing social and economic development in the cocoa landscape

Even though the CSC standard is ‘not designed as a certification mechanism’, the Committee developing the standard are quick to add that “It could easily be transformed into a certification system once other processes are defined and followed”. They go on to identify the processes that should be in place to include auditing, assurance, claims, chain of custody and marketing. They add that ‘Entities applying it in a cocoa production landscape could easily request third party verification against the standard’.

Climate smart cocoa standards could be a good starting point for mandatory compliance. It can be improved to take on the interest and concerns of farmers and other stakeholders. It should also draw on existing sustainability standards to get acceptance from the international market. This then could be legislated to be mandatory to be applied across board for all cocoa growing landscapes. It might be expedient to use a stepwise approach, so that farmers are not overwhelmed by many new requirements. In this respect, the early engagement of farmers and all stakeholders will be helpful.

2.5.4 ICCO Global Cocoa Agenda

The International Cocoa Organization (ICCO) organizes biannual World Cocoa Conferences and has developed a Global Cocoa Agenda as a roadmap to achieving a sustainable world cocoa economy with particular emphasis on improving cocoa farmers’ incomes and increasing their resilience to price volatility, while ensuring food security. Implementation in Ghana is through the actions of COCOBOD described earlier. Implementation seems rather slow. The last ICCO annual report is from 2015.

2.5.5 CocoaAction

CocoaAction was launched in 2014 and is a voluntary industry-wide strategy to help 300,000 farmers to improve their farming practices and empower 1,200 communities through community development interventions in Côte d’Ivoire and Ghana. CocoaAction is facilitated by the World Cocoa Foundation. Nine of the world’s largest cocoa and chocolate companies—Barry Callebaut Group; Blommer Chocolate Company; Cargill Cocoa & Chocolate; The Ferrero Group; The Hershey Company; Mars, Incorporated; Mondelez International, Inc.; Nestlé; and Olam International— are all partners. In 2016, CocoaAction companies reached 147,000 farmers with productivity intervention packages, including good farming practices, replanting and rehabilitation, and enhancing soil fertility through fertilizer application. They also engaged 330 communities to address issues such as child labour.

2.5.6 Cocoa and Forests Initiative

In March 2017, the World Cocoa Foundation, twelve (12) leading chocolate companies and the governments of Ghana and Cote d’Ivoire signed the Cocoa and Forests Initiative (CFI) Statement of Intent with a commitment to halt deforestation and forest degradation related to the cocoa value chain. So far, there are 32 signatories including major companies operating in Ghana mentioned earlier. The initial focus of the CFI is Côte d’Ivoire and Ghana, the world’s two biggest cocoa producing countries. The process is facilitated by IDH Sustainable Trade Initiative and Prince of Wales’ International Sustainability Unit. The consultation process with governments, farmer organizations, CSOs and development partners led to the signing of Joint Framework for Action between governments of Ghana and Côte d’Ivoire and the private sector players at COP 23 in Bonn in November 2017.

The Framework for Action in Ghana focuses on three areas, namely (1) forest protection and restoration; (2) sustainable production and farmers’ livelihood; and (3) community engagement and social inclusion. The framework also makes eight core commitments and actions with milestones to

deliver deforestation-free cocoa in both countries. The Framework also highlights land and tree tenure reforms and public-sector forest law enforcement and governance. The CFI is a joint framework for action driven by legitimate concerns over sustainability issues in the cocoa sector. In order to be successful however, the CFI will need to improve the way it involves national civil society and cocoa farmers. The commitments also relate to production at landscape scale, food security concerns, diversification of production, and community development. Considering the cocoa sector is made up of mainly small holders whose livelihood and future could be affected, their inputs and vision for the sector would improve CFI implementation and acceptability. Also, there is potential to include a much wider group of national civil society that are concerned over issues such as food security, governance, law enforcement and child labour.

2.5.7 Individual Chocolate Company Commitments

Broader sector level initiatives have been complemented by individual company commitments (such as Mondelez' CocoaLife) and private sector partnerships at landscape level. These landscape initiatives include actions related to farmers' incomes, diversification, deforestation and community development and jurisdictional governance. Among these are a Partnership between Touton, SNV, AgroEco; and a Partnership between OLAM, Rainforest Alliance, Ghana Forestry Commission, and Ghana Cocoa Board in Western Ghana. However, they are all just starting, have not yet yielded concrete results and they cannot address sector and land reforms at national level. A major gap in these individual initiatives is that of sustainability and their inability to address the underlying governance issues of the sector. Local ownership by farmers is required to be effective and sustainable in the long term; incorporating the commitments into the national system will also enhance their effectiveness in responding to governance challenges. Also, a project-like approach means that they have specific life spans, limited impact and limited potential to change practices of the different stakeholders over the period. Moreover, these projects by design are not intended to reform sector governance but address specific local issues.

Chapter 3: Governance as a Problem of the Cocoa Sector in Ghana

3.1. Manifestation of Governance Failure in the Cocoa Sector

Cocoa encroachment into forest reserves is a major manifestation of the governance challenge in the sector. Though the laws protecting forest reserves are clear and its land use exclude development of cocoa, enforcement of the law is a challenge. Additionally, the seeming conflict between Agriculture and forest policy means that cocoa from forest reserves cannot be destroyed without risking the national production targets set for cocoa. Until recently, poor coordination was a major reason for conflict between forest protection and agricultural expansion, with resistance to cutting down cocoa farms in forest reserves.

Decision making in the cocoa sector has been dominated by the government particularly the Ministry of Finance and the COCOBOD. For the crucial role cocoa plays in the economy, management of the cocoa sector was from 1996 under the supervision of the Ministry of Finance till 2017 when it was moved to the Ministry of Food and Agriculture. The Board of Directors is appointed by the government with a representative from the cocoa and shea farmers association. The chief executive officer is also appointed from the office of the president. This situation creates problems of accountability because the Board of Directors cannot exercise control over the Chief Executive Officer (CEO). This challenge has in the past, manifested in many allegations of systemic mismanagement, gross financial malfeasance and flagrant misappropriation of funds against the COCOBOD. Additionally, there are no clear lines of accountability of the COCOBOD to farmers who are the primary source of revenue and for which they were established.

Cocoa farmers generally have had very little say in the drafting of policies to regulate the sector. This has been led to calls from sections of the media, think tanks and industry players to include the primary producers and haulers in decision making affecting the cocoa sector. Cocoa Farmers cooperatives have also overly concentrated on production and trade and have neglected the potential to include such cooperatives in national level discussions. Even though Cocoa and Shea Association (COCOSHEA) represents farmers at the highest level of pricing, it is not clear how they derive their mandate from farmers and how they can legitimately champion the concerns of cocoa farmers.

Cocoa Pricing is done by a multi-stakeholder committee called the Producer Price Review Committee. However there are many aspects which remain unclear and debatable. These unclear elements include price composition, the rationale for including those elements, the difference between gross and net Free on-Board price and the rationale for the difference; and what happens with the difference in currency exchange rate for a commodity that is sold in dollars with farmers paid in local currency. Moreover, inefficiency of COCOBOD in provision of services have created opportunities for patronage and rent seeking behavior. Furthermore, Cocoa is seen as a political crop and suffer the routine political interferences due the roles that political district heads paly in programmes such as mass spraying exercises. This also implies that unpopular decisions such as cutting diseased cocoa or cutting illegal farms cannot be taken for fear of losing votes.

