



Lessons from voluntary partnership agreements for REDD+ benefit sharing

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Timber to be exported to Lusaka to be sold on black markets

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Key lessons

Voluntary partnership agreements (VPAs) use their timber legality assurance systems to generate credibility and trust by ensuring independence in the design of auditing and monitoring systems, encouraging civil society monitoring and involving multiple stakeholders.

Most of the countries in which VPAs are being established are also REDD+ countries. The temporal and sectoral proximity of the VPA process and REDD+ presents clear and immediate opportunities for synergy.

The choice and arrangement of institutions and actors is crucial for credibility: independence can be enhanced or reduced by the architecture of check and balance mechanisms and the type of actors involved.

Lessons from VPAs highlight the trade-off between the cost efficiency and capacity building gains of using existing (often state) institutions and actors versus the potential increased effectiveness and independence that may be provided by new and/or non-state institutions and actors.

The use of civil society monitors and multistakeholder processes can provide credibility through enhancing accountability and transparency as well as increasing commitment and confidence in the system.

Civil society monitoring can improve oversight and credibility. Its impact can be enhanced by formal recognition of its role, establishing complaints mechanisms and formalizing access to information.

Multistakeholder processes can be strengthened by clarifying roles, responsibilities and decision-making mandates of the process; clarifying who should be included; accepting that such processes take time; and maintaining technical and financial support.

Distinctions should be made between multistakeholder processes intended as decision-making forums and those which are primarily opportunities for dialogue and consultation.

1 Introduction

A voluntary partnership agreement (VPA) made under the European Union (EU) Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan is a performance-based mechanism designed to build credibility for buyers of legal timber. The FLEGT VPA offers several lessons on how to design benefit-sharing mechanisms under REDD+¹ so that they build credibility and trust among the potential recipients of REDD+ benefits and wider REDD+ stakeholders.

We focus on lessons for three specific design aspects of REDD+ benefit-sharing mechanisms: (i) the balance between state and non-state actors in the architecture of benefit-sharing mechanism institutions; (ii) the role of civil society organizations (CSOs) in monitoring; and (iii) the design of multistakeholder processes.

This analysis is based on a policy review and analysis approach. We carried out reviews of case studies in published and gray literature such as policy documents and media reports and meetings. We also draw on reported experiences from VPA country facilitators, practitioners and other relevant stakeholders, selected interviews and the authors' involvement in, and tracking of, policy processes.

REDD+ is an international mechanism that aims to reward countries for carbon emission reductions. REDD+ benefit sharing refers to the distribution of both direct and indirect gains: direct benefits include monetary gains from international and national finance related to REDD+ and those benefits associated with the increased availability of forest products and ecosystem services; indirect gains can refer to governance institutions improved through the implementation of REDD+ (Luttrell et al. 2013). In the narrow sense of REDD+

'benefit sharing', payments will be made to some form of carbon fund that will then be transferred to forest managers (Khatri et al. 2010) and eligible recipients. A wider definition of benefits will also include aspects such as improved governance, technology transfer and infrastructure provision.

REDD+ benefits are tied to measurable and verifiable reduction of emissions from deforestation and forest degradation and as such are inherently dependent on effective monitoring and verification systems that provide accurate data on emissions as well as resulting financial flows. However the capacity of many REDD+ countries in monitoring, reporting and verification is low, both in terms of technical skills and institutional capacity (Murdiyarto 2012). Some of the key decisions facing the design of MRV in relation to benefit sharing include institutional architecture and what structures will be required for monitoring and oversight as well as who will monitor and verify the disbursements of carbon payments and benefits and how can independence, and thus credibility, be enhanced.

VPAs are legally binding bilateral trade agreements between the EU and countries that export timber to the EU. The aim of these agreements is to guarantee the legality of all timber and timber products exported from the producer country to the EU. The key element is that producer nations commit to developing credible legal and administrative structures and technical systems to verify that the timber they export is produced according to national laws (EC 2007). The timber legality assurance system (TLAS) is the core component of the VPA, which tracks, monitors and verifies the legality of timber. The TLAS has several elements, including: a legality definition, which includes the regulatory references and indicators for all laws for which enforcement will be monitored; a wood-tracking system that ensures that only timber verified as legal will be exported

1 Reducing emissions from deforestation and forest degradation, and enhancing forest carbon stocks in developing countries.

or sold under FLEGT export licenses; and regular monitoring and performance review and third-party verification, supported by the development of complaints systems and access to information requirements (EC 2007). Once the TLAS is fully implemented and externally evaluated and approved, FLEGT licenses for legally-produced timber will be issued at the point of export. Only legal timber, with a FLEGT license, can then be exported to the EU.

