



3.2 Civil society participation in FLEGT and REDD+ in the Republic of the Congo

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Introduction

The Republic of the Congo (ROC) is one of the countries in the Congo Basin where the abundance of natural resources has proved to be more of a curse than a blessing. Timber,¹ oil and minerals have not brought prosperity for all;² instead, most people³ live below the poverty line in isolated rural areas and depend on forests for their livelihoods. It is particularly problematic, therefore, that illegal logging is flourishing. About 20 percent of the Congolese timber that reaches the EU is thought to be illegal, with Italy, France, Spain and Portugal as the main importers.⁴ The combination of weak governance, poor law enforcement, ineffective control systems and low penalties means that efforts to deter illegality seem doomed to fail.



FROM FLEGT TO REDD+,
POLICY COHERENCE AND
DONOR COORDINATION STILL A
LONG WAY OFF.

For more than five years, ROC has been engaged in two international forest-related processes: the Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreement (VPA), and Reduced Emissions from Deforestation and forest Degradation (REDD+). The ROC–EU VPA was signed in May 2010 and came into force in March 2013. The VPA is now being implemented. ROC is implementing its Readiness Preparation Proposal or R-PP (RDC 2011) and developing a national REDD+ strategy.

Multi-stakeholder participation in the FLEGT VPA process has so far been exemplary. Participation by national non-governmental organizations (NGOs) in the VPA negotiations have supported dialogues and brought about a remarkable change in decision-making that is also relevant to other processes. ROC's R-PP explicitly mentions the FLEGT process as the basis on which to build REDD+. There is general agreement that integrating the two processes is crucial; without this integration, REDD+ may undermine efforts to halt deforestation and improve forest governance.

FLEGT and REDD+: distinct but overlapping and interlinked processes

ROC's 2008 decision to engage in the FLEGT VPA and REDD+ processes came from an aspiration to promote economic growth, development and trade. VPA negotiations were meant to boost exports of Congolese timber and timber products. ROC and the EU agreed that the VPA would also be an instrument to combat illegal logging, improve forest governance and promote environmentally sound, sustainable and socially just forest management.⁵ The VPA aims to tackle the underlying causes of illegal logging by ensuring



that the timber sector is legal and that the export of timber and timber products is in line with Congolese legislation. National legislation should oversee timber tracking and define independent verification procedures to ensure that all timber traded with the EU has been legally acquired, harvested and transported.

By embarking on the REDD+ process,⁶ ROC aimed for access to international donor funds and new private-sector financing mechanisms. It was hoped that REDD+ would stimulate the national debate on forests and land-use planning, and promote structural, political and institutional

reforms.⁷ ROC receives funds from the World Bank's Forest Carbon Partnership Facility (FCPF)'s Readiness Fund⁸ and from UN-REDD; the aim is to develop its national REDD+ strategy by 2015.

Little progress has been made, however. The work plan was overly ambitious and REDD+ activities did not get underway until January 2013. The development of a REDD+ communication plan, produced with the support of the European Forest Institute (EFI), is the only concrete output to date.

Although the FLEGT VPA process is well structured, with a clear and tangible outcome, REDD+ is a less concrete long-term multi-sector process, encompassing the forest, agricultural, mining, oil and energy sectors. The national REDD+ strategy is flexible and is not intended to generate the same level of responsibilities and obligations as the VPA, which is an international legal instrument ratified by the Congolese Parliament and promulgated by the President. The decree on REDD+ that is expected to be adopted by the Council of Ministers has a much weaker legal basis.⁹

FLEGT and REDD+ synergies

The Congolese government has been criticized by civil society and international donors for not adequately detailing the linkages between REDD+ and FLEGT in the initial versions of the R-PP.¹⁰ These concerns were also expressed by the FCPF Participants' Committee (PC),¹¹ which recommended that the government of ROC outline complementarities between the processes, including how both processes will deal with lessons learned in terms of stakeholder consultation, building trust among parties and governance challenges.¹² The government consequently added explanatory text about REDD+ and

FLEGT VPA links to the final draft of the R-PP (RDC 2011: 73–74), but failed to explain what a common approach to forest governance would entail.

