

INDEPENDENT FOREST MONITORING IN AFRICA



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2016 UPDATE



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INTRODUCTION

The first Independent Forest Monitoring (IFM) field mission was undertaken by Global Witness in Cambodia in 1999. Whilst the core precepts of IFM have remained unchanged,¹ since the publication of the Forest Law Enforcement Governance and Trade (FLEGT) Action Plan in 2003 and the subsequent negotiation of Voluntary Partnership Agreements (VPAs) with a number of timber exporting countries, there has been a significant increase in the number of IFM initiatives underway, particularly in VPA partner countries in West and Central Africa. This brief summarises what has been achieved through IFM to date, the extent to which the VPAs have enabled this, key current issues and what the next steps might entail.

Early IFM initiatives were centred on a formal service contract between an official ‘host institution’ in the country concerned and an international non-governmental organisation (NGO). Field investigations tended to look at forest operations more than fraud or systemic governance problems, and the monitor’s terms of reference typically included observing how the state forest law officials conducted their own work.² The publication of authoritative case study reports, reviewed by a *Comité de Lecture* (most IFM has been conducted in Congo Basin countries) or ‘Reading Committee’ chaired by the host institution was itself seen as improving transparency in the sector.

Contrary to these approaches, the majority of current initiatives are led by national or local civil society organisations (CSOs) and do not start from a partnership with an official host institution. It’s common to have many monitors in a single country, and monitoring compliance with the social obligations of concessionaires is increasingly included in the scope of work.

A major review of IFM and the VPAs in 2013 concluded “almost every VPA agreed so far contains some references to the potential for independent monitoring by civil society. 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”.³

The 2013 review was commissioned by ten CSOs from Cameroon, Central Africa Republic (CAR), the Democratic Republic of Congo (DRC), Ghana, Indonesia, Liberia and the Republic of Congo (RoC). It was supported by Global Witness and Fern. The update presented here has taken a similar approach; it is based on inputs from 19 contributing CSOs and individuals with experience of IFM* from eight countries in West and Central Africa, compiled by David Young.⁴ It has been produced with financial assistance from UK Aid.

NGOS CONTRIBUTING TO THIS BRIEF



* We would also like to acknowledge the contributions of Elvis Kuudaar and Eric Lartey to this report.

WHAT HAS BEEN DONE?

The scale of IFM activity varies among countries. Even amongst the countries with a more established IFM function, the number of CSOs involved varies significantly. In Cameroon the network of External Independent Observers has 14 members,⁵ whereas in the much larger DRC only seven monitors have been identified. In Liberia and RoC there is one leading IFM group and a handful of others starting. Amongst newer IFM initiatives, there are between one (Ivory Coast) and four (Gabon, CAR) CSOs identified.

By the simple measure of IFM report production, over 48 monitoring reports and briefings have been published online by local NGOs in recent years (see Table 1).⁶ In addition, numerous other outputs include IFM strategy or position papers,⁷ training materials and courses, and guides to forest laws, IM-REDD, the VPAs and social agreements. These are often directed at communities, and occasionally at legislators, journalists, magistrates, and private sector.

Whereas most CSOs have concentrated on IFM 'in action' – conducting investigations and writing reports, OIE in Cameroon is something of an exception. Comparatively few reports have been produced (especially given the number of CSOs now involved and the fact IFM has been present in the country for 15 years). Instead, in recent years, Cameroonian CSOs have prioritised the establishment of systems, skills and norms, and recently introduced a *Système Normalisé d'Observation Indépendante Externe* (SNOIE). This identifies eight components of IFM (information, training, observation, verification, communication, lobbying, coordination and audit) and to a large extent seeks to allocate different organisations to each. It also involves an independent body to review reports, which includes a representative from the forest authority. The development of SNOIE can be seen as a response to the perceived limitations of previous IFM initiatives in the country, including a divergence of methodologies, all IFM responsibilities loaded onto a single organisation, poor relations with the authorities, and generally a long and expensive process.⁸ The SNOIE seeks a coordinated and consistent approach amongst a range of CSOs.

More significantly, it anticipates a division of labour between allegations (typically by community level actors), verification (by more established CSOs), publication after giving the authority time to respond, and follow-up advocacy by a separate group of CSOs who nonetheless are members of the network. As SNOIE is established, *“the number of forest illegalities denounced by communities has risen sharply, as they are increasingly less duped by loggers and are demanding more rights regarding forest exploitation”*⁹.

