

WORKING GROUP ON FOREST CERTIFICATION GHANA

Migrating from FLEGT VPA to PEFC Certification in Ghana

An overview of PEFC and FLEGT VPA synergy

PREPARED BY THE WORKING GROUP ON FOREST CERTIFICATION GHANA



December 2017

Table of Contents

Background	2
Methodology.....	2
Use of the Document	2
Introduction	3
Foundations of FLEGT-VPA for PEFC Certification	4
PEFC National Standards versus FLEGT-VPA Legality Requirements	6
PEFC National CoC versus FLEGT-VPA CoC Requirements.....	15
Conclusions.....	18
Annexes (attached as separate files).....	19
Annex I: PEFC National Standard and VPA Gap Analysis.....	19
Annex II: PEFC National Standard and VPA CoC Gap Analysis.....	19
Annex III: VPA Contribution to PEFC National Standards Color Tally.....	19
References	19

Background

In 2009 Ghana and the EU signed the VPA/FLEGT to promote legality in timber harvesting, handling and marketing. By this Ghana is committed to ensure only legal wood enters the EU market and its domestic market. Under the VPA, Ghana has developed a Legality Assurance System (LAS) in a bid to produce legal timber for the market. Prior to the signing of the VPA, many large timber firms in Ghana have subscribed to voluntary forest certification as a demonstration of their efforts towards the sustainability of timber production and also to increase their opportunities on the international market. Many small and medium scale enterprises have also expressed interest in voluntary certification (PEFC) as it has become a key requirement to access the market. With the two schemes (FLEGT and PEFC) running parallel and with the growing demand for certified wood on the international market, it is important to review the VPA FLEGT system with regard to their compatibility and complementarity with other international certification standards such as PEFC as part of efforts to gain acceptability by trading partners. This work undertook an analysis of the FLEGT requirements as against the PEFC requirement, a gap analysis of the two schemes and produces a brief which establishes the basis and/or grounds in the FLEGT that can be built on for migrating from FLEGT to PEFC certified timber.

Methodology

This briefing was developed by the Working Group on Forest Certification Ghana with the support of Elvis Kuudaar (an international forest governance expert). This briefing is based on extensive desk review into the FLEGT VPA text and other related documents as well as the relevant PEFC certification standards. The process also involves a gap analysis of the two schemes and stakeholder consultations. A first draft has been developed as a document for participatory review by forest sector stakeholders. The comments and inputs from these stakeholders have been addressed in the final document. A validation meeting of relevant stakeholders have been held to review and endorse the final report. The document will be applied to support companies to develop their documentation systems to migrate to PEFC certification building on the FLEGT VPA.

Use of the Document

This document serves as a basis to further develop specific guidelines and interventions to guide timber companies to adopt systems and procedures for migrating to PEFC certification building on the FLEGT VPA requirements and procedures. Thus this document serves as a broad based start to narrow down to specific analysis and interventions for supporting timber companies in developing internal systems and procedures for migrating to PEFC certification.

Introduction

1. Sustainable forest management

“Sustainable forest management (SFM) is a holistic approach defined as the stewardship and use of forests and forest land in a way and at a rate that maintains their biodiversity, productivity, regeneration capacity, vitality and potential to fulfill, now and in the future, relevant ecological, economic and social functions, at local, national and global levels and does not cause damage to other ecosystems. Since the 1992 United Nations Conference on Environment and Development (UNCED) held in Rio, SFM has been a leading concept in international deliberations and activities. The result today is a broad consensus on principles, guidelines, criteria and indicators for SFM at the international governmental level. These processes include the Ministerial Conference on the Protection of Forests in Europe (MCPFE), an ongoing process in which hundreds of experts from a wide range of stakeholder groups have been involved. Other similar intergovernmental processes are the Montreal Process (Criteria and Indicators for the Conservation and Sustainable Management of Temperate and Boreal Forests), the ITTO (International Tropical Timber Organisation) process for tropical forests or the ATO (African Timber Organisation)/ITTO process for tropical African forests, the Near East – the Lepaterique Process, the Regional Initiative of Dry Forests in Asia, the Criteria and Indicators for the Sustainable Management in Dry-zone Africa, and the Tarapoto Proposal: Criteria and Indicators for the Sustainable Management of Amazonian Forests” (The PEFC International Standard Requirement for Certification, 2010).

2. The PEFC

The PEFC Council (the Programme for the Endorsement of Forest Certification schemes) is a worldwide organisation promoting sustainable forest management through forest certification and labeling of forest-based products. Products with a PEFC claim and/or label offer assurances that the raw materials that have been used in their manufacture originate from sustainably managed forests. The PEFC Council endorses national forest certification schemes that comply with PEFC Council requirements. Schemes are subject to regular evaluations.

Timber production is an important component of the Ghanaian economy comprising six percent of the country's GDP. Ghana's forests are divided into two eco-zones with two-broad natural forest vegetation. Management for commercial timber production is performed in the high forests. To manage this important forest resource (both off and on reserves), various initiatives have been implemented by the Ghanaian government. In 1996 certification was introduced in the country and a national committee for certification was set up leading to the establishment of the Working Group on Forest Certification, Ghana. Relatedly, Forest Management Certification System Project was implemented, an initiative that was funded by the European Union and the Dutch Government. It was developed primarily to ensure the acceptability of forest products to consumers, especially in the EU market. Currently the NWG has been endorsed by PEFC as its national governing body.

3. The FLEGT-VPA

The EU FLEGT was officially launched in May 2003 following the issuance of Action Plan (European Council, 2007c). It aims to address illegal logging and associated trade by identifying a set of measures that will be implemented by the EU and its Member States. Among the categories of initiatives include (i) support to producer country, (ii) promotion of legal timber trade, (iii) promotion of public procurement policy, (iv) support to private sector initiatives, (v) safeguarding investment, (vi) promotion of the use of existing law or new legislation, and (vii) attention to conflict timber. These initiatives aim to ensure that the timber exported to the EU is legally produced in accordance to the national legislation of the exporting country. Specifically, EU FLEGT targets timber producing countries that export to the EU (*i.e.*, Ghana, Cameroon, Congo DRC, Central African Republic, Malaysia, Indonesia, Liberia, Congo, Gabon, Guyana), processing

hubs (*i.e.*, China, Vietnam, and Thailand), and consumer countries (*i.e.*, Japan, USA, South Korea, Australia, and New Zealand).

