

# Identifying Illegality in Timber from Forest Conversion

## A Review of Legality Definitions



With Support from



On behalf of

BMZ



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for Economic Cooperation  
and Development





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## Executive Summary

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FLEGT Voluntary Partnership Agreements (VPAs) aim to verify and license legal timber for export to the EU in order to create a 'market access' incentive for legal operators and countries that wish to improve forest law enforcement and governance standards. Licensing is based on a Legality Assurance System (LAS), which is underpinned by a national Legality Definition. Beginning a credible domestic stakeholder process to identify appropriate laws and detailed verifiers for compliance are necessary pre-requisites to formal bilateral negotiations with the EU.

VPAs were primarily conceived of with selective logging in production forests in mind, but recent data suggests that conversion timber (timber produced when land is cleared for other uses) is increasingly important in tropical production, and in some countries may represent a significant majority of wood production. In addition, agricultural conversion is now acknowledged as the most significant cause of deforestation and is closely associated with land/tenure conflicts with local communities. Assessing the legality of conversion timber requires that compliance with both the process of permit allocation and all relevant management requirements be examined. On this basis, in the countries reviewed in detail by Forest Trends, a significant majority of the conversion timber produced appears to be illegal.

This paper therefore reviews the Legality Definitions of the six countries engaged in VPA implementation, with a view to determining the potential that they offer for identifying illegality in wood sourced from conversion of forest to non-forest uses.

### Findings and analysis:

- On the basis of the information available for this review, it appears that the Legality Definitions incorporate adequate detail to verify management requirements for conversion timber, including the payment of taxes and compliance with appropriate environmental and social obligations.
- Conversely none of the six included all necessary detail to be able to verify compliance in the process by which permits should be allocated. There was also a consistent lack of clarity regarding exactly which permit types could be used for conversion.
- Only Indonesia has a specific 'conversion permit' (IPK) but conversion activities are not necessarily limited to that permit and the Legality Definition does not include the detail necessary to facilitate verification of the process by which IPKs are allocated.
- Cameroon, Ghana and Liberia have reasonable detail on some permit types but it is not clear that all permit options for conversion activities are adequately detailed.
- The Central African Republic and Republic of Congo are particularly lacking in clarity and detail, making credible verification of the legality of conversion timber unlikely without a review of their national Legality Definitions.
- LDs can only draw from existing national legislation, so may not include elements of resource management 'best practice' (e.g. prior informed consent for affected communities); however legal reform opportunities and commitments can be part of a wider VPA legal text if both Parties agree.
- Where Legality Definitions lack necessary detail it may be an indication either that conversion timber was not a political priority for national stakeholders at the time of negotiation OR that a strategic decision was taken to avoid a particular issue in favour of other priorities where political consensus could be achieved more readily.

If illegal conversion timber cannot be identified then it may 'leak' into the FLEGT licensed supply chain, risking the credibility of the license more generally.

## Objective and Justification for Review

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Evidence is building that the most significant drivers of deforestation and forest degradation is clearance for non-forest use, primarily production of commodity agriculture crops. In the past decade, much international attention has been focused on

addressing illegal timber harvesting as an approach to halt deforestation. As a result, significant efforts have been made to strengthen forest governance, clarify legal frameworks and implement the legal instruments applicable to the forest sector in a number of timber producing countries. One of the most widely cited examples is the Voluntary Partnership Agreement (VPA) signed between the EU and partner countries which serves as a tool for addressing illegal practices in the forestry sector. A core component of the VPA is the development of a national Legality Definition (LD) - a legality standard against which timber is verified for compliance throughout all steps in wood processing from stump to market. The LD is drawn from the existing legal framework of the partner country through a sovereign process of multi-stakeholder consultations that focuses not only on the fundamental legal requirements but also on key areas of the framework where implementation of the law is weak.

As noted above, conversion of forests for commodity agricultural production is now the most significant cause of deforestation in many tropical timber producing countries. Increased attention is now being paid to legality within the agriculture sector and case studies in countries with the greatest pressure on forest land for conversion to agricultural use, such as Indonesia and Brazil, have identified instances where illegal practices have occurred. Efforts are underway to identify legal instruments governing this sector in selected pilot countries, and to clarify infractions as the starting point for a more systematic approach comparable to initiatives in the forest sector. Of particular concern is to ensure that any forest conversion is conducted according to the legal framework in the country and with due regard to social and environmental obligations.

A summary overview of the current situation conducted by the IDLgroup and Forest Trends<sup>1</sup> identifies the most frequently encountered activities in the process of forest conversion where illegality is most likely to occur. Country-specific case studies will yield more details and enrich further work in this area, but using current information, sources of potential illegality are estimated in Box 1.

The sources of illegality can be grouped according to the point in the conversion process where they occur, i.e., permit allocation (presence of correct permit to allow forest clearance; process of permit allocation), and implementation of clearance activities (practices in clearance; payment of taxes, etc.)

Six legality definitions were reviewed with a specific focus on these areas, resulting in recommendations which can be used to strengthen an existing LD during future revisions and/or taken into consideration in other countries currently in the process of developing a LD.

A recent review of VPA texts including legality definitions and other relevant components, found that the agreements include many positive aspects particularly with regards to stakeholder consultation.<sup>2</sup> This review complements that study by focusing

### Box 1: What Makes a Forest Conversion “Illegal”?

Many conversions of forest land are legal and may be part of a government’s policy to increase areas of food production, for example. However there is increasing evidence that a high number of conversions in recent years may be considered illegal. Common issues of non-compliance by both government authorities and private companies may be summarised as follows:

- Clearing forest without required corresponding clearance permit and/or without permission from corresponding ministry with jurisdiction over the area;
- Clearing forest in designated protected area or forest identified as HCVF, i.e. deep peat or riparian forest;
- Permit for conducting clearance was issued / obtained illegally, not following due legal process, i.e. through bribery or coercion;
- Permit for conducting clearance was issued / obtained without meeting pre-requisite conditions, i.e. approved EIA, forest inventory or community consent;
- Failing to pay corresponding taxes for timber resources and/or for land acquisition;
- Failure to enforce / implement required environmental mitigation measures during forest clearance activities;
- Failing to comply with provisions stated in contract.

*Source: Compiled from multiple cases brought to public attention.*

<sup>1</sup> Briefing Paper: Potential legality issues from forest conversion timber. Forest Trends/theIDLgroup, April 2013.

<sup>2</sup> Bollen, A. and S. Ozinga. Improving Forest Governance: A Comparison of FLEGT VPAs and their Impact. FERN, February 2013.

specifically at the content of the Legality Definitions and associated legal provisions relating to permit allocation and clearance implementation practices, and there some findings in common.

This review also provides an opportunity to consider whether instruments developed to address illegal logging can be effective alone to ensure legal compliance in conversion practices at the scale that is being experienced in many countries at present.

## Scope of the Review

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- Legality definitions were reviewed for all six countries where VPA negotiations have been concluded (Cameroon, Central African Republic, Ghana, Indonesia, Liberia and Republic of Congo) to identify provisions cited which address forest conversion practices, and corresponding verifiers that will be used to assess compliance;
- In addition to the LD, reviewers referred back to corresponding legislation to identify whether the legal framework makes adequate provision for the practices noted above, or not;
- The main focus of the review was timber sourced from conversion of forests to agricultural use, particularly commodity agricultural production such as oil palm plantations. Other forms of conversion are also impacting forests - for example the conversion of natural forest to plantation forests for the pulp and paper industry and forest clearance for mineral extraction – and may be covered by certain permits cited as legal sources in each LD. However in this report, attention was particularly paid to permits which are most likely to be employed in the clearance of forest for agricultural production.
- This was a desk -based review which included interviews with a small number of key stakeholders in each country to verify findings.

