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Increasing stakeholder participation in forest law reform processes

Case studies from the
FAO-EU FLEGT Programme

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INTRODUCTION

There is growing recognition of the importance of broad and inclusive public participation as a driver for effective and equitable legal reform in the forest sector. Different approaches to engaging stakeholders have been adopted to increase the quality and effectiveness of forest legal reform, but there is little comparative analysis of such reform initiatives in developing countries. This policy brief examines nine projects in Africa and Asia supported by the FAO-EU Forest Law Enforcement, Governance and Trade (FLEGT) Programme (hereafter the Programme) in the context of implementing the European Union's FLEGT Action Plan to address illegal logging through demand-side and production-side measures. The Programme has endorsed some 248 projects in 26 tropical timber-producing countries to tackle illegal logging, promote production and trade in legal timber products, and, ultimately, contribute to sustainable forest management (SFM) and poverty reduction. In this context, the Programme has supported stakeholders to improve legal frameworks and implement legal reforms collaboratively. Such projects offer valuable insights on improving stakeholder participation in legal reform efforts.

Analysis of the case studies found that while participatory processes may take longer and are more costly than traditional in-house policy development carried out by government agencies alone, the long-term benefits are substantial. Participation of different stakeholders with competing interests at national and subnational levels throughout a legal reform process is key to developing effective and inclusive legal frameworks suitable for a wide range of actors. This, in turn, helps improve compliance with and enforcement of legal requirements. Participatory law-making also promotes transparency, reduces the potential for corruption and ensures greater equity between different stakeholders. Giving stakeholders a voice in the process not only brings new information to the table about field-level realities, which can inform legal revisions, but it can also prevent inadvertent discrimination against certain stakeholder groups, including, but not limited to, women, Indigenous peoples, and micro, small and medium enterprises (MSMEs).

This policy brief shares knowledge on the lessons learned from the implementation of nine projects focused on participative legal reform. This knowledge can be used to inform future actions for improving national forest legislation.

METHODOLOGY



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The nine projects featured in this policy brief are case studies representative of approaches taken to ensure stakeholder participation in the reform of forest sector legislation across Africa and Asia. The projects responded to the need by governments and relevant stakeholders to enact or revise legislation to promote legal and sustainable timber production, processing or trade. In some cases, these processes took place in line with the requirements of Voluntary Partnership Agreements (VPAs) between the European Union and tropical timber-producing countries. The projects were selected based on the following criteria: (i) direct support to stakeholder participation in the reform of forest sector legislation; (ii) diverse groups of stakeholders supported (e.g. civil society, private sector and government); and (iii) both positive and negative experiences.

This study is based principally on interviews with participants in the various processes under review. In addition, regional FAO experts who contributed to these processes offer

comments on the reflections of participants to complement the narrative around lessons learned.

Interviews were conducted to capture the perceptions of a representative sample of key stakeholders who engaged in one or more aspects of public participation in the case studies. As the development of this study took place amidst the ongoing global COVID-19 pandemic, interviews with key stakeholders were conducted remotely via virtual platforms. Desk research on the legal reform efforts was also undertaken. Vetting of key findings from the desk reviews and stakeholder interviews were carried out with key stakeholders and FAO technical staff in the project countries.

Limitations of this policy brief stem from travel and communication difficulties posed by the pandemic, the availability and willingness of stakeholders to be interviewed, and the state of emergency that developed in Myanmar in early 2021, which resulted in a smaller number of interviews in Myanmar than initially planned.