To date, six countries – Cameroon, the Central African Republic, Ghana, Indonesia, Liberia and the Republic of the Congo – have signed VPAs with the EU and are developing the necessary systems to control, verify and license legal timber. Nine additional countries are in negotiations with the EU (Côte d’Ivoire, the Democratic Republic of the Congo, Gabon, Guyana, Honduras, the Lao People’s Democratic Republic, Malaysia, Thailand and Vietnam), and several other countries in Africa, Asia and Central and South America have expressed an interest.²

FLEGT VPAs and REDD+ are both performance-based market mechanisms that aim to provide assurance, to market actors in the case of the former and to recipients of benefits in the case of the latter. International credibility is therefore crucial for both, as both REDD+ and VPAs engage producers that supply a global commodity or service (e.g. timber or carbon) to an international market. National and subnational credibility is also important to obtain domestic support and ownership over the objectives of the mechanism. This will help to maintain the sustainability of the processes. Thus processes for implementation need to be developed and implemented in a way that builds credibility. This paper focuses on understanding what fosters credibility, and uses the ‘3Es approach’ as the guiding principle to do so. The 3Es approach distinguishes between effectiveness (in this case, the degree to which objectives are achieved), efficiency (the actual costs of the design) and equity (the distributional aspects of design in terms of costs and benefits, as well as the procedural aspects) (Angelsen 2009; McDermott et al. 2013).

2 For more information see: www.euflegt.efi.int/vpa.

2 What can REDD+ benefit sharing learn from voluntary partnership agreements?

No VPA has been fully implemented so far, and as a result there is little empirical research on the impact or effectiveness of implementation (Carodenuto and Cerutti 2014). Research to date has focused mostly on the processes preceding legality verification, such as multistakeholder consultations and bilateral negotiations. For this reason, our discussion focuses on describing variations of design across different VPAs and drawing some conclusions from these.

Most of the countries in which VPAs are being established are also REDD+ countries and this provides clear opportunities for lesson learning and synergies. Various analyses discuss the synergies and transferable lessons between FLEGT and REDD+ processes. These include the way in which both processes address the same drivers, can strengthen law enforcement and governance (Riesco and Opoku 2009), build technical capacity and safeguards (Proforest 2011), and share monitoring, reporting and verification requirements (FERN 2010a) and information needs (Saunders et al. 2008). Many of these synergies are also of value to wider benefit-sharing mechanism design, however in this paper we choose to focus on three specific areas: (i) the arrangement of state and non-state structures and actors to ensure independence; (ii) strengthening the role of CSOs in an independent monitoring role; and (iii) methods for multistakeholder involvement in design and implementation. These fall under the broad theme of 'architectural design' and the 'arrangement of state and non-state actors'. All aspects are related to the overall question of how to ensure credibility from international to sub-national arenas in the process of design, decision making and implementation of benefit-sharing mechanisms.

2.1 Lessons on the arrangement of state and non-state structures and actors in benefit-sharing mechanism design

Whatever the form of benefit sharing, decisions need to be made about institutional architecture, the type of actors responsible and how they should be organized. How to design these aspects in a way that ensures international credibility is a recurrent question. Some of the suggested mechanisms for fund transfer (e.g. UNREDD 2010; Kelley et al. 2012) include regular government budgets, targeted funds (where funds are disbursed from a separate structure thus allowing separation of REDD+ funds) or decentralized mechanisms (where sub-national actors can directly access funds). Whatever the transfer mechanism, a number of additional structures will be required, such as those for monitoring, oversight and conflict resolution.

A key aspect of the REDD+ benefit-sharing debate, therefore, concerns the use of existing established structures versus new mechanisms for the disbursement of funds or benefits (and for the associated auditing). A reported advantage of using existing budget systems is that it could foster increased government ownership (Koeberle and Stavreski 2006). Pham et al. (2013) suggest that the use of existing institutional arrangements for benefit sharing helps minimize transaction costs. In addition, off-budget mechanisms may suffer problems with accountability as they lie outside regular budgeting and auditing processes (UNREDD 2010), and some suggest that climate finance mechanisms can benefit from being subject to the functional internal audit institutions of the

state (Tänzler and Maulidia 2013). However, when revenues are managed through existing budgetary structure, there is a risk that monitoring is only nominally independent (Kelley et al. 2012). Furthermore, where trust in existing institutions is low or capacity is weak, there can be advantages in developing structures designed specifically for the purpose of REDD+ benefit sharing. This debate was central in the discussion around the design of such REDD+ benefit-sharing systems as FREDDI in Indonesia, the REDD+ Trust Fund in Vietnam (Khatri et al. 2010) and a proposal for a national fund for REDD+ in the Democratic Republic of the Congo (Aquino and Guay 2013).

Thus a basic question in REDD+ benefit sharing is the degree to which benefit-sharing mechanisms should be designed as internal to the government system or with more hybrid structures. This question is related not only to the form and location of structures but also to the balance between state, private sector, civil society and community actors. Actor-related questions include who should manage the funds, who should distribute them and who should benefit from carbon and socio-environmental outcomes.

The timber legality assurance system (TLAS), which made up of a legality definition, a wood-tracking system and monitoring and verification procedures, is the core component of the VPA, which tracks, monitors and verifies the legality of timber. In some countries, existing timber tracking systems do not have independent checks and this can lead to them not being accepted internationally (Othman et al. 2012). The TLAS explicitly aims to overcome this by enhancing independence not only in its architecture but also in the choice and arrangement of actors. A key principle that enhances credibility in most VPAs is that of independence. One way in which this is achieved is through separation of mandate – ensuring that accreditation, standard setting, monitoring and validation, and verification are held by different entities (EC 2007). The TLAS also has various requirements for external independent auditing and monitoring that enhance credibility. These elements include joint implementation committees, which oversee VPA

strategy and actions; independent periodic audits³ and impact monitoring that steers the process and provides correction monitoring. In addition ‘independent monitors’ may provide information to the independent auditor, monitor the VPA and government regulations, and raise objections on non-compliance. This function includes informal independent civil society-led monitoring, which we discuss later in this paper.

