



Exploring credibility gaps in  
Voluntary Partnership Agreements













**A review of independent  
monitoring initiatives  
and lessons to learn**

September 2013

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This material has been funded by UKaid from the Department for International Development; however the views expressed do not necessarily reflect the department's official policies.



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## Executive summary

Independent forest monitoring (IFM) has been a feature of international efforts to improve forest governance and reduce illegal logging since the 1990s. This study considers the role of independent monitoring, involving civil society, in the context of the voluntary partnership agreements (VPAs) now taking shape between the European Union (EU) and timber-producing developing countries under the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan.

The study was commissioned by many of the civil society groups undertaking these initiatives, and summarises their progress to date and the challenges they face in the six VPA countries: Cameroon, Central African Republic, Ghana, Liberia, Indonesia, and the Republic of Congo. It also briefly examines the Democratic Republic of Congo and Gabon (where the VPA is still under negotiation but forms of civil society-led IFM are being funded and undertaken), and independent monitoring initiatives in other sectors. It provides the following key insights for those designing, funding, supporting and implementing IFM by local civil society groups and communities.

### Key insights

- To succeed, VPAs need to be seen to be making a credible contribution to governance reforms, capacity building, and reducing the consumption in the EU of illegally harvested timber, as emphasised in the original FLEGT Action Plan.
- IFM has been practiced in a handful of countries, including some of those studied, for a decade or so. It has aimed to improve credibility in the forest sector, through increased transparency and independent identification of systemic failures in forest governance. It is evidence-based, observes set protocols and provides a continuous, investigatory function in support of official law enforcement.
- IFM is notably different from the Independent Audit function included in every VPA, and is seen by many as an important additional component in the successful implementation of each agreement. *Funding of such initiatives needs to continue, but more rigour in functions, status, and outputs is required.*
- Civil society-led IFM needs to be context-specific, and already takes different forms in different countries. Key factors include the pre-existence of IFM (and its role during the negotiation process); the understanding and positioning of local civil society (and thus the degree of involvement in officially recognised monitoring activities different groups wish to have); and scale (there are fewer than half a dozen groups in Cameroon or Liberia, and over 40 in Indonesia). *IFM organisations need to further develop the exchange of ideas, strategies and experiences to strengthen understanding and effectiveness.*
- The degree of official recognition of civil society monitors is poorly developed or understood, and this is perhaps reflected in the varying degrees to which the function is incorporated into the VPA texts. Many current implementers are restricted in their access to forest locations and official information, but fear co-optation by state agencies if this is mediated through the kind of contract previous IFM functions have had. *More work is needed to support Memorandums of Understanding or similar arrangements between IFM organisations and state authorities.*
- The question of what to monitor (and by whom) is frequently raised but inadequately answered. It is proposed that the starting point should be that monitoring tests whether forest allocation and management are carried out according to a country's forest policy and law, and/or the principles of sustainable development, and are not subverted by corruption, poor law enforcement or a lack of political will. In other words, monitoring need not be specific to the VPA or its legality assurance system (LAS), nor as broad as occasional impact assessments.

## Report structure

**Section 2** examines the evolution of IFM – defined by Global Witness in 2005 as ‘the use of an independent third party that, by agreement with state authorities, provides an assessment of legal compliance, and observation of and guidance on official forest law enforcement systems’. It provides an overview of IFM experiences so far, and draws lessons from them for independent monitoring in the context of VPAs.

Important elements in the design of IFM projects include stakeholder participation, a broad mandate, access to operational locations and to documentation, the use of providers with a proven track record, minimum standards to uphold the quality of the monitoring, the establishment of a reporting panel and the existence of long-term funding. Important elements in implementation include political will and a working relationship with the host institution, the need for a system to monitor, the attitude of enforcement agencies, fieldwork and joint missions, the need for reports to be professional and objective, effective follow-up of missions and integration into the forest management structure.

**Section 3** provides an introduction to independent monitoring in the VPAs. The FLEGT Action Plan recognised from the start the importance of independent monitoring. It gradually developed the principles of what became known as ‘independent auditing’, with the purpose of checking the LAS of the VPAs – rather than, for example, investigating instances of forest crime, as many IFM projects have done.

**Section 4** looks at independent auditing provisions in the VPAs (the Ghana VPA calls this function ‘independent monitoring’, while the Indonesia VPA splits the functions in two: ‘periodic evaluation’ and ‘independent market monitoring’.) The study surveys the terms of reference of the independent audit functions in the six VPAs agreed so far; Annex 1 lists the relevant articles and annexes of the VPAs.

**Section 5** analyses any additional provisions for civil society-led independent monitoring in each of the VPAs (summarised in Annex 2) and also in two countries currently negotiating VPAs. A number of elements common to all VPAs are significant for any system of independent monitoring: they include the provisions for access to information, for consultation with stakeholders, and an inclusive structure in the institutions established to oversee implementation and consider complaints.

- **Cameroon’s** long experience of IFM is recognised, although briefly, in its VPA. Non-governmental organisations (NGOs) did not argue for civil society independent monitoring, separate from the IFM, to be recognised in the VPA, because of the risk of loss of independence. There are, accordingly, few mentions of civil society in the VPA, but it is recognised as a source of information for the independent auditor and is represented on the Comité National de Suivi (National Monitoring Committee). NGOs are continuing to carry out their own monitoring operations, and have called for a stronger and more formal role for civil society independent monitoring in the forest legislation being revised as a consequence of the VPA.
- The **Central African Republic** VPA contains several references to civil society independent monitoring, while recognising the current lack of capacity. An NGO platform is developing a strategy for independent monitoring, and envisages a memorandum of understanding with the government to give the independent monitor a permanent mandate. In addition to this formally recognised monitor, a network of independent ‘self-mandated’ NGO monitors is intended to be set up. Some independent monitoring is already under way.
- The **Republic of Congo** has also had experience with an IFM function, and its role, structure (one or more national NGOs accompanied by an international NGO experienced in independent monitoring) and objectives are clearly recognised in the VPA. In addition, NGOs see a role for ‘self-mandated’ monitoring by civil society, with no formal link to the government or the VPA, and capacity building efforts are under way.
- In **Ghana**, NGOs did not argue for any formal role for civil society independent monitoring in the VPA, and the VPA contains no mention of it. However, NGOs were instrumental in helping to draft the provisions for stakeholder involvement in implementation, and are represented on the Joint Monitoring and Review Mechanism (JMIRM, the equivalent of the Joint Implementation Committee in other VPAs) and the multi-stakeholder implementation committee. NGOs are active in tracking several aspects of the VPA, but not under any formalised terms.
- The LAS in the **Indonesia** VPA is operator-based, in a similar way to forest certification. Civil society is clearly recognised as having a role in monitoring the system and feeding in to the periodic evaluation (independent audit) process; the annexes to the VPA set out the routes through which civil society can lodge objections. Jaringan Pemantau Independen Kehutanan (JPIK, the Independent

Forest Monitoring Network) has been established as a network of NGOs monitoring the system and to facilitate information-sharing from the national to the provincial and district levels.

- In **Liberia**, some NGOs argued for the inclusion of independent monitoring in the VPA, but others were concerned about the risk to independence. The VPA contains several references to civil society: in having a role in monitoring, in consultation with stakeholders (including through a national multi-stakeholder 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.

An IFM project has also operated in **Democratic Republic of Congo**, where VPA negotiations are underway; this is now being transferred to local or sub-regional (Congo Basin) organisations and has helped to define and test systems that will be usable in the context of the VPA. In **Gabon**, an NGO project to adapt a wildlife law enforcement model to illegal timber is proving effective, and could help implement the VPA.

**Section 6** draws lessons for the future development of independent monitoring from other comparable sectors. An analysis of the experience of civil society independent monitoring in arms agreements suggests that the following elements are key: a stable financial base; access to government data and resources; mechanisms to ensure the objectivity and reliability of NGO monitoring; access to state territory and activities; and enhancing and formalising NGO involvement in official monitoring and verification processes.

**Section 7** raises issues for debate in the development of civil society independent monitoring. It identifies four situations in VPA countries: independent audit, present in all VPAs; recognition for a role for a pre-existing IFM; independent monitoring by civil society, with some degree of recognition in the VPA; and no mention of independent monitoring in the VPA. The six VPAs agreed so far provide a spectrum of situations in which civil society has a role in monitoring, but the formal status and recognition of the role varies.

NGOs conducting monitoring need to decide what to monitor: the LAS and the independent audit system; the implementation and impacts of the VPA as a whole; and/or broader aspects of forest policy not covered by the VPA. The relationship between the independent monitor and the authorities is a key question: official status may give the monitor better access and increase the impact of its reports, but it can risk a loss of independence, perceived or real. One solution may be a memorandum of understanding with the government, rather than formal recognition in the VPA; another possibility may be to establish both a formally recognised, ‘mandated’ monitor, *and* a non-recognised ‘self-mandated’ monitor. The routes through which the monitor’s reports can be submitted and acted upon are also important.

Key elements in an effective system of independent monitoring in the context of a VPA include: a broad mandate; a primarily investigatory approach; a strong relationship with local communities; recognised routes of input to and active engagement with the VPA’s institutions and dispute-resolution bodies; freedom to disclose information outside the VPA’s structures; appointment through a transparent process; involvement of international NGOs alongside local NGOs, at least for a period; frequent communication with monitors in other countries; regular reports of activities; minimum standards for monitoring processes and procedures; long-term and adequate funding; and political will on the part of the partner country and the EU to enforce compliance with the VPA.

**Section 8** concludes by stressing the value of civil society independent monitoring in the implementation of VPAs; the VPAs’ systems, including independent audit, may not be adequate by themselves to guarantee confidence that the VPAs are making a credible contribution to governance reforms, capacity building, and reducing consumption in the EU of illegally harvested timber, as emphasised in the FLEGT Action Plan. This is why almost every VPA agreed so far contains some references to the potential for independent monitoring by civil society. The precise structure that emerges in each country will vary and change over time. But the overall conclusion is clear: effective independent monitoring will be essential to the credibility of VPAs and the timber products they license as legal.

## List of acronyms

ALEFI	Appui à la Lutte contre l'Exploitation Forestière Illégale (Gabon)
CAGDF	Cercle d'Appui à la Gestion Durable des Forêts (Republic of Congo)
CAR	Central African Republic
CED	Centre pour l'Environnement et le Développement (Cameroon)
CEW	Cameroon Environmental Watch
CIEDD	Centre pour l'Information Environnementale et le Développement Durable (CAR)
CITES	Convention on International Trade in Endangered Species
CODELT	Conseil pour la Défense Environnementale par la Légalité et la Traçabilité (DRC)
CONADEH	Comisionado Nacional de los Derechos Humanos (Honduras)
DRC	Democratic Republic of Congo
EITI	Extractive Industries Transparency Initiative
EU	European Union
FAO	Food and Agriculture Organisation
FLAG	Field Legality Advisory Group
FLEGT	Forest Law Enforcement, Governance and Trade
FODER	Forêt et Développement Rural (Cameroon)
IA	independent audit / independent auditor
IFM	independent forest monitoring / independent forest monitor
IM	independent monitoring / independent monitor
IM-FLEG	independent monitoring – forest law enforcement and governance
IO	independent observation / independent observer
JIC	Joint Implementation Committee
JMC	Joint Monitoring Committee (a sub-group of the JIC in Cameroon)
JMRM	Joint Monitoring and Review Mechanism (the JIC in Ghana)
JPIK	Jaringan Pemantau Independen Kehutanan / Independent Forest Monitoring Network (Indonesia)
KAN	Komite Akreditasi Nasional, national accreditation body (Indonesia)
LAGA	Last Great Ape Organisation (Cameroon)
LAS / LVS	legality assurance / verification system(s)
NGO	non-governmental organisation
NMSC	National Multi-stakeholder Monitoring Committee (Liberia)
OECD	Organisation for Economic Cooperation and Development
OGF	Observatoire de la Gouvernance Forestière
OI	Observateur indépendant
RECA	Rural Environmental Care Association (Ghana)
REDD	reducing emissions from deforestation and forest degradation
REM	Resource Extraction Monitoring
RRN	Réseau Ressources Naturelles (DRC)
SDI	Sustainable Development Institute (Liberia)
TLAS	timber legality assurance system (the LAS in Indonesia)
VERTIC	Verification Research, Training and Information Centre
VPA	voluntary partnership agreement

# 1 Introduction

Independent forest monitoring (IFM), sometimes called independent observation (IO), has been a feature of international efforts to improve forest governance and reduce illegal logging since the 1990s. Defined by Global Witness as ‘the use of an independent third party that, by agreement with state authorities, provides an assessment of legal compliance, and observation of and guidance on official forest law enforcement systems’,<sup>1</sup> different IFM systems have been implemented, and contemplated, in different countries at different times. Their core principle is to ensure that whatever they are monitoring – the allocation of concessions, a process of forest law reform, a legality assurance system (LAS), the state of forest governance across an entire country – is carried out according to a country’s forest policy and law, and/or the principles of sustainable development, and is not subverted by corruption, poor law enforcement or a lack of political will.

Similar principles are incorporated in the voluntary partnership agreements (VPAs) between the EU and timber-producing countries. As the VPAs are slowly implemented, and as more countries enter into VPA negotiations, different forms of monitoring associated with the agreements are beginning to take shape:

- A formal system for monitoring the operation of the LAS – usually (though not always) known as **independent audit** – is enshrined in each VPA. Terms of reference are included in VPA texts, and invitations to tender are becoming available; the Cameroon auditor is starting to operate.
- **Independent forest monitoring (IFM)**. IFM or IM-FLEG (Forest Law Enforcement and Governance) or independent observation (IO, the acronym often used in Francophone countries, or OI in French) contracts are operating, mostly in the Congo Basin (Republic of Congo and Cameroon), alongside negotiation of the VPAs, and may be incorporated into them.
- Various forms of civil society- or community-led **independent monitoring** are being piloted in Cameroon, Liberia, Central African Republic (CAR) and Indonesia, as well as being initiated in Republic of Congo, Democratic Republic of Congo (DRC) and, in a very early stage, Gabon.

This study explores the differences between these types of monitoring and looks at what lessons can be learned from experience so far. It considers the role of independent monitoring, involving local civil society, in the context of the VPAs. It also identifies measures that can be taken to help independent monitoring succeed, a topic which is of relevance beyond VPAs – for example, to any effective system for reducing emissions from deforestation and forest degradation (REDD+).

Section 2 examines the evolution of independent forest monitoring. Sections 3, 4 and 5 analyse the provisions for monitoring as they emerge in the VPAs: Section 3 provides an introduction, Section 4 looks at the independent auditing provisions and Section 5 at civil society-led independent monitoring. Section 6 draws lessons for the future development of independent monitoring from other comparable initiatives. Section 7 raises key issues for debate, and Section 8 suggests some brief conclusions.



**Monitors may face restrictions in their access to forest locations and official information.**

<sup>1</sup> Global Witness, *A Guide to Independent Forest Monitoring* (2005), p. 18, [www.globalwitness.org/sites/default/files/pdfs/Guide2IFM.pdf](http://www.globalwitness.org/sites/default/files/pdfs/Guide2IFM.pdf).



## 2 Independent forest monitoring

Many forest-rich countries experience problems with law enforcement and governance of these resources, for a wide variety of reasons. ‘While monitoring can be useful anywhere where there are trees or timber,’ concluded a Global Witness study in 2005, ‘different kinds of monitoring are appropriate in different situations.’<sup>2</sup> Where standards of governance are generally good, occasional audits and field investigations – for example of companies’ management practices or compliance with forest plans, coupled with an effective complaints mechanism – may be all that is needed to ensure adherence to the law. In contrast, where governance and law enforcement are almost entirely lacking, for example in ‘failed states’ or those wracked by conflict, the most that can be achieved may be external monitoring, that is with no relationship between the monitor and the government.

