

“A Level Playing Field”?: What an environmental justice lens can tell us about who gets levelled in the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan

## 1. Introduction

Illegal logging has been identified as a pervasive problem throughout the world, particularly in key producer tropical countries (Interpol 2016). This has spurred major international efforts to control its associated trade. In 2003 the European Union (EU) introduced the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan (2003) that sets out a range of measures to tackle illegal logging in the world's forests. It invites exporting countries to sign bilateral Voluntary Partnership Agreements (VPAs) to eliminate illegal timber from their trade of timber products (Setyowati and McDermott 2016; Maryudi 2016). Once agreed, the VPAs include the development of a license scheme (timber legality assurance system (TLAS)) in the partner country and a system for issuing FLEGT licenses for timber exported to the EU. By early 2018, six countries have signed a VPA and nine more countries are in negotiations with the EU. The goals of FLEGT, as articulated in the 2003 Action Plan, are to improve governance, law enforcement, and transparency in the forest sector (EU Commission and MoF 2011). The Action Plan also set the stage for the EU Timber Regulation (EUTR). Put into force in 2013, the EUTR prohibits operators in Europe from placing illegally harvested timber and products derived from illegal timber on the EU market; 'legal' timber is determined by compliance with the laws of the country of harvest (EFI 2018).

The VPA and EUTR have been conceived as complementary tools that together establish a 'level playing field' for law-abiding wood suppliers to the EU (S. L. Carodenuto and Ramcilovic-Suominen 2014; 2018). The EC described, “VPAs and the EU Timber Regulation aim to make sure only legal timber and timber products are traded. They provide a level playing field for all market participants” (EC 2013). At a FLEGT thematic meeting on the private sector in Brussels, “levelling the playing field” was identified as “the main issue for the private sector” (EC 2015). Illegal logging is said to create unfair competition for legally-operating businesses, as illegal operators sidestep duties and taxes and have no obligation to invest in proper forest management. The meeting concluded that “responsible businesses will always want a level playing field” (EC 2015).

However, a growing body of research has highlighted a number of environmental justice concerns, suggesting that FLEGT-VPAs and the EUTR place disproportionate burdens on specific actors along production networks. For example in Indonesia, some smallholders and small industries struggle to engage in legality verification due to technical, organisational, and financial barriers (Setyowati and McDermott 2016; Maryudi et al. 2015), while large industries and exporters accumulate more benefits due to their scale and pre-existing capacity (Maryudi and Myers 2018; Setyowati and McDermott 2016; Maryudi et al. 2015). Within the EU, differing opinions exist among different types of timber operators on the potential impacts of EUTR (Giurca and Jonsson 2015). This all highlights challenges facing certain timber operators under the implementation of FLEGT-VPAs and the EUTR. From a broader critical perspective, some scholars argue that policy measures promoting timber legality function as an instrument of powerful industry factions (Mol 2014). For example, Leipold and Winkel (2016) argue that the United States Lacey Act's prohibition on illegal timber exports to the country, which served as a precursor to the EUTR, may foremost support the interests of large timber industries.

This paper analyses whether FLEGT-VPA and EUTR level the playing field in timber trade, and what 'levelling the playing field' really means for different actors. It focuses on the adoption, i.e. policy making processes, as well as the implementation of the EUTR (in the EU) and the FLEGT-VPA in two key partner countries: Indonesia and Ghana. Using an environmental justice lens, we aim to better grasp how a level playing field has been conceptualized, approached, and experienced in practice. The following section explains the concept of a level playing field including in relation to an environmental justice perspective, particularly the elements of

distribution, representation, and recognition. Sections 3 and 4 present the methods and results respectively, followed by discussion and conclusions.

## **2. The level playing field: justice considerations in environmental policy**

The concept of a 'level playing field' has become a buzzword in policy development of natural resource management over the past three decades. It is used to imply deliberative democracy, equality, and fairness. Yet sometimes it too helps obscure underlying strategies to tilt the field to the advantage of powerful actors. In some tropical countries, for instance, certain types of actors in timber production networks may lack access to legal markets due to excessive and prohibitive regulations that all in turn contributed to forcing them into illegal activities ([Blaser 2010](#)).

For the disadvantaged actors, however, simply enforcing existing rules will not necessarily yield fair outcomes, but rather the playing field needs to be actively leveled in terms of decision making and power sharing (Ladner 2009). Larson and Ribot (2007) further broaden this phrase to also include not only well-crafted fair laws but also fair policy implementation. This requires actions such as expanding the types of legal and procedural resources available, including the rights of appeal (Overdevest 2000). Despite its professed association with fairness, the phrase has frequently been used by large firms as a means to force other companies irrespective of size to take on the same level of environmental and social protections (Vogel 2010; Levin et al. 2012; Gibbon and Ponte 2008). This leads large firms to benefit from championing increased standards (Levin et al. 2012) but often also places, intentional or not, disproportionately heavy costs on smaller competitors. This paper therefore examines FLEGT's aims of leveling the playing field (S. L. Carodenuto and Ramcilovic-Suominen 2014; 2018), in terms of who is pushing those aims and what implications for different private actors along timber production networks.

Specifically, we focus on the concept of fairness as central to a level playing field, drawing on theories of environmental justice. The concept of environmental justice denotes "*the fair treatment and meaningful involvement of all people....with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies*" (Bullard 1999, 7). Research on environmental justice calls attention to the politics of justice, i.e. varying and occasionally contradictory notions of justice asserted by actors with varying degrees of power, that affect others' actions and potentials (Sikor 2013, Walker 2011, Martin et al. 2014). Echoing this discourse of 'environmental justice', notions of fairness and equity are firmly embedded in the conceptualization of FLEGT and its associated tools/measures. The FLEGT Action Plan attempts to ensure those trying to do the 'right thing' are not in competition with those they would describe as unscrupulous actors who are ill concerned with issues of legality, let alone environmental and social sustainability. For example, illegal loggers enjoy "super profits" in comparison with legal operators since they neither pay the timber royalties/ provisions to the state nor implement proper but more costly harvesting techniques (Amacher, Ollikainen, and Koskela 2012).

In order to interrogate this discourse, we draw on several important distinctions in the environmental justice literature. These include justice as the equitable *distribution* of benefits, opportunities and risks (Boone et al. 2009; Wen et al. 2013). Distributional justice focuses on the patterns of (economic) outcomes, i.e. who gets what, and how people perceive the distribution patterns. Sikor et al. ([2014](#)) consider equitable assignment of rights and responsibilities among actors as part of distributional justice. Recent scholarship has also emphasized the importance of the elements of *representation* and *recognition*, which are equally as influential as distribution (Sikor 2013, Fraser 2009). The logic is to sustain distributive environmental justice by making citizens aware of environmental benefits and hazards and genuinely involve them in decision making. The dimension of representation goes beyond parity of participation (Fraser 2009). Luttrell (2008) points out a number of risks in attempting to channel participation that include false homogenisation (where all actors are treated as having equal power to assert their rights), nominal participation, and token processes. Representation more relates to who gets to have a

say on and influence decisions in policy design and implementation (Okereke and Dooley 2010; Schroeder 2010). Furthermore, the notion of recognition, as Fraser (2009) theorizes, acknowledges people's distinct identities and histories. It ensures that social and cultural differences such as different visions of the environment and desirable environmental management are equally respected. Recognition justice is about avoiding discrimination a particular group of people due to their distinct social and cultural norms. Considering justice as recognition highlights the underlying causes of maldistribution and representational injustices in a social context (Schlosberg 2007).

There are several ways in which FLEGT-VPAs purport to address issues related to distribution, representation, and recognition. These include a core tenet of stakeholder-inclusiveness in designing and implementing the VPAs (EU-FLEGT Facility 2014; Wiersum and Elands 2013). The issue of representation is also relevant to the development of EUTR, which is meant to reinforce VPAs from the demand side. Likewise EU-VPA policy specifically requires measures to safeguard the livelihoods of local communities and poor people (Lesniewska and McDermott 2014). It furthermore recognizes there may be conflicts between state laws and 'traditional land ownership rights' (EC 2003, 18). These conflicts have since been documented in recent scholarship on FLEGT-VPA implementation (Lesniewska and McDermott 2014; Assembe-Mvondo 2013; Myers et al. 2017). Likewise Hajjar (2015) has noted that informal sectors are often overlooked in the national policies of many countries. This paper therefore draws on the growing body literature on FLEGT, together with data from recent original field research, to summarize findings on the distributive, representative, and recognition dimensions of FLEGT to date, to unpack who is making claims that FLEGT 'levels the playing field' and for whom.

