

LOGGINGOFF

Rooting for change

One year ago, forests and their crucial ecological and economic role were again at the forefront of the EU's policy agenda. In June 2017, at [the EU conference on illegal logging and deforestation](#), EU Commissioner for International Development Neven Mimica said: "Evidence shows that FLEGT remains an innovative, comprehensive and future-proof initiative, with the power to inspire a global movement to eradicate illegal logging. A long-term commitment is needed to tackle the complex issues that enable illegal logging to still persist, and to achieve sustainable forest management in line with Sustainable Development Goal 15."

Indeed. But this commitment must materialise quickly through an ambitious work plan for implementing the FLEGT Action Plan to completion. The [draft work plan](#) presented to EU Member States in April 2018 is a step in the right direction, but the EU can do more, and better.

A sense of urgency is felt by [civil society organisations both in the EU and in VPA countries](#). By linking forests to sustainable development and good governance, the EU and partner governments stand a better chance of moving to a climate-friendly pathway. Governments from major forested countries and the EU have already endorsed forests as a key climate solution. A large number of national climate plans submitted under the Paris Agreement include forests and will be strengthened in the wake of [the May 2018 climate change conference in Bonn](#).

FLEGT must be part of the [national package of solutions](#). Accelerating progress toward achieving the [Sustainable Development Goals by 2030](#) includes bold action on forests. For millions of people living in poverty, forest resources provide not only food, fuel, medicine, shelter and clothing, they also function as safety nets in rural areas: more and more governments in producing countries are examining [how community forestry could be linked to poverty reduction strategies](#). They could improve income and also provide an incentive to [better manage and protect them](#).

As can be seen in the country updates that follow, Forest Law Enforcement Governance and Trade (FLEGT) Voluntary Partnership Agreement (VPA) processes are advancing, even where such progress is incremental (Guyana, Vietnam), or hindered by political turmoil (Cameroon, Central African Republic, the Democratic Republic of the Congo, Honduras, Republic of the Congo). Where one might be tempted to succumb to frustration, a view of the road travelled thus far reminds us of the distance we have already travelled in terms of improving governance, transparency, participation, and the dialogue between divergent groups, even before the actual signature of a VPA. FLEGT is also inspiring debates on how to halt deforestation led by the hunger for agricultural and non-agricultural commodities.

On the demand side, [European Union Timber Regulation \(EUTR\) enforcement](#) is becoming more

effective in some Member States. In the UK and the Netherlands companies were found guilty of placing timber from Africa and Asia onto the EU market without sufficient due diligence in breach of the EUTR. The European Commission also launched the first infringement procedure against Belgium for not having made enough efforts to ensure adequate implementation of the EUTR.

Still, a much broader approach is required. Time is running out for FLEGT to link to new EU commitments on climate and deforestation, and to deliver effectively for forests, people and the planet. As one of the main consumer markets for tropical timber, the EU is uniquely placed, and has a key responsibility to support and pursue ambitious reforms – to FLEGT through the long-awaited work plan, and regarding the broader deforestation burdens of its consumption patterns – to tackle illegal logging and deforestation in producing countries.

To ensure that EU efforts to improve the governance of tropical forests and halt illegal logging are robust, such actions should be firmly

rooted in broader strategies linked to the EU's development and climate policy, and be designed in close cooperation with all stakeholders, and with strong support from the highest political levels.

AFRICA

Cameroon

VPA Status: Entered into force 1 December 2011

Implementation of the Cameroon-EU VPA, ratified some seven years ago, is lagging. Lack of progress and of political commitment in mid-2017 led to the possibility of a FLEGTxit being mentioned in the corridors – an option severely criticised by Civil Society Organisations (CSOs), which appealed unreservedly to keep the VPA space open.

Happily, VPA implementation has continued, but Parties remained vague about next steps and strategies to regain momentum. NGOs observe that the VPA process has taken a step back both in terms of content and process.



Photo: Cameroon, Indra van Gisbergen

Over the last year and a half, Cameroon's VPA process essentially focused on the development of the computerized system for the management of forest information, SIGIF II. CSOs have been excluded from technical bilateral discussions about it.

Civil society further deplors that all other essential aspects of the VPA – transparency, legal reforms and the revision of the legality grids – have disappeared from the agenda. The VPA implementation schedule has been obsolete since 2017. During this time, no dialogue has taken place about the problem of forest conversion for agricultural use, an increasingly urgent and sensitive issue that has been on the table for years but never resolved. Nor have questions been answered about the legality of timber harvested in a conflict zone in the Southwest (FW 235), where the Anglophone crisis has led to the internal displacement of more than 40,000 people and the death of more than 150.

Administrative structures are struggling to function properly. Neither the National Implementation Committee (CNS) nor the Joint Implementation Committee has met over the last six months. A Joint Implementation Committee meeting (CCS: Comité Conjoint de Suivi) was held 17 May 2018, but civil society was invited only two days prior to it; the CNS meeting that had been intended to gather input from all stakeholders at national level in preparation for the CCS was never organised.

CSOs express serious concern about the evolution of the VPA process, which – in sharp contrast with how it was previously managed – is no longer participatory. In this respect, the meaningfulness of the VPA process is under pressure: the months to come will be telling. The 2017 annual report, a legal obligation, has not yet been published; it is not yet even in the making. Still, it is expected that the process will be set on the rails again, political engagement renewed and the implementation plan – in consultation with all stakeholders – will be clarified.

