

Community representation and participation in the VPA process

How communities from nine VPA countries are represented in the FLEGT VPA process



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Acronyms

CBOs	Community-Based Organisations
CED	Centre pour l'Environnement et le Développement (Cameroon)
CIEDD	Centre pour l'Information Environnementale et le Développement Durable (Central African Republic)
CFDCs	Community Forest Development Committees (Liberia)
CODELT	Conseil pour la Défense Environnementale par la Légalité et la Traçabilité (Democratic Republic of Congo)
CS/CSO	Civil Society/ Civil Society Organisation
ECFP	European Community Forest Platform (Cameroon)
EU	European Union
FAO	Food and Agriculture Organisation
FCI	Foundation for Community Initiatives (Liberia)
FLEGT	Forest Law Enforcement, Governance and Trade
FODER	Forêt et Développement Rural (Cameroon)
FWG	Forest Watch Ghana
GDRNE	Plateforme de la société civile centrafricaine pour la Gestion Durable des Ressources Naturelles et de l'Environnement (Central African Republic)
IPs/IPO	Indigenous Peoples/ Indigenous Peoples Organisation
LDI	Liberia Democratic Institute
MAO	Movimiento Ambientalista de Olancho (Honduras)
MEFP	Maison de l'Enfant et de la Femme Pygmées (Central African Republic)
NGO	Non-Governmental Organisation
NMC	National Monitoring Committee (Cameroon)
OSAPY	Organisation pour la Sédentarisation, l'Alphabétisation et la Promotion des Pygmées (Democratic Republic of Congo)
PGDF	Plateforme pour la Gestion Durable des Forêts (Republic of Congo)
RECA	Rural Environmental Care Association (Ghana)
REDD	Reducing Emissions from Deforestation and forest Degradation
RRN	Réseau Ressources Naturelles (Democratic Republic of Congo)
SDI	Sustainable Development Institute (Liberia)
UK	United Kingdom
VIFORES	Vietnam Timber and Forest Product Association
VNFOREST	Vietnamese Forest Administration
VNGO	Vietnamese NGO
VPA	Voluntary Partnership Agreements

Introduction

Every two years the Community Rights Network (CRN) meets in Brussels to discuss issues of concern, share lessons learned, develop joint campaign strategies and meet with the European Commission and Parliament to get its voice heard.

The CRN currently includes Non-Governmental Organisation (NGO) coalitions (or civil society (CS) platforms) from 13 countries involved in the negotiation or implementation of a FLEGT Voluntary Partnership Agreement (VPA). It represents CS from three continents (Africa, Latin America, South-East Asia).

The main focus of Civil Society Organisations (CSOs) in the VPA process is to increase transparency and accountability in the forestry sector as well as ensuring that the rights of local communities are well respected and recognised in the VPAs. To do so, a focus on legal reforms which takes into account existing customary, statutory and international law is often required.

It is thus clear that local communities' stakes and rights are at the heart of CS advocacy in the VPA process and thus these stakeholders or rights holders must be effectively represented.

During its meeting on 3rd of October 2012, the CRN members jointly recognized the limited participation of local communities and indigenous peoples

both in VPA negotiation and implementation. It was considered a high priority to address this shortcoming by promoting direct involvement of local communities and indigenous peoples in VPA implementation and in ongoing negotiations.

A first and important step to address this challenge was to jointly document existing community participation, highlighting successes, innovative approaches, challenges and problems while identifying key principles for effective participation. In addition extensive community consultations were suggested, establishing representational structures for both local communities and indigenous peoples, putting in place operational communication and feedback mechanisms between national platforms and local communities, and community empowerment through training.

This short report describes existing community participation across nine countries, highlighting country-specific approaches, and ends with a list of the necessary enabling conditions for effective community participation.

Community consultation processes in nine VPA countries

This section gives an overview on whether communities are represented, who represents them and how they participate in the VPA process in nine countries which have either signed a VPA or are negotiating one. Countries are presented in order of ratification, beginning with the first country to ratify a VPA (Ghana). Following this are countries where negotiations are ongoing, presented in order of negotiation commencement. A distinction is made between no representation of communities in the VPA process, indirect representation through CSOs and direct representation through community representatives.

Ghana

Community representation during VPA negotiation

Communities did not have direct representation in the steering committee, negotiation committee or working groups. They were represented indirectly through the CSO coalition FWG and the VPA contact group. FWG includes 35 NGOs, a high proportion of which are community-based organisations (CBOs). The coalition has clearly formulated goals, including involving forest dependent communities in forest policymaking and management.¹ FWG and the VPA contact group had one seat each in the Steering Committee, the negotiation committee and both were active in all VPA working groups.

Organisation of feedback between communities and CSOs during VPA negotiation

Communities were consulted by FWG and the VPA contact group mainly through Forest Forums. Forest Forums are multistakeholder platforms for dialogue and deliberations on forest governance issues, which take place at community, district, zonal and national level. They are used by local CS as the main platform

to channel communities' concerns in to the VPA process. Community Forest Forums are the only place where local forest user groups and communities participate directly and discuss with other interested stakeholders. They happen at least three to four times a year and do not require many resources other than time. Discussions from these Community Forest Forums then feed into District Forest Forums, then into Zonal Forest Forums and then into a National Forest Forum.

Communities selected representatives to go to the District Forest Forums. This was the only level at which there was direct community selection as representatives from the Zonal and National levels were selected by and from among the representatives at the District and Zonal levels respectively. Each representative was mandated to attend a particular meeting. As such, communities could select different representatives to attend different meetings to bring a variety of views. In theory, District Forums happen twice a year and Zonal and National Forums, once a year each. In reality however, they are convened when resources are available. During the VPA negotiations, District Forums were in operation only in a few districts, seriously limiting the participation of communities from other districts.