Tree tenure is another problem in the Cocoa sector. Established forest laws do not give control over naturally occurring trees to farmers and additionally, they do no stand to receive any returns when

such trees are logged from their farms. This lack of incentive to nurture naturally occurring trees has driven the destruction and illegal logging of naturally occurring trees on agricultural landscapes including cocoa farms. Coupled with non-existent tenure for trees is the weak land tenure for migrant and tenant farmers. Such farmers only have temporary control of land granted by local traditional authorities on condition that they continue farming cocoa. Planting trees or cutting down aged trees is therefore a major disincentive as it varies the basis for farming their lands.

Again, Ghana's cocoa strategy focuses mainly on production and short-term sale with a fixation on meeting 1 million metric tonnes. This vision represents the national political vision but implies improved incomes for farmers, based on the assumption that more cocoa would yield more gains for the farmer. This logic seems to defy notions of less demand and less prices for producing more.

3.2 Understanding Governance Problems that Drive Cocoa Deforestation in Ghana

Poor governance is driving problems in the cocoa sector, including poverty and child labour. This report focuses on deforestation, but poverty issues are very tightly linked, and policy approaches should consider the social and environmental issues holistically.

3.2.1 Weak enforcement of Laws on Forest Reserves and National Parks

In comparison to other sectors, environmental aspects of cocoa production in Ghana are poorly regulated. The only legal constraint limiting deforestation for cocoa is the prohibition of land-clearing within National Parks and Forest Reserves. However, the enforcement of that prohibition is weak, with clearing happening regularly outside of legally-admitted farms. Ghana's Framework for Action under the Cocoa and Forests Initiative says that from 1 January 2018 it is forbidden to source cocoa from National Parks, Wildlife Sanctuaries and Wildlife Resource Reserves, except from farms with existing legal status. But this is already illegal under national law: the question is how to ensure that this is actually enforced.

Ultimately, enforcing laws on National Parks and Forest Reserves is the government's responsibility. And it is the government's responsibility to devote sufficient resources to do this effectively. But the Ghana Cocoa Board (COCOBOD) has built infrastructure and provided extension services for cocoa farmers within Forest Reserves that have been illegally cleared for cocoa, perpetuating the problem and encouraging newcomers. Weak coordination between government agencies exacerbates the problem, with COCOBOD actively resisting efforts of the Ghana Forestry Commission to cut down cocoa trees in Forest Reserves, as this would reduce national production levels.

The fact that cocoa is still coming from Forest Reserves and National Parks is partly explained by the lack of legal accountability for downstream actors for buying cocoa from illegal production areas. Licensed Buying Companies (LBCs) face no sanctions; neither do government agents for providing extension services in those areas; and neither do the traders who take the cocoa out of Ghana. There is no national-level monitoring system to check that cocoa is not coming from an illegal area: currently, Ghana's national traceability systems focus on the quality of the bean without questioning its source. This means that any legal prohibitions against growing cocoa in protected areas are almost entirely lacking teeth. Company-led traceability systems can help to some extent, but ultimately the only actor able to guarantee cocoa legality and traceability on a mass scale, and for the long term, is the Ghanaian government.

3.2.2 Lack of legal protection for trees outside Forest Reserves

There is a lack of legal protection for trees outside of Forest Reserves – where most of the deforestation in Ghana’s cocoa sector takes place. Deforestation in off-reserve areas has a long history: since 1948, Ghana followed a national policy which designated all areas outside the Forest Reserves to decimation, giving out permits for felling trees so that the state could claim these before they were destroyed by farmers. Today, if a farmer wishes to clear trees in the off-reserve forest area to plant cocoa, there are no over-riding environmental considerations in Ghanaian law preventing him/her from doing so. The VPA-FLEGT did not address these forest conversion issues.

3.2.3 Weak tenure rights for farmers

Another key issue is that cocoa farmers do not have ownership of the naturally-occurring trees on their farm. These are owned by the state and when the government (Forestry Commission) sends in a timber utilization contract holder (concessionaire) to cut the trees, they often destroy the farmer’s cocoa in the process. This same dynamic also disincentivises farmers from allowing any natural tree regrowth on their farms, presenting a serious obstacle to any reforestation or agroforestry plans.

Another issue is weak ownership rights over land. Now, the majority of Ghanaian cocoa farmers are migrant farmers – meaning that their right to farm a certain piece of land is given to them as a temporary, customary permission by the local traditional chief. The land access right given to farmers by the chief is generally based on the condition that cocoa trees remain planted on the farm. This disincentivises farmers from replacing aging and less productive cocoa trees with new varieties, as this would allow the chief to reclaim the land or change the terms of the original agreement.

3.2.4 Poor government coordination and land-use planning

Ghana also lacks an overarching land-use planning process. It is not clear at the national level, and there is no long-term strategy, as to which areas are designated for cocoa (and palm oil) production and which are not. This is partly due to the traditional land laws whereby chiefs decide on where and how land is used outside of state-owned Forest Reserves and National Parks. Weak coordination between government agencies is another issue: the COCOBOD does not work effectively with the Lands Commission and until recently, the Forestry Commission to discuss how national priorities around cocoa production can be counter-balanced with other priorities such as forest protection.

3.2.5 National policy has been focused on production, not long-term sustainability

Overall, Ghana’s cocoa sector, until recently, has suffered from the fact that its whole system of governance – whether it is the mandate of the COCOBOD, the National Cocoa Policy, the national traceability system, or the mandate of the cocoa growers’ cooperatives & Licensed Buying Companies – has been entirely focused on short-term production and sale. Even the national cocoa plan aims for higher yields, which in the absence of higher productivity means expansion. Environmental objectives, the interests of cocoa farmers, or even the long-term survival of the sector, have for a long time not been part of the picture. The whole system needs a national discussion and overhaul, which apart from government and private sector, brings in cocoa farmers, citizens, and national civil society who can advocate for a more holistic and long-term set of objectives.

3.3 Transforming the Cocoa Sector

Addressing the governance challenges would ensure greater accountability of the sector, improve the assertiveness of farmers, improve tenure, and ensure better coordination of sector policies. The

Transformational model for sector domination by small holds provides many lessons that the cocoa sector can draw on.

3.3.1 Sector Alignment and Accountability.

To transform the cocoa sector would require a definition of a shared vision for the sector built on the farm level quality and sector wide ambitions. This vision which could be framed in a policy needs to be legitimate and actively engage the different actors in the supply chain, particularly farmers who have so far been largely excluded. The negotiating power for farmers individually and collectively through cooperatives would therefore need to be strengthened and their entrepreneurial capacities improved to manage risks, better decide on their farm investments and better deploy production practices that are environmentally sustainable.

3.3.2 Public Sector Governance Structure

Transformation of the sector also requires a closer examination at the public sector governance structure to enforce social and environmental regulations for farm and sector quality including rules on land tenure, labor, and protection of forests. Public Governance structure would need to clarify the processes of participation and accountability describes consultative process for defining farm and sector quality vision and clear equitable roles for the different actors in the value chain. National institutions like COCOBOD would need to be accountable to farmers and be more open about decisions and strategies they set for the sector.