## Overview of Legality Definitions Development Process

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Legality Definitions are country specific, developed through sovereign multi-stakeholder processes, and therefore they reflect the priorities of each country. Legality Definition development processes in each country looked at areas of the existing legal framework which were weak and/or not being enforced, and those areas in particular were highlighted in the resulting legality definition.

EU guidance<sup>3</sup> indicates areas that must be included in a LD but does not prescribe which laws are to be consulted. The legality definition should focus on legislation that address the most serious impacts of illegal logging and incorporate laws addressing the three pillars of sustainability – i.e. those aimed at economic, environmental and social objectives. National multi-stakeholder consultation will also focuses on areas of the legal framework where implementation is a particular challenge for whatever reason (i.e. unclear/ambiguous law; or weak enforcement of a clear law).

Key points in LD development:

- LDs are defined and framed by Multi-Stakeholder Process (MSP); therefore the issues addressed are those that were identified as priorities for ensuring legality. For example, although the 'legal title' is a fundamental requirement for inclusion in the LD, if title/permit allocation processes were not considered problematic for the sector, these may not be specifically included in detail for that particular country;
- Corresponding underlying legislation is also important to consider in order to determine if sufficient provisions to identify illegal practices in conversion timber do exist, but were not detailed in the LD;
- Alternatively, while potential illegality in forest conversion may not have been considered at the time of developing the LD, this could be an opportunity now to point out areas where the LD could be strengthened in future revisions if conversion pressure is increasing in that country.

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<sup>3</sup> FLEGT Briefing Note Number 02: What is Legal Timber? March 2007

It is important to note that actions in natural resource management which have been identified as “best practices” – such as gaining prior and informed consent from affected communities before approving resource extraction or designation for future use – may not be part of the current legal framework in a given country. Therefore, while there may be a number of practices which are recognised by national and international stakeholders as important and ethically desirable, only those which are enshrined in current legislation can be included in a country’s legality definition. The process of developing the LD can be critical in allowing stakeholders to identify gaps in current legislation and opportunities to improve it, such as including best practices.

## Overview of Forest Conversion Challenges in VPA Countries

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Each of the six VPA countries is likely to be experiencing different levels of pressure for converting forest areas to non-forest use, which in turn may be reflected in the formulation of their respective LD. Stakeholder interviews and reviews of relevant literature suggest that of the six VPA countries, Indonesia has experienced the most significant growth in agricultural commodities and resultant pressure on forest resources in recent years.

The charts below provide a snap-shot of changes in land use cover for forestry and agriculture in each VPA country from 2000 to 2011. While a direct correlation between the two land uses cannot be assumed from this data, it is useful as an indication of trends.

Continued loss of forest cover is common to all countries but the expansion of agricultural area appears relatively recent in Cameroon, Liberia and Republic of Congo. Viewing this data in combination with country-level case studies and other relevant literature, West and Central Africa is under increasing pressure and is likely to experience rapid expansion of commodity agricultural production, potentially similar to that seen in South-East Asia, in the near future.<sup>4</sup>

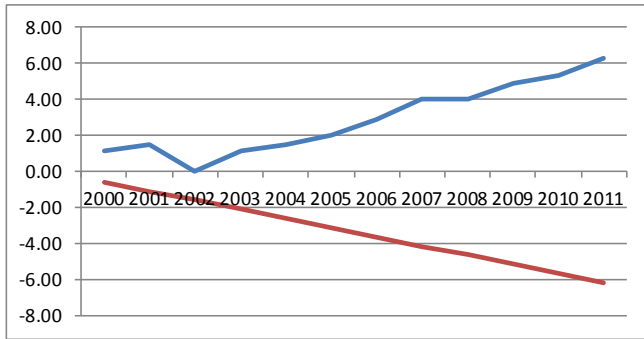
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<sup>4</sup> Union of Concerned Scientists, 2011. Roots of the Problem – what’s driving tropical deforestation today?

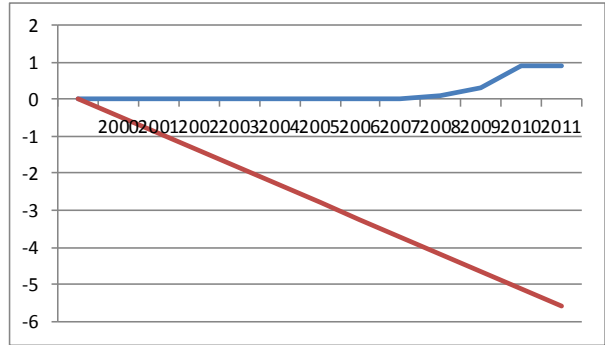


**Figure 1: Percentage of Change in Land-Use Cover in VPA Countries, 2000-2011**

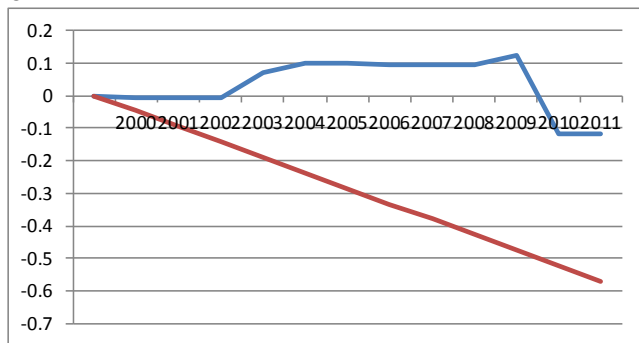
**Ghana**



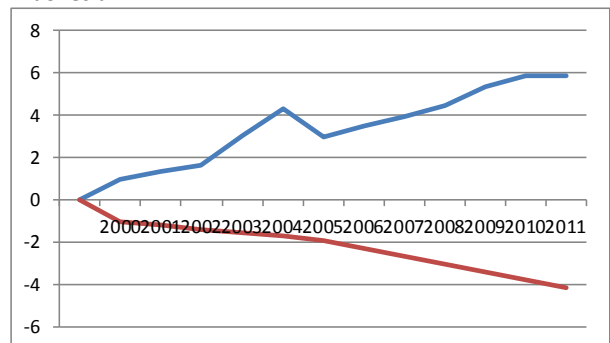
**Cameroon**



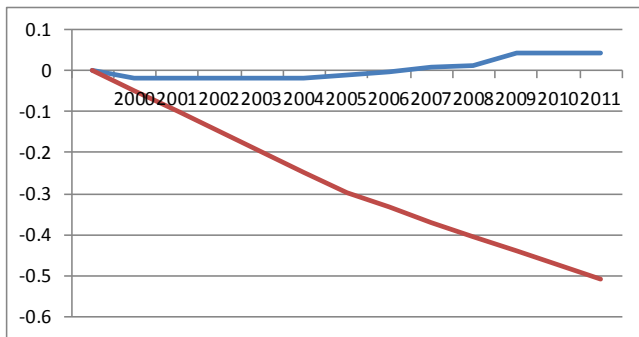
**CAR**



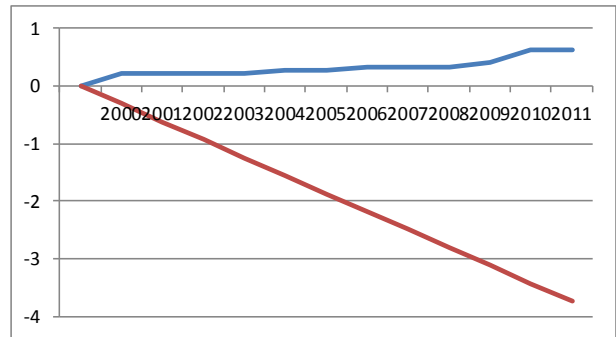
**Indonesia**



**ROC**



**Liberia**



Data source: FAOSTAT 2013

**Key:**

- Agricultural land area
- Forest land area

## Findings

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Findings from the review of legality definitions are given for each country in Table 1 below. The review of LDs and corresponding legislation focused on the two thematic areas noted in the introduction:

- Permit for conducting forest clearance; and
- Implementation of clearing practices.