### 3. Methods

This paper is part of the research project of *Supranational Forest Governance in an Era of Globalising Wood Production and Justice Politics*, which focuses on understanding justice issues in global timber production networks in relation to the FLEGT. In particular, the study sought to determine the effect of FLEGT on justice issues in the governance of tropical forests and understand the justice claims that different actors make, and how their notions of justice are shaped. This paper was based on research conducted in Ghana, Indonesia, and the European Union. These two countries were selected based on their varying positions in relation to their VPAs at the start of the research in 2016. Both Ghana and Indonesia had signed the VPA with the EU but were at different levels of implementation, with Indonesia having become the first country to be awarded EU recognition for their FLEGT Licenses (Maryudi, Kurniawan, et al. 2017).

To understand justice issues in global production networks, we conducted semi-structured interviews with nearly 400 actors across Indonesia (170), Ghana (160), and the EU (140). In Ghana and Indonesia, we interviewed wood producers (large and small operators), timber manufacturers (small, medium, large manufacturers, as well as exporters and non-exporters), intermediaries, and exporters, village forest users, representatives from associations, policy makers (at national and sub-national levels), non-government organisations (NGOs) at national and local levels, and key informants from a variety of organisations/ institutions. Key informants were policy-makers, NGO practitioners, lobbyists, industry associations or others in a position to help to identify the key issues, locations for the research, and potential actors whom we could interview. Interviewees from the EU include importers and retailers, furniture manufacturers, national government actors, associations and civil society groups.

We started our investigation by interviewing key informants, who we also asked to identify actors whom we could interview within the production network. From there, we followed these actors' trading partners both upstream and downstream. We also used our own experience and professional judgements in selecting non-industry respondents who may provide insight into justice issues in the production networks (e.g. government regulators, industry associations, NGOs etc, which are not involved in trading directly, but play an important role in governance

and are in a position to provide insights). For market-actors (corporates, manufacturers and wood traders) we also asked about how they operate, the market conditions (e.g. sales), and changes, if any, prior and after FLEGT VPA. Details of the interview instruments made available at <http://prodjus.eu>. Each interview lasted approximately 2-3 hours, depending on the situational settings. Annex 1 shows the overall numbers of interviews conducted across all countries/ region and Annex 2 describes the actors whose responses were appropriate for this paper. We cite interviews in our findings section using the ‘#’ symbol to indicate the interview number, which can be cross-referenced with Annex 2.

In each interview, we focussed on governance and justice issues in EUTR policymaking, VPA processes and the TLAS implementation. Data was then coded according to our strategic data collection and coding framework (see <http://prodjus.eu> for details on codes and coding process), using Dedoose, a qualitative data analysis software package. We employed a single coder to code all records, and an inter-coder to spot check. Differences were discussed amongst the team. We then analysed the data using primarily co-occurrence nodes and found that there were substantial data relating to claims of (in)-justice across the three notions of justice: representation, recognition and distribution, and validated findings in a review workshop. For this, we followed critical social science approaches to justice to complement the normative approaches of legal scholars and philosophers (eg. Rawls 1999). Critical social science approaches do not start from a particular theoretical position, such as Rawls’ theory of justice as fairness, but instead compare and contrast people’s actual claims about (in)justice (Walker 2012; Sikor 2013). We complemented the interview results with analysis of literature, documents and media reports (Rahayu et al. 2019) relevant to FLEGT, the VPAs, and timber legality assurance systems (TLAS).

## **4. Results**

### ***4.1 The adoption and implementation of the EUTR***

As envisaged in the FLEGT Action Plan, the EU adopted the binding legislation of the European Union Timber Regulation (EUTR) No 995/2010 in 2013. The EUTR is expected to complement VPAs by regulating the demand side, placing the burden of proving legality - including stringent due diligence measures - onto EU timber product importers. Countries operating under a VPA (and having achieved ‘FLEGT licensing’) are considered to have ‘green lane’ access to EU timber markets, which implies significantly fewer bureaucratic transaction costs compared with other methods of meeting EUTR due diligence conditions ([Proforest 2010](#)).

Created as part of the FLEGT Action Plan ([EC 2003](#)), the development of the EUTR echoed the Plan’s core principles, for instance the importance of engaging relevant stakeholders to instigate reforms. In addition to substantial support for public and civil society institutions, the Plan states the intention of the Commission to “encourage active private sector participation” (EC 2003:18). In endorsing the Action Plan, the European Council further urged the EU and its member states to “strengthen effective participation of all stakeholders...in policy-making and implementation” (Council Conclusions 2003/C 268/01). Stakeholder consultations in Europe on “future EU policy options against illegal logging” were initiated by the mid 2000s (Sotirov, Stelter, and Winkel 2017).

Despite the claimed importance of including the private sector, our research indicates that the private sector, particularly small and medium firms, was often excluded during the policy development of the EUTR. Private sector involvement in the development of EUTR was found to be undermined by the channeling of the bulk of the preparation resources to a few large NGOs and civil society groups (Sotirov, Stelter, and Winkel 2017). Many of our respondents (#01/02/03) stated that they were unaware of the EUTR until after it was done. Even federations of timber products only became apprised of decisions in after the law was made (#04).

The contents and procedures of the EUTR seem to be designed with primarily larger firms in mind. One European FLEGT implementing institution representative (#05) described the requirements as explicitly targeting large scale industries. The main logic for this, as explained by a European EUTR Competent Authority official (#06), is the bulk of the imports (in terms of value and quantity) is done by the 'big players', meaning that when they are complying, the large portion of the market is accounted for. Yet such an approach has substantial ramifications for smaller firms that also must comply with new rules.

The EUTR demands due diligence for non FLEGT-licensed products, involving both risk evaluation and risk mitigation. Our research found that the requirements are experienced very differently by different operators. Larger timber traders now celebrate the EUTR as "leveling the playing field". One respondent, the CEO of a large and well-established timber distributor, said that the company has worked for many years on the sustainability and legality of their timber products, and that the "EUTR is about 10 years behind where we are" (#07). The sentiment that legality may even be passé, suggests that such companies handle the EUTR with relative ease. The respondent further explained that the EUTR removed some of the competition from illegal logging based on an unfair advantage. While this may be true, it also ignores the very real challenges of compliance faced by smaller firms. In fact, some of our respondents (#08/09) explained that they are simply giving up the business as a result of the new EUTR due diligence requirements. One European EUTR agent claimed that European operators, despite their token representation in the EUTR processes, would greatly benefit from the regulation as they will find it much easier to reduce imports from dubious sources (#10).

According to a European Member State officer responsible for EUTR implementation, one of the effects of purportedly levelling the playing field is that special interest groups, feeling a sense of empowerment by the EUTR, are more bold than ever to seek out and expose businesses engaged with illegal timber. However, timber agents are often small companies with only a few staff, and hence are hardly in a position to contend with the publicity prowess of major international environmental NGOs. An agent (#10) told of the finger-pointing of a potential EUTR infraction by a large environmental NGO, which notified the relevant authorities and exposed the actors involved (by name), including on a full page spread in a national newspaper. The EUTR competent authority completed their investigation and cleared all actors of any wrongdoing, citing that the demonstration of legality was in compliance with the EUTR. The result was a small article in the newspaper buried on a page, but according to the officer, the reputational damage had already been done. The timber actor had been named personally as engaging in illegal activity, and was later unceremoniously found innocent as were all of their trading partners. This example shows how smaller actors can struggle for legitimacy when their interests conflict with larger actors empowered by FLEGT.

#### **4.2 The development and implementation of Indonesia-EU's VPA timber legality verification**

Indonesia is a major tropical furniture producer and exporter. There are more than 100,000 primary and downstream furniture industries; 95 per cent are small and medium-sized enterprises (SMEs), supplying a small number of large firms and traders who make contracts with global buyers, wholesalers or retailers (Purnomo et al. 2014). Currently, the country supplies approximately a third of the EU's tropical timber imports by value (EU-Commission 2016). In the late 1990s/ early 2000s, its exports of furniture peaked (Salim and Munadi 2017), ranked 5th globally, although that has significantly declined in recent years. The peak of furniture exports in the early 2000s was particularly driven by the massive illegal logging. The scale of illegally harvested timber far outstripped sustainable timber supplies (Tacconi et al. 2019).