Independent forest monitoring (IFM) is most applicable in those countries which fall in between these two situations:

... where illegality is significant and political will for reform is low, but where there is some sort of system to monitor and calls for reform come from donors, citizens and officials. As the trend to good governance increases, IFM can bring a transparent and authoritative assessment of whether governance targets are actually being met.<sup>3</sup>

This paper focuses on this type of monitoring, as it is taking place or emerging in countries which have agreed VPAs with the EU, or are still negotiating them.

The first use of independent forest monitoring as a tool for improving governance – and the first use of the term – came in Cambodia where, from 1999 to 2003, Global Witness acted as the independent monitor of the activities of the key government agencies responsible for improving forest law enforcement. The position was created primarily as a result of donor pressure after mounting evidence of the extent of illegal logging, the government’s failure to prevent it, and the resulting loss of tax revenue. In 2003, Global Witness was replaced by the inspection and verification company SGS, which carried out the task in a rather different way; the contract came to an end in 2006 (see more in Section 2.2).

Other experiences of IFM include:<sup>4</sup>

- **Cameroon:** Global Witness (2000–05), Resource Extraction Monitoring (REM, 2006–09), Agreco–Cameroon Environmental Watch (CEW) (2010–present). At times, as in Cambodia, an IFM project was a condition of World Bank support for the country; the main objectives were to support the forest ministry in reporting, control and follow-up of illegal activities, assist in improving control operations and increase transparency and good governance. The terms of reference evolved over the period, becoming more detailed, but also curbing the monitor’s right to act independently.
- **Honduras:** Global Witness and Comisionado Nacional de los Derechos Humanos (CONADEH) (2005–06), CONADEH (2006–present). Unusually, the local organisation that now runs the IFM function on a permanent basis (rather than as a time-limited project) is the official National Commission for Human Rights, not an environmental non-governmental organisation (NGO). It focuses on training local people to carry out monitoring of infractions.
- **Nicaragua:** Global Witness (2006–10). Partly stimulated by the development of IFM in Honduras, functions included promoting transparency, developing working relations with government agencies,

<sup>2</sup> Ibid., p. 45.

<sup>3</sup> Ibid., pp. 52–53.

<sup>4</sup> Main sources for this section: David Young, ‘Independent forest monitoring: seven years on’, *International Forestry Review* 9:1 (2007); David Brown et al, *Legal Timber: Verification and Governance in the Forest Sector* (Overseas Development Institute, December 2008), [www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/3472.pdf](http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/3472.pdf); Global Witness, *A Decade of Experience: Lessons Learnt from Independent Forest Monitoring to Inform REDD* (December 2009), [www.globalwitness.org/sites/default/files/pdfs/a\\_decade\\_of\\_experience\\_finalen.pdf](http://www.globalwitness.org/sites/default/files/pdfs/a_decade_of_experience_finalen.pdf); Forests Monitor, REM and CAGDF, *Manuel pratique d’observation indépendante* (2012), [www.observation-rdc.info/documents/Manuel\\_OIFLEG\\_REM.pdf](http://www.observation-rdc.info/documents/Manuel_OIFLEG_REM.pdf).

civil society and the private sector, generating reliable information about illegal logging, and ensuring the objectivity of the authorities' monitoring activities. The IFM function was intended in due course to be taken over by local organisations, but sustainable funding was not forthcoming.

- **Republic of Congo:** Forests Monitor, REM and local NGO Cercle d'Appui à la Gestion Durable des Forêts (CAGDF) (2007–13). Commitment to an IFM project to promote good governance and sustainable forest management was one outcome of a period of strong political will on the part of the government to implement forest sector reform that also saw it very rapidly negotiate a VPA. The monitor carries out field missions, either jointly with the forest administration or independently. The IFM role – previously carried out jointly with the local NGO CAGDF and soon to be led by it – is clearly built in to the VPA framework (see more in Section 5).
- **DRC:** REM (2010–13). Designed to work in collaboration with civil society, forest authorities and the private sector to record violations of forest law, the function has been carried out by REM until recently, but is now being transferred to local or sub-regional (Congo Basin) organisations.

In addition, scoping and feasibility studies have been carried out in a number of other countries.

## 2.1 What is independent forest monitoring?

As noted above, in 2005 Global Witness defined the term independent forest monitoring (IFM) as follows:

IFM is the use of an independent third party that, by agreement with state authorities, provides an assessment of legal compliance, and observation of and guidance on official forest law enforcement systems.<sup>5</sup>

Global Witness identified the monitor's 'independent but official' status as central to the concept of IFM. The monitor worked in the interests of the public, but independently of government; and it also possessed official status, sufficient to facilitate access to information and to the forests themselves, and cooperation with law enforcement agencies. Clearly, it was not an enforcement agency itself, but it tracked and recorded forest law enforcement activities, identified the mechanisms of illegal activity and corruption and suggested means to improve the system. It was not a certifier or verifier of the legality of individual forests or consignments of timber, unlike private certification or legality verification schemes; rather, it monitored the performance of the system. It was seen as the appropriate response to a situation of poor governance, where a country had weak or ambiguous laws undermined by widespread illegality, systemic corruption and state capture.

The Overseas Development Institute's comprehensive VERIFOR project, which ended in 2008, argued that 'independent observer' was a better term than 'independent forest monitor', which its authors believed implied a routine and continuous process, probably carried out internally for management purposes, rather than the kind of investigatory process leading to the kind of publicity that Global Witness had conducted in Cambodia and elsewhere. It accepted, however, that the term IFM had gained more currency. It also distinguished IFM from independent audit, which was a non-continuous process of verifying that an appropriate system was in place and functioning properly, not an investigation of specific activities or violations.<sup>6</sup>

REM has generally used the term 'independent monitoring – forest law enforcement and governance' (IM-FLEG), which it defines as follows:

IM-FLEG is a constructive and audit-style approach involving governments, the international donor community, the private sector and civil society. It is not a panacea aiming to solve problems in a chosen sector but a practical tool supporting work towards curbing illegal and unjust exploitation of natural

<sup>5</sup> Global Witness, *A Guide to Independent Forest Monitoring* (2005), p. 18.

<sup>6</sup> David Brown et al, *Legal Timber: Verification and Governance in the Forest Sector* (ODI, December 2008), p. 20.

resources. It is also an effective tool to support those governments officially committed to clean up a sector and acknowledged problems of corruption.<sup>7</sup>

In practice this has meant the same as IFM (as has the term ‘independent observer’ which, in its French equivalent (observateur indépendant, or OI) is generally used in French-speaking countries). In contrast to Global Witness, however, REM has been careful not to carry out campaigning or lobbying activities (though it maintains a close relationship with Forests Monitor, which does).

## 2.2 Lessons from independent forest monitoring

What lessons can be learned from the experience of IFM so far? In general, the projects listed above have proved to be positive experiences, identifying and documenting non-compliance with legal requirements, improving information about the forest sector and the transparency of processes; and, in most instances, improving law enforcement and the legal and regulatory framework. It does, however, require a suitable environment to work in, as the VERIFOR study concluded:

Effective verification needs to be seen in the context of a wider process of forest governance reform. Attempts to use verification activities as an independent and free-standing source of such reform are unlikely to be effective, particularly in the longer term. This is because they leave untouched the major structural weaknesses that generate illegality.<sup>8</sup>

IFM is therefore an appropriate response to a situation of poor governance, where a country has weak or ambiguous laws undermined by widespread illegality, systemic corruption and state capture – as long as some political will exists, or can be generated, to promote reform. This is of course the situation in most VPA countries, and the VPAs offer one way of providing a wider reform agenda to which IFM operations can contribute.

Lessons for the design and implementation of IFM were drawn by Global Witness for a study in 2009, *A Decade of Experience*.<sup>9</sup> Firstly, for the design of IFM:

- Stakeholder participation: designing IFM takes time, mainly because if it is to work effectively, it needs to be a participatory exercise bringing and keeping all actors together. Initial scoping missions and occasional workshops can be very helpful in this regard.
- IFM works best when it has a broad mandate enabling it to look into all issues relevant to forest law enforcement, transparency and governance. Given limited resources, however, prioritisation within the mandate is inevitable.
- The freedom – within agreed protocols – to disclose information is a key element, but it can often cause friction with the host government.
- Successful IFM relies on providers with a proven track record; ideally, they should be appointed through a competitive and transparent system. To achieve long-term sustainability, the IFM function should ultimately be run by local organisations, even if international bodies are involved in the early stages.
- Minimum standards should be used to provide safeguards to uphold the quality of the monitoring.
- The establishment of a reporting panel with a balanced composition (government, civil society, private sector) as a peer-review mechanism can be helpful in providing a buffer against vested interests.

<sup>7</sup> REM website: [www.rem.org.uk/independent-monitoring.html](http://www.rem.org.uk/independent-monitoring.html).

<sup>8</sup> Brown et al, *Legal Timber: Verification and Governance in the Forest Sector* (ODI, December 2008), p. 306.

<sup>9</sup> Global Witness, *A Decade of Experience, Lessons Learnt from Independent Forest Monitoring to Inform REDD* (December 2009), pp. 22–27.

- IFM works best where long-term funding has been provided; several IFM initiatives have suffered from chronic shortages of finance.

Secondly, for the implementation of IFM:

- Political will and the relationship with the host institution are fundamental to the effectiveness of IFM.
- IFM can only be established where there is a system to monitor; a pilot study in the DRC in 2007, for example, found that forest governance was simply too weak and incoherent to be effectively monitored.<sup>10</sup>
- Monitors are not enforcement agencies, and should not try to duplicate the role of the latter. However, the attitude of monitors and other government agencies towards each other is crucial to the success of IFM.
- Fieldwork is the core of IFM. Joint missions with the authorities have also proved successful, as organisations learn from and come to trust each other. The monitor's reports need to be professional and objective.
- Effective follow-up of missions is crucial, but it is a stage where IFM often stalls; authorities often prove reluctant to take action on evidence of illegal activity. One way to help overcome this is to work closely with local communities and civil society.
- To ensure long-term sustainability, IFM needs to be 'institutionalised', that is integrated into the forest management structure; the experience of the Republic of Congo may be a good example of this, as its VPA affords clear recognition of the role of the IFM.

*A Decade of Experience* did not discuss whether any difference was made by the organisation carrying out the IFM function, but this is an important issue. Will NGOs, whether international or local, fulfil the role differently from private sector companies? Will international and local groups have different advantages and face different problems? We now have two case studies of instances where companies took over IFM contracts from NGOs, in Cambodia and Cameroon.

In Cambodia, the terms of reference for the IFM function were changed when SGS took over from Global Witness in 2003: responsibility changed from investigating incidents to 'validating' that they were reported; the term 'independent oversight' was removed; and progress reports could only be released after they had been 'verified completely' by the government. In practice, SGS limited its role almost exclusively to monitoring the use of the case-tracking system.<sup>11</sup> The donors were happy with this more limited function, though also realised that it was important for Global Witness (and other NGOs) to still be involved, to put pressure on the new monitor to carry out its role fully, to feed in data that SGS may not have been able to acquire itself, and to give the system credibility. SGS itself later admitted that Global Witness played an important role as an external watchdog.<sup>12</sup> SGS was generally viewed as having taken a less penetrating approach than Global Witness, but it was operating in a context where donor interest and support was fading, and with a different remit.

In Cameroon, the private company Agreco, in partnership with the Cameroonian NGO CEW, took over the IFM function from REM in 2010. According to the Cameroon NGO Centre pour l'Environnement et le Développement (CED), Agreco–CEW's remit (largely determined by the Cameroon government and the EU) has been different from that of previous monitors, and it has been less effective and comprehensive. Agreco–CEW's most recent technical report shows a list of nine impacts their activities had between January and June 2012, including the reduction of forest infractions; the identification of recurrent infractions over

<sup>10</sup> Global Witness, *DRC's forests: "towards satisfactory management and governance standards"?* (December 2007), [www.globalwitness.org/sites/default/files/library/policybrieffinal.pdf](http://www.globalwitness.org/sites/default/files/library/policybrieffinal.pdf)

<sup>11</sup> Cecilia Luttrell and David Brown, *The Experience of Independent Forest Monitoring in Cambodia* (VERIFOR case study, 2006) pp. 14–15, [www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/3759.pdf](http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/3759.pdf).

<sup>12</sup> *Ibid.*, p. 15.

more than a decade of monitoring missions; the improvement of the quality of the monitoring overall; and the improvement of the knowledge of the public, and particularly operators, about IFM, forest infractions and legal sanctions.<sup>13</sup> CED also reports, however, that ‘the current [monitor] has insisted that it is not possible to carry out a field mission without [the forest ministry] having ordered it’, raising the risk that not all areas are visited by the monitor, and that it cannot respond quickly to information about infractions.

It is not possible to conclude that IFM by either NGOs or private companies is better or worse; in practice, they have different strengths and weaknesses. In general, NGOs are likely to be seen as more independent and idealistic, but private companies may be seen as more professional and impartial, with no wider agenda to push. As the VERIFOR study concluded, ‘private sector “professional auditors” may well appear too safe for the international NGO community. More activist monitors will satisfy the NGOs, but they could antagonise sovereign producer states’.<sup>14</sup> In many countries, a combination of functions may provide an appropriate solution. We return to this in Section 7.



VPA's need to be seen to be making a credible contribution to governance reforms.

<sup>13</sup> For the full list (available only in French), see *Observateur Indépendant au contrôle forestier et au suivi des infractions forestières au Cameroun*, Rapport Technique n° 5, du 1<sup>er</sup> janvier au 30 juin 2012, pp. 40–41, [http://pfb-cbfp.org/docs/doc\\_intern/GT%20COMIFAC/GTG/IM-AGRECO-CEW.pdf](http://pfb-cbfp.org/docs/doc_intern/GT%20COMIFAC/GTG/IM-AGRECO-CEW.pdf).

<sup>14</sup> Brown et al, *Legal Timber: Verification and Governance in the Forest Sector* (ODI, December 2008), p. 306.

### 3 The EU Forest Law Enforcement, Governance and Trade Action Plan, and Voluntary Partnership Agreements

In 2003, the European Commission published its Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT). The negotiation of FLEGT VPAs with timber-producing countries lies at its heart. When fully implemented, the VPAs will put in place in each partner country a LAS designed to identify legal products and license them for import to the EU (unlicensed products from these countries will be denied entry), combined with capacity building assistance to set up the system, improve enforcement and, where necessary, reform the law.

The Action Plan recognised from the start the importance of independent monitoring of the systems the VPA was designed to establish:

Transparency is also helped by the involvement of independent monitoring and auditing of systems to verify the legality of timber in producing countries. Independent monitoring makes verification systems more credible and less prone to corruption. There are many examples of where independent monitoring has been used to good effect in the forest sector, at the instigation of the relevant national authorities. Accountants, auditors, consultants and non-governmental organisations have all played an important role in this ground-breaking work to promote transparency.<sup>15</sup>

Independent monitoring was to be built into the VPAs proposed by the Action Plan, to provide ‘checks and balances’ on licensing and tracking arrangements. The outline of the development of a hypothetical VPA included in the Action Plan saw the partner country designate an accreditation body, empowered to appoint bodies to certify the legality of wood products, designate an independent monitor and set out a transparent dispute settlement mechanism; the EU was then to confirm the credibility of the overall system.<sup>16</sup> Thus two levels of monitoring were to be established; internal checks on legality through the accreditation body, and external, independent checks through the independent monitor. In this context, civil society was not mentioned, though an earlier section on ‘support to producer countries’ did refer to the need for capacity building assistance to civil society (and government and the private sector) for setting up reliable systems to distinguish legal from illegal timber.