There are two main types of TLAS. Comparing these designs provides us with some insights for the design of REDD+ benefit-sharing mechanisms around the relative roles and constellations of state and non-state structures and actors and the way that credibility can be enhanced both through architecture and the nature of the actors involved. The more common ‘national-based’ system (as in Cameroon, the Central African Republic, Ghana, Liberia and the Republic of the Congo) uses government authorities for licensing and verification to check evidence of legal origin for each timber shipment through a traceability control system that monitors timber from forest to export. Ghana has the direct involvement of government agents for legality verification in the field (EU FLEGT Facility 2015). The Timber Industry Development Division of the Forestry Commission acts as the licensing authority (EU FLEGT Facility 2015) and the internal audit function of the TLAS is carried out by the Timber Validation Department (also within the Forestry Commission), which is responsible for the verification and validation of all FLEGT licenses (ClientEarth 2013). In addition, the Timber Validation Committee has been created as an oversight body to review FLEGT license applications issued and to conduct inspections and investigations and deal with complaints.

In contrast to the centralized system of Ghana, Indonesia has an ‘operator-based’ licensing system. Here, instead of depending on the government to play the main role in implementation, the TLAS (the Sistem Verifikasi Legalitas Kayu [SVLK]) is outsourced to independent private verification

3 The VPAs with Cameroon, the Central African Republic, Liberia and the Republic of the Congo call it ‘independent audit’ (Brack and Léger 2013). The Ghana VPA uses the terms ‘independent monitor’ and ‘third party monitor’ in different places, both to refer to the independent auditor (Duffield and Ozinga 2014). In the case of Indonesia, the function is known as ‘periodic evaluation’.

bodies, called conformity assessment bodies, which are accredited by the national accreditation body (Komite Akreditasi Nasional [KAN]) and appointed by the Ministry of Forestry to verify and assess the TLAS (Brack and Léger 2013).

In the SVLK, all operators within the supply chain, from forest to point of export, are independently audited to ensure compliance with the TLAS. A legality license is only issued at the point of export if all operators in the supply chain are verified as compliant. Thus it is the operator that is verified rather than the product itself. Civil society has been formally integrated into the system through an independent observer role. The SVLK has been legalized through Ministry of Forestry decrees and has become mandatory for all timber production. The SVLK is thus seen as a hybrid approach, combining market-based timber certification with a state-imposed legality framework.

These differences in the arrangements raise two issues that are of relevance to the design of REDD+ benefit sharing:

1. the ways in which independence is enhanced or reduced by the nature of the actors involved;
2. whether the creation of parallel structures and the introduction of new actors (such as the certification type approach we see in the operator-based TLAS) help to overcome existing deficiencies and thus enhance efficiency or act to undermine the capacity of existing institutions.

As discussed earlier, one of the main questions in the design of REDD+ benefit sharing is that of who should be involved in the benefit transfer and the monitoring of that, and how that decision can affect independence. Some observers (e.g. Brown and Tucker 2006) have argued that independence is not necessarily related to the type of actors involved (i.e. non-governmental organization (NGO), private sector, etc.) but rather to their architectural arrangements and the presence of checks and balances. Brown and Tucker (2006) suggest that independent auditors “may be inadequate in contexts where political decision-making is highly politicized or commercial pressures present an overwhelming constraint”. Brown et al. (2008) suggest the value of developing checks and balances that work with the existing system of government and public accountability. Examples of this architectural arrangement for

independence include Ecuador’s (former) outsourced monitoring system, where the monitoring function was shared among NGOs, government and industry; Costa Rica, where a mixture of state, state–private and independent agents are used in the control and verification of the forestry sector; and peninsular Malaysia, where a series of checks and balances between various public sector and external audits is used (Brown et al. 2008). Thus it is not the entity itself that guarantees independence and credibility but rather the architecture, which requires a separation of functions, which can happen in a number of ways, inside and outside the state.

Referring back to the way in which the nature of the actors involved can affect the credibility of the mechanism, it is interesting to note that under the SVLK, the Indonesian Ministry of Forestry is not directly involved in either accreditation or auditing of legal compliance, and has no authority to sign off on legal compliance (Luttrell et al. 2011). On the one hand the ministry’s distance from verification can have the advantage of increasing system credibility; observers such as Cashore et al. (2010) suggest that this design is one way of bypassing potential corruption or uncertainties about implementation. On the other hand, some have expressed unease over the danger of private sector actors taking over an excessive amount of the state’s role in auditing and verification, thus placing it outside routine democratic and public oversight mechanisms, such as state audits.

Some concern has been raised in the benefit-sharing debate, as elsewhere (Driscoll and Evans 2005), over the negative impact on government capacity of the introduction of additional systems. The role of the government in benefit-sharing systems could potentially range from a minimal role in terms of involvement in regulation (as in the case of ‘operator-based’ systems such as the SVLK) to one where it uses more fully its capacity and existing systems, such as the ‘national-based’ systems where the TLAS builds on existing monitoring, reporting and verification mechanisms. In terms of effectiveness, it can be argued that the ‘outsourcing model’ associated with operator-based systems directs efforts and resources away from strengthening existing government systems and does not help to encourage systematic reforms (Luttrell et al. 2011). This is in contrast to the potential advantages of it being an efficient approach given the capacity constraints within some state institutions (Kelley et al. 2012).