Key findings

Country	Projects	Strengths and weaknesses
<p>Côte d'Ivoire</p>	<p>Draft and analyse seven Forest Code (2014) implementing decrees relevant to the FLEGT and REDD+ processes</p> <p>Project period: Mar. 2016–Jan. 2017</p> <p>Implementer: Ministère des Eaux et Forêts (MINEF, Ministry of Water and Forests)</p> <p>Description: In 2016, as part of an overarching reform process, MINEF began the process of developing 30 implementing texts for the 2014 Forest Code. The process was halted in 2017 due to the revision of the 2014 Forest Code, which led to the 2019 Forest Code. The consultations and work done during this project were used as inputs in drafting the implementing texts for the latter.</p>	<ul style="list-style-type: none"> • Strengths: Extensive field consultations; solid legal analysis by the Legal Working Group; practical solutions to reported ground-level issues were proposed and the views of a wide range of stakeholders were considered, including minority groups; and capacity-building of local stakeholders. • Weaknesses: Little involvement of local actors in the selection of lawyers for the Legal Working Group; absence of local community members at plenary sessions; inconsistencies between MINEF's and FAO's schedules; and budget constraints.
	<p>Draft implementing decrees for Law No. 2019-675 of 23 July 2019 on the Forest Code relevant to the timber legality definition and the implementation of REDD+</p> <p>Project period: Dec. 2018–Dec. 2020</p> <p>Implementer: MINEF</p> <p>Description: The project targeted 15 texts that were priorities for the FLEGT and REDD+ processes, including those relevant to the timber legality definition annexed to the VPA being negotiated between Côte d'Ivoire and the European Union. Seven texts reviewed through the project were eventually adopted, covering forest management, independent monitoring, participation and access to information.</p>	<ul style="list-style-type: none"> • Strengths: Local consultations inclusive of a wide range of relevant actors, including minority groups; capacity-building of local communities to improve their participation; consultations conducted in separate groups; collaboration with other organizations (i.e. IDEF) for common objectives; and good coordination work of the Legal Working Group in combining field information from local communities and technical legal knowledge. • Weaknesses: Limited involvement of government representatives in the Legal Working Group; lack of engagement with the private sector in consultations; lack of coordination between MINEF and the Legal Working Group; and budget and time constraints.
	<p>Involve civil society in the drafting process of the 2019 Forest Code implementing decrees that are most relevant to civil society</p> <p>Project period: July 2019–Feb. 2021</p> <p>Implementer: Observatoire Ivoirien pour la Gestion Durable des Ressources Naturelles (OI-REN)</p> <p>Description: The project sought to improve forest governance in Côte d'Ivoire by involving civil society in the drafting of the 2019 Forest Code implementing decrees most relevant to civil society, such as those relating to transparency and independent observation/monitoring. The text on independent observation has since been adopted, recognizing both mandated and external independent monitoring.</p>	<ul style="list-style-type: none"> • Strengths: OI-REN's prior experience in collaborating with local actors in the context of forest management; strong synergy between OI-REN and other local NGOs; successful engagement with civil society organizations; inclusive consultation processes, including with minority groups; separate consultations for different stakeholder groups; and awareness-raising and capacity-building among local communities. • Weaknesses: Limited involvement of actors from industries other than timber (i.e. cocoa and coffee); Abidjan-centred discussions; lack of a formal information-sharing system; poor coordination between MINEF and OI-REN; and budget and time constraints.

Country	Projects	Strengths and weaknesses
<p>Liberia</p>	<p>Review of Chainsaw Milling (CSM) Regulation 115-11 / Regional vetting of draft Revised Chainsaw Milling Regulation 115-11</p> <p>Project period: May 2017–Jan. 2019</p> <p>Implementers: Forestry Development Authority (FDA), Heritage Partners & Associates (HPA)</p> <p>Description: CSM Regulation 115-11 was originally drafted and validated in 2011 and subsequently approved by a resolution of the FDA Board of Directors in 2012, but it was not implemented because CSM operators complained about ambiguities and the limited scope of resource areas for their operations, which made it difficult for them to comply with the regulation. These implementation challenges prompted a participatory review of the regulation. To date, the FDA still has not formally approved the revised CSM Regulation for implementation.</p>	<ul style="list-style-type: none"> • Strengths: Adoption of a participatory approach; collaboration between HPA and the FDA; gender inclusivity; stakeholder agency with participants chosen by stakeholder groups (not government); and pre-drafting and post-drafting of consultations. • Weaknesses: Lack of capacity and previous training on technical matters that would enable stakeholders to participate in the legal reform process, especially for women involved in CSM; and logistics of reaching key stakeholders.
<p>Malaysia</p>	<p>Gap assessment and technical review of the Harmonized Reduced Impact Logging (RIL) Guidelines for Sarawak</p> <p>Project period: Mar. 2019–Dec. 2020</p> <p>Implementer: Forest Department Sarawak (FDS)</p> <p>Description: RIL guidelines for Sarawak were first developed in 1998, and since then many versions have been developed by the forest sector in Sarawak. In 2017, the FDS consolidated these versions and developed Harmonized RIL Guidelines for Sarawak in consultation with relevant stakeholders. This project sought to carry out a gap assessment and technical review of the RIL guidelines to ensure that the guidelines developed by the FDS and implemented by forest managers in Sarawak meet international standards and best practices. The revised Harmonized RIL Guidelines are now referenced in key forestry documents in the State of Sarawak, such as the Forest Ordinance, Malaysian Criteria & Indicators for Sustainable Forest Management and the Sarawak Timber Legality Verification System.</p>	<ul style="list-style-type: none"> • Strengths: Willingness to consult with stakeholders on what would traditionally be considered a technical government matter; participatory stakeholder mapping to identify all appropriate stakeholders to consult; consistent lead by designated FDS personnel at senior management level; strong collaboration between FDS and WWF-Malaysia; long experience of WWF-Malaysia in SFM in Sarawak and strong connection with different stakeholders; structured and formalized project implementation; and good communication and relationship between industry and the FDS. • Weaknesses: Limited participation and technical knowledge of civil society stakeholders; lack of time for civil society stakeholders to study draft documents in advance; overall time constraints; cultural challenges to the participation of women and young people; and limited technological resources for virtual participation.