3.3.3 Organization of the production base

Transformation of the Cocoa production base in Ghana would require the creation of the enabling environment to ensure better organization of the value chain from the farm level to the market. The cocoa production base currently could benefit from sustainable capacity building for cocoa farm enterprise to change the current cocoa production business model; clarified access to land, tenure and property rights; a clarified policy and regulatory framework and enforcement; and a well-organized civil society movement to support farmers and other downstream actors. This could be achieved through different ways including support to strengthen existing farmers' cooperatives and industry support to supply chain networks for specific periods. A well-organized production base strengthens the ability for self-regulation and mutual accountability to exclude bad farm level practices.

3.3.4 Strengthen demand-side measures.

Consumers and consumer governments play an important role in demanding quality in producer countries. Without such demand, efforts at sustainable sector transformation cannot work. The current demand for deforestation-free cocoa is therefore critical to the long term sustainability of the sector. Consumers, both local and international, also need to be aware of the ecological foot prints of their consumption practices and make more meaningful choices to reward responsible value chains through premium payments. Consumer governments also need to support private sector and civil society momentum towards deforestation-free commodity and where necessary use regulatory levers. Strengthened demand by the market, would in collaboration with other factors reward good cocoa production practices and exclude bad practices from the market, until quality becomes the basic standard.

3.3.5 Organization of the service sector

Ghana's farm level cocoa production would need a service orientation. Farmers need to be regarded as investors who need to be effectively and quickly reached with services and inputs to make them productive. The private sector participation of fertilizer distribution to farmers is one of the many positives in the cocoa sector that would need to continue. Financial and extension services also need to be better organized to reach farmers to improve their choices. These services have to be paid for by farmers to be sustainable and could be adopted through a stepwise approach. The orientation of service providers, be it from government or industry, needs to be professional.

3.4 Elements of transformation in the Forest sector and lessons for Cocoa

In Ghana's VPA negotiation and systems development process, different stakeholders have had a recognizable voice at the high-level decision-making table. This means that issues of concern to local communities and other marginalized groups in the timber sector receive sufficient attention and deliberation for solution. Ghana civil society in the process defined a vision and the minimum standards for participation in the process. This allowed civil society representatives to present strategic national issues such as the legality definition, consultations and engagement plan, and the development of the forest and wildlife policy to their constituents for their inputs prior to national level engagements. Civil society positions were then officially communicated to the process. Barriers to community participation in VPAs include government failure to recognize communities and their rights, poor organization of community voices to reach national level, local NGOs taking the place of local communities, limited time and lack of resources for consultation, lack of capacity and inadequate information on decisions that could affect their livelihoods (Leger, 2014).

The cocoa sector with its large small holder farmer base needs broader and extensive consultation, and greater representation of farmers' interests and concerns in defining a vision for both their farm level production and national development vision. The model of sustainable transformational governance requires that farmer groups are better organized to participate with meaning in all strategic national level policy discourses of the cocoa sector. Proportional representation should favor farmer representation; national policies should represent their voices; visions for the cocoa sector must be bottom up. The cocoa cooperatives, producer associations and other forums for eliciting the opinions of farmers are critical to transforming the sector. The rights of farmers cannot be assumed to be represented by even national civil society or experts as such constitute illegitimate and dishonest representation.

Chapter 4: Overview of Voluntary Partnership Agreement (FLEGT-VPA) for Ghana

4.1 FLEGT and the Importance of the “T”:

The Forest Law Enforcement, Governance and Trade Action Plan (EU FLEGT Action Plan) is a European Union initiative to address illegal logging and the social, economic and environmental harm it causes. At the time illegal logging was responsible for serious environmental and social damage, as well as costing governments an estimated \$10-15 billion every year in lost revenues (European Commission, 2017). This was recognized in a G8 Summit in 1998, where measures to tackle illegal logging were discussed and an ‘Action Programme on Forests’ formally adopted. Subsequently, in April 2002, the European Commission hosted an international workshop to discuss how the EU could contribute to measures to combat illegal logging. At the World Summit on Sustainable Development (WSSD), held in Johannesburg in the same year, the European Commission set out a strong commitment to combat illegal logging and the associated trade in illegally-harvested timber. The European Commission published its FLEGT Action Plan in May 2003. Going beyond regular development cooperation, the plan included activities both within the EU and in producer countries that export tropical timber and timber products to the EU. However, the Action Plan's measures went further by addressing aspects of poor governance that enable illegal logging to persist in producer countries (European Commission, 2003). Illegal logging, enabled by poor forest governance and driven in part by trade, is a major contributor to deforestation (EU FLEGT Facility, 2018).

The Plan also included the promise of a regulation (the 2013 EUTR) that would prohibit EU businesses from importing or trading illegal timber, and bilateral trade agreements with timber-exporting countries. The FLEGT Action Plan is therefore also a market-driven mechanism by focusing on rewarding trade in legal timber products and prohibiting trade in illegal products. In 2011, the global trade in primary timber products alone was worth more than €108 billion⁸. EU companies and intra-EU trade accounted for about 35% of this global trade. Voluntary Partnership Agreements (VPAs) between the EU and timber-producing countries promoted trade in legal timber products. The trade element in FLEGT-VPAs was also the incentive for private sector to be closely involved. The assurances that by meeting certain legality and sustainability standards commodity producers can get access to markets triggered widespread private sector interest and participation.

4.2 The Rationale for the VPA and benefits of the VPA process

A Voluntary Partnership Agreement (VPA) is a legally binding trade agreement between the European Union and a timber-producing country outside the EU. The purpose of a VPA is to ensure that timber and timber products exported to the EU come from legal sources. The agreements also help timber-exporting countries stop illegal logging by improving regulation and governance of the forest sector. Each VPA defines 'legal timber' according to the laws and regulations of the timber-producing country. Negotiating the Agreement provides an opportunity for government, private sector and civil society to work together in developing national legality standards which are acceptable to all stakeholders. VPAs sets out a strong timber legality assurance system that can verify that a

⁸ <http://www.euflegt.efi.int/flegt-action-plan>

consignment of timber is legal and merits the award of a 'FLEGT license'. FLEGT-licensed timber will be free to enter the EU market as it will automatically meet the requirements of the EU Timber Regulation. A VPA can help a timber-producing country achieve its development objectives by securing employment, increasing government revenues, strengthening the rule of law and safeguarding the rights of forest peoples.

Ghana entered the VPA with plethora of objectives and expectations. Key amongst them was to get access to the EU market which at that time was a major destination for timber and timber products from Ghana. Again, the construct the FLEGT-VPA provided opportunities for effective improvements in Ghana's forest regulatory regime. In so doing, Ghana sought to formalize the timber sector and transition from a paper-based timber tracking system to a more efficient and effective electronic system to minimize human interactions in the chain of custody of timber (and thereby minimizing misuse). Ghana also wanted to use the FLEGT-VPA as a market lever to stimulate in-country legal compliance by both private sector and forest administrators. Overall, the objectives and construct of the FLEGT-VPA aligned with Ghana's long-term sustainable forest management aims. Hence, Ghana found it expedient and strategic to enter into the first Voluntary Partnership Agreement with the EU in 2009.

However, in the short to medium term, Ghana had some pressing challenges that the FLEGT-VPA also provided opportunities to address. They included: the need to convert extant leases into timber utilization contracts (TUC), illegal accessing and sourcing of timber, illegalities associated with harvesting operations, illegalities associated with transport documentation, over-harvesting and mixing of legal and illegal timber. The others were: avoidance of taxes by custodians along the value chain, price distortions introduced by underpriced illegal material, corruption introduced by exercise of the discretionary powers and blatant disregard of the law by both private sector and forestry officials in performance of their duties. The FLEGT-VPA process created the platform for stakeholders to dispassionately discuss these challenges and incorporate in the systems development a robust and resilient mechanism to ensure that these challenges that were mostly inherent in the value chain of timber were reduced to the barest minimal. The challenge of implementing the agreed reforms in the sector following the VPA process remains and requires a strong political will.