FWG acts as a facilitator of the Community and District Forest Forums and also organises community outreach programmes. The VPA contact group also included representatives from Forest Forums in its coalition. The two representatives of FWG and the VPA contact group brought forward communities' concerns to the Steering Committee, mainly based on Forest Forum experiences and on their regular work with communities. A feedback mechanism to the FWG coalition and the VPA contact group enabled reporting on the negotiation session and also gathered feedback from CSOs during their meetings. Theoretically, communities were to get feedback from their selected representatives on what was discussed at the District, Zonal and National levels and also from their two CS representatives

¹ 'Stakeholder engagement in FLEGT VPA negotiations', FERN, March 2012.

Cameroon

Community representation during VPA negotiation

Communities were not directly represented in the multistakeholder VPA negotiation committee². They were represented indirectly through CSOs, including some indigenous people organisations (IPOs) and CBOs that are members of the civil society ECFP platform³. The negotiation committee included two CS representatives from the platform, a fixed statutory one taken up by CED, the coordinators of the platform, and a 'rotating' representative providing 'technical support', occupied in practice by the NGO FODER.

Organisation of feedback between communities and CSOs during VPA negotiation

Community consultations were conducted by CSOs from the platform managing community projects in different areas and their number varied according to budget available. These CSOs put forward communities' views and concerns at platform meetings in an ad-hoc fashion when issues were being discussed prior to negotiation sessions. Decisions were taken at platform level by vote and the two representatives brought these results to the negotiating committee. Feedback from the negotiating committee was then given to the platform but budget and time constraints did not allow systematic feedback to be provided to the communities. Instead, feedback was more random, via platform members involved in community projects. This problem has not yet been resolved in the implementing phase.

Despite these challenges preventing effective community representation and participation, there are some clear examples of communities' impact on the platform debate as well as negotiations, i.e. some demands from communities (driven by the Platform) regarding the social and environmental indicators of the legality grid of the VPA were included in the final agreement.

² Commission Technique de Négociation.

³ European Community Forest Platform. For more details, see *Stakeholder engagement in FLEGT VPA negotiations*, FERN March 2012, pp. 10-12.

at the negotiation sessions. In reality this did not happen regularly, due to a lack of funding and time. In addition, the Ghanaian government only conducted limited consultations with CSOs. Overall, this resulted in communities not being well informed about the VPA negotiations. Another difficulty CSOs had to face when aiming to organise community consultations is the central question of the definition of a community in Ghana, which is not so clear.

Community representation in VPA implementation

There has been no change. Communities are still represented indirectly in the implementation phase of the Ghana VPA through FWG and the VPA contact group, which each occupy one seat in the multistakeholder implementation committee.

Organisation of feedback between communities and CSOs during the implementation

There is no fundamental difference between the negotiation and the implementation phase in terms of the transfer of information between communities, FWG, the VPA contact group and the implementation committee. Nevertheless more community consultations are happening in the implementation phase due to available funding for CSOs which are members of the coalition. For instance, in 2012 Civic Response facilitated the Governance Initiative for Rights and Accountability in Forest Management (GIRAF) project, for which FWG CSOs consulted around 180 communities.

Community representation through Forest Forums improved from the negotiation to the implementation phase. The three Zonal Forest Forums became more functional under the GIRAF project. Since 2012, thirty District Forest Forums are in operation (one each District). For each District, there are at least six Community Forest Forums. In addition, the ability to raise communities' concerns at the national level through National Forest Forums has significantly increased as since 2011, National Forest Forums have been organised every year by Civic Response thanks to EU and UK funding. Since 2011, there have been around a hundred community representatives attending each National Forest Forum.

Community representation during VPA implementation

The quality of community participation changed in the VPA implementation phase, as the platform convinced the government that community representatives should have two seats in the National Monitoring Committee (NMC);⁴ one for an indigenous peoples' (IPs) representative and the other for a local community representative⁵. Although this was a promising opportunity, it was very hard to select the representatives and impossible to have geographically adequate representation⁶ given the lack of structure within these highly diverse groups. The NMC-decree does not provide guidance or a methodology for designating community representatives. The IP representative was elected by the Réseau Recherches Actions Concertées Pygmées (RACOPY), an IPO member of the platform. Given the complexity of consulting with all forest-dependent communities, it was decided to elect someone from the Community Forests Federation, an existing structure that groups local communities involved in community forests management.

Organisation of feedback between community representatives and communities during VPA implementation

The community participation process is still not well organised. Community representatives have seats in the NMC as well as in the Joint Implementation Committee (JIC). Community representatives receive invitations for NMC meetings very late, do not receive minutes of previous meetings and have limited up front information to enable them to prepare well for the meetings. They do however receive a fixed participation fee to cover their costs to attend the meetings. The NMC has met three times so far, the last meeting was held in November 2013. It remains challenging for the community representatives to consult the communities prior to NMC meetings due

⁴ Comité National de Suivi.

⁵ In accordance with Annex III-A of the Cameroon VPA, a Decree (*Arrêté n° 126/CAB/PM du 10 septembre 2012*) was adopted in September 2012 creating the National Monitoring Committee and setting its composition and functional requirements.

⁶ It is estimated that there are around 70,000 indigenous people in Cameroon mainly living in East, Center and South Cameroon, *Samuel Nguiffo et al* (2009).

to lack of time, funds, distances between villages and lack of capacity for effective representation. The same holds true for providing feedback after meetings which is ad hoc. CSOs do offer support to the two representatives to prepare for NMC meetings and to provide feedback to communities, but this is still insufficient. CS is currently having discussions on how they could further strengthen community representatives' capacity.