The role of independent monitoring within the VPA became more clearly defined as the European Commission and EU member states developed their thinking. The 2005 briefing note, *A Timber Legality Assurance System*, saw the need for independent monitoring ‘to ensure the effectiveness and credibility of the licensing scheme by introducing a third party to monitor and report on its implementation’.<sup>17</sup> The note stressed that the role of the independent monitor did not include reporting on forest crime, but rather that it was ‘observation and reporting on verification of legality of forest operations’. Suitable organisations for the role were described as follows:

Organisations bidding for IM work should generally have experience and qualifications relevant to monitoring the extraction and use of natural resources and/or the use of proceeds from resource exploitation. Other relevant experience will include work with anti-corruption initiatives, financial auditing and formal independent observation of government activities in situations of weak governance (e.g., aid distribution, trade monitoring). Experience in the principles of management system auditing (e.g. ISO 9000) is also useful.<sup>18</sup>

International organisations were thought likely to be needed to provide independent monitoring services to give the credibility necessary for the international market, but it was important that they worked with local

<sup>15</sup> European Commission, *Forest Law Enforcement, Governance and Trade: Proposal for an EU Action Plan (COM (2003) 251 final*, May 2003), p. 7, [www.euflegt.efi.int/files/attachments/euflegt/01flegtactionplanfinalen.pdf](http://www.euflegt.efi.int/files/attachments/euflegt/01flegtactionplanfinalen.pdf).

<sup>16</sup> *Ibid.*, p. 13.

<sup>17</sup> European Commission, *A Timber Legality Assurance System (FLEGT Briefing Note 9, 2005)*, p. 5, <http://loggingoff.info/sites/loggingoff.info/files/FLEGT%20Briefing%20Note%20%282005%29%209%20Legality%20assurance%20system.pdf>.

<sup>18</sup> *Ibid.*, p. 5.

people and organisations in the partner country. The scope of the independent monitoring was normally to include observation and reporting on verification of the legality of forest operations, verification of the secure chain of custody from forest to export point, the issuance of licences, and the export of forest products.

This was further developed in *Guidelines for Independent Monitoring*, published in 2007, which mostly used the term ‘third-party monitor’, which was:

... a non-political body, possessing the necessary skills and systems to ensure its independence and objectivity, which monitors implementation of the LAS by: (i) checking all its aspects using best auditing practice; (ii) identifying non-compliances and system failures; and (iii) reporting its findings to the JIC [Joint Implementation Committee between the EU and the partner country].<sup>19</sup>

The rest of the briefing note set out in some detail the characteristics of the monitor, including:

- institutional arrangements, setting out how the monitor should be appointed, guaranteeing it freedom from interference, and access to all relevant information and facilities;
- requirements of the monitor itself, including being subject to external audits and possessing experience, probably being accredited as a conformity-assessment body;
- the monitoring methodology, including seeking input from a range of stakeholders;
- the scope of monitoring, which included checking all elements of the LAS (including legal compliance in forest management, supply chain integrity, verification activities and issuance of licences), identifying non-compliance with the LAS, and assessing the effectiveness of corrective actions taken to address non-compliance;
- the reporting system for the monitor to a ‘reporting body’ (separate from any involvement in the LAS), with a relationship to the JIC overseeing the VPA to be defined.

It is clear that this is a different set of functions from those carried out by the independent forest monitors in Cambodia, Cameroon and elsewhere – this is not surprising, given the establishment of the LAS in the VPAs, which provide a far more comprehensive framework for monitoring legality than existed in those countries.

Later, the Commission started referring to the function described above as an ‘independent auditor’, in order to stress its purpose as checking the verification systems of the VPAs rather than, for example, investigating instances of forest crime, as many IFM projects have done; it also wanted to avoid confusion with existing IFM projects in some potential VPA countries.<sup>20</sup> Given the characteristics set out above, it seems likely that private sector organisations, rather than NGOs, will be more suited for this independent audit function (the Congo VPA specifies an ‘independent firm of auditors’) – see more in Section 4.

The next section looks briefly at how the independent audit function is being implemented in the six VPAs so far negotiated. Section 5 looks in more detail about how separate civil society-led independent monitoring functions, some building in pre-existing IFM projects, are emerging in the same countries.

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<sup>19</sup> European Commission, *Guidelines for Independent Monitoring* (FLEGT Briefing Note 7 (2007 series), 2007), p. 2, [www.euflegt.efi.int/files/attachments/euflegt/efi\\_briefing\\_note\\_07\\_eng\\_221010\\_b.pdf](http://www.euflegt.efi.int/files/attachments/euflegt/efi_briefing_note_07_eng_221010_b.pdf).

<sup>20</sup> Julia Falconer, personal communication, May 2013.

## 4 Independent auditing in VPAs

By July 2013, VPAs had been concluded with Cameroon, CAR, Ghana, Indonesia, Liberia and Republic of Congo (with the Indonesia and Liberia VPAs yet to be fully ratified). VPA negotiations are under-way in Côte d'Ivoire, DRC, Gabon, Guyana, Honduras, Malaysia and Vietnam, and are starting in Laos and Thailand. Several other countries have expressed an interest in entering negotiations.

All VPAs establish a LAS to ensure the legality of timber products produced in the country, described in detail in an annex to each agreement. Five of the six VPAs agreed so far cover all timber products, while CAR's covers only timber for export, not for the domestic market. The systems are based on national legislation (which in many cases may be undergoing a process of reform, as set out in another annex to the VPA) and were designed by multi-stakeholder processes to determine the key elements of relevant laws.

The coverage of each LAS differs from country to country, but in general includes the allocation of forest use rights and laws regulating the harvesting, transport, processing and selling of timber; issues of land ownership and tenure are usually, though not always, included. Institutions are being established in each VPA country to verify the legality of the timber products according to the LAS, and to issue the FLEGT licences needed for export; these are usually either government bodies or organisations directly responsible to the government, though the Indonesia VPA effectively outsources part of this function to the private sector (see more below in Section 5.5).

This is the system that the independent auditor, as described in the FLEGT Action Plan and subsequent documents (see Section 3), is designed to monitor. Each VPA contains very similar text on this function. The VPAs with Cameroon, CAR, Republic of Congo and Liberia call it 'independent audit', while the first VPA to be negotiated, with Ghana, calls it 'independent monitoring'. In the case of Indonesia, the function is known as 'periodic evaluation', and an additional and separate function, 'independent market monitoring', is added; its purpose is to 'collect and analyse information on the acceptance of Indonesian FLEGT-licensed timber on the Union [EU] market, and review the impacts of implementation of the EU Timber Regulation and of the implementation of related initiatives such as public and private procurement policies on Union timber markets'.<sup>21</sup> In fact, the other five VPAs all include monitoring the efforts of the EU in ensuring FLEGT-licensed timber accesses the market in the terms of reference for the independent auditor.

Annex 1 of this study lists the articles and annexes of the VPAs that describe the independent audit functions; much of this is common across all six VPAs agreed so far, though there are some differences. In each case, the function of the independent auditor (or monitor, for Ghana, or periodic evaluation and independent market monitoring, for Indonesia) is defined in one article of the VPA core text. Three of the VPAs describe the purpose as to 'check the performance and efficiency of the FLEGT licensing scheme'; the others simply include a cross-reference to the relevant annex of the VPA. The Liberia VPA includes the objective of improving 'the credibility of the LAS'.

In all cases the article also makes reference to the independent auditor submitting reports to the parties, and to the parties facilitating its work. The CAR and Ghana VPAs specify that the auditor should have no conflict of interest; all VPAs specify that any complaints arising from its work should be referred to the Joint Implementation Committee or equivalent body (which oversees the implementation of the agreement); and the CAR and Ghana VPAs mention a documented management structure and policies and procedures.

In each VPA the terms of reference of the independent auditor are set out in full in a separate annex to the agreement. These are similar in principle across the VPAs, though there are some differences in the detail; they are listed below, though not every function is present in each VPA:

- Evaluating or assessing the effectiveness or implementation of the legality assurance, licensing and/or traceability systems (the wording is slightly different in each case).
- Evaluating the monitoring system for timber in transit (Cameroon VPA – Cameroon sees significant

<sup>21</sup> Voluntary Partnership Agreement Between the European Union and the Republic of Indonesia on Forest Law Enforcement, Governance and Trade in Timber Products into the European Union, Annex VII, Section 1.



volumes of timber imported from other countries for export through Douala).

- Identifying deficiencies in the LAS, and evaluating the effectiveness of corrective measures.
- Evaluating the efficiency of the EU's procedures for releasing licensed timber on to the EU market (the Indonesia VPA assigns this function to the separate Independent Market Monitor).
- Evaluating the adequacy of data management systems.
- Verifying the conformity of the allocation process for the different types of title, or checking legal requirements for pre-contract timber rights allocation.
- Conducting field investigations on the relevant work of forest regulatory agencies; assessing the performance and effectiveness of the agencies involved in the verification process, and assessing how reported infractions are addressed by the relevant authorities.
- 'Audits of compliance by all parties undertaking control functions within the provisions of the LAS' (Indonesia VPA – 'all parties' means both the government agencies and private companies responsible for operating the LAS).
- Assessing the complaints management mechanism, covering stakeholders' grievances about LAS implementation and independent audit activities.

The annex specifies the qualifications required: generally, the auditor must be an independent organisation (the CAR VPA includes independence from local NGOs in this, while the Congo VPA specifies 'an independent firm of auditors') with a proven track record and knowledge of the forestry sector of the country. The annex also sets out the sources of information to be used, details of the reporting procedure and elements of the methodology, including the frequency of audits – these vary between one and three per year, generally with more in the early years of the LAS, and sometimes with the possibility of additional spot checks (see Annex 1 in of this study for details on each VPA).

The role of the independent auditor is also included in the description of the LAS, which is itself set out in a separate annex. Once designed, the LAS is to be the subject of an evaluation, under terms of reference to be agreed. The criteria for the evaluation are set out in another separate annex; this is almost identical in every VPA, and contains a commitment to independent audit to check the system is working properly. The information to be made public in the course of the operation of the VPA is also set out in a separate annex; generally this includes reference to reports of the independent auditor.

Finally, the institutional arrangements relevant to the independent auditor are described in the VPAs themselves and in some of their annexes. In all cases the independent auditor reports to the JIC.<sup>22</sup> In Cameroon preliminary reports are to be submitted to the Comité Conjoint de Suivi (Joint Monitoring Committee, JMC), which is responsible for 'undertaking and facilitating monitoring and evaluation of the implementation' of the VPA<sup>23</sup> (not to be confused with the Comité National de Suivi (National Monitoring Committee), a consultative structure with stakeholders). In Congo, preliminary reports are to be submitted to each of the two parties to the agreement (the Republic of Congo and the EU); after comments, the final report is submitted to the JIC.

Independent auditors are slowly being put in place in the VPAs; in Cameroon, for example, the independent auditor was appointed in late 2012, and held an introductory workshop in February 2013 in Yaoundé.<sup>24</sup> No LAS, however, is yet in place in any VPA.

<sup>22</sup> In Cameroon this is known as the Joint Implementation Council, in Congo the Joint Agreement Implementation Committee, and in Ghana the Joint Monitoring and Review Mechanism.

<sup>23</sup> Voluntary Partnership Agreement Between the European Union and the Republic of Cameroon on Forest Law Enforcement, Governance and Trade in Timber Products into the European Union, Annex XI, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:092:0004:0125:EN:PDF>.

<sup>24</sup> 'Cameroon and EU train independent auditors on logging', Business in Cameroon website, 18 February 2013, [www.businessincameroon.com/wood/1802-3919-cameroon-and-eu-train-independent-auditors-on-logging](http://www.businessincameroon.com/wood/1802-3919-cameroon-and-eu-train-independent-auditors-on-logging).

## 5 Civil society independent monitoring in VPAs

As well as the independent audit function, all six VPAs agreed to date contain some additional provision for civil society to play a role in monitoring the implementation of the agreement. While none of them refers explicitly to ‘civil society independent monitoring’ in the articles of the VPA itself, two of them (Republic of Congo and Indonesia) go into some detail in various annexes about the structures they see necessary, and most of the others have references in various places. These references are summarised in Annex 2 of this study, and are described in detail below (together with the situation in the DRC and Gabon, which are currently negotiating VPAs).

A number of elements common to all VPAs are significant for any system of independent monitoring. A key part of the process is access to information. All the VPAs contain commitments to transparency, in the form of an annex listing the information which should be made public (except in Ghana, where the list is still being developed).<sup>25</sup> Most are quite detailed and set out clearly the information that should be released – though it remains to be seen, of course, how they will operate in practice.

Similarly, it is important that civil society is able to make its voice heard in the implementation of the VPA and in raising concerns. All the VPAs contain commitments to consultation with, or involvement of, stakeholders in the implementation of the agreement, and some of them contain reference to specific bodies to be established for the purpose.<sup>26</sup>

Similarly, it is important that independent monitors are able to convey their reports and conclusions to the relevant decision-making bodies. In each VPA the key body is the JIC, comprising representatives of both the VPA country and the EU, established to oversee, facilitate and monitor VPA implementation and to resolve any conflicts that may arise.<sup>27</sup> As seen in Section 4, the independent auditors report to the JICs, and the JICs are responsible for considering complaints about the work of the independent auditors. The JICs also have the responsibility of considering complaints about the operation of the licensing system (in the Cameroon, CAR, Congo, Ghana and Indonesia VPAs) and/or, more broadly, about the implementation of the VPA as a whole (CAR, Liberia).<sup>28</sup>

### 5.1 Cameroon

As noted in Section 2, Cameroon has had experience with an independent forest monitor for more than ten years; it was the first Central African country to implement such a project, three years before the FLEGT Action Plan was adopted by the EU. Since January 2010 the project has been conducted by the Belgian firm Agreco in collaboration with local NGO CEW, with funding from the EU. Its general objective is to contribute to strengthening and improving forest governance and the sustainable management of forest resources in Cameroon. This includes helping to strengthen the monitoring capacities of the Forest Ministry, improving the monitoring mechanisms and tools in place and adapting the monitoring strategy to the requirements of the LAS set out in the framework of the VPA.<sup>29</sup> Mission reports from the monitor must be

<sup>25</sup> For a fuller analysis, see An Bollen and Saskia Ozinga, *Improving Forest Governance: A Comparison of FLEGT VPAs and their Impact* (FERN, February 2013), pp. 31–32, [www.fern.org/sites/fern.org/files/VPAComparison\\_internet\\_0.pdf](http://www.fern.org/sites/fern.org/files/VPAComparison_internet_0.pdf).

<sup>26</sup> In Article 16 in all VPAs except for Indonesia’s, where it is Article 11. As of July 2013, three VPAs have been ratified: the Cameroon VPA, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:092:0004:0125:EN:PDF>; the Ghana VPA, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:070:0003:0075:EN:PDF>; and the Republic of Congo VPA, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:092:0127:0238:EN:PDF>.

<sup>27</sup> For more detail, see Bollen and Ozinga, *Improving Forest Governance: A Comparison of FLEGT VPAs and their Impact* (FERN, February 2013), pp. 33–34.

<sup>28</sup> In Cameroon, complaints about the independent auditor and the licensing system are handled by the Joint Monitoring Committee.

<sup>29</sup> Agreco–CEW, *Approche d’observation de l’OI Agreco–CEW* (October 2012) p. 2, available at: [www.oicameroun.org/index.php?option=com\\_docman&task=cat\\_view&Itemid=3&gid=56&orderby=dmdatecounter&ascdesc=D ESC](http://www.oicameroun.org/index.php?option=com_docman&task=cat_view&Itemid=3&gid=56&orderby=dmdatecounter&ascdesc=D ESC).

adopted by a Comité de Lecture ('reading committee' or Reporting Panel) (which does not include civil society) before publication.<sup>30</sup>

In a report published in 2012, Agreco–CEW detailed the impacts of their activities, including the reduction of forest infractions (documentary frauds, infractions related to forest conversion, and illegal logging), the identification of recurrent infractions during the three independent monitoring projects (by Global Witness, REM and Agreco–CEW) over a decade-long period, improvement in the quality of monitoring and the effective prosecution of infractions, with payments of fines and 'transactions'<sup>31</sup> by the offenders (following the publication of the register of infractions, the 'sommier').<sup>32</sup> Agreco–CEW follows up infractions after the quarterly publication of the register of infractions. As noted in Section 2.2, however, according to the Cameroon NGO CED, Agreco–CEW has been less effective than the previous independent forest monitor, REM.