Ghana decided to enter into VPA mainly to (i) facilitate governance reforms in the forestry sector, (ii) contribute to sustainable forest management, and (iii) provide conditions that encourage investment in forest restoration. Ghana ratified the VPA at its Parliament in June 2009, subsequently EU ratification in its Parliament was held on November, 2009.

Foundations of FLEGT-VPA for PEFC Certification

Principles: PEFC is for Sustainability and FLEGT-VPA for Legality

PEFC forest certification and EU FLEGT timber legality verification have the same development origin. Both initiatives were developed in response to various factors and challenges faced by the forestry sector, namely: (i) deforestation linked to illegal forest activities, (ii) failure of international negotiations, (iii) poor forest governance, and (iv) limited effectiveness of forest-related responses, among others. However, PEFC forest certification and FLEGT VPA timber legality verification have distinct management goals. PEFC certification promotes sustainable forest management while FLEGT VPA timber verification focuses on legality linked to governance.

Political orientation: PEFC is non-governmental and voluntary while FLEGT VPA is governmental and legally binding once signed

PEFC certification is a voluntary market-based forest instrument steered by multi-stakeholder non-government organizations. As an internationally acclaimed organization, it has proven that even with limited government intervention, PEFC contributes to the sustainable forest management through strong partnerships/collaboration with different forest stakeholders. On a similar note, the EU's initiative to develop the 2003 FLEGT Action Plan, with emphasis on legal timber trade, evidently shows that governments are putting their axes together to address illegal forest activities through legality of forest management. This political decision of the EU to focus on legality was perceived to be a feasible way to encourage/challenge timber producing countries on legal timber production and trading.

Political scope

The PEFC certification is a voluntary-based system. It targets forest managers/companies who are interested in sustainable forest management. On the other hand, FLEGT VPA takes the form of a timber regulation that requires forest managers and timber producers to comply with government laws and regulations on forest management and trade, among others. The VPA puts much responsibility on the logger while the PEFC is much interested in the entire management unit. While the VPA focuses on law enforcement including the minimum environmental standards captured under Principle 3, the PEFC delves deep into sustainable forest management (such as regeneration, HCVF, biodiversity, etc) with the responsibility on the timber companies.

Decision-making process

The PEFC is an organization renowned for its multi-stakeholder consultation process and consensus building. With regards to FLEGT VPA, the FLEGT Action Plan emphasized the need to observe multi-stakeholder consultation in the development of the TLAS.

Standard setting

To operationalize the PEFC certification and FLEGT VPA timber legality verification, performance standards are an important measure of effectiveness. In the case of PEFC, there are global and national standards used to guide sustainable forest management. In the case of FLEGT VPA, the EU requires the VPA partner countries to develop the TLAS based on national laws.

Verification/Auditing and Accreditation

Verification/auditing is an important measure to attest compliance with the established standards. Thus, it has to be credible and reliable. Within PEFC's system audits are regularly conducted by third party, independent, accredited certification bodies. Accreditation is provided by national accreditation bodies who are members of the International Accreditation Forum. For VPAs, three levels of monitoring is required, one of which is the need for an independent third-party monitor.

Certification/Licensing: PEFC certificate vs FLEGT license

Entities who comply with all the sustainability/legality requirements and processes shall be issued a PEFC certificate from the certification body or FLEGT license for FLEGT VPA.

PEFC National Standards versus FLEGT-VPA Legality Requirements

PEFC National Standard Principle 1: Compliance with the Laws: Forest Management shall respect all applicable laws of Ghana and international treaties/agreements to which the country is a signatory.

Relevant VPA sections to the PEFC NS P1

1. VPA Article 7: Definition of Legally Produced Timber requires legal timber production right from the source to the point of sale.
2. VPA Legality Standard Principle 7: Fiscal Obligations requires that either the logger nor the Vendor was at the time of sale or export in default of fees, rents or taxes, prescribed by statute.
3. Paragraph 7 of the preamble of the very first page of the VPA and Article 5 section 6 requires compliance with provisions especially appendices I, II and III species.
4. The VPA Article 24 outlines the procedure for settlement of disputes.
5. The VPA article 19 establishes the JMRM that also serve as a platform for resolving conflicts between laws/regulations.
6. The VPA under Annex V, section 5.5 establishes the complaints procedure for resolving conflicts
7. The VPA article 1 requires the protection of forest from illegality in line with the legality standard.
8. The VPA Principle 1 requires forest management plan and strategic plan preparation; Delineation of TUCs; Conduction of an inventory before harvesting (on-reserve, off-reserve and plantation). These demonstrate the long term commitment
9. Principle 3 requires Stock surveys (including pre-felling inspections for off-reserve areas) were conducted in accordance with the logging manual and Harvesting plan.

PEFC NS P 1 Criteria:

1. Forest management areas should be protected from illegal harvesting, settlement and other unauthorized activities. Appropriate documentation for all admitted farms and alienated land with all relevant terms & conditions; appropriate documentation and demarcation of FMU; measures against illegal harvesting and other unauthorized activities; evidence of monitoring of FMU; records on actions taking on identified illegal activities
2. All applicable and legally prescribed fees, royalties, taxes and other charges shall be paid. Evidence of compliance with applicable fees, royalties, taxes, & other applicable charges (eg stumpage, ground rent, fines, compensation, etc)
3. In signatory countries, the provisions of all binding international agreements such as CITES, ILO Conventions, ITTA, and Convention on Biological Diversity, shall be respected. Awareness and implement appropriate measures to ensure that provisions in CITES, ILO, ITTA, CBD, CCD, Standard for Phytosanitary Measures, etc are respected)
4. Conflicts between laws and regulations shall be evaluated for the purposes of certification, on a case by case basis, by the certifiers and the involved or affected parties. Document all conflicting laws & regulations, records of resolution of the conflicts with regulatory bodies or court of law.
5. Forest managers shall demonstrate a long-term commitment to adhere to the standards. Demonstration of commitment in TUC management plans, internal forest management policy on sound forest management and demonstrate commitment at complying with certification requirements

The Ghana VPA in its entirety sets out the requirements for ensuring that timber produced in Ghana complies with all the forest laws applicable to Ghana. This is set out in the legality standard. Thus the Ghana VPA is consistent with the PEFC NS P 1 that requires timber companies to comply with all laws applicable to Ghana. The 5 criteria under the PEFC NS P1 are not fully captured by the VPA and thus for a timber company to achieve PEFC certification, then it will need to expand its systems to capture the additional requirements of the PEFC. The VPA provisions clearly address the PEFC NS P1 criteria 1 – 5 but under the PEFC NS P1 criterion 5, the timber company is required to develop its own TUC and forest management plans that demonstrate long term commitment on SFM. Under the VPA, it's the regulator that develops the forest management plan, strategic plans and other long term plans.