In general, the findings presented concentrate on provisions relating to those permits which may be used for conversion activities. Where details on other permit types serve to enhance the findings, these are also provided.

With regards to the **implementation of clearance practices**, all six LDs were found to have provisions ensuring that operators pay all applicable fees and taxes, undergo environmental impact assessments prior to starting activities, and comply with environmental mitigation measures throughout. Social obligations during operations are cited in all LDs except Indonesia, and apply to permits which would be used for forest clearance. Therefore for it appears that provisions cited in the LDs should be equally effective in identifying illegality in forest clearance implementation practices as in forest management practices. There is of course variation between each LD regarding the details of implementation requirements, such as social obligations with neighbouring communities, according to the legislation in each country.

With regards to the presence of the **appropriate permit** for conducting the forest conversion, it was not always clear in the LDs which permit type would be required for this activity. Indonesia is the only country with a specific “conversion permit” cited for this purpose; Cameroon, Ghana and Liberia have permit types which could address conversion practices, but in CAR and ROC this issue is still to be clarified.

Key findings for each country and a summary of general findings are given below.

### Cameroon

The LD provides detailed verifiers which reference steps in the permit allocation process for all permit types identified as legal timber sources. When the VPA is fully implemented, the verifiers should provide the ability to identify illegality in the allocation process and compliance with permit requirements in clearance implementing activities.

However, case studies on oil palm development companies currently under scrutiny for potentially illegal activities highlight the challenge that companies are able to operate in forests, even in the permanent forest domain, without demonstrating clear, authorised permits from competent authorities responsible for forest resources. In addition, these cases indicate that multiple resource rights may be granted from different sectors (mining, agriculture and forestry) covering the same land area. This illustrates confusion and lack of cross-sectorial coordination in land-use allocation in Cameroon at present.

### Central African Republic

At the time of developing the LD there were only two types of permits for forest resource use - exploitation and land use permit (PEA) for forest management contracts in permanent forest domain, and plantation permits which can apply to forests outside of the permanent forest domain. Neither of these appears to apply to forest clearance for non-forest use.

The LD cites a number of regulations which need to be developed and legislation requiring reform prior to issuance of FLEGT licenses. Two new permit types are anticipated, for artisanal and community forest use.

At present, illegal forest conversion does not appear to be a significant threat to CARs forest resources. CSOs and other stakeholders are placing emphasis on community and indigenous forest rights and the need to move forward with proposed environmental and social legislative reform recognising these rights in the immediate term, as outlined in the VPA agreement.<sup>5</sup>

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<sup>5</sup> Déclaration de position de la société civile organisée au sein de la Plateforme GDRNE et peuples autochtones centrafricains portant sur l'amélioration du cadre légal et réglementaire en matière de droits sociaux et environnementaux dans le contexte de la mise en œuvre de l'APV FLEGT entre la RCA et L'UE; Bangui le 21 mars 2013.

## Ghana

In Ghana, the only permit that would allow clear-felling of an area to accommodate large scale agricultural use would be a Salvage Permit (SP). Legislation does not require SPs to be issued through competitive bidding but it does stipulate that they are intended for specific purposes only, which includes land undergoing development.

Although Timber Utilisation Contracts (TUC)s are required to go through competitive bidding and subsequent ratification by Parliament, there is also provision in the legislation for a TUC to be granted by Ministerial approval only. During the in-country consultations on the development of the LD, CSOs regarded this provision as being contrary to the spirit of good governance. Therefore, to ensure that FLEGT licenses could not be issued for timber coming from TUCs that had been issued administratively, the wording in the definition was précised to clarify the process through which that allocation would need to take place. Ghana's LD is therefore acting as a mechanism to strengthen permit allocation procedures in this case.

## Indonesia

For all legal sources of timber in Indonesia, the LD indicators and corresponding verifiers start with the presence of the appropriate permit and do not detail the allocation process itself which would enable compliance with the process to be verified.

The IPK permit is cited specifically for application to forest conversion practices but as noted above, the LD does not provide detailed provision for assessing the process of allocating this permit. Corresponding legislation does provide some further detail on the allocation process and eligibility of applicants but these are not reflected in the verifiers in the LD.

While all timber utilisation permits in Indonesia are required to be audited under the SVLK system, doubts have been stated publically regarding the application of audits to IPK permits<sup>6</sup>.

## Liberia

Two types of forest permits could potentially be used for forest conversion in Liberia – Private Use Permits (PUPs) and Timber Sales Contracts (TSCs). Processes governing authorisation for and management of TSCs are described in detail in the legislation and the LD. Conversion to non-forest use is technically possible after the initial 3-year timber harvest period.

As noted in several reports on the recent situation regarding unlawful issuing of PUPs in Liberia<sup>7</sup>, there is an absence of adequate regulation governing the authorisation and monitoring of this permit type. At the time forest regulations were developed, this permit type was not envisioned to be used for timber exploitation to the extent which has been subsequently observed, therefore it not addressed in detail in the LD either. Draft regulations detailing PUP use have recently been developed and will be undergoing stakeholder consultation and review during the second quarter of 2013. When the new regulations are in place, the processes for applying PUPs to forest conversion should be clearer.

Agricultural concession contracts are mentioned in the LD but only in reference to the production of rubberwood, which is listed in the products covered by the FLEGT license. This contract type also requires development of regulations to define and govern approval and implementation. At present this contract type is only described at the policy level, not within legislation or guided by regulations and further clarification is required to determine whether this could be a source of timber from forest conversion.

Recent cases of companies clearing land for commodity agricultural development in Liberia have been subject to scrutiny and criticism, particularly regarding community rights issues and lack of consultation<sup>8</sup>. To date, these developments have taken

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<sup>6</sup> EIA 2013: <http://www.eia-international.org/the-road-to-reform-the-indonesian-legality-assurance-system>

<sup>7</sup> SDI press release:

[http://www.rightsandresources.org/documents/quarantined/files/turningpoint/SDI\\_Press%20Release%20+%20Letter%20to%20EU%2020112.pdf](http://www.rightsandresources.org/documents/quarantined/files/turningpoint/SDI_Press%20Release%20+%20Letter%20to%20EU%2020112.pdf);

Executive Mansion press release: [http://www.emansion.gov.lr/2press.php?news\\_id=2472](http://www.emansion.gov.lr/2press.php?news_id=2472)

<sup>8</sup> Forest Peoples Programme, December 2012. *Human rights-based analysis of the agricultural concession agreements between Sime Darby and Golden Veroleum and the Government of Liberia.*

place on farm land, but companies are now targeting forest areas for future expansion, at which point they will need to seek the appropriate permit from the FDA. Therefore it is important that authorisation requirements for the appropriate permits be clarified and coordination between the Ministry of Agriculture and Forest Development Authority (FDA) for all approvals is effective and transparent.

## Republic of Congo

Large-scale commodity agriculture is not a significant driver of potentially illegal forest clearing in RoC at this time, but may become more of a concern in the future. Forest clearance for subsistence farming and artisanal logging for domestic use are the main drivers of forest loss at present.

Two types of permit could be used for clearing forests – the CTI which is detailed in the LD including provisions for allocation, and an agricultural permit which is issued directly by the Ministry of Agriculture (MoA) and is not included in the LD. Oil palm companies operating in ROC to date are using this second type of permit from MoA and their operations include some forest clearance activity. It is not clear whether the MoA is collaborating with the Ministry of Forest Economy and the Environment (MEFE) for the issuance of these permits.

