



Participation, public policy-making, and legitimacy in the EU Voluntary Partnership Agreement process: The Cameroon case



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ABSTRACT

This paper discusses how participatory policy-making processes such as the Voluntary Partnership Agreement (VPA) negotiations are and should be organised to foster political legitimacy and support. The VPAs are bilateral agreements between the European Union (EU) and timber producing countries. VPAs constitute a cornerstone in EU's Forest Law Enforcement, Governance and Trade (FLEGT) programme, the most important tool for the EU to address illegal logging problems. The EU requires that national VPA negotiations include participation by the relevant stakeholders. Based on primary data, we compare the VPA negotiations in Cameroon (2006–2009) with three different 'ideal' models of participatory policy-making: the rationalist, the communicative incremental and the mixed model, which we expect have different implications for legitimacy. We conclude that the Cameroonian process is closest to a rationalist model with elements of the mixed model, and that this has increased legitimacy and support only to a limited extent. For future processes in other countries, we recommend stronger elements of the mixed model, and more careful considerations about stakeholder identification processes; how to adapt policy-process to specific contexts; and how to strengthen communication and information flows. Considerations about these elements could also strengthen the applicability of the ideal models.

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1. Introduction

Public participation has become a widely applied concept in natural resource governance. Previous paradigms prescribed top-down technical approaches to natural resource management, and forest governance by professionals. Current paradigms recommend bottom-up policy-making processes and participation by a broad range of stakeholders. The arguments are e.g. that inclusive bottom-up processes have more legitimacy, are better at creating a sense of "ownership", and therefore are more likely to get greater support from stakeholders (Chambers, 1983; FAO, 2014; Hogg et al., 2012; Jabeen and Iqbal, 2009); that stakeholder participation is a focal element in good governance (EC, 2002; EFI, 2015; Heidebreder, 2012; UNESCO, 2011), and/or that participation is an objective in its own rights (Boon et al., 2008).

The paradigmatic change appears from international agreements such as the Rio Declaration on the Environment and Development, the Aarhus Convention, and the UN Declaration on the Rights of Indigenous People (UN, 1992, 2008; UNCED, 1992; UNECE, 1998). The latter's emphasis on Free Prior and Informed Consent (FPIC) has also had great influence on REDD+ (Reducing Emissions from Deforestation and Forest

Degradation) programmes (Fuente and Hajjar, 2013; Pham et al., 2015). The mentioned agreements aim at promoting participation in public policy processes surrounding natural resource governance and point to participation as one of the important means for ensuring legitimacy, support, and therefore effective policy implementation.

Public participation also plays an essential role for the European Commission (EC). For instance, in its White Paper on European Governance, the EC (2001) links the European Union's legitimacy with involvement and participation at all levels, and argues that improved participation is likely to create more confidence in the end result and in the institutions which deliver policies. For the same reason, the EC aims at improving the dialogue with governmental and non-governmental actors of third countries when developing policy proposals with an international dimension (EC, 2001, 2003; Hogg et al., 2012).

One of the most recent examples of such policy proposals is the Voluntary Partnership Agreements (VPAs). VPAs constitute a cornerstone in EU's Forest Law Enforcement, Governance and Trade (FLEGT) action plan (EC, 2003, 2007). FLEGT is the most important tool for the European Union (EU) to address illegal logging in tropical countries (EFI, 2009), and aims to ensure that only wood produced in accordance with the laws of the producer country will be accessible to the European market (EC, 2003, 2008; EFI, 2009). The VPAs are bilateral agreements between the EU and tropical wood producing countries, and deal with

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challenges in the forest sector of these countries. The agreements are voluntary, but once ratified, they become legally binding. The EU commits itself to support the VPA partner countries for a given period of time in developing a licencing system, enforcing the forest law, and supporting good governance (EC, 2003, 2005). According to the EFI (2014) it is a requirement of the legality assurance systems that they are the result of an inclusive, multi-stakeholder process (See also EC, 2007). The FLEGT Action Plan explicitly builds on the Bali Declaration, which underlines the importance of involving stakeholders including local communities in decision-making in the forestry sector, “thereby promoting transparency, reducing the potential for corruption, ensuring greater equity, and minimising the undue influence of privileged groups” (EC, 2003).

These approaches to participation ring true to the above mentioned arguments in favour of participatory processes, and also to a related theoretical debate on how to address legitimacy deficits in EC policy-making (e.g. Høgl et al., 2012; Scharpf, 1999). In this debate, it is common to distinguish between input and output legitimacy. Input legitimacy is process oriented and describes political choices that reflect the ‘will of the people’—that is, they derive from processes involving the members of a society. Input-oriented legitimisation therefore relies on the quality of participatory processes. Output legitimacy, on the other hand, refers to choices that promote the common welfare of the constituency, and therefore relies on the extent to which the policy-making processes produce outputs that effectively solve the collective problems addressed by these processes (Scharpf, 1999).