4.3 The Key Elements of the Ghana VPA

Under the VPA, Ghana committed to develop a rigorous yet practical system for assuring the legality of its timber with an inclusive multi-stakeholder process. The timber legality assurance system described in the Ghana-EU VPA has five elements:

- **Legality definition:** The legality definition in the VPA states the agreed-upon aspects of Ghanaian law that the timber legality assurance system evaluates compliance with for purposes of FLEGT licensing.
- **Supply chain control:** Supply chain controls ensures that timber products verified as legal remain legal throughout all processes associated with the supply chain. Supply chain controls also prevent verified legal products being tainted by unverified products entering the supply chain.
- **Verification of compliance:** Verification of compliance involves checks that all the requirements of the VPA legality definition and supply chain controls have been met to ensure that timber products are legal

- **FLEGT licensing:** A FLEGT licensing authority will issue FLEGT licenses for consignments of timber products that the verification mechanism has confirmed are legally compliant. FLEGT licensing cannot begin until a joint evaluation of the timber legality assurance system by Ghana and the EU confirms that the system is fully operational, as described in the VPA.
- **Independent monitoring:** Independent monitoring regularly checks that all aspects of the legality assurance system are working properly. An annex to the VPA provides terms of reference for the monitor. The monitor will produce reports for the Joint Monitoring and Review Mechanism and a public report. The independent monitor has already been contracted and started work on its first audit before licensing begins. In other VPAs, the independent monitoring function is called independent audit.

Ghana has developed a wood tracking system and is rolling it out nationwide. It has also set up a Timber Validation Department (TVD) to act as an ‘internal auditor’ within the Forestry Commission and a multi-stakeholder Timber Validation Committee to oversee the work of the TVD. The Forestry Commission is also finalizing verification protocols and the systems for issuing FLEGT licenses. A Ghana-EU joint action plan has identified the steps necessary to finalize the timber legality assurance system ahead of FLEGT licensing.

4.4 The VPA Implementation Process: Challenges and Success Factors

4.4.1 Nature of the Voluntary Partnership Agreement

The FLEGT/VPA process is a political one; through it, the European Commission and the Government of Ghana (Ministry for Lands and Natural Resources and the Forestry Commission) entered into a process of high-level joint engagement on reforms. The Ghana VPA implementation process is coordinated by the VPA Secretariat in Ghana's Forestry Commission. A Ghana-EU body called the Joint Monitoring and Review Mechanism (JMIRM) oversees implementation of the VPA. The Minister for Lands and Natural Resources leads Ghana's delegation to the JMIRM and the EU's representation is led by the EU Ambassador to Ghana. Records of discussions are made public in a bulletin called Aide Memoire. Ghana has also established a Multi-stakeholder Implementation Committee (MSIC), this Committee is chaired by a representative of the Ministry of Lands and Natural Resources and members include representatives of several Government ministries and agencies that have responsibilities for aspects of the VPA. Other members of the Committee include a parliamentarian, a representative of traditional authority and representatives of civil society and the private sector.

4.4.2 Challenges of the VPA implementation process in Ghana

Ghana's VPA implementation process has had its fair share of challenges and difficulties. For a start, it has taken almost 10 years since the agreement was signed and ratified, but yet still Ghana has not been able to issue a FLEGT license. The assessment of the Ghana's VPA implementation process highlights systemic challenges and technical difficulties that engulfed the process in the initial stages. From a governance perspective, there are challenges such as low political will, lack of sustained will to engage, and participation deficit in some relevant aspects of the process by other stakeholders' aside Forestry Commission and private sector.

Political will to hasten the VPA implementation process

Issues of conversion of extant and expired leases and addressing the inconsistencies in timber permit regime are issues of political will. Finalizing the wood tracking system requires resources and commitment from political leadership and that has not been forthcoming until very recently. It has

taken a very long time for the new Timber Resources Management and Licensing Regulation (LI2254) to be passed. And even almost six months since it was passed, measures and guidelines to operationalize commitments to convert extant and expired leases are yet to be finalized.

Inadequate Stakeholders Participation in the VPA implementation phase:

Stakeholders' participation is not only justified for reasons of multi-stakeholder engagement but also for enhancing the credibility of the VPA process. The participation of CSOs in the technical systems development has not been as during the negotiation. Civil society considers this as an inherent flaw in the FLEGT-VPA which only required CSO participation in negotiations and not in other relevant stages prior to full implementation. Essentially the benefits of effective coordination between the government, private sector and civil society at the system development and implementation phase of the VPA was lost.

It is important to note that if the VPA is to serve its two-tier purpose of delivering legal timber and enhancing good forest governance, multi-stakeholder processes are essential. Hence all actors engaged in the negotiation process need to be consulted on, consent to, and actively participate in, the implementation of the LAS and the policy and legislative reforms.

Dwindling Resource-base and Fast Evolving Markets for Timber:

Ghana's forest is fast declining. The traditional African hardwoods that were sort after by EU and other developed economies are no longer readily available. In the very rare cases that they are available, the size and quality have drastically reduced. With an average deforestation rate of about 2% over the past 5 years, Ghana's tropical forest is fast losing its contribution to the countries socio-economic development. The dwindling resource-base has become a major challenge to the VPA implementation in Ghana, as both government (Forestry Commission) and private sector are fast losing motivation to continue the process. Their main bone of contention is that there wouldn't be any forest to apply all the legality standards that are being developed.

At the time of negotiating the FLEGT-VPA, Ghana's exports to the EU market was about 60% of overall exports. That trend has changed now, only about a third of Ghana's exports go to the EU. China, India and other African countries have now emerged as new markets for Ghanaian timber products. This has had tremendous impact on the enthusiasm of private sector and government to push for the necessary reforms that were needed to hasten the VPA implementation to access the EU market.

4.4.3 Success of the VPA implementation process

Ghana committed to an overly ambitious timeline for the issuing of her first FLEGT licensed timber. The aide memoire from various Joint Monitoring Review Mechanism (JMRRM) documents the progress that Ghana has made in implementing VPA. The wood tracking system, after initial setbacks has been developed and rolled out nationally to cover all timber production areas as well as the timber industry. The Timber Validation Department and its oversight body, the Timber Validation Committee; have been established and are working. The verification protocols are far advanced, while the compliant mechanisms are also being finalized. The Independent Monitor has been contracted and the systems for issuing licenses are being finalized. Essentially the system for FLEGT licensing is closer to readiness than ever before.

A Strong Seat at the Table

A definite success of FLEGT-VPA in Ghana is the opening of the political space for stakeholder participation, especially Civil Society, in the governance and management of forest resources in Ghana. The period prior to the FELGT-VPA was mostly marked by irregular and cold engagements between civil society and the Forestry Commission. Bringing these odd ends to the table to constructively dialogue to improve the forest sector governance has become possible through the VPA which made stakeholder participation a requirement. Ghanaian CSOs used the leverage provided by the FLEGT-VPA to secure two seats for civil society at the negotiation table. Through these representatives, CSO's had direct access to the negotiation process and are using the same approach in the implementation process. It can be said confidently that stakeholder's participation in VPA dialogues has been institutionalized. What needs to be improved is frequency and regularity of the Multi Stakeholder Implementation Committee (MSIC) meetings, especially as Ghana gets closer to issue FLEGT license.

