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Community Forestry in FLEGT Voluntary Partnership Agreements

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SUMMARY POINTS

- To date, FLEGT VPAs have been signed with six countries that make substantial timber exports to the EU. Those countries now expressing an interest have different trade relationships, with little or no direct export markets in Europe. Finding a way to engage with these countries will help to maintain the momentum of the 'FLEGT agenda'.
- In addition to market access, negotiators have identified the importance of donor assistance, domestic sectoral reform and poverty alleviation for countries pursuing VPAs. Exploring these other incentives suggests that there is a way to expand the VPA concept to include countries that do not have significant timber trade with the EU.
- Broadening the scope and commercial viability of community forestry is a key aim in many countries which face forest governance challenges, and establishing an effective model to support community forestry within a VPA may be of interest to many timber-producing countries, particularly in South and Central America.
- Establishing any VPA requires both a genuine process of domestic stakeholder engagement and an on-going government-to-government process. In the context of a VPA designed to support community forestry, systemic issues for discussion could include: the clarification and reform of laws and regulations relating to tenure and use rights, small-scale commercial extraction and processing, and access to sustainable investment.
- In addition to product 'FLEGT' licensing, negotiators in Brussels could consider developing infrastructure to support the provision of sustainable small-scale investment in the forest sector. They could also provide specific technical input to the development of niche markets for community forest products or the spread of new market-access information technology among community groups.
- Key challenges remain, most notably that the nature and scale of incentives and the distribution of any benefits resulting from the form of VPA described here may be too insignificant to generate the political will necessary to negotiate and implement an agreement of this sort.

INTRODUCTION

Voluntary Partnership Agreements (VPAs) are negotiated under the auspices of the 2003 EU Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan. Although they are rooted in a bilateral trade agreement, in practice, they are much more than this, incorporating domestic political processes that have won plaudits from civil society for their inclusiveness, and a series of ground-breaking commitments to forest sector accountability and transparency on the part of governments which have historically been anything but accountable and transparent.

Over the last decade these Agreements have been signed with six countries, and a further nine are currently in the process of negotiating with the EU. In all cases where agreements have been signed, the countries have levels of timber trade with the EU that are significant to the domestic economy. However, they have faced reputational challenges in the market associated with illegal, unsustainable and/or inequitable logging, these exacerbated by the European Timber Regulation (EUTR).¹ As a result, commercial export incentives have been a primary motivator for governments seeking an Agreement, as was assumed by those drafting the Action Plan in 2003. However, implementation of the Agreements has been slower than anticipated, and the list of likely candidate countries with which the EU has significant commercial trade is close to complete. Countries currently expressing interest in Agreements (that is, those that have not yet entered into negotiations) are now generally those with much less substantial timber trade relationships with the EU. This paper therefore seeks to elucidate one option for VPAs that could be of use to such countries. This could be part of a toolkit from which potential VPA negotiators on both sides of the table could draw inspiration in the future.

The group of potential partner countries includes a number where community forestry is relatively well established or has potential. It may therefore be useful to develop a new model of engagement that can offer incentives that are of value to these actors. For example, this will be particularly relevant to the expansion of VPAs into Latin America where significant areas of potential and actual production forest are owned by indigenous communities who are engaged in small-scale production for export, in some cases of certified non-timber forest products (NTFPs) but with increasing interest in the timber trade; and where SMEs overwhelmingly dominate supply chains for non-plantation (higher-risk) wood.

Box 1: What is a FLEGT Voluntary Partnership Agreement?

A VPA is a legally binding trade agreement between the EU and a timber-exporting country outside the EU, under which it is agreed that only timber products from these countries with a FLEGT licence can be imported into the EU.

Phase 1: Information and consensus-building

If a timber-producing country signals to the EU that it is interested in a VPA and requests more information, the European Commission and member states provide written materials and send representatives to the country to outline the VPA process to government and stakeholders.

Phase 2: Formal negotiations

Once formal negotiations have been opened, representatives of the partner country and the EU will meet regularly to reach consensus on the content of the legal Agreement. This includes the scope and details of a national definition of legality and a Legality Assurance System, as well as the forest governance commitments, which will be included in annexes to

¹ The EU Timber Regulation prohibits the 'first placement' of illegal wood on the European Market and requires companies making available wood and products to have systems in place to identify and exclude 'high-risk' products from their supply chains both inside and outside of the EU.

the legal text of the agreement. Consensus is based on an inclusive, multi-stakeholder process in the partner country.