PEFC NS P1 Recommendations: Timber companies will need to do the following in addition to meet PEFC requirements for certification: develop their own internal forest management plan that outlines their commitment to sustainable forest management; develop procedures for demonstrating compliance to their forest management plan; develop a register for recording illegal activities and the associated actions and/or remedies; implement an internal capacity building plan for its staff on forest law; develop a checklist of all the requirements for international law applicable to Ghana; and implement an internal checklist for legal compliance at every stage of the production chain that must be completed and documented.

PEFC National Standard Principle 2: Tenure and use rights and responsibilities: Long term tenure and use rights to land and forest resources shall be clearly defined, documented and legally established

Relevant VPA provisions to the PEFC NS P2:

1. The VPA Principle 1 requires that Timber originated from prescribed sources and concerned individual, group and owners gave their written consent to the land being subjected to the grant of timber rights.
2. The VPA Principle 3 requires the fulfillment of SRA and Compensation paid to affected farmers in respect of crop damage.
3. The VPA article 8 requires Ghana to implement systems and procedures to verify the legality of timber and timber products.
4. The VPA annex V section 5.5 outlines a complaints procedure for settling grievances, complaints, conflicts etc.

The Ghana VPA addresses the legal rights of local communities to their resources. There are various procedures in the award of permits for logging and during logging operations that demonstrate the respect for community forest rights in compliance with the forest laws. The VPA requires that anybody with interest in the area been subjected to TUC to notify their interest and concerns and require a written consent from the landowners before timber rights can be granted. The VPA also requires that timber companies negotiate and sign SRA with communities before a TUC is granted and ensure SRA fulfillment as well as payment of compensation for crop damage. The SRA negotiation and implementation help ensure that customary rights of communities such shrines, water sources, etc are protected while providing social amenities for local people as well as ensuring that the companies logging activities are not impeded by the community. Also the complaints procedure of the VPA provides room for lodging complaints and seeking redress on conflicts that may arise. The VPA requirements and respect for tenure and use rights are consistent with the PEFC NS P2 requirements. However, the PEFC NS P2 puts additional requirements for timber companies to comply with in order to obtain PEFC certification. Key of these additional requires are: timber companies have to keep records of land ownership and tenure including list of traditional tenure, communities and maps; document traditional uses, rights and customs in the area; document rights & responsibilities of the owners and stakeholders as required under the SRA; implement appropriate procedures to enforce domestic use rights of local communities for subsistence on NTFPs; and implement their own internal complaints and grievance procedure known to the communities for resolving conflicts.

PEFC NS P 2 Criteria:

1. Clear evidence of long-term forest use rights to the land (e.g. land title, customary rights, or lease agreements) shall be demonstrated. Records of land ownership and tenure including list of traditional tenure, communities and maps
2. Local communities with legal or customary tenure or use rights shall maintain control, to the extent necessary to protect their rights or resources, over forest operations unless they delegate control with free and informed consent to other agencies. Document traditional uses, rights and customs in the area; document rights & responsibilities of the owners and stakeholders as required under the SRA; implement appropriate procedures to enforce domestic use rights of local communities for subsistence on NTFPs; document control measures for control domestic uses.
3. Appropriate mechanisms shall be employed to resolve disputes over tenure claims and use rights. Grievance & complaints procedures shall be available and known to stakeholders to address all complaints & conflicts including compensation for losses or damage caused; records of all conflicts and resolutions measures done

PEFC NS P2 Recommendations: Timber companies will need to adopt the following additional requirements to comply with PEFC: implement their internal complaints and grievance procedure for resolving conflicts; develop and apply a checklist for complying with community tenure and use rights; and apply appropriate templates and checklist for the documentation of land tenure data in their operational areas

**PEFC National Standard Principle 4:
Community Relations and Workers
Rights: Forest management
operations shall maintain or enhance
the long-term social and economic
well-being of forest workers and local
communities.**

Relevant Ghana VPA Provisions for PEFC NS P4:

1. VPA Principle 3 requires the signing and fulfillment of SRA.
2. VPA principle 5 requires Industrial relation practices conform to legal standards.
3. VPA article 16 requires Ghana to encourage stakeholder consultation.
4. VPA article 17 provides for safeguards for communities and SMEs to minimize possible adverse impacts of their livelihoods.
5. VPA principle 3 provides for compensation paid to affected farmers in respect of crop damage as well as SRA that also protect community customary rights, provide amenities, etc
6. The VPA annex V section 5.5 outlines a complaints procedure for settling grievances, complaints, conflicts etc.

The Ghana VPA provisions are consistent with the PEFC NS P4 requirements on community relations and workers' rights. The VPA requires timber companies ensure every worker employed works under satisfactory safe and healthy conditions; workers are provided with the necessary information, instructions and training about health and safety; adequate precautionary measures are in place in the event of fire; there is prevention of accidents and injury to health; Workmen compensation insurance exists for all workers; Labour department conducts inspection and or direct employer to put in place the necessary corrective measures to ensure health and safety at work place.

The VPA provisions are directly consistent with PEFC NS P4 criteria 2, 3, 5 and partially 4. Thus for timber companies to migrate their systems to meet PEFC certification, additional responsibilities has to be fulfilled.

