Lessons learned from FLEGT VPA process in

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

October 28, 2013
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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
  ⇒ 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
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
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 int'l 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)
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.