The R-PP stipulates that international financial support has to guarantee complementarities and translate expected synergies into practice (RDC 2011: 74). This suggests intensified donor coordination and the use of REDD+ funds to implement the FLEGT VPA.

To date, however, there are no formal arrangements to make REDD+/FLEGT synergies concrete. Organization is weak among key actors, such as the Congolese National REDD+ coordination, the FLEGT VPA focal point, the World Bank, UN-REDD and the EU. Coordination happens only on an ad hoc basis, essentially during joint missions. The World Bank does not seem eager to share information, particularly since its focus has shifted from the actions of the FCPF Readiness Fund to those of the Carbon Fund.¹³ Despite the R-PP's promising language on REDD+ helping to combat illegal logging (RDC 2011: 72), REDD+ funds are not being used to finance FLEGT VPA priorities such as legal reforms and the improvement of governance (including the promotion of transparency measures). Achieving the obvious synergy between REDD+ and the FLEGT VPA seems to have disappeared from the agenda.

How REDD+ can learn from the participation process of the FLEGT VPA

Synergy between REDD+ and FLEGT is particularly important when it comes to ensuring the participation of communities and NGOs in the legal reforms that these processes generate. Parties negotiating a FLEGT VPA recognize that the participation of all stakeholders is fundamental to improving forest governance. After the VPA is signed, parties are legally bound to consult civil society and local communities on the legal reforms required when setting up a legality assurance system¹⁴ to regulate, verify and manage forest use. Effective civil society participation is essential during both VPA negotiations and implementation.

When the VPA process began, concerns were raised about the ability of the emerging civil society to counterbalance the power of the forestry industry and ensure that the governance reform process was inclusive. Since there was no history of civil society participation in similar political processes, the relationship between the government, the forest industry and civil society was initially tense. Although civil society initially struggled to get its voice heard, the EU's insistence on the participation of local groups throughout the process was instrumental in ensuring that their concerns were noted.¹⁵

Considerable progress was made during the negotiations, and civil society aims to build on this success in future processes. Congolese NGOs, community-based organizations (CBOs) and representatives of indigenous peoples had seats at the VPA negotiating table.¹⁶ NGOs and CBOs organized themselves into a platform for sustainable management and forests



(*Plateforme Congolaise de Gestion durable des forêts* or PGDF). Within the short span of the VPA negotiations,¹⁷ civil society gained credibility and recognition and managed to get its demands incorporated in the VPA text. The direct participation of local and indigenous communities was postponed to the VPA implementation phase, however, because of the rapid pace of the negotiations.

In the implementation phase, civil society and indigenous peoples' representatives again have seats at the table.¹⁸ NGOs and CBOs seem to be finding it hard to engage, however. The implementation process is less structured than the negotiations and formal multi-stakeholder organs are not functioning effectively. Moreover, VPA implementation — including the legal reform process — has turned out to be very complex, requiring high-level legal and technical skills.

REDD+ in ROC: not yet comparable to the participatory VPA process

The Congolese government states in its R-PP that REDD+ is a participatory process, with the goal of developing a REDD+ mechanism based on national consensus. Officially, participation is the main guiding principle of R-PP implementation (RDC 2011: 68). Particular attention must be paid to indigenous peoples and local communities when developing a REDD+ strategy. One of the provisions of the R-PP is that civil society and indigenous peoples have a seat on key REDD+ bodies such as the National REDD Committee (*Comité National REDD+* or CONA-REDD).¹⁹ A national REDD+ strategy should be developed in line with the principle of free, prior and informed consent (FPIC) outlined in the UN declaration on the Rights of Indigenous Peoples, the World Bank's Operational Policy 4.10 on Indigenous Peoples, UN-REDD stakeholder guidelines on REDD+ and lessons from the FLEGT process.