The Cameroon VPA recognises a continuing role for this IFM function, listing the 'independent observation (IO) for controlling and monitoring forestry offences' as one of the sources of information for the independent auditor. The independent observer is also mentioned in the LAS, in verifying felling operations. Reports from the 'independent forestry control observer' and the 'independent title allocation observer' must also be published.

During negotiations over the VPA, Cameroon NGOs did not argue for civil society independent monitoring (separate from the IFM) to be recognised in the agreement, because they believed it could risk a loss of independence by the NGOs conducting the monitoring (NGOs in Ghana and Liberia took the same approach). Accordingly, the VPA contains very few explicit mentions of civil society.

A Comité National de Suivi, including one representative of civil society organisations, has been established to monitor the implementation of the LAS. The VPA also provides for some financial support for the participation of civil society in monitoring the LAS, and the Comité Conjoint de Suivi (established with the EU, alongside the JIC) has the power to make recommendations, including on capacity building and the participation of civil society. The sources of information for the independent auditor include 'information gathered from other organisations (specialist NGOs etc.)'.

Cameroon NGOs have been active in carrying out their own monitoring operations ('self-mandated monitoring') for more than ten years; this is regarded as essential to ensure effective monitoring of forest governance, and goes beyond simple observation of compliance with forest regulations to monitor other aspects of forest governance, including such issues as whether penalties are adequate. More recently, the identification of cases of illegality by local observers (local communities and grassroots organisations trained in independent monitoring by CED and others) and their submission to Agreco–CEW has led to the cancellation by the ministry of three small permits.<sup>33</sup>

Independent assessments of the status of implementation of the VPA have been conducted by the Plateforme Forêts et Communautés with funding from the Food and Agriculture Organisation (FAO), the EU and the UK; the platform comprises about 40 NGOs working on forests and the rights of local communities. The Cameroonian NGO Forêts et Développement Rural (FODER) has helped to coordinate 'self-mandated'

<sup>30</sup> Ibid. p. 5.

<sup>31</sup> Under article 146 of the 1994 Forest Code in Cameroon, a 'transaction' allows an offender to stop the legal action; in practice, the offender agrees with the Forest Ministry the penalties he has to pay. Over the past five years, 'transactions' have been the tool most used for forest dispute resolution. REM, *Evolution du contrôle et des sanctions de l'exploitation forestière illégale au Cameroun, Observation Indépendante de la mise en application de la loi et de la gouvernance forestière (OI-FLEG), Bilan mars 2005 – décembre 2009*, pp. 28–29, [www.observation-cameroun.info/documents/REM\\_IMFLEG\\_Cameroun\\_Rapport\\_finprojet.pdf](http://www.observation-cameroun.info/documents/REM_IMFLEG_Cameroun_Rapport_finprojet.pdf).

<sup>32</sup> Agreco–CEW, *Rapport Technique n°5 du 1er janvier au 30 juin 2012*. From January 2012 to June 2012, more than FCFA230 million (US\$437,000) had already been paid to the State Treasury by perpetrators of forest infractions; p. 51, [http://pfbc-cbfp.org/docs/doc\\_intern/GT%20COMIFAC/GTG/IM-AGRECO-CEW.pdf](http://pfbc-cbfp.org/docs/doc_intern/GT%20COMIFAC/GTG/IM-AGRECO-CEW.pdf).

<sup>33</sup> MINFOF, *Décision numéro 0842/MINFOF/SG/DF portant annulation des autorisations de récupération et autorisations d'enlèvement du bois*, 10 April 2012.

monitoring meetings, developed a training programme and trained communities and NGOs. CED has developed a practical guide on independent monitoring, as well as data collection sheets for local monitors.<sup>34</sup> The IFM, Agreco–CEW, has also conducted training. FODER and other NGOs intend to develop a systematic approach to monitoring forest governance, based on the FAO/World Bank Framework for Assessing and Monitoring Forest Governance published in 2011.<sup>35</sup>

Civil society in Cameroon has called for a stronger and more formal role for civil society independent monitoring in the forest legislation being revised as a consequence of the VPA.<sup>36</sup> They believe that as long as the various provisions in the VPA for transparency of information work effectively, they will be able to carry out their own independent monitoring activities without the need for formal recognition in the VPA.

## 5.2 Central African Republic

CAR had no systematic experience of civil society independent monitoring before the VPA was signed. However, civil society was involved in the negotiations, through the ‘FLEGT platform’ of 30 NGOs working on forests, environmental protection, human rights and the rights of local communities; the platform had two representatives on the Conseil National Consultatif (National Consultative Council), the body representing different stakeholders in the VPA negotiation. The VPA recognises the existence of this platform, but adds the caveat that it currently lacks the capacity to undertake independent monitoring.

Nevertheless, the VPA does contain several references to ‘civil society independent monitoring’ in various annexes. Annex IX, on supporting measures, states that ‘the purpose of civil society independent monitoring is to improve the State’s systems for implementing forestry law, with the aim of good governance’.

Annex V, on the LAS, mentions civil society in relation to monitoring, and Annex XI, on information to be published, includes reports by the civil society independent monitor on the LAS. Article 16 of the VPA contains a commitment to consultation with stakeholders on the implementation of the agreement; and in Annex X, where the JIC is to define appropriate measures to ensure their involvement, civil society is explicitly mentioned. The agreement also specifies that ‘members of civil society’ are a source of information for the independent auditor, for the FLEGT licensing authority and for the JIC.

After the VPA was signed, the FLEGT platform became the Plateforme de la Société Civile Centrafricaine pour la Gestion Durable des Ressources Naturelles et de l’Environnement (Platform on Sustainable Management of Natural Resources and the Environment). Two of its members serve on the JIC and two on the Comité National de Mise en Œuvre et de Suivi (National Implementation and Monitoring Committee).

Given NGOs’ lack of previous experience, and the absence in the VPA of much detail, the new platform recognised the need to adopt a strategy to define what it meant by civil society independent monitoring.<sup>37</sup> The strategy, which has been adopted by civil society but has yet to be published, covers organisational structure; description of the profile of an independent monitor; relationship between independent monitoring and other actors; mobilisation of financial and logistical resources; NGOs’ capacity building needs; information, communication and education; monitoring and information gathering; publication and

<sup>34</sup> Centre pour l’Environnement et le Développement, *Guide pratique de formation à l’Observation locale des activités forestières pour les OSC et les communautés*, [www.transparenceforestiere.info/cameroon/downloads](http://www.transparenceforestiere.info/cameroon/downloads).

<sup>35</sup> FAO/PROFOR, *Framework for Assessing and Monitoring Forest Governance* (2011), [www.fao.org/docrep/015/i2227f/i2227f00.pdf](http://www.fao.org/docrep/015/i2227f/i2227f00.pdf).

<sup>36</sup> Centre pour l’Environnement et le Développement, *Quelle loi pour la forêt? Proposition de la société civile pour la réforme de la loi forestière au Cameroun* (July 2012), p. 46, [www.cedcameroun.org/index.php?option=com\\_k2&view=item&id=67&Itemid=85](http://www.cedcameroun.org/index.php?option=com_k2&view=item&id=67&Itemid=85).

<sup>37</sup> Plateforme de la Société Civile Centrafricaine pour la Gestion Durable des Ressources Naturelles et de l’Environnement, *Document de stratégie d’observation indépendante des activités forestières sous régime FLEGT de la société civile centrafricaine* (unpublished draft, October 2012).

dissemination of forest irregularities; negotiation, advocacy and lobbying; and monitoring of forest legal cases, such as the implementation of penalties.

The strategy envisages a memorandum of understanding with the government to give a civil society independent monitor a permanent mandate. In addition to this formally recognised independent monitor, a network of independent 'self-mandated' monitors will be set up from the NGO members of the platform. The strategy recognises the need for capacity building, including on gathering and analysing information and report-writing; strengthening local and indigenous communities' knowledge on human rights issues; strengthening knowledge of forest laws and regulations and so on. A Comité de Lecture (Reporting Panel) is proposed, comprising representatives from government, donors and national civil society, to validate the reports of an official civil society monitor. Reports of independent monitoring activities should be published, a website for civil society should be created and a forest documentation and information centre established.

The CAR NGO Centre pour l'Information Environnementale et le Développement Durable (CIEDD), in cooperation with FODER and Well Grounded (a UK NGO based also in Cameroon), is currently developing this strategy, aiming to educate and prepare civil society for independent monitoring, and to improve all stakeholders' understanding of their role and how it is different from that of the independent auditor in the VPA. They successfully applied for EU funding, delivered through the FAO, in pursuit of these objectives. A regional workshop was held in Bangui in August 2012 to share experience in this field between NGOs from three Congo Basin countries (CAR, Republic of Congo and Cameroon), allowing participants to learn about the work government and civil society were carrying out on the VPA.<sup>38</sup>

CIEDD, which has been very active in the NGO platform, may take the lead in fulfilling the independent monitoring role, and has already been carrying out some elements of independent monitoring since the VPA was finalised. In 2012, for example, in partnership with the NGOs Action Verte and Maison de l'Enfant et de la Femme Pygmées, it received funding to carry out limited monitoring in two forest concessions, including the extent to which local communities had been consulted before the allocation of corresponding logging permits. Essentially, they had not; CIEDD engaged in training and awareness-raising about their rights, and noted the lack of a legal basis to provide for compensation if local communities are affected by forestry companies.<sup>39</sup>

### 5.3 Republic of Congo

Like Cameroon, the Republic of Congo had experience of an independent forest monitor (IM-FLEG, or OI-FLEG in French) before the VPA (see Section 2), and this still continues. Forests Monitor, REM and the Congo NGO CAGDF led the IFM process until June 2013, with EU and UK funding; CAGDF is now taking over. The project had four main objectives: to publish reliable information on the realities of the forest sector in Congo, acquired through on-the-ground investigations; to contribute to the effective implementation of the VPA; to develop the capacity of Congolese civil society so that it takes the leadership in 2013; and to improve the contribution of Congo Basin NGOs to the negotiation and implementation of the VPA.<sup>40</sup>

The IFM experience suggests that the project has had some effect, but also that much more remains to be done. The annual report for 2011, for example, indicated that 'in response to IM-FLEG investigations in the departments of Niari and Likouala, the Forests Administration issued 19 notifications of offence against nine forestry companies'.<sup>41</sup> Nevertheless, 'forest law enforcement in the Congo is still insufficient to permit the

<sup>38</sup> CIEED, FODER and Well Grounded, *Rapport atelier régional de partage d'expériences sur l'observation indépendante des activités forestières dans le Bassin du Congo* (September 2012), [www.fao.org/forestry/acp-flegt/projects/fr/](http://www.fao.org/forestry/acp-flegt/projects/fr/).

<sup>39</sup> CIEDD, *Rapport de mission de collecte d'informations sur les indicateurs sociaux (2.3.1, 4.3.1 et 4.3.2) des principes 2 et 4 de la Grille de Légalité APV/FLEGT* (30 April 2012), p. 3, [http://loggingoff.info/sites/loggingoff.info/files/OE\\_RCA\\_CIEDD.pdf](http://loggingoff.info/sites/loggingoff.info/files/OE_RCA_CIEDD.pdf).

<sup>40</sup> REM, CAGDF, Forest Monitor, *Présentations des objectifs et méthodes de l'OI-FLEG de 2011 à 2013*, p. 1, [www.observation-congo.info/documents/OIFLEG\\_ROC\\_ForestsMonitor\\_REM\\_CAGDF\\_2012.pdf](http://www.observation-congo.info/documents/OIFLEG_ROC_ForestsMonitor_REM_CAGDF_2012.pdf).

<sup>41</sup> REM, CAGDF, Forest Monitor, *Executive Summary – Annual Report 2011* (January 2011 – January 2012), [www.rem.org.uk/documents/FM\\_briefing\\_OIFLEG\\_RC\\_2012\\_e.pdf](http://www.rem.org.uk/documents/FM_briefing_OIFLEG_RC_2012_e.pdf).

effective functioning of the FLEGT Legality Assurance System'. The IFM found that there were no enforcement missions in 60 per cent of concessions, a large number of illegalities went undetected and unpunished, and taxes and fines were not systematically collected: the equivalent of US\$9.6 million remained unpaid in 2011, and the Directions Départementales de l'Economie Forestière (Forest Economy Directorate) and the Cellule de la Légalité et de la Traçabilité (Legality and Traceability Unit) were underfunded.

According to the Memorandum of Understanding that REM, Forests Monitor and CAGDF signed with the government, mission reports of the independent monitor must be adopted by a Comité de Lecture before being published. The Committee is presided over by the Forest Director and includes representatives from the three independent monitors, as well as a representative from civil society; donors can also be invited as observers, and EU representatives have regularly participated. The government cannot block the adoption of the report, though any objections they may have can be noted in it.

At the beginning of the negotiations on the VPA in 2008, a platform of NGOs for sustainable forest management was created to coordinate the participation of civil society in the negotiation and implementation of the agreement. Civil society argued for both 'mandated' monitoring (to be carried out by the IFM) and 'self-mandated' monitoring, to be recognised. As a result, the agreement goes into some detail about the structures it sees necessary. In particular, Annex IX, on 'other relevant measures', specifies that:

Implementing the VPA is subject, *inter alia*, to the proper functioning of a legality verification system, timber traceability and an independent audit of the system. Congolese civil society, a stakeholder in the process, is to help implement the agreement by means of a formal local structure based on the results of and experience gained in the Independent Forest Monitoring (IFM) project carried out in Congo between 2007 and 2009 by Resources Extraction Monitoring and Forests Monitor.<sup>42</sup>

The structure is to consist of one or more national NGOs accompanied by an international NGO experienced in independent monitoring. Five objectives are specified: to improve systems for the application of forestry law by government; to increase the capabilities of civil society by means of independent monitoring; to help improve the application of forestry law and governance; to document information collected and pass it on to the authority granting certificates and FLEGT licences; and to document information collected and pass it on to the Joint Implementation Committee.<sup>43</sup>

As with other VPAs, the Congo VPA contains a commitment to consultation with and participation by civil society in monitoring the implementation of the agreement. Civil society is to be part of the Technical office responsible for monitoring the agreement, and can be a source of information for the independent auditor and the JIC. The VPA also provides for civil society capacity building by the technical secretariat and the JIC.

In addition to these formal structures, Congolese NGOs see a role for 'self-mandated' monitoring by civil society, with no formal link to the government or the VPA. To be effective, however, they believe that sustainable funding would be needed for these efforts, and also that their reports would need some form of formal status or recognition.

CAGDF currently provides civil society capacity building to more than 20 local NGOs to play a role in self-mandated monitoring, especially on the social and economic aspects of the VPA, looking much more broadly than just forest crimes.

The Field Legality Advisory Group (FLAG) was created in 2011 to give higher visibility to civil society independent monitoring activities in the Congo Basin. Based in Cameroon, it aims to promote transparency and good governance in natural resources, and intends to offer technical support to NGOs involved in

<sup>42</sup> Voluntary Partnership Agreement Between the European Union and the Republic of Congo on Forest Law Enforcement, Governance and Trade in Timber Products into the European Union, Annex IX, Section 2, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:092:0127:0238:EN:PDF>.