Phase 3: Ratification and implementation

After the initialling, the VPA must be ratified into law on both sides. Partner countries that do not already have systems in place to begin controlling, verifying and licensing legal timber also start developing the systems agreed in the negotiating phase, as well as building necessary capacity. The partner country also establishes an independent auditor to check that the Legality Assurance System is operating correctly and that the verification systems are robust.

Phase 4: Licensing

During the licensing phase, each shipment of timber or timber products from the partner country to the EU must be accompanied by a FLEGT licence. The licence states that this shipment is legal according to the requirements set out in the VPA. Shipments from a partner country that are not accompanied by a licence will be rejected at the EU border.

In July 2013, the European Commission noted the imminent and ongoing negotiations with Honduras, Laos and Guyana, and growing interest in negotiating VPAs from Guatemala, Bolivia, Paraguay, Uganda, Zambia, Madagascar and Mozambique. None of these countries fits the model of a primary commercial exporter to the EU. Some (such as Mozambique and Laos) have indirect trade links, supplying raw materials to processing countries that export to the EU and, in theory, these indirect primary exporters will be influenced by the requirements of the EUTR. However this may not significantly reduce demand for their wood, if other markets are found or the EUTR is not implemented in a way that reaches back through multi-country supply chains effectively.

To some, diversification of the VPA concept away from one based on market access is inevitably a dilution, and likely anathema. Indeed the idea does raise some very real concerns, which are explored briefly at the end of this paper. However, the scope and character of the commitments already made, in principle at least, suggest that although the maintenance of EU market access brought different interest groups to the VPA table, it is not the only, nor in many cases even the primary, motivating factor for governments wishing to enter into these Agreements. Other incentives noted have included the development or reinforcement of political relationships with the EU, access to overseas development assistance, support for sector restructuring and particular domestic political agendas, and undefined 'prestige'. However, no complete list has been amassed and any analysis is inevitably partial and highly subjective.

What is more concrete, however, is the fact that the most recent expressions of interest in VPAs have come from countries which do not fit the 'classic' model of high-value direct, or even indirect, trade in wood products with the EU or in fact other markets requiring legality verification, such as the USA and Australia, to which FLEGT licences could help maintain access. And, given that the FLEGT agenda has as a goal the reduction of poverty and has been led by development agencies, it is hard to ignore these overtures on the part of countries with compelling poverty alleviation priorities, regardless of the absence of commercial forestry links.

PRIORITIES AND OPPORTUNITIES FOR A COMMUNITY FORESTRY VPA

As noted above, the new countries seeking Agreements do not currently have statistically significant levels of trade with the EU, in terms of proportion of imports. However, this trade may be of relatively high value to the producer country, or have the potential to be so, particularly for niche products or those made by small-scale or community producers.

This paper therefore aims to elucidate a new partnership approach, which would potentially be of interest to countries with a combination of the following characteristics:

- Low levels of current direct timber trade with the EU;
- The political will to increase the positive contribution of forests to local livelihoods, and environmental protection;
- The social pre-conditions for small-scale/local management of forests with the aim of producing timber/wood products for export;
- Regulatory, legal and tenurial barriers to increasing the communal management of forests; and
- Organized community forestry groups that could benefit from access to small-scale finance to comply with legislation, establish chain of custody, add value to products where appropriate and access international markets.

As noted above, existing VPAs will license legal timber both for export and, ultimately, for domestic consumption. In a 'community' VPA, legality licensing could be applied to all and any forest product and, in theory, non-timber forest products; although there is less concern with the legality of their production so it is hard to see what additional benefit could be achieved from such a strategy. Given the expense of developing a credible Legality Assurance System, where timber products are the commodity in question it would make most sense if relatively high-value products, such as precious woods, were the focus or where some value could realistically be added before products were exported. However, it should be noted any change in production costs is likely to be an increase rather than decrease, and there is scant data suggesting that the EU market is intrinsically more valuable for units of wood. Therefore, market access will be the most likely benefit to those exporting such wood, rather than improved profits or 'green premiums'.