The presence of a permit authorised by the MoA which enables trees to be cut and sold during clearance is of concern, and the situation merits further investigation to clarify requirements. If this is to be a recognised legal source of timber, provisions for this permit type need to be included in the LD in order for legality to be verified.

## General Findings Summary

- While the majority of the LDs give detailed provision for verifying the process of allocation for the permit types that are identified as legal timber sources, it was not always possible from this relatively brief desk review to determine precisely which permits would be applied to timber coming from a forested area which is under conversion for non-forest use. Only one country, Indonesia, has a timber utilisation permit specifically for this purpose. It is possible that there are other permit types from different sectors which could be used for forest clearance activities but were not envisioned as a priority for the LD when it was developed. For example some permits issued by the ministry responsible for agriculture may include forest clearance activities. This aspect merits further attention on a country-by-country basis as noted in Table 1;
- Therefore it is likely that the LDs alone may not be enough to address the legality of wood coming from all forest types cleared for agricultural use. Some LDs, for example CAR, acknowledge that the definition of legal source is limited at present and envision guidance on new sources to be developed prior to issuing FLEGT licenses;
- While a country may legislate that information be made available to the public, in practice it may be difficult to find the information which is stated as publically available. CSO and watchdog groups have reported difficulty in getting information on the stated practices associated with forest rights allocation, consultation and other requirements.<sup>9</sup>
- A powerful tool of the LD process is for stakeholders to agree by consensus which timber sources are included in the definition and will subsequently receive a FLEGT certificate. In some cases this has resulted in a particular timber source, i.e. authorisation for felling issued directly by ministerial decree alone, not being included in the LD in order to ensure maximum transparency.

It is also possible that permits exist which result in timber production, perhaps from other sectors (i.e. agriculture clearance permits) but were not included as legal timber sources in the LD at the time of development. These sources subsequently will not be subject to the requirements of the LAS, and will not receive a FLEGT license for export. However until the VPA is fully implemented in each country including in the domestic market, this timber could conceivably enter the domestic and possibly regional market supply.

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<sup>9</sup> Global Witness: Making the forest sector transparent, Annual Report Card 2012. <http://www.foresttransparency.info/report-card/2012>

**Table 1: Summary Findings from LD Review for Six VPA Countries**

	Questions Asked about LD	Cameroon	Central African Republic	Ghana
<b>General Background- Forest Conversion in VPA Country</b>				
	Is conversion of forest areas to agricultural use considered to be a significant cause for concern with regards to potential illegal practices?	Yes – considerable cause for concern which has increased rapidly in recent years with a few high profile cases.	Not highest concern, key driver of illegal forest loss is still encroachment by subsistence farmers.	Not the most significant concern for illegal forest loss, small scale agricultural encroachment is the greatest concern.
	Is forest conversion likely to increase in the near future?	Yes – concern regarding rapid expansion.	Yes - pressure for commercial agriculture expected to increase but not anticipated to be a significant source of illegal timber harvesting.	Yes - pressure for commercial agricultural growth likely to increase but not anticipated to be a significant source of illegal timber harvesting.
<b>Specific provisions cited in the Legality Definition</b>				
1	What timber sources (i.e. permit types) are identified as “legal sources” by the LD?	<p><b>Permanent forest domain (DFP):</b></p> <ul style="list-style-type: none"> <li>Logging agreement (CE)</li> <li>Communal forest (FCle) – State logging of communal forest</li> </ul> <p><b>Non-permanent forest domain (DFNP)</b></p> <ul style="list-style-type: none"> <li>Salvage license (ARB)</li> <li>Harvested timber removal license (AEB)</li> <li>Cut timber sale (VC)</li> <li>Community forest (FC) – State logging of community forest</li> <li>Special permit (PS)</li> </ul> <p><b>Timber-processing units (UTB)</b></p>	<ul style="list-style-type: none"> <li>Exploitation and land use permit (PEA)</li> <li>Logging authorisation – Plantation Permit</li> <li>Artisanal and Community permits will be issued in the future – none at time of signing VPA.</li> </ul> <p><i>Statement in the LD:</i> The regulations governing plantations are less developed. This matrix was produced on the basis of existing regulatory texts. Other texts will subsequently be produced to improve the regulations governing plantations. The legality definition will then, consequently, be updated.</p>	<ul style="list-style-type: none"> <li>Timber Utilization Contract (TUC)</li> <li>Salvage Permits (SP)</li> <li>Plantation Felling Permits</li> <li>Confiscated and abandoned logs (following due auction process).</li> </ul>
2	What permits could be issued for forest clearance?	<ul style="list-style-type: none"> <li>Salvage licenses (ARB);</li> <li>Cut timber (VC);</li> <li>Potentially also community forest licenses (FC)</li> </ul>	Not clear - Plantation Permit is currently the only type of logging authorisation cited for forests outside permanent forest domain but appears restricted to state-owned plantations.	Salvage Permit.

What level of detail is provided in the LD regarding allocation process for the permit(s) in question?

Allocation process is cited in detail for all permit types. The following relates to permits which can be used for forest clearance:

- **Salvage License (ARB)** (Matrix 3, Criterion 1, Indicator 1.2) states that operator holds licence issued by administration responsible for forests in accordance with the law. Details of process are cited in verifiers.
- **Cut timber sale (VC)** (Matrix 5, Criterion 1, Indicators 1.2-1.4; Criterion 2, Indicator 2.2-2.3); states that operator holds licence legally awarded by administration. Details of process are cited in verifiers.

All types of permits require that the forestry entity:

- demonstrates rights to forest resources;
- holds the required permit, concluded with the appropriate responsible administration;
- adheres to public tender process (where applicable);
- can demonstrate competency to perform activity approved;
- has not been suspended; and
- has paid taxes and other applicable fees.

The LD states that “all processes need to be followed” for permit allocation, and cites relevant steps in detail for the following:

- **Exploitation and land use permit (PEA)** (Criterion 2.1, Indicator 2.1.1) cites required steps as: informing population, public tendering, application, award committee (which includes the independent monitor).
- **Logging authorisation – Plantation Permit** (Criterion 2.2, Indicator 2.2.2 – 2.2.3) cites required steps as authorisation from appropriate Ministry, exploration approval and report (state owned plantations) simple management plan; and, where appropriate contract between company and individual or community (owner) for plantation (privately owned plantations).

Details are provided in the corresponding verifiers

**NB:** LD references Annex IX General Conditions for plantation management need to be created. Guidance at this point is incomplete.

Allocation processes for all permit types are cited in detail in the LD.

Legal sources of timber (Principle 1) are defined as prescribed sources where concerned individual, group and owners gave their written consent to land being subjected to the grant of timber rights.

Timber rights allocation (Principle 2) provides details for each permit types:

- **Natural Forest and Plantation TUCs** (Criterion 2.1); cites procedures for competitive bidding, and terms and conditions of TUC; issued by Minister and ratified by Parliament;
- **Salvage Permit (SP)** (Criterion 2.2); cites regulation on procedures for salvage timber and salvage of timber products; issued by the Forestry Commission;
- **Confiscated Timber** (Criterion 2.3) cites presence of permit for duly auctioned confiscated timber.

Further details are provided in the corresponding verification procedures.