A key aspect of IFM is that there is no 'checklist', against which monitors can audit and provide a 'yes' or 'no' assessment of compliance. In contrast to this more indicator-based approach, every IFM report is different, and the scope of IFM can and should shift to new topics as needed. Whereas the first IFM initiatives looked at the more blatant cases, for example logging outside allocated timber yields or felling boundaries (the advent of IFM coincided with the widespread use of GPS technology), more recent reports document compliance with operating rules, or fraud in permit allocation for example, and there is currently a noticeable shift towards greater emphasis on the social obligations of concessionaires (including both tax redistribution and social agreements that cover direct payments between companies and communities, and support to social infrastructure). The 2013 Liberia Social Audit¹⁰ and all three of the IFM reports from CAR¹¹ are examples. IFM is also adapting to REDD+¹² and expanding to monitor new drivers of deforestation.¹³



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A NOTE ON TERMINOLOGY

The most common English term for civil society-led IFM is CS-IFM, whereas in French the term *Observation indépendante externe* (OIE) is widely used. The term ‘external’ implies self-mandated, as distinct from IFM under a formal contract. Francophone countries have also adopted OI-FLEG to link IFM to VPAs and similar initiatives, and OIM or OINM to refer to mandated or non-mandated monitoring. The term IM-REDD (OI-REDD in French) has been coined to cover the extension of IFM into the arena of reduced emissions from deforestation and forest degradation, extending monitoring beyond FLEGT-related activities.

Table 1: N° of IFM reports and briefings published (from data available online and may not be exhaustive)

ORGANISATION		COUNTRY	N° OF IFM REPORTS
CAGDF	Cercle d’Appui à la Gestion Durable des Forêts	RoC	9
	Three members of the OIE network	Cameroon	19
CS IFM	Civil Society Independent Forest Monitors	Liberia	7
OGF	Observatoire de la Gouvernance Forestière	DRC	5
GASHE	Groupe d’Action pour Sauver l’Homme et son Environnement	DRC	3
CIEDD	Centre pour l’Information Environnementale et le Développement Durable	CAR	3
WCF	Wild Chimpanzee Foundation	Ivory Coast	2



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WHAT ARE THE IMPACTS?

The expected impacts of IFM are at two levels: those in practice, such as in the management of forests and associated trade, law enforcement, or social obligations; and regulatory impacts – a law, regulation or similar legal instrument that has been revised, created or revoked. These are summarised in turn.

CSOs report a range of impacts in improved legal compliance, such as revisions to the forest law enforcement procedures (Cameroon, DRC), better recognition and documentation by the authorities of suspected infractions in line with the law (DRC, Ivory Coast,¹⁴ RoC), improved tax collection and redistribution (Liberia, Cameroon), and suspension of both illegal logging operations and non-compliant permit allocation processes (Cameroon, DRC, Liberia, RoC). Almost all the reports under SNOIE in Cameroon and CS-IFM in Liberia have led to an official investigation, often involving CSO independent monitors.

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Regarding social obligations, CSOs mention greater commitment to company-community meetings and negotiations (Cameroon, Liberia, DRC), and improved revenue redistribution (Liberia) as a result of IFM evidence and reporting. *“Communities use IFM reports as lessons learnt to engage decision makers with their issues of concern.”¹⁵*

Regulatory impacts often take longer to materialise and of course involve many other players. Specific examples attributed to IFM include: modification and repeal of specific regulations in DRC; IFM analysis informing revisions to legislation in Cameroon, DRC and

RoC; stronger legal recognition of *Comité Paysan Forêt* and *Comité Riverain* as forest monitors and representative bodies in the consultation, negotiation, monitoring and implementation of forest management in Cameroon; and a wholesale review to the Social Agreement process and templates in Liberia.

The CS-IFM team in Liberia have documented specific impacts following publication of each report, and it has been commented that *“when an IFM report is published in Liberia, we all sit up and listen”*.¹⁶ As with other IFM initiatives, it is difficult to attribute changes – in policy or practice – entirely to IFM actions, but the Liberia initiative has:¹⁷

- Maintained the pressure on the forest authority to conduct permit allocation processes in line with the law, following the Private Use Permit (PUP) debacle. The first three reports presented irregularities by companies that had previously been involved in unlawful PUPs. And the forest authority responded with a public commitment to correct all missteps in the allocation of Community Forestry Management Agreements, and a moratorium on future allocations until a proper allocation process was in place.
- Seen a significant shift towards revenue redistribution, through highlighting the responsibility of companies and the government to meet payment obligations and documenting the consequences of the abolition of a key revenue-generating law. This has helped pressure the government to make the first ever US\$1 million payment to a community fund, and strengthened forest community members' ability to demand payments due from logging companies.