Central African Republic

Community representation during VPA negotiation

In the Central African Republic, communities and IPs were represented indirectly in the VPA negotiation process through CSOs from the GDRNE Platform. One NGO in particular, MEFP has been working closely and on a regular basis with communities and more specifically with IPs in the South-West forest area of the country (Lobaye and Sangha Mbaere) for over 10 years to defend and promote their rights. MEFP is the only NGO in the coalition which works closely with IPs, although some other NGOs may carry out work which includes IPs from time to time. Amis de la Nature, one of the rare NGOs to have their offices outside Bangui (based in M'Baiki), has many years of experience working with local communities. CIEDD is a younger NGO that has been working with local communities and IPs from Ngotto and Pissa since 2011 where they have two local offices.

Organisation of feedback between communities and CSOs during VPA negotiation

In the Central African Republic the VPA was negotiated and concluded in a little over a year. This gave very little time to CS to make the most of their two seats on the Steering Committee⁷, to push for their demands, and even less opportunity to inform communities about the VPA process and gather their views. CSOs also lacked financial resources and adequate tools to share information effectively with

⁷ Comité National de Coordination.



communities and IPs and to raise their awareness on the VPA. Even between the two CS representatives and members of the wider platform, information did not circulate well due to internal tensions, which further hindered reaching-out to communities. The fact that communities and IPs are neither well organised nor structured also prevented them from participating more effectively in the VPA process.

Community representation during VPA implementation

In the implementation phase communities and IPs are still represented indirectly through CSOs in the platform, which has two permanent seats at both the Monitoring and Implementation Committee⁸ and at the JIC. The three NGOs mentioned above still play a crucial role in representing communities' interests, especially as CIEDD members take up one of the CS seats in both committees, while also ensuring platform coordination. During a GDRNE platform meeting in March 2013, ten direct representatives from IPs from Lobaye were invited to participate in a debate on social and environmental analysis of the VPA legality grid. An interpreter (French-Sango) was present to ensure understanding of the topics discussed and during break out groups they

⁸ Comité National de Suivi et de Mise en Œuvre.

formulated key recommendations related specifically to IPs that were taken up in a report as well as in a CS position paper⁹. The IPs clearly expressed an interest in making their participation in platform meetings more systematic. With support from the European Commission, MEFP is managing two projects that will allow them to work closely with some of the communities and IPs in the South-West to assist them to get structured and more directly involved in the VPA implementation process. The project partners¹⁰ are committed to help communities organise elections of their representatives so that they can be directly represented at the platform level. They also intend to advocate for a seat for communities and IP representatives on the implementation committee as well as on the JIC. While other platform members are keen to support and expand this process in other areas, they lack the time and funds to do so. The current political and humanitarian crisis which started in March 2013 when the Seleka seized power in a coup, and which greatly intensified in December 2013, obviously put on hold any progress in the VPA, and makes it challenging for CSOs to reach out to local communities.

⁹ Loggingoff Declaration, March 2013, <http://loggingoff.info/sites/loggingoff.info/files/D%C3%A9clarationR%C3%A9formel-%C3%A9gale%20APV%202013%20Version%20finale.pdf>

¹⁰ CIDT, FPP, FERN, CIEDD and MEFP.

Organisation of feedback between communities and CSOs during implementation

To make information on the VPA process available and accessible to all stakeholders and communities and IPs in particular, the platform is creating a communication plan. CS is committed to informing communities and IPs on the VPA, the legal reform process, their rights, the independent monitoring of the process and their role in implementing the VPA through interactive gatherings, radio emissions, educational films, and training.¹¹ This will strengthen communities' and IPs' skills to present their interests. Again, much will depend on the availability of funds and the feasibility given the current political crisis.

According to CIEDD, information flows well and quickly from the two CS representatives to the platform, either through an e-mailing list that includes all platform members or during ordinary discussions or meetings. Due to a lack of financial resources, however, communities often receive feedback or information quite late and in a random fashion, when provincial workshops are held or when church representatives come to Bangui. During these workshops community representatives are reimbursed for their transportation, food and accommodation costs in the same way as other participants. To overcome this difficulty, some CSOs from the platform are planning to create local offices or have focal points in some provinces. It remains to be seen how realistic this is given the crisis the country has been in since March 2013, and especially with the increased insecurity across the country.

Republic of Congo

Community representation and organisation of feedback between communities and CSOs during VPA negotiation

The Republic of Congo VPA was negotiated and concluded in less than eleven months. Formal

¹¹ *Plan de communication relatif à la mise en œuvre du processus APV/FLEGT en Centrafrique (draft)*, PGDRNE.

negotiations started in June 2008 and the VPA was signed in May 2009, giving little time for CS to get organised and structure the PGDF that was created at the beginning of the negotiations. Communities and IPs were not directly represented in the VPA negotiation phase other than through a few CSOs working with IPs, or composed of IPs participating actively in the Platform PGDF. Only rarely were communities and IPs informed on the VPA process by organisations involved in community projects. CS struggled to make the most of their two seats on the Steering Committee¹², to push for their demands. This meant CSOs struggled to liaise with local community, and hardly had any time to inform communities and IPs about the process, collect their views and bring them to the Steering Committee meeting.

Community representation and organisation of feedback between communities and CSOs during VPA implementation

The implementation phase of the VPA is progressing more slowly than expected. Taking advantage of this situation, national CSOs are committed to supporting effective communities' and IPs' participation at this stage and make sure they are properly consulted and able to contribute to the ongoing forest reform process which offers the opportunity to strengthen substantive and procedural rights of communities. The Republic of Congo VPA provides that the reform process is consultative and inclusive, involving local communities and IPs in the revision of the forest code and the elaboration of implementing decrees and regulations.