As for EUTR enforcement, Competent Authorities and the Commission understand that Cameroon is a high-risk country deserving of special attention



Photo: Cameroon, Indra van Gisbergen

when it comes to EUTR implementation. The European Commission has launched legal

proceedings against Belgium, the top EU importer of timber from Cameroon, for failure to enforce the EUTR properly.

Central African Republic

VPA Status: Entered into force in July 2012

The security and political situation remains volatile in the Central African Republic (CAR). Hate speech and incitement to violence on the basis of religion, as well as killings and attacks in the capital, Bangui, and elsewhere are proving difficult to contain, despite peace-building supported by the United Nations.

CSOs, through the Central African Observatory for Human Rights (OCDH), have asked the Special Criminal Court to ramp up the fight against impunity and to open investigations against alleged authors of violence, yet progress in ensuring the Court is fully operational is slow, and



Photo: Central African Republic, Bienvenu Gbelo

many rights and governance advocates believe that the continued instability benefits obscure interests.

Against this background, the VPA structures are struggling to bring order and transparency into the logging sector. The Joint Implementation Committee (JIC) met in February and April 2018 to review priorities with all stakeholders, and to assess implementation of the Agreement. A key objective of CAR and the EU is to revive the VPA process, which has stagnated due to the upheaval. The intent is to build an inclusive process, to accelerate progress toward issuing FLEGT licences by restoring and strengthening government forest control over logging activities, and to provide transparency in monitoring and reporting operations.

The issue of domestic timber remains thorny. Informal logging linked to the growing demand for timber is on the rise and poses a challenge for governance; CSOs are asking for its inclusion in the VPA scope and for the development of a legality grid for artisanal permits and community forests to bring informal activities under scrutiny and stop forest destruction.

Civil society continues to lead on mandated independent observation with support from Centre pour l'information et le développement durable (CIEDD), Fern's local partner. CIEDD's latest monitoring report finds that assessed companies are failing to pay taxes to local government, which hampers provision of basic social services for local communities. CSOs also support efforts to promote community participation in shaping forest policies and forest governance, including advocating for community forestry and testing community pilots in the Southwest. However the government's political support apparently does not yet translate into concrete initiatives.

Despite the difficulties of the broader context, a ground-breaking advance was made concerning community participation. In April 2018, CIEDD arranged for two representatives from local community and indigenous groups from the Lobaye and Ombella Mpoko regions to travel to Bangui to meet with VPA stakeholders and take part in a JIC meeting for the first time. This was a historical moment, the first time communities could address the government directly rather than through NGO representatives. They shared their experiences and concerns about the limited benefits trickling down to forest regions.

On the transparency front, the government launched a website to provide updates on the forest sector and upcoming workshops, as per VPA transparency annex XI (www.apvrca.org). Additional crucial information is available on an FAO-hosted [online library](#) and the [CIFOR](#) website which can be used by civil society to monitor progress on governance commitments.

The [REDD+](#) process is advancing in spite of the instability. The [CAFI Executive Board](#) awarded USD 1 million to support the development of the National REDD+ Investment Framework (NIF). For the civil society platform [Gestion durable des ressources naturelles](#) (GDRNE), it is important that this work builds on governance principles from the VPA process, including ensuring that the goals of the NIF support forest and community wellbeing and contribute to fair and transparent management of forests.

Democratic Republic of the Congo

VPA Status: Negotiations began in 2010

The VPA process in the Democratic Republic of Congo (DRC), almost dormant between 2013 and 2016, has been somewhat reinvigorated over the last two years. Support from DFID has helped update the existing legality grids (2017), and support from Belgian cooperation allowed reflection on the best way to proceed with FLEGT, given the complex governance situation prevailing in the country (2018). Indeed, the context is particularly challenging. Political violence and government repression continue as President Joseph Kabila holds on to power beyond his constitutionally mandated two-term limit, which ended in 2016. At least [seventy](#) armed groups are believed to be [operating in the eastern region](#), 4.1 million people are internally displaced and an outbreak of [Ebola](#) has been reported recently.

In such a context any progress is hard won, yet in February 2018, a Ministerial Decree updated the legal framework governing the work of the VPA-FLEGT Technical Commission (CT FLEGT) and reviewed and expanded the Commission's

mandate and organisation. This multi-stakeholder Commission support the VPA negotiations and should also be used – given its renewed mandate – to support consultation in other processes such as REDD+ and EUTR.

The CT FLEGT has recently updated legality grids, one on industrial logging and two on artisanal logging and these have been submitted to the EU. The legality grid on community forestry timber is in the making. Drafts of technical documents such as the annexes on the product scope, the list of information that must be disclosed and initial legality verification procedures have also been prepared.

Although the Technical Commission is keen to ensure that VPA negotiations make progress, significant international and national concern surrounds the DRC's commitment to improving legality and transparency in the sector. The DRC's recently announced abandonment of the 16-year moratorium on new logging licenses reinforces doubts. Many national and international observers consider lifting the moratorium a dangerous first step towards the expansion of poorly controlled industrial logging, risking significant harm to Congolese communities and forests, as well as the global climate.

Before re-launching any fully fledged negotiation process, the EU informed the DRC that VPA negotiations cannot be conducted as a mere technical debate, in isolation from the wider forest governance picture. This implies that issues such as the lifting of the moratorium should be discussed between stakeholders as part of VPA negotiations.