More than two years after the approval of the R-PP, the main decision-making body — CONA-REDD — has not been created; this has severely restricted participation by civil society and indigenous peoples. Although civil society and community consultations have been organized in the capital Brazzaville and at the provincial level, these consultations have often been no more than information sessions, with no opportunity for decision-making. They do not constitute meaningful participation, and fall far short of the level of

participation that took place during the VPA process. When Congolese NGOs complained about this in 2010, matters improved slightly, but after the approval of the R-PP, the situation worsened. Information is superficial and poorly disseminated, and the process is not transparent. The World Bank, UNREDD and — increasingly — the private sector are driving the process. The failing consultation process is linked to the World Bank's narrow focus on measuring carbon at the cost of both improving governance and putting the root causes of forest loss at the heart of REDD+.

One important example of the lack of transparency in REDD+ is the insufficient involvement of local communities in REDD+ projects. Half of the budget in ROC's R-PP is to be used to develop and implement ten REDD+ pilot projects. Although these projects should allow the population to benefit directly from the REDD+ process in its early stages, information about them is hard to find. There is also very little information available about the preparation of the Emission Reduction Programme Ideas Note (ER-PIN) that ROC prepared in close cooperation with a private company. In the hope of quick access to considerable donor funds, the government reportedly aims to submit the ER-PIN to the FCPF's Carbon Fund as soon as possible, without thoroughly consulting local communities.²⁰

Law reforms offer opportunities for one comprehensive approach

The VPA is based on the reform of the Congolese forest code and related legislation; this requires an inclusive participatory process that involves local communities. The reform process is in train and — thanks to the lessons learned during the VPA negotiations — seems to be going in the right direction.

The text of the R-PP refers to the need for legal reforms to secure land rights and participatory management by communities, among other things. It is not yet clear how REDD+ will address the need for legal reform and how this relates to the ongoing revision of the forest code and related legislation. It is important that the legal reforms foreseen by the VPA and REDD+ be done in a coordinated, coherent and complementary way, taking into account the concerns of local NGOs and communities. Legal reforms are time consuming and costly, and the VPA and REDD+ processes and funds could be combined in order to bring about change and secure people's rights. International donors could also help to address the current lack of coherence and coordination. The *Agence Française de Développement* (AFD), which supports the revision of the forest code, along with a new project²¹ financed by the World Bank, may help to tackle this challenge.

Conclusions

Looking at ROC's engagement in the FLEGT VPA and REDD+ processes over the past five years, it is clear that there is still a long way to go to ensuring policy coherence and donor coordination. Work is also needed to transpose valuable lessons learned — such as the importance of stakeholder participation — from FLEGT to REDD+. If REDD+ funds were used to finance the implementation of the VPA, it would help achieve some of the R-PP's requirements, such as the need for traceability, control and monitoring systems and increased NGO capacity. REDD+ funds could also be used to support legal reforms. Donor coordination between all key VPA and REDD+ actors at the national and international level is the basis of effective and coherent policy-making.

With REDD+ funds flowing to the country and ROC preparing to obtain new support from the FCPF carbon fund, now is the time to allocate international donor funds to support the participation of forest communities, and to ensure that they are involved in the design of policies and laws that will affect the lives of future generations. Only by ensuring that

VPA implementation is participatory, and that lessons learned from the FLEGT VPA are incorporated into REDD+ processes, will the underlying causes of deforestation begin to be addressed.