To do so, CSOs and local communities will be involved in the design of 'a process ensuring effective participation and representation'¹³. The PGDF is invited to present their views on an effective communities' consultation plan to three consultants hired by Agence Française de Développement supporting the Ministry of Forest Economy and Sustainable Development in charge of the forest reform process. A multistakeholder committee has been set up and is in charge of accompanying the revision process of the

¹² Secrétariat Technique

¹³ Republic of Congo VPA, Annex IX Other relevant measures, 3. Legislation and regulations to be supplemented, 3.2 Methodology, Consultation of communities and civil society.

forest code. The PGDF has a seat in this committee.

During the first awareness raising workshops on the VPA and the legal process (August-November 2013), PGDF focal points, representatives of local CSOs involved with communities, were elected by their peers in five forest departments. These focal points, together with local CSOs most involved with communities, will facilitate the dialogue with communities and IPs and enable them to participate in the legal reform process. Feedback of the concerns, priorities and suggestions would be brought forward to the platform PGDF and then on to the consultants.

Liberia

Community representation and organisation of community representatives elections during VPA negotiation

Liberia is so far the only VPA country where communities were directly represented in the VPA negotiations. Here, all stakeholders were supportive of the idea for communities to sit at the negotiation table, particularly the NGO coalition for Liberia, which successfully requested direct community participation. As such, seven community representatives represented five regions on the Steering Committee. Six of them were from forested regions and one of them was from a non-forested region. Except the latter who was appointed by the Forest Development Authority, the six others were elected by community members themselves, supported by NGOs and Community Forest Development Committees (CFDCs).

CFDCs were created through the 2006 National Forestry Reform Law to allow local communities to negotiate with logging companies and defend their interests. CFDCs are normally groups of ten people with an official mandate to represent communities affected by logging operations at the community level. To organise the community representatives' elections, the country was divided into five regional platforms. Each region is composed of a number of counties (all counties were represented). The participants to regional platforms were selected from within communities at the county level. The more affected communities within a county, the

more representatives it got at the regional platform. CFDCs actually organised the selection, working with community sub group heads. Selections were broad based and gender balanced. In most cases, in each county, representatives from each community sub group including women, youth, elders, chiefs and the CFDCs were equally selected in terms of numbers sent to the regional platform meetings.

The election of six community representatives from forested areas to sit at the Steering Committee was conducted at the regional level and was facilitated by SDI and LDI. They were elected from among the platforms' representatives. According to SDI, 'there were no precise criteria or methodology for the election but the process was guided by the principles of fairness, openness and transparency.' Most of the community representatives elected came from CFDCs. No woman was elected.

Organisation of feedback between community representatives and communities during VPA negotiation

Prior to VPA negotiations, CSOs like SDI and LDI had already organised awareness raising meetings to inform communities about the process so that when negotiations started, communities could take ownership of it from the start. CSOs made use of local or community radio stations, printed T-shirts, developed materials to explain the VPA process in a concise way, and highlighted the impacts on communities. During the negotiations, the seven community representatives met monthly with the Steering Committee. Before each meeting, some CSOs from the coalition together with CFDCs organised capacity building and strategy meetings with the six representatives from forested areas to help them come to a common position on communities' concerns to bring to the Steering Committee. Feedback was given by the six representatives to the quarterly regional platforms meetings facilitated by CSOs. To be noted is that representatives at the regional platforms were changing regularly to allow different people to express their views. Representatives at the regional platform meetings were expected to give feedback to the communities in their counties and collect their views before coming to platform meetings. Sometimes the six representatives gave feedback directly to

communities, taking advantage of community meetings organised by CFDCS and supported by SDI and LDI. To allow the six representatives to come to the Steering Committee meetings and give feedback to the communities, they were given motorbikes funded by the government of Liberia and all their expenses (transportation, accommodation and food) were covered.

Community representation and organisation of community representatives elections during VPA implementation

Implementation has not fully started due to the recent ratification of the VPA. Communities are currently organising the election of their representatives to sit at the national multistakeholder monitoring committee.

Organisation of feedback between community representatives and communities during VPA implementation

No fundamental change is expected in the feedback mechanism. The idea is to use the regional platforms to relay the information between communities and the six representatives. However, some changes can be expected. The strong motivation of stakeholders in the negotiation phase is decreasing due to the slow pace of VPA ratification which has taken nearly two years. The cost of the implementation phase may exceed that of the negotiation phase as it is reported that CFDCs need financial support to organise more community meetings specifically dedicated to discuss the VPA. Finally, it is expected that more CSOs will be involved in community capacity building activities related to the VPA as they recently received funding to do so. This should allow communities to better represent their interests.

Gabon

Community representation during VPA negotiation

In Gabon, communities do not have direct representation in the VPA multistakeholder

negotiation committee¹⁴. They are represented indirectly through CSOs that are members of the CS platform GabonMaTerreMonDroit, which has two permanent seats and one temporary seat on the negotiation committee. However, only three out of the thirty organisations in the platform directly represent local communities (their members were elected from among the communities they represent). The vast majority of CSOs in the platform are based in the capital Libreville and only occasionally travel to the regions, which does not allow for continuous interaction with local communities. In addition, communities are neither well-structured nor organized which prevents them from participating effectively in the VPA process. Despite several laws (forestry code, environment code, mining code, etc.) encouraging communities to organise themselves in village associations to defend their rights and be more involved in natural resource management, local communities lack the funds and skills to create these associations. In addition, the platform members have not been able to accompany this process due to budget constraints resulting from a lack of interest by international funders.