It has been argued that although public participation is associated most directly with input legitimacy, it also plays a central role in achieving output legitimacy. This is because input legitimacy calls for mechanisms and procedures including public participation that link political decisions with citizens' preferences. A central criterion for input legitimacy is that those with a stake in a decision become involved in the decision-making process (Newig and Kvarda, 2012). Input legitimacy is therefore expected to increase the chances for policy outputs that are adapted to local needs and knowledge, and for affected parties to seeing their interests reflected in the final decision, and to increase the chances for effective problem solving, and therefore for output legitimacy (Newig and Kvarda, 2012). Following this, a lack of involvement of some stakeholders in decision-making processes could imply a serious risk of undermining input as well as output legitimacy. This could be, for instance because some stakeholders lack the sufficient resources for participating, or because policy designers intentionally or unintentionally have not provided certain stakeholders with the necessary mandates (Papadopoulos and Warin, 2007).

On the other hand, there is no automatic link between participation, legitimacy and support. *Pro forma* participation may undermine input as well as output legitimacy if it covers for existing power relations and serves individual rather than collective interests. Correspondingly, many other factors than the quality of participation may affect output legitimacy and support.

The conceptualization of input and output legitimacy has been criticised for capturing only part of reality. Thus, Glasbergen (2013) defines legitimacy as an authoritative multi-actor arrangement whose rules are accepted as appropriate in an issue field by directly involved stakeholders in the arrangement (internal legitimacy) and by relevant audiences in the issue area as a whole (external legitimacy). He argues that the conceptualization of input- and output legitimacy is most useful for understanding internal legitimacy, and also that it is not so useful for capturing legitimacy as a dynamic process.

The present paper is based on Glasbergen's definition of legitimacy.¹ In our empirical investigation, we have focused mainly on the policy process and those involved directly in it. The study therefore does not

claim to capture all aspects of participation and legitimacy. It mainly captures aspects related to the policy process itself. Further, it is based on the assumption that genuine and inclusive participatory public policy processes are *ceteris paribus* more likely to result in creating input and output legitimacy than is top-down pro forma participatory processes. While input legitimacy depends on the quality of participatory processes, output legitimacy can be but is not necessarily a function of such processes.

In the literature there are many different approaches to participation (Applestrand, 2002; Arnstein, 1969; Boon, 1999; Buttoud and Yunusova, 2002; Hobley, 1996), and although the EC (2002) provides some guidelines for VPA processes, these guidelines are not very specific. Furthermore, practical experience with the participatory VPA processes is still scarce (EFI, 2012). Thus, it is an open question exactly what a genuine and inclusive participatory public policy process is, and how it should be organised with a view to best foster input and output legitimacy. The main aim of the present paper therefore is to discuss what a genuine and inclusive participatory public policy-making process is, and how to organise it with a view to best foster input and output legitimacy, in particular with regard to the VPA processes.

The analysis proceeds in the following way: First, three “ideal models” for participatory policy-making processes are introduced and the extent to which each can support input and output legitimacy (Section 2) is discussed. Second, the Cameroon VPA case is introduced and the data collection methods are explained (Section 3). Third, the results are explained and discussed by examining which of the three ideal models best describes the FLEGT VPA negotiations in Cameroon (Section 4) and by examining to what extent the different stakeholders in Cameroon actually perceived the negotiations as inclusive and legitimate (Section 5). Finally, based on the lessons learnt in Cameroon, it is discussed how participatory policy-making processes such as future VPA negotiations in other countries should be organised with a view to best foster input and output legitimacy (Section 6).

2. Theory: three ideal models for public participation in policy-making processes

We understand the term *participation* as an activity by citizens designed to influence public policy-making (Huntington and Nelson, 1976). There are many different types of processes and activities labelled as “participatory” and many scholars have developed complementary and overlapping typologies and analytical frameworks. A continuum of meanings can be found in the literature ranging from information given to stakeholders to institutional participation, where all relevant stakeholders are part of all the phases in decision-making processes (Egbe, 1997).

Arnstein (1969) suggested seven steps of participation including manipulative, passive, functional, and interactive participation, participation by consultation, participation for material incentives, and self-mobilisation (See also EFI, 2015). This typology is developed on the basis of the participants' motivation for their own participation, e.g. in a development project (Pretty and Shah, 1997). The idea is that the further up the ladder, the stronger the commitment of the participants. Oltheten (1995) used slightly different criteria in distinguishing between *target-oriented* and *process-oriented* forms of participation. The target-oriented participation has a focus on obtaining goals; its advantage is that it is time-efficient. The process-oriented form of participation will make more people interested in smooth implementation of the decisions.

Buttoud and Yunusova (2002) distinguish between three models for public policy-making: the rationalist, the incremental and the mixed model (see also Etzioni, 1967). We describe and compare the three models in table 1. From this table it appears that *the rationalist model* describes decision-making as a linear process with a sequence of rational steps leading from the identification of a problem to a decision on how to solve it (Buttoud and Yunusova, 2002). Public authorities

¹ For other recent definitions of legitimacy and discussions of its many dimensions in the perspective of environmental policies see, for instance, Bernstein (2011); Bernstein and Cashore (2007); Cashore (2002).

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