Against this background, the government of Indonesia implemented several domestic policy instruments, such as a licencing system of exports of timber products under *Badan Revitalisasi Industri Kehutanan/ BRIK* (Timber Industry Revitalization Body). It was also active in



international efforts to combat illegal logging and its associated trade, such as hosting a meeting of Ministers from East Asian countries, Europe and North America in 2001 [\(Nielsen 2004\)](#), from which the EU's FLEGT Action Plan was later adopted. In 2002, the government signed a bilateral agreement with the government of the United Kingdom to improve forest law enforcement and to combat illegal logging, with multi-stakeholder process for preparing the eventual timber legality system as one of the main activities [\(Brown et al. 2008\)](#). Around the same time, the government of Indonesia prepared processes for Indonesia-EU's VPA. The VPA negotiations were intensified following the launch of the national timber legality system (locally referred to as *Sistem Verifikasi Legalitas Kayu* / SVLK). The Indonesia-EU's VPA was finally signed in 2013, and ratified by both parties in the following year [\(Maryudi 2016\)](#). In 2016, Indonesia became the first VPA country to issue a FLEGT License, with which Indonesian timber products freely enter EU markets (a so-called 'green lane'), as they automatically meet EUTR requirements [\(EU-Commission 2016; Maryudi, Kurniawan, et al. 2017\)](#).

The early processes for developing the national timber legality system, under the DFID-funded Multi-stakeholder Forestry Programme (MFP) and orchestrated by Kehati (a national NGO), saw broader involvement of relevant stakeholders. This manifests the country's democratic political system following the downfall of the authoritarian New Order regime. It has later become apparent that some NGOs have increasingly been influential along with the already powerful business actors. For instance, the drafting of the eventual national legality system was tasked to NGOs, i.e. the Nature Conservancy and the Indonesian Ecolabelling Institute. Several NGOs have also become members of the Indonesian delegates in several VPA negotiations, along with government officials. A key informant even claimed that "it is becoming hard to distinguish NGOs from government officials. They organise things and are increasingly acting as "policy drafters" (#12).

The issue of equity and fairness swiftly emerged following the formal launch of SVLK in 2009 as the standards for legality were widely thought to designed for large forest management and industries. It was argued that large operators can carry their interest forward well and are able to influence the policy making processes (#13). One source from an Indonesian large manufacturer (#14) did not deny that legality policy manifests their interests. To address this issue, MFP conducted several studies (tasked to NGOs and academics) and intensive public consultations involving related stakeholders. This eventually led to several amendments on SVLK regulations with simpler legality standards for smallholders and SMEs [\(Maryudi 2016\)](#)

Such however did not alleviate concerns about mechanistic and token participation and claims that the process failed to ensure fair representation and recognition. A prominent NGO source (#15) in Indonesia also suggested that

*it is true all types of stakeholders were involved in the process but I doubt that that they represent the diverse actors in Indonesian forest policy. They were pre-selected. I conclude that the process was exclusively inclusive in a way all types of stakeholders are there but they do not necessarily represent the whole aspiration of the group they were selected to represent.*

Some human rights NGOs have appeared to lose interest since the issue of customary forests were insufficiently addressed. In fact, even the most recent legality standards are intentionally designed to exclude customary forests as the forests are not yet recognised as a new strand of tenurial claims.

The capacity of small forestry actors to participate in legality verification continues to be a heated topic in Indonesia. In a recent national policy dialogue held by the Center for International Forestry Research in 2017, one small operator from Jepara (one of the main furniture centers in Indonesia) fiercely expressed (#16):

*We want to convey that the life of small craftsmen today, in my opinion, is in real danger...In implementing legality verification, the government takes our concerns lightly. The training to achieve the required level of skills doesn't take one or two days, one or two months, or even one or two years. It can take several years. On top of this, the costs associated with the licensing were too onerous for small-scale woodcraft workshops.*

However, an official from the Ministry of Cooperative and Small and Medium Enterprises (#17) during the same policy dialogue replied: "We shouldn't coddle small businesses; we should prepare them to fight in a global market...SMEs must not be sheltered behind excuses like: 'I'm only small. I'm weak. I don't have anything.'"...We must push them to change their view, to see their weaknesses as challenges".

Several illegal loggers from Indonesia (#18/19/20) wondered if the state even bothers about them despite resigning that their operations are illegal according to the laws. The potential adverse impacts of VPA on smallholder tree growers have also become an intense debate in Indonesia. The representation of smallholders in VPA process in Indonesia was minimal; few were invited to the table, and those that were lacked negotiation capacities to advocate their interests. Interviews with small-sized manufacturers and artisans provided a more blunt picture on the challenges of legality verification. Anger and despair and generally feelings of being 'left out' were common sentiments in our interviews on the implementation of SVLK. Some lacked resources to keep up with the long processes; many had not even heard of FLEGT, the VPA and the national timber legality verification, despite its immediate relevance to their livelihoods (#14/18/19/20). There is a growing feeling that legality verification favours large companies and is unfair to small operators and smallholder tree growers. The big firms gain from legality verification because they have the necessary financial capital and working environment to fulfil all legal standards. Consistent with these perceptions, several large furniture manufacturers and (state-owned) forest management units in Java (Indonesia) that were interviewed for this study reported that they have the necessary system already set up so that they are now legally verified and have also been certified by two voluntary certification schemes.

The Indonesian case very clearly shows that the large companies were all quickly certified within a couple years, while there are tens of thousands of small operators who are not. Maryudi and Myers (2018) show that as per January 2018, large firms (processing over 6000m<sup>3</sup> per year) represent about two-thirds of the legally-verified processing, manufacturing and trading entities. Hence, and not surprisingly, interviews with state and larger timber and furniture companies have demonstrated these actors' support for the new systems as a way to gain better access to European markets and perhaps even to eliminate some of their competition from smaller companies. Several large operators in Indonesia we interviewed reported an increase in their sales although they are unsure whether it is because they are better positioned in FLEGT compared to their smaller competitors (#14/21/22/23).

Smaller firms remain the most disadvantaged operators in the FLEGT era as they lack of funds to follow all of legality protocols and related regulations. High overhead costs and legal permit and verification requirements, limited knowledge, cumbersome processes, as well as more expensive legal raw materials are commonly cited by small operators as the major constraints for engaging in legality verification. According to a source from an European policy think tank, the main critique of FLEGT has been about whether there is too much focus on the larger players, the risk of excluding small scale producers, and the over emphasis on setting up technical systems for traceability without adequate assessment of capabilities to do that. The small scale Indonesian timber and furniture processes have demonstrated their discontent with the proposed processes for verifying legality to no avail (Koran-Sindo 2017; Afriyadi 2016).

#### **4.3 The development and implementation of Ghana-EU's VPA and timber legality verification**

Ghanaian forestry and logging accounts for approximately 3% of the nation's gross domestic product and contributes more than 7% to total export values. Together with wildlife sector, it creates formal employment of about 120,000 people and serves as a source of livelihood for about 2 million people ([Country Environmental Analysis, 2007, cited in MLNR, 2011](#)). In the informal sector, a wide mix of actors and rural households depend on forest resources for their livelihoods, ranging from micro/small scale carpentry, hunting, illegal chain-saw operations, and wood fuel collection to the gathering and commercialization of diverse non-timber products ([Boakye and Baffoe 2006; Marfo 2010; Edusah 2011; Adjei 1994; Anokye and Adu 2014](#)). Sawmills may include a range of small to large actors responsible for milling timbers. These operations can be located in remote areas near the forest or in towns or cities. The operations supply the bulk of domestic markets (see Odoom 2004; Hansen and Treue 2008). Marfo et al. ([2010](#)) found that chainsaw millers in Ghana were instrumental in the trade of illegally harvested logs.

At an Africa Forest Law Enforcement and Governance Ministerial meeting held in Yaoundé (Cameroon), the government of Ghana verbally agreed to enter into a VPA with the EU. With support from the UK DfID, Ghana began preparations for VPA negotiations in 2005 by tasking consultants to provide basic information to interested stakeholders; and to collect preliminary feedback on stakeholders' aspirations for a VPA with the EU. In the same year, representatives of the UK Timber Trade Federation and buyers from Germany and Italy met Ghanaian exporters and representatives of the various industry associations to underline their commitment to compliance with a "legality" standard and to the VPA. In December 2006, Ghana and the European Commission formalized a mutual and reciprocal commitment to combat illegal logging and trade in associated products. This bilateral commitment marked the beginning of a negotiation process. The negotiations were concluded in 2008; Ghana became the first country to sign a FLEGT VPA with the EU on 19 November 2009.