Country	Projects	Strengths and weaknesses
<p>Myanmar</p>	<p>Conducting a public consultation process on the draft Forest Rules in Magway, Mandalay and Yangon Regions</p> <p>Project period: May 2019–Dec. 2019</p> <p>Implementer: Forest Department (FD)</p> <p>Description: A new forest law was enacted in September 2018 to reflect the current situation in Myanmar and to provide more room for private sector and community participation in forest management. The FD drafted the Forest Rules to implement the legal provisions in the 2018 Forest Law, and it then focused on conducting public consultations on the draft Forest Rules. Currently, these have yet to be approved and further delays are expected due to the political situation prevailing in Myanmar since February 2021.</p>	<ul style="list-style-type: none"> • Strengths: Pioneering public consultation process on legal reform in the forest sector in Myanmar; good geographical coverage; strong government ownership; key role of civil society organizations (CSOs) in involving local stakeholders in remote areas; sponsoring participation by Indigenous stakeholders; presence of facilitators at consultations; inviting CSOs to consultations sufficiently in advance to give them time to prepare; inviting independent CSOs and community leaders; and permission for people to speak openly. • Weaknesses: Little or no access to conflict-ridden parts of the country (many of which suffer from illegal logging); limited legal knowledge of some stakeholders; language barriers for Indigenous/ethnic participants; legal constraints related to the content of the 2018 Forest Law which narrowed the scope of the consultations; and lack of consistency in implementing consultations in different states/regions.
<p>Philippines</p>	<p>Stakeholder engagement in the formulation of the Implementing Rules and Regulations (IRRs) for Executive Order (EO) 318 of 2004 on promoting SFM in the Philippines</p> <p>Project period: Jan. 2018–May 2019</p> <p>Implementer: Forestry Development Center (FDC), College of Forestry and Natural Resources, University of the Philippines Los Baños</p> <p>Description: As passage of a Sustainable Forest Management Bill has historically not been a political priority, interim policy measures needed to be enacted to provide guidance on the conservation, development and protection of the country's forests. While waiting for the passage of the Sustainable Forest Management Bill, this project aimed to formulate, and advocate for, the IRRs for EO 318 of 2004 for improving the capability of the government and the private sector to participate in the protection and management of the environment. The draft Departmental Administrative Order (DAO) for implementing the IRRs is still pending consideration by the Department of Environment and Natural Resources.</p>	<ul style="list-style-type: none"> • Strengths: Provision of working documents to stakeholders prior to consultations; facilitation of consultations for reaching consensus between conflicting perspectives; and representation of all sectors. • Weaknesses: Variable quality of inputs/ participation across sectors; need for financial assistance to achieve broader participation; and dependence on government action to approve the IRRs and advocate for issuance of the final DAO.