If this model is used, it will be necessary to assess the cost of investing in a credible system to cover low trade volumes. It is reasonable to assume that in very low trade situations, per-unit costs will be higher even for a relatively 'light touch' verification system. However, estimates of system costs suggest that they will still be a relatively low percentage of total production costs. In the event that a VPA is negotiated in these circumstances, it is likely to make sense to focus on a market participant-based approach² in order to keep the necessary investment focused on the priority beneficiaries.

² This approach seeks to validate the control systems of individual companies to give them the right to license products, rather than to verify individual shipments. In this it is closer to the current operation of many certification schemes and would avoid 'wasting' resources by attempting to control segments of the industry for which there is no market incentive to comply.

A VPA LEGALITY ASSURANCE SYSTEM IN THE COMMUNITY FORESTRY CONTEXT

In a 'classic' VPA, national negotiation processes determine the legislation that is to be included within the definition of legal timber, and credible verifiers of compliance. European partners then support the development of national Legality Assurance Systems for wood licensing, through parallel financial arrangements.³ The two parties to the Agreement engage in government-to-government negotiations over a varying period of time, to establish whether the arrangements on each side are practical, robust and, ultimately, mutually acceptable.

In countries without large-scale commercial extraction it may make sense for domestic negotiations to focus on the laws that affect small-scale and community forestry. Partner country domestic processes would clarify relevant social, environmental and economic legislation through participatory stakeholder processes, particularly any which currently stand as barriers to the uptake and sustainable financing of community forestry. Parties could then design non-onerous systems for verifying and licensing small-scale production of timber and forest products with relatively simple supply chains, as well as appropriate oversight functions to ensure that the systems were not abused by larger scale operators, or those with more complex supply chains, for whom more comprehensive standards would be necessary. The EC could support the development of community-appropriate licensing systems for export products and provide public funds to secure small-scale loans to community forest organizations through an appropriate independent financial mechanism (see below).

WHAT HAVE VPAS ACHIEVED TO DATE?

An attempt to conceive of a VPA which focuses explicitly on the needs of community and small-scale forestry enterprises should not imply that existing Agreements entirely fail to support the aims of these groups or provide benefits for them. Rather, the undertakings of these groups will likely be made less challenging as a result of the clarification of relevant legislation and regulatory processes which results from the VPA process. Barriers relating to corruption are likely to be reduced by independent auditing, improved transparency and accountability mechanisms. FLEGT licensing should, ultimately, bring better market access for all products including those manufactured by small enterprises. However over the last decade a number of analysts have expressed concerns that the focus on legal compliance risks a disproportionately negative impact on those illegal actors that are driven by need and lack political protection – namely, small producers.⁴ In addition, the increased costs of legal compliance and validation may be beyond these groups, marginalizing them further by excluding them from export markets and, perhaps ultimately, also domestic supply chains.⁵

Research exploring the poverty-alleviating potential of VPAs has identified ways in which any harm to communities or small-scale enterprises can be mitigated and positive impacts can be bolstered;⁶ however, any poverty alleviation is generally expected to rely upon country-specific *ex ante* poverty assessments, undertaken before negotiations begin. In the six countries that have negotiated Agreements to date, these assessments have not been undertaken, so it is reasonable to assume that national poverty priorities have been addressed in an ad hoc manner, if at all. It is therefore

3 For legal reasons it is not possible to embed financial support directly into the text of a Voluntary Partnership Agreement. This has led to a number of problems with the timing and coordination of finance; but increasingly it has been possible to arrange timely funds and technical support in parallel through bilateral donors and international organizations such as the UN FAO and the European Forest Institute.

4 Mayers, J et al., (2008): 'Assessment of Potential Impacts in Ghana of a Voluntary Partnership Agreement with the EC on Forest Governance', London: International Institute for Environment and Development (IIED); Pacheco P., Cerutti P. and Obidzinski K. (2013): 'VPAs in Evolving Contexts', Bogor: CIFOR, http://www.cifor.org/fileadmin/subsites/proformal/PDF/PROFORMAL_VPAs_London_Feb2013.pdf.

5 Note: VPAs increasingly also cover domestic markets, but implementation plans are often undertaken in steps, focusing on licensing exports in the first phase.