PEFC NS P 4 Criteria:

1. The communities within, or adjacent to, the forest management area should be given opportunities for employment, training, and other services. Procedure and/or guidelines for recruiting and training local community people; list of positions or roles earmarked for local community people and records of local people employed
2. Forest management should meet or exceed all applicable laws and/or regulations covering health and safety of employees and their families. Internal H&S measures/policy is in place; H&S inspection records; risk checklist and guidelines to reduce risk associated with each task and equipment; accident register; H&S training records; rules on use of safety gears; reports on accidents; H&S kits including first aid; fire safety precautions; H&S related compensation protocols
3. The rights of workers to organize and voluntarily negotiate with their employers shall be guaranteed as outlined in Conventions 87 and 98 of the International Labour Organization (ILO). Evidence of compliance with workers; rights to voluntarily organize and negotiate with their employers; evidence of appropriate compensation payment to workers not below the national minimum wage; evidence of payment of workers' SSNIT and welfare; etc
4. Management planning and operations shall incorporate the results of evaluations of social impact. Consultations shall be maintained with people and groups (both men and women) directly affected by management operations. Procedure for monitoring social impact of logging operations; list of social impacts and mitigation measures and/or interventions; evidence of SRA fulfillment; evidence of consultations with local people; guidelines for minimizing H&S risks to local communities
5. Appropriate mechanisms shall be employed for resolving grievances and for providing fair compensation in the case of loss or damage affecting the legal or customary rights, property, resources, or livelihoods of local peoples. Measures shall be taken to avoid such loss or damage. Evidence of an internal mechanism for avoiding losses and damage resulting from logging operations; grievance and complaints procedure for reporting losses and damages resulting from logging operations; list of reported cases of losses and damages that occurred; evidence of fair compensation payment for claims of losses and damages; a list specifying the name of affected person, type of damage, how compensation was negotiated, compensation amount, amount paid and date received.

PEFC NS 4 Recommendations: In order to be able to respond to the VPA requirements and obtain PEFC certification, timber companies will need to improve their systems with the following: implement a checklist for SRA negotiations and fulfillment to include employment for local people; develop and implement a policy, checklist, guidelines and tools on H&S; develop and apply a checklist on workers' rights consistent with ILO and Ghana Labour laws; develop and implement internal guidelines on social impact assessment; and implement an internal grievance procedure for workers.

PEFC National Standard Principle 5: Benefits from the forest: Forest management operations shall encourage the efficient use of the forest's multiple products and services to ensure economic viability and a wide range of environmental and social benefits.

Relevant Ghana VPA provisions for PEFC NS P5:

1. The VPA principle 3 seeks to ensure logging operations have the least environmental impact in accordance with the MoP and the logging manual.
2. The VPA principle 1 and 3 provides for the development of forest management plans, delineation of TUC, conduct of inventories and SRA.
3. The VPA under article 17 requires the provision of safeguards for local communities and SMEs.
4. The VPA principle 3 requires an SRA to also provide for amenities for local communities
5. VPA principle 3 requires that Timber harvested corresponded to the species and volumes or numbers authorised in the TUC or Salvage permit.

The Ghana VPA provisions have some consistency with the PEFC NS P5. The VPA requires that logging is carried out in areas designated for timber production including: Siltation of water courses is avoided to prevent water pollution; No logging operation is permitted within a buffer strip, 25 metres either side of any stream or 50 metres either side of a river; No smoking is permitted during high fire hazard periods except on a road way cleared of inflammable material; No logging operation, including felling, skidding, road and log yard construction is permitted in a protected area; Any tree classified as Black Star (species of important international interest and conservation value) cannot be felled under any circumstance; for special permit species an authorisation is required from RMSC. The VPA provision for the development of forest management plans, delineation of TUC, forest inventories and SRA provide grounds for incorporating SFM and well as using the harvest plan development to introduce interventions for minimizing damage to other forest resources. Even though the VPA provisions are consistent, timber companies have additional requirements under the PEFC certification that can be addressed by the recommendation below.

PEFC NS P 5 Criteria:

1. Forest management should strive toward economic viability, while taking into account the full environmental, social, and operational costs of production, and ensuring the investments necessary to maintain the ecological productivity of the forest. EIA records; list of environmental impacts and associated mitigation measures;
2. Forest management and marketing operations should encourage the optimal use and local processing of the forest's diversity of products. Guidelines for optimum utilization of timber in place; internal policy on the utilization of lesser known species; plan in place for NTFPs harvest and processing and set aside the NTFPs for local communities
3. Forest management should minimize waste associated with harvesting and on-site processing operations and avoid damage to other forest resources. Clear guidelines to minimize timber waste and collateral damage resulting from logging in place; evidence of internal tracking system to monitor levels of log wastage
4. Forest management should strive to strengthen and diversify the local economy, avoiding dependence on a single forest product. Evidence of support mechanisms for local value added processing (eg wood carving, NTFPs, etc); procedures for complying with obligations of providing amenities to communities; list of amenities/services provided
5. Forest management operations shall recognize, maintain, and, where appropriate, enhance the value of forest services and resources such as watersheds and fisheries.
6. Forest management plan shall list the various services of the forest and specify measures to maintain and/or enhance these services; the management plan shall outline strategies to protect watersheds, biodiversity, recreation, tourism, riparian zones, springs and lakes/ponds in accordance with Ghana logging manual
7. The rate of harvest of forest products shall not exceed levels which can be permanently sustained. Evidence of internal guidelines to ensure logging is based on current inventory, growth and yield data

PEFC NS P5 Recommendation: In order to meet PEFC certification, timber companies need to ensure the following: develop and implement a simplified checklist to identify environmental impacts and the associated mitigation measures and document summary reports on EIA of logging operations; put in place guidelines for improving the optimum utilization of forest resources; put in place guidelines for minimizing waste during logging operations; and build local community producers into the wood supply chain and support mechanisms to improve their capacity.

PEFC National Standard Principle 6: Environmental Impact: Forest management shall conserve biological diversity and its associated values, water resources, soils, and unique and fragile ecosystems and landscapes, and, by so doing, maintain the ecological functions and the integrity of the forest.

Relevant Ghana VPA provisions for PEFC NS P6:

1. The Ghana VPA does not specifically require timber companies to carry out EIA but the Ghana Environmental Impact Assessment Regulations require specific type of undertakings to go the EIA process to obtain environmental permit
2. The VPA principle 3 sets out environmental standards that must be complied with by timber companies in their logging operations as well as the preparation of harvesting plan to respect key environmental requirements
3. The VPA does not specifically address the issue of use of chemicals.