4	<p>What level of detail is provided in the referenced legislation with regards to allocation process for permit in question?</p>	<p>Detail regarding allocation process requirements is provided in corresponding legislation and is reflected in the verifiers.</p> <p>Relevant legislation cited:</p> <ul style="list-style-type: none"> <li>- Law no. 94-01 of 20 January 1994 (establishing Forest Code)</li> <li>- Law no. 96-12 of 5 August 1996 (framework on environmental management)</li> <li>- Order no.222 MINEF of 25 May 2001 (monitoring and controlling forest management in permanent forest domain)</li> <li>- Decree no. 2005/577 of 23 February 2005 (terms for EIAs)</li> <li>- Order no. 0069 MINEP of 8 March 2005 (operations subject to EIA)</li> </ul>	<p>Allocation process for PEAs is provided in the legislation in detail, and reflected in the corresponding verifiers.</p> <p>Plantation permit allocation process is not detailed in the legislation but verifiers cite “General Conditions need to be created”.</p> <p>Legislation does not currently exist for the other permit types (artisanal and community) cited in the LD – envisioned to be developed in the future.</p> <p>Relevant legislation cited:</p> <ul style="list-style-type: none"> <li>- Law no. 08.022 of 17.10.08 (establishing Forest Code of CAR)</li> <li>- Decree 09.118 of 29.04.09</li> <li>- Orders no. 0.19 of 05.07.06 and no. 09.026 of 28.07.09 (approving national rules for land-use plans Vol 1 and Vol 2 respectively)</li> <li>- Order no. 09.021 of 30.4.09</li> </ul>	<p>Allocation processes are described in detail in the legislation and referenced in corresponding verifiers.</p> <p>Legislation provides for exclusion of individuals cited for participation in illegal activities in the timber trade within previous 2 years.</p> <p>Relevant legislation cited:</p> <ul style="list-style-type: none"> <li>- Timber Resources Management Act 1997 (Act 547) (providing granting of timber rights);</li> <li>- LI 1649 Timber Resources Management Regulations 1988 (providing guidelines for allocation and management of timber resources);</li> <li>- LI 1721 Timber Resources Management (Amendment) Regulations 2003 (establishing competitive bidding in timber resources allocation).</li> </ul>
5	<p>Do the corresponding verifiers in the LD enable effective verification of allocation process?</p>	<p>Yes - verifiers are detailed and cite the steps required in the allocation process.</p> <p><b>Verifiers specific to salvage permit (ARB) (Matrix 3, Verifiers 1.2.1-1.2.9):</b> details of the salvage project; environmental conformity certificate; letter from competent Minister stating need to salvage timber before project is implemented; results of timber inventory; notice of public invitation to tender; document from interministerial committee selecting the forestry entity as best bidder; receipts for payment of sales price; salvage license issued by competent manager of forestry</p>	<p>Yes – for PEA and plantation permits only at this point. Further guidelines for plantations to be developed.</p> <p>Verifiers specific to exploitation and land use permit (PEA) (Verifiers from 2.1.4.1-2.2.1.3.): reports of the PEA award committee and independent monitor, decree of award, provisional agreement and final agreement, proof of payments, approval for management and operational plans and felling agreement signed by relevant authority.</p> <p>Verifiers specific to plantation permit (Verifiers 2.1.3.1 and 2.2.2.1 – 2.2.3.3): land title for private plantations,</p>	<p>Yes – verification procedures state the allocation steps which must be followed for permits to be issued legally and receive FLEGT license.</p> <p><b>Verification Procedures specific to TUCs (Criterion 2.1):</b> follows competitive bidding process; receives FC recommendation for allocation; logger complies with all conditions specified in award including securing written consent from concerned individual, group or landowner; Minister executes TUC as prescribed; Parliament ratifies TUC (except Plantation TUCs).</p>

		administration and notification of start of work. <b>Verifiers specific to cut timber sale (VC) permit</b> (Matrix 5, Verifiers 1.2.1-1.2.6) public notice for invitation to tender, document from interministerial committee selecting forest entity offering highest forest fee, receipt for registration of file, proof of deposit with Public Revenue Dept., order awarding sale signed by Minister responsible for forests based on information from the invitation to tender, and minutes of the information meeting signed by Prefect.	agreement of responsible minister, exploration authorisation and report, simple management plan, felling authorisation, where applicable contract between individual or community and company.  <b>NB:</b> As above, verifiers for plantations reference General Conditions which are still to be developed.	<b>Verification Procedures specific to Salvage Permits (SP)</b> (Criterion 2.2): application to FC; FSD field inspection and justification for salvage of commercial trees in defined location; FC issues permit.  <b>NB:</b> Legislation also allows timber use rights to be issued by Ministerial approval alone, but the LD specifies only timber meeting the allocation procedures above will be included in FLEGT scheme.
<b>6</b>	<b>Allocation Process Checklist - Does allocation process described in the legislation and LD with regards to permit(s) used for conversion:</b>			
<b>6a</b>	<b>Require consultation with neighbouring communities? Or information exchange?</b>	No legal requirement for stakeholder consultation, but communities have the right to use forest resources for personal use and in principle, can claim their rights or refuse allocations for concession logging permits (CE) and cut timber sales permits (VC).	Consultation not required. Information exchange required during allocation process for PEAs only. All permit types require operators to respect local and indigenous population rights during activities.	Consultation required. Definition of legal source of timber includes the requirement that concerned individuals, group and owners give their written consent to the land being subjected to grant timber rights.
<b>6b</b>	<b>Include competitive tender process?</b>	Yes – public invitation to tender for logging concession (CE), salvage (ARB); and cut timber sale (VC) permits. Public notice made for special permit (PS) when awarded.	Yes - but only for PEA	Not for Salvage Permits, only for TUC.
<b>6c</b>	<b>Include eligibility criteria for applicant companies?</b>	Yes for all permit types.	Yes - but only for PEA	All companies must meet stated pre-qualification requirements for competitive bidding, which applies to TUC.  Does not apply to Salvage Permits.
<b>6d</b>	<b>Is eligibility of applicants for clearance permits verified independently?</b>	Yes – by Interministerial Committee	Yes-has provision for independent monitor but only applicable to PEA	Not for Salvage Permits. Evaluation for TUCs is conducted by the independent Timber Rights Evaluation Committee.



6e	Require information on allocation decision-making to be made public?	Yes-decisions for awarding all permit types are required to be made public.	Yes-for both PEA and plantation permit types.	Yes-process for allocating TUCs and announcement of bid winners is available on Forestry Commission website; In addition, the VPA states that public summary reports of all other use right holders (Salvage Permit and Underwater use rights) will be provided as an output of the verification process to increase transparency.
7	Does the LD reference activities in HCVF or other fragile areas?	Not specifically mentioned.	Yes – Verifiers under Indicator 5.6.2 refer to authorised species to harvest. Verification procedures (Annex V) reference list of protected species which cannot be harvested.  Corresponding legislation states forest activities are prohibited in ecologically sensitive areas.	Yes-Verifiers for Principle 3: Timber Harvesting Operations reference mapping of protected areas to be excluded from harvesting both on- and off- reserve.  Additionally, any tree classified as Black Star (species of national or international importance) cannot be felled under any circumstances.
8	Does LD make provision for payment of applicable taxes and duties?	Yes – Operators under all permit types are required to have complied with all tax requirements and demonstrate related payments have been made.	Yes – Operators under all permit types are required to have complied with all tax requirements and demonstrate related payments have been made.	Yes--Operators under all permit types are required to have complied with all tax requirements and demonstrate related payments have been made.
9	Does the LD reference environmental impact assessment (EIA) and corresponding mitigation measures?	Yes – All permit types require operators to comply with environmental legislation and complete an environmental inspection prior to operations EXCEPT for Salvage Permits (ARB).	Yes- EIAs are required prior to operations, and monitoring procedures are specified for biodiversity and waste – but these apply ONLY to PEAs .Not specified as requirement for other permit types.	Yes – All timber harvesting operations must comply with environmental standards and complete an environmental inspection.
10	Does the LD reference local community rights and social obligations during operations?	Yes – All permit types require operators to respect community rights and meet social commitments during operations.	Yes – social obligations are required to have been met but ONLY applicable to PEAs.	Yes – social responsibility agreements (SRA) required for timber harvesting on- and off-reserve. Obligations agreed in SRA are required to be met.

