



REFLECTIONS ON THE FLEGT PROCESS IN GHANA:

Success and Challenges from a Civil Society Perspective

INTRODUCTION

This paper seeks to bring to the attention of stakeholders, the successes and challenges of the implementation of the Forest Law Enforcement, Governance and Trade (FLEGT) in Ghana. The position of civil society organisations (CSOs) is that the FLEGT process has triggered reforms and actions to address illegal logging and other drivers of forest degradation in Ghana, and as such, needs to be supported.

FLEGT processes began formally in Ghana in 2003 when Ghana signed on to the African Forest Law Enforcement and Governance (AFLEG) mechanism in Cameroon. In 2005, through an IUCN initiative, Ghana's implementation of its commitment to the AFLEG processes was discussed and it was acknowledged that Ghana had not made any progress in its commitment to AFLEG. The Voluntary Partnership agreement (VPA) was seen by CSOs as another vehicle to push forest governance in Ghana forward and thus it was welcomed with the condition that the process would involve complete stakeholder participation at every stage. Formal negotiations for a VPA began in December, 2006 and it was finally concluded and ratified in parliament in March 2010.

As part of the VPA, Ghana committed to establish a Legality Assurance System to ensure production and trade in verified legal timber. Ghana also committed to policy and legislative reforms to address the problems of governance including undefined tenure rights in the off-reserve areas which is a key driver of illegal logging and deforestation. The first part of a two-tier legislative reform has been concluded with the establishment of the Timber Validation Committee, a FLEGT Licensing Scheme and a Verification Department, among others. Ghana committed to reform forest laws in the light of the policy reforms and to consolidate the laws to remove inconsistencies. In addition, there was a commitment to restructure the domestic market to ensure legal domestic timber trade.

The aspirations of Ghana for entering into a VPA are varied. FLEGT VPA generally presents an opportunity for Ghana to improve forest governance, which has been identified as the major reason for illegal logging and to continue to access the EU market. CSOs, on our part, continue to see the VPA as an opportunity to address the underlying causes of illegal logging by ensuring empowered participation of stakeholders, effective monitoring of legality compliance and reform of forest policy and law. After six (6) years of working to implement the VPA in Ghana, there are many successes to celebrate and some challenges that need to be addressed at the implementation phase.



SUCSESSES OF THE FLEGT VPA IN GHANA

1. Legality Assurance System (LAS) Systems Development

Ghana set an overly ambitious timeline for the issuing of her first FLEGT licensed timber. The development of systems for the LAS is critical for the issuance of FLEGT licenses. Reports from the various Joint Monitoring Review Mechanism (JMRRM) missions provide useful information on the progress that Ghana has made in developing these systems. The wood tracking system, after initial setbacks, has been developed and is being rolled out nationally to cover all timber production areas. The Timber Validation Department (TVD) and the Timber Validation Committee (TVC) which has oversight responsibility, have been established and are working. The verification protocols are far advanced, while the compliant mechanisms are also being finalized. The Independent Monitor has also been contracted and the systems for issuing licenses are being finalized. Essentially the system for FLEGT licensing is almost ready.

2. A Strong Seat at the Table

A more definite success of FLEGT-VPA in Ghana is the opening up of the political space for CSO participation in the governance and management of forest resources in Ghana. The period prior to the FELGT-VPA was marked by irregular and cold engagements between civil society organisations and the Forestry Commission of Ghana. Bringing these odd ends to the table to constructively dialogue to improve sector governance has become possible through the VPA which made stakeholder participation a requirement. Ghanaian CSOs used the leverage provided by the FLEGT-VPA to secure two seats for civil society at the negotiation table. As a result, CSOs had direct access to the negotiation process and contributed ideas to the various working groups. Through the VPA negotiations the value that CSOs brought to the national process became more evident. Timber industry groups, particularly the less powerful ones the informal sector the participation of civil society organisations very useful. Stakeholder participation in VPA dialogues has been institutionalized, more or less. The Multi Stakeholder Implementation Committee (MSIC) which is another avenue for civil society participation has to meet more frequently and regularly.

