



Paving the way: learning from Ghana's VPA process to help meet cocoa commitments : *TFA 2020 side event*

May 17th 2018 , Accra, Ghana

Meeting summary – lessons learned

On 17 May 2018, on the sidelines of the TFA2020 General Assembly (held in Accra from 14-18 May 2018), Fern and Civic Response Ghana held a side event on learning from Ghana's Voluntary Partnership Agreement (VPA) process to help tackle deforestation in the cocoa sector. The event was intended to inform current commitments in the cocoa sector, in particular the Cocoa & Forests Initiative (CFI), launched in November 2017 by the governments of Ghana and Cote d'Ivoire and international chocolate companies.

Ghana signed a VPA with the EU in 2009 to address illegal logging. Since then, the VPA has been widely-hailed for its success in tackling a range of governance issues, including corruption and the abuse of discretionary powers by government actors, cancelling illegal logging permits, increasing tax revenues collected by the government, and increasing the flow of logging payments to local communities. All of this has been achieved via an innovative multi-stakeholder process where, crucially, civil society has been in a position to hold the government and private sector to account for fulfilling the promises they have made.

Attendees heard presentations from the Ghanaian government and from Ghanaian civil society about their involvement in the VPA process, describing how they worked together to clear up illegality in the timber sector, and how they thought a similar approach could work for cocoa. They also heard a presentation from a Liberian civil society member, about how Liberia directly involved communities in its VPA process and how this could help processes to better involve cocoa growers. This was followed by comments from the Dutch Ministry of Foreign Affairs and the World Cocoa Foundation, reflecting on how such lessons could be applied in the cocoa sector. The event ended with a lively debate amongst all the event participants, bringing together perspectives from Ghanaian civil society & government bodies, European governments, international NGOs, and industry representatives.

This short note presents a summary of some of the main lessons drawn from the conversation, of how successes in Ghana's VPA process could be brought into the cocoa sector.

Lessons from the Ghanaian government (Chris Beeko, Director of Timber Validation Department, Ghana Forestry Commission)

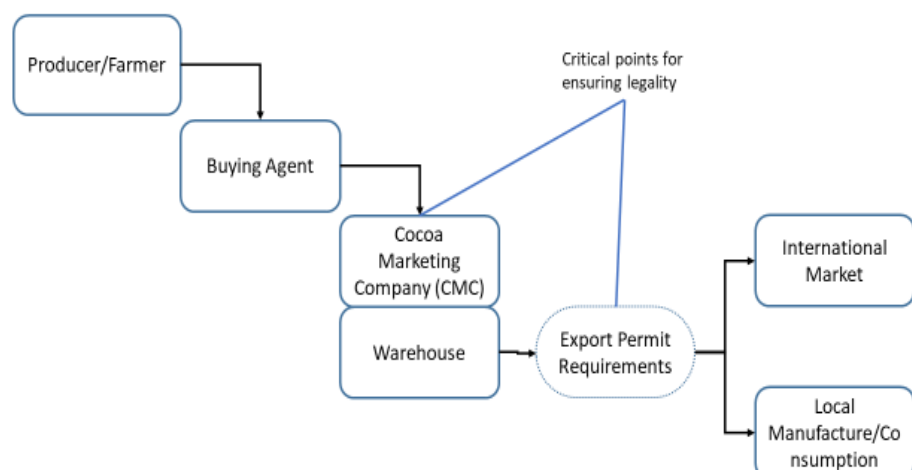
- **You need to start by defining what the problem is** -- loss of forest due to cocoa farming, and the absence of laws to restrict cocoa farming to designated land use areas. Also issues around child labour, and health and safety of workers. National actors need to get around the table to come to a common understanding of the problem.
- **Civil society engagement** has been key, and despite initial mistrust, civil society is now appreciated by the government. Thanks to their engagement, the forestry sector has seen great improvements with regards to corruption and the misuse of discretionary powers, which have gone down a lot (for example last year's cancelling of all the "special permits", which were being awarded by the forest minister in contravention of the normal environmental requirements)