Related to the discussion on architectural design and actor constellation, and of particular concern from an equity and efficiency perspective, is the cost of different designs. As of 2013, no TLAS was operating in any VPA country (Brack and Léger 2013) and as of 2014, all VPA countries had failed to meet their initial deadlines for producing FLEGT legality certificates (Carodenuto and Cerutti 2014). One reason for this has been the lack of a match between system design requirements and the capacity and financial resources available. For example, in Indonesia there are very few qualified SVLK certification auditors relative to the number of timber producers (Obidzinski 2013). Another barrier to implementation has been the cost, particularly to small-scale operators, who in many VPA countries make up a large proportion of the producers. Exclusion of small producers from the VPA process can arise from a number of factors, including high costs of entry and adherence to standards and systems (McDermott 2013, Obidzinski et al. 2014a). For example, one community group in Central Java has failed to renew its verification certificate due to lack of funds (Obidzinski et al. 2014b). The cost of SVLK certification is IDR 50–80 million (USD 4,100–6,560) and is valid for 10 years (Nurrochmat et al. 2014). The cost for surveillance (re-auditing) is about IDR 10 million biennially (Ministry of Forestry 2012; Putri 2013). However, these estimates do not include the costs of preparation prior to SVLK certification, such as completing legal documents for land ownership, registration of farmer groups, administering documents and transportation, or the costs of capacity building and maintenance (Nurrochmat et al. 2014).

2.2 Strengthening the role of civil society in monitoring

A key question in the REDD+ benefit-sharing debate is who will monitor and verify the disbursements of carbon payments and benefits (Khatri et al. 2010). Suggestions of best practice in REDD+ have included the enlisting of civil society to help reinforce independent monitoring principles and thus improve accountability and transparency (Kelley et al. 2012). Civil society monitoring is seen as a cost-effective method that can increase commitment and confidence in the system, as well as a sense of equity (UNREDD 2010).

One form of civil society involvement in the VPA process is through informal independent monitoring. All VPAs mention that independent auditors should gather information from civil society organizations even when civil society does not have a formal monitoring role. One lesson for REDD+ benefit sharing is the way in which civil society monitors play a key role in creating oversight and ensuring credibility (Brack and Léger 2013).

Civil society independent monitoring of the VPAs has taken a variety of forms (see Box 1). As of 2013, a formal role had been established in four countries (Brack and Léger 2013). For example, in Indonesia a national network of civil society groups, Jaringan Pemantau Independen Kehutanan (JPIK), monitors the processes of accreditation, audit and implementation of regulations. In Cameroon and Liberia informal civil society-led independent monitoring is being piloted. There are a number of lessons from the experiences of CSOs in independent monitoring of VPAs that are relevant for the inclusion of civil society in REDD+ benefit-sharing mechanism implementation. These include the need for (i) a degree of formal recognition of the role; (ii) an established complaints system; and (iii) mechanisms to ensure access to information.

In the experience of the VPAs, the relationship between the independent monitor and the authorities is significant: official status may give the monitor better access and increase the impact of its reports. Lessons from this experience stress the importance of mechanisms for overcoming the unequal power relations and associated risk that civil society VPA monitors may face. Brack and Léger (2013) conclude that the degree of official recognition of civil society monitors is poor and that many are “restricted in their access to forest locations and official information”. In both Cameroon and Liberia, there is a debate as to whether the role needs formal recognition, including having the authority to enter concessions. The Anti Forest-mafia Coalition (2014) suggests that independent monitoring in Indonesia has not been effective partly because civil society involvement and access to the audit process and data was too restricted. Thus Brack and Léger (2013) are of the view that “enhancing and formalizing NGO involvement in official monitoring and verification processes... would give them and their findings increased legitimacy

Box 1. A selection of details on civil society monitoring of voluntary partnership agreements

In **Cameroon**, non-governmental organizations (NGOs) did not request civil society independent monitoring to be recognized in the voluntary partnership agreement (VPA) because of the risk of loss of independence. It is however recognized as a source of information for the independent auditor and is represented on the Comité National de Suivi (National Monitoring Committee). NGOs carry out their own monitoring operations (Brack and Léger 2013).

The **Central African Republic** VPA contains several references to civil society independent monitoring but acknowledges the lack of capacity. An NGO platform is developing a strategy for independent monitoring and a memorandum of understanding with the government to give it a permanent mandate. In addition, a network of independent 'self-mandated' NGO monitors is planned. Some independent monitoring is already under way (Brack and Léger 2013).

The **Republic of the Congo** has had experience with independent monitoring carried out by national NGOs (accompanied by an international NGO) and these objectives are recognized in the VPA. Capacity building efforts are underway for 'self-mandated' monitoring by civil society with no formal link to the VPA (Brack and Léger 2013).

In **Ghana**, the VPA contains no mention of a formal role for civil society independent monitoring and NGOs did not request it. Civil society is represented on the Joint Monitoring and Review Mechanism (the joint implementation committee) and the Multistakeholder Implementation Committee (Brack and Léger 2013).