3. Community Empowerment

Through various awareness raising initiatives, civil society and communities have enhanced their capacity to ensure compliance with legality requirements in the forest sector. Forest forums and other community level interventions have contributed significantly to communities' capacity to assert their rights especially on Social Responsibility Agreements (SRA). They are also able to hold timber industry and forestry officials accountable. Evidence to these exists in communities like Dench in the Bodi District, Obengkrom and Wassa Akuampim in Prestea Huni Valley District all in the Western Region. Several other communities have successfully negotiated new Social Responsibility Agreements (SRAs) and received adequate compensation for damaged crops and property. Some have also successfully halted illegal logging activities in their communities. An enhanced sense of ownership of forests by local



people as well as effective collaboration between forest managers and civil society to ensure legality is the essence of good forest governance. The VPA legality matrix has indices which require continuous community involvement to ensure that communities duly receive their benefits from forest. Local communities are aware of these provisions and use them as a basis for making demands on logging companies and forest sector agencies.

4. Civil Society Organizations' Enhanced Capacity

Civil Society Organizations (CSOs) have improved their understanding of aspects of forest governance previously regarded as technical. This has made it possible for them to play effective roles at various stages of the VPA, particularly in the development of the Legality Assurance System (LAS). Through various funding initiatives including those by the EU, FAO, and DFID which support CSO capacity building, there is a remarkably increased number of forest campaigners who have been trained in quality management systems and the audit of chain-of-custody systems for forest products. With this enhanced capacity, CSOs have been positioned to effectively engage in independent forest monitoring of compliance with legality requirements and other forest governance indicators. Without strong capacity and coordination within civil society, it would not have been possible for civil society in Ghana to effectively engage in the implementation phase of the VPA. CSOs have participated in the mock audit of the legality matrix, observed and reported on shortfalls for review. As a result of this enhanced capacity, the Forestry Commission of Ghana is partnering several NGOs on a number of projects to advance Ghana's readiness for FLEGT implementation.

5. Domestic Market Reform:

The structure of the domestic market in Ghana has remained the same since 2006 when the FLEGT-VPA negotiations began. However there is increased awareness of the need for reforms within the domestic market. Initiatives such as the EU Chain Saw Project and others have tried to provide both policy and technical solutions to the problem of the domestic market. Major actors in the domestic market itself such as the Domestic Lumber Traders Association (DOLTA) are making efforts to enhance legality awareness within their own ranks.

6. Policy and Legislative Reforms:

Forest and Wildlife Policy, Domestic Market Policy and Public Procurement Policy

As part of the governance reform triggered by FLEGT-VPA, important policy reforms have taken place in Ghana. A new Forest and Wildlife Policy (2012) and subsequently the Domestic Market Policy have been passed. A Public Procurement Policy for timber will soon be finalized. The policy making process has been very open and participatory and largely followed the principles of consultation and participation that were promoted during the VPA negotiations. CSOs are actively involved in the effort to promulgate the Public Procurement Policy on timber. The consolidation of forest sector laws is expected to follow the policy reforms to ensure the removal of clauses that are inimical to good forest governance and to prevent contradictions between forest policy and the policies of allied sectors such as agriculture, land, mining and trade.



7. Tenure reforms

Insecure tenure has been an underlying driver of illegal logging and deforestation in Ghana. This has been acknowledged by the VPA and the REDD+ readiness preparatory notes. CSOs continue to campaign for tenure reforms that will help deal with the issue. Government also recognizes this challenge and has demonstrated its commitment to resolve this driver of illegal logging and has declared the intention to award a contract for the reform process to commence.

CHALLENGES OF THE FLEGT-VPA IN GHANA

The assessment of the Ghana LAS highlights the main system challenges and the technical difficulties facing the LAS. From a CSO perspective, there are other governance challenges facing the development of the Ghana Legality Assurance System. These include the lack of political will, lack of sustained will to engage, and participation deficit in some relevant aspects of the LAS development, among others.

1. Political will to implement aspects of Legal Reforms

Issues of conversion of extant and expired leases and the inconsistencies in the permit regime are issues of political will and not technical difficulty. Even though CSOs have campaigned for the implementation of payment of timber rights fees (TRF) for several years, the government has not taken any decisive steps towards addressing it. Stumpage fees were not revised between 2003 and 2014. This constituted a huge loss to government and resources owners. There are several logging operations which have not been converted from concessions and leases to TUC areas as required by the Timber Resources Management Act 547, 1998. Instead of addressing inequity in benefit sharing, the Forestry Commission has rather shown keen interest in creating a new permit regime for trees in off-reserve areas,.