- What has been key – and revolutionary-- in Ghana’s VPA process is that it has been developed through a **truly deliberative, multi-stakeholder process**. The VPAs represent a new form of governance. When Ghana was starting the VPA, policy was being made in a very different way-- it was ‘sole government steering’ and technocratic. Ghana did things differently with the VPA because the EU was requiring a multi-stakeholder approach. What does this mean in practice? It meant that **Ghana could not present a position to the EU in VPA negotiations until it had the consent of all the national stakeholder representatives** (i.e. civil society and private sector). This was essential to civil society’s ability to have leverage in the forestry sector, and to prevent any one interest group from dominating policy. Otherwise, why would those who are used to developing policy-- such as the government and companies-- want to include civil society perspectives, particularly if “business as usual” is working well for them?
- To achieve real change in the cocoa sector, **you need to look at underlying governance issues—and this takes time and political commitment**. Achieving change in the timber sector has taken a long time.
- You must carefully **think through the political interests** in cocoa, which may be much stronger than in the forest sector.
- **You need a core of well-informed stakeholders**, again meaning some stakeholders (especially civil society, communities) need enough time to get up to speed.
- **There needs to be a market that will act responsibly and demand higher standards--** in the case of the VPA, this was the EU, and the due diligence requirement it legally imposed on European timber importers via the EU Timber Regulation. This acted as a lever to impulse governance improvements in Ghana.
- **The national laws governing cocoa need to be clearly defined**. There should also be a process of looking at existing laws to see if they are fit for purpose.
- Once it is clear what the law says, **legality compliance needs to be checked at key points in the supply chain** (see graphic below). Key actors along the supply chain need to face legal sanctions for buying illegal cocoa (at the moment, they don’t).
- With governance reforms of this nature, one single deliverable cannot be the sole success determinant— it is not just about the legality license. In Ghana, we have seen decline in use of discretionary powers by government officials, opening up of the way policy is made, better enforcement of forest management standards. **“Governance reform has many children and they must be loved equally.”**

Image from presentation slide—key points in the cocoa supply chain where actors could be made legally responsible for buying cocoa from illegal areas:



Planted area not regulated as part of value chain



Lessons from Ghanaian civil society (Samuel Mawutor, Civic Response, and Coordinator of Forest Watch Ghana)

- A particularly important success of the VPA process is **increased transparency & access to information**—finding info on logging permits used to be impossible, but we now have a timber portal that gives us all the info we want. This enables civil society to hold companies and government to account, and increases the credibility of the Ghanaian government.
- Also important to **build communities' capacity on what the law says**—thanks to the VPA, communities in the logging sector now understand what their rights are & what companies are & aren't allowed to do. This allows them to hold companies to account.
- **Importance of a shared agenda agreed upon and owned jointly by all stakeholders.**
- **Importance of an institution where parties can meet together regularly to resolve issues.** In the VPA process, the Multi Stakeholder Implementation Committee (MSIC-- with equal representatives from government, private sector, and civil society) meets every few months to check up on progress of what the different parties said they would do, and put on the table anything else that has come up. Such an institution allows controversial issues to be put on the table & resolved —e.g. closing loopholes in allocation of logging permits, illegal rosewood logging, and revising outdated tax levels upwards (which led to a 640% increase in the taxes collected). Such an institution generates trust between different stakeholders— they know that, if an issue comes up, they will be able to work with the other stakeholders to collectively address the problem. Now, rather than just being critical, NGOs realise that they need to provide constructive solutions. They develop many more memos/letters to ministers nowadays than press releases. They recently worked together very well with the government to develop a legal framework for Social Responsibility Agreements between logging companies and communities.
- **Importance of a strong seat at the table for civil society** - Thanks to the multi-stakeholder requirement of the VPA process, national civil society are able to speak freely—this enables them to ensure accountability in the long term. Other processes have learned from the VPA experience—e.g. the REDD+ process has now opened up and rethought their approach to consultations.
- **Importance of NGOs working in coalition, and developing good principles around representation.** In the timber sector, there is now much better coordination between CSOs. They defined their strategic vision amongst themselves. They used civil society platforms and community forums to collect different points of view & provide feedback on how things were going—this was particularly useful in informing the new Forest & Wildlife Policy. They developed a representatives' charter clearly laying out the duties of civil society representatives to consult & inform their constituencies. Building these kind of representative institutions takes time.
- **Focus on legal reform, and bringing new voices into legal reforms**— the VPA process impelled the reform of the outdated 1994 Forest & Wildlife Policy. Civil society took a strong position in this and now celebrates the result. Civil society also contributed strongly to the tree tenure reform proposal, via extensive fieldwork they undertook to understand how communities manage tenure in different parts of Ghana.
- A useful institution for the cocoa sector to build on is the **legal working group in the forestry sector**, which meets regularly to resolve governance issues.
- Importance of a **mechanism to verify legal compliance**