In **Liberia**, some NGOs argued for the inclusion of civil society independent monitoring in the VPA, but others were concerned about the risk to their independence. The VPA contains several references to civil society as having a role in monitoring, in consultation with stakeholders (including through a national multistakeholder monitoring committee), and as a source of information for the independent auditor and joint implementation committee. NGOs have agreed a proposal to the government for protocols for civil society independent monitoring, and are developing monitoring activities (Brack and Léger 2013). A key issue preventing civil society from fulfilling their monitoring role is lack of transparency and flow of information (Duffield and Richards 2013).

In **Indonesia**, the SVLK emphasizes the role of civil society 'monitoring', which allows the public to submit objections when irregularities are found in the accreditation, assessment or licensing processes. This includes monitoring the activities of the national accreditation body, Komite Akreditasi Nasional (KAN), activities of the independent auditor (periodic evaluation) and implementation of regulations. The civil society network, Jaringan Pemantau Independen Kehutanan (JPIK, or Independent Forest Monitoring Network) was established in 2010 and had 64 NGO and 318 individual members by August 2014 (EIA 2014). Regional monitoring networks have been established in most regions, to facilitate information-sharing. JPIK does not possess formal status with the Indonesian government, but the role of NGOs is recognized in the VPA.

and credibility with governments, leading to more cooperation and a better response to critical reports; and governments would be reassured by a clearer and more predictable definition of NGOs' roles". However, in many of the VPA countries, CSOs fear cooption by state agencies and the loss of independence that might result (see Box 1). One alternative solution, therefore, is the development of memorandums of understanding with the government, rather than formal recognition in the VPA. Another possibility may be to establish both

a formally recognized, 'mandated' monitor, and a non-recognized 'self-mandated' monitor (Brack and Léger 2013) (see the Central African Republic example in Box 1).

Other lessons include the need to establish a clear area of responsibility for the independent monitor – whether as a narrow focus on the TLAS and the independent audit system or a wider focus on the implementation and impacts of the VPA as a whole (Brown et al. 2008; Duffield and Ozinga

2014). In addition, there needs to be clarity over the nature of the reporting relationship and the routes through which the monitors' reports can be submitted and acted upon (Brack and Léger 2013).

Another key lesson from the experience of VPAs is the need to set up complaints mechanisms as an inherent part of any monitoring and auditing process. These can help to ensure the credibility of the system by allowing stakeholders to raise concerns both of the auditing and of the wider VPA process. All VPAs make reference to dispute and conflict resolution mechanisms concerning system failures and propose corrective actions (see Box 2 on the Indonesian VPA complaints mechanism). VPAs specify that any complaints arising from the work of the independent auditor should be referred to the joint implementation committee or the body that oversees the implementation of the agreement. However, experience of implementation shows a clear need for follow-up mechanisms to the complaints, as well as the need to enhance the accessibility of the mechanism. Some countries, such as Ghana and Indonesia, have explored the use of web-based tools or websites to both host information and facilitate procedures for complaints or positive comments to be submitted. A key challenge lies in the ability to provide feedback and responses to complaints, including determining whose role and responsibility it is to do so and a timescale as

to when action on complaints or feedback will be undertaken (see for example the experience from Indonesia in Minangsari and Sari (2014)).

Functioning monitoring systems and complaints mechanisms rely on transparent access to information. Brack and Léger (2013) suggest that if provisions for access to information and to consultation with stakeholders operate effectively, there is less of a need for a formal recognition of civil society independent monitoring. All but the first signed VPA between Ghana and the EU have a transparency annex, although it is not a strict requirement. This provision is seen to be essential to enable third-party monitoring and independent reporting and verification of systems and policies by CSOs (Othman et al. 2012; Overdevest and Zeitlin 2014). Outlining what information is needed and how often it needs to be made available is key. The annexes outline which specific documents are to be made public and under which circumstances. However, the content of each annex is country specific. For instance, in Indonesia, the Freedom of Information Act (2008) stated four categories for information disclosure – information that should be published immediately; on a regular basis; upon request and available at all times; and restricted and confidential, across 74 types of data. Liberia's transparency annex refers to the Freedom Information Act (2010) and the Extractive Industries Transparency Initiative, with

Box 2. Complaints mechanism in Indonesia's timber legality assurance system

In Indonesia, complaints are intended to be handled through the publication of auditing reports and dialogue with relevant stakeholders in the audit process itself. First, the Conformity Assessment Body (CAB) releases an audit report into the public domain. A civil society organization or a member of the public can then access the report, and submit to CAB an objection concerning the legality of a certificate. To resolve objections, the CAB will establish an ad hoc team to assess whether the auditor has followed correct procedures. The resolution and improved report will be submitted to the decision maker as a basis for making a decision. A 'decision maker' is a staff member of the CAB, qualified and appointed as a decision maker for performance assessment. The CAB has 14 days to respond to the objection. If improvement is needed, the auditee is given 10 days to respond to the objection. If the CAB cannot settle the objection, civil society can request the national accreditation body, Komite Akreditasi Nasional (KAN), to adjudicate the complaint based on its complaint resolution system. If the objection is found to be valid, KAN issues a 'corrective action request' to the operator. If the operator fails to fulfil this request, its certificate will be frozen; if an auditor fails to meet accreditation standards, KAN will revoke its accreditation. If the CAB cannot settle the appeal, the auditee can request KAN to adjudicate the appeal.