The Ghana VPA sets out the following environmental standards: siltation of water courses is avoided to prevent water pollution; No logging operation is permitted within a buffer strip, 25 metres either side of any stream or 50 metres either side of a river; No smoking is permitted during high fire hazard periods except on a road way cleared of inflammable material; No logging operation, including felling, skidding, road and log yard construction is permitted in a protected area; Any tree classified as Black Star (species of important international interest and conservation value) cannot be felled under any circumstance; for special permit species an authorisation is required from RMSC. Also the VPA requires timber companies to prepare harvest plan to capture the following: detailed description of the harvest area including delineated boundaries of the area; summary of number of trees agreed for felling as per pre-felling inspection form; road/track construction; total length of skidding tracks needed; scaled map ($\geq 1:25,000$) showing the following: — protected areas to be excluded from timber production, — all water courses, — position of existing and new tracks to be constructed. Also companies are required to ensure the following after harvesting operations: that Log yards have been ripped to break up compacted soil; that all rubbish/debris removed from site; all streams and water courses clear of debris; that all access and skidding tracks follow the agreed alignment and adequate drainage is provided; and Good felling practice is observed. Thus even though the VPA is consistent with PEFC NS P6, companies are required to meet additional requirements to address PEFC NS P6 criteria 1 – 10.

PEFC NS P 6 Criteria:

1. Assessment of environmental impacts shall be completed -- appropriate to the scale, intensity of forest management and the uniqueness of the affected resources -- and adequately integrated into management systems. Assessments shall include landscape level considerations as well as the impacts of on-site processing facilities. Environmental impacts shall be assessed prior to commencement of site-disturbing operations.
2. Safeguards shall exist which protect rare, threatened and endangered species and their habitats (e.g., nesting and feeding areas). Conservation zones and protection areas shall be established, appropriate to the scale and intensity of forest management and the uniqueness of the affected resources. Inappropriate hunting, fishing, trapping and collecting shall be controlled.
3. Ecological functions and values shall be maintained intact, enhanced, or restored, including: a) Forest regeneration and succession, b) Genetic, species, and ecosystem diversity & c) Natural cycles that affect the productivity of the forest ecosystem.
4. Representative samples of existing ecosystems within the landscape shall be protected in their natural state and recorded on maps, appropriate to the scale and intensity of operations and the uniqueness of the affected resources.
5. Written guidelines shall be prepared and implemented to: control erosion; minimize forest damage during harvesting, road construction, and all other mechanical disturbances; and protect water resources.
6. Management systems shall promote the development and adoption of environmentally friendly non-chemical methods of pest management and strive to avoid the use of chemical pesticides. World Health Organization Type 1A and 1B and chlorinated hydrocarbon pesticides; pesticides that are persistent, toxic or whose derivatives remain biologically active and accumulate in the food chain beyond their intended use; as well as any pesticides banned by international agreement, shall be prohibited. If chemicals are used, proper equipment and training shall be provided to minimize health and environmental risks.
7. Chemicals, containers, liquid and solid non-organic wastes including fuel and oil shall be disposed of in an environmentally appropriate manner at off-site locations.
8. Use of biological control agents shall be documented, minimized, monitored and strictly controlled in accordance with national laws and internationally accepted scientific protocols. Use of genetically modified organisms shall be prohibited.
9. The use of exotic species shall be carefully controlled and actively monitored to avoid adverse ecological impacts.
10. Forest conversion to plantations or non-forest land uses shall not occur, except in circumstances where conversion: a) entails a very limited portion of the forest management unit; and b) does not occur on high conservation value forest areas; and c) will enable clear, substantial, additional, secure, long term conservation benefits across the forest management unit.

PEFC NS P6 Recommendations: Timber companies will need to put in place the following so as to meet PEFC certification requirements: implement guidelines, checklist and tools for EIA; adopt a simplified guideline to identify and safeguard threatened species and their habitats; implement tools for rapid biological survey to identify key ecological functions and value of their TUC areas; implement measures to control erosion; minimize forest damage during harvesting, road construction, and all other mechanical disturbances; and protect water resources; implement guidelines for chemicals and their mode of application; implement a waste disposal plan internal policy on the use of biological agents consistent with national and international law; timber companies that use exotic species need to have in place measure to identify and control their impacts; and timber companies will need to include the non-conversion of forest as part of its values

PEFC National Standard Principle 7: Management Plan: A management plan -- appropriate to the scale and intensity of the operations -- shall be written, implemented, and kept up to date. The long term objectives of management, and the means of achieving them, shall be clearly stated.

Relevant Ghana VPA provisions for PEFC NS P7:

1. VPA principle 1 requires forest management plan preparation
2. The VPA does not address the review of management plan but FC administrative procedures requires that such plans are reviewed periodically
3. The VPA under article 15 mentions supporting measures but not specific for forest management plans
4. VPA article 20 and 22 require disclosure of information to the public while respecting confidentiality of information
5. The VPA does not address the issue of fire but Ghana forest management includes fire control measures

PEFC NS P 7 Criteria:

1. The management plan and supporting documents shall provide: a) Management objectives, b) Description of the forest resources to be managed, environmental limitations, land use and ownership status, socio-economic conditions, and a profile of adjacent lands, c) Description of silvicultural and/or other management system, based on the ecology of the forest in question and information gathered through resource inventories, d) Rationale for rate of annual harvest and species selection. e) Provisions for monitoring of forest growth and dynamics. f) Environmental safeguards based on environmental assessments. g) Plans for the identification and protection of rare, threatened and endangered species. h) Maps describing the forest resource base including protected areas, planned management activities and land ownership. i) Description and justification of harvesting techniques and equipment to be used.
2. The management plan shall be periodically revised to incorporate the results of monitoring or new scientific and technical information, as well as to respond to changing environmental, social and economic circumstances.
3. Forest workers shall receive adequate training and supervision to ensure proper implementation of the management plan.

The Ghana VPA is consistent with the PEFC NS P7 but timber companies have to meet additional requirement in order to obtain PEFC certification. For example, timber companies need to have their internal fire control and management plan, internal forest management plan, training plan for their workers on the implementation of their management plan, M&E plan for monitoring the implementation of the management plan. Under the VPA, the development, implementation, monitoring and review of the management plan is the responsibility of the regulator but under the PEFC, the timber company is required to have internal management plans implemented, monitored and reviewed by them.

PEFC NS P7 Recommendations: For timber companies to obtain PEFC certification, the following has to be done: put in place their own internal simplified management plans for their operational areas; put in place a schedule for periodic review of its management plan; put in place capacity needs assessment and capacity building plans; implement an information dissemination plan outlining the list of information that will be disclosed; and put in place a fire prevention and control plan

PEFC National Standard Principle 8: Monitoring and Assessment: Monitoring shall be conducted -- appropriate to the scale and intensity of forest management -- to assess the condition of the forest, yields of forest products, chain of custody, management activities and their social and environmental impacts.