<sup>43</sup> Ibid.

mandated and self-mandated independent monitoring, and to ensure better coordination between them.<sup>44</sup> It also intends to play a role in processing and making accessible information produced by the independent monitors. FLAG's founders have ten years of experience in independent monitoring and are pioneers in the implementation of IM-FLEG in Africa. The organisation is currently run by six people, including three experts in independent monitoring and two in auditing.

## 5.4 Ghana

The Ghana VPA was the first to be signed, but like the other VPAs it has yet to implement the LAS. As in Cameroon and Liberia, in Ghana NGOs did not argue for any formal role for civil society independent monitoring in the VPA, fearing the loss of independence they believed could result. Accordingly, the Ghana VPA contains no mention of civil society independent monitoring. (As noted in Section 4, the independent auditor function is known as 'independent monitoring'.)

However, Ghana NGOs were involved in the negotiations and were instrumental in particular in helping to draft Article 16 of the VPA, on stakeholder involvement in implementation.<sup>45</sup> The article encourages stakeholder consultation in the implementation of the VPA, and the government subsequently established a multi-stakeholder implementation committee to oversee implementation of the agreement; it includes two representatives of Ghana NGOs.<sup>46</sup>

In addition, membership of the JMRRM (the JIC in Ghana) – established under Article 19 to review reports from the independent monitor and complaints about the implementation of the agreement – currently includes a representative of Ghana NGOs.<sup>47</sup> Minutes of meetings of the JMRRM reveal regular discussion of concerns raised by civil society. In March 2012, civil society 'acknowledged that in general there was a willingness to disclose information, however further work was needed to facilitate ease of access to key sector information. In this regard, civil society acknowledged the importance of their role in collating and further disseminating this information'.<sup>48</sup>

Civil society should also have a role on the Timber Validation Council set up to oversee the Timber Validation Department performing verification functions. However, the regulation establishing the Council, published in 2012, includes representatives of the Trade Union Congress and the National House of Chiefs, but none from NGOs with a particular specialism in the forest sector.<sup>49</sup> The Department has worked with some NGOs to develop a VPA communications strategy to ensure effective communication on processes and the provision of relevant information to the general public; the process is ongoing.

Forest Watch, a network of Ghana NGOs created to campaign for the protection of biodiversity, improved forest governance and community rights, and participation in decision-making, now plays an important 'self-mandated' role in the VPA. Currently, it focuses mainly on monitoring and influencing the short and medium-term aims of the VPA: monitoring and enabling stakeholder participation, sharing of information, improving the quality of forest law enforcement and reducing illegal logging. Over the past two years, member NGOs have carried out independent assessments of the level of transparency in the system, and of the National Forest Plantation Programme. In the future it intends to continue to highlight breaches in the

<sup>44</sup> REM, CAGDF, Forest Monitor, *Rapport séance de travail avec les Organisations de la Société Civile (OSC) du Bassin du Congo, les 14 et 15 juin 2012 à Brazzaville*, p. 6, [www.forestsmonitor.org/uploads/2e90368e95c9fb4f82d3d562fea6ed8d/FM\\_CAGDF\\_REM\\_Atelier\\_jun\\_12.pdf](http://www.forestsmonitor.org/uploads/2e90368e95c9fb4f82d3d562fea6ed8d/FM_CAGDF_REM_Atelier_jun_12.pdf).

<sup>45</sup> Julia Falconer, personal communication, May 2013.

<sup>46</sup> This is not mentioned in the VPA, but its terms of reference and composition are available at [www.fcghana.org/VPA\\_2/assets/file/implementation\\_committee/tor\\_multi\\_stakeholder\\_implementation\\_committee.pdf](http://www.fcghana.org/VPA_2/assets/file/implementation_committee/tor_multi_stakeholder_implementation_committee.pdf).

<sup>47</sup> The composition of the JMRRM is not specified in the VPA, but the minutes of its meetings, available at various places on the Forestry Commission Ghana website, [www.fcghana.org](http://www.fcghana.org), list the participants.

<sup>48</sup> EU and Government of Ghana, *Aide Memoire: Fourth Mission of the Joint Monitoring and Review Mechanism, Accra, 13–16 March 2012*; [www.fcghana.org/vpa/assets/file/JMRRM%20Mission%204.pdf](http://www.fcghana.org/vpa/assets/file/JMRRM%20Mission%204.pdf).

<sup>49</sup> Government of Ghana, Timber Resources (Legality Licensing) Regulations 2012, Article 5.

forest laws, secure the protection of the rights of forest communities, and advocate compliance with the fiscal regime. An informal working group on timber legality verification has been established, with support from the EU-based Client Earth; it will scrutinise the timber verification manuals which are being developed by the Forestry Commission, and contribute to the development of a framework for monitoring of the LAS.

In general, therefore, despite the lack of formal recognition of civil society independent monitoring in the VPA, Ghana NGOs have created several routes to influence its processes and feed in information. Nevertheless, one member NGO, Rural Environmental Care Association, has argued for recognition for its role in monitoring the VPA through a Memorandum of Understanding with the government or other recognised framework. Another group of member NGOs is hoping to attract EU funding to strengthen community and NGO capacity for grassroots monitoring of VPA implementation, including a functioning VPA communications strategy. It also hopes to develop an officially recognised list of information to be routinely made public, akin to a similar annex in all five other VPAs. Forest Watch intends to use the results from the activities of its members to conduct national advocacy campaigns.

## 5.5 Indonesia

The way in which the Indonesia VPA is to operate is significantly different from the other five VPAs, largely because of the size and extent of the country itself, and its timber industry.<sup>50</sup> For example, where CAR has only 11 timber-exporting companies, Indonesia has 4,500 producers, processors and exporters.<sup>51</sup> Accordingly, instead of relying only on the government to play the main role in implementation, the Indonesian system is operator-based, in a similar way to forest certification. Implementation of the timber legality assurance system (TLAS) is outsourced to independent private verification bodies, called conformity assessment bodies, which are accredited by the national accreditation body (Komite Akreditasi Nasional or KAN) and appointed by the Ministry of Forestry to verify and assess the TLAS.

The independent auditor function – known as ‘periodic evaluation’ – is supposed to monitor the performance of all these thousands of entities, and perhaps as a result, given the extensive nature of the monitoring required, the Indonesia VPA contains the clearest explicit commitment to the principle of civil society independent monitoring of any of the VPAs (in Annex V, on the TLAS):

Civil society plays a key role in the independent monitoring of the whole system. Findings from the Independent Monitor can also be used as part of the Periodic Evaluation required under this Agreement.<sup>52</sup>

Annex VIII (the criteria for evaluating the TLAS) makes it clear that ‘Indonesia has formally recognised the Independent Monitoring function and allows civil society to submit objections when irregularities in the accreditation, assessment and licensing processes are found’<sup>53</sup>

Annex V specifies that in the event of an assessment-related irregularity, objections by a civil society monitor shall be submitted directly to the conformity assessment body (Lembaga Penilai) or verification body (Lembaga Verifikasi) concerned, and if any objection is not appropriately responded to, the monitor may file a report to the national body KAN. For accreditation-related irregularities, objections are submitted directly to KAN. If civil society groups discover irregular behaviour on the part of an operator, they can lodge complaints directly with the assessment body responsible for the legality verification of the operator. Civil society can also file complaints to KAN with regard to the conduct of audits.

<sup>50</sup> See Bollen and Ozinga, *Improving Forest Governance: A Comparison of FLEGT VPAs and their Impact* (FERN, February 2013), p. 19.

<sup>51</sup> *Ibid.*, p. 17.

<sup>52</sup> Voluntary Partnership Agreement Between the European Union and the Republic of Indonesia on Forest Law Enforcement, Governance and Trade in Timber Products into the European Union, Annex V, Section 4.

<sup>53</sup> *Ibid.*, Annex VIII, Section 5.



Annex V also mentions the establishment of an *ad hoc* multi-stakeholder monitoring working group to conduct a comprehensive evaluation of the TLAS on a regular basis in order to recommend improvements, though the composition of the working group is not specified. The independent monitor's complaint report is included in the list of information that must be published, in Annex IX, and the same annex includes a commitment to assess the need for civil society capacity building.

Annex VIII – the criteria to be used by an independent technical evaluation to assess the operationality of the TLAS before FLEGT licences start to be issued – poses a series of key questions to be asked in respect of civil society independent monitoring:

- Has the government made the guidelines for Independent Monitoring publicly available?
- Do the guidelines provide clear requirements on the eligibility of organisations to perform Independent Monitoring functions to ensure impartiality and avoid conflicts of interest?
- Do the guidelines provide procedures to access the information contained in Annex IX of this Agreement?
- Can civil society in practice access the information contained in Annex IX of this Agreement?
- Do the guidelines provide procedures for the submission of objections by the Independent Monitor? Are these procedures publicly available?
- Have the reporting and public disclosure provisions that apply to Lembaga Penilais and Lembaga Verifikasi been clarified and established?<sup>54</sup>

In 2010, the Jaringan Pemantau Independen Kehutanan (JPIK – the Independent Forest Monitoring Network) was established as a network of NGOs aiming to monitor the Indonesian TLAS – including monitoring the activities of the national accreditation body KAN and the activities of the independent auditor (periodic evaluation). A further role is to facilitate information-sharing from the national to the provincial and district levels. It is currently developing communication systems between its members, and delivering training; funding is available from the EU, UK and the United Nations Office on Drugs and Crime. Currently, over 40 organisations are members; it possesses a national coordinator, and provincial coordinators in 24 out of 34 of Indonesia's provinces. As well as timber production, field missions to date have investigated mining cases in Kalimantan, and palm oil concessions. JPIK does not possess formal status with the Indonesian government, but as can be seen, the role of NGOs is very clearly recognised in the VPA.

## 5.6 Liberia

The forestry reform process that began in Liberia after the civil war and the peaceful presidential elections of 2005 opened up the possibility of civil society involvement in monitoring the forest sector. The 2006 National Forestry Reform Law provides for broad public access to information related to forestry, but the Forestry Development Authority Regulation 108-07 goes much further and establishes a right for civil society organisations, communities and other independent third parties to conduct forest monitoring, and an obligation on Authority staff and holders of forest resource licences to assist them.<sup>55</sup>

During the negotiation of the Liberia VPA, some Liberian NGOs argued for the inclusion of a system of civil society independent monitoring, or IFM, as a means of affirming these commitments and establishing a recognised framework through the VPA. This was not a unanimous view, however, with other NGOs concerned about a potential loss of independence (as in Cameroon and Ghana). In the end the VPA included several references to civil society independent monitoring.

<sup>54</sup> Ibid.

<sup>55</sup> SDI, *Independent forest monitoring: suggestions for a way forward towards IFM in Liberia*, 2010.

In particular, Annex VIII (on supporting measures) states that, ‘In addition, other stakeholders [in addition to the JIC] including civil society will monitor implementation of the VPA and, in so doing, contribute to effective implementation of the LAS.’ Key measures ‘may include... monitoring by civil society, including ensuring that community-level concerns are articulated and communicated to’ the authorities.<sup>56</sup>

Civil society is also explicitly mentioned in Article 16 of the VPA, which covers consultation with stakeholders in monitoring the implementation of the agreement. A National Multi-stakeholder Monitoring Committee (NMSC) is to be established. An interim body, the Liberia Implementation Committee, has been set up to (among other things) help develop the NMSC. The Committee is made up of government and non-government stakeholders who were involved in the VPA negotiation process, and aims to oversee the implementation of the VPA before the NMSC becomes operational.<sup>57</sup> It is expected that the stakeholders forming part of the Committee will serve on the NMSC.

Under the VPA, civil society is also to be a source of information for the Liberia Verification Department and the independent auditor, and can feed in complaints to the JIC.<sup>58</sup> The JIC will also provide recommendations on capacity building for civil society in monitoring compliance with forest management laws and regulations. The NGO coalition for Liberia (a group of about 15 environmental NGOs formed originally in 2003) has agreed a proposal to the government for civil society independent monitoring.<sup>59</sup> This outlines a protocol for information-gathering, documentation and information management, validation of the content of monitoring reports, a protocol for peer review and approval of reports produced by the monitoring team, and protocols for reporting to the Liberia Implementation Committee and the JIC. It is not yet formally recognised, but is currently being discussed with different stakeholders.

NGOs are keen to monitor not just specific infractions but companies’ performance across a wide range of legal, environmental and social obligations, including permit allocation, particularly given the recent findings on the misuse of private use permits to log illegally.<sup>60</sup> This may include the performance of palm oil companies.

Some Liberian NGOs are currently attempting to develop forest monitoring activities in anticipation of the development of the LAS. The Sustainable Development Institute (SDI), on behalf of the Civil Society Forest Monitoring (CSFM) Team (established by the NGO coalition), is receiving funding from the EU to ensure that the team and other civil society actors have the capacity to monitor and report on implementation of the VPA, and other NGOs are receiving funding from the FAO to conduct similar activities.<sup>61</sup>

## 5.7 Democratic Republic of Congo

Negotiations on the DRC VPA began in October 2010 and are still in progress. An IFM project, similar to those described in Section 2, has been under way in DRC since 2010. This was established under Order 102/09 of the Ministry of the Environment, Nature Conservation and Tourism, which provides for a civil

<sup>56</sup> Voluntary Partnership Agreement Between the European Union and the Republic of Liberia on Forest Law Enforcement, Governance and Trade in Timber Products into the European Union, Annex VIII, Section 9.

<sup>57</sup> EU and Government of Liberia, *Aide mémoire, First meeting of the Pre-Joint Implementation Committee, Monrovia, 27–28 March 2012*, Institutional arrangement, point 7, p. 2, [www.euflegt.efi.int/files/attachments/euflegt/publications-2012/aid\\_memoire\\_annexes\\_pre-jic\\_30\\_march\\_2012.pdf](http://www.euflegt.efi.int/files/attachments/euflegt/publications-2012/aid_memoire_annexes_pre-jic_30_march_2012.pdf).

<sup>58</sup> Liberia VPA, Annex VIII, Section 9.

<sup>59</sup> Guidance Note No. 1, Monitoring Framework and Reporting Protocol Civil Society Monitoring of the Voluntary Partnership Agreement, Forest Governance and Benefit sharing from the Forestry Sector in Liberia, prepared for members of the NGO Coalition for Liberia and the CSFM Team, 2012.

<sup>60</sup> Global Witness, Save My Future Foundation and SDI, *Signing Their Lives Away: Liberia’s Private Use Permits and the Destruction of Community-Owned Rainforest*, September 2012, [www.globalwitness.org/sites/default/files/library/Signing%20their%20Lives%20away%20-%20Liberian%20Private%20Use%20Permits%20-%204%20Sept%202012%20U\\_0.pdf](http://www.globalwitness.org/sites/default/files/library/Signing%20their%20Lives%20away%20-%20Liberian%20Private%20Use%20Permits%20-%204%20Sept%202012%20U_0.pdf).

<sup>61</sup> See ACP FLEGT Support Programme, Partner Countries, Liberia; [www.fao.org/forestry/acp-flegt/projects/en/](http://www.fao.org/forestry/acp-flegt/projects/en/).

society independent observer to monitor the conformity of forest law enforcement operations by the forest administration.<sup>62</sup> Order 032/12 from the Ministry allocates observer seats on the Comité de Lecture, established to consider reports from the monitor to two representatives from civil society and two from the technical and financial partners to the independent monitor, in addition to representatives from the independent monitor and national or provincial governments.<sup>63</sup> The reports are published following review and validation by the Committee; no committee member has the right to prevent publication, but any disagreements from its findings can be noted in the report.