Source: Luttrell et al. 2011; Duffield and Richards 2013.

two categories for information disclosure (routine publications; and on request), 61 types of data, and seven categories for dissemination.

Other related lessons include the importance of a legal framework for access to information. In Indonesia the VPA transparency provisions were helped by the issuance of Indonesia's Public Disclosure Act (2008), and in 2013, the Ministry of Forestry issued a specific regulation about direct access information related to SVLK implementation. The Cameroon case however (see Box 3) suggests that a legal framework is not always enough.

Availability of information is distinct from the accessibility of information (Luttrell 2008). A common feature across both VPA and REDD+ processes is that they are so complex and technical that the discussion tends to be limited to well-versed 'experts' and is not easy for others to engage with. Hobley and Buchy (2013) suggest the need to build the capacity of smaller groups, such as forest dependent people and small producers,

so they can understand the complexity of the issues and feed their needs into the discussions. The Ghanaian experience with the licensing scheme regulation suggests that the way in which information is to be made accessible, in particular to regional groups, should be clearly defined (ClientEarth 2013). Information should be detailed enough to allow for the meaningful involvement of civil society (ClientEarth 2013). For example, the Republic of the Congo VPA provides much detail as to what information must be published. However, it is uncertain whether the means of providing that information (through websites, annual reports and the written press) will make it widely accessible, particularly to remote groups. In addition, information needs to be publically available in a language that all users can access, with attention given to aspects such as dialect, level of technicality and the use of social media. These were concerns in the case of the Malaysian VPA consultations (Luttrell 2008).

2.3 Enhancing multistakeholder processes

Multistakeholder processes are seen as a crucial design element of benefit-sharing mechanisms in REDD+ (The Forest Dialogue 2014). There are said to be many virtues of multistakeholder processes, including their role as a structure for collaboration and technical input, as mechanisms for communication (The Forest Dialogue 2014), in supporting capacity building (Pham et al. 2013), in ensuring that a variety of perspectives are understood (see for example the Peru National Indigenous REDD+ Roundtable as discussed in Kelley et al. 2012) and in providing oversight. Multistakeholder processes are also seen as a way of improving equity in terms of participation, as well as ensuing a fair distribution of costs and benefits (Kelley et al. 2012) and that the rights of stakeholders are upheld (Chapman and Wilder 2014). Giving stakeholders the ability and power to participate meaningfully in REDD+ programs and shape their design and outcomes (Ballasteros et al. 2010) brings increased legitimacy and is important in increasing buy-in to a process (FERN 2010b; Kelley et al. 2012).

According to FERN (2013a), the multistakeholder processes associated with developing the VPA processes are "the most important aspect of the VPAs ability to improve forest governance"

Box 3. The development of a transparency mechanism in the Cameroon voluntary partnership agreement

In Cameroon the civil society platform (EC Forest Platform) pushed for transparency measures to be included in the voluntary partnership agreement (VPA) to ensure public access to forest sector information. Cameroon was the first country to include a transparency clause in its VPA. Civil society lacks confidence in the political will of government to adhere to it (Duffield and Richards 2013) but now that the VPA has been ratified into national law Cameroon's Ministry of Forestry is legally required to respond to specific demands for information in a timely manner (Carodenuto and Cerutti 2014). The Ministry of Forestry has set up a dedicated VPA website. Progress has been made but significant challenges remain as there is currently no specific law on the freedom of information that obliges public bodies to disseminate information or reply to requests for information (Centre pour l'Environnement et le Developpement 2012).

Box 4. Details on the nature of multistakeholder involvement in selected voluntary partnership agreements

In **Cameroon** the Technical Commission was the focal point of the formal participatory process, and there were other parallel processes, such as the non-governmental organization (NGO) platform. This was created by Centre pour l'Environnement et le Développement (Centre for the Environment and for Development) in 2003–2004 prior to the voluntary partnership agreement (VPA) process (FERN 2010a) and came to represent civil society in the VPA negotiations (Duffield and Richards 2013).

In **the Central African Republic** civil society regards its involvement in the VPA negotiations as insufficient. At the start of VPA negotiations civil society was only reluctantly invited to take part and was given insufficient notice to prepare for meetings (Duffield and Richards 2013). Civil society was poorly organized with weak internal communication (Bollen and Ozinga 2013) and communities were not directly involved in negotiations (Duffield and Richards 2013).

In the **Republic of the Congo** civil society organizations (CSOs) were not initially given a place on the joint implementation committee (JIC) when the implementation phase began; they had to request a place and communities were not invited to participate directly (FERN 2013). Now there is one civil society representative on the JIC and three representatives on the Technical Secretariat (LoggingOff 2010). They have used their position to stress the need to have genuine civil society and community participation in the legal reform process (FERN 2013). Civil society has also created a platform (Plateforme Congolaise pour la Gestion Durable des Forêts) (Duffield and Richards 2013) to inform the negotiations internally. The platform was instrumental in strengthening the rights of communities in the VPA (ClientEarth 2013)

In **Ghana** stakeholders are said to be proactively involved in policy development (Beeko and Arts 2010; Dooley and Ozinga 2011). A multistakeholder Steering Committee was formed to oversee preparatory work for the VPA, and to collate the views of different stakeholders and guide the in-country negotiations for the VPA (Owusu 2009). It was made up of representatives of other relevant government ministries and agencies, as well as civil society, the timber industry (large, medium and small scale), community-based organizations, local communities and traditional authorities. The VPA Steering Committee has been re-designated as the Multi-Stakeholder Implementation Committee since the signing of the agreement and is convened by the Forest Watch Ghana coalition and includes the National Forest Forum, the Domestic Lumber Traders Association (informal timber trade industry actors) and student associations. It has been instrumental in drafting provisions for stakeholder involvement in implementation.