Congolese and international CSOs have expressed considerable concern about the non-inclusive process of revising the Forest Code, which is happening behind closed doors. The fact the Minister of Environment illegally reinstated three logging concessions, *despite previous cancellation and in breach of the 2002 Moratorium, is cause for further alarm.*

National and international NGOs have recently called on international donors, including the EU and its Member States, to link future REDD+

funding to clearer and effective government commitment toward more transparent and efficient public management and control of logging activities and improved legality throughout the sector. Commendably, CAFI (Central African Forest Initiative) later decided to freeze all CAFI funds, until the three illegal contracts are rescinded.

Ghana

VPA Status: Entered into force 1 December 2009

General statement: For some time now, Ghana has been on the verge of issuing FLEGT timber licences, on the brink of becoming the second country to do so after Indonesia. And yet this goal is still out of grasp. The final milestone that must be attained is completion of the Joint Ghana-EU assessment of system readiness of the Legality Assurance System (LAS). All involved are too aware of missed deadlines to make pronouncements on when this will take place.

The Joint Monitoring and Review Mechanism (JMRR) convened in February 2018 to review progress with VPA implementation. Among the key issues agreed were dates to launch the joint assessment of the LAS.

Still, the absence of FLEGT licences does not mean lack of progress toward this goal. For instance, the new Timber Validation Committee of the Forestry Commission, and the Forestry Commission Governing Board have been constituted with an NGO representatives on each. The process of selecting the NGO representative to the Board has much improved over previous years; NGOs put forward names for consideration rather than had a representative imposed. Forest sector NGOs have established links with the representative to enhance information flow among different NGOs.

The Timber Validation Committee (TVC) will have oversight over the Timber Validation Department (TVD), which verifies compliance with timber laws before it is traded. The TVC was reconstituted and sworn into office in April 2018. The Committee, to remain in place until the end of 2020, is responsible for safeguarding the integrity and independence of the TVD, as well as managing complaints related

to FLEGT licences. The Committee has yet to meet since its inauguration in April 2018.

In sum, engagement with civil society has improved and, with an NGO representative serving on these bodies, forest NGOs can put their concerns to a higher-level platform than before. Efforts continue to be made for civil society to observe the TVC audits, although these are proceeding more slowly than could be hoped.

Regarding the VPA process overall, information from the Government is shared in a timely manner. The Timber Transparency Portal, a hub to make forest information publicly available, was launched through the FAO-FLEGT Facility and the collaborative effort of civil society (led by Civic Response) and the Forestry Commission, in partial fulfilment of its legal obligation

For its part, civil society is coordinating efforts to avoid unnecessary duplications, and has been working more efficiently in recent years. A Coordination meeting convened in early 2018 by the Forestry Commission re-emphasized areas of collaboration. Already, the coordination platforms for Independent Forest Monitoring (IFM) and for Communications have been established. Over the course of several meetings, the IFM coordination platform have agreed on methodology as well as on using the Real Time Forest Link Monitoring web platform developed by Rainforest Foundation UK. The coordination groups on tree tenure, industry support and communications are expected to also pool efforts.

There have also been advances in clarifying the legal framework regarding leases. The Timber Resource Management Act of 1997 required all existing concessions and leases (which could be valid for up to 99 years) to be converted to Timber Utilisation Contracts (with a maximum duration of 40 years) to bring them into a more manageable framework. Due to disagreement over the conversion procedure, the conversion of extant leases did not occur. The new (2017) Timber Resources Management and Legality Regulations (LI 2254) provide greater clarity and a roadmap of the process and its requirements. Through a series of meetings, industry and government have made good progress on converting extant leases.

Finally, the VPA could have a positive impact on other industries that are both economically important and socially and environmentally damaging. Forest NGOs are making on-going efforts to share lessons on governance from the VPA with the [Cocoa Forest Initiative signed by Ghana and the chocolate industry](#) to address deforestation from the cocoa sector. An earlier discussion by forest NGOs sought to explore the potential of a VPA-type initiative for cocoa. A detailed [analysis](#) highlights the potential and lessons drawn.

Liberia

VPA Status: Entered into force 1 December 2013

Following two rounds of elections and [some anxiety](#), George Manneh Weah became Liberia's new President on 26 December 2017. The elections were peaceful; no major disruptions took place. Civil society now awaits the current President's vision and priorities for the forestry and agricultural sectors, including the passage of the Land Rights Act. Calm elections and some advance on community involvement and joint implementation are to be applauded, although other areas – for example, debarment lists in the forest sector and legislation to protect traditional land rights – remain frustratingly stagnant.

In the framework of the structures established by the Forestry Law and enhanced by the VPA, local NGOs have been working with local community bodies since 2017 to improve the latter's capacity to govern and manage funds attributed to them. This includes both communities in areas of logging concessions (CFDCs: community forest development committees) and those in community forestry areas (CFMBs: community forest management bodies).

In Liberia communities are entitled to a direct share of [all logging revenues](#). A major impact of the VPA to date has therefore been the transfer of nearly USD 2 million into the National Benefit Sharing Trust account. Communities supported by local NGOs are now using these funds to initiate local development projects. Specific

attention is being paid to ensure that women are active in this process, and participation of women has increased dramatically. In 2015, of the 230 members of 23 CFDCs in Liberia, only three were women. Following CFDC elections in 2015 and 2016, supported by local NGOs Sustainable Development Institute (SDI) and Foundation for Community Initiatives (FCI), 50 women are now members of CFDCs.