The VPA process espoused by the EU strongly emphasizes inclusiveness. A Programme Coordinator of Friends of the Earth in Ghana (#24) reported that before the introduction of the VPA, the forestry commission was doing everything without consultation but now they have seen the need to include all stakeholders in the management of the forest. In Ghana (as elsewhere), NGOs certainly have an important role, as watchdogs of industry (as well as the public sector) (#25). This stands in sharp contrast to their historical exclusion in public policymaking processes, and is celebrated as a success for the VPA process in the country (Olden 2018). Yet similar to the European and Indonesian contexts, civil society appears to be favored over the private sector in terms of receiving support and being invited to sit at the table with government officials. Concerns have also been uncovered about mechanistic and token participation and claims that the process failed to ensure fair representation. One NGO representative from the EU criticized the processes:

*"In the (VPA) action plans, there are still quite naïve perspectives about multi-stakeholder participation on a level playing field.... Even when people can speak up physically, they don't dare to because of possible consequences. And that's still a tremendous naivety about these kinds of multi-stakeholder processes" (#11).*

Favouritism toward certain timber companies is also widespread in Ghana (#26). More crucially, the 'playing field' of negotiation between actors remains a big question. According to some respondents (#26/27), large firms appear to be better-resourced to influence the decision making processes than others who notably lack access. For instance, as explained by one source from the European Forest Institute, big companies are driving demand to governments of several African countries to get their VPA on board. In contrast, important Ghanaian informal actors such as chainsaw operators were completely bypassed in FLEGT processes. They complained of being left out in the VPA processes and often their views are not solicited even when they are invited to meetings. Chainsaw operators particularly feel criminalised during the processes. While some groups from the private sector such as informal wood processors and sellers on the domestic market attended some meetings and workshops, they felt their contributions were insignificant, and that the VPA processes were heavily driven and imposed by "the Whites" (#28/29).



Discussions occurred at the national level and timber industries from rural areas have not been well included (#30)). One Europe-based NGO also reflected that small and medium enterprises need a lot of help as they can struggle to organize and represent themselves effectively.

In terms of distributional justice, the Ghanaian case resembles the Indonesian context. There is also a growing feeling, even suggested by policymakers (e.g. #31) that FLEGT favours large companies and is unfair to small operators. The big firms gain from FLEGT because they have the necessary financial capital and working environment to fulfil all legal standards pertaining to FLEGT (#32). Smaller firms remain the most disadvantaged operators in FLEGT as they lack funds to follow all of FLEGT protocols and related regulations (#32). According to a source from an European policy think tank, the main critique of FLEGT has been about whether there is too much focus on the larger players, the risk of excluding small scale producers, and the over emphasis on setting up technical systems for traceability without adequate assessment of capabilities to do that.

Our respondents from Ghana suggested FLEGT will adversely impact chainsaw operators, which are considered as illegal, and the informal processing industries relying on their supplies. The domestic markets will have difficulty accessing lumber from sawmills (#33). Even certain groups of communities will be cut off from accessing timber (#31). In contrast, an EFI officer mentioned that several big companies in some African countries are European companies that were already more or less FSC [Forest Stewardship Council]-certified, so that they thought it was fine to have their legality recognized and stabilized through the VPA as well FLEGT.

## **5. Discussion and Conclusions**

FLEGT's EUTR and VPAs were introduced as tools for governance reform that would create a 'level playing field' of legal timber production and trade, through the imposition of a uniform set of rules and practices. In this paper, we explore the different understandings of this level playing field and what (and who) gets leveled in FLEGT processes and implementation. Using environmental justice perspectives, we analyse the representation of actors in FLEGT processes and the distribution of the benefits, opportunities, and risks in the implementation of legality assurance.

The EU's FLEGT Action Plan envisages inclusive and multi-stakeholder processes, involving coordination and representation of relevant stakeholders. The decision-makers driving the adoption of the EUTR did not emphasize or claim inclusivity to the same extent as VPAs, likely due to the fact that it affects EU Member States rather than sovereign foreign states. Still, the incongruity between the stated intentions of inclusivity of the Action Plan and the detrimental effects of the Plan on some smaller EU firms suggests some procedural injustice within the EU.

Meanwhile, stakeholder representation continues to be promoted as a particularly vital prerequisite for the credibility and successful implementation of FLEGT VPAs (see EU-FLEGT Facility 2014). Early processes in several countries drew some praise. FLEGT VPA was credited to "have altered the negotiating and policymaking landscape" (Bollen and Saskia 2013, 15), and "the traditional forest sector has been opened up....power relations have changed in favor of so-called fringe actors" (Beeko and Arts 2010, 221). Dooley and Ozinga (2011) also claim that genuine and inclusive representation of different actors has been a key success of FLEGT VPA negotiations in several countries. Our research, in contrast, highlights some challenges with regard to the engagement and representation of diverse national stakeholders. Even the EU, which pushed its agenda of reforming forest governance through 'fair and legitimate' participation and representation of actors, has failed to deliver on this promise. Evidence reveals that FLEGT processes have been heavily dominated by NGOs and civil society groups, consistent with the finding by Sotirov et al. (2017). Certain actors also featured more prominently in FLEGT and VPA processes in Ghana and Indonesia. We found that while FLEGT processes have succeeded in opening up government decision-making to select NGOs and civil society groups, certain types

of production network actors, i.e. small firms and artisans, were underrepresented or even completely left out.

Our research further found that FLEGT has served to reinforce existing inequities and injustices embedded in more structural and contextual issues. In the EU, the private sector was barely involved in the processes, but it - and particularly large corporate actors- appeared to be able to channel their aspirations as the legality requirements and standards were set at their level, beyond the reach of their smaller competitors. In some VPA partner countries, the political system and governance structures often prohibit open and inclusive participation of all actors (Mustalahti et al. 2017). In Indonesia and Ghana, we also found that FLEGT VPAs served to favor already advantaged actors while excluding local actors and SMEs ([an outcome reflective of past trends in the forestry sector in these countries, see e.g. Obidzinski and Kusters 2015](#)). This happens not only through exclusion in formal VPA procedures, but also through broader structural factors, such as the design of forest laws in VPA countries, as well as the exclusion of actors from the design and implementation of the EUTR and VPA TLAS ([see Putzel et al. 2015 for discussion on the multiple risks of formalization introduced by FLEGT and VPAs](#)), and the overall influence different actors have on political priorities and financial investments.

Structural characteristics to promote inclusive participation also include access to information and power to influence the process and outcomes (Webler, Tuler, and Thomas 1999). Our cases suggest that many larger operators already possess capacities and expertise to manage new legality requirements which their smaller competitors lack. In fact, the concern about the inability of certain timber actors to engage in legality verification strongly resonates in not only our case countries, but also other EU VPA partners (Wiersum and Elands 2013; Ramcilovic-Suominen, Gritten, and Saastamoinen 2010; S. Carodenuto and Cerutti 2014). At the same time, information of FLEGT VPA and legality were not adequately disseminated; many small firms and artisans in Ghana and Indonesia are left uninformed, making it difficult for them to assess the likely impacts of the policy on their business (S. L. Carodenuto and Ramcilovic-Suominen 2014; Maryudi, Nawir, et al. 2017).

These inequalities in procedure and recognition, in turn, impact distributional justice, i.e. the benefits, opportunities and risks. The effects of FLEGT felt by the operators are different. Larger companies that are better positioned, since they possess more competences in terms of knowledge and resources, to comply with burdensome legality verification requirements for exports under the FLEGT regime. This is evidenced across studied cases, i.e. EU, Ghana and Indonesia. In contrast, small-scale operators are severely challenged to meet requirements to trade timber and wood products. This finding is in line with what other scholars have found. In Indonesia Setyowati and McDermott (2016) found that small scale producers were resistant or unable to participate in SVLK. Obidzinski et al. (2014) showed this as a concern even before Indonesia's VPA was operationalised, and Acheampong and Marfo (2014) showed how chainsaw millers were systematically excluded from forest governance processes in Ghana. The effort to stamp out illegal timber from the EU market has effectively stamped out small scale operators at the same time. Our finding is echoed by a recent assessment of the EUTR and FLEGT Action Plan including in our studied countries (Jonsson et al. 2015)

With the widespread notions of injustice felt by a number of production networks' actors, we argue that the notion of "leveling the playing field" emphasising fairness and equality in the trades of timber products remain more myth than reality. The VPA policy processes and implementation of timber legality assurance schemes have explicitly focused on the design of systems appropriate to large scale timber producers and traders, overlooking the disaggregated forest sector, which includes thousands of small firms and home industries. Indeed such processes arguably can never represent all actors potentially affected by legality verification under FLEGT. But perhaps most importantly, these injustices have occurred due to the very nature of the legal frameworks and economic and social contexts in each country which favor some actors over others. We found that, as a result, the FLEGT regime tilts the field to the advantage of large corporate actors over smaller

firms in both exporting and importing countries. It does not result in fair outcomes as it was envisaged, rather entrenching the pre-existing power relations.

Since FLEGT VPAs and TLAS envisage social safeguards, it is essential that steps be taken to mitigate adverse impacts of FLEGT policies on small actors. For them, there is a need for a wider range of institutional arrangements and innovations to create incentives to improve legal compliance, such as - first and foremost, legal reform, as well as improving access to favorable credit, improving flows of information, and training and technical assistance on new legality requirements.