Country	Projects	Strengths and weaknesses
<p>Philippines</p>	<p>Stakeholder engagement and advocacy for passage of the Sustainable Forest Management Bill (Phase I and II)</p> <p>Project period: Mar. 2018–Nov. 2019 (Phase I), Oct. 2020–Nov. 2021 (Phase II)</p> <p>Implementer: Society of Filipino Foresters, Inc. (SFFI)</p> <p>Description: This project sought to achieve SFM objectives through public participation aimed at promoting the passage of a proposed Sustainable Forest Management Bill, which would amend the 1975 Revised Forestry Reform Code of the Philippines (Presidential Decree No. 705). The bill was filed in the eighteenth Congress of the Republic of the Philippines and remains pending congressional approval at the time of publication.</p>	<ul style="list-style-type: none"> • Strengths: Recognition of past failures and better collaboration between opposing parties than in historical attempts; SFFI's extensive national network; and strong technical inputs from trained foresters. • Weaknesses: Fatigue after decades of unsuccessful law reform processes; lack of effective political and public advocacy to make the passage of the Sustainable Forest Management Bill a priority; competing legislative priorities; different visions of sustainability amongst stakeholders; drafting process did not involve rural or Indigenous stakeholders
<p>Congo</p>	<p>Participation of the private sector in the development of the regulatory framework and technical components of the Congo VPA</p> <p>Project period: June 2018–Dec. 2019</p> <p>Implementer: Congo branch of the Association Technique Internationale des Bois Tropicaux (ATIBT)</p> <p>Description: The project sought to provide private sector inputs on legal texts and technical documents on the Congo VPA with the European Union and the operation of the Legality Verification System. Recommendations from the private sector were taken into account in the adoption of the final texts.</p>	<ul style="list-style-type: none"> • Strengths: ATIBT's capacity for coordinating the project and establishing strong relationships with different stakeholders; consensus reached between private sector actors with different interests (small companies from the south versus large companies from the north); overall improved communication between government bodies, civil society and the private sector; and participation of legal experts to support local actors to better understand law reform processes. • Weaknesses: Limited engagement of smaller companies due to time and travel burdens; overall lack of interest of the private sector in the process; absence of company decision makers at the workshops; weak and irregular commitment of private sector actors; unwillingness of some private sector actors to collaborate with each other and with forest authorities; budget constraints; lack of forestry expertise in the parliament; and a significant delay in the enactment of the Forest Code.

LESSONS LEARNED



The following lessons learned were gathered from desk reviews of project documents (project reports and deliverables) and observations shared by the key stakeholders interviewed, as detailed in the methodology above.

Participation

Enable appropriate levels of participation.

Participation by different groups was best sustained when dedicated financial and technical support was provided to facilitate participation. In Myanmar, CSOs played a key role in supporting local communities from each state and region to attend and meaningfully participate in consultations on the revision of the Forest Rules. It was impressed upon these stakeholders that they should maximize their participation

on behalf of all those who could not attend in their states and regions due to resource limitations, which is an effective strategy for focusing on quality – rather than quantity – of participation. However, ongoing unrest in some areas of the country impeded the process, and the lack of inputs from stakeholders from conflict zones, which are most at risk of illegal logging, negatively impacted the content of the revisions.

Ensure adequate representation of stakeholders from all affected sectors.

Inclusivity is a central pillar of strong public participation processes. Whilst it is important to ensure broad participation as detailed above, analysis showed the benefits of paying particular attention to stakeholders from specific sectors. In the Congo, the Programme worked through ATIBT, a trade association primarily engaged with companies in the

logging sector, to facilitate private sector participation in the forest law reform process. ATIBT acted as the facilitator to create consensus between private sector actors with different interests (small companies from the south versus larger companies from the north of the country). This process improved overall communication between government, civil society and private sector actors.

It is common for projects to design participatory strategies after conducting a stakeholder mapping exercise to identify relevant participants. However, these exercises may inadvertently exclude stakeholders who legitimately desire to participate. As reported by FAO technical officers, in Malaysia, in spite of the solid stakeholder mapping exercise carried out by the project implementers and partners, there were stakeholders who felt they were not consulted. To overcome this to the extent possible, processes can create mechanisms for the general public to submit ad hoc comments through designated channels.