Local Liberian NGOs have been instrumental both in getting funds for communities released and increasing women's participation and capacity. They continue to monitor progress in forest governance in the logging sector, and in the allocation and management of community forestry operations. [SDI published a briefing paper](#) highlighting the issues that need to be addressed to bring community forestry into compliance with the Community Rights Law and to make it benefit communities, as opposed to only logging companies.

Since the last Joint Implementation Committee (JIC) meeting in April 2017, the implementation of an annual operational plan for the VPA is underway. Both the national CFDC Union and the CFMB Union actively participate in monthly VPA stakeholders' meetings. To strengthen the role of CFMBs, the VPA Support Unit organised a workshop for CFMBs to develop key program areas and activities, including a vision for the CFMB Union. Proposals on how to incorporate community forestry into Liberia's Legality Matrix have been circulated to stakeholders and the VPA Support Unit is collecting comments.

Unfortunately, [several problems flagged previously remain unresolved](#). As stated in their [March brief](#), local NGOs supported the findings of a mock audit that indicated several issues of noncompliance by logging companies, but the Forestry Development Authority (FDA) has yet to address these. Apart from the PROSPER project (for which all documents have been posted), the FDA still has not updated its website concerning CFMA documents, including the missing application process, making independent assessment difficult. That the FDA has not yet posted documents concerning the CFMA application processes it administered directly is

especially worrisome, given its focus on CFMAs to satisfy large-scale commercial logging demands. Finally, the FDA has still not proposed a 'debarment' list of companies to be excluded from logging contracts because of their behaviour during the civil war from December 1989 to 2003. As before, it is hoped that the *next* JIC meeting will address these concerns.

Finally, the House of Representatives passed a contentious version of the Land Rights Bill – legislation that is critical in strengthening community tenure rights – in August 2017, just before Liberia's legislative and Presidential elections in October and December. No significant progress has been made since. Progress on the bill by the Senate has been slow given the competing interests between Liberia's elite landholders and a section of the ruling class on one side, and land rights advocates and ordinary citizens on the other. The NGO working group on the Land Rights Act and others have increased their advocacy to

inform both President George Manneh Weah and lawmakers about the required changes to the draft Law to ensure it respects community customary rights and rights of women specifically.

Republic of the Congo

VPA Status: Entered into force March 2013

The VPA process has been maintained in the Republic of the Congo (RoC) despite on-going economic and political turbulence. Local CSOs, including the Catholic Church, are concerned about the persistent blackout on the humanitarian situation in the Pool region were civilians continue to be killed and growing numbers of political prisoners await a fair trial.

The Congolese government is negotiating an agreement with the International Monetary Fund (IMF) as a decline in oil prices since 2014 has left it struggling to pay its debts. The country is



Photo: Republic of Congo, Maixent Emeka

thus pursuing a charm offensive towards private sector investors. In March 2018, RoC hosted the launch of the Blue Fund, which aims to develop the economy of the Congo Basin including by offering alternatives to deforestation, such as strengthening irrigation of farmland in the savannah and supporting eco-tourism. The country also sponsored the Brazzaville Declaration, signed in March, which vows to protect the world's largest tropical peatlands, the Cuvette Centrale region; local CSOs fear that the declaration could be a smokescreen for more large-scale industrial investments in fragile ecosystems.

Charm offensive notwithstanding, the VPA context remains problematic. New concessions have been granted for palm oil development with little public information on exact location or local impact. Also, uncontrolled mining is causing environmental havoc in forested areas despite a government ban on mining activities in forest areas.

Against this difficult backdrop, CAFI awarded an initial grant of almost USD 700,000 to develop RoC's REDD+ National Investment Plan (NIP), and a mission from CAFI visited Brazzaville in April 2018 to discuss progress and setting up inclusive, robust governance structures. The signing of the letter of intent (which triggers additional funding for the implementation of the NIP) is pending CAFI Board approval. CSOs hope it will articulate a clear, coherent vision on forest protection.

Specifically regarding the VPA process, RoC and the EU adopted a new five-year action plan for VPA implementation 2018 - 2022 at the December 2017 Brazzaville meeting of the JIC. The plan includes a national vision for the VPA and an annual work plan for 2018. In addition to approving these strategic implementation tools, the VPA stakeholders discussed the slow and uneven progress in adopting and implementing forest management plans. A series of new audits are planned to assess logging concessions' compliance with legal obligations and the forest administration's law enforcement. It is hoped that the recent report from the independent forest monitor will trigger greater government focus on addressing core governance and law enforcement issues.

A computerised legality assurance system has been created and training for forest officials continues, although the system is not yet fully functional and deployment is still pending. The government will set up a technical group to monitor implementation.

Progress on the forest legal reform remains erratic. The draft Forest Code was finally submitted to the Government's secretary general but the timeline for parliamentary adoption is uncertain. CSOs were consulted throughout the reform through the local VPA platform; however, platform members are concerned that very few of their contributions are reflected in the current draft and are working with parliamentarians to ensure a fair and balanced text.