## References

- Afriyadi, Achmad Dwi. 2016. "Sertifikasi Legalitas Kayu Cukup Di Hulu." *liputan6.com*. Liputan6. February 28, 2016. <https://www.liputan6.com/bisnis/read/2447063/sertifikasi-legalitas-kayu-cukup-di-hulu>.
- Amacher, Gregory S., Markku Ollikainen, and Erkki Koskela. 2012. "Corruption and Forest Concessions." *Journal of Environmental Economics and Management* 63 (1): 92–104.
- Assembe-Mvondo, Samuel. 2013. "Local Communities' and Indigenous Peoples' Rights to Forests in Central Africa: From Hope to Challenges." *Africa Spectrum* 48 (1): 25–47.
- Beeko, C., and B. Arts. 2010. "The EU-Ghana VPA: A Comprehensive Policy Analysis of Its Design." *International Forestry Review*. <http://www.bioone.org/doi/abs/10.1505/ifor.12.3.221>.
- Bollen, An, and Ozinga Saskia. 2013. *Improving Forest Governance: A Comparison of FLEGT VPAs and Their Impact*. FERN.
- Boone, Christopher G., Geoffrey L. Buckley, J. Morgan Grove, and Chona Sister. 2009. "Parks and People: An Environmental Justice Inquiry in Baltimore, Maryland." *Annals of the Association of American Geographers*. *Association of American Geographers* 99 (4): 767–87.
- Bullard, Robert D. 1999. "Dismantling Environmental Racism in the USA." *Local Environment* 4 (1): 5–19.
- Carodenuto, S. L., and S. Ramcilovic-Suominen. 2014. "Barriers to VPA Implementation: A Case Study of Cameroon's Private Forestry Sector." *International Forestry Review* 16 (3): 278–88.
- Carodenuto, Sophia, and Paolo Omar Cerutti. 2014. "Forest Law Enforcement, Governance and Trade (FLEGT) in Cameroon: Perceived Private Sector Benefits from VPA Implementation." *Forest Policy and Economics* 48 (November): 55–62.
- Cudd, A. E. 2007. "Sporting Metaphors: Competition and the Ethos of Capitalism." *Journal of the Philosophy of Sport*. <https://www.tandfonline.com/doi/pdf/10.1080/00948705.2007.9714709>.
- Dooley, K., and S. Ozinga. 2011. "Building on Forest Governance Reforms through FLEGT: The Best Way of Controlling Forests' Contribution to Climate Change?" *Review of European, Comparative & .* <http://onlinelibrary.wiley.com/doi/10.1111/j.1467-9388.2011.00717.x/full>.
- EC. 2003. "Forest Law Enforcement, Governance and Trade (FLEGT) Proposal for an Action Plan." *European Commission*. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52003DC0251&from=EN>.
- . 2013. "Questions and Answers on the EU and Indonesia Agreement on Illegal Timber." September 30, 2013. [http://europa.eu/rapid/press-release\\_MEMO-13-828\\_en.htm](http://europa.eu/rapid/press-release_MEMO-13-828_en.htm).
- . 2015. "Private Sector. Improving Forest Governance: What Drives Private Sector Engagement? -The Report." 2015. <http://www.flegtweek.org/report-private-sector>.
- EU Commission and MoF. 2011. "FLEGT Voluntary Partnership Agreement Between Indonesia and the European Union." <http://www.euflegt.efi.int/documents/10180/23029/FLEGT+Voluntary+Partnership+Agreement+Between+the+Republic+of+Indonesia+and+the+European+Union+-+Briefing+Note+May+2011/cfcd6026-55a9-4b7f-a28d-f147d9e6c9d5>.

- EU-FLEGT Facility. 2014. "Engaging Civil Society Stakeholders in FLEGT Voluntary Partnership Agreement Processes." EU FLEGT Facility. 2014. <http://www.euflegt.efi.int/es/publications/engaging-civil-society-stakeholders>.
- EU FLEGT Facility. 2018. "Illegal Logging and the EU FLEGT Action Plan." EU FLEGT Facility. 2018. <http://www.euflegt.efi.int/illegal-logging-media>.
- Fraser, Nancy. 2009. *Scales of Justice: Reimagining Political Space in a Globalizing World*. New York: Columbia University Press.
- Gibbon, Peter, and Stefano Ponte. 2008. "Global Value Chains: From Governance to Governmentality?" *Economy and Society* 37 (3): 365–92.
- Hajjar, Reem. 2015. "Advancing Small-Scale Forestry under FLEGT and REDD in Ghana." *Forest Policy and Economics* 58 (September): 12–20.
- Hansen, C. P., and T. Treue. 2008. "Assessing Illegal Logging in Ghana." *International Forestry Review* 10 (4): 573–90.
- Interpol. 2016. "Uncovering the Risks of Corruption in the Forestry Sector."
- Jonsson, Ragnar, A. Giurca, M. Masiero, E. Pepke, D. Pettenella, J. Prestemon, and G. Winkel. 2015. "Assessment of the EU Timber Regulation and FLEGT Action Plan." *From Science to Policy* 1: 32.
- Koran-Sindo. 2017. "Tidak Masuk Akal! Pengusaha Tolak Pemberlakuan SVLK : Okezone Economy." <https://economy.okezone.com/>. July 20, 2017. <https://economy.okezone.com/read/2017/07/20/320/1740430/tidak-masuk-akal-pengusaha-tolak-pemberlakuan-svlk>.
- Ladner, Kiera L. 2009. "Colonialism Isn't the Only Obstacle: Indigenous Peoples and Multilevel Governance in Canada." In *Annual Conference of the Canadian Political Science Association*, 1–17.
- Larson, Anne M., and Jesse C. Ribot. 2007. "The Poverty of Forestry Policy: Double Standards on an Uneven Playing Field." *Sustainability Science* 2 (2): 189–204.
- Lesniewska, Feja, and Constance L. McDermott. 2014. "FLEGT VPAs: Laying a Pathway to Sustainability via Legality Lessons from Ghana and Indonesia." *Forest Policy and Economics* 48 (November): 16–23.
- Levin, Kelly, Benjamin Cashore, Steven Bernstein, and Graeme Auld. 2012. "Overcoming the Tragedy of Super Wicked Problems: Constraining Our Future Selves to Ameliorate Global Climate Change." *Policy Sciences* 45 (2): 123–52.
- Luttrell, C. 2008. "Multi-Stakeholder Processes: Lessons for the Process of Timber Verification." *Verifor Briefing Paper No. 8. London ODI*.
- Marfo, E. 2010. "Chainsaw Milling in Ghana: Context, Drivers and Impacts." <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.622.6713&rep=rep1&type=pdf>.
- Maryudi, Ahmad. 2016. "Choosing Timber Legality Verification as a Policy Instrument to Combat Illegal Logging in Indonesia." *Forest Policy and Economics* 68: 99–104.
- Maryudi, Ahmad, H. Kurniawan, B. D. Siswoko, W. Andayani, and B. Murdawa. 2017. "What Do Forest Audits Say? The Indonesian Mandatory Forest Certification." *International Forestry Review* 19 (2): 170–79.
- Maryudi, Ahmad, and Rodd Myers. 2018. "Renting Legality: How FLEGT Is Reinforcing Power Relations in Indonesian Furniture Production Networks." *Geoforum; Journal of Physical, Human, and Regional Geosciences* 97 (December): 46–53.
- Maryudi, Ahmad, Ani A. Nawir, Dwiko B. Permadi, Ris H. Purwanto, Dian Pratiwi, Ahmad Syofi'i, and Purnomo Sumardamto. 2015. "Complex Regulatory Frameworks Governing Private Smallholder Tree Plantations in Gunungkidul District, Indonesia." *Forest Policy and Economics* 59 (Supplement C): 1–6.
- Maryudi, Ahmad, Ani A. Nawir, Dewi A. Sekartaji, Purnomo Sumardamto, Ris H. Purwanto, Ronggo Sadono, Priyono Suryanto, et al. 2017. "Smallholder Farmers' Knowledge of Regulations Governing the Sale of Timber and Supply Chains in Gunungkidul District, Indonesia." *Small-Scale Forestry* 16 (1): 119–31.
- Mol, Arthur P. J. 2014. "The Lost Innocence of Transparency in Environmental Politics."