Related questions asked of other part of the VPA				
11	<p>Is legislation cited in the LD or VPA as needing reform? Is there a timeframe for undergoing the legislative reform processes?</p>	<p>Yes – VPA Annex X (11m) cites review of forestry law and implementing texts required to improve legal framework in 9 areas, including the following which may be most relevant to permit allocation:</p> <ul style="list-style-type: none"> <li>Community, communal and private forests;</li> <li>Social and environmental aspects;</li> <li>Integration of legal instruments ratified by Cameroon; and</li> <li>Any necessary adjustment of the legality matrix.</li> </ul> <p>Not specific provisions – the VPA makes general recommendations only. Annex IX (5) cites timeframe for legal reforms to be in preparatory phase i.e. PRIOR to issuing FLEGT licenses.</p>	<p>Yes – VPA Annex IX (Section 1) cites legal reforms required for 25 legal instruments under seven ministries. With regards to the regulations impacting permit allocation, the following is envisioned:</p> <ul style="list-style-type: none"> <li>Revision of the law on PEA award committees, involving civil society;</li> <li>Laws regulating plantation forests (terms and conditions relating to plantations of more than 50 hectares; definition of contractual relations between an individual community and a logging company; other relevant areas);</li> <li>Law regulating licensing authority information on certain aspects of forestry and environmental management.</li> </ul> <p>Community and artisanal concession legislation needs to be developed and implemented – the LD only relates to PEAs and plantations. Legal reforms cited are to take place before FLEGT licensing scheme comes into full operation.</p>	<p>Yes – VPA Annex II (Section 5) cites 11 areas of policy and legislation requiring reform. With regards to the regulations impacting permit allocation, the following is envisioned:</p> <ul style="list-style-type: none"> <li>A clear statement of resource governance objectives;</li> <li>Identification and correction of inconsistencies in existing forest laws relating to defining legal timber;</li> <li>Affirmation of local forest tenure and different stakeholder rights (i.e. farmers rights to manage and develop forests);</li> <li>Investment regulation including incentives and benefit sharing in forest sector.</li> </ul>
12	<p>Is there an Annex in the VPA citing the type of information required to be made public (i.e. transparency annex)? If so - what information is to be made publically available?</p>	<p>Yes – Annex VII cites ten categories of information which is to be made publically available. The following information on <b>permit allocation</b> is included:</p> <ul style="list-style-type: none"> <li>List of titles with company names;</li> <li>List of permits and logging certificates issued;</li> <li>Map of location of valid logging titles;</li> <li>Map of location of annual logging areas;</li> <li>Official areas of logging and allocation price;</li> </ul>	<p>Yes – Annex IX cites 13 categories of information which is to be made publically available. The following information on <b>permit allocation</b> is included:</p> <ul style="list-style-type: none"> <li>For PEAs:</li> <li>Tender procedures manual for PEA;</li> <li>Notice of call for tenders (permit allocation);</li> <li>Notice of call for tenders (recruitment of independent monitor);</li> </ul>	<p>No specific annex to reference public information was developed at time of writing the VPA. This type of annex is considered for future inclusion.</p> <p>VPA Article 20 cites the information to be included in publically available annual report of the JMRM. This information deals primarily with issuance of FLEGT licenses (number issued, number received by EU, quantity of timber exported and imported), progress towards time-bound</p>

	<p>Notices of all invitations to tender;  Information on pre-emptive rights  List of annual withdrawals of secure documents;  Results of inter-ministerial title allocation committee;  List of approved forestry companies;  Notification of start of activities under salvage permit (ARB).</p>	<p>Minutes of the Joint Commission for Allocating Exploitation and Land-use Permits;  Order establishing the Joint Commission for Allocating Exploitation and Land-use Permits;  List of bidders;  Report of the independent monitor on PEA award procedure;  List of valid concessions with names of beneficiary people and/or communities;  Minutes of meetings related to respect for local and indigenous communities' customary rights of access and use</p>	<p>targets in the VPA and actions taken to maintain integrity of licensing scheme.</p>
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**Table 1 (continued): Summary Findings from LD Review for Six VPA Countries**

	Questions Asked OF LD	Indonesia <sup>10</sup>	Liberia	RoC
	<b>General background – forest conversion in VPA country</b>			
	Is conversion of forest areas to agricultural use considered to be a significant cause for concern with regards to potential illegal practices?	Yes – rapid expansion of commercial agriculture in recent years has been considerable cause for concern regarding forest loss and illegal practices.	Concern has been raised regarding potentially illegal practices of agricultural companies operating outside of forest areas, but not a significant cause for forest loss yet.	Key driver of forest loss is still encroachment by subsistence farmers but a few high-profile cases of concern regarding the actions of oil palm companies note potentially illegal practices
	Is forest conversion likely to increase in the near future?	Yes – this trend is continuing, and Indonesia is largest producer of palm oil in the world.	Yes – anticipated to be increasing pressure on forested areas for expansion of agricultural operations.	Yes – anticipated to be increasing pressure on forested areas for new agricultural development in near future.

<sup>10</sup> Review conducted using December 2012 version of Indonesia's Legality Standards.

Specific provisions cited in the Legality Definition				
1	What timber sources (i.e. permit types) are identified as “legal sources” by the LD?	<p>Timber utilisation permit (IUPHHK) (state-owned forest):</p> <p>HPH and HA for natural forests – company managed;</p> <p>HTI and HPHTI for plantations – company managed;</p> <p>HTR for community managed plantations;</p> <p>HKM for community managed forest</p> <p>Reforestation-based Plantation Forest (HTHR) (state owned forest)</p> <p>Other Legal Permit (ILS) (state owned forest)</p> <p>Conversion Permit (IPK) (state owned forest)</p> <p>Private land – no permit required</p>	<p>Forest Management Contract (FMC)</p> <p>Timber Sales Contract (TSC)</p> <p>Forest Use Permit (FUP)</p> <p>Private Use Permit (PUP)</p> <p>Chainsaw permit</p>	<p>Management and processing agreement (CAT)</p> <p>Industrial processing agreement (CTI)</p> <p>Plantation timber harvesting permit</p> <p>Special permit (PS)</p>
2	What permits could be issued for forest clearance?	<p>IPK – specifically referenced as “conversion” permit.</p> <p>ILS could potentially also be used.</p> <p>NB: Data from Indonesia Ministry of Forestry 2007-2011 show a six-fold increase in “other licenses”, in addition to those listed above, as a source of log production<sup>11</sup>. Further investigation is needed to clarify exactly what permits these are and if the activity involves forest conversion.</p>	<p>PUP could be issued for clearance activities on private land – regulations guiding PUP issue and implementation are currently being developed.</p> <p>Land harvested under TSCs could potentially be converted to commodity agricultural use after 3-year timber harvest cycle.</p> <p>LD also references Agricultural Concession Contracts for rubberwood production. Unclear if agricultural contracts could be used for forest conversion, but all timber harvesting activity requires approval by FDA.</p>	<p>CTI can be used for clearing forest areas as this permit does not require a management plan or long-term management objectives. Company would then need additional permit from Ministry of Agriculture to develop land for agricultural purpose.</p> <p>A separate permit can also be issued directly by the Ministry of Agriculture which allows for forest clearance to prepare land for agricultural use. This permit type is not included in the LD.</p> <p>Oil palm companies operating in ROC to date are using this permit from Ministry of Agriculture. It is not clear whether the Min of Ag is collaborating with forestry.</p>

<sup>11</sup> <http://www.dephut.go.id/>

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What level of detail is provided in the LD regarding allocation process for the permit(s) in question?