2. Institutionalizing Multi-stakeholder Processes within the FLEGT Process

CSO participation is not only justified for reasons of multi-stakeholder participation, but also for enhancing the credibility of the LAS itself. The participation of CSOs in the technical systems development has not been as extensive as was the case during the negotiation of the VPA itself. Civil society considers this an inherent flaw. Essentially, the benefits of effective coordination between the government and civil society at the system development and implementation phase of the VPA have been lost.

3. Lack of Openness in the Systems, particularly the Verification System

The apprehensions and skepticism of civil society regarding the LAS could be attributed to the failure by successive governments and the Forestry Commission to enforce forest laws. A basic expectation of civil society after the ratification of the VPA was that the LAS would deal with issues of non-compliance in our system and this could be better sorted out through open stakeholder consultation and participation in the development and roll-out of the verification system. Access to information and relevant documents to prove legal compliance



and CSO participation in the development of systems have been inadequate. This raises credibility concerns about the verification system.

4. Readiness of Small and Medium-scale Enterprises

Small and Medium scale Enterprises (SMEs) are fairly sensitized on standards for Forest Legality compliance, however the domestic market reform has not been a focal priority for the VPA systems development. The focus of the systems development has been on the export trade for reasons of sustaining and securing Ghana's access to EU timber market. For this reason the piloting and roll-out of the LAS has mostly been limited to a few large scale loggers and exporters of timber. The fact however remains that failure of the larger proportion of the informal sector and small scale industries to meet the legality requirements at the time of declaring system readiness poses a risk for the credibility of the LAS.

5. The stagnation of Legal Reforms

Ghana committed to legal reforms in the forest sector within 3 years after signing the VPA, however the process which began with good momentum has grinded to a halt. There is very little indication as to when this legal reform will continue. The efforts by government to introduce new permits for off-reserve areas through legislation, and issue "ministerial" permits which we have described as unconstitutional only exacerbates the problem of bad forest governance.

LOOKING FORWARD

Based on the challenges discussed here, Ghana's LAS needs to carefully consider the following to safeguard the credibility of the system and address the underlying drivers of illegal logging and forest loss:

1. There is the need for greater political will to address the long standing policy and management issues. The conversion of extant and expired leases to Timber Utilization Contracts (TUCs), the question of 'special permits' and the development of forest management plans need to be resolved as a matter of urgency. If stumpage fees had been reviewed regularly, the revenues could have been channeled into developing the forest management plans for about 70% of production forest reserves which currently have no management plans..
2. There is the need for increased awareness-raising among the public. Most CSO efforts have focused on forest fringe communities who have traditionally been disadvantaged in forest management and timber production and the sharing of benefits accruing from logging operations. Support for public awareness to support the legality efforts to end illegal logging and trade in Ghana needs to be sustained by both government and civil society. Additionally forest-fringe communities need to be continually empowered to exert their rights in order to demand accountability in forest management.



3. The SME sector, which plays a major role in domestic timber trade and over land export needs greater awareness and retooling to enable legality compliance.
4. The stalled legislative process needs to commence urgently. A roadmap for a long-term legislative reform to guarantee improved rights of all forest stakeholders needs to be developed to ensure that governance gains are consolidated.
5. The reform of the management of trees in off-reserve areas to give greater control to land owners and farmers through the tenure reform needs to commence urgently.
6. Participatory and consultative approaches should not be seen as a phase of the process but should be mainstreamed into the entire processes of systems development and implementation of policy and legislative reform.

COMMITMENT

Civil society organisations working in the forest sector will continue to coordinate actions to support the implementation readiness of the Ghana Legality Assurance System. Civil society also commits to define a framework for independent forest monitoring to add an extra layer of credibility to the LAS. Civil society will support government through efforts such as the development of legal position papers which offer alternatives to address the underlying drivers of illegal logging in Ghana.

CONCLUSION

It is worrying that there is no FLEGT licensed timber yet. However FLEGT is not only about the issuance of a license. Good forest governance is fundamental to curbing illegal logging in any timber producing country. The VPA process has been transformational in the sense that it has opened up the space for continued dialogue in the forest sector, allowing civil society to engage and bring novel ideas to government led discussions. Additionally, communities, through awareness raising efforts now have better appreciation of the law and legality requirements to make demands on timber companies and government. The Continued support of the EU for the implementation of the FLEGT Action Plan; the demonstration of stronger political will; stronger collaboration and support from CSOs will go a long way to halt illegal logging, reduce deforestation and improve governance in the forest sector.

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