- Transparency in Global Environmental Governance: A Critical Perspective*, 39e59.
- Mustalahti, Irmeli, Mathias Cramm, Sabaheta Ramcilovic-Suominen, and Yitagesu T. Tegegne. 2017. "Resources and Rules of the Game: Participation of Civil Society in REDD+ and FLEGT-VPA Processes in Lao PDR." *Forests, Trees and Livelihoods* 8 (2): 50.
- Myers, Rodd, Dian Intarini, Martua Thomas Sirait, and Ahmad Maryudi. 2017. "Claiming the Forest: Inclusions and Exclusions under Indonesia's 'new' forest Policies on Customary Forests." *Land Use Policy* 66: 205–13.
- Odoom, F. K. 2004. "A Study of Chain Sawing in the Natural Forests of Ghana." *Food and Agriculture Organization of the United Nations (FAO), Rome, Italy*.
- Okereke, Chukwumerije, and Kate Dooley. 2010. "Principles of Justice in Proposals and Policy Approaches to Avoided Deforestation: Towards a Post-Kyoto Climate Agreement." *Global Environmental Change: Human and Policy Dimensions* 20 (1): 82–95.
- Olden, Mark. 2018. "The Wind of Change Blowing through Ghana's Villages (commentary)." Mongabay. March 23, 2018. <https://news.mongabay.com/2018/03/the-wind-of-change-blowing-through-ghanas-villages-commentary/>.
- Overdevest, Christine. 2000. "Insights and Applications-Participatory Democracy, Representative Democracy, and the Nature of Diffuse and Concentrated Interests: A Case Study of Public Involvement on a National Forest District." *Society & Natural Resources* 13 (7): 685–96.
- Rahayu, Sari, Dwi Laraswati, Andita A. Pratama, Dwiko B. Permadi, Muhammad A. K. Sahide, and Ahmad Maryudi. 2019. "Research Trend: Hidden Diamonds – The Values and Risks of Online Repository Documents for Forest Policy and Governance Analysis." *Forest Policy and Economics*. <https://doi.org/10.1016/j.forpol.2019.01.009>.
- Ramcilovic-Suominen, S., D. Gritten, and O. Saastamoinen. 2010. "Concept of Livelihood in the FLEGT Voluntary Partnership Agreement and the Expected Impacts on the Livelihood of Forest Communities in Ghana." *International Forestry Review* 12 (4): 361–69.
- Rawls, John. 1999. *A Theory of Justice*. Revised. Cambridge, MA: Belknap.
- Schlosberg, David. 2007. *Defining Environmental Justice: Theories, Movements, and Nature*. Oxford: Oxford University Press.
- Schroeder, Heike. 2010. "Agency in International Climate Negotiations: The Case of Indigenous Peoples and Avoided Deforestation." *International Environmental Agreements: Politics, Law and Economics* 10 (4): 317–32.
- Setyowati, Abidah, and Constance L. McDermott. 2016. "Commodifying Legality? Who and What Counts as Legal in the Indonesian Wood Trade." *Society & Natural Resources* 30 (6): 750–64.
- Sheff, Jeremy N. 2010. "The Myth of the Level Playing Field: Knowledge, Affect, and Repetition in Public Debate." *Mo. L. Rev.* 75: 143.
- Sikor, Thomas, ed. 2013. *The Justices and Injustices of Ecosystem Services*. London: Earthscan.
- Sotirov, Metodi, Maike Stelter, and Georg Winkel. 2017. "The Emergence of the European Union Timber Regulation: How Baptists, Bootleggers, Devil Shifting and Moral Legitimacy Drive Change in the Environmental Governance of Global Timber Trade." *Forest Policy and Economics* 81: 69–81.
- Vogel, David. 2010. "The Private Regulation of Global Corporate Conduct: Achievements and Limitations." *Business & Society* 49 (1): 68–87.
- Walker, Gordon. 2012. *Environmental Justice: Concepts, Evidence and Politics*. Routledge.
- Webler, Seth Tuler, and Thomas. 1999. "Voices from the Forest: What Participants Expect of a Public Participation Process." *Society & Natural Resources* 12 (5): 437–53.
- Wen, Ming, Xingyou Zhang, Carmen D. Harris, James B. Holt, and Janet B. Croft. 2013. "Spatial Disparities in the Distribution of Parks and Green Spaces in the USA." *Annals of Behavioral Medicine: A Publication of the Society of Behavioral Medicine* 45 Suppl 1 (February): S18–27.
- Wiersum, K. F., and Bhm Elands. 2013. "Opinions on Legality Principles Considered in the FLEGT/VPA Policy in Ghana and Indonesia." *Forest Policy and Economics*. <https://www.sciencedirect.com/science/article/pii/S1389934112001918>.



## Annex 1. Actor groups and number of interviews

Region	Actor Type	Number of Respondents
Europe	EC	5
	Government	2
	Importer/ Retailer	15
	International Organisation	7
	NGO	15
	Research	14
	Trade Association	4
<b>Europe Total</b>		<b>62</b>
Ghana	Government	9
	Manufacturer/Exporter	35
	NGO	20
	Processor (informal)	46
	Village actor	27
	Village non-actor	24
<b>Ghana Total</b>		<b>161</b>
Indonesia	Certifier	8
	Donor	3
	Government	16
	Manufacturer/Exporter	70
	NGO	6
	Processor (formal)	10
	Processor (informal)	5
	Research	2
	Trade Association	5
	Trader	15
	Village non-actor	28
<b>Indonesia Total</b>		<b>168</b>
<b>Total</b>		<b>391</b>

Annex 2. Descriptors of interviews used in this paper

REFERENCE	COUNTRY	ACTOR TYPE
01	Indonesia	Furniture manufacturer/exporter
02	Indonesia	Sub-national government
03	Indonesia	?
04	Indonesia	Village actor
05	Indonesia	Village actor
06	Indonesia	Village actor
07	Indonesia	Furniture manufacturer/exporter
08	Indonesia	Furniture manufacturer/exporter
09	Indonesia	Furniture manufacturer/exporter
10	Ghana	Civil Society
11	Ghana	Village actor
12	Ghana	Village actor
13	Ghana	Exporter/ Trader
14	Ghana	Exporter/ Trader
15	Ghana	Village actor
16	Ghana	Village actor
17	Ghana	Exporter/ Trader
18	Ghana	Government
19	Ghana	Exporter/ Trader
20	Ghana	Furniture manufacturer/exporter
21	Ghana	Government
22	Europe	Civil Society
23	Indonesia	?
24	Indonesia	?
25	Indonesia	Sub-national government
26	Indonesia	Furniture manufacturer/exporter
27	Europe	Civil Society

28	Europe	Importer
29	Ghana	Exporter
30	Europe	Importer

Revised Reference	Reference	Country	Actor Type
01		Europe	Manufacturer
02		Europe	Manufacturer
03		Europe	Manufacturer
04		Europe	Timber Federation
05		Europe	Government
06		Europe	Government
07	30	Europe	Importer
08		Europe	Importer
09		Europe	Manufacturer
10	28	Europe	Importer
11	27	Europe	Civil Society

12		Indonesia	Sub-national government
13	01	Indonesia	Furniture manufacturer/exporter
14	02	Indonesia	Furniture manufacturer/exporter
15	03	Indonesia	National NGO
16		Indonesia	Furniture manufacturer (SME)
17		Indonesia	Government (national)
18	04	Indonesia	Village actor
19	05	Indonesia	Village actor
20	06	Indonesia	Village actor
21	07	Indonesia	Furniture manufacturer/exporter
22	08	Indonesia	Furniture manufacturer/exporter
23	09	Indonesia	Furniture manufacturer/exporter
24		Ghana	International NGO
25	10	Ghana	Civil Society

26	11	Ghana	Village actor
27	12	Ghana	Village actor
28	13	Ghana	Exporter/ Trader
29	14	Ghana	Exporter/ Trader
30	17	Ghana	Exporter/ Trader
31	18	Ghana	Government
32	19	Ghana	Exporter/ Trader
33	20	Ghana	Furniture manufacturer/exporter