6 Hobley, M. (2012): 'Poverty and Social Safeguards in VPAs', presentation given at the Illegal Logging Stakeholder Update, Chatham House, 19th February 2012, <http://www.illegal-logging.info/content/poverty-and-social-safeguards-vpas>.

likely that bringing poverty alleviation to the fore in a new model of small-scale engagement will be beneficial to new negotiating partners.⁷

HOW COULD A VPA ENCOURAGE COMMUNITY FORESTRY

Regulatory environment – clarification of the ‘rules of the game’

Donors have traditionally provided support for community forestry by working through technical packages or pilot projects. By contrast, the government-to-government negotiation and legal partnership approach allows for systemic issues⁸ that underpin the success of individual projects to be tackled. For example, it is not uncommon for communities to lack clear title to forests and lands, leading to disputed rights to harvest. Long-term ownership and/or management rights are therefore among a number of essential preconditions of legal community forest management and of those groups who wish to use forest resources legally as a route out of poverty. In a community forestry VPA model then, drawing on the obvious ‘timber VPA’ parallels, it would be necessary to clarify unclear tenure and harvest rights as one element of the domestic and bilateral discussions.

Similarly, the success of rural community forestry enterprises is often hampered by inaccessible centralized bureaucracies,⁹ so negotiations could focus on appropriate decentralization processes or the devolution of powers to local government, in theory or in practice where the necessary policy is in place but not consistently implemented.

In the Amazon region, despite apparent political will, efforts to put community forestry into practice are considered to have achieved only modest results. The international research project ForLive (which analyses experiences across Peru, Bolivia, Ecuador and Brazil) concluded that it would be necessary to overcome an array of complex systemic barriers inherent in the current community forestry framework before communities or smallholders could spontaneously or effectively use their forests in the way that governments and donors hoped. These include technical, legal and financial challenges among others. The research also noted that larger areas of public forests should be provided to communities as, with appropriate investments in training, infrastructure and equipment, they have shown themselves able to meet social, economic and environmental goals effectively.¹⁰ Neither of these broad conclusions can be addressed by projects focusing on specific forest areas or providing support for particular community groups; however, they are both within the potential purview of a political process with similar characteristics to previous VPA negotiations.

Market access

Recent analysis by the US-based Forest Trends has questioned the impact of the VPAs and the EU Timber Regulation on artisanal producers and local communities, citing the power of the EUTR to exclude from the European market wood products that are not officially sanctioned.¹¹ The work also reiterates the point highlighted above about the additional expense of producing products legally. However, in this regard, a VPA designed around the needs of small-scale operators would help to avoid the latter risk while also having the potential to mitigate the potentially negative effect of the EUTR on these groups by ensuring that their products were given a free pass into the EU.¹²

7 Hobley, M. (2012): ‘Poverty and Social Safeguards in VPAs’.

8 Such as, clear and equitable tenurial arrangements, forest regulation and the accountability/oversight of decision-makers.

9 Asen, A. et al., (2012): ‘Unlocking National Opportunities, New Insights on Financing Sustainable Forest and Land Management’. Rome: FAO, <http://www.fao.org/docrep/016/ap451e/ap451e00.pdf>.

10 Pokorny B. and Johnson J. (2008): ‘Community Forestry in the Amazon: The Unsolved Challenge of Forests and the Poor’, London: ODI, <http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/1745.pdf>.

11 Canby, K. (2013): ‘Global Markets for Verified Legal Wood Products: Are SMFEs Prepared?’, Forest Trends & Forest Industries Intelligence Ltd, http://www.rightsandresources.org/documents/files/doc_6138.pdf.

12 Any company buying FLEGT-licensed products, when available, will be considered to have exercised appropriate due diligence.

Outside of the VPA realm, a lack of access to high-value international markets has been identified as a critical barrier for many community forestry projects and initiatives. Small villages that are often the focus of community forestry initiatives generally have limited access to markets due to their physical isolation, precarious transport and communication, limited contact with buyers and lack of marketing knowledge. Often they will also face difficulties competing with large-scale operations and/or illegal loggers. An assessment of forest certification in Indonesia concluded that community forestry programmes supported by early capacity-building and established on the foundation of access to international markets have a significantly higher chance of maintaining local commitment and ultimately proving commercially viable beyond an initial period of donor subsidy.¹³

The potential for FLEGT licensing would give communities operating in a VPA country of this type an internationally recognized symbol of the provenance of their products, making it easier for them to find buyers and for buyers to find them. Certification has, in some cases, provided this market visibility to small-scale groups. However uptake, particularly in tropical countries, has been extremely limited due to a host of other pre-conditions not being met, such as clear tenure rights, effective communal structures, and supportive legal contexts, all of which could theoretically be established as part of a national VPA process.

