Lessons learned from FLEGT VPA process in

Republic of Congo (RoC) & Central African Republic (CAR)

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The campaigning NGO for greater environmental and social justice, with a focus on forests and forest peoples rights in the policies and practices of the EU

RoC - Current status of VPA

- **Process**

Negotiation   June 2008 – May 2009 (11 months very fast !)

Signature   17 May 2010

Ratification   March 2013 !! (July 2012 Presidential Decree)

1st JIC   April 2013 **=>** *Next/2nd JIC* November 2013

- **Implementation phase**

  – Operational formal CS **independent monitor** (CAGDF)

  – **Reform forest code** & 18 related texts (2012-2014)

    => *CS not consulted in 2012, position letter, more participatory approach foreseen (AFD & FAO)*

  – **LAS** not operational – **traceability** project relaunched with new contractor, **verification protocols** started

  – Limited progress on **transparency annex, website** http://www.apvflegtcongo.org, bi-monthly newsletter

RoC- Civil society participation

- **Civil society**

  Informal CS platform (PGDF) of 30 members, fixed coordination team (6). Internal procedures. No direct representation of IP or LC

  $\Rightarrow$ Limited knowledge on forest sector, problem of GONGOs, strong tensions with government & private sector

- **Multi-stakeholder structures**
    - Negotiation: Technical secretariat   **3 SC**

      National advisory group   **1 SC**
    - Implementation: JIC   **1 SC**

      Technical Secretariat   **3 SC**

      Informal Joint Working Group **1 SC**

- **Independent monitor**   CAGDF (REM-Forest Monitor)

RoC – Advancing rights in VPA

Legality grid refers _explicitly_ to

- Recognition of customary rights by timber companies
- Involvement of LC & IP in management of forestry concession
- Need for EIA prior to logging operations
- Compensation for damage, social contracts, benefit sharing
- Dispute settlement mechanisms

Necessary legal reform (participatory process)

- Reform of forest code and implementation decrees
- Clear procedures for participation LC in concession allocation
- Framework decree for participatory forest management
- Principles: community forests, IM-FLEG, participation, transparency

Adopting **National Indigenous People Law** (2010) – need for implementation decrees

SWOT analysis - RoC

STRENGTHS

- CS platform with common agenda & key priorities
- CS in key positions (consultants) – legal reform
- CS led IM-FLEG (method, data, recognition)

WEAKNESSES

- CS limited capacity
- Limited representation IP, local communities
- Limited understanding land tenure or joint mgmt options (CF vs SDC)

OPPORTUNITIES

- IP law implementation
- Overlap of CS members in CACO-REDD & VPA PGF
- REDD RPP wider focus: expand impact VPA to other sectors (land)

THREATS

- No integrated land use planning - f.ex. large scale palm oil plantations
- Weak EUTR implementation
- Widespread corruption, lack of law enforcement

CAR - Current status of VPA

- **Process**

Negotiation   October 2009 – December 2010 (15 months)

Signature   28 November 2011

Ratification   July 2012

1st JIC   Sept 2012 **=> Next JIC** March 2013 cancelled (crisis)

- **Implementation phase blocked by political crisis**
  - Ministry of Forestry not yet fully operational, lots of changes
  - CS platform works on necessary **legal reform** texts (intern)
  - CS has identified **independent monitoring** strategy
  - **LAS** not operational – no **traceability** system yet, nor **verification protocols**
  - No progress on **transparency annex**

CAR - Civil society participation

- **Civil society**

  Informal CS platform (GDRNE) of 29 members.

  => Very young civil society, limited capacity, limited info sharing & communication (no ownership), more individuals, CS seat claimed by intl NGO (WWF), no direct representation of IP or LC, infighting, rushed process but growing trust

  .

- **Multi-stakeholder structures**
  - Negotiation: Negotiation team   **2 SC**
  - Implementation: JIC   **2 SC**
                                National Implem. Committee **2 SC**

- CS played a key role in development of a **transparency annex** on 68 type of documents to be made public (13 ways of dissemination)

CAR – Advancing rights in VPA

Legality grid refers _explicitly_ to

- Recognition by companies of customary access & user rights
- Compensation (crop damage) – revision of rates !
- Social obligations & benefit sharing (tax, community fund)
- Dispute settlement mechanisms

Necessary legal reform

- New decree to include CS in concession allocation
- Involvement of LC & IP in management of forestry concession
- Land and rural code reform !!
- Implementing decrees for community forests & artisanal logging
- Implementation decrees on Environment Code (EIA, audit, …)

Ratifying the **ILO169 Convention** (2010) – integration in national law

SWOT analysis - CAR

STRENGTHS

- One common REDD/FLEGT CS platform 'GDRNE'
- LAS for community forestry and artisanal logging
- Cross country exchanges CS

WEAKNESSES

- CS limited capacity
- Limited representation IP, local communities
- Social and environmental criteria in legality grid not strong enough