Stakeholder participation was also facilitated through the development of a Consultative Framework; this defined what constituted the minimum standards for consultation. It included giving adequate notice with ample time to study any documents related to the agenda for the consultation, and the need to make available all necessary information as well as proper and effective representation.

Community and CSO Empowerment

Through awareness raising efforts, Civil Society and communities have enhanced their capacity to ensure compliance with legality requirements in the forest sector. Civil Society Organizations have improved their understanding of aspects of forest governance previously regarded as technical by state authorities, to play effective roles in the VPA implementation. With this enhanced capacity, CSOs have been positioned to effectively engage in independent forest monitoring of compliance with legality requirements and other forest governance indicators. Without strong capacity and coordination within civil society, it would not have been possible for CSOs in Ghana to effectively engage in the implementation. Through initiatives such as forest forums and skills training, communities' awareness has been greatly enhanced to assert their rights especially on SRAs and hold timber industry and forestry officials accountable. An enhanced sense of ownership of forest by local people has also been created. There are a couple of requirements within the VPA legality matrix that require community involvement and enforcement of these requirements ensures that communities duly receive their benefits from forest. This demonstrates what enhanced capacity of communities and what knowledge of rights and responsibilities can do.

First-tier Policy and Legislative Reforms

As part of the governance reform triggered by FLEGT-VPA, important policy reforms have taken place in Ghana. A new Forest and Wildlife Policy 2012 (FWP) has been passed. There have been enhanced activities around domestic market policy, public procurement policy and tree tenure reforms. All these sector policies are in various stages of completion and are aimed at addressing specific issues that were brought to prominence through the VPA processes. On the legislative side, a new legislative instrument has been passed to clean the overlaps and inconsistencies in existing laws. The new L.I. 2254 also addresses issues of transparency and access to information that stakeholders have been requesting for a long time.

Clarity in what is 'legal' and 'illegal'.

To implement the VPA, Ghana took several steps. Firstly, Ghana clarified the various laws concerning timber for a more easily implementable definition of what constitutes legal timber in Ghana. Secondly, Ghana developed and is rolling out a national electronic traceability system (wood tracking system), with built-in quality controls, to ensure any illegalities in the timber supply chain are caught and the timber cannot be sold. To implement this traceability system, Ghana established a two-tier audit structure: an internal and a third party independent auditor, to verify compliance with legality before timber is certified for trade on either the domestic market or for export. Ghana also committed to legal and policy reforms to address the drivers of illegal logging including policy and legal incoherence, inadequate public access to information, inadequate tax revenue collection from forest management and logging companies' obligations to forest communities.

True multi-stakeholder participation.

FLEGT VPA processes - from negotiation through implementation of the agreement - were deeply rooted in a multi-stakeholder deliberative and participatory process where issues of concern for different stakeholders were raised and addressed as part of the process. This has already had important impacts. For example, civil society pressure within the VPA process led to the elimination of a whole category of "special permits" in 2016, which were being handed out by the sector minister without meeting the environmental standards of logging permits. Civil society's engagement in the VPA process has also led to a 640% increase in logging taxes being collected by the government and received by communities. Again through constructive engagement between private sector, government and civil society, the forestry sector has promulgated L.I. 2254 – which makes provisions for public access to forestry information.

4.5 Lessons from the Ghana's FLEGT-VPA Process to Inform Cocoa Sector Reform

4.5.1 Importance of Multi-stakeholder Deliberative Process

A reform process only makes sense and works when there is genuine deliberative participation of different stakeholders. That makes it transformative. The main lesson from Ghana's VPA process has been that different stakeholders can use it to table their concerns, and more importantly raise the core problems affecting the stakeholder, allowing an honest discussion for solutions. It goes beyond tokenistic "consultation", to honest deliberative co-decision process where stakeholders respect, dialogue and reach consensus. This is something very lacking in most government processes in Ghana, and has so far been unique to the timber sector because of the FLEGT-VPA process. For the cocoa sector, how do we ensure that the deliberative process, is genuine? How can we ensure a level playing field and capacity for 'weaker' stakeholders to participate meaningfully? Cocoa farmers are currently not organized to represent their collective interest, or to advocate in national policy discussions; at the moment, cocoa cooperatives are solely focused on organizing cocoa purchase and sale. To get farmers and their representatives at the table, cocoa growers' cooperatives need to take on a new role of representing farmers' voices in national policy discussions. Ghanaian NGOs have a big role in getting cocoa cooperatives to fulfil this purpose. Rights-based CSOs can be resourced to mobilise and strengthen cocoa growers' cooperatives into formidable groups that can make meaningful contributions to national policies and programmes.

4.5.2 Value of National-level Civil Society

One transformational learning point from the FLEGT-VPA process is how the contribution of national civil society to forestry policies and programmes has metamorphosed from being at arms-length to actually sitting at the table and making meaningful contributions that shape the policies. Throughout the FLEGT-VPA process national civil society played and continue to play the role of voice of reasoning and the go-to stakeholder when there seem to be stand-off between private sector and government. At the community level, national civil society organisations were instrumental in taking the message to people who might otherwise not have known about the VPA process through the numerous projects and outreach programmes they undertook. On the international stage, national civil society became the credibility check for the FLEGT-VPA process. The assertions of national civil society were used to cross-check the reports produced by governmental bodies to ensure consistency.

4.5.3 Governance reforms takes time, tactfulness, resources and enduring political will

We learnt from the FLEGT-VPA process in Ghana that governance reform is not an event but a very long and painful process that takes time, tactfulness, resources and enduring political will. This lesson is evident in the over a decade duration that Ghana has taken to achieve the milestones they can boast of. Globally, Ghana's VPA process and achievements have become iconic among countries who have signed the agreement. Notwithstanding the fact that Indonesia is the first country to issue a FLEGT license, there is this euphoria about the progress Ghana has made in true forest governance reforms. One key lesson is that, in governance reform processes there is the need to identify milestones along the reform trajectory i.e. do not set your eyes on only one long-term target but have multiple targets along the reform process. There is the need to pick, win and celebrate individual battles en route to winning the war. This gives the political leadership the reason to continue to spend political capital on pursuing governance reforms, because long-term governance reforms need unflinching political will. Especially in the commodity sector which is the main stay of the economy of developing countries.

4.5.4 Legality and Sustainability are not Mutually Exclusive

For a long time, pro-certification advocates have argued that certification ensures sustainability and that legality does not go far enough to address sustainability issues. However, what we learnt from Ghana's FLEGT-VPA process is that if properly conceptualised through a multi-stakeholder deliberative process, the definition of legality addresses most of the socio-cultural and conservation concerns that underpin sustainability. Furthermore, the FLEGT-VPA process showed that while certification targets individual companies and contract areas, the VPA is covering all the forest management units in Ghana which makes it comprehensive and complementary of existing voluntary certification schemes. Again, in the case of Ghana, forest management within production areas is a shared responsibility between contract holders and government hence legality is more effective in addressing sustainability than certification which is limited to only individual companies.