Organisation of feedback between communities and CSOs during VPA negotiation

Negotiations of the Gabon VPA have stalled due to a lack of political will to improve forest governance, a growing interest in agribusiness leading to deforestation, and stronger collaboration with Asian rather than to European partners. As a consequence, the negotiation committee has not met since April 2012. Nevertheless between 2011 and 2013 information and awareness missions on FLEGT VPA issues, including independent observations of forest infractions, were held in four regions as part of an FAO¹⁵ and an EC¹⁶ funded project. More awareness-raising is happening in a more random fashion through platform members involved in community projects. CSOs lack financial resources to organise consultations in a more systematic way. As such, communities are not informed enough about the

¹⁴ Comité Technique de Coordination.

¹⁵ *Rapport final projet FAO Phase II*, Brainforest, December 8 2012, http://www.brainforest-gabon.org/brainforest/publication_fichiers/27-rapport-de-synthese-projet-acp-fao-phaseii.pdf

¹⁶ <http://www.brainforest-gabon.org/fiche.projet.php?id=30>

VPA process. The information from the government to the CS platform and from the platform to the communities does not flow regularly or well enough. In this sense, getting the communities structured in village associations would help in informing them, collecting their views and delivering feedback. In addition, Gabon lacks an outreach programme on the forest sector in general and on the VPA in particular, and most policies in Gabon are developed in a non-inclusive, non-transparent unilateral fashion.

DR Congo

Community representation during VPA negotiation

Communities and IPs are indirectly represented in the negotiation phase through a national FLEGT VPA platform. Three delegates from CSOs, namely RRN, OSAPY and CODELT, all members of the platform, have permanent seats at the multistakeholder VPA negotiation committee.¹⁷ There is consensus among Congolese CSOs that communities and IPs are adequately represented in the platform in terms of geographical coverage. Moreover, the platform is composed of several environmental NGOs, IPOs and CSO networks including RRN which is the national natural resource network with member NGOs operational at provincial level and liaising with communities, and the Réseau des populations autochtones et locales pour la gestion durable des écosystèmes forestiers (REPALEF), a network of IPOs.

Organisation of feedback between communities and CSOs during VPA negotiation

In the Democratic Republic of Congo, civil society is still getting structured and organised at the national and provincial level to enable communities and IPs to effectively participate in the VPA process. The initial priority was to get structured around the fast moving REDD+ process, especially given a temporary suspension of the VPA process due to elections. Negotiations started in 2010 but it was only in September 2012 that the national CSO platform was created to facilitate communication between the three CSO representatives at the negotiation committee,

¹⁷ Commission Technique de Négociation.

the rest of CS at the national and provincial levels and communities and IPs.¹⁸

Shortly after the creation the FLEGT VPA platform, CSO VPA provincial platforms were set up in the capitals of the three main forest provinces, Bandundu, Equateur and the East Province. The provincial platforms ensure circulation of information and communication between the national CSO platform and the local VPA multistakeholder structures, also called 'dynamics', that are supported by RRN in the district and territory capitals of the three main forest areas of the country (two in the Equator province, two in the East province and three in Bandundu)¹⁹. The dynamics hold formal quarterly meetings, each one with its own secretariat, to maintain a regular dialogue and information exchange on the VPA process between CS, communities' and IPs' leaders, local public administrations and the private sector. In 2013, RRN facilitated a meeting in each of the seven 'dynamics' and in the three provincial platforms. They reported that despite the fact that communities were informed about the VPA process and present at these meetings; they were unable to participate effectively due to a lack of knowledge and skills.

According to the national platform's internal communications strategy²⁰, the three CSO representatives participating at the negotiation committee should provide monthly feedback to the platform. Since August 2013²¹ only two feedback meetings to the platform were held, in Kinshasa. Information still does not flow very well amongst platform members due to coordination problems as well as poor internet connection and no budget to print and send the documents to the

¹⁸ *Formalisation de la plate-forme FLEGT de la société civile environnementale en RDC*, Agence congolaise de presse, June 2012, http://www.acpcongo.com/index.php?option=com_content&view=article&id=14045:formalisation-de-la-plate-forme-flegt-de-la-societe-civile-environnementale-en-rdc-&catid=40:environnement&Itemid=61.

¹⁹ *Strengthening African Forest Governance /SAFG, Accompagnement des OSC dans la structuration autour du processus APV/ FLEGT dans les Provinces de Bandundu , Equateur et Orientale, Rapport Synthèse*, RRN, October 2013.

²⁰ *Compte rendu de l'atelier du 28 septembre 2012 portant sur l'approche communicationnelle au sein de la plateforme de la société civile sur la négociation APV/FLEGT*, 28 September 2012.

²¹ The Commission Technique de Négociation did not meet between August 2012 and August 2013 due to a lack of funds.

provincial platforms. As such, communities and IPs lack information on the process. Nevertheless their views are starting to be collected through the local dynamics and the provincial platforms and will provide feedback to the national platform, but much depends on the availability of funds to organise the feedback mechanism.

Vietnam

Community representation during VPA negotiation

In Vietnam, communities are represented indirectly in the VPA negotiation process through the VNGO. The Vietnamese NGO-FLEGT network does not have any representative sitting on the Steering Committee, nor in the two working groups supporting the committee²². However, they are invited to meet with the Steering Committee on an ad hoc basis, almost quarterly, where they can express CSO and communities' concerns and provide feedback on documents made available. There are, at the time of writing, no community representative seats on the platform (made of the VNGO) although there is a plan to expand the VNGO network to include representatives of vulnerable groups, including communities most likely to be affected by the introduction of a VPA (please see below).