Finance

Access to financial services has been identified as a critical barrier to small-scale collective forest management in most forest-rich countries.¹⁴ In 2010 a global review by the International Food Policy Research Institute identified the lack of access to reliable and affordable finance for agriculture and other livelihood activities as a critical barrier to sustainable poverty alleviation in rural households around the world. It noted that retail banking services are particularly limited in rural areas while production risks are relatively very high. It also highlighted the fact that the recent financial crisis had further restricted the provision of credit, in the short term at least.¹⁵

Specifically in relation to community forestry challenges, there is a need for both enabling investments that prepare the ground for commercial success with no expectation of direct financial reward, most likely from public funds, and for private investments linked to small-scale banking services, where a return is viable. The assumption that a return on private investment is viable is based on growing evidence that locally controlled forestry enterprises can be profitable, albeit across longer timescales than are normally considered in relation to emerging market investments (e.g. Mexico and Nepal¹⁶) and if appropriate enabling conditions are met.

The challenges to delivering appropriately sequenced public and private financing in this context are numerous and extremely complex. It requires a combination of enabling regulatory and tenurial arrangements¹⁷ and targeted public subsidies before sustainable private investment is feasible. Given the requirement for both regulation and subsidy as pre-conditions, the provision of finance may be an area where a 'VPA approach' has a competitive advantage. As noted above, the government-to-government character of VPA negotiations, underpinned by a domestic stakeholder process, holds within it the potential for systemic change that would be an impossible objective for a 'project' approach.

13 Hinrichs, A., Muhtaman, D. and Irianto, N. (2008), 'Forest Certification on Community Land in Indonesia', Jakarta: Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), <http://forestclimatecenter.org/files/2008%20Forest%20Certification%20on%20Community%20Land%20in%20Indonesia.pdf>.
 14 UN Advisory Group on Finance of the Collaborative Partnership on Forests, (2012): 'Study on Forest Financing', www.un.org/esa/forests/pdf/AGF_Study_July_2012.pdf.

15 Kleppinger-Todd, R. and Sharma, M. (eds), (2010): 'Innovations in Rural and Agricultural Finance', Wahington DC: International Food Policy Research Institute.

16 Bray, D.B., Merino-Perez, L. and Barry, D (eds), (2005): *The Community Forests of Mexico: Managing for Sustainable Landscapes*. Austin: University of Texas Press; and Maharjan, M.R., Dakal, T.R., Thapa, S.K., Schreckenberg, K. and Luttrell, C. (2009): 'Improving the Benefits to the Poor from Community Forestry in the Churia Region of Nepal', *International Forestry Review*, 11(2), pp. 254–67.

17 Asen et al., (2012): 'Unlocking National Opportunities, New Insights on Financing Sustainable Forest and Land Management'.

A number of the enabling regulatory pre-conditions to sustainable private investment in the forest sector are already addressed in existing VPAs, particularly: clarification of relevant laws in the definition of legality and improved sector transparency in annex commitments. Evidence from Guatemala showed that the presence of a newly clarified legal framework encouraged commercial banks to lend in the forest sector following a reform process.¹⁸ In the context of the proposed community forestry VPA, clarification of tenure and rights, consideration of reform potential in subsidy and tax regimes, improved transparency in relevant financial institutions and the potential for national safeguards for community forestry investments – for example ensuring that rates of interest were not unfairly high or that communities were not able to borrow amounts that could cause them to lose their land – could all be considered for inclusion in additional Agreement annexes.

The role of public finance in facilitating community forestry is also complex and critically important. There is a growing body of research showing that funding for capacity-building, subsidized incentives and appropriate taxation arrangements are crucial to establishing financially viable community forestry. But research also shows that subsidies that are long-term or too significant can impact negatively on the competitiveness of the enterprises that result, ultimately undermining the possibility of sustainable livelihoods.¹⁹ Balancing the provision of public support between these two poles therefore requires a thorough, 'bottom-up' domestic stakeholder process in order for national and subnational realities to be taken into consideration and a legal process to include the potential for appropriate regulatory reform (from forest law to tax arrangements). Existing VPAs include precedents for combining exactly these two elements, and negotiators on both sides of the table have learned many relevant lessons in how to link these domestic priorities with a normative bilateral legal agreement. FLEGT capacity-building experience related to legal compliance and Legality Assurance System development could also be brought to bear among those community groups that lack technical and entrepreneurial skills.²⁰ In addition, public money can be used to reduce risks to private investors, for example through co-investments, credit guarantees and the provision of specialist insurance for 'high-risk' new community enterprises.²¹