Legality Standard #4 applicable to timber utilisation rights within non-forest zones (IPK, ILS and HTHR permit types) does not provide details regarding permit allocation process.

Legal status of area and right to utilise timber resources for three types of use (resulting in no alteration of legal status of forest; changes in legal status of forest; and extraction for reforestation activities) is evidenced by the authorisation of the corresponding permit type.

**Provision for ILS and IPK and HTHR permits** (Standard 4, Principle 1, Indicators 1.1 – 1.3) – authorisation of operation under ILS or IPK permit or under HTHR permit.

Steps for allocation process are clearly defined with guidance of procedures and verification methods for FMC, TSC and FUP, but not detailed for PUP.

The LD references individual qualification for permit allocation:

**All permit types** (Principle 1, Indicator 1.2) provides for exclusion of individuals prohibited from owning or having interest in a forest contract;

**Provision for FMS, TSC and FUP** (Principle 1, Indicator 1.3) – Public Procurement Concession Commission (PPCC) maintains debarment list of persons who have violated PPC Act

LD references to steps in allocation:

**Provision for FMC, TSC and FUP permits** (Principle 2, Indicators 2.1-2.4; and Indicator 2.6) – stakeholder consultation, approval of concession plan, compliance with prequalification requirements, tendering in accordance with competitive bidding process and regulations, FDA preparation of maps.

**Provision for PUP** (Principle 2, Indicator 2.5) – requirement for written permission of land owner.

**All permit types and agricultural concessions** (Principle 2, Indicator 2.9) – requirement that contract is signed by MD of FDA (TSC, FUP and PUP) and ratified by with Presidential approval (FMC and agricultural concession).

Some detail is provided in LD regarding CAT and CTI permits which are required to have complied with all steps in the allocation process.

**Provision for CAT and CTI** (Principle 2, Indicators 2.1.1 – 2.1.2) – call for tender; minutes of decision making by Forestry Commission; notification of approval; signed agreement.

Operators for all permit types must demonstrate registration, valid licenses by economic, fiscal and forestry authorities, and must be permitted to operate.

**All permit types** (Principle 1, Indicators 1.2.1 and 1.2.2) – company must not be suspended due to judicial decision or administrative measure.

4	<p>What level of detail is provided in the referenced legislation with regards to allocation process for permit in question?</p>	<p>Some detail regarding allocation process requirements is provided in corresponding legislation. Applicants must meet technical and administrative requirements.</p> <p>IPK allocation process includes the following:</p> <ul style="list-style-type: none"> <li>Identification of applicant and demonstration of ability to comply with legislated requirements;</li> <li>Copy of land use designation permit for corresponding area and intended end use certified by competent authority;</li> <li>Map of proposed area;</li> <li>Size limits for conversion areas;</li> <li>Time limit – 1 year maximum with potential for one renewal;</li> <li>Inventory based on 5% sampling;</li> <li>Logging plan;</li> <li>Additional technical requirements where harvesting results in change in legal status of forest:</li> <li>Proposal and justification signed by minister or relevant authority;</li> <li>Report of field survey conducted by relevant agency;</li> <li>Results and interpretation of satellite imagery from maximum 2 year period.</li> <li>Review and approval for IPK based on condition of forest and status of applicant (meeting technical and administrative requirements);</li> </ul> <p>Relevant legislation cited:</p> <p>Regulation of the Minister for Forestry P18/2011 (establishing forest resource use)</p>	<p>Allocation process for FMCs, TSCs and Chainsaw logging permits are provided in the corresponding legislation in detail. With regards to FUPs and PUPs, requirements and conditions are given but legislation refers to future development of regulations for further guidance and details on process.</p> <p>Relevant legislation cited:</p> <ul style="list-style-type: none"> <li>National Forest Reform Law 2006 (establishing forest resource management)</li> <li>Public Procurement and Concessions Commissions Act 2005 (establishing PPCC and procedures for concession granting)</li> <li>Environmental Protection and Management Law 2002 (environmental requirements)</li> <li>FDA Code of Forest Harvesting Practices 2007 (implementation guidelines)</li> <li>Liberia Chainsaw Logging Regulation 2012 (guidance for chainsaw operations)</li> </ul>	<p>Allocation processes for all three permit types cited in the LD are provided in the corresponding legislation in detail, for application in the permanent and non-permanent forest estate.</p> <p>With regards to conversion of forest or de-forestation, legislation states that all companies other than forestry companies, which, in their activities are clearing forest areas, are required to obtain authorisation from the Minister responsible for forests (law no. 16, Art. 31).</p> <p>Relevant legislation cited:</p> <ul style="list-style-type: none"> <li>Law no. 16-2000 of November 2000 (establishing the forestry code)</li> <li>Decree no.2002-437 of 31 December 2002 (establishing conditions of forest management and use)</li> </ul>
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5	Do the corresponding verifiers in the LD enable effective verification of allocation process?	<p>No - verifiers are concise and provide minimum guidance, do not reflect the detail given in corresponding legislation. Verification starts with the existence of approved permit.</p> <p><b>Verifiers specific to ILS/IPK not altering legal status of forest</b> (Legality standard 4, Indicators and Verifiers 1.1.1): ILS/IPK permits for harvesting in specified area; Maps of lease area and evidence of compliance on the ground.</p> <p><b>Verifiers specific to IPK changing legal status of forest</b> (Legality standard 4, Indicators and Verifiers 1.2.1): IPK permit for conversion area; Map attached; documents authorising changes in legal status of forest.</p>	<p>Yes - comprehensive and detailed verifiers enable process to be followed for FMC, TSC and FUP, but less detailed regarding PUP and minimal regarding agricultural concession contracts.</p>	<p>Yes - verifiers are concise but reflect the main steps in the allocation process, further detail is provided in the legislation.</p> <p>Verifiers cover documented steps in competitive tender process for CAT and CTI permits.</p>
6	Allocation Process Checklist - Does allocation process described in the legislation and LD with regards to permit(s) used for conversion:			
6a	Require consultation with neighbouring communities? Or information exchange?	<p>No requirements for consultation or information sharing in LD or corresponding legislation for forest conversion permits.</p>	<p>Affected communities shall be consulted and informed consent is required for FMC, TSC and FUP permits over \$10k in value.</p> <p>Public stakeholder consultation is required for agricultural concession contract approval.</p>	<p>Operators under both CAT and CTI permits are required to inform local and indigenous populations and to respect rights. No specific requirements for consultation or consent.</p>