Lessons from Liberian civil society (Silas Siakor, founder of Sustainable Development Institute Liberia, now working for IDH)

- You need to **be clear about what you want out of the process**. And we should be thoughtful about how we define what the problem is. This is a conversation that started about forests, but is forest loss the only problem in the sector? How can we incentivise farmers to change some of their practices? **We need to move away from the forests-only conversation**, or we will miss the opportunity to have a really good conversation and address some of the wider challenges.

- **Need to appreciate the private sector efforts to improve its practices.**
- **Governments also have responsibilities.** A big part of that is that the private sector has to be regulated and not left for them to self-regulate.
- **National laws need to be clear to everyone, and evenly applied across the board.** One group of actors can raise the bar, but if everyone else continues to operate at the same level, then it's a problem. If the rules are clear, that makes it easier to monitor compliance. And **affected parties need to be part of that rule-clarifying/making process.**
- **How to involve communities** - In Liberia, in the timber sector, we used to have communities as by-standers, waiting for handouts from governments. In the cocoa sector, we are already starting from a stronger foundation, as these communities are the producers—so they already have a strong interest they will defend when they come to the table. In the Liberia VPA, it was CSOs saying we need communities at the table and the Government acknowledging that was a good idea, and so communities were invited for the first time to be a part of national rule-making processes. This was completely ground-breaking; it had never happened in Liberia before. One big issue communities have managed to put on the table & resolve is benefits owed since a long time from logging companies to communities, which are now for the first time being paid out.
- **A good process is not going to be easy.** It takes a lot of time to discuss these issues, which makes people impatient, and sometimes you can sometimes open a Pandora's box when you talk about legal reforms. For example, we are now at a point where land tenure has become the biggest hurdle—for four years, even though the policy has been concluded, we have been unable to reach agreement on legislation to back it.
- **Capacity can vary between the different actors** around the table. You produce materials where people think that all is biased for one perspective, because others are not able to articulate their interests. It takes patience to ensure that you are not leaving the communities behind, and to really engage with cocoa farmers in different regions to bring meaningful input to the national level. We **need to give sufficient time** to allow everyone to have their own internal consultation and to come back to engage in consultations at the table. This can also be costly—it requires resources and political commitment.

Key points from discussion afterwards:

The discussion centred around how big of an issue illegality is. How much would enforcing Ghanaian laws fix problems in the cocoa sector?

- There was a debate around the meaning of “illegal cocoa”, and whether it exists in Ghana. It was clarified that any cocoa coming from a forest reserve or protected area (apart from admitted farms) is indeed illegal. One problem is that there is no legislation in Ghana to say such cocoa is illegal.
- CFI is developing a traceability system to track if cocoa is coming from illegal areas. They have set deadlines for companies to ensure there is no cocoa from these areas.
- It was noted that cocoa is already not supposed to be coming out of protected areas (according to Ghanaian law)—how do we ensure the rules on the books translate into practice?
- It is important to recognise that cocoa is people's livelihood, and if we move people out of certain areas of forest, we have to provide them with alternative options.
- People stressed the importance of consequences for companies if they do not meet their commitments, or Licensed Buying Companies if they buy cocoa from prohibited areas.
- We need to have a national debate around how to manage our forests sustainably; this can't continue.
- CFI is working to use drones and community monitoring to track if cocoa is being sourced from illegal areas. Ghanaian CSOs present at the event said that if these monitoring results could be publicly accessible, they could use them to hold the government to account.
- There is a need to clarify what is happening to admitted farms. At the moment, there is an issue that they are encroaching outside of their permitted areas. These farmers need to be made a partner to the process.