Given the size of the country and the lack of resources (capacity and time), organisations from the network only represent a cross-section of communities from a limited number of forest areas. Despite the government recognizing the existence of the network, it often claimed, particularly in the earlier stages, that the network does not adequately represent communities' interests, especially small scale timber producers. Oddly, VNFOREST considers that the Vietnam Timber and Forest Product Association VIFORES, a business-oriented entity, is better suited to represent communities' interests. The VNGO network has been challenging this, and raising the issue of the close links between business and government when appropriate opportunities arise.

²² The seat for the CSO representative is filled by a government expert.

Organisation of feedback between communities and CSOs during VPA negotiation

In Vietnam, communities do not participate effectively in the VPA negotiations. Before the VPA negotiations, communities were not actively informed about the implication of the VPA on forest governance and their rights to access and use the forest and still have limited knowledge about them. In addition, there is no official community consultation process. The Vietnamese government has never organised community consultations on the VPA, blaming the lack of financial resources, although by law it must inform and consult communities at the commune level about the development of activities and policies that impact on.²³

Instead, VNGOs took upon themselves a process of consulting rural communities. In 2012, 1080 participants from thirty three communities of six provinces were consulted about the legal timber definition. Communities likely to be the most affected by the introduction of a VPA were chosen and both genders were equally involved. Though quite thorough, community consultations have been limited to a sample of communities where the VNGOs operate and have links to those communities. The VNGOs have at least attempted to ensure communities from a cross-section of different environments are consulted. CSOs lack time and capacity to inform communities and conduct consultations across the vast territory, and it would not be realistic to expect them to reach every community. Despite CS being very organised and structured, only the government has access to the infrastructure that would be able to reach all citizens through its official channels of commune people's committees and mass organisations.

In addition, to carry out a livelihood impact assessment, the network had to identify and consult three vulnerable groups from the potentially most affected communities, in thirty five villages of fourteen communes in six provinces. Both genders were involved equally. The network is now assessing if they can bring in people from these vulnerable groups to the network and how to best integrate the results of these consultations into the VPA.

²³ Grassroots Democratic Regulation (Decree 79 of July 7, 2003).

Communities' concerns are fed back to the network by its CSO members on a regular basis and are then discussed during the network's meetings and workshops. After consolidating common positions, the network officially send these to the Steering Committee at VNFOREST, and make best use of the meetings that VNFOREST organizes where the issues could be brought up and discussed more openly than is possible in writing. Feedback from these meetings is then given back to the network members and the communities through some CSO community programmes in selected provinces.

Honduras

Community representation and participation in the forest reform process²⁴

In Honduras, communities have been involved in a forest policy reform process other than the one triggered by the VPA in an innovative and effective way. Five years before Honduras entered into VPA negotiations with the EU, communities successfully participated to the country's forest reform process that led to the approval of a new forest law in 2007. A grassroots forest-based social movement called MAO played a key role in the adoption of the new law. This movement comprised hundreds of community activists and thousands of community followers and had a clear lead. It is particularly rooted in the country's most important timber producing area, which is also the most devastated by industrial logging, named Olancho. Thanks to its vocal and bitter rhetoric as well as marches joined by thousands of citizens, MAO managed to get the attention of national media and public opinion and to create a consensus in the country that the first urgent and mandatory step in reforming the forest sector was to adopt a new law to create a new forest authority, as the former one was corrupt.

MAO's influential role made the National Congress organise a participatory consultation process to draft the new law, which lasted two years (2005-2007). It was facilitated by a civil society coalition,

²⁴ These paragraphs are based on information given by Filippo del Gatto from Forest Trends in Honduras.

the 'Agroforestry Alliance'.²⁵ A wide range of actors were consulted, included communities which were represented through MAO and community producer federations. CSOs from the Agroforestry Alliance were working with communities on a regular basis and most of them participated to the consultation process on a self-funded basis. Thanks to MAO's close relationship and direct access to the country's President, the law drafted as a result of the multistakeholder consultation process was adopted in 2007 after the President pressed the Congress to do so. The new forest law formulation process is considered in the country to be an example to follow for communities' effective engagement in the VPA negotiations although at the moment, there is no such momentum as there was when the entire country believed that a new forest law was necessary and urgent to reform the forest sector. Although MAO has lost clout weight and leadership, it is participating in the VPA negotiations.

Community representation in the VPA negotiations

An agreement was reached at the second round of negotiations with the EU in October 2013 on a VPA participatory approach that will allow inclusion of all stakeholders. CS ownership of the process is increasing and their alliance is growing steadily through the inclusion of three CS sub-national platforms in Atlántida, Yoro and Olancho. A series of sub-national meetings and consultations are planned to start discussions on the legality definition. The platform is also open to include IPs. However, IPs have not yet stated if and how they wanted to join the VPA process, asking for more information to hold internal discussions first to assess the challenges and opportunities of the VPA, organised by the Confederation of Indigenous Peoples.²⁶ To be noted is that the majority of Honduran's natural resources and main forests are in IP territories. CS pushed for a workshop with the newly elected government (November 2013) 'to inform them on the VPA process and continue momentum' which also relayed IPs' concern to create a dialogue on this matter with the new government.

²⁵ 'Alianza Agroforestal'.

²⁶ *Forest Watch FLEGT Update Nov 2013*, FERN, November 2013, p. 6, http://www.fern.org/sites/fern.org/files/FLEGT%20update_0.pdf

Conclusions

After studying community consultation processes in nine countries, which have either signed or are negotiating a VPA, we found there are different degrees of community representation in the VPA process. In some countries there was no community representation at all (Republic of Congo), in others communities were represented by local CSOs (Ghana, Cameroon, Central African Republic, Gabon, Democratic Republic of Congo and Vietnam) and in only one country were communities represented by their own elected representatives (Liberia).