REM carried out this IFM role from 2010 to April 2013, with funding from the EU, and is currently preparing the transition to local or sub-regional NGOs. The local NGO Observatoire de la Gouvernance Forestière (OGF) intends to take up this role and Réseau Ressources Naturelles (RRN), a network of local NGOs, is currently debating whether it wishes to be involved. According to REM's final report, the local staff of the IM-FLEG project implemented by REM decided in 2012 to set up OGF to improve forest governance through law enforcement, monitor forest resource management and exploitation, support the implementation of the VPA and REDD+ activities, disseminate information and make recommendations to the authorities.<sup>64</sup> OGF also expects to coordinate activities with FLAG (see above, Section 5.3).

REM carried out joint missions with the administration in logging concessions, mills and forest companies' administrative offices; between 2011 and 2012, four such joint missions were conducted in the provinces of Bas Congo, Bandundu, Orientale and Equateur, covering about 80 per cent of the industrial logging titles in operation and a representative sample of artisanal logging titles. The reports of the missions, together with the minutes of the Comité de Lecture, reveal that the logging concessions visited were all subject to infractions under DRC law.<sup>65</sup> Some of the infractions are currently subject to legal actions but none of them has so far led to any criminal sanction.<sup>66</sup>

This IFM project is not directly related to the VPA negotiations, but REM saw its role partly as one of defining and testing mechanisms that could later be used in the context of the VPA. So far the VPA negotiations have discussed the provisions for independent audit, but there has been no discussion on civil society independent monitoring as such. Both CODELT, a leading DRC NGO, and RRN are arguing for civil society independent monitoring to be recognised in the VPA – though while CODELT feels that both the 'mandated', IFM, function and a separate 'self-mandated' civil society independent monitoring function should be formalised in the VPA, RRN believes that only the former is necessary, as Order 102/09, mentioned above, already covers the latter. Article 53 of the order states that civil society must denounce illegal activities and the authorities should respond; whether that provides adequate legal recognition of 'self-mandated civil society independent monitoring function' is open to debate.

A number of NGOs currently conducting 'self-mandated' monitoring operations are attempting to coordinate their activities and develop a common methodology and approach.<sup>67</sup> An NGO coalition is being put together (Coalition des Organisations de la Société Civile pour l'Application des Lois et Réglementations Forestières (the Civil Society Organisations Coalition for the Enforcement of Forest Laws and Regulations) to

<sup>62</sup> Ministry of the Environment, Nature Conservation and Tourism (DRC), *Arrêté 102/CAB/MIN/ECN-T/15/JEB/09 du 16 juin 2009, fixant les règles et les formalités du contrôle forestier*, [www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/AM.102.16.06.2009.htm](http://www.leganet.cd/Legislation/Droit%20economique/Code%20Forestier/AM.102.16.06.2009.htm).

<sup>63</sup> Ministry of the Environment, Nature Conservation and Tourism (DRC), *Arrêté 032/CAB/MIN/ECN-T/10/BNME/012 du 16 octobre 2012 modifiant et complétant l'arrêté ministériel n° 102/CAB/Min/ENC-T/15/JEB/09 du 16 juin 2009*.

<sup>64</sup> REM, *Final Report: Independent Monitoring of Forest Law Enforcement and Governance (IM-FLEG) in the Democratic Republic of Congo, December 2010 – April 2013*, p. 30, [www.observation-rdc.info/documents/REM\\_IMFLEG\\_2013\\_report\\_DRC.pdf](http://www.observation-rdc.info/documents/REM_IMFLEG_2013_report_DRC.pdf).

<sup>65</sup> Reports available at [www.observation-rdc.info/Rapports.html#7](http://www.observation-rdc.info/Rapports.html#7).

<sup>66</sup> Under the Forest Code (Loi 011/2002 du 29 août 2002 portant code forestier [www.rnrdrdc.org/IMG/pdf/Code\\_Forestier\\_de\\_la\\_RDC.pdf](http://www.rnrdrdc.org/IMG/pdf/Code_Forestier_de_la_RDC.pdf)), forest inspectors have to seize the illegal timber and ask the Public Prosecutor to enforce the law. According to CODELT, there is corruption at this second stage.

<sup>67</sup> For an indicative list of self-mandated monitoring operations in the DRC, see the table in CODELT, *Stratégie de la société civile sur l'observation indépendante de la législation et de la gouvernance forestière (OI-FLEG) en RDC*, (January 2013), pp. 11–12, [www.observation-rdc.info/documents/RDC\\_strategie\\_OI\\_2013.pdf](http://www.observation-rdc.info/documents/RDC_strategie_OI_2013.pdf).

coordinate civil society independent monitoring activities. Provisionally based in RRN's offices, the coalition is currently defining its members' role in monitoring; its work will be disseminated through a future system of information sharing.<sup>68</sup>

In January 2013 REM published an overview of independent monitoring in the DRC and a strategy for strengthening civil society's role.<sup>69</sup> The study sets out a strategic framework for both 'mandated' and 'self-mandated' independent monitoring. This includes the role of NGOs ('to contribute to the improvement of forest governance through monitoring the enforcement system of forest laws and regulations, according to two Orders, 102/09 and 032/12'), the values and principles on which they will base their actions (such as integrity, accountability and the rule of law) and several strategic approaches (such as capacity building and training, monitoring and accompanying measures) with verifiable indicators. The accompanying Action Plan suggests that the first effective independent monitoring missions could start around October 2013, after some time spent in training.

## 5.8 Gabon

Negotiations on the Gabon VPA began in September 2010 but have made no progress since May 2012; the government appears to have lost interest. There have been some developments, however, in NGOs' activity on illegal logging.

The NGO Conservation Justice plays a key role in wildlife law enforcement in Central Africa, especially in Gabon. It was created to extend the model developed by the Last Great Ape organisation (LAGA), an NGO founded in Cameroon to encourage and provide assistance to government in wildlife law enforcement.<sup>70</sup> LAGA's approach includes identifying illegal wildlife traffickers, facilitating their arrest and imprisonment, assisting in obtaining a conviction and disseminating the results through the media.

Based on the successful results of a wildlife law enforcement project in Gabon, and with the government's support, in 2012 Conservation Justice launched *Appui à la Lutte contre l'Exploitation Forestière Illégale* (ALEFI, or Supporting the Fight Against Illegal Logging), adapting the LAGA model to illegal logging in Gabon. The project's objectives include organising independent investigations throughout the country, facilitating arrests, assisting the government in prosecutions and raising the profile of the issue through the media.<sup>71</sup> The project has already shown results, documenting extensive illegal logging. In May 2013, the government adopted a National Action Plan for the Fight Against Illegal Logging and in the same month arrested the managers of two timber companies and charged a number of government officials with corruption.<sup>72</sup>

This approach clearly goes somewhat beyond forest monitoring, but has some overlap, and it is hoped that in time the ALEFI project could help implement the VPA, if it is ever finalised.

## 5.9 Conclusions

It can be seen, then, that civil society independent monitoring in VPA countries is developing in a range of different ways – unsurprisingly, given the different geographic, industrial and political contexts in which it is set. Partly the systems that are emerging vary with the structure of the LAS (Indonesia's is very different from the others, suggesting a clear role for a network of NGO monitors) and partly with the existence of pre-VPA IFM projects (as in Cameroon and Congo).

<sup>68</sup> Ibid., p. 33.

<sup>69</sup> Ibid.

<sup>70</sup> [www.laga-enforcement.org/](http://www.laga-enforcement.org/).

<sup>71</sup> Ministère des Eaux et Forêts (Gabon), *Appui à la lutte contre l'exploitation forestière illégale*, 2012.

<sup>72</sup> 'First results of PANEFI / ALEFI: illegal loggers in jail', Conservation Justice, 12 May 2013, [www.conservation-justice.org/wordpress/?p=870](http://www.conservation-justice.org/wordpress/?p=870).

One constant theme is the extent to which NGOs wanted civil society independent monitoring to be recognised in the VPA; in some cases they did not, fearing the loss of independence that might result. In these cases, the transparency provisions of the VPAs, covering the information to be made publicly available, and the institutional structures allowing for input from stakeholders in the form of complaints or reports, become even more important. If both these elements operate effectively, there is less of an argument for formal recognition of civil society independent monitoring.

We return to these issues in Section 7; but next we look at experiences of civil society independent monitoring from other sectors.



**IFM helps check that forest policy objectives are being met in reality.**

## 6 Lessons from other sectors

Monitoring and auditing systems of course exist in many industries, sectors, countries and international agreements, and recent years have seen the development of various forms of natural resource monitoring.

In a sense, much of what campaigning NGOs do could be classed as ‘monitoring’ – of actions, or failures to act, by governments, businesses or international organisations – and some NGOs have been established explicitly to monitor a particular policy area or institution or agreement: examples include Clean Development Mechanism Watch (now renamed Carbon Market Watch), Publish What You Pay, Human Rights Watch or the Bretton Woods Project.

Of more relevance to this paper are cases where civil society plays a recognised role in monitoring.<sup>73</sup> Examples include:

- The Convention on International Trade in Endangered Species (CITES), where the World Conservation Monitoring Centre and the Wildlife Trade Monitoring Network (TRAFFIC) both have recognised roles in collecting and analysing information on illegal trade in wildlife (though the former, originally an NGO, is now part of the UN Environment Programme).
- The Kimberley Process on conflict diamonds, where Global Witness was a member of the monitoring committee on the implementation of the certification scheme (until it withdrew from the Process in December 2011, in the wake of the failure to deal with non-compliance by a number of members).
- Landmine Monitor was established by the International Campaign to Ban Landmines in 1998 to monitor and report on the implementation of and compliance with the 1997 Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction; it produces a comprehensive annual publication covering every aspect of treaty implementation and compliance. Although the organisation has no official status under the treaty, its reports, which are tabled at the annual conferences of the parties, are very highly regarded – partly because of their rigorous and transparent methodology – and it has become the *de facto* monitoring mechanism for the agreement.
- Under article 45(a) of the UN Convention on the Rights of the Child, the Committee on the Rights of the Child may invite specialised agencies, UNICEF, and ‘other competent bodies’ to provide expert advice on the implementation of the Convention. The term ‘other competent bodies’ has been interpreted to include NGOs, and the Committee has systematically encouraged NGOs to submit reports, documentation or other information in order to provide it with a comprehensive picture of how the Convention is being implemented in a particular country.<sup>74</sup>
- The Africa Stockpiles Programme, a 12–15 year programme aimed at the disposal of obsolete pesticides in Africa, was launched in 2005 as a partnership involving international agencies, African governments, NGOs and the private sector. The Programme’s guidelines envisage a role for NGOs as independent monitors, working collaboratively with other stakeholders. One example is the British NGO Pesticide Action Network UK, which, with government funding, acted as an

<sup>73</sup> For overviews, see Oliver Meier and Clare Tenner, ‘Non-governmental monitoring of international agreements’, in *Verification Yearbook 2001* (VERTIC, 2001), [www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=22623](http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=22623); Dieter Deiseroth, ‘Societal verification: wave of the future?’, in *Verification Yearbook 2004* (VERTIC, 2004), [www.vertic.org/media/Archived\\_Publications/Yearbooks/2000/VY00\\_Deiseroth.pdf](http://www.vertic.org/media/Archived_Publications/Yearbooks/2000/VY00_Deiseroth.pdf); Michael Crowley and Andreas Persbo, ‘The role of non-governmental organisations in the monitoring and verification of international arms control and disarmament agreements’ in John Borrie and Vanessa Martin Randin (eds.), *Thinking Outside the Box in Multilateral Disarmament and Arms Control Negotiations* (UN Institute for Disarmament Research, 2006), [www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=47365](http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=47365).

<sup>74</sup> See NGO Group for the Convention on the Rights of the Child, *A Guide for Non-Governmental Organizations Reporting to the Committee on the Rights of the Child* (third edition, 2006), [www.childrightsnet.org/docs/Reporting%20Guide%202006%20English.pdf](http://www.childrightsnet.org/docs/Reporting%20Guide%202006%20English.pdf).

independent monitor of activities in Ethiopia. It helped to develop inventories and apply best practice to disposal operations, supported preventive measures and trained local NGOs.<sup>75</sup>

- The Extractive Industries Transparency Initiative (EITI) promotes revenue transparency and accountability in the extractive sector. It requires candidate countries to work with civil society and the private sector in implementation, including the establishment of a national stakeholder working group to oversee activities such as the publication and communication of audit reports. Any participating government must commit to ensure that civil society is fully, independently, actively and effectively engaged in the process. The EITI primarily covers oil, gas and mining, but all the VPA countries are involved: Cameroon and Indonesia are candidate countries, while Republic of Congo, Ghana and Liberia are fully compliant; Liberia's reports also cover forestry and agriculture. CAR was fully compliant but was temporarily suspended in April 2013 following a military coup the previous month.<sup>76</sup>
- The 1997 Organisation for Economic Cooperation and Development (OECD) Anti-Bribery Convention. Although the Convention does not provide for civil society's participation in monitoring its implementation, the 1997 Revised Recommendation of the Council on Bribery provides for regular consultations with civil society active in this field. The November 2009 Anti-Bribery Recommendation provides for the Anti-Bribery Working Group (comprising the governments which are party to the Convention, responsible for monitoring the implementation of the Convention and the Recommendation) to engage more closely with civil society and the private sector in the fight against foreign bribery. This includes the continuing input of civil society to the evaluation of on-site visits. This mechanism is considered by the NGO Transparency International as the 'gold standard' of monitoring. The organisation produces an annual progress report on enforcement of the Convention (including recommendations to governments), based on reports from its national chapters in almost every OECD Convention country.

A study for the Verification Research, Training and Information Centre (VERTIC) in 2001 divided NGO interaction with official treaty verification regimes into three categories:<sup>77</sup>

- Official interaction, as part of a formal international verification mechanism: examples above include CITES, the Kimberley Process and (at national level) EITI.
- Quasi-official interaction, loosely linked to official mechanisms – examples above include Landmine Monitor and the Committee on the Rights of the Child.
- Informal interaction, outside official verification mechanisms.

These divisions are of course quite fluid; unofficial processes can over time come to occupy more of a formal role. The VERTIC study concluded that NGO monitoring had proved most effective when:

- NGOs coordinated their monitoring activities internationally.
- NGOs had good access to official declarations and other relevant information.
- There was a clear legal basis for interaction between official verification mechanisms and non-governmental actors, or the official verification mechanisms provided a role for NGOs.
- International organisations and state parties [to the international agreement] were open to NGO contributions.<sup>78</sup>

<sup>75</sup> 'Independent monitoring – a role for NGOs', *Pesticide News* 62 (December 2003), [www.pan-uk.org/pestnews/Issue/pn62/pn62p14.htm](http://www.pan-uk.org/pestnews/Issue/pn62/pn62p14.htm).

<sup>76</sup> See <http://eiti.org>.

<sup>77</sup> Meier and Tenner, *Non-government monitoring of international agreements*, p. 208, [www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=22623](http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=22623).

<sup>78</sup> *Ibid.*, p. 221.

A later study built on this to recommend a series of measures to enhance the quality and scope of NGO monitoring; the study dealt with arms control and disarmament agreements, but many of its conclusions are applicable more widely.<sup>79</sup> Recommended measures include the following:

- A stable financial base, allowing NGOs to recruit, train and retain skilled staff and conduct comprehensive monitoring activities. It was recognised, however, that direct financial support from governments could compromise NGO impartiality; one possible solution was the creation of a multilateral fund to channel contributions.
- Facilitating NGO access to relevant government expertise, training and resources – including, for example, satellite information or other data.
- Mechanisms to ensure the objectivity and reliability of NGO monitoring. NGOs were recommended to standardise their procedures, reinforced by training, to guarantee the reliability of the data they collected. NGOs that also engaged in campaigning and advocacy work were advised to separate this completely from their monitoring and verification activities, to avoid any perception of bias (and increase the likelihood of cooperation with governments).
- Greater interaction between NGOs and international institutions (meaning those implementing the treaty – probably of less relevance in the case of forest monitoring).
- Greater NGO access to state territory and activities – particularly where governments remained suspicious of NGO activity.
- Enhancing and formalising NGO involvement in official monitoring and verification processes – particularly where the treaty lacked adequate official monitoring mechanisms. The treaty would benefit from enhanced monitoring and, thereby, better implementation; the formalisation of the NGOs' role would give them and their findings increased legitimacy 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.