4.4.5 When there is Market Demand for Acting Responsibly, it helps

One key lesson from Ghana's VPA process is that demand-side measures need to complement supply-side efforts for meaningful progress to happen. In other words, when the market puts value on responsible sourcing it makes stakeholders – especially the private sector also value the reform process. For example, when the EUTR came into force in 2013, it incentivised the private sector to want to work with stakeholders to ensure that Ghana had a FLEGT license which would guarantee entry into the EU market without due diligence.

4.5.6 Verifying Enforcement and Compliant Mechanism Builds Credibility

A key feature of Ghana's VPA which is also a good learning point for governance reforms in the cocoa sector is the credibility that verification and compliant mechanism builds. In Ghana's VPA process, there are in-built systems to verify enforcement of procedures, guidelines and administrative provisions which underpin the governance reforms. This creates confidence in the process and gives credibility to the system. Again, there is a compliant redress mechanism to respond to those who might feel they have issues to resolve. These two very important in-built mechanisms give credibility to the system and build confidence of private sector in the FLEGT-VPA process.

4.5.7 Manuals, Procedures and Guidelines are Important, but Legislation gets things done





There are several manuals, procedures and guidelines which provide administrative course of action in various situations. Some of these manuals, procedures and guidelines might even have legal backing from the numerous sector laws, but what the FLEGT-VPA process has shown is that, while these documents are very useful – it becomes more enforceable and effective if they are put in legislation. Manuals, procedures and guidelines cannot be referenced in court of law for prosecution when someone violates them, the best redress is usually administrative remedies.

Chapter 5: Demand for Deforestation-free and Sustainable Cocoa

5.1 Certification as the Standard-bearer

Certification is one of the available tools in the market to ensure the application of principles for sustainable production of commodities, like cocoa. It comprises a set of principles addressing social and economic concerns of farmers, farmer groups and communities including environmental requirements. Within their scope, the different certification schemes vary in their main focus or strategy for achieving a more sustainable cocoa production with some of them focusing on the creation of sustainable trade relations (e.g. Fairtrade) and others with a greater focus on increasing farmer productivity as a way to strengthen farmers (e.g. UTZ Certified). It can be said that overall they seek improvements in farmers' livelihoods, focus on developing good agricultural practices and on capacity building. It is important to highlight that Fairtrade differs in this sense from other schemes, as increases in productivity is not of the focus. Instead, Fairtrade aims for better and more just trade relations. UTZ and Rainforest Alliance are explicit about their objective of increasing farmers' yields. The market share and total production of certified cocoa has been considerably growing. ICCO data on total cocoa production in 2010 suggests that the total cocoa harvest was approximately 4.3 million tonnes. It is estimated that the total certified cocoa production for the same year was around 275.000 tonnes, meaning that the certification market share has doubled from 3% in 2009 to a little more than 6% in 2010⁹.

Table 2: Certification schemes focus areas and volume produced as at 2011

Certification schemes focus		Volume of Certified Cocoa (tonnes)		
		2010	2010 share of certified cocoa	2011
	Promote better trading conditions and empower producers. Focus on a wide range of commodities and gold.	106,400	39%	150,000
	Biodiversity conservation and sustainable livelihoods of farmers. Focus on increasing productivity and covers tropical commodities and tourism.	56,000	20%	98,400
	Professionalise agricultural practices and operational management. Focus on increasing productivity. Covers coffee, tea and cocoa.	70,000	25%	214,000
	Focus on production in a sustainable way, without the use of chemical inputs. Focus on a wide range of commodities.	42,500	15%	Not available

Source: KPMG, 2012

⁹ Fairtrade, Rainforest Alliance and UTZ Certified information derived from Matissek (2012). Sustainability in the cocoa sector – review, challenges and approaches. Organic production information derived from TCC (2010) Cocoa Barometer 2010.

5.2 Consumer demand

Consumers and consumer governments play an important role in demanding for quality in producer countries. Without such demand efforts at sustainable sector transformation cannot work. Demand from consumers both local and international need to be aware of the ecological foot prints of their consumption practices and make more meaningful choices to reward responsible value chains through premium payments. Consumer governments also need to support private sector and civil society momentum towards deforestation-free commodity chains and where necessary use regulatory levers.

Demand for certified produce is still growing and gaining ground on conventional produce. Certified cocoa is quite often visible on the end-product through a 'Business-to-Consumer' label. Sustainable or fair-trade cocoa is one of the fastest growing market segments. UTZ alone grew by 49% between 2010–2014 in global sales volume. In 2015, certified cocoa reached 16% of global cocoa area (Lernoud et al, 2017). The most important voluntary sustainable cocoa standards are Fairtrade, UTZ Certified and Rainforest Alliance (the latter two have since merged). In 2015, UTZ certified cocoa was grown on 1.5 million ha representing almost 15% of global cocoa area; Rainforest Alliance certified cocoa was produced on 738,000 ha; and Fairtrade certified cocoa production covered 570,000 ha. Recently the ISO drafted a new cocoa standard which could become quite influential. UTZ Certified does not allow for deforestation of primary forests and demands respect for protected areas, protection of nature and endangered species. Rainforest Alliance does not allow for clearing of natural forests. Fairtrade does not have forest requirements.

In Côte d'Ivoire, the combined certification of UTZ and Rainforest Alliance reached 35% and in Ghana 16% in 2015. The second largest cocoa producer in harvested area, Indonesia, only has 5% cocoa area certified. In Nigeria (#4) only 6% was certified. In Ghana, sustainable cocoa production is mainly financed by chocolate companies working through their traders and LBCs. LBCs and Traders always make special arrangements with COCOBOD to deliver sustainable (special) cocoa to their warehouses abroad. There are companies such as Mondelez that do not segregate their special cocoa for export but buy conventional cocoa equivalent to special cocoa produced by farmers from COCOBOD (the 'mass-balance system').

5.3 Sustainability concerns and sustainable sourcing by companies

Because of the growing consumer awareness on issues such as poverty, child labour and deforestation (i.e. illegal production in Protected Areas) as well as concerns of future cocoa production, the major cocoa companies are committed to sustainable sourcing. Five of the top ten chocolate manufacturers, including Nestlé, Ferrero, Hershey and Mars have committed to buy 100% certified cocoa. Initiatives such as CocoaAction and CFI bring together the major companies to make the cocoa sector sustainable. In addition, cocoa sourcing companies invest directly in their supply chain by building capacity of cocoa farmers.

Concerns for sustainable cocoa and consumer demand for certified cocoa is highly concentrated in Western countries. Producer countries' domestic market and the huge consumer markets in China and India are less concerned about certification. For example, Fairtrade retail sales in 2015 were 79% in Europe, 16% North America, 3% Oceania, 1% Asia and 1% other (Lernoud et al, 2017).

In Europe; Denmark, France, Germany, Italy, Netherlands, Norway and the United Kingdom signed the Amsterdam Declarations with the commitment to import deforestation-free and sustainable commodities by 2020, including cocoa. The Declarations emphasise non-legally binding political intentions and support to the private sector but stop short of committing to strong regulations to address the problem of deforestation. The implementation strategy focuses on (1) Facilitating European actions on climate, deforestation and trade; (2) work through public-private partnerships and landscape approaches to promote deforestation-free supply chains; (3) enhance the dialogue with major producer and consumer countries; and (4) enhance monitoring, transparency and corporate social responsibility (CSR) -reporting.