REVIEWS	RESPONSES
<b>Reviewers#1</b>	
This is a very well thought paper, timely and important. The use of an environmental justice framework as a guide to assessing the equity effects of FLEGT is a good idea. There are some errors in language that need correction, so a copy edit is a good idea.	Thank you
There is some literature missing from the review. For example, SNR's special issue (Vol 28, 5) on formalization, several articles of which are related to FLEGT VPAs is relevant to several issues raised in the paper (exclusion of, or creating obstacles affecting smaller timber companies and small land holders vs. large players), i.e. not leveling the playing field. Many points resonate there.	Thank you for drawing this to our attention. Relevant literature from this special issue has been included, e.g. Obidzinski and Kusters (2015) and Putzel et al. (2015) in Discussion and Conclusion.
There are some points that could use some mention in the background to prepare for findings. Find literature on the relative impacts of chainsaw logging in different contexts (see Cerutti's work, and Tropenbos work on	<b>we have elaborated the critical issues related to impacts chainsaw logging, smallholder/ informal production systems and power relations with regard to small vs large scale operations. We added some</b>



chainsaw logging in Ghana?) Also, something about smallholder/informal production systems and timber networks/domestic vs. largescale export-oriented logging in natural and production forests.	<b>important references, including the work of Cerutti (see para 3 of intro)</b>
<p>The paper could use some restructuring, along the lines of the promised analytical framework (Distribution, representation and recognition) in environmental justice. Not having quantitative data or at least a specific set of questions the paper is going to answer through some disciplined parsing of data is a disadvantage.</p> <p>In the methods there is a mention of “coding” of interviews/data, but there is no evidence in the results section that there was any subsequent analysis. References to specific interviews appear to be chosen to illustrate some points made by the authors</p> <p>Why mention an analytical method that is not obviously used? (a lot of interviews done, and presumably “coded”, not a lot of data showing up)... If this is not the case, please explain better how certain examples of interview data came into the paper.</p>	<p>We have addressed a number of structural issues in the paper. First we reorganised the results based on countries/ region (suggested by the other reviewer). In each country/ region, we present each notion of justice although we do not compartemenise as such. We instead make it into a cohesive story since notions of justice are often interconnected.</p> <p>We have addressed the coding issue in the methods section, which frames how we use it in the findings.</p> <p>All of the interviews coded, and as mentioned in methods “ <i>We then analysed the data using primarily co-occurrence nodes and found that there were substantial data relating to claims of (in)-justice across the three notions of justice: representation, recognition and distribution</i>”. We utilise “co-occurrence nodes” on strong claims of (in) justice, that come from specific interviews listed in the descriptors (Annex 2)</p>
The results section seems to suggest that multistakeholder FLEGT processes largely excluded the “private sector” in favor of some set of NGOs. While it is certainly true that certain international and national NGOs were included more consistently, it is not true that large companies were under-represented; in fact, didn’t the actual practices of some of those became the model for FLEGT VPAs. The problem is, what is the “private sector” and who represents it? Are smallholders in forested areas “private sector”? Are they directly represented by anyone, or perhaps are they represented somehow by a proxy participant (an NGO, for example?)	<p>In 2nd of Intro, we implicitly refer private sector as those involved in timber business. This should cover small/ large forest operations and industries, traders etc. The result section substantiates:</p> <ol style="list-style-type: none"> <li>1. the influential roles of select NGOs, along with the already influential large companies</li> <li>2. under representation of smallholders and SMEs, and complete exclusion of certain groups. We agree that their concerns are forwarded to the process ( to some degree by NGOs), but it is our arguments that it is insufficient</li> </ol>

<p>This is mentioned in the paper as “civil society” representing the interests of the most marginalized. Rather than suggest that the representation is inadequate in such a case, how can a process do better? Because representation is necessary when thousands of small private sector units cannot participate, and the largescale private sector does not represent the small-scale private sector. This becomes clear in the paper at some point, but there is a lack of clarity in it.</p>	<p>as mentioned above we revised the text that the voice of some marginalised groups may have been brought forward by NGOs, but again, we argue it is insufficient</p>
<p>Page 3, lines 12 to 16: This statement really needs a strong reference or supporting evidence – “protectionist interests of powerful timber industries were the major reason for the political support of the United States Lacey Act’s prohibition on illegal timber exports to the country, which served as a precursor to the EUTR.”</p>	<p>we refer to Mol (2014), Leipold &amp; Winkel (2016). we slightly revised the section, which now reads: “From a broader critical perspective, some scholars argue that policy measures promoting timber legality function as an instrument of powerful industry factions (Mol 2014). For example, Leipold and Winkel (2016) argue that the United States Lacey Act’s prohibition on illegal timber exports to the country, which served as a precursor to the EUTR, can support the interests of large timber industries”</p>
<p>Page 15, line 22: This paper is not the first to find that small actors/artisanal producers, chainsaw loggers, informal loggers, etc. have been left out of FLEGT, VPAs, certification etc. Here, it would be good to recognize others. A lot of work on these questions has been done in other countries, e.g. Congo Basin countries, Peru, Ecuador... in the timber sector (FLEGT or certification or just legal enforcement) as well as mining and agriculture. The conclusion is also not entirely new - who do you agree with that has said all this before? Find ways to include smaller producers, etc... in such processes, and protect their interests.</p>	<p>We agree with this point. What happens in other countries/ regions, and other contexts (which is similar to some of our findings) is indeed discussed. Our point is that despite the promises FLEGT has brought, there are still challenges as inequalities remain in FLEGT policy development and implementation</p>
<b>Reviewers#2</b>	
<p>The paper is welcoming contribution to the literature, as it opens up novel notions and concepts in the context of FLEGT VPA and the EUTR, including representations, recognition and distribution. It uses environmental justice as a study approach or a framework for the analyses of qualitative results. The paper builds on the VPA process in 2 case study countries and the EU.</p>	<p>Thank you</p>

It remains however unclear what was studied in the EU – the VPA process or the EUTR or both. It has a good potential to contribute to the literature documenting implications of FLEGT VPAs around the world. But, it requires further work and substantive revision in order to better illuminate the key findings and contributions and clarifies conceptual and methodological gaps	we consider FLEGT to include EUTR and VPAs (Intro, 2nd para). we mention in 3rd para of intro that the paper “focuses on the adoption and implementation of the EUTR (in EU) and the FLEGT-VPA in Indonesia and Ghana”. Indeed, we have made some substantive revisions to clarify this in both introduction and result section
Major comments:	
1. Building the case for Level Playing Field (LPF) in the FLEGT VPA.	
1.1 This metaphor needs better incorporation in the context of the study case – natural resource governance – more broadly and the FLEGT VPA specifically. I suggest that the authors use scholarly literature, some of which they shortly mention (e.g. Sheff 2010, Lardson and Ribot) to open up what this metaphor means with regards to some of the key concepts dealt with in the paper, including equity and fairness. Example provided by Larson and Ribot’s paper, where they use the metaphor to discuss inclusion and exclusion of actors in REDD+ is a good starting point, but it is only a starting point. In my opinion the lines 42-60 (on page 3) are not very informative and only contribute to the length.	Lines 42-60 deleted. For opening the stage for “leveling the playing field’ we substantiated the drivers the concept has been increasing used, specifically in the contexts of illegal logging/ trade of wood products/ EUTR & FLEGT VPA
1.2 I suggest more arguing concerning the how and why the metaphor (LPF) is relevant in the context of the VPA. Just because the EU commissioner said so is not enough. Authors’ own interpretations are needed to argue or justify why is it relevant to look at this element. For example, if possible better illuminate the argument that the proponents of VPA were in fact arguing that VPA contributes to LPF (if so is the case). The reference to a Speech 11/58 is unclear. In fact the reference is missing altogether. Perhaps give the year of the meeting, if the link to such is unavailable.	Lines regarding EU commissioner deleted., replaced with more description of LPF as outlined by EC’s formal documents on FLEGT Action Plan & EUTR
1.3 Then, concerning scholarly literature used in the paper to argue for the LPF relevance in the VPA, the way in which some of the papers are referred to is misleading. Namely, while this might not have been the authors’ intention, the reference to Carodenuto and Ramcilovic-Suominen (2014) gives the impression that the two authors (Ibid 2014) argued that the VPA is providing the LPF for all actors. I invite the authors to revisit the cited paper. The use of that paper is better fitting in the next paragraph (page 3/lines 1-5), in fact. Similarly, the current	These references have been shifted to a more appropriate location in the introduction, i.e. a list of past research finding disparate impacts of FLEGT/ VPA implementation in other VPA countries

<p>use of the reference of Carodenuto and Cerutti 2014 is not justified. The current paper suggests that the authors (Carodenuto and Cerutti) argue something they actually do not. As is the case with the previous reference, Carodenuto and Cerutti (2014) also argue that the VPA is exclusive of small-scale informal operators. Both of these references are then properly referred to in the discussion, which contributes to confusion. Please revisit and refer to these studies more adequately</p>	
<p>2. Environmental Justice Framing, the key analytical concepts and the empirics. My main concerns with this paper relate to the conceptual framing and how this framework is utilized in the paper. The concepts of participation, recognition and representation are used somewhat carelessly and interchangeably. While in the framing the authors rightly – even if too briefly – argue that representation is a concept that goes beyond participation, later on in the results section all these concepts are used in an arbitrary or random way. The results refer more to who participated in the meeting. Illuminating better the recognition is needed – this concept is currently lost between the lines in the results and discussion too.</p> <p>I feel that the weaker part of the paper is the part on procedural justice (related to participation, representation, etc.), not only in terms of unclear conceptual framing, but also in terms of the results, or the empirics. I recommend the authors either substantially revisit and strengthen the part dealing with participation, representation, recognition (both conceptually and empirically), or abandon these completely and instead talk about participation.</p>	<p>Agree. In both conceptual and empirical sections we substantiate in detail that representation goes beyond participation. We have added more arguments on this.</p>
<p>2.1 First concerning the conceptual framing. The authors point to three concepts as the key ones – representation, recognition and distribution. I recommend the three terms be opened up – what they mean, how they differ and how they link to LPF in the FLEGT VPA. I am aware this is a journal article and therefore there is the word limit, but the first part of the section 2 (on the page 3 and 4) is very loosely written and can be shortened down to half a page (what is currently 1,5 page). The second part (on page 5) gets to the point, but it is too</p>	<p>More elaboration added, not only on distributional justice, but also the other two notions</p>