CSOs participate in various VPA bodies and structures that meet regularly. They are encouraging greater coordination with other processes, particularly REDD+, and are educating the media about the potential of community forestry. A significant problem remains unaddressed: these bodies still do not provide for direct representation of local communities. As a result, CSO inputs have largely revolved around legal forest reform and much less on community rights and public accountability.

ASIA

Indonesia

VPA Status: FLEGT licensing started 15 November 2016

In November 2017, Indonesia officially celebrated the first anniversary of FLEGT licence implementation. Progress is not as smooth as it may appear, however.

An independent consultancy company has now carried out a first annual overview of Indonesia's Timber Legality Assurance System's (TLAS) operationality. The review highlighted that independent monitoring activities carried out by civil society – an integral component of the Indonesian Timber Legality Assurance System (SVLK) – have revealed 56 cases of suspected non-compliance in forest concessions, forest conversion areas and associated supply chains.

The majority of these are not minor discrepancies. The observed non-compliance relates, for example, to harvesting logs prior to obtaining an approved utilisation permit; harvesting under-sized logs; mismatch between production and timber royalty payments; conflict with local communities; clearing of river banks and other environmental and social irregularities; logs not marked with the logo confirming they are legal; and sourcing of timber from non SVLK-certified forests.

As of September 2017, independent monitoring organisations had reported all 56 suspected cases to the Conformity Assessment Bodies (CABs). However, to date, independent monitoring organisations have not been informed about how these cases are being handled; no summaries on complaint processes are publicly available. Thus, in addition to enforcement (if indeed any action has been taken) transparency remains a significant issue. This is despite the registration of independent monitoring organisations with the Ministry of Environment and Forests, which was supposed to give the organisations better access to restricted public information, funding and security measures for field missions.

The Independent Forest Monitoring Network

(JPIK) calls on the government to strengthen law enforcement by imposing sanctions for failure to fulfil certain obligations.

CSOs' reliance on international donors is also a challenge for the sustainability of the independent forest monitoring system.

The JPIK held a seminar in December 2017 in Jakarta to commemorate the one-year anniversary of the first FLEGT licences. They consider that further discussion is needed between stakeholders to evaluate progress and identify challenges in order to strengthen FLEGT licences and the progress of SVLK implementation in Indonesia. Their February 2018 report, "[SVLK: A Process toward Accountable Governance](#)," highlights the need to improve elements including coordination between ministries to develop regulations in support of the SVLK implementation. Also, the way accreditations are delivered by the Indonesian Accreditation Body (KAN) and how often verifications and surveillance take place must be re-examined, along with the availability and comprehensiveness of public summaries.

Coordination between the central authority and local governments must also be improved. Local governments have supported the SVLK, since 2011. In 2015, six provinces in Indonesia clearly expressed their support for expediting SVLK implementation. During the three years since, however, no additional information was obtained on other government initiatives that could provide regulatory support. Issuance of district and provincial regulations on SVLK should be encouraged to ensure synergy between central and local governments.

Finally, with regards to transparency of information to support SVLK monitoring activities, the time it takes to provide information, and the criteria of information that can be shared continue to constrain effective action. JPIK has found that much of the data to be published is still unavailable. A vital tool of implementation is thus undermined, since disclosure of public information contributes significantly to improving forest governance, as does providing space for the public to actively participate in monitoring SVLK implementation.



In addition to strengthening law enforcement for cases of non-compliance, the JPIK calls on the government especially to require verification bodies to carry out their duties diligently – such as publishing certifications and public summaries – and to apply sanctions for failure to fulfil these obligations.

Laos

VPA Status: In formal negotiations since 2017

In general, the formal talks toward adoption of a Laos-EU VPA appear to be proceeding without turbulence among stakeholders, due to the VPA processes that have been put in place.

Over the past few months, stakeholders in Laos have been jointly preparing the second face-to-face negotiations between the EU and the Government of Laos, scheduled for the first week of June 2018.

Thanks to additional funding to support their engagement in the process, Lao CSOs have become better able to participate in the VPA in recent months. The Lao CSO FLEGT network, which today encompasses 21 organisations, is becoming more organised, has increased resources

for communication and better understands its role and responsibilities. Lao CSOs are thus able to contribute significantly to the development of timber legality definitions and to bring the needs and constraints of forest communities to the negotiation table.

CSO cooperation with all FLEGT stakeholders, and particularly with the Government of Laos, has improved through regular exchanges at the monthly coordination meetings, and access to relevant information is greater. Importantly, Lao CSOs feel their inputs are taken into account and, as a result of increased capacity, their contribution is expected to be more significant during the June negotiations.

CSOs have selected issues to prioritise, including the commercial use of timber from village forests, known as village-use forests. These forests have attracted significant attention over the last months, as the legal framework is very unclear. For the time being, commercial use of timber from village forests is prohibited and the actual rules allow only customary use for individual households, or use in villages' public buildings. From the most recent discussions between the EU and the Lao stakeholders, it seems that the Government of Laos does not want to allow any commercial use



of timber from village forests. The question, then, is how communities can benefit from the added value provided by legal timber if they cannot sell any timber.

CSOs are working on a proposal to suggest a monitoring system for this source of timber in order to avoid illegal timber entering the supply chain and to demonstrate that forest communities can successfully be involved in the timber trade. The proposal will define the roles that communities and CSOs could play in the eventual VPA. The results will be presented by the CSO FLEGT network for the upcoming negotiations.