In **Liberia**, following civil society opposition in a VPA working group, a broad-based consultation process was adopted (Duffield and Richards 2013). Liberia now has seven community representatives, as well as four civil society representatives in the VPA negotiating panel (Duffield and Richards 2013). Through the existing Community Forestry Development Committees (Comité de Développement de la Forestière Communautaire [CFDC]) communities were able to nominate and select their own representatives to take part in the negotiations and these have moved from “non-participating communities to communities that are now participating willingly in decision-making activities” (Duffield and Richards 2013).

In **Indonesia** the various technical working groups have civil society representatives who are invited to VPA Joint Experts and Senior Officials Meetings. The Indonesian NGO, Telapak has held annual national civil society consultation workshops on forest law enforcement, governance and trade issues that have allowed a range of CSOs to better understand the issues and input their concerns into the VPA negotiation processes (Duffield and Richards 2013).

In **Vietnam** stakeholder mapping exercises have been used to help ensure that relevant stakeholders are properly identified and engaged with as part of the process. However, CSOs have reported that the findings were not used to inform the development of national consultation processes as they were not supported by the Vietnamese government (Fripp et al. 2013).

(see Box 4 for details on multistakeholder processes in the selected VPA countries). A review of the impacts of VPAs on rights concluded that the main advances have been in terms of procedural rights – transparency, participation, consultation, monitoring and ‘free, prior and informed consent’ (Duffield and Richards 2013) – and a number of reports suggest that the inclusion of civil society in the legality review process has meant that a broader set of issues, including workers’ rights and other social regulations have been included (Hobley and Buchy 2013; Overdevest and Zeitlin 2013).

The design of multistakeholder processes around REDD+ benefit-sharing mechanisms can learn much from the experience of VPAs. The inclusive way in which VPAs have been negotiated (i.e. encouraging dialogue, building trust and building consensus across and among different groups of stakeholders) is said to be a key characteristic of the success of the process (Othman et al. 2012). Lessons on strengthening multistakeholder processes include the need for (i) clear roles, responsibilities and mandates of the different stakeholders involved; (ii) clarity over who should be included; (iii) acceptance that they take time; and (iv) maintenance of technical and financial support.

In terms of roles and responsibilities, one of the lessons from the VPA experience is the importance of making a distinction between those cases where the process is intended as a formal decision-making forum (such as the joint implementation committees), and those where the objective of the multistakeholder process is to provide an opportunity for dialogue and consultation (as in the case of some of the VPA-convened NGO platforms). The tension between a multistakeholder process acting as a consultation process versus a decision-making process was clearly seen in Indonesia where national and international CSOs and NGOs were heavily involved in the first draft of the SVLK, released in 2005. However, the 2008 draft released by the Ministry of Forestry disregarded many of civil society’s concerns (Brown et al. 2008; van Heeswijk and Turnhout 2012) and was rejected by NGOs. Subsequently the SVLK Regulations were released in 2011 and 2012 following an extensive consultation process in which many of social provisions were put back in (Duffield and Richards 2013).

Where the intention is for the multistakeholder process to play a decision-making role, practical lessons include the need for:

- a clear legal mandate for decision-making and implementation of those decisions;
- clarity over whether the nature of the issue allows a pluralistic body to make legitimate decisions and to bring closure;
- sufficient institutional or political support to implement the decisions made.

The experience from the VPAs stresses the need for clarity over who should be included and how they should be selected. Without this clarity, decisions related to the process lack legitimacy. For example, both the Republic of the Congo and Ghana VPAs include provisions on the involvement of stakeholders in implementation, but they do not clearly state how this is to be set up in practice, what level of engagement is envisaged or what methodology is to be used (ClientEarth 2013). The Ghana VPA text in particular does not address rules to avoid conflict of interests and the election of members (ClientEarth 2013). Experience from the Cameroon VPA process suggests attention should be given to the issues of representation, mandate and how members are chosen. Wodschow and Nathan (2012) note the way in which public authorities decided who should participate, which resulted in the exclusion of important local communities and indigenous peoples from the negotiations because it was assumed they would be represented by NGOs. After protests other representatives were allowed to join (Overdevest and Zeitlin 2013). In Guyana, the consultation that took place was not seen to be inclusive. A key concern was the exclusion of indigenous Amerindians and people linked with opposition political parties (FERN 2013).

The design of a multistakeholder process requires realism about the time required. This was said to be a concern in the early days of Ghana’s VPA-related Multistakeholder Platform where deadlines were said to have been set by external and international policy requirements and not by the platform itself (Beeko 2008). There are significant differences in the amount of time partner countries take in establishing systems and developing VPA legality definitions. For example, in Indonesia, the VPA process has been ongoing for many years, with engagement, sharing information

and discussions on the legality definition lasting 10 years. In Guyana, the entire process has been carried out more quickly, with a government-led 3-year roadmap proposed, and a first draft legality definition presented just 3 months after the first negotiation session, compared to 5 years in Indonesia. However, in the case of Guyana the speed of dialogue did not necessarily result in a more satisfactory output: for example, in 2013 the Amerindian Peoples Association (2013) raised concern that the consultations were too rushed and used very technical language.