In some countries, the representation of communities in the implementation phase was improved compared to that in the negotiation phase, such as Cameroon where there were no direct community representatives in the negotiation phase, while there are two seats for community representatives in the implementation phase.

Whether communities are directly or indirectly represented, the quality of their representativeness also depends on other questions such as who they are representing (geographically), the number of communities represented, the gender balance, the way in which they have (or have not) been elected by community members; the way in which they ensure their position is fully supported by the communities they represent etc. With the exception of Liberia, in none of the countries is community representation of sufficient quality.

As the report shows, there are a variety of factors that restrict effective community participation in decisions that impact on their livelihood. These include the lack of government recognition of communities and their rights; lack of organisation and bottom-up communication mechanisms among communities to allow their position to reach national level; lack of understanding among local NGOs that direct representation is preferable, lack of time and resources for a suitable inclusive consultation process, lack of information given to communities before and during the process, lack of capacity and strategy

among NGOs and government towards effective inclusion.

As a result, rather than providing recommendations on how to ensure communities are effectively represented in the VPA process which would depend too much on each country's specific context, we have drawn up a list of enabling conditions for community participation.

The government respects the rights communities have over land, territories and resources

This is a challenge. Although all African countries studied have ratified most if not all of the major international and regional human right laws (such as the African Charter on Human and Peoples Rights, and the various UN and ILO instruments), and have also voted in favour of relevant human rights declarations asserting community rights to land and natural resources (such as the UN Declaration on the Rights of Indigenous Peoples), most governments in reality do not respect or protect communities' customary rights to land, territories and resources. They treat all unregistered/undeeded land as state-owned and controlled.²⁷ Ghana and Liberia are the exceptions as in those countries, customary law has a degree of respect and protection by statutory law (more so in Ghana than Liberia so far, though reforms in Liberia are ongoing). In Latin America, the situation is different as it is the region where the rights of IPs and local communities are the best recognised. Almost a quarter of forest lands are owned by communities and IPs. Honduras has ratified most of the international instruments mentioned above as well as the American Convention on Human Rights, which operates through the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights. The law and jurisprudence on community land rights is very strong there.

²⁷ 'Securing communities land and resources in Africa: a guide to legal reform and best practices', FERN, December 2013, p.7, Annex 1 pp. 92-94, <http://www.forestpeoples.org/sites/fpp/files/publication/2014/01/securingcommunitylandresourcesguideenglishjan2014.pdf>



Local CSOs (notably NGOs) actively encourage communities to represent themselves rather than being represented by local CSOs

Only in Liberia did local CSOs make a clear case for direct community representation from the negotiation phase and onwards. In Cameroon local CSOs made the case for direct representation in the implementation phase.

There is a structure within communities in place, or time, funds and capacity to create a structure for communities to organise themselves and ensure representation

In Liberia through the existing Forestry Law, communities were organised in CFDCs and hence there was an existing structure in place prior to VPA negotiations to build on. To some extent through the forest forums there is a structure in Ghana as well that could be used. In Cameroon the structure related to community forestry (the Community Forests Federation) proved to be helpful to elect a representative from forest dependent communities. But in none of the other countries was there a structure that could be built on to reach out to communities in forestry areas. However, in some countries where a structure is lacking and despite lack of time and funds, local CSOs are committed to help communities

get structured and organise elections of their representatives so that they are directly represented at the national CSO platform level. Two EU-funded projects and some FAO funded projects have been working on this aspect since January 2014.

When there are no existing structures, such as in mining sector in Liberia, it is important to let communities organise themselves which they are keen to do once they understand what they can get out of the process. In Liberia communities created mining platforms in each region and they appointed two community representatives from each region. A local CSO, SDI, works with these two lead persons and facilitates meetings between them two by providing transport and accommodation. Therefore, everything reported by SDI on mining is necessarily based on community findings. This model could work well in other countries or sub-regions.

There is enough time and there are sufficient funds available to organise community consultations

In every country we studied, this was a challenge. Very often there was not enough time or funds available for community representatives or CSO representing communities' interests to inform and give feedback to and from communities.

A dialogue with communities is started before the formal VPA negotiation process begins and continues throughout. Communities are informed in a manner/language they understand so that they see what is at stake and their potential benefits and risks

In none of the countries, except Liberia, have communities been sufficiently informed about the VPA process. They therefore feel they have no ownership of the process. In Liberia, CSOs like SDI and LDI held awareness meetings to inform communities about the process before it even started.

For direct representation minimum key principles of internal governance are respected

Communities need to be well represented geographically; representatives should be elected by the communities themselves; the election process should be open, transparent and sensitive to gender; elite capture should be avoided, so that representatives either get paid or get their expenses covered to attend the meetings and that representatives' capacity is built. In Liberia, strategy and capacity building meetings with community representatives were facilitated by CSOs and CFDCs before each Steering Committee. In Cameroon, local CSOs like FODER offer support to the two community representatives to prepare for the meetings at the implementation committee.

For indirect representation CSOs which claim to be representing communities are not only based in capital cities but have a structure/ way of working that allows for frequent interaction with rural communities and a process of checking their positioning directly with the communities

In Ghana the FWG coalition, which has one seat at both the VPA steering and negotiation committees, includes a high proportion of CBOs. In the Democratic Republic of Congo, CSOs representing communities include RRN which has member NGOs operational at provincial level and liaising with communities. On the contrary, in Gabon most CSOs in the platform claiming to represent communities are based in the capital Libreville and only occasionally travel to the regions, which does not allow for continuous interaction with local communities.