They use the volume of certified cocoa import (with a cut-off date for deforestation) as a proxy indicator. The Netherlands is the main cocoa trading partner of Ghana. In 2017, these AD-countries combined sourced 316,000 metric tonnes from Ghana, or more than half of Ghana's cocoa export. The United States of America is the fourth market destination for cocoa beans. Aligning sustainable production initiatives and cocoa sector reforms in Ghana with the Cocoa & Forest Initiative and creating synergy with the Amsterdam Declarations would simulate the 'T' of FLEGT.

Chapter 6: Conclusions and Recommendations

6.1 Conclusions

The study observed that in Ghana's cocoa sector there are two (2) main strands of challenges – the governance challenge and sustainability challenge. The study again noted that, the sustainability challenges are symptoms of the governance challenges. The key governance challenges identified included:

- Weak enforcement of Forest Reserves and National Parks laws
- Lack of legal protection for trees outside Forest Reserves
- Weak tenure rights for farmers
- Poor accountability due to weak monitoring
- Elite capture of the sector
- Poor government coordination and land-use planning

These governance challenges manifest in various forms such as aging farms; aging farmers; lack of control over pests and diseases; unfair pricing; lack of land availability; inappropriate lands for cocoa farming, declining productivity of lands and farms, poor business model for the cocoa farmer; lack of investment; absence of record keeping; single source of income from a seasonal crop; lack of social security/insurance for aging farmers. There is the need for comprehensive governance reform to address these challenges within the cocoa sector through a participatory process. But even before that, stakeholders in the sector need to define a long-term vision for the sector. The vision should define strategies and roles of different stakeholders as well as structures for accountability and transparency.

The Ghana Cocoa sector has had many initiatives to reform the sector – none of which has so far been fully successful. The most important, market- and government- led, current efforts are the Cocoa Action, the Ghana Cocoa Forest REDD+, the Climate Smart Cocoa Standard and the Cocoa & Forest Initiative. These have the potential of mobilising necessary resources, but it is not clear how they will lead to the reforms needed to pave the way for transformation towards a more resilient cocoa sector. Private sector-led initiatives such as the CFI has the potential to improve the nature and operations of the cocoa sector in Ghana. These Initiatives also bring together efforts of the various government ministries and agencies (COCOBOD, the Forestry Commission, Ministry of Food and Agriculture and Ministry of Lands and Natural Resources) to address a cross cutting challenge of deforestation. By linking to the international market and importing countries in Europe, the CFI has the potential to transform the cocoa sector in Ghana and strengthen the roles of the different stakeholders. However, to be truly effective, multi-stakeholder participation that goes beyond information sharing and regular consultation is needed.

The overall conclusion is that the cocoa sector in Ghana and the Cocoa & Forest Initiative can learn from, and implement, important elements from Ghana's FLEGT-VPA.

Table 3: Key Lessons Cocoa sector can learn from FLEGT-VPA implementation

Cocoa sector – Issue	FLEGT- VPA element:	Lessons for the cocoa sector
Definition of success	The success of FLEGT was mainly defined as FLEGT licensed timber without reference to any improvements in governance	A sustainable cocoa sector and the success of CFI should not only be measured by volume of sustainable cocoa but also through dialogue, reform and legality (i.e. the transformation process).
Public Sector Forest Law Enforcement and governance	<p><i>Public Sector Governance:</i></p> <ul style="list-style-type: none"> - Strong political support needed. - Good governance is crucial for progress and trust. <p><i>Legality Assurance System:</i></p> <ul style="list-style-type: none"> - Clear definition of legal and cut-off dates - Traceability system - Include environment, social and labour legislation 	<ul style="list-style-type: none"> - Strong political support and capacity needed to stop conversion of forests as of 1 January 2018. - No sourcing from cocoa from National Parks etc. - Differentiated approach for forest reserves. - Define and explain what legal cocoa & illegal cocoa is and what ‘admitted farms’ are.
Land and tree tenure reform	<p><i>Policy and Legal reform:</i></p> <ul style="list-style-type: none"> - Time needed to make legislation coherent and clear up overlapping and contradicting legislations. 	<p><i>Legal reform:</i></p> <ul style="list-style-type: none"> - Reform of tree tenure laws - Benefit sharing arrangements to promote replanting and approval of Community Resource Management Areas.
Sustainable Production and Farmers’ Livelihoods:	<p><i>Market driven mechanism:</i></p> <ul style="list-style-type: none"> - FLEGT-VPA was sustained by a consumer demand for responsible purchasing and government action to compel due diligence checks. The market has been created and been in demand for legal timber. A market that is aware and concerned becomes the stronger market basis to demand for quality and legal production from producer countries. - Cooperation with the private sector to organise support for reform, reward improvement, facilitate investment, exclude bad practices, and facilitate long-term investment in the resource base. 	<p><i>Public-private partnerships for Sustainable Production and Farmers’ Livelihoods:</i></p> <ul style="list-style-type: none"> - The cocoa sector is government-controlled. The pricing system is currently fixed and not flexible. It does not function properly as ‘stabilisation system’ whereby farmers can profit in good times and are protected in bad times. - Companies commit to long-term sourcing of sustainably produced cocoa: preferred buyers to producers - Cocoa farmers should be able to earn a decent income and diversify their production. - A services industry is developed that is commercially sustainable.
Community Engagement and Social Inclusion	<p><i>Community empowerment:</i></p> <ul style="list-style-type: none"> - Awareness raising - Capacity building 	<p><i>Engage and empower cocoa-growing communities:</i></p> <ul style="list-style-type: none"> - Informed participation

		<ul style="list-style-type: none"> - strong representative structures - Community-based management models for forest protection and restoration (e.g. via CREMAs) - Mitigate impact of land use changes in Forest Reserves
Monitoring	<p><i>Supply Chain Control:</i></p> <ul style="list-style-type: none"> - Timber Traceability System: modernise system and exclude misuse. - Independent monitoring 	<p><i>Cocoa Traceability System:</i></p> <ul style="list-style-type: none"> - Improve supply chain mapping with 100% cocoa sourcing traceable from farm to first purchase point by 31 December 2019. - Government will adopt regulation and ensure compliance - Use independent monitoring and data sharing to build trust in the system. - Ensure market demand and stop illegal cocoa entering the cocoa value chain. - Monitor progress at farm, landscape and national level.
Implementation and Governance	<p><i>Multi- Stakeholder participation:</i></p> <ul style="list-style-type: none"> - Stakeholder participation by CSO-selected representation, not invitation. - Right to Information (transparency). - Consultative Framework. - Representation Charter and organization of feedback to constituents. 	<p>Stakeholders should become part of the multi-stakeholder process not based upon invitation, but upon representation of stakeholder groups. The stakeholder group has to select its representative who brings back and forth the views and decisions by the whole group. This process takes more time but ensures proper representation, acceptability and trust.</p>
'T' of Trade in Sustainable Cocoa	<p>Trade was an integral part of the process and a reward mechanism for legal production.</p>	<p>Trade should become an integral part of the process to make cocoa deforestation-free and sustainable by linking CFI to:</p> <ul style="list-style-type: none"> - preferential sourcing by CFI companies and - market access to signatory countries of the Amsterdam Declarations.