Although time consuming (the SVLK was adopted after more than 7 years of consultation), the process in Indonesia eventually led to consensus. However, opening up a process to multistakeholder involvement inevitably leads to a broadening of the remit. In Indonesia, civil society took the opportunity to push for forest sector reforms by requesting revisions of regulations, improvements in transparency and consultative decision-making, and the development of a broad timber legality standard (Telapak 2007). As a result, the multistakeholder process progressed slowly. It was further slowed as many of the stakeholders were not happy with the process or felt their concerns were not being accommodated; such disagreements at times threatened to undermine the standards' legitimacy and its practicality.

The process of the VPA in the Republic of the Congo also highlights the need to set realistic timelines and plan for law reforms, at the negotiation stage. The slippage in the timetabling

of the VPA made it difficult for CSOs to maintain their involvement and organize their contribution (ClientEarth 2013). Stakeholder consultation can delay crucial developments and raise expectations; however, the trade-offs in omitting such processes are lower credibility, ownership and oversight (Luttrell 2008). Key challenges will be to strike a balance between the time and costs of a REDD+ multistakeholder process and to demonstrate tangible results.

Different multistakeholder input takes place at various stages of a policy process: planning and design of a system, decision-making and implementation (Hobley and Buchy 2013). A common concern emerging from a number of VPA processes is how to ensure the participation of civil society in the implementation phase (ClientEarth 2013), particularly in situations when donor support is reduced for the negotiation phase. In Indonesia, the "biggest challenge that had to be overcome was not creating the space [of the process], but maintaining it" (Mardi Minangsari, Telapak in Sanmiguel [2013]). Many VPAs have been criticized for under-investment in the technical and financial resources needed for community participation despite a formal emphasis on multistakeholder processes. To participate directly in any part of this process and to be able to secure their own interests, local groups (communities and indigenous people) require support, and in some cases, such as the Republic of the Congo when this was not provided, this undermined the viability of multistakeholder involvement (FERN 2010b).

3 Conclusion

The design of REDD+ benefit-sharing mechanisms can be informed by the experience of VPAs in a number of ways. This paper discusses the ways in which VPAs have strived to ensure credibility by enhancing independence through an arrangement of state and non-state structures and actors, strengthening the role of CSOs in independent monitoring and placing a heavy emphasis on multistakeholder involvement in design and implementation.

The VPA experience highlights the trade-off between cost efficiency and capacity building of using existing (often state) institutions and actors versus the potential enhanced effectiveness and independence that may be provided by new and/or non-state institutions and actors. The use of multistakeholder processes and civil society monitors provides credibility through enhancing accountability and transparency and increasing commitment and confidence in the system. There are a number of ways in which these features can be strengthened. In terms of CSO involvement in monitoring, lessons include the need for a degree of formal recognition of their role, an established complaints mechanism and mechanisms to ensure access to information. VPAs provide a number of

specific lessons on how to design multistakeholder processes, which include the need for clear roles, responsibilities and mandates of the different stakeholders involved; clarity over who should be included; acceptance that such processes take time; and maintenance of technical and financial support.

Most of the countries in which VPAs are being established are also REDD+ countries. The temporal and sectoral proximity of the VPA process and REDD+ in particular presents clear and immediate opportunities for synergy. In addition, as Hoogeveen and Verkooijen (2010) point out, failure to learn across these processes raises the risk of “unnecessary redundancies and competition”. However, in many countries, both REDD+ and FLEGT processes have been supported by different donors and coordinated by different ministries or agencies. Because of these institutional features, as well as the different interest groups and coalitions that develop around the mechanisms (Brockhaus and DeGregorio 2014), building on synergies remains a challenge and is an opportunity that is in danger of being ignored. The design of benefit-sharing mechanisms could be enhanced by attempting to address this from the outset.

4 References

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The experience of FLEGT Voluntary Partnership Agreements offer several lessons on how to design benefit-sharing mechanisms under REDD+ so that they build credibility and trust among the potential recipients of REDD+ benefits. This paper focuses on lessons for three specific design aspects of REDD+ benefit-sharing mechanisms: (i) the balance between state and non-state actors in the architecture of benefit-sharing mechanism institutions; (ii) the role of civil society organizations (CSOs) in monitoring; and (iii) the design of multistakeholder processes. The choice and arrangement of institutions and actors is crucial for credibility: independence can be enhanced or reduced by the architecture of check and balance mechanisms and the type of actors involved. Lessons from VPAs also highlight the trade-off between the cost efficiency and capacity building gains of using existing (often state) institutions and actors versus the potential increased effectiveness and independence that may be provided by new and/or non-state institutions and actors. The use of civil society monitors and multistakeholder processes can provide credibility through enhancing accountability and transparency as well as increasing commitment and confidence in the system. The impact of civil society monitoring can be enhanced by formal recognition of its role, establishing complaints mechanisms and formalizing access to information. Multistakeholder processes can be strengthened by clarifying roles, responsibilities and decision-making mandates of the process; clarifying who should be included; accepting that such processes take time; and maintaining technical and financial support.



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