Exploring credibility gaps in the VPAs – a review of independent monitoring initiatives and lessons to learn

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Background and rationale

Since an expert meeting in June 2010[i], some roles pertaining to Independent Audit (IA), Independent Monitoring / *Observation Indepéndante* (IM, OI, IFM or IM-FLEG) and Civil-Society- or community-led Independent Forest Monitoring (CS-IFM) have begun to take shape. IA is enshrined in each Voluntary Partnership Agreement (VPA) and terms of reference are becoming available as agreements are completed and published, although none are currently active; IM/OI contracts are operating, mostly in Central Africa (Republic of Congo and Cameroon), alongside VPA developments; and various forms of CS-IFM are being piloted in Cameroon, Liberia, Central African Republic, Malaysia[ii] and Indonesia, as well as being initiated in Republic of Congo and Gabon.

Current activities face the same three core challenges that have persisted since the early days:

- Legitimacy – The more formal IM/OI operations appear to be more readily captured by the very institutions they monitor, and consequently are less effective. The civil-society led initiatives, in seeking to overcome this, are only slight modifications of 'self-mandated watchdog / campaign work' that is the bread-and-butter of NGOs, and face questions of legitimacy and recognition.

- Responsiveness – a common refrain is that monitoring reports are written, but then there is little in the way of effective action by those with the responsibility to make the required systemic changes. The VPAs might be expected to address this, by having a Joint Implementation Committee (JIC) and the potential ultimate sanction of suspending trade, but only if structured appropriately and with high levels of transparency. There is also too little use of these reports by civil society in their advocacy and a need to better understand the information available and use it effectively.

- Understanding – there continues to be some confusion over roles as well as terminology, and there is minimal formal acknowledgement of these roles in the VPA texts. FLEGT Briefing notes as well as different VPA texts are inconsistent in their use of 'auditor' 'monitor' and 'third party'. There is evidence of a shift in the European Commission away from the language of monitoring and towards audits.

Concern has been expressed in recent months by current practitioners of IM/OI, local civil society, participants in a workshop on Anti-Corruption and FLEGT[iii], and in the context of VPA impact assessments, that there may be a need for both IM/OI as well as CS-IFM in addition to IA, if the credibility of a VPA is to be maintained. Up to date, it is unclear how information will flow between these different types of monitoring in the VPA context and no detail is provided on how to move forward from documenting systemic weaknesses or individual infractions to actual sanctioning. There appears there may be a gap between an IA, narrowly mandated to track the Legality Assurance System (LAS), on the one hand, and impact monitoring, broadly defined to evaluate the impacts on poverty and other development as well as governance indicators, on the other.

These comments are deliberately assertive. The purpose of this research is to test these as hypotheses, to provide a balanced view of the evidence for a likely credibility gap without IM/OI and the experiences and new initiatives that recognise and seek to address this gap. This will necessitate gathering and presenting the evidence from monitoring experiences to date in an objective way, reviewing the roles, responsibilities and expectations for IA, IM/OI both in the text/annexes and in the dialogue around each VPA, and assessing the first steps being taken, in particular by CS-IFM to address some of these challenges. It should help to inform future initiatives by providing evidence of the conditions under which one type of IM may be more suitable than another to support the VPA, rather than "Which type of IM is better?".

Specific Terms of Reference

Purpose:

To explore the needs and opportunities of IM/OI/CS-IFM in conjunction with VPAs, and in doing so assess the risk that VPAs fail to provide sufficient credibility in the European market, and the potential that IM/OI and CS-IFM can play to mitigate this risk.

Tasks:

- Review the guiding documentation from the European Commission, EFI, NGOs, and previous meetings to synthesise a summary of previous thinking, (and to provide a consolidated glossary of terms).

- Review the six VPA texts finalised so far, and any associated informal documentation, to determine the extent of acknowledgement of IM/OI and CS-IFM (as well as IA) in each.

- Facilitate an initial meeting with a core group of organisations[iv] supporting this study, to finalise details of the study and scope of IM/OI/CS-IFM[v].

- Review previous and current monitoring experiences[vi] (including if possible selected experiences from non-VPA countries and outside the forest sector)[vii] and draw lessons about their strengths, weaknesses, opportunities, challenges and threats, including:

  - Legitimacy – on what basis are they operating, and to what extent is there consensus that the role is legitimate? To what extent is this providing both independence and recognition?

  - Capacity – what support exists, specifically on these initiatives and more generally in support of the IM/OI function? What capacity gaps exist or can be foreseen and what might be done to fill them?

  - Responsiveness – what impacts can be seen from over a decade of experience? What constraints on impacts are there? How can other aspects of the VPAs – for example the complaint or conflict resolution mechanisms – help to address this?

- Conduct interviews with key European and partner country experts, including NGOs, research organisations and government agents.

- Draft a study report that consolidates current experience and thinking, and discusses the following issues as well as others the research may identify:

  - What evaluations have been done to learn from 10 years of IM/OI? Is this sufficient?

  - What do we know about 'credibility'? Is there a consensus that a gap exists?

  - Where forms of IM/OI/CS-IFM are acknowledged in a VPA text, and is this sufficient? Are current and new practitioners confident their function will be able to operate and contribute to FLEGT? Who might the 'new practitioners' be; in particular, what different forms of IM/OI/CS-IFM led by local civil society are being initiated and how can these models be supported and promoted in new VPA agreements?

  - Recommendations on how information could/should flow between different types of monitoring and on a system that will ensure responsiveness and action based on gathered information?

- Consider possible fora to facilitate ongoing exchange of experiences and monitoring reports, such as a micro-site within www.illegal-logging.info, www.euflegt.efi.int/, or another initiative related to forest governance or timber legality information.

- Organise an experts workshop (preferably a day before or after the Chatham House Illegal Logging Update Meeting on 7-8 February 2013) to review the draft report and agree on follow-up actions.

Outputs

- A detailed report of the research, made available in advance of the experts meeting for review, and completed thereafter. The primary audience is those from governments and NGOs, in Europe and partner countries, involved in detailed FLEGT actions.

- A short policy briefing for a wider audience, published for example by www.loggingoff.info, Chatham House, or EFI.

- A presentation for the expert meeting, and at the Chatham House Update meeting in February 2013.

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[i] This took place at Chatham House, but was not a 'Chatham House Meeting', so the presentations and outputs were not published but are available from FERN, Global Witness, or REM. A draft table of key terminology is available on http://loggingoff.info/document/acrn-meeting-brussels-mar-2010-minutes.

[ii] Transparency International has set up a forest watchdog program in Malaysia.

[iii] BMZ/EFI Technical workshop on Anti-Corruption and FLEGT; January 2012. Presentations and outputs have not so far been found on any website.

[iv] It is anticipated that there will be a core group of 3-4 organisations that support this study and co-produce the final report. So far, this comprises Global Witness and FERN. A handful of NGOs from VPA partner countries have also expressed an initial interest and the co-production role will be discussed further with them. In addition a wider group have input to the ToR and will be given an opportunity to review the final draft report.

[v] The core group behind the study will form a working definition of the boundaries between IA, IM/IO, and impact monitoring. Key aspects include: monitoring empowerment and effectiveness of local civil society; formal versus informal monitoring; and monitoring forest cover and quality.

[vi] Current and evolving experiences of IM/IO are in Cameroon, DRC, Indonesia, Liberia and Republic of Congo. Numerous CS-IFM activities are taking place in Cameroon, Republic of Congo, CAR, and Liberia.

[vii] Election monitoring, and other non-forest experiences were documented by the ODI Verifor programme for example.