In Côte d'Ivoire and in the Congo, the timber sector participated in the consultations. However, it was suggested that it would have been useful to involve actors from sectors linked to other forest-risk commodities, such as cocoa and coffee. Considering that in Côte d'Ivoire four of the regions chosen for the consultations were selected based on high levels of agricultural and industrial activities in sectors other than logging, the presence of representatives from other sectors would have been advantageous for the collection of a wider range of perspectives and inputs.

Support the capacity of stakeholders to contribute effectively. Breaking down highly technical issues into easily understandable content is key for allowing all stakeholders, especially those with limited previous knowledge of legal and technical issues, to contribute to the process. In the context of FLEGT-related forest legal reforms, scientific and trade issues will often arise that need clarifying for stakeholders unfamiliar with



such specialized topics. Details of legal texts also need to be clearly understood by all participants. In Liberia, it was noted that such technical and legal capacity-building and training was needed to support broad participation in legal reform processes. An interviewee also noted that women raised gender-specific issues regarding their capacity and ability to participate in chainsaw milling, recommending capacity-building to ensure that female voices were heard as much as their male counterparts'. In Malaysia, a lack of technical knowledge was cited as a hurdle to effective participation by communities in the law reform process involving the review of the RIL guidelines for Sarawak. Methods for building the knowledge base and capacity of stakeholders so that they can participate may benefit from more creative approaches. For instance, in Malaysia, the use of illustrations (rather than traditional text) was proposed by an interviewee as one way of explaining a technical topic like RIL to non-technical stakeholders.

Ensure buy-in amongst stakeholders throughout the process to facilitate adoption and implementation of the regulations. Engaging stakeholders, especially those who are likely to be most impacted by the legal reforms once they come into effect, is critical for facilitating and ensuring effective implementation. This was not always the default process in the countries analysed. In Liberia, for example, the exclusion of chainsaw millers from the development of the initial CSM Regulation led to a lack of support for and understanding of the regulation by this group – one of the primary stakeholder groups directly affected by the regulation. By contrast, the participation of chainsaw millers in a subsequent review and revision of the regulation meant that they were able to flag issues directly affecting their ability to comply with the letter of the proposed revised regulation. As a result, the need to provide adequate and sustained technical training

and capacity-building opportunities for chainsaw millers to enhance their compliance with the new regulation was embedded in the regulation itself. FAO technical officers further elaborated that stakeholders were able to identify other immediate constraints to the actual implementation of the legal framework, for example, with regards to their capacity to acquire legal titles for the harvesting of forest resources, unfair competition from "transboundary" chainsaw millers operating illegally, or the payment of fees and need for guaranteed quotas for increased market access. This feedback ensures that the revisions reflect the needs and realities on the ground, therefore increasing the likelihood of effective implementation.

In Malaysia, the revision of the Harmonized RIL Guidelines for Sarawak through particularly active consultation with the timber industry ensured that RIL regulations met international best logging practices, while also being practical and implementable in the local context. Without consultations, desk-based revision processes incorporating international best practices risk being disconnected from the operating context, and therefore unachievable by the timber sector concerned. As indicated by FAO technical officers, consultation with the industry, including field testing at selected timber concessions, has made the RIL guidelines robust, but also operational and practical.

Consultation methodology

Identify institutionalized, credible channels through which inputs can be funnelled.

Approaches for effectively incorporating stakeholder inputs into the actual legal text of reform instruments need to be carefully designed. The consultation process that took place in Côte d'Ivoire, which aimed to develop implementing texts relevant to the timber legality definition and the implementation of REDD+, effectively incorporated stakeholder contributions through a dedicated Legal



Working Group. This group drafted legislative suggestions based on experiences captured from stakeholders on the ground during consultations. This process contributed to the development of a simple, effective and practical legality grid as part of the VPA.

Organize separate meetings for different stakeholder groups when necessary.

Consultation methods may differ depending on the local context, and can take place across local, regional and national levels. They may involve separate discussions with various stakeholder groups, or instead be conducted with all participating stakeholders mixed together. In some cases, holding separate consultations is not only a practical necessity due to geography and schedule concerns, but also a way of boosting stakeholders' active engagement. In Côte d'Ivoire, for instance, conducting consultations with different groups was viewed as a strength of the process as it allowed different stakeholders to express

themselves more freely. This has been shown to be a proven way of reducing potential tension whilst giving a voice to different stakeholders with polarized views, or those who may not feel comfortable talking in front of other groups of stakeholders.