6.2 Recommendations

6.2.1 General Recommendations:

For the cocoa sector generally, the following recommendations are made:

- The need to clearly define what deforestation-free, sustainable and climate-smart cocoa is, through a multi-stakeholder deliberative process. The underlying causes of deforestation and extreme poverty among cocoa growers need to be thoroughly examined within the context of defining these standards.
- The cocoa sector needs governance reform to improve accountability and efficiency. Addressing the governance challenges would ensure that stakeholders have confidence in the sector, improve the assertiveness of farmers, improve tenure, and ensure better coordination of sector policies. Lessons from the FLEGT-VPA process could be a good learning points to ensure that governance reforms improve accountability, efficiency and transparency.
- The process to engage with stakeholders needs to be representative, inclusive and participatory. It should be up to the CSOs and farmers organisations to organise themselves and select their representation. Those representatives should engage in the dialogue and facilitate decision-making by their constituency.
- The need to transition from voluntary commitments to mandatory systems that put responsibility on both producer and consumer countries to ensure responsible production and sourcing respectively.
- Climate smart cocoa standards could be a good starting point for mandatory compliance. It can be improved to take on the interest and concerns of farmers and other stakeholders. It should also draw on existing sustainability standards to get acceptance from the international market.
- To stop deforestation, combat climate change and promote restoration of Ghana's cocoa-growing forest landscapes, a transformation needs to happen in the governance of the cocoa sector. But transformation will not come on its own. At the moment, governments and chocolate companies have made commitments to stop deforestation in the sector. But to succeed they need strong collaboration with other actors, particularly farmers and civil society, who are either directly involved in cocoa production or have a stake in the challenges to be addressed (like deforestation).
- There is also the need for strong incentives if the more intractable governance challenges are to be resolved. As previous cocoa initiatives have shown – as well as the experience of FLEGT – a market-driven mechanism could help provide this incentive.

6.2.2 Specific Recommendations:

The following specific recommendations are made under the following thematic areas:

Learnings from FLEGT-VPA on 'conversion timber' to inform cocoa sector towards deforestation-free and sustainable cocoa

Ghana's FLEGT-VPA has in-built systems for ensuring that (if properly followed) issues of conversion timber are addressed. In defining what constitutes legal timber, provisions were made for timber that are likely to emanate from conversion of forest areas into other land use (i.e. road construction, agricultural purposes, settlement expansion etc.) where the timber within those areas would have to

be removed. In such instances; the salvage permit is applied¹⁰. The salvage permit requirements stipulates that proper inspection is conducted and economic trees within the earmarked area duly given to a timber contractor to remove before the project begins. The VPA process acknowledged that this measure although comprehensive might not be adequate to fully address the problem of conversion timber; hence, a tree tenure reform process is underway to complement the use of salvage permit. As a learning point for possible cocoa sector reform, systems need to be put in place to ensure that in cultivating cocoa farms conversion timber is addressed to ensure deforestation-free and sustainable cocoa production.

Table 4: Building blocks of FLEGT-VPA which could be relevant for cocoa sector reform

FLEGT-VPA Building Blocks	Relevance for Cocoa Sector Reform
Legality definition	The need to develop a legality definition setting out what laws and standards should be met for cocoa to be considered “legal” in Ghana. This should include looking at areas where new laws need to be drafted, in order to fill gaps in the current legal framework and address some of the issues laid out in the previous section of this briefing note. National laws could be brought in line with internationally-accepted standards for the cocoa sector, including High Carbon Stock/High Conservation Value, certification standards like UTZ/Rainforest Alliance and Fair Trade, Ghana’s Climate Smart Cocoa standard, and the recently developed ISO standards, which all address environmental, social, equity and quality issues for the cocoa sector. Any legal reforms must come from a deliberative process that allows government, industry actors, national civil society, and cocoa farmers to make decisions together.
National traceability system	A national system that guarantees traceability from farm gate to the point of export, ensuring that the legality definition is being respected is needed. The Cocoa Health and Extension Division of COCOBOD (CHED) is mapping all cocoa farms and farmers; this would be a good start for ensuring traceability. Different actors along the supply chain - CHED, LBCs, the Produce Buying Companies (PBCs), and cocoa traders - would be made legally responsible for ensuring they are only sourcing legal cocoa. Some buying companies have already completely mapped their supply chains, so there is a good beginning on which to build, but information needs to be shared. The next step is to ensure that this level of information is available across the whole country. COCOBOD should be legally tasked with verifying the traceability system, but it should also be monitored by independent actors – such as independent auditors, existing certification bodies (UTZ/Rainforest Alliance and Fair Trade), and national civil society.
Real multi-stakeholder participation	The main lesson from Ghana’s VPA process has been that different stakeholders can use it to table their concerns, and more importantly raise the core problems affecting stakeholders, allowing an honest discussion about solutions. This goes beyond “consultation”, to genuinely deliberative processes where stakeholders respect, argue, build trust, decide and collaborate on an equal level. This is something lacking in most government processes in Ghana, and has so far been unique to the timber sector because of the VPA. Cocoa

¹⁰ A permit issued to prospective timber contractors to remove limited number of trees in an area undergoing developmental activities. It is wholly legal and part of the legal regime of Ghana.

	farmers are currently not organised to represent their collective interest, or to advocate in national policy discussions; at the moment, cocoa cooperatives are solely focused on organising cocoa purchase and sale. Ghanaian NGOs have a big role in facilitating cocoa growers to more effectively participate in policy-making.
Multilateral Development Agreements with Key Consumer Countries	Important consumer countries (such as the Netherlands, Germany, France, Switzerland and the UK) could sign a multilateral development agreement (fashioned along NREG11 approach) with the producer countries. This agreement will aim at supporting producer countries to undertake governance reforms targeted at legislative and policy realignment. The development agreement could also cover ensuring that only legal and sustainably produced cocoa are exported to partner (consumer) countries. This would be of great help in ensuring that promised legal enforcement and reforms actually take place. These governments could meet with the government of Ghana periodically to check on the implementation of its commitments (similar to what the European Commission has done effectively within the VPA process).

EU-level efforts towards addressing cocoa-deforestation (Action Plan on Deforestation and Due Diligence Import Regulation on Forest Risk Commodities)

The EU as the largest importer of cocoa beans, responsible for over 60% of global imports also has a responsibility towards ensuring that the commodity is legally and sustainably sourced. The EU has used its market as a lever in addressing illegal logging, illegal fishing and conflict minerals – same can be done for agro-commodities including cocoa. The EU has made a commitment to end its role in deforestation by 2020. To achieve this it must:

- ***Develop an “Action Plan to Protect Forests and Respect Rights”*** to meet the EU’s existing commitments to stop deforestation, respect rights, and tackle climate change.
- ***Regulate cocoa supply chains.*** The EU already regulates supply chains of illegal timber, illegal fishing and conflict minerals. It should now regulate cocoa supply chains to ensure EU consumption is free from conflict, is paying cocoa farmers a fair income, and does not lead to deforestation.
- ***Support in-country processes to resolve social and environmental issues in cocoa production,*** using lessons learned from the EU’s Voluntary Partnership Agreement (VPA) process. This could start in Ghana, where the EU is already implementing VPA for illegal timber.

The European Commission’s feasibility study on tackling agricultural deforestation identified that “bilateral partnership agreements on forest risk commodities” would have “high” contribution to solving the problem of deforestation caused by agro-commodities - one of only two supply-side interventions that were ranked so highly. This conclusion provide the EU with workable blueprint of where they need to focus on if they want to end their role in agricultural deforestation by 2020 as already stated by the EU.

¹¹ This is a multilateral development agreement which cover Natural Resources and Environmental Governance.

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