WAYS IN WHICH THE VPAS HAVE ENABLED THESE ACHIEVEMENTS

From the start IFM sought to increase transparency, albeit in the narrow arena of publication of evidence on individual infractions. The VPAs have helped to widen this considerably, in particular through strengthening the ability of forest communities to ask for and receive information relevant to them.

For example, support to communities in Cameroon, CAR, DRC, Ivory Coast, Liberia and RoC has linked IFM work with the negotiation of social agreements. In some cases this involves working with committees representing community interests and in others nominated community forest monitors have been formed. The notion of community-based monitors and the use of real-time monitoring (using new communications technology to potentially transmit community-level observations directly to an international audience, such as those consumer country authorities responsible for protecting against the import of illegal timber) are currently particularly active innovations.

The existence of transparency annexes in most VPAs has led to a significant increase in activity on access to information, by both state and non-state actors (in particular on the issue of social agreements). However it is difficult to attribute this directly to IFM, even though the same CSOs may be involved in both ‘indicator based monitoring’ such as assessments of compliance with the transparency annex¹⁸ and more open-ended IFM.

Access to information, specifically by monitors, has enhanced the quality of the VPAs. For example IFM teams in Ivory Coast and Liberia have obtained access to concession documents and chain of custody data, respectively, which are not normally in the public domain. The cross-over between CSOs sitting on IFM peer review panels and VPA institutions such as the national multi-stakeholder implementation committees has enabled similar access to information. VPA processes have also opened up space for CSOs to participate in the development of legality definitions, verification protocols, and new regulations precipitated by the VPA. These processes have also acted as a

constructive influence on forest authorities, chain of custody service providers and even logging companies to become more open, not only to monitors but to everyone.

This opening of civil society space has undoubtedly increased the ‘venues of accountability’ or places, publications and mechanisms where civil society can openly question the state’s record in following the rule of law. There are early signs that, compared to the past, VPAs and the institutions established to support them, do provide new, more responsible and responsive audiences who would act on governance failures documented through IFM.

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The stronger legal basis provided for IFM by the VPAs was discussed in the 2013 study, *Exploring credibility gaps in Voluntary Partnership Agreements – A review of independent monitoring initiatives and lessons to learn*.¹⁹ This presented a mixed picture of countries that made provision for IFM in the forest legislation, and those that had used the VPA as an opportunity to give authoritative backing to IFM. Although the VPA text for both Cameroon and Ghana makes no explicit mention of IFM, VPAs for CAR, Liberia and RoC all make strong provisions for IFM, including in CAR a commitment to legislate for it. Pre-existing



legislation in Liberia (and DRC) has provided a foundation for CS-IFM, reinforced by the VPA. In Gabon, VPA negotiations have not yet concluded on the form of IFM but the government is considering a mandated monitor and scope for CS-IFM.

All IFM groups have adopted the VPA legality grids as a key document against which to assess legal compliance. This is of interest because legal frameworks existed prior to the VPA and the legality grids simply consolidate what already exists, yet IFM initiatives have taken advantage of the extra cachet they provide. By making explicit reference to the legality grid, an IFM report adds extra weight by raising the possibility of trade restrictions into the European market, and by the same token, increases the attention national stakeholders give it. Following from this, some IFM is tending to focus on what is beyond the legality grid. For example, where a definition of legality might include the *existence* of a social agreement, it may not (depending on the final form of the verification protocols) cover the *proper function* of the agreement, let alone how governance within communities plays out. Thus,

on the assumption that other constituent parts of the VPA will enforce the law, CS-IFM might turn its attention to the quality, durability and staffing of social infrastructure, or the management of revenue-shares by different local government, customary authority, and community recipients.

Finally, FLEGT has undoubtedly enabled a significant increase in funding to CS-IFM, above and beyond the increase to CSOs more generally. The nature of grant mechanisms may have made this short-term and insecure, and may have emphasised training in IFM over doing IFM, but nonetheless this has been crucial to permit local CSOs and communities to take ownership of the IFM mantle from international NGOs. Such a shift increases the legitimacy of IFM because CSOs and local communities themselves are most impacted by illegality. It also allows for development of innovative approaches and tools, and the emergence of organisations whose main role is to provide technical support to national CSOs implementing IFM, such as the Field Legality Advisory Group (FLAG) which operates in Cameroon, Côte d'Ivoire, DRC, and RoC.²⁰

NEXT STEPS: THE MANDATED/ SELF-MANDATED CONUNDRUM AND OTHER CHALLENGES

All those practicing IFM, whether they regard themselves as officially mandated or self-mandated, can make long lists of the advantages and disadvantages of each, but what is interesting is the dissolving of this dichotomy into a spectrum of approaches.