Ensure sufficient time for stakeholders to provide inputs.

In a number of cases, interviewees reported that time constraints negatively impacted the process. In the Congo, private sector representatives mentioned that draft texts arrived too late, so they did not have sufficient time to review and understand the proposed revisions before the plenary sessions.

Provide effective and consistent leadership and facilitation of stakeholder processes. Competent leadership can take various forms: leaders skilled in the design and execution of stakeholder consultations; leaders with forestry expertise; leaders with a reputation for fairness and objectivity; and leaders with the power or influence to

advance the legal reforms under discussion. In the Republic of the Philippines, the quasi-academic status of the FDC, and its reputation for technical competence and fairness, was a strong advantage of the IRRs for EO 318 process. The FDC served in both processes in leadership and facilitation roles.

Effective facilitation, sound technical knowledge and consistent leadership proved successful in some cases. As reported by FAO technical officers, in Malaysia, leadership by senior Forest Department staff demonstrated strong political will and gave credibility to the reform process, whilst facilitation by WWF-Malaysia ensured the engagement of a broad range of stakeholders, from local communities to industry players.

In Côte d'Ivoire, OI-REN provided the initiative with a strong foundation in background knowledge from the field. OI-REN NGO members not only had extensive knowledge of local needs and dynamics, but also long-standing working relationships with a wide range of ground-level stakeholders developed over the past years.

Consistency can entail having the same individual(s) in leadership/facilitation roles throughout the duration of a public participation process. In Malaysia, the government personnel who led and facilitated the review of the Harmonized RIL Guidelines process remained the same throughout the entire process. This consistency was one factor that contributed to a more effective process, where a greater level of civil society participation was achieved than in past government-led consultation processes.

Mid-course changes in leadership can lead to inefficiencies – for instance, difficulty in ensuring that necessary information is reliably and comprehensively relayed between different leaders/facilitators. In Myanmar, different organizations led consultations in different states/regions, leading to some acknowledged inconsistencies between the various consultations. In such circumstances, clear and transparent communication is required amongst those in leadership and facilitating positions to ensure that shared

responsibilities are consistently understood amongst all – especially if dealing with a large group – and that any transitions are smooth and the process momentum sustained.

Local context

The progress of legal reform efforts ultimately depends less on stakeholder inputs and more on political context and will. Some legal reforms take longer than anticipated to enact; in such instances, the ongoing participation of stakeholders may suffer from process fatigue. In the Republic of the Philippines, although broad stakeholder engagement was pursued, actual achievement of legal reform aims struggled due to a lack of political will and repeated failed attempts at legal reform, which impacted the confidence and participation of stakeholders. In this country, political will emerged as a major constraint, with the legal reform process ultimately resting on action by the government. Failures to push the reform through at multiple institutional levels have stalled progress. By contrast, when reforms are fast-tracked, public participation may suffer from lack of time spent getting input from a broad range of stakeholders, as well as from getting all stakeholders up to speed and prepared to contribute substantively. In Malaysia, there was strong political will for ensuring that the RIL guidelines were revised following international best practices, leading to a speedy execution of the project, which some stakeholders felt was too fast for them to provide a meaningful contribution.

Bridge divides across groups of actors. Political and social factors can also divide stakeholders into "camps" with different goals for forest sector legal reforms. In such cases, a stakeholder participation process design that has been carefully thought-out may lead to bridging divides and a stronger possibility that reforms will be broadly accepted. In the Congo, the ATIBT-led process

initiated dialogues between civil society and the private sector, which, in the past, were fairly divided sectors, with limited contacts between the two. Through engagement in the ATIBT-led process – including the development of a joint advocacy document – civil society and private sector stakeholders were able to recognize that mutual understanding and common ground could be reached, and that continued collaboration was beneficial in progressing towards joint goals.

In Côte d'Ivoire, OI-REN enjoyed strong relationships with local actors and project stakeholders, who trusted this group of NGOs to mediate discussions and build bridges between previously distant groups. In addition, OI-REN helped civil society, local communities, the authorities and the private sector to better interact with each other.