Once investors are confident in the sector, financial services need to be designed for, and delivered to, target groups. Outlining specific country characteristics should become part of the domestic VPA consultation process. But a number of cross-cutting principles should also be embedded in the delivery mechanisms, notably: credit needs to be flexible in its repayment terms and have long maturities (loan lengths) based on sustainable forest timescales and low transaction costs. In addition, information about the availability and nature of the finance available should be mainstreamed into the communications programmes that each VPA country establishes as part of its implementation plan.

Recent research notes the significant knowledge gap in financial service institutions as a key limiting factor on the supply of small-scale credit.²² Including representatives of financial institutions in VPA preparatory phases will help overcome this barrier, by establishing a better understanding of the needs and profit potential of small-scale/community enterprises. To date, microfinance and development banking have mainly focused on the agricultural sector or establishing incentives for conservation, from which some lessons can be drawn, for example whether private investment is

18 Junkin, R. (2005): *Overcoming the Barriers to Financial Services for Small-Scale Forestry: The Case of Community Forestry Enterprises of Peten, Guatemala*, Rome: FAO.

19 See, for example, the 2012 Study on Forest Financing by the UN Advisory Group on Finance of the Collaborative Partnership on Forests.

20 de León, P. (2010): 'Analysis of Forest Financing in Guatemala', country case study for the first meeting of the Open-ended Intergovernmental Ad Hoc Expert Group on Forest Financing, http://www.un.org/esa/forests/pdf/aheg/aheg1/Guatemala_case_study.pdf and Asen et al., (2012).

21 Oakes, N., Leggett, M., Cranford, M. and Vickers, H. (2012): *Little Forest Finance Book*, Oxford: Global Canopy Programme, <http://www.globalcanopy.org/materials/little-forest-finance-book>.

22 Nwaru, J. (2011): 'Determinants of Informal Credit Demand and Supply among Food Crop Farmers in Akwa Ibom State, Nigeria' *Journal of Rural and Community Development* 6, 1, pp. 129–39; Osei-Tutu, P., Nketiah, K.S., Kyereh, B. and Owusu-Ansah, M. (2012): *Small and Medium Forest Enterprises in Ghana: Sourcebook on Enterprise Characteristics, Activity Centres, Product Markets, Support Institutions and Service Providers*, IIED Small and Medium Forest Enterprise Series No. 28, London: IIED.

best utilized by individuals and family farms or communal borrowers, or some combination of the two, depending on local social structures.²³

The challenge of establishing access to sustainable investment in this context is not new and there have been some interesting, but ultimately inadequate, attempts. However, a number of recent developments suggest that now may be a good time to re-engage with overcoming it. Most compellingly, communication technology has radically increased the potential to access rural individuals in poor countries and reduce the transaction costs associated with small-scale finance, demonstrated by the rapid uptake of mobile banking services in countries with appropriately supportive business regulation. There has also recently been a proliferation of efforts to value the multiple uses of forests, diversifying out of a primary reliance on timber sales for revenue, most notably in the field of payment for ecosystem services including forest carbon. Designing both finance and Legality Assurance Systems in a way that could underpin a broad range of income streams would obviously increase the likelihood of profitability and sustainability over time.²⁴ And finally, even within the context of the timber trade, the market has shifted in recent years, with the implementation of new demand-side measures for demonstrably legal timber (EUTR, Lacey Act, Australian Illegal Logging legislation) meaning that internationally-recognized evidence of good practice such as FLEGT licensing and certification are more valuable than ever to forest product enterprises seeking investment.

Engaging private finance in a VPA could bring a new set of actors into both domestic and international stakeholder processes in much the same way that leveraging 'timber market credibility' has been part of the political strategy employed in VPAs to date. Exactly how this is done would need to be explored within the context of the legal constraints established by the EU trade law basis for VPAs. For example, in current partnerships it has not been possible to embed explicit financial commitments in the legal agreement, leading to a number of parallel arrangements for financial support to the political processes and technical system development. However it is up to each party to decide the institutions that are included in the bilateral negotiation process, meaning that relevant financial institutions could be involved in the development of the Agreement at this level.