Relevant Ghana VPA provisions for PEFC NS P8:

1. The Ghana VPA principle 3 requires the logger complied with forest operation procedures and standards specified by statute. This is ascertained in post-harvest inspections
2. The VPA principle 4 requires that Timber was at all times transported in accordance with standards prescribed by statute.
3. The Ghana VPA Annex V under WTS requires Traceability of wood products from export to forest will be maintained under the agreement. In the case of products derived from wood harvested from a foreign country, the system will be able to maintain traceability from the point of entry to processing after which it will follow the same protocols as wood harvested in Ghana.
4. The Ghana VPA article 20 and 22 require disclosure of information to the public while respecting confidentiality of information

The Ghana VPA provisions are consistent with the PEFC NS P8. The PEFC, however requires timber companies to have in place monitoring procedures consistent with the scale and intensity of their operations, include research and monitoring of their production versus social and environmental impacts, put in place internal CoC system and show evidence of review of their internal forest management plan is based on results of monitoring and research.

PEFC NS P 8 Criteria:

1. The frequency and intensity of monitoring should be determined by the scale and intensity of forest management operations as well as the relative complexity and fragility of the affected environment. Monitoring procedures should be consistent and replicable over time to allow comparison of results and assessment of change
2. Forest management should include the research and data collection needed to monitor, at a minimum, the following indicators: a) Yield of all forest products harvested. b) Growth rates, regeneration and condition of the forest. c) Composition and observed changes in the flora and fauna. d) Environmental and social impacts of harvesting and other operations. e) Costs, productivity, and efficiency of forest management.
3. Documentation shall be provided by the forest manager to enable monitoring and certifying organizations to trace each forest product from its origin, a process known as the "chain of custody."
4. The results of monitoring shall be incorporated into the implementation and revision of the management plan
5. While respecting the confidentiality of information, forest managers shall make publicly available a summary of the results of monitoring indicators, including those listed in Criterion 8.2.

PEFC NS P8 Recommendations: To be eligible for PEFC certification, timber companies will need to undertake the following in addition to the Ghana VPA requirements: implement procedures for monitoring its forest operations; put in place internal CoC procedures to be consistent with the PEFC requirements; and develop a list of information for dissemination

PEFC National Standard Principle 9: Maintenance of high conservation value forest: Management activities in high conservation value forests shall maintain or enhance the attributes which define such forests. Decisions regarding high conservation value forests shall always be considered in the context of a precautionary approach.

Relevant Ghana VPA provisions for PEFC NS P9:

1. The VPA does not specifically mention HCVF
2. The Ghana VPA principle 3 sets out environmental standards to be complied with
3. The VPA under article 16 requires stakeholder involvement
4. The Ghana VPA principle 1 requires the preparation of management plan
5. The VPA under article 19 implements a monitoring and review mechanism

PEFC NS P 9 Criteria:

1. Assessment to determine the presence of the attributes consistent with High Conservation Value Forests will be completed, appropriate to scale and intensity of forest management
2. The consultative portion of the certification process must place emphasis on the identified conservation attributes, and options for the maintenance thereof.
3. The management plan shall include and implement specific measures that ensure the maintenance and/or enhancement of the applicable conservation attributes consistent with the precautionary approach. These measures shall be specifically included in the publicly available management plan summary.
4. Annual monitoring shall be conducted to assess the effectiveness of the measures employed to maintain or enhance the applicable conservation attributes

Even though the Ghana VPA does not specifically mention HCVF, it sets out a number of environmental standards under principle 3 that address HCVF partly. These include: siltation of water courses is avoided to prevent water pollution; No logging operation is permitted within a buffer strip, 25 metres either side of any stream or 50 metres either side of a river; No logging operation, including felling, skidding, road and log yard construction is permitted in a protected area; Any tree classified as Black Star (species of important international interest and conservation value) cannot be felled under any circumstance; for special permit species an authorisation is required from RMSC. Also the VPA requires timber companies to prepare harvest plan to ensure protected areas are excluded from timber production. Ghana has established GSBAs which are HCVF areas that are fully protected. Thus even though the VPA is consistent with PEFC NS P9, companies are required to meet additional requirements on HCVF indicators to be included in the timber companies forest management plan and appropriately monitored in order to address PEFC NS P6 criteria.

PEFC NS P9 Recommendations: In order for timber companies to gain PEFC certification, the following has to be done: put in place internal procedures for identifying HCVF during their inventories and operations, develop own consultation strategy on HCVF, put internal measures to ensure their management plans incorporate issues on HCVF, and implement internal procedures for monitoring the status of HCVF areas

PEFC National Standard Principle 10: Plantations: plantations shall be planned and managed in accordance with Principles and Criteria 1 - 9, and Principle 10 and its Criteria. While plantations can provide an array of social and economic benefits, and can contribute to satisfying the world's needs for forest products, they should complement the management of, reduce pressures on, and promote the restoration and conservation of natural forests.

Relevant Ghana VPA provisions for PEFC NS P10:

1. The Ghana VPA principle 1 requires enumeration and estimation of standing tree volume in plantations and delineation of plantations within forest reserves
2. The preparation of plantation management plan has not been mentioned by the VPA

The Ghana VPA does not elaborate requirements in relation to plantation management plan. The PEFC NS P10, however, have 10 criteria in relation to plantations that timber companies have to comply with in order to obtain PEFC certification for products originating from plantations. The PEFC requirements also highlight measures that timber companies have to put in place to avoid conversion of natural forest and promote species diversification and promotion of biological conservation.