Enable cross-fertilization and ensure proper sequencing and interactions with other policy processes. In the Republic of the Philippines, involvement in the participatory process to develop the IRRs for EO 318 helped several stakeholders become involved subsequently in the participatory process for developing the Sustainable Forest Management Bill. The leader for the bill process also anticipates the IRRs for EO 318 being used as the basis for developing IRRs for the Sustainable Forest Management Bill, if and when the bill is enacted.

When possible, legal reform efforts need to be coordinated so that governing laws are drafted or revised, or both, prior to any lesser laws/policies that follow from them. Ideally, forest legal reform processes need to start with addressing the primary forestry law before proceeding on to any subsequent regulatory texts. In Côte d'Ivoire, a legal reform process to develop implementing



texts was halted while the underlying forest code was revised (as detailed in the table above). However, the consultations and inputs gathered during the initial project fed into the implementing texts for the new 2019 Forest Code. In Myanmar, development of the Forest Rules to implement the recently revised Forest Law was constrained by the scope of the latter, and it was acknowledged that another revision of the underlying Forest Law was needed before certain issues raised during the development and consultation of the Forest Rules could be addressed.

Give government ownership of legal reform processes. Involving parliamentarians/ political decision makers throughout the consultation process may have a decisive impact on the enactment of legal texts which might still undergo changes post-consultations by legislators, thus making it critical that such stakeholders are fully aware of the content of the proposed revisions and the nuances of what is at stake. Advocacy meetings with parliamentarians/legislators were part of the process in the Congo, which resulted in limited outcomes, partially due to lack of technical forest-related knowledge in parliament. In the Republic of the Philippines, both case studies were led by NGOs (academia and civil society), with the final outcomes of the legal reform processes ultimately resting on government action. Lack of government ownership in these processes has created difficulties in pushing the reform through at multiple institutional levels, resulting in stalled or limited progress.

Government leadership of the legal reform process can be key for elevating its chance of success. According to FAO technical officers, in Malaysia, government leadership ensured that the revised Harmonized RIL Guidelines could be adopted in key forest policies such as the Forest Ordinance, Malaysian Criteria & Indicators for Sustainable Forest Management and the Sarawak Timber Legality Verification System. This higher level of uptake would likely have been less efficient if the RIL guidelines revision process was led by an NGO or the industry.

Funding constraints

Budget has a significant impact on public participation processes. Limited funding is an inevitable constraint on a fully inclusive process and must, when possible, be mitigated by a well thought-out process design to ensure that budget limitations do not negatively impact the inclusion of marginalized stakeholders.

Balance geographical scope and reach.

Ensuring that financial resources are appropriately allocated can enable participation from geographically dispersed stakeholders. In Côte d'Ivoire, for instance, although OI-REN's consultation process took place in different regions, plenary sessions and key meetings took place in Abidjan (the largest city in the country), limiting the participation of stakeholders with no funds or time at their disposal to travel.

In the Congo, smaller logging companies were especially affected by meetings taking place in large cities as they were unable to leave their work unattended to travel to consultations, due to limited economic capacity (resources and staff). In addition, many did not have access to necessary communication channels to participate in remote consultations. Conducting field visits to the sites of these small- and medium-sized companies as part of the consultation process would have facilitated their participation, but the available budget and resources for conducting the process did not allow this. This led to low participation of smaller regional companies, creating a less diverse pool of participating stakeholders, as well as limiting the incorporation of local on-the-ground interests, concerns and awareness into the legal reform.

Manage budgets to ensure that certain key elements in the design of good stakeholder participation processes are prioritized and preserved. For instance, if early commitments are made to hold a certain number of consultation sessions, adequate funds should be set aside to fulfil that commitment. Where such commitments are not followed through, the stakeholder participation process is negatively impacted both substantively and procedurally.

Stakeholder confidence in the process may be lost, potentially affecting engagement in current or future processes, and threatening the success of the legal reform in question. In Myanmar, the FD's follow-through in conducting pledged meetings in remote areas was seen as important by stakeholders for them to have confidence in the integrity, inclusiveness and leadership of the public participation process.