With regards to reform of the regulatory framework, the national forest law is currently being revised, and civil society has been invited to contribute their experiences. The current draft still has some issues the CSOs would like to address, such as protections for forest-dependent communities' rights and benefits of forest use.

For information about the June talks, [please check here](#).

Myanmar

VPA Status: Informal preparatory phase; no formal negotiations as yet

As previously reported, the EU does not wish to engage in formal negotiations toward a Voluntary Partnership Agreement (VPA) with Myanmar until there is a reasonable likelihood that these can be concluded fairly smoothly and rapidly. Preparations behind the scenes have been underway since 2015, however, and although these are taking longer than expected, steady progress is being made.

To avoid drawn-out negotiations that may yet fail, the EU would like key elements to be in place before announcing formal negotiations. Private, civil society and government sectors are represented in the Myanmar's multi-stakeholder group (MSG), which would prepare Myanmar's negotiating positions. These representatives should share a unified vision of their reasons for entering a VPA. Groups should fully grasp the VPA's practical implications for the forest sector, in terms of reforms needed, transparency requirements, and establishing participatory structures across

the country's 14 states and regions. For instance, the need for land reform was recognised with the adoption of a new Land Use Policy in 2016 and a Land Use Council was formed, but as yet no legislation supports its implementation. Also, a draft Legality Definition and a proposed negotiation road-map should have been prepared, and preliminary ideas developed on how to coordinate the FLEGT process with the on-going Peace Process. This process seeks to resolve long-running conflicts between the military and several Ethnic Armed Groups, where resource ownership and use rights will be key issues.

From late 2016 through 2017, representatives of the Union government, and the private and CSO sectors organised regular meetings of an Interim Task Force (ITF) to prepare a representative MSG. Outreach missions to all 14 states and regions were held, both to explain FLEGT and VPA processes, and to allow stakeholders to voice concerns related to forests. Each sector then engaged in dialogue with their constituencies to set up appropriate structures, clarify roles and establish working methods so that their views could be considered in forming Myanmar's positions for the VPA and to further clarify aspects of the FLEGT process.

A FLEGT Secretariat has been established and provides administration services to the ITF.

Although the MSG's [terms of reference have been agreed](#) and each sector has selected nine representative members, MSG has not yet been formally established. A ministerial instruction required for its formal recognition awaits the resolution of issues surrounding the selection of private sector representatives; in the meantime, all MSG members attend ITF meetings. (Recently, the CSO MSG members, sponsored by EIA, visited Brussels to explain their process and raise issues about [Myanmar's forest sector](#).)

There has also been progress regarding access to information and transparency. The EU has funded a communication consultancy (Agriconsulting) to develop and initiate implementation of a FLEGT communication strategy. A short film of FLEGT has been prepared, a Facebook discussion group formed and a website in Burmese, to be later mirrored in English (www.flegtmyanmar.com) will soon be launched.

Since imposition of the 2014 log export ban, and a 2016 - 2017 nationwide moratorium, logging has been drastically reduced. The State-owned enterprise, Myanmar Timber Enterprise (MTE) now limits use of contractors to providing logging services, ending the previous practice of allocating them a portion of the harvest.

Since the 2015 election, the Forest Department has prioritised tackling illegal logging, and reports of confiscation of illegal timber have risen significantly, although it remains unclear whether actual prosecutions match the quantities of timber seized.

Regarding development of a legality definition, an initial workshop introduced stakeholders to the subject in December 2017; specialists involved in developing legality definitions in Indonesia and Liberia shared experiences. It is hoped that a TLAS Working Group will be formed as soon as the MSG has been formally established to start working on the details of both the legality definition and the TLAS structure.

Finally, as reported in the November 2017 VPA update's [introduction](#), EUTR enforcement regarding Burmese teak has been strict. The effect has been to re-focus attention on the need to enhance legal certainty by documenting the current system for tracking timber from forest to ship. Importers and exporters must be able to identify what checks are needed at each point along the chain of custody, whose responsibility it is to perform these and what documents can be used as evidence that the steps have been properly carried out. The Forest Department and MTE, with the assistance of the Technical Advisor to the Ministry, are working on a document that describes this: it is reportedly almost ready and will soon be available.

Vietnam

VPA Status: Initialled in May 2017; preparation for ratification is on-going.

The VPA ratification process is well underway and, in the period [since the last update](#), a number of documents have been the subject of consultation, approved or adopted. These texts either establish the legal framework for honouring VPA commitments or guide the operation of the VPA.

The Pre-ratification VPA Impact Assessment report was finalised using input from state management agencies and wood industries in late 2017 after a national consultation workshop. It identified many issues for improvement, such as transparency of information, applying technology to reduce time for administrative procedures; impacts on small and micro businesses; social impacts on gender and labour.

The Forestry Law adopted by the National Assembly of Vietnam (NA) in November 2017 will come into force in January 2019. For the first time, this Law lays down principles for forest activities, including provisions that ensure transparency and participation of people and organisations when implementing forest activities; and acknowledges the rights of ethnic minorities over their traditional land and forests. The Law also defines timber legality and provides for the establishment and operation of Vietnam's Legality Assurance System (VNTLAS).

However, the Government was asked to develop four decrees and seven circulars to guide the implementation of the Law; these provide no further detail concerning participation and monitoring by individuals and CSOs, nor the role of ethnic minorities. Although the law exists in principle, no mechanism allows for its full implementation in regard to these groups.