PEFC NS P 10 Criteria:

1. The management objectives of the plantation, including natural forest conservation and restoration objectives, shall be explicitly stated in the management plan, and clearly demonstrated in the implementation of the plan
2. The design and layout of plantations should promote the protection, restoration and conservation of natural forests, and not increase pressures on natural forests. Wildlife corridors, streamside zones and a mosaic of stands of different ages and rotation periods shall be used in the layout of the plantation, consistent with the scale of the operation. The scale and layout of plantation blocks shall be consistent with the patterns of forest stands found within the natural landscape
3. Diversity in the composition of plantations is preferred, so as to enhance economic, ecological and social stability. Such diversity may include the size and spatial distribution of management units within the landscape, number and genetic composition of species, age classes and structures
4. The selection of species for planting shall be based on their overall suitability for the site and their appropriateness to the management objectives. In order to enhance the conservation of biological diversity, native species are preferred over exotic species in the establishment of plantations and the restoration of degraded ecosystems. Exotic species, which shall be used only when their performance is greater than that of native species, shall be carefully monitored to detect unusual mortality, disease, or insect outbreaks and adverse ecological impacts
5. A proportion of the overall forest management area, appropriate to the scale of the plantation and to be determined in regional standards, shall be managed so as to restore the site to a natural forest cover.
6. Measures shall be taken to maintain or improve soil structure, fertility, and biological activity. The techniques and rate of harvesting, road and trail construction and maintenance, and the choice of species shall not result in long term soil degradation or adverse impacts on water quality, quantity or substantial deviation from stream course drainage patterns
7. Measures shall be taken to prevent and minimize outbreaks of pests, diseases, fire and invasive plant introductions. Integrated pest management shall form an essential part of the management plan, with primary reliance on prevention and biological control methods rather than chemical pesticides and fertilizers. Plantation management should make every effort to move away from chemical pesticides and fertilizers, including their use in nurseries. The use of chemicals is also covered in Criteria 6.6 and 6.7.
8. Appropriate to the scale and diversity of the operation, monitoring of plantations shall include regular assessment of potential on-site and off-site ecological and social impacts, (e.g. natural regeneration, effects on water resources and soil fertility, and impacts on local welfare and social well-being), in addition to those elements addressed in principles 8, 6 and 4. No species should be planted on a large scale until local trials and/or experience have shown that they are ecologically well-adapted to the site, are not invasive, and do not have significant negative ecological impacts on other ecosystems. Special attention will be paid to social issues of land acquisition for plantations, especially the protection of local rights of ownership, use or access.
9. Plantations established in areas converted from natural forests after November 1994 normally shall not qualify for certification. Certification may be allowed in circumstances where sufficient evidence is submitted to the certification body that the manager/owner is not responsible directly or indirectly of such conversion

PEFC NS P10 Recommendations: In order to qualify for PEFC certification, timber companies are required to put in place the following: develop and implement plantation management plans; put in place guidelines for plantation development that promote natural forest conservation; demonstrate diversity in their plantations; put in place measures for ensuring their choice of species are suitable for the plantation site; demonstrate its strategies for promoting natural forest development; put in measures that ensure the maintenance of soil structure, fertility and biological activity; show evidence of measures in place to check out break of diseases, pests and invasive plants; put in place a monitoring plan for plantations; and demonstrate that they did not promote natural forest conversion in their plantation areas

PEFC National CoC versus FLEGT-VPA CoC Requirements

PEFC CoC Requirement 1: Identification of the origin of certified material/products at the delivery level

Relevant Ghana VPA CoC provisions for PEFC CoC 1:

1. The Ghana VPA principle 6 requires that all vendors/exporters have valid license or permits to market timber and the TIDD of the FC to undertake various inspections and produce reports before Custom clearance
2. The Ghana VPA principle 4 requires that timber was transported with official documentation detailing its origin and corresponding with physical identification of the timber

Ghana VPA CoC requirements are consistent with the PEFC CoC 1 as both require evidence and documentations covering timber products traded and the verification of such documentations to ensure compliance. PEFC requires timber companies to establish and show evidence of their own internal CoC that is consistent with PEFC requirements and verify all supplies received.

PEFC CoC Requirement 1 Criteria:

1. The organisation shall obtain from the suppliers for each delivery of certified material/products information necessary to verify their certified status
2. A document associated with each delivery of certified material/products shall include at least the following information: (a) the organisation's name as the customer of the delivery, (b) supplier identification, (c) product(s) identification, (d) quantity of delivery for each product covered by the documentation, (e) date of delivery / delivery period / accounting period, (f) the formal claim on the material origin (including percentage of certified material) specifically for each certified product covered by the documentation, (g) the identifier of the supplier's chain of custody or forest management certificate or other document confirming the supplier's certified status.
3. For each delivery, the organisation shall verify the material/product certified status following the claim specification for which the chain of custody was implemented

PEFC CoC 1 Recommendations: In order for companies to obtain PEFC CoC certification, the following has to be put in place: implement verification protocols for ascertaining the certified status of materials; and implement their own internal CoC system that is consistent with both PEFC and VPA WTS requirements

PEFC CoC Requirement 2: Identification of the origin of certified material/products at the supplier level

Relevant Ghana VPA CoC provisions for PEFC CoC 2:

1. The Ghana VPA principle 6 requires that all vendors/exporters have valid license or permits to market timber and the TIDD of the FC to undertake various inspections and produce reports before Custom clearance

The Ghana VPA CoC requirements are consistent with the PEFC CoC in terms of acquiring the relevant documentations and verifying them.

PEFC CoC Requirement 2 Criteria:

1. The organisation shall require, from all suppliers of certified material, a copy of or access to the forest management or chain of custody certificate or another document confirming the supplier's certified status
2. The organisation shall evaluate the supplier's certified status with the criteria for the suppliers of certified material based on validity and scope of documents received

PEFC CoC 2 Recommendations: For PEFC certification, companies will need to implement its of CoC and get PEFC certification for it and also implement verification protocols for ascertaining the certified status of materials

PEFC CoC Requirement 3: Separation of certified material/products

Relevant Ghana VPA provisions for PEFC CoC 3:

1. The Ghana VPA article 3, any material not covered by FLEGT License is considered illegal and cannot be traded

The Ghana VPA requires all timber and timber products originating from Ghana to meet the WTS requirements and those to the EU market covered by FLEGT license. Thus products not covered by the FLEGT license will be considered illegal and removed from the consignment.

PEFC CoC Requirement 3 Criteria:

1. Certified material and certified products with different content of certified material shall remain clearly identifiable throughout the whole production/trading process, including storage. This shall be achieved by: (a) physical separation in terms of production and storage space or (b) physical separation in terms of time or (c) clear identification of the certified material/products during the process.

PEFC CoC 3 Recommendation: Companies need to adopt measures to ensure separation of certified products from uncertified products during packaging, transportation, etc in order to obtain PEFC certification

PEFC CoC Requirement 4: Documentation associated with sold/transferred products

Relevant Ghana VPA CoC provision for PEFC CoC 4:

1. The Ghana VPA principle 6 requires that all vendors/exporters have valid license or permits to market timber
2. The VPA WTS (annex V) requires companies to show evidence of compliance to the legal requirements at all stages of production to the point of export and timber exports or supplies are covered with detail information along the chain from production to the point of export

The Ghana VPA is consistent with the PEFC but PEFC requires companies to implement their internal systems for CoC and documentation with more detail information.

PEFC CoC Requirement 4 Criteria:

1. At the point of sale or transfer of certified products to the customer, the organisation shall provide the customer with a copy or access to a copy of its chain of custody certificate. The organisation shall inform the customers about any change in the scope of its chain of custody certification and shall not misuse its chain of custody certification
2. For the purposes of communication of the chain of custody claim, the organisation shall identify a single type of document associated with the delivery of all sold/transferred products. The document, including the formal claim, shall be issued to a single customer. The organisation shall keep copies of the documents and ensure that information contained within those copies cannot be altered after the originals are delivered to the customers
3. The document associated with each delivery of all certified products shall include at least the following information: (a) customer identification, (b) supplier identification, (c) product(s) identification, (d) quantity of delivery for each product covered by the documentation, (e) date of delivery / delivery period / accounting period, (f) the formal claim on the material origin (including percentage of certified material) specifically for each certified product covered by the document, (g) the identifier of the supplier's chain of custody certificate or other document confirming the supplier's certified status.

PEFC CoC 4 Recommendations: For PEFC certification, companies need to introduce records keeping and documentation mechanisms that protect customers, suppliers and products information as well as capture detail information and documentation on customers, suppliers and products

PEFC CoC Requirement 5: Use of Logos and Label

Relevant Ghana VPA provisions for PEFC CoC 5:

1. VPA FLEGT license is issued for products that comply with all the legality requirements under the LAS
2. The VPA under principles 5 & 6 requires the issuance of FC permits to companies to engage in timber trade
3. The WTS (annex V) also outlines the various documentations issued by the FC

Both VPA and PEFC require the appropriate application of the logos and labels issued as well as complying with the conditions.

PEFC CoC Requirement 5 Criteria:

1. The organisation which uses a logo or label, for on-product and/or off-product purposes, relating to the chain of custody certification, shall have an authorisation from the logo/label's trademark owner or from the owner's authorised representative and the usage shall be carried out according to the terms and conditions of the authorization
2. The organisation may only use the label on-product for those certified products that meet the eligibility criteria for product labelling as specified by the owner of the logo/label trademark
3. The organisation which makes on-product claims on the product itself or its packaging (without a logo or label) relating to chain of custody certification shall always use the formal claim and the organisation making the claim shall be identifiable.

PEFC CoC 5 Recommendations: For companies to obtain PEFC certification, they have to implement measures to comply with the conditions of the logos and labels; and be very conversant with the PEFC formal claim form

PEFC CoC Requirement 6: Controversial sources

Relevant Ghana VPA provisions for PEFC CoC 6:

1. The VPA WTS (annex V) requires companies to comply with all procedures in order to be issued with the appropriate certificates, permits, tags, license to operate along the timber production chain

The Ghana VPA provisions are consistent with PEFC and require a due diligence effort to scrutinize products from suspicious and controversial sources but the PEFC requires timber companies to put in place an internal due diligence system.

PEFC CoC Requirement 5 Criteria:

1. The organisation shall establish a due diligence system to minimise the risk that certified products include raw material from controversial sources

PEFC CoC 6 Recommendation: for companies to obtain PEFC certification, there is the need to develop and implement a robust internal due diligence system to protect their certified products

Conclusions

The PEFC certification standards address a wider scope of sustainable forest management that cuts across the environment, social and economic aspects of sustainable development. The PEFC requires compliance with forest laws (national & international law applicable), and that is the entire aim of the Ghana VPA. The FLEGT VPA focusing on legal enforcement of forest law gives a good foundation for companies and forest managers to expand their internal procedures and due diligence systems to incorporate PEFC requirements with the appropriate proof mechanisms. The FLEGT VPA Legality Principles 1, 2 & 3 addresses the environment components, 6 & 7 addresses the economic components and 1,2, 3 & 5 addresses the social components of SFM though limited in scope as compared to the requirements of the PEFC. Thus FLEGT VPA serves as a great opportunity for timber companies willing to obtain PEFC certification to build on their traceability, due diligence, compliance and documentation systems with sustainability considerations to comply with PEFC requirements. The FLEGT VPA process has led to various interventions for forest law reform in Ghana. This will offer the opportunity for forest certification stakeholders to advocate for the elaboration of a new forest code to capture key aspects of the PEFC requirements into law on SFM.

Ghana currently has its national certification standards and the Working Group on Forest Certification – Ghana (WG) is supporting timber companies to adopt various systems of meeting forest certification requirements. WG has also been an integral part of the FLEGT VPA process in Ghana and supporting companies in developing due diligence systems, traceability procedures and documentation regimes for compliance with the VPA. The National Standards needs to be approved by the PEFC. Considering the current capacity challenges with companies to meet the VPA requirements, various interventions such as providing expert support and training to companies to enable the adoption of internal systems for compliance with PEFC requirements, will be a great opportunity to ensure companies smoothly migrate from VPA to PEFC certification. Timber companies are already in various stages of adopting systems in response to the VPA requirements and this forms a very great synergy point for integrating PEFC requirement which will ensure companies own systems assure them of FLEGT license and PEFC certification at the same time. This will increase market opportunities for the products of such companies.

Annexes (attached as separate files)

Annex I: PEFC National Standard and VPA Gap Analysis

Annex II: PEFC National Standard and VPA CoC Gap Analysis

Annex III: VPA Contribution to PEFC National Standards Color Tally

References

1. PEFC INTERNATIONAL STANDARD Requirements for certification schemes, 2010
2. KATHLEEN ANNE E. CAPIROSO, 2011 “An exploratory analysis of the interactions between FSC and EU FLEGT forest regimes”.
3. Official Journal of the European Union, 2010 Ghana VPA Document
4. Client Earth-UK, 2013 Legal brief on Access to Information in Ghana Law
5. Elvis Kuudaar, 2013, “VPA Transparency Matrix for Civil Society”