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RECOMMENDATIONS AND WAY FORWARD

The lessons learned presented above demonstrate that positive impacts can be achieved through participation even when the final legal reform is not fully adopted or enacted. More detailed recommendations are presented for policymakers and practitioners seeking to implement similar interventions. These can be applied in different contexts to advance participatory legal reforms beyond the forest sector.

Ensure wide participation of marginalized stakeholders to improve both the content of the revisions and the likelihood that these can be effectively implemented: Involvement of those most likely to be affected by the revised regulations brings invaluable specialized knowledge to the discussions. Support needs to be provided to marginalized groups and those most at risk of being excluded from the discussions for them to be able to participate. These groups include women, Indigenous peoples, young people and MSMEs. Support can include logistical and financial support to overcome issues related to remoteness and lack of resources.

Level the playing field by ensuring the same degree of understanding by all stakeholders: Highly technical issues need to be rendered easily understandable for all stakeholders¹ so that their contributions can be well informed. This is particularly true for those stakeholders who might not be familiar with legal texts or jargon, due to their lack of prior participation in such processes, or limited knowledge of the legal reform content. Inputs by these stakeholders may be highly valuable, especially when they are directly involved in the sector and may be affected by

the legal processes, and such stakeholders should be provided with sufficient support so that they can better understand the processes and substantively participate in them.

Include stakeholders championing different interests, experiences and knowledge: Ensuring that sectors with opposing interests receive a fair chance to express their needs and views is key. Even within the same sector, a one-size-fits-all approach needs to be carefully considered and is usually best avoided. Within the private sector for instance, both large and small companies with distinct interests can make decisive contributions. Relying on third party actors, such as trade associations or CSOs with convening power, may help bridge divides and ensure all voices are heard.

Design processes with adequate time and varied feedback channels: Stakeholders require enough time to digest proposed revisions and formulate positions and recommendations. While participatory multi-stakeholder consultations are helpful in bringing people together to provide feedback or share concerns transparently and constructively, not all stakeholders are

1. Some stakeholders may not possess the necessary technical knowledge, experience or basic skills to fully participate in a given forest legal reform process, and therefore require guidance and support from leaders and facilitators, which takes time and should not be rushed (source: Community Tool Box. 2021. Chapter 18. Deciding Where to Start: Section 2. Participatory Approaches to Planning Community Interventions. In: Community Tool Box [online]. Center for Community Health and Development, University of Kansas. [Cited 22 November 2021].

<https://ctb.ku.edu/en/table-of-contents/analyze/where-to-start>). If participating stakeholders are not allowed to fully grasp the topic at hand, they are stripped of the opportunity for meaningful influence, which is one of the fundamental conditions for successful public participation (source: United States Environmental Protection Agency, 2021. Public Participation Guide: Introduction to Public Participation. In: EPA International Cooperation [online]. [Cited 22 November 2021]. <https://www.epa.gov/international-cooperation/public-participation-guide-introduction-public-participation>).

able to attend or comfortable speaking in such fora. Diversifying feedback options can help make consultations more inclusive. Public consultations, such as through digital platforms or public access to printed legal documents, can be organized alongside in-person, multi-stakeholder workshops. Stakeholders may view the draft regulation and mail or email their feedback, which can be consolidated and presented at the in-person workshop.

Stakeholder consultations need to be led by those with competent knowledge of both stakeholder processes and forest legal reform: Choosing leaders who are well respected by all stakeholders, and facilitators who are knowledgeable about the process and the topic improves buy-in into the process and improves perceived legitimacy. Further, keeping leadership uniform throughout the public participation process ensures consistency and prevents inefficiencies and delays.

Government ownership and leadership are key to successful processes: Political decision makers need to be involved from the early stages. Bringing all government parties, including relevant ministries, to the table, ensures that they are aware of proposed legislative changes and their implications when they are voted on, increasing the chance of the regulations in the collectively agreed-upon form being pushed through the legislative processes without unnecessary delays. Government leadership can enhance credibility of the process and goes hand in hand with political will. Wherever possible and appropriate, development partners should support national governments in leading reform processes.

Set a precedent for future participatory processes: By opening up consultations to stakeholders who are traditionally sidelined from policy decisions, reform processes can generate interest in adopting similar processes for further policy reform, acting as a catalyst for new, more inclusive standards for participation in these countries pursuing forest legal reform.



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