Most of these recommendations are directly relevant to independent monitoring in VPA countries. The main difference is that the VPAs themselves will provide a level of monitoring (through the independent auditor) so in VPAs the task of 'monitoring the monitor' may be as important as monitoring the implementation of the agreement, or the forest sector more broadly.



Logs with no identity marks being transported in Ghana.

<sup>79</sup> Crowley and Persbo, 'The role of NGOs in the monitoring and verification of international arms control and disarmament agreements', in John Borrie and Vanessa Martin Randin (eds.), *Thinking Outside the Box in Multilateral Disarmament and Arms Control Negotiations* (UN Institute for Disarmament Research, 2006), [www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=47365](http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=47365).



## 7 What independent monitoring do we want?

As can be seen from Section 5, civil society independent monitoring in VPA countries is developing in a range of different ways. This section attempts to highlight key questions that anyone aiming to build a system of civil society independent monitoring into (or alongside) a VPA may wish to consider.

### 7.1 What do we mean when we talk about independent monitoring?

As previous sections have made clear, the term ‘independent monitoring’ has several different meanings in VPA countries:

1. **What is now generally called ‘independent audit’** – a narrowly defined process of checking that the LAS in the VPA is working as it should, with the auditor appointed by the VPA partner country government (in agreement with the EU), and conducting audits at set intervals (after an initial period, generally once a year). All VPAs have this; in Ghana it is called independent monitoring, in Indonesia periodic evaluation. The function seems likely to be carried out by private-sector inspection and verification bodies, not by NGOs.
2. **Recognition for a role for a pre-existing IFM (or independent observer)** – an independent third party that, by agreement with state authorities, has provided an assessment of legal compliance, and observation of and guidance on official forest law enforcement systems (the terms of reference vary, but can go very wide). The Republic of Congo VPA gives a clear role for the pre-existing IFM structure, and the Cameroon VPA a more cursory one.
3. **Independent monitoring by civil society, with some degree of recognition in the VPA.** The clearest recognition is in the Indonesia VPA, where civil society plays a recognised role in monitoring the verification and assessment process (a much bigger task than in the other VPA countries, given the size of the country and the industry and the operator-based nature of the TLAS). The CAR VPA also has clear recognition for the role of civil society, though it is not yet established. The Liberia VPA contains a few references.
4. **Monitoring that relies on broad provisions in the VPA alone** – no mention of independent monitoring as in the Ghana VPA. NGOs conducting monitoring activities will need to rely partly on the provisions for access to information and to consultation with stakeholders which are present in all VPAs.

Clearly, independent audit (category 1) is different from all the others. Categories 2 and 3 between them provide a spectrum of situations in which civil society has a role in monitoring the VPA, but the formal status and recognition of the role varies from a clear commitment (Congo, Indonesia) to relatively little (Cameroon, Liberia); CAR is somewhere in between. Category 2 countries are basing their system on pre-existing IFM structures, typically led by international organisations, whereas category 3 countries are taking a lead from local civil society initiatives; this distinction should become less important in time. Category 4 includes no explicit mention of independent monitoring (because the NGOs involved in the negotiations did not want it to), but the broader provisions of the VPA on transparency and consultation still offer opportunities for monitoring activities to influence the development and implementation of the VPA.

In practice, there may be fewer differences between categories 2, 3 and 4 than at first appears, depending on how the VPA develops, the extent of political will in the country and the amount of pressure the EU and external stakeholders apply. Just because civil society is mentioned as a potential source of information for the VPA structures, or even given a formal role (as in Indonesia or Congo) does not mean the government will necessarily pay much attention to it. Conversely, just because civil society has no or little formal status, as in Ghana, it does not mean that the VPA structures will inevitably ignore it. Civil society, both local and international, has a role to play in ensuring that it cannot be ignored.

The terms ‘mandated’ and ‘self-mandated’ monitoring are also often used. ‘Mandated’ monitoring activities are carried out through a formal agreement or contract with the government to monitor specific issues; category 2 monitoring clearly fits here, but the Indonesia situation could possibly also be described in this

way. ‘Self-mandated’ monitoring activities are conducted without such a formal agreement, where civil society sets its own priorities without reference to the government: category 4 and most category 3 situations. In the latter case, there may be value in agreeing some form of Memorandum of Understanding or framework agreement with the government about the role of civil society independent monitoring, regardless of what the VPA contains; as seen in Section 5, such an arrangement is being negotiated or called for in Cameroon, CAR, Ghana and Liberia, and as seen in Section 6, is recognised as important in other contexts.

Another difference is that an IFM function may be carried out by private-sector inspection and verification bodies, or by NGOs, or possibly by the two together. As can be seen from Section 2, the evidence about whether civil society or private sector monitors are better is inconclusive, but it is almost certain that the NGO community, and probably many others, would regard private sector companies as too ‘safe’ and less likely to challenge public authorities. Furthermore, as these are exactly the kind of companies that will be used for the independent audit function, there is an argument for having the independent monitor possess a different set of values and approaches from the independent auditor.

## 7.2 What should be monitored?

Whatever form monitoring takes, a key question is *what* should be monitored? The functions of the early IFM projects were generally to identify and document non-compliance with the law regarding forest operations, and the government’s success or failure in its response – but the development of the VPAs is changing the context in which independent monitoring will be carried out. There are three broad approaches, none of which is mutually exclusive.

The first focuses on the core of the VPA – the LAS – designed to exclude illegal timber from the market (or, at least, from exports). The independent auditor is supposed to check that that system works properly, but there is a strong argument for saying that the LAS in the context of the VPA, including the work of the independent auditor, also needs to be checked (particularly as the independent audit is envisaged as a periodic one, with audits taking place only once a year, after the initial period). Although there are institutions within each VPA that enable concerns to be raised (the JICs between the partner country and the EU, the national monitoring committees, etc.), they may not meet particularly frequently, and it is not always obvious where they would get their information from. It could be from an independent monitor tasked with monitoring the implementation of the LAS.

Alternatively, or additionally, as can be seen from Section 4, there are various aspects of the VPA that the independent auditor will not monitor – for example, the performance of law enforcement officials, the publication of information, the accompanying processes of law reform, compliance with social agreements and the distribution and use of decentralised revenues. All VPAs also contain a commitment to monitor the impact of the licensing scheme, or the agreement, on local and indigenous communities.<sup>80</sup> There is therefore an argument for a separate independent monitor with wider terms of reference. The JICs provide a platform for these issues to be raised; but, as above, it is not clear where they would get systematic information from.

Finally, there may also be aspects of forest policy that are not covered by the VPA – for example, the sale of products in the domestic market; or which do not even relate to questions of legality – e.g. the socio-economic impact of forestry policy or the environmental impacts of agricultural policy, or the degree of empowerment of communities. Again, these could be the subject of civil society monitoring.

The second and third approaches raise the question of what exactly should be monitored. Representatives from the NGOs that commissioned this paper were surveyed on the functions they believed their organisation would like to monitor; the results are set out in full in Annex 3 of this study (Table A3.1), and summarised here:

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<sup>80</sup> In the article on social safeguards – Article 17 in all VPAs except for Indonesia’s, where it is Article 12.

- One area which could be monitored (and is specified in the LAS) attracted 100 per cent support: the permit allocation process. The experience of IFM projects has been that illegalities tend to ‘move up the food chain’ over time, as the more obvious infractions (cutting outside concession boundaries, for example) are successfully tackled; the question of how access and concession rights are allocated in the first place then becomes a more important factor.
- Fifteen areas that could be monitored attracted less than 100, but 67 per cent or more support (in order of level of support): social agreements (local development projects, money, etc.); recognition of customary access and user rights as defined in forest management plans; the legislative and institutional reforms the VPA has committed the country to; forest crimes / infractions; progress towards the achievement of agreed forest policy objectives; the LAS; revenue redistribution (to national, local government and to communities); the independent auditor (‘monitoring the monitor’); transparency commitments in the VPA; the forest law enforcement agents; legality of timber for the domestic market; revenue collection (taxes, royalties); functioning of the conflict resolution mechanisms (at the levels of the operator, independent auditor or JIC); impact of VPA; compensation for damage of goods.
- Three areas that could be monitored attracted 50 per cent or less support (in order of level of support): legality of imported timber and timber in transit; non-timber forest products such as bushmeat, honey, tree sap etc.; and market monitoring.

The same respondents were also asked what kind of approaches they took or planned to take (see Annex 3, Table A3.2). The results are summarised here:

- Three potential approaches attracted 100 per cent support: conducting field investigations; case-by-case reports (‘mission reports’); SMS / mobile phone-based systems.
- Five potential approach areas attracted less than 100 but more than 70 per cent support (in order of level of support): conducting desk-based investigations, for example of documentation and data from different sources; capacity building of forest law enforcement agents; GIS mapping; periodic audits (such as social audits or impact evaluations); selected cases (i.e. using a case selection process).
- Three potential approach areas attracted less than 60 per cent support (in order of level of support): overall assessments (of the entire forest); analysing satellite imagery; sitting on permit allocations committees / conducting pre-allocation due diligence (pre-qualification, bid assessment etc.).

Not too much should be read into the precise results of the survey: the number of respondents was small, and their choices were not constrained by any consideration of priorities or availability of resources, but they do give an indication of the kind of activities that could be undertaken by civil society independent monitors within or alongside a VPA.

### 7.3 What should be the monitor’s relationship with the authorities?

The relationship between the monitor and the government is a key issue, and one commented on extensively in responses to the questionnaire and survey used in the process of writing this study.

One model is a formal relationship, with the monitor possessing official status. This gives the monitor access to forests, documents and personnel. It also makes their reports more likely to be read and acted on, and it may have a positive influence directly on the government agencies being dealt with. As with the independent auditor, the stronger the commitment to a role for independent monitoring that is written into the VPA, the clearer the criticism would be if the government should attempt to ignore the findings of the independent monitors; indeed, it could be argued that this would be a case of non-compliance with the agreement. Official status may also make access to funding (e.g. from the EU) easier.

There are, however, some risks in having this formal relationship between the government and the independent monitors. The monitor may be steered away from particularly embarrassing examples of

illegality (particularly where government officials may be behaving illegally), it may be constrained in its ability to reveal information, or publication of its reports may be endlessly delayed, and its independence may be perceived by the outside world to be compromised. It was for these reasons that many NGOs, particularly in Cameroon, Ghana and Liberia, did not argue for independent monitoring to be recognised in their VPAs. These concerns are frequently raised about the role of the independent auditor.

Monitors acting without a formal relationship with the government may avoid these problems, but may suffer from others, including lack of access to forest locations and to documents (though the VPA provisions on transparency should help the latter), possibly greater problems of interference (through, for example, intimidation), and possibly a lack of funding. On the other hand, they can operate without government restraints, more flexibly and with (probably) greater perceived legitimacy. They may be able more easily to get round official attempts to delay or bury an official monitor's findings, and to be able to find funding where an official monitor might be undermined through being starved of resources (though even formally recognised independent monitors may be funded externally).

There is no easy answer to this question, and the situation will clearly vary country by country. However, in all the IFM experiences described in Section 2, the monitor possessed official status, which was necessary to facilitate access to information and to the forests themselves, and cooperation with law enforcement agencies. The studies of monitoring in other areas summarised in Section 6 also recommend a formal relationship.

One solution may be a Memorandum of Understanding or framework agreement between the monitor and the government, as is being argued for in most VPA countries, rather than a formal recognition in the VPA itself. This may help to establish routes of influence without constraining the monitor too much – or, on the other hand, it may be more easily ignored by the authorities.

Another possibility may be to establish both a formally recognised, 'mandated' monitor, *and* a non-recognised self-mandated monitor – as NGOs in Cameroon and Congo have argued for. If this is the outcome, it would be important for the monitors not simply to duplicate each other's work, but perhaps to focus on different areas; these may change over time, as the VPA develops. It may also be difficult to secure sufficient resources for three levels of monitoring (these two plus the independent auditor) within a single country.

#### **7.4 What happens to the monitor's reports?**

A related question is the impact that the monitor should have. When it issues reports, what happens to them? Are there routes for them to be submitted formally to the government or the EU, the independent auditor, and/or the institutions established by the VPA – the JIC or, where it exists, a national monitoring committee or stakeholder committee? Are the monitor's reports likely to be viewed as legitimate? Will they be disseminated widely? Will they trigger an adequate response?

As noted, all the VPAs contain commitments to stakeholder participation, and most of them specifically mention civil society as members of relevant committees. All of them provide a route through which stakeholders (some of them explicitly mention civil society, and in some cases, the civil society independent monitor) can feed in information, or raise complaints or alerts about non-compliance with the legality assurance scheme, often to the independent auditor; as noted in Section 5, all JICs have the responsibility of considering complaints. The extent to which these mechanisms work in practice of course remains to be seen – though the record of civil society involvement in the negotiation of the VPAs has generally been good.

As outlined above, the existence of a formal relationship between the monitor and the government, whether set out in the VPA or in a separate document, seems likely to increase the chances of monitors' findings leading to real change.

## 7.5 Supporting features

Finally, which elements go together to build an effective system of independent monitoring? Much of what is listed in Sections 2 and 5 is relevant here, except that the VPA provides a slightly different context, and adds some additional features – though as discussed above, the VPA itself will not always be the sole focus of the monitoring; forest governance, or the forestry sector more broadly, could be. A detailed analysis of how to go about monitoring is beyond the scope of this study, but a brief list of desirable features includes the following:

- Where there is a mandate (i.e. in the case of ‘mandated’ rather than ‘self-mandated’ monitoring), it should be as broad as possible, covering all aspects of the VPA and its implementation. Given constraints on resources, considerable prioritisation of activities will have to be carried out, but this should be done by the monitor themselves and not constrained by the original mandate.
- A primarily investigatory approach, looking for gaps and problems, rather than an indicator-led approach evaluating implementation (though the two could be combined, if resources allow) – i.e. operating differently from the independent auditor.
- A strong relationship with local communities, acting as sources of information and building good governance instead of alienating local people from law enforcement.
- Recognised routes of input to the VPA’s institutions and dispute resolution bodies; and active engagement with these bodies (i.e. regular meetings, not just passive acceptance of reports).
- The freedom to disclose information outside the VPA’s structures – but within agreed protocols – and an effective communications process, able to make maximum use of reports.
- Appointment through a transparent process; possibly a competitive one, but a process that favours the development of NGO coalitions might be preferable (competition within coalitions may be possible).
- Involvement of international NGOs alongside local NGOs, at least for a period, should be positive in terms of capacity building and knowledge transfer.
- Good relations and frequent communication with monitors in other countries, sharing experiences and examples of best practice.
- Regular reports of the monitor’s activities, against agreed objectives, providing an overview of progress beyond individual cases and thus a degree of accountability.
- A set of agreed minimum standards for the monitoring processes and procedures, made publicly available. This could potentially evolve into agreed international standards against which organisations could be accredited.
- Long-term and adequate funding, initially possibly from external donors but in the longer term from within the country; permanent donor support is probably not sustainable. Some kind of trust fund structure (maybe at an international level) may be desirable to avoid financial pressure being (or perceived as being) exerted.
- Political will on the part of the partner country and the EU to enforce compliance with the VPA.



## 8 Conclusions

Increasing interest is being shown in the potential for independent monitoring in the implementation of VPAs. Increasing numbers of organisations are interested in carrying out the monitoring work, and others in providing funding.