In order to guide implementation of the Forestry Law, the Government posted a draft decree shaping the LAS on its government website for comment. Some CSOs from FORLAND (an alliance of CSOs working on forests and land) and the [VNGO-FLEGT network provided written comments](#). These emphasise that principles of transparency

and participation must be adhered to when drafting and operating VNTLAS. However, as with previous comments, NGOs could not see that their input had been considered and did not know why it was not.

Proper application of these principles is critical to the LAS' functioning, and therefore to the purpose and effectiveness of the VPA. VNForest is now working on a draft circular providing detailed guidance on VNTLAS; the VNGO network will comment once this draft is available.

In addition to legal texts, structures for implementing the VPA are now in place, but these are not as transparent as hoped. The Joint Preparation Committee (JPC) [held its first meeting in November 2017](#) in which it endorsed the VPA Joint Implementation Framework (JIF) and the formation of the Multi-stakeholder VPA Implementation Core Group. Information of this meeting was shared with the Core Group, but minutes were not made available to the public as required by Annex VIII (Functions of the Joint Implementation Committee).

Created at the demand of the EU, the Multi-stakeholder VPA Implementation Core Group is a mechanism for stakeholder engagement and co-ordination throughout implementation. The Core Group has since met twice, electing a CSO representative to be co-chair of the group and discussing and prioritising the communication strategy. At the request of [Center for Sustainable Rural Development](#) – Chair of the VNGO-FLEGT – the item 'VPA impact monitoring and monitoring mechanism' was reluctantly included. Minutes of the meetings were shared with Group members who passed them on; such sharing is the only way the other organisations find out about the Core Group's existence and activities.

Communities are usually consulted through CSOs, which bring their voices to the attention of decision-makers through policy briefs and dialogues. Again, it is not always clear how this is taken into consideration.

Another difficulty is that the proposed Organisation Classification System (OCS) excludes households and informal businesses from



registering. OCS is applicable to enterprises only; it divides these enterprises into two groups, one of which can 'self verify' timber legality.

Finally, law enforcement is still problematic. Illegal logging remains widespread: in the first four months of the year, there were more than 4,000 cases violating the Law on Forest Protection and Development although the prime minister's ban on illegal logging in natural forests is still in force. Enforcement is uneven, although illegal timber is seized when it is detected and legal prosecutions have occurred.

Regarding other international initiatives relevant to the VPA process, the government is drafting the National REDD+ Action Programme (NRAP) Mid-term Implementation Plan (NRIP) 2017 - 2020, which estimates that USD 174 million is required to develop and operationalise VNTLAS. The VNGO-FLEGT network and the UNREDD Vietnam Programme co-organised a consultation workshop on the NRIP; CSOs asked the Government to add the component "Supporting the development and operation of the state monitoring as well as independent monitoring of compliance to

VNTLAS," as stipulated in NRAP. This component is still missing in the revised draft NRIP distributed at the 21 March 2018 consultation workshop.

In early 2018, the Forest Carbon Partnership Facility (FCPF) approved Vietnam's Emission Reduction Program Document (ERPD) 2019 - 2025, to be implemented in six north central coastal provinces of Vietnam. The document provides for "Implementation of a verification system for both domestically harvested and imported timber and wood products under the FLEGT", underscoring the importance of ensuring that the VNTLAS element of the VPA is effective.

LATIN AMERICA

Guyana

VPA Status: Negotiations began in 2012

Some progress has occurred in the ongoing negotiations that will shape the content of the EU-Guyana VPA, since the last update when tensions between stakeholders were very apparent. This progress does not, however, amount to a resolution of differences.

A fundamental discrepancy in viewpoints remains surrounding land tenure and customary rights of indigenous peoples. Whereas the EU representatives and the National Technical Working Group (NTWG, the body negotiating on behalf of Guyana) view tenure and customary rights as issues on which the VPA can provide valuable assistance by providing a space for dialogue, indigenous peoples feel that these rights lie at the very heart of the agreement and must be unequivocally protected in the operational part of the VPA: the legality matrix and TLAS.

Since negotiations started in 2012, a primary concern of Amerindian communities has been to ensure that the VPA cannot provide legal cover for removing timber from Amerindian traditional lands without the consent of the people. They have raised land issues in consultations hosted by both NTWG and the Amerindian Peoples Association (APA). They underscore the need to guarantee protections for customary land tenure rights in the VPA's Legality Definition and have therefore called for the inclusion of Guyana's Constitution, which contains important human rights provisions that would secure the protection of indigenous peoples' customary land rights.

A reference to the Constitution has now been included in a section of the Legality Definition titled "Additional legal references which are not part of the regulatory framework but are important to the overall functioning of the Guyana Timber Legality Assurance System". While this is undeniable progress, there is reason to believe that legality will not be defined with reference to the Constitution when it is "important to the overall functioning" but still not a part of the regulatory framework.



Photo: Guyana, Amerindian Peoples Association (APA)

The NTWG has stated that a grievance mechanism will be developed to deal with cases where people believe that their rights have been violated by the VPA. The draft TLAS states that the mechanism will allow “all stakeholders without discrimination to file a complaint”. This, as well as the stated support to the existing [redress grievance mechanism of the ongoing Amerindian Land Titling Project](#) is positive, however, it would make the implementation of the VPA smoother if effective protections were incorporated in the regulatory framework before matters come to a grievance.