6b	Include competitive tender process? (applicable to state owned land)	IPK or ILS permits do not appear to be issued by competitive tender.	Yes – for FMC, TSC and FUP only when having value \$10K and above. Yes – for agricultural concession contracts.	Yes for CAT and CTI.
6c	Include eligibility criteria for applicant companies?	Yes for all permit types.	Yes for all permit types.	Yes for all permit types.
6d	Is eligibility of applicants for clearance permits verified independently?	Eligibility does not appear to be verified independently.	Yes -the Public Procurement Commission (PPC) is an independent body.	Approval is done by Forestry Commission and does not appear to involve independent verification.
6e	Require information on decision-making to be made public?	Yes – issuance of IPK permits is made public.	Yes – issuance of all permit allocations and concession contracts are made public.	Yes – issuance of all permit allocations are made public.
7	Does the LD reference activities in HCVF or other fragile areas?	No specific reference in LD.	Yes – Verifiers under Indicator 2.6 require consultation and mapping to exclude protected forest areas. Threatened or endangered species are also addressed in the LD.	No specific reference in LD.
8	Does LD make provision for payment of applicable taxes and duties?	Yes – IPK/ILS permits require operators to demonstrate payment of all applicable fees, levies and taxes.	Yes – Operators under all permit types are required to have complied with all tax requirements and demonstrate related payments have been made.	Yes – Operators under all permit types are required to have complied with all tax requirements and demonstrate related payments have been made.
9	Does the LD reference environmental impact assessment (EIA) and corresponding mitigation measures?	Yes – but only in relation to timber harvesting in production forest zones. No specific reference in the LD to EIA requirements for ILS/IPK permits but corresponding legislation states an environmental license is needed prior to commencing any form of timber utilization permit.	Yes – Operators for all permit types are required to demonstrate environmental compliance prior to, during and after harvest activities.	Yes – Operators for CAT and CTI permit types are required to demonstrate environmental compliance prior to, during and after harvest activities.
10	Does the LD reference local community rights and social obligations during operations?	No specific reference in LD but corresponding legislation cites managing for social development.	Social agreement requirements only for FMC, TSC and FUP cited in LD, but corresponding legislation refers to social agreement requirements for PUPs and agricultural concession contracts as well.	LD references requirements for CAT and CTI permit holders to respect rights of local and indigenous population, and to meet corresponding social obligations and contribute to local development.



Related questions asked of other part of the VPA:			
	<p>Is legislation cited in the LD or VPA as needing reform? Is there a timeframe for undergoing the legislative reform processes?</p>	<p>No reference in the VPA to legal reform processes.</p>	<p>Yes – VPA Annex II, Appendix A lists 9 areas of legislation and policy that require reform. With regards to those which impact permit allocation processes, the following is envisioned: Establishing procedures to govern negotiations of Social Agreements including timing of negotiations, timeliness of payments and transfers, minimum content, enforcement, community user rights and employment of non-skilled workers.</p> <p>The reforms are expected to be completed prior to issuing FLEGT licenses.</p> <p>Yes – VPA Annex IX: Other Relevant Measures, Section 3, cites reform needed in 18 legal areas, under 5 different ministries. With regards to those which impact permit allocation processes, the following is envisioned: Law promoting and protecting the rights of indigenous peoples in Congo (Min. of Justice); Decree establishing the terms of involvement of local, indigenous populations and civil society in the process of classifying and declassifying forests (Min. of Forest Economy); Decree establishing involvement of local communities, indigenous populations and civil society in drafting terms and conditions (Min. Of Forest Economy);</p> <p>Overall regulatory reform shall include recognition of community and indigenous rights.</p> <p>The reforms are expected to be completed prior to issuing FLEGT licenses.</p>
12	<p>Is there an Annex citing the type of information required to be made public (i.e. transparency annex)? If so - what information is to be made publically available?</p>	<p>Yes – Annex IX: Public Disclosure of Information; references Freedom of Information Act (2008) and provides detailed list of types of information to be made public.</p>	<p>Yes – Annex IX: Public Information and Transparency Measures references Liberia’s Freedom of Information Act (2010) and Extractive Industries Transparency Initiative (EITI).</p> <p>Yes – Annex X: Published Information references 10 types of information that will be made public, together with information from the Joint Committee. The list cites a specific category on information related to process of granting certificates and the permit</p>

	<p>Includes the following specific reference to <b>land and forest allocation</b> information:</p> <p>Land allocation maps and plans;  Procedures for allocation;  Permits and land title documents;  List of permit holders.</p>	<p>The following information on <b>permit allocation</b> is made <b>routinely</b> available:</p> <p>All licenses issued ;  Agricultural concession contracts relating to products cited in the VPA;  Documents relating to competitive bidding process;  Concession contracts awarded;  Social agreements between forest communities and all contract or permit holders;  Maps of communal forests;  Lists and maps of all TSCs, PUPs, FUPs, and FMCs awarded.</p> <p>The following information on <b>permit allocation</b> is made available <b>on request</b>:</p> <p>Documents relating to pre-qualification;  Documents relating to competitive bidding process;  Lists of prohibited, de-barred and suspended persons;  Documents relating to approved business and management plans;  Location and ownership of lands under license;  Names of forest resource holders and description of area covered by license.</p> <p>In addition, the LD includes Principle 11 – Transparency and General Disclosure applicable to all permit types, with specific provision for required information disclosure.</p>	<p>holders, including proceedings of decision making, maps, list of all valid permits and copies of signed agreements for CAT and CTI permits.</p>
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## Conclusions and Recommendations

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In this review of VPA countries' Legality Definitions (LDs), greatest attention was paid to the permit allocation process and the implementation of conversion practices. The review shows that all LD's give provision to identify illegality during the implementation of forest clearance practices themselves. For example, all LDs require an EIA to be conducted and mitigation measures implemented during forest clearance and demonstrated evidence that taxes and other payments have been completed.

The majority of the LDs reviewed do provide detail regarding the allocation processes of the permits cited in the LD as legal sources. In several LDs however, the verifiers do not provide much detail but reference legislation where further detail may be found. Detailed verifiers may enable more effective monitoring within the LAS and of the entire LAS system itself, therefore it may be an opportunity lost if verifiers do not reflect legislation. National stakeholders may wish to consider increasing the detail provided within the LD itself in the future if permit allocation and forest conversion are seen to be priority issues in that country.

Legality Definitions are acknowledged as the best-developed tool to identify legal frameworks for resource extraction and trade, in this case timber. It is envisioned that the LDs in a VPA are able to identify illegality in all timber sources, but in practice there may be conflicting permits from other sectors, where the process of allocation is unclear and no stakeholder-agreed legal framework has been identified. Therefore it is possible that the LD for timber products alone will not be enough to identify all sources of illegality in conversion timber.

The review team make the following recommendations as a result of this desk-based study:

- **Move forward on legal and policy reforms** as cited in 5 of the VPA countries as part of the VPA implementation process. All of the reforms cited include strengthening provisions for social inclusion, clarification and respect of community and indigenous rights to forest resources, which may impact the permit allocation processes, for example by increasing requirements for consultation with local and indigenous communities. It is important that these reforms are supported and move forward with implementation in the given timeframe;
- Use multi-stakeholder engagement mechanisms to **prioritise land tenure and resource allocation processes** alongside VPA development, to ensure clarity and transparency in resource use, and strengthen governance in land management as well as forestry;
- On a country by country basis, **assess the need for permits from other sectors to be reviewed** as potentially legal sources for timber where that has not already been included in the LD development process. It is not possible from this desk review alone to determine to what extent permits from other sectors, particularly agriculture, require approval from the competent authority for forestry when forest resources are cleared. The LD for each country can be a useful starting point to promote cross-sector coordination around the permit allocation issue in situations where there is currently lack of clarity;
- **National stakeholders' involvement** is critical in each VPA country and countries which are currently developing a LD, in periodic reviews of the LD with a particular lens on permit allocation processes. As a desk-based global review, there are clearly limitations to the scope of this study and more focused, national reviews could be merited to increase the effectiveness of the LDs. This is particularly important in countries where stakeholders have already identified concerns with rapidly increasing agricultural expansion, conflicting land rights claims and potentially corrupt or illegal practices in existing cases of forest conversion. In addition, in cases where the indicators and verifiers do not provide detail on the allocation process such as Indonesia, the LD may be missing an opportunity for verifying compliance to its full capacity;
- National and international stakeholders to propose **comparable reviews of legal frameworks governing other sectors, particularly the agriculture sector**. Of first priority, identify permit types and corresponding allocation processes in the agriculture sector, and potential overlaps with the LDs developed for the VPA.