The formal structures of the VPAs themselves provide at least two levels of monitoring, through the timber legality verification structures they establish and in the independent audit provisions they create to check the functioning of the LASs. On top of this, VPAs' provisions for the publication of information and for complaints mechanisms offer opportunities for external scrutiny.

There are strong reasons, however, for thinking that by themselves these structures may not be enough to guarantee legality in all circumstances. Study after study has shown that illegalities in the forest sector are widespread and deep-rooted; in common with other natural resource sectors, corruption is rife and law enforcement capacity often weak. After all, if these problems did not exist, the VPAs would not have been negotiated in the first place. In addition, many international agreements, on environment as on other issues, have poor records of compliance by their parties.

The commitment to agree and implement a VPA is itself a strong signal of political commitment to tackle the problem, and the LASs they will create should make illegal activity much more difficult. But no system is fool proof, and once FLEGT-licensed timber starts to enter the market, it is essential that people have confidence in its legality. The systems of independent audit in the VPAs will help significantly, but as this study shows, there are good reasons for thinking that the independent audit systems may need to be complemented by organisations with wider remits, greater freedom of action and with the ability to monitor the situation continuously.

This is why almost every VPA agreed so far contains some references to the potential for independent monitoring by civil society. This study has attempted to summarise developments so far and to highlight the issues that should be thought about by any organisation contemplating carrying out monitoring activities. The precise structure that emerges in any given country, the remit and mode of operation of the monitor, the relationship between the monitor and the authorities, and the degree of recognition of the monitor in the VPA will vary with the circumstances of the country, and will change over time. But the overall conclusion is clear: effective independent monitoring will be essential to the credibility of the VPAs and the timber products they license as legal.



**IFM entails independent identification of systemic failures in forest governance.**

## Annex 1 Independent audit provisions in VPAs

	VPA Article and key functions	Terms of reference	Frequency of audit	Role in LAS	Criteria for evaluation of LAS	Commitment to publish information	Institutions
<b>Cameroon</b>	Article 11: 'to check the performance and efficiency of the FLEGT licensing scheme'	Annex VI	Annex VI Section IV: six months after establishment of LAS, yearly thereafter	Annex III-A Sections III, VIII	Annex VIII	Annex VII includes information on audits and results of audits	VPA Article 19, Annex XI: Joint Implementation Council and JMC (for monitoring and evaluation)
<b>CAR</b>	Article 10: 'for the purposes of the tasks listed in Annex VI'	Annex VI	Annex VI Section IV: three in first year, two in each of second and third years, once a year thereafter; additional audits at request of JIC	Annex V Section I 1.1(c): 'The CAR does not currently have an external audit system or one that would cast an "independent" eye over its forest system.' Annex V Section II 5	Annex VII	Annex XI (Section 9) includes regular summary audit reports and procedure for challenging the audit	VPA Article 19, Annex X: Joint Implementation Committee
<b>Republic of Congo</b>	Article 11: 'to check the performance and efficiency of the FLEGT licensing scheme'	Annex VI	Annex VI Section III: frequency to be decided in consultation with JIC, but at least three in first two years, may be reduced thereafter but must be accompanied by spot checks	Annex III (LVS) Ch 7 (just a cross-reference)	Annex VII	Annex X on access to information has no reference to independent auditor, but Annex VI includes provision for publishing its reports	Annex XI: Joint Agreement Implementation Committee
<b>Ghana</b>	Article 10 (known as Independent Monitor): 'for the purposes of the functions listed in Annex VI'	Annex VI	Annex VI Section 2: approximately every six months in first year, annual thereafter	Annex V Section 1	Annex VII	No separate annex, but Annex VI Section 4 sets out provisions for IM reporting	VPA Article 19: Joint Monitoring and Review Mechanism

	VPA Article and key functions	Terms of reference	Frequency of audit	Role in LAS	Criteria for evaluation of LAS	Commitment to publish information	Institutions
<b>Indonesia</b>	<p>Article 15; Periodic Evaluation (similar to IA elsewhere): ‘for the purpose of the functions ... listed in Annex VI’</p> <p>Article 15; Independent Market Monitor for impacts in EU (to be engaged by EU): ‘for the purpose of the functions listed in Annex VII’</p>	<p>Annex VI: Periodic Evaluation</p> <p>Annex VII: Independent Market Monitoring</p>		<p>Annex V Section 7</p> <p>Also reference to Comprehensive Evaluation by Multi-Stakeholder Monitoring Working Group</p>	Annex VIII	Annex IX Sections 3 and 4 include reports from Periodic Evaluation and Independent Market Monitoring respectively	VPA Article 14: Joint Implementation Committee
<b>Liberia</b>	<p>Article 11: ‘to check the performance and efficiency of the FLEGT licensing scheme’</p>	Annex V	Annex V Section 4.1: two in first year (first to check LAS is fully in place), at least annual thereafter; possibility of impromptu audits and spot checks	Annex II Sections 1, 8	Annex VI	Annex IX Section 1.1(c) specifies ‘reports produced by the independent auditor’	VPA Article 19: Joint Implementation Committee



## Annex 2 References to civil society independent monitoring in VPAs

	Mention of independent monitoring	Role in LAS	Interaction with independent auditor	Provisions for stakeholder involvement in implementing VPA	Published information	Need for civil society capacity building to play role in independent monitoring	Key institutions
Cameroon	–	Annex III-A (LAS): 'Independent Observer' mentioned in verification of felling operations.	Annex VI (IA) Section V (4): information from 'external control mechanisms' includes 'independent observation (IO) for controlling and monitoring forestry offences'.  Annex VI (IA) Section V (6): 'Information gathered from other organisations (specialist NGOs etc.)'	VPA Article 16: regular consultation with stakeholders on implementation of VPA, including through National Monitoring Committee.  Annex III-B (LAS) Section II: National Monitoring Committee, including civil society.  Annex XI (c) (JMC): complaints from third parties to JMC (with EU).	Annex VII (published information): Reports from the 'independent title allocation observer' and the 'independent forestry control observer'.	Annex X (supporting measures and financing systems): financial support for the participation of civil society in monitoring the LAS.	VPA Article 16, Annex III-B (LAS), Section II: National Monitoring Committee, includes all interested stakeholders, in particular civil society organisations.  VPA Article 19, Annex XI (g) (JMC), JMC (with EU), has power to make recommendations including capacity building and participation of civil society.
CAR	Annex IX (supporting measures) Section IIb: 'Civil society's independent monitoring is the mechanism by which it can contribute effectively to implementation of the Agreement. The purpose of civil society's independent monitoring is to	Annex II (definitions): verifier 1.1.4.2 mentions 'report of the independent observer'; verifier 2.1.1.2 mentions 'report of the independent monitor'.  Annex V (LAS) Section I 2.2: 'independent civil society monitor ... formed of several CAR NGOs' to support the	Annex VI (IA) Section V: sources of information include 'members of civil society'.	VPA Article 16: 'The CAR shall involve the stakeholders in implementation of this Agreement, in accordance with the guidelines of the Central Africa Forests Commission on the involvement of NGOs, local communities and indigenous peoples'.	Annex XI (published information), Section 8: Report of the civil society independent monitor (on the LAS).	Annex IX Section II (human capacity) b: need for civil society capacity building.	Annex X (JIC), Joint Implementation Committee to monitor and define appropriate measures to ensure involvement of all stakeholders in VPA implementation.

	Mention of independent monitoring	Role in LAS	Interaction with independent auditor	Provisions for stakeholder involvement in implementing VPA	Published information	Need for civil society capacity building to play role in independent monitoring	Key institutions
	<p>improve the State's systems for implementing forestry law, with the aim of good governance. It will need to document the information gathered and make it available to the FLEGT licensing authority and the Joint Implementation Committee.</p> <p>Annex V (LAS) Section I 1.1(c): 'Civil society is organised in a platform but skills and resources are currently limited and prevent it from undertaking IM.'</p>	<p>verification process.</p> <p>Annex V (LAS) Section II 4: civil society independent monitoring of LAS.</p> <p>Annex IX (supporting measures) Section I 1.3: 'laws on agreement monitoring' to include: 'Order appointing the Permanent Technical Secretariat' (including civil society) and 'Law instituting consideration within the LAS of independent monitoring undertaken by civil society.'</p>		<p>Annex IX (supporting measures) Section IIb: civil society to document information gathered and make it available to the FLEGT licensing authority and the Joint Implementation Committee.</p>			
Republic of Congo	<p>Annex IX, Section 2 (civil society capabilities): defines formal local structure for IM based on previous experience of IFM; to include local NGOs and one international NGO.</p> <p>Annex IX, Section 3 (new legislation): includes 'provisions for the creation of an</p>	<p>Annex III (LVS) Chapter 1: mention of civil society structure to monitor activities of forestry companies.</p>	<p>Annex VI (IA) Section IV 2: role for national civil society in 'independent monitoring of the application of the law and forestry regulations'.</p> <p>Annex VI (IA) Section IV 6: NGOs as sources of information.</p>	<p>VPA Article 16: involvement of stakeholders 'in accordance with the international and sub-regional commitments it has signed up to' (including CBD and Central Africa Forests Commission).</p>	–	<p>Annex IX (other relevant measures), Section 2: needs for training in independent monitoring, information management, communications, awareness-raising, conflict-resolution techniques and principles of forest management. Finance to be identified.</p>	<p>Annex IX (other relevant measures), Section 2: formal local structure's specific objectives are to document information collected and pass to Joint Implementation Committee.</p> <p>Annex IX, Section 5: technical secretariat responsible for monitoring includes civil</p>

	Mention of independent monitoring	Role in LAS	Interaction with independent auditor	Provisions for stakeholder involvement in implementing VPA	Published information	Need for civil society capacity building to play role in independent monitoring	Key institutions
	<p>independent monitor from civil society to participate in the granting of exploitation permits and in drawing up and implementing management plans and to sit on the forestry fund management committee’.</p> <p>Annex IX, Section 5: technical office responsible for monitoring agreement includes civil society.</p>					<p>Annex IX, Section 5: technical secretariat responsible for monitoring also responsible for implementation of measures increasing capabilities of private sector and civil society.</p>	<p>society.</p> <p>Annex XI (JIC) d: includes recommendations on need to increase capabilities and on participation of civil society in monitoring compliance with forest management regulations; taking appropriate measures to promote participation of civil society organisations in implementing VPA.</p>
<b>Ghana</b>	–	Annex V (LAS) Section 5: civil society as member of Timber Validation Council overseeing Timber Validation Department.	Annex VI (IA) Section 2: independent monitor (equivalent to independent auditor in other VPAs) should receive information from stakeholders.	VPA Article 16: ‘Ghana, where feasible, shall endeavour to encourage stakeholder consultation in the implementation of this Agreement’; regular consultations to be held.	–	–	<p>VPA Article 19, Joint Monitoring and Review Mechanism: no reference to civil society.</p> <p>Annex V (LAS), Section 5: Timber Validation Department, Timber Validation Council made up of civil society.</p>
<b>Indonesia</b>	<p>Annex V (TLAS) Section 4.5: key role for civil society in IM.</p> <p>Annex V Section 7: IM carried out by civil</p>	Annex V (TLAS) Sections 4.1 and 4.5: civil society can raise objections – to conformity assessment body, about legality verification of operators;	Annex VI (equivalent to IA) 5.2(g): periodic evaluation to make use of findings and recommendations of IM.	VPA Article 11: regular consultation with stakeholders.	Annex IX (published information), Appendix 1, Section 42 (b): civil society monitoring procedures, IM com-	Annex IX (published information), Section 5: ‘need for capacity building on the use of public information for independent civil	Annex V (TLAS) Section 7: multi-stakeholder monitoring working group to conduct comprehensive

	Mention of independent monitoring	Role in LAS	Interaction with independent auditor	Provisions for stakeholder involvement in implementing VPA	Published information	Need for civil society capacity building to play role in independent monitoring	Key institutions
	society. Annex VIII (criteria for TLAS), Section 5: 'Indonesia has formally recognised the IM function and allows civil society to submit objections when irregularities in the accreditation, assessment and licensing processes are found.'	and to Indonesian National Accreditation Body (which accredits conformity assessment bodies) about conformity assessment bodies.			plaint reports.	society monitoring' to be assessed.	evaluation of TLAS.
<b>Liberia</b>	Annex VIII (supporting measures) Section 9: reference to civil society monitoring VPA implementation and contributing to effective implementation of LAS.	Annex II (LAS) Section 3: channel of communication to be set up for civil society to provide the Liberia Verification Department 'with monitoring data on operators' compliance with LAS requirements'.	Annex V (IA) Section 6.2(a): 'Local, national, regional and international civil society organisations involved in monitoring forestry activities' as sources of info for IA.  Annex V (IA) Section 9.1: IA to have contact point in Liberia to make it accessible to (inter alia) civil society.	VPA Article 16: implementation and monitoring of VPA to be done in consultation with stakeholders, 'including industry, civil society, local communities and other people dependent on forests'. Participation via existing forest governance structures and a national monitoring committee to monitor implementation of the VPA.	–	Annex VIII (supporting measures), Section 3: capacity building for civil society to monitor LAS operations.  Annex X (JIC), d: JIC shall recommend capacity building needs for successful implementation of VPA and on the need to increase capabilities of and participation by civil society in monitoring compliance with forest management laws and regulations.	VPA Article 16 and Annex VIII (supporting measures) Section 9: national monitoring committee to monitor implementation of VPA.  Annex VIII (supporting measures), Section 9: JIC will receive reports from stakeholders and take key measures that may include monitoring by civil society.

## Annex 3 NGOs' views on independent monitoring

Table A3.1 What do you want to monitor?	Yes	No	% yes
The independent auditor ('monitoring the monitor')	7	2	78
The forest law enforcement agents	8	3	73
The permit allocation process	10	0	100
The legislative and institutional reforms to which the VPA has committed the country	8	1	89
Transparency commitments in the VPA	7	2	78
Progress towards the achievement of agreed forest policy objectives	8	2	80
Forest crimes / infractions	9	2	82
The legality assurance system (LAS)	8	2	80
Legality of imported timber and timber in transit	5	5	50
Legality of timber for the domestic market	8	3	73
Non-timber forest products (NTFPs) such as bushmeat, honey, tree sap etc.	4	5	44
Revenue collection (taxes, royalties)	7	3	70
Revenue redistribution (to national, local government and to communities)	8	2	80
Compensation for damage of goods	6	3	67
Social agreements (local development projects, money, etc.), including local or community-level governance over these	9	1	90
Functioning of conflict resolution mechanisms (at operator level, IA or JIC)	7	3	70
Recognition of customary access and user rights, as defined in forest management plans	9	1	90
Impact of VPA	7	3	70
Markets	3	5	38

Based on a survey of 11 representatives of NGOs operating in Cameroon, Republic of Congo, DRC, Gabon, Ghana, Indonesia and Liberia. Not all 11 answered each question.

<b>Table A3.2 What kind of approaches do you (plan to) take?</b>	<b>Yes</b>	<b>No</b>	<b>% yes</b>
Capacity building of forest law enforcement agents	9	2	82
Sitting on permit allocations committees / conducting pre-allocation due diligence (pre-qualification, bid assessment etc.)	4	6	40
Conducting field investigations	11	0	100
Conducting desk-based investigations, for example of documentation and data from different sources	9	1	90
Case-by-case reports ('mission reports')	11	0	100
Periodic audits (such as social audits or impact evaluations)	6	2	75
Selected cases (how do / will you select them?)	5	2	71
Overall assessments (of the entire forest)	5	4	56
GIS mapping	8	2	80
Analysing satellite imagery	3	4	43
SMS / mobile phone-based systems	10	0	100

Based on a survey of 11 representatives of NGOs operating in Cameroon, Republic of Congo, DRC, Gabon, Ghana, Indonesia and Liberia. Not all 11 answered each question.

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ISBN 978-0-9574857-4-7

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