

ANALYSING CORRUPTION IN THE FORESTRY SECTOR

A manual for

- Risk assessment of corrupt practices
- Risk management through monitoring of anti-corruption instruments

All comments on this manual are welcome and can be sent to Manoj Nadkarni at mnadkarni@transparency.org.

This manual was prepared as part of the phase-one project of Transparency International's Forest Governance Integrity (FGI) Programme, funded by the European Union. It is designed to provide a toolkit for local FGI Units and Transparency International (TI) national chapters in the Asia-Pacific region to conduct risk assessments to identify priorities in fighting corrupt practices, assess existing instruments for tackling them and monitor the priority anti-corruption instruments in the region. This manual provides a basis for civil society advocacy to curb the region's corruption-driven illegal logging. It was developed, researched and written by Arthur G Blundell, PhD, and Emily E Harwell, PhD, of Natural Capital Advisors, coordinated by project manager Michel Gary under the guidance of Finn Heinrich. In order to address a broader set of stakeholders, the manual was redesigned, edited and revised by Anne Grosskurth. The whole process was overseen by Manoj Nadkarni, FGI programme manager.

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CONTENTS

EXECUTIVE SUMMARY.....	IV
ACRONYMS AND ABBREVIATIONS	V
INTRODUCTION.....	1
Types of corruption associated with the forestry sector.....	6
SCOPE OF THE MANUAL.....	11
Governance and commodity chains	12
PART 1: MAPPING CORRUPTION — A RISK-ASSESSMENT TOOL	17
The dynamics involved in corruption within the forestry sector	19
Outline of risk assessment methodology	23
Generic map of corrupt practices in the forestry sector.....	24
Risk assessment methodology	26
Step 1	27
Step 2	31
Step 3	34
Step 4	37
PART 2: AN ANTI-CORRUPTION MONITORING TOOL	41
Outline of the steps for the anti-corruption monitoring tool	43
risk management.....	44
Step 1	44
Step 2	45
Step 3	52
Assessment of the risk-treatment strategy.....	53
Step 4	53
Step 5	54
Risk communication	55
GLOSSARY	90

DIAGRAMS

Figure 1. The negative relationship between good governance and illegal logging.....	4
Figure 2. Governance and commodity chains.....	13
Figure 3. A flowchart of a risk assessment and management strategy	18
Figure 4. A model depicting the relation between supply, demand, profit, and the price of wood (\$/m3)	19
Figure 5. A model depicting the major factors that affect profit (i.e. production costs; taxes; penalties and fines; and, if corrupt, bribes).....	20
Figure 6. A model depicting the major factors that influence communities' resistance to illegal logging	21
Figure 7. A model depicting the major factors that influence corruption in the forestry sector.....	22
Figure 8. Excerpt of risk assessment and risk management flowchart	26
Figure 9. Excerpt of risk assessment and risk management flowchart	37
Figure 10. Excerpt of risk assessment and risk management flowchart.....	38
Figure 11. Excerpt of risk assessment and risk management flowchart.....	44
Figure 12. Excerpt of risk assessment and risk management flowchart.....	55

TABLES

Table 1. Risk is a combination of impact and likelihood.....	23
Table 2. An excerpt of a generic map of corrupt practices in the forestry sector (See Appendix 1 for the complete map)	25
Table 3. Ranking criteria for the impact of a practice.....	27
Table 4. A hypothetical assessment of the impact of corruption in the legislative process on the major constituents of good governance.....	29
Table 5. The ranking criteria for the likelihood of a corrupt practice occurring.....	31
Table 6. The ranking criteria for the implementation of a given law/regulation	33
Table 7. Risk matrix, based on a rapid assessment of the severity of impact and the likelihood of occurrence for each corrupt practice.....	34
Table 8. A hypothetical risk assessment of the corrupt practices associated with the regulatory chain ...	36
Table 9. A sample assessment of anti-corruption instruments that tackle priority risk areas identified in the risk analysis	47

APPENDICES

Appendix 1. A generic map of corrupt practices in the forestry sector.....	58
Appendix 2. Checklist for legislation (laws and regulations) related to governance of the forestry sector	68
Appendix 3. Examples of research questions to assess/analyse impact and likelihood of corrupt practices in forestry	71
Appendix 4. Existing anti-corruption tools.....	76
Appendix 5. A sample of anti-corruption tools and corresponding monitoring mechanisms.....	84
Appendix 6. Template for forestry reporting within the Extractive Industries Transparency Initiative (EITI)	87

GLOSSARY	90
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