WHAT ARE THE CHALLENGES TO MAKING THIS IDEA A REALITY?

Commercial incentives

While the trade incentive identified in early thinking about VPAs may not in fact represent the most significant or compelling driver for those countries entering into an Agreement, it is, at least to some extent, identifiable and quantifiable. The nature and scale of commercial incentives and the distribution of any benefits resulting from the form of VPA described above may be too insignificant to generate the political will necessary to negotiate and implement an Agreement of this sort. This model will therefore only be appealing to potential partner governments who genuinely value the wider social and environmental benefits that it could generate.

Similarly it may be hard to engage any commercial-scale timber producers who are not involved in supply chains that are influenced by the EUTR or other similar legislation. Without their active support, many improvements to which governments may commit risk being unenforceable.

23 Junkin, (2005): *Overcoming the Barriers to Financial Services for Small-Scale Forestry*.

24 Boscolo, M., van Dijk, K. and Savenije, H. (2010): 'Financing Sustainable Small-scale Forestry – Policy Issues and Lessons from Developing National Forest Strategies in Latin America', Bogor: CIFOR.

Community organization and representation

In order for the needs of community and small-scale forest actors to be represented effectively in a government-to-government negotiation, it will be necessary for them to have a relatively high degree of consensus, organization and the capacity to understand the political opportunity represented by the VPA and to communicate, lobby and hold their decision-takers to account throughout the process. Not all countries have this; indeed the lack of a unified voice for these groups has been identified as a key barrier to expanded community forest management globally.²⁵ Naturally such organization is not only a precondition to effective lobbying, but it is also a precondition for managing forests effectively at a scale that makes any commercial sense.

In communities and countries without credible structures of this sort, capacity-building is likely to be a long-term project, which could substantially slow any national negotiation or, crucially, the implementation of any Agreement that is ultimately concluded.

Commercial laundering

While the principle is that such an Agreement only to be negotiated where commercial-scale trade is absent, there is a risk that such a 'light touch' system could be abused by bigger operators hoping to establish new markets with the aid of EUTR free pass offered by FLEGT licensing. The likelihood of such activity is highlighted by recent examples in Liberia where small-scale permits to harvest have apparently been illegally issued across large land areas by virtue of a loophole in the legal framework on which the VPA rests. Robust oversight will be necessary to ensure that a regulatory environment that is appropriate to small-scale operators is not used for commercial laundering of high-risk wood as the EUTR and other new/changing market dynamics influence global supply patterns.

FLEGT licence reputation

Beyond challenges in potential partner countries, there is also the potential for concerns on the part of existing VPA countries, who may feel that a different type of licensing system could undermine the credibility of FLEGT licences more broadly. Ensuring that the development of a less onerous legality assurance scheme designed to support specific groups does not become a 'race to the bottom' for other partner countries will be important if existing momentum for implementation is to be maintained.

²⁵ Programme for the Endorsement of Forest Certification, (2013): 'Empowering Small Landowners through Forest Certification'.

CONCLUSION

Clearly there are many challenges to making this sort of VPA a practical reality, most notably whether any potential partner country government would consider a niche export market incentive enough to contemplate the sorts of reform and investment outlined above. However, there are also a number of significant reasons for attempting to overcome them. Not only would an Agreement that focused on the needs of community suppliers allow for the direct alleviation of poverty, but notably it would also create an incentive for a wider range of countries to engage with FLEGT. In turn, this broadening of potential geographic impact would help to maintain political momentum behind the FLEGT initiative in Brussels and the national development agencies that have supported it, ultimately benefiting all partner countries.

ABOUT THE AUTHOR

Jade Saunders has been an Associate Fellow of the Energy, Environment and Resources programme at Chatham House since 2002, working extensively on forest governance and the FLEGT Agenda. Between 2007 and 2010 she was a policy analyst at the FLEGT Facility, where she provided strategic advice and support on governance and trade matters to the European Commission in the negotiation and implementation of FLEGT VPAs (bilateral trade/aid agreements between the EU and timber-producing developing countries). In addition, she has worked on environmental, developmental and trade issues in areas such as global textile supply chains, natural resources and conflict, marine governance, the trade in illegal ozone-depleting substances, sustainable tourism in least-developed states and climate change. She has degrees in international history and politics (BA, University of Leeds) and social anthropology (MSc, University College London).