Endnotes

1. ROC covers an area of 342,000 square kilometres, two thirds of which (224,713 square kilometres) is covered by forest.
2. The exploitation of petrol, oil and timber represents 70% of the Gross National Product of ROC (64% for petrol oil and 5.6% for timber), and 98% of the country's export revenues. Agriculture, a sector occupying 40% of the active population, contributes 6% to the BNP. See R-PP of September 2011, p.16.
3. A population of 4,042,899 was recorded in ROC in 2010, according to www.ruralpovertyportal.org/country/home/tags/congo. The population is growing rapidly, with 4,492,689 people recorded in 2013 (www.statistiques-mondiales.com/congo_brazzaville.htm).
4. See Loggingoff, *A civil society counter-brief on the Republic of the Congo—EU VPA*, March 2010, p. 2 (www.fern.org/publications/briefing-note/civil-society-counter-brief-congo-eu-vpa).
5. See Loggingoff, *A civil society counter-brief on the Republic of the Congo—EU VPA*, March 2010.
6. ROC elaborated its R-PIN in 2008. The elaboration of the R-PP took more than a year; the final version came out in September 2011.
7. See *Programme d'appui au Processus REDD+ pour le 8ème Conseil d'orientation d'ONU-REDD (PB-8)*, p. 11, February 2012 .
8. The FCPF is a global partnership of governments, businesses, civil society and Indigenous people. It is focused on reducing emissions from deforestation and forest degradation, forest carbon stock conservation, sustainable forest management and enhancement of forest carbon stocks in developing countries — activities commonly referred to as REDD+.
9. To date, no decree on REDD+ has been adopted by the Congolese Council of Ministers. It was expected in December 2013.
10. See *Plateforme de Gestion Durable des Forêts, Document de contribution au R-PP de la République du Congo*, June 2010 and February 2011; and Assessment of the R-PP of 25 May 2011 by Greenpeace and Global Witness: www.forestcarbonpartnership.org/republic-congo.
11. The Participants Committee is the main decision-making body of the FCPF; it is composed of forest (REDD+) countries, financial contributors, observers and representatives of UN-REDD, UNFCCC Secretariat and the private sector.
12. See Participants Committee Resolution PC/6/2010/3.
13. The FCPF Readiness Fund supports participating countries as they prepare for REDD+ by developing the necessary policies and systems, including adopting national REDD+ strategies; developing reference emission levels, designing measurement, reporting, and verification (MRV) systems; and setting up national REDD+ management arrangements. The FCPF Carbon Fund is much more focused on carbon markets for forests and risks that could undermine REDD readiness; it aims to contribute to improved forest governance and adhere to social and environmental safeguards, including respect for the rights of indigenous peoples and local communities. See www.redd-monitor.org/2011/11/02/carbon-fund-risks-undermining-redd-readiness.

14. A Legality Assurance System (LAS) is central to each VPA. It identifies, monitors and licenses legally produced timber, and ensures that only legal timber is exported to the EU. See www.euflegt.efi.int/portal/home/vpas/the_elements.
15. See Loggingoff, *A civil society counter-brief on the Republic of the Congo–EU VPA*, March 2010.
16. Two bodies were established by the forest administration to facilitate the work of the Congolese side: a technical secretariat, in charge of preparing the Congolese negotiating position (and negotiating with the EU); and a national advisory group, to review and validate all documents under discussion. Both bodies included representatives of civil society, government and industry.
17. The ROC VPA was negotiated in only eleven months, the fastest process so far.
18. The PGDF platform has one seat on the VPA Joint Implementation Committee, three seats on the Joint Working Group, three seats on the Technical Secretariat, one seat on the Legality and Traceability Task force (*Céllule de légalité forestière et de traçabilité*) and three seats on the Working Group on Communications.
19. The R-PP provides eight representatives of civil society and six of indigenous peoples in CONA-REDD, which is composed of 42 members. CONA-REDD decides on the REDD+ vision and options for the national REDD+ strategy, among other issues. See RDC 2011: 22.
20. The National REDD Coordination (CN-REDD) prepared an ER-PIN in close collaboration with the Malaysian private company *Congolaise Industrielle des Bois (CIB)-Olam*. The proposal focuses on a carbon project carried out on 12.2 million hectares in northern Congo (Sangha/Likouala provinces). By submitting an ER-PIN to the FCPF's Carbon Fund, ROC aims for access to funds that could amount to around US\$ 60 million. On May 24, 2013, a workshop to provide preliminary information about the ROC's ER-PIN was held. Local communities did not feel that access to information was adequate.
21. The forest and economic diversification project (*Projet Forêt et Diversification Economique*, or PFDE) coordinated by the Congolese Ministry of Forest Economy and Sustainable Development focuses on institutional capacity building, legal reform, improvement of forest management and the promotion of sustainable development.

Reference

RDC (*République du Congo*). 2011. *Proposition pour la Préparation à la REDD+ (RPP) République du Congo*. www.forestcarbonpartnership.org/republic-congo. In French.