It is also positive to see that the annex on supportive measures contains plans to review, strengthen and improve the coherence of the legal framework. This is envisaged to happen in parallel with the TLAS implementation. Whereas this would have preferably happened before the signing of the VPA – as raised by communities throughout the negotiation process – the annex sets out a valuable opportunity for Guyana to carry out fully inclusive law reform processes to ensure that its legislation is in line with its international human rights law commitments. Consequently, the annex must be updated to explicitly require full and effective participation of the Amerindian rights holders and links should be made to the already existing encouraging commitments from Guyana to reform its Amerindian Act (2006).

For now, it is encouraging that the discussion is ongoing between NTWG and indigenous constituents. The two parties agreed during a meeting in February 2018 to carry out a separate workshop to discuss how to deal with the protection of the communities’ customary land tenure rights.

The NTWG, however, also expressed in the meeting that it is ready to sign an agreement in principle, signalling that the EU and Guyana have agreed on most of the content of the VPA and are now awaiting the passing of updated Forest Regulations and the Codes of Practice for Large and Small State Forest Authorisation. The parties expect that initialling, which marks the beginning of the implementation phase, will take place four to six months after signing in principle. Even though the NTWG has said that modifications can still be made to the agreement after this signing, communities

are concerned that even the symbolic signing will mean the end of possibilities to make substantive changes to the content.

For the VPA to comply with EU commitments on indigenous peoples’ rights and sustainable trade as well as Guyana’s international human rights obligations, complex issues and guarantees for customary tenure rights should be secured upstream rather than after the signing of any agreement.

Honduras

VPA status: Negotiations began in January 2013; signature is imminent.

The conclusion of a VPA between Honduras and the EU – the first such agreement in the Americas – is imminent. A pre-Joint Implementation Committee will be established once the VPA signing, scheduled on 14 June 2018, has been completed. The Committee will help navigate the early stages of implementation.

Yet now, a shadow is passing over what has been a relatively untroubled, even positive process – a notable achievement given [past history with environmental defenders](#). In the run-up to Honduras’ general elections, [civil society hoped that the VPA could be signed quickly](#). They were concerned that the momentum for an agreement targeting illegal logging and promoting forest sector reform might be lost in a government transition. The post-electoral context may yet affect the VPA process’ momentum.

After a difficult and disputed election, President Juan Orlando Hernández won a second term by a tiny margin; a win confirmed by an electoral court featuring several judges appointed by Orlando in his first term. The EU Election Observation Mission issued a [post-election report](#).

In the ensuing conflicts 23 individuals died. Tensions continue to simmer and CSOs (among others) are divided about the results, with certain groups refusing to recognise the president’s authority. While all groups appear united in their faith in the national congress, uncertainty concerns how this congress will work with a president whose legitimacy is questioned.



Photo: Honduras, Joe Townsend / Flickr

Against this backdrop, the enthusiasm that had carried the first five rounds of VPA negotiations, and the remarkable transparency and unity of purpose among stakeholders have been dampened. Stakeholder meetings scheduled in late May to resolve final issues will likely be more subdued.

This would be unfortunate, as certain substantive concerns remain. For instance, the issue of land tenure of indigenous peoples is referenced in the LAS – a noteworthy inclusion – yet it is important that the consultation of indigenous peoples be reinforced.

However, issues such as consultation cannot be separated from the broader democratic context. Indeed, [previous hopes surrounded a draft law on Free Prior and Informed Consent \(FPIC\)](#) of indigenous peoples, with the VPA being credited at least in part for bringing the issue to the forefront.

Civil society now has an agreement with the Forest Ministry to work with the national congress on FPIC legislation. However, such a law touches not just the forest sector, but all sectors, a far more complex undertaking made tougher by political tensions: a positive resolution is uncertain.

For the VPA, the next weeks are critical. The view of many CSOs and actors in the private sector is that stakeholders in this last round of negotiations must focus on those problems that can be resolved in the VPA framework, rather than on the broader political situation. Stakeholders must protect the

valuable elements that the VPA process is creating: the participatory structures and legal definitions, and the new mechanisms linked to the VPA – chain of custody, due diligence – that carry so much potential.

The practical implications of the commitments being made are also of primary importance. Certain Honduran laws will need to be modified, the institutionalisation of a culture of legality in the forest sector must be reinforced, funding and resources must be found and allocated appropriately to improve the capacity and expertise of the actors involved.

Most importantly at this stage, actions to implement the VPA properly must be defined methodically, with a timetable and milestones to be attained – e.g., land tenure advances, taxation reform in the forest sector, and reform in the domestic market so as not to exclude the nation's artisanal sector.

In the end, these legal obligations and structures will shape the future of Honduras' forest sector, these processes and mechanisms will remain when the broader political conflict ceases. The recently elected legislature has not been the subject of challenge; for now, trust must be placed in them resolve the latter.

If all involved can rise to the challenge in the coming weeks, perhaps some of the cooperation and transparency so notable throughout the process could spill over into the broader context.





LOGGINGOFF

These occasional Forest Watch Special - FLEGT VPA updates represent civil society perspectives of VPA processes around the world. They are curated by Fern, and are a collaborative effort of civil society representatives across numerous countries, including the co-managers of LoggingOff.info, the online resource for civil society perspectives on VPAs.

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