<p>short. For example, distributional justice is outlined with 1 sentence.</p>	
<p>2.2 Second concern relates to the empirics. While the second part of the results (subsection 4.2.) is well argued for, the former needs some serious tidying up. The concept of recognition introduced in the beginning as to having to do with “people’s distinct identities and histories disappears in the section of results. Understandably this is not an easy analytical element to approach in a study that present results from 3 different case studies. But if this is not possible to cover with the current empirical results, then the authors should not claim they do so in the aims of the paper, paper’s conceptual framing. Similarly, the concept of representation is very blurred in the empirical results. The bulk of the results deal with participation to meeting. Yes, there are interview quotes of people who argue that those who participated did not represent the interests of the groups they were supposed to represent. But the authors’ own analytical engagement with these results is weak. So I suggest that the authors, either present and discuss study results more in tune to these two concepts, engaging analytically with the interview quotes and the literature, or instead state that they assess participation of actors, rather than recognition, and even representation.</p>	<p>We reorganised the results based on countries/ region. In each country/ region, we present each notion of justice although we do not compartmentalise as such. We instead make it into a cohesive story since the notions of justice are often interconnected.</p>
<p>2.3 Finally, concerning the content of the results, the key message communicated in the section concerning participation (rather than representation and recognition, as currently stated) is that there was a substantial participation of NGOs in the VPA and the EUTR policy process in all cases. Claims are made that they have a leading role in shaping the laws – in the case of the EUTR and even in Indonesia. Also claims are made that some of these NGOs were preselected (an interview quote). These points are extremely important, but they are left unaddressed in the discussion. This should be picked up in the discussion – what does it mean for the env. governance? What does it mean for the role of NGO sector? What does it mean in the context of countries where traditionally the CSO/NGO sector was weak in env. governance (the majority of the VPA countries)? What does it mean for the role of EU development aid /FLEGT VPA intervention?</p>	<p>As previously mentioned, more elaboration added in theory and empirics, not only on distributional justice, but also the other two notions.</p>



<p>3. Data and methods</p> <p>Along with the conceptual framework, second major comments relate to the methods.</p>	
<p>3.1 Currently we only know the total number of interviews carried out per study case. We cannot possibly guess how many people from the government or CSOs were talked to in each of those cases. We do not know how long these interviews took. We do not simply to whom are we hearing in the results. It is all very broadly presented – three cases, few interview quotes, random – some may and will argue, if this is not clarified better in the paper. As I am sure, the authors know well the importance and politics of storylines and argumentations. If they talked mainly to forest communities they will hear injustices. If they talked to the government and included NGOs they will hear praising of the VPA, and if they talked to left out NGOs they will hear less of representation, etc. So it is crucial that this is clarified. An easy way to be more transparent in this regard is to place a table where the number of interviews conducted with representatives of a specific actors' type is presented per each in each study case. Tables are not counted in the word limits ∇ If there is "bias" towards specific actor groups, such need to be stated or explained.</p>	<p>We provided the distribution of each interviewees' group in Annex 1. In addition, the interview instruments for each type of actors and the research protocols (including coding procedures) can be accessed at <a href="http://prodjus.eu">http://prodjus.eu</a></p>
<p>3.2 The authors mention key informants. So are there different types of interviews carried out? Then, who are the key informants? How many interviews in each study case have been conducted with the key informants? How these interviews differ from the rest?</p>	<p>We added the following sentence in the method section: "Key informants can be policy-makers, NGO practitioners, lobbyists, industry associations or other respondents in a position to help to identify the KEY issues, LOCATIONS for the research, and potential ACTORS whom we could interview" From there, we followed these actors' trading partners both upstream and downstream.</p>
<p>3.3 Analyzes: We do not know whatsoever how was the data analyzed. Knowing the names of software/s do not tell us much. These are only tools we choose how to use. The info on coding is confusing: "Data was coded in accordance to the strategic data collection (?) and a coding framework". The strategic data collection, and especially the coding framework need to be explained. It is also not clear what did you pick up from your data. It appears (from your description of methods) as if you only focused on the differences in the data. I believe, or hope that this is not the case, as then the data presented would be the opinion of the few brought above the opinion of the majority.</p>	<p>we mentioned above that the interview instruments for each type of actors and the research protocols (including coding procedures) can be accessed at <a href="http://prodjus.eu">http://prodjus.eu</a></p>

While that is not necessarily a bad thing, that (unusual) approach should be stated and rightly justified for, with the bias and implications properly acknowledged.	
3.4 What did the study in the EU focus on? The VPA and the EUTR? The paper title and paper contribution place the focus only on the FLEGT VPA, but in the results the relevance and references to the EUTR are substantial. I therefore recommend this is clarified (the weight and focus of the data on these two instruments) and the EUTR is also noted down along the VPA, in the title, abstract, contribution, discussion.	we mentioned in the introduction that “The VPA and EUTR have been conceived as complementary tools”. We consider the two as under FLEGT..
<p>4. Discussion:</p> <p>In addition to the above suggestions concerning discussion. I think the current discussion can be substantively strengthened with reflections on the following important broader governance and FLEGT VPA aspects:</p>	
- To comment on the slow picking up of the VPAs and what their results tell in this context. Why not so many countries have by now engaged with the VPA? Six countries is a peanut compared to the initiatives such as the REDD+. Where is the barrier, is it the donor support, is the “injustices”?	We completely agree with the question, however it is beyond our scope in this paper to address it... to do so would only be speculation since we didn’t talk to non-VPA implementing countries about why they are not doing it.
- There are inconsistencies in results and discussion, concerning participation of NGOs in the results. While the results tell us that NGO participation surged in the VPA, the discussion tell us that the EU has failed to ensure participation of actors. While I do see the authors’ point – sitting and nodding on the discussion table is not the same as raising the voice and questioning the policy discussed – this has to be opened up and stated, instead of simply concluding yes participation/representation – no participation/representation. The qualities of those need to be open up. Thus I suggest the discussion is uplifted to go into the neatly gritty the results point to.	In the discussion, we make the point that although NGO participation increased, it was only select NGOs that had a seat at the table. We don’t really have the space to get into the quality of participation, although we find this an interesting topic. As the text read show, we argue that NGOs are not all equal, and many smaller NGOS felt that they couldn’t make their voice heard.
5. Finally, but also very importantly – the context of the study is missing. Both, the country and the FLEGT VPA policy context. I suggest therefore that somewhere before results – or even as a part of the results – more contextual information is given in terms of the case study countries. Especially so for Ghana and Indonesia: Example: 1. How the political context differ (very relevant in the context of all 3 dimensions of env. justice), “. How socio-economic context differ, both large and small-	In result section, we have added short context in the early part of each country/ region. the description we provided only in the context of forest/ timber industries, exports, and illegal logging

scale (contribution of timber trade with EU and contribution of forest to livelihoods of communities). And 3. A short background of the FLEGT policy process in those countries. Current content of the paper feels too light. Sharpening and shortening, while adding the missing bits and clarifying to and more transparency will make for a better paper and a better contribution to the literature.	
6. Minor comments	
- Please clarify your interview citations in a consistent manner throughout. The current use of references for the interviews are confusing and hopefully those will be deleted (see for example, the page 10?)	We have addressed the coding issue in the methods section, which frames how we use it in the findings.
- Paper contribution is inconsistently stated in the introduction and discussion. In the former it adds all three key concepts (distribution, recognition, representation). In the later it states only representation. Please modify (see above comments on the concepts) and be consistent. I hope these comments will help the authors improve the current paper and transform it into a more consistent (concepts-results-discussion), more transparent (in terms of methods) and a more robust paper that communicated the results more sharply and will not be dismissed as not properly argued for.	The revised conceptual and empirical sections are now much stronger and more consistent in addressing the three concepts. not only on participation