Whereas at one time, securing a mandate was an early priority in any initiative, more recently, CSOs have commenced self-mandated IFM and then gradually sought some form of recognition from an authority. SNOIE in Cameroon is described as 'external' (or self-mandated) monitoring, yet does not permit publication of reports until an independent multi-stakeholder committee has reviewed them. CS-IFM in Liberia has a two-stage peer-review mechanism – first amongst CSOs and then in a VPA multi-stakeholder committee – and is seeking recognition for and cooperation with these protocols through a Memorandum of Understanding (MOU) with the forest authority. In DRC and Gabon, some in civil society have regarded a clause in the law as providing a mandate to anyone wishing to conduct monitoring. Perhaps what is most important is this *recognition* by the authorities (and logging companies), through any means, as that in itself is a public statement of a commitment to work with non-state actors to improve sector governance. Particularly under a VPA, this has important consequences regarding 'venues of accountability', links to the European side of FLEGT, funding etc. discussed above, and IFM in all countries is making use of the VPA to move towards stronger recognition.

These self-mandated and MOU-based approaches have the important advantage that IFM can be carried out by many players, devolving the function away from a single monitor, increasing coverage of the forest estate and involving the communities with most to lose from unsustainable forest management. The quid pro quo of multiple monitors is the need for consistent high quality work, coordination, harmonisation in methods and reporting, and consideration of the personal risks. SNOIE, FLAG, and the Liberia MOU are all examples of approaches to this, but this is an area needing further support, not least in developing ways to reduce the time lag between initial investigation and final resolution of any problem identified through IFM.

A second area needing more support is in case-tracking. Whether monitoring concentrates on infractions in forest operations of the sort community members can easily document, or major systemic failures in the rule of law, few initiatives are keeping a systematic record of the recommendations from individual IFM reports, and the responses or follow-up actions taken by the authorities. Not only is this failing to hold the authorities to account, but it is missing an

A SECOND NOTE ON TERMINOLOGY

The term 'mandated' originally meant the strictest form of agreement with the forest authority, typically in the form of a service delivery contract.

The alternative has a variety of names, from 'external' to 'self-mandated' to 'non-mandated'. There is also some confusion about whether CS-IFM exclusively means without an official mandate.

The phrase 'self-mandated' appears to be the most appropriate, as 'external' begs the

question, who is the internal monitor? And it's erroneous to call forest communities 'external' to their forests. Non-mandated also implies a complete absence of a mandate, when in fact many CS-IFM initiatives have a mandate from within their own CSO community.

Furthermore, 'self-mandated' accommodates the opportunity to subsequently agree some form of recognition agreement with the authorities.

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opportunity to make the case for IFM by not collecting the evidence to be able to articulate their achievements or impacts.

One reason why in the past IFM reports have perhaps not had the impact expected is by being case-study based, they tend to elicit a case-by-case response as opposed to improving forest management and control practices across the country. The decentralisation of CS-IFM to more local CSOs and communities may exacerbate this if IFM is conducted sparsely across the country and/or reported at local level only. The role of more experienced civil society monitors to become a centre of expertise, influencing national-level decision-making whilst supporting the maintenance of quality standards in IFM reports, is an important strategic direction to take and one that is facilitated by the inclusion of CSO, and in the case of Liberia, community representation in national VPA multi-stakeholder committees.

Finally, alongside this trend towards decentralised and local civil society-led IFM comes increased personal risks faced by communities in particular: *“The risks are huge. When a community does not see the importance or rationale of IFM, community members taking part in it can be isolated. Logging companies may take action to seriously harm you and even kill you. You may be also placed at odds with the Administration, who colludes with the logging company. And if your allegations are not correct you may face judicial action”*.²¹

CONCLUSION

At the time of the publication of the FLEGT Action Plan in 2003 no forest sector legal framework made reference to IFM. Since then, VPA processes have changed the enabling environment for the work of those doing IFM in a number of significant ways. This update identifies at least four: they have enabled a multi-stakeholder deliberative space that has led to an acceptance of the concept of checks and balances (as distinct from the state having sole responsibility for governance); they have provided a vehicle for non-state actors to have a greater voice and funding for the discrete methodological approach to evidence-based policy influence that is IFM; they have been a catalyst for new legal texts; and they have helped forest-dependent communities assert their rights.

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