A clear and transparent communication feedback mechanism is in place for any form of representation, known and understood by all, to ensure communities' views are integrated in VPA negotiations and implementation

A good example of this is Ghana and its Forest Forums which are used by local civil society as the main platform to channel communities' concerns into the VPA process. Communities can participate directly in discussions during Community Forest Forums, which then feed into all levels of Forest Forums attended by community representatives and are then relayed to FWG either during a National Forum or also as a result of FWG acting as a facilitator of Forest Forums. FWG then takes the result of these discussions to the VPA structures. Another good example is Liberia with its regional platforms to relay the information between communities and the six representatives.

The entire consultation process follows the rules described by local NGOs and European NGOs for participation in a VPA²⁸

This includes good planning, good record of meetings, ongoing feed-back mechanisms, election of independent chairs etc. It is clear that in most countries this process was unsatisfactory.

This report summarizes existing community consultation processes in nine countries, highlighting country-specific successes and challenges. We hope the list of enabling conditions for community effective participation will give ideas to people on how best to include communities in their country's VPA process. Liberia is an inspiring and successful example of this, as well as Honduras where communities used innovative ways to participate in the national forest reform process. Special attention should be paid to three major restricting factors to communities' effective participation that we found to different extents in every country we studied, that is the lack of time and resources for a suitable inclusive consultation process and the lack of information given to communities before and during the process.

²⁸ *Consultation requirements under FLEGT*, Briefing note 1 Loggingoff, March 2008, http://loggingoff.info/sites/loggingoff.info/files/Logging%20off%20%28Consultation%20requirements%20under%20FLEGT%29%20document_4166_4167.pdf

Annexe

Questionnaire on community consultation in the VPA process

1. Contact information

Name (s):	State/Province:
NGO name:	Postal Code:
Your role in the VPA process:	Country:
Address:	Email Address:
City/Town:	Phone Number:

2. Are communities represented in the VPA process?

YES, direct community representation (please go to QUESTIONS 3 to 7)

YES, indirect representation through an NGO (please go to QUESTIONS 8 to 9)

NO (please go to QUESTION 10)

DIRECT COMMUNITY REPRESENTATION

3. Who ensures communities are represented in the VPA process?

In negotiation phase

Who requests direct community participation?

Who (if anyone) supports direct community participation: Government? Who in Government? EU Commission? Other NGOs? Communities themselves?

Who (if anyone) objects to direct community participation: Government? Who in Government? EU Commission? Other NGOs? Communities?

4. How are communities represented in the VPA process?

In negotiation and implementation phases

How many community representatives are part of the steering committee and negotiation committee?

Who do these community representatives represent? How many men/how many women? According to districts/regions/concessions?

How are they elected/appointed?

When, by whom and how are they informed that the negotiation/implementation phase starts?

Do they receive training to represent communities? If yes, who gives them the training?

Describe the process for feed-back to and from the representatives to the communities (e.g. frequency, type of contact, level of discussions, facilitated by NGOs or not, written reports, transparency, accountability)?

Any difference between negotiation and implementation phase (Write N/A if not relevant)?

5. Costs and financing of the consultation process

Do you know how much does the consultation process during the negotiation cost and how much it is expected to cost during the implementation phase?

Are community representatives paid for their attendance or only a reimbursement of costs?

How is the consultation process financed and how will it be in the future? And by whom: VPA secretariat, government, EU or others?

6. Are there any clear examples in VPA negotiation or implementation phase where impact of communities can be seen?

Yes, (please give more details)

No, (please give more details)

7. Lessons learned

If you could do the process again, would you change something? If so, what in the way communities can engage?

In your opinion, what are the key elements to ensure communities are consulted?

INDIRECT COMMUNITY REPRESENTATION

8. In order of relevance, with 1 being the most relevant, and 10 being the least, (0 being irrelevant), why is there no direct consultation of communities in the negotiation phase? Please write down your ranking in the box and feel free to add comments.

- A. Nobody argues or campaigns for direct community consultation
- B. Communities are not well organised and hence there is no structure we could refer to
- C. Communities are not informed enough about the VPA process
- D. Communities do not have access to information on the VPA process
- E. The Government/EU/NGOs/industry does not want communities to be part of the process
- F. NGOs have no working relationship with communities and/or their organisations
- G. It is not clear 'how' communities can be represented in the process
- H. There is not enough time to organise community consultations

I. There are not enough funds to organise community consultations

J. Other (please specify)

If VPA is in implementation phase, please do the ranking for this phase (A=5; B=3; C=1; D=9,..)

9. Who represents community interests and how are they represented?

The assumption is that community interests are represented by NGO(s). If not, please describe below who does represent them and how.

Which NGO(s) does (do) represent community interests?

Is there any structure in which communities can present their interests to these NGOs and provide feedback to the process? If yes, describe in detail, how many communities are consulted, from which regions, how many men/women etc. The frequency of consultations and process of feedback

If there is no such structure, how do the NGOs know what community interests are?

Any difference between negotiation and implementation phase?

If community interests are not represented by NGO(s), please describe who does represent them and how.

NO COMMUNITY REPRESENTATION

10. In order of relevance, with 1 being the most relevant, and 6 being the least, (and N/A being irrelevant), why is there no representation of communities' interests?

Communities are not well organised and hence there is no structure we can refer to know what to represent

We don't have concrete working relationship with communities and/or their organisation

It is not clear 'how' communities can be represented in the process.

Communities lack resources (human, time, financial) to represent communities.

Communities lack capacity to represent themselves.

Other (please specify)

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