OPPORTUNITIES

- Land reform planned 2015
- Crisis but CS focus proactively on law reform priorities
- ILO convention 169 – translate in national legislation
- EITI (incl. forestry) transparency

THREATS

- Political and humanitarian crisis, violation HR
- State of lawlessness
- Increased corruption & looting of natural resources (diamond, ivory, timber) & dodgy REDD deals

Lessons Learned

LIMITATIONS

- VPA **forest sector** focus.
  No **full land reforms** - need integrated land use planning

- Main focus on **procedural rights** (consultation, compensation, social obligations, info, complaint)

=> **stepwise approach**

- Law **enforcement**, **capacities** government, **awareness** communities

- No tangible results yet, **counterforces**, **VPA & EUTR** need to deliver

OPPORTUNITIES

- Strengthens **recognition of rights** (access & user)

- Push for necessary **legal reforms**

- Improved **transparency,** tackle **corruption, accountability**

- Role of CS in **monitoring**

- **Catalyst** of other processes (ILO 169 CAR, IP law RoC, REDD,.)

- **Model** for other agreements, processes, commodities

Conclusions
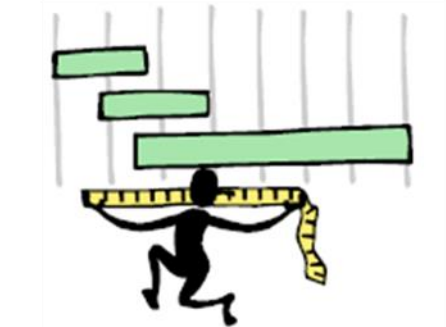
Voluntary Partnership Agreement:

- Is one of several existing **tools to promote rights**

- **CS has active role** in both negotiation & implementation phase

- Allows for **inclusive & participatory decision making** in forest sector (change rules of game)

- Includes key principles to **improve forest governance**

- Has **strengthened CS capacity** to advocate for their rights (platforms)

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Exploring credibility gaps in Voluntary Partnership Agreements

A review of independent monitoring initiatives and lessons to learn

September 2013
Duncan Brack
Claudine Léger
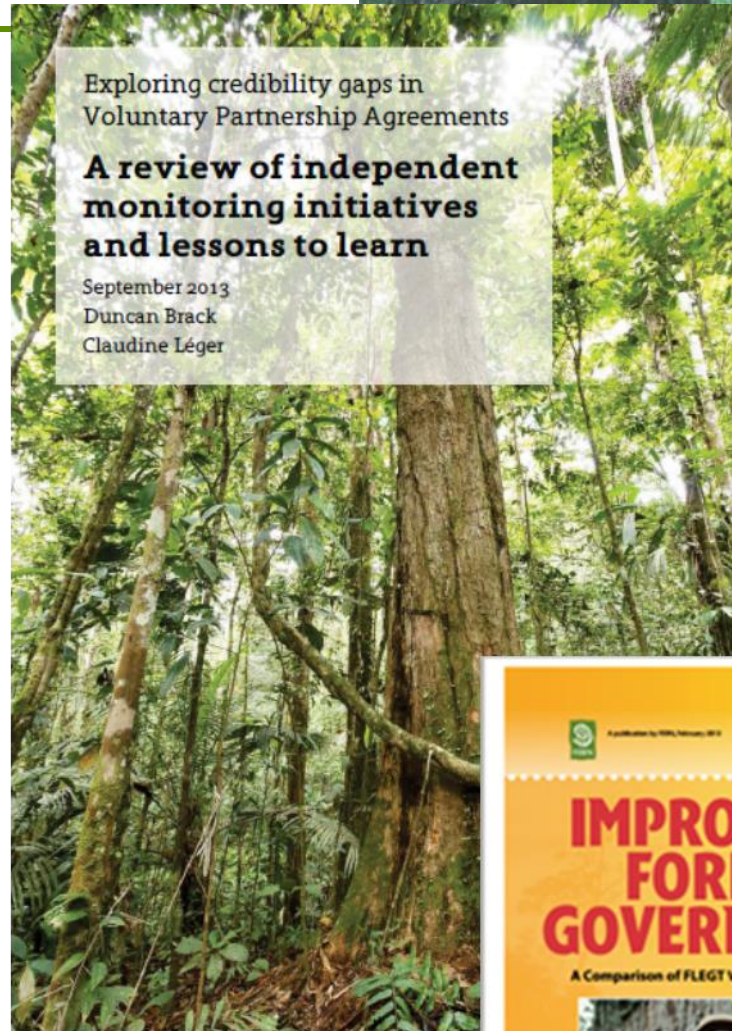
IMPROVING FOREST GOVERNANCE

A Comparison of FLEGT VPAs and their impact

LOGGINGOFF

The online resource for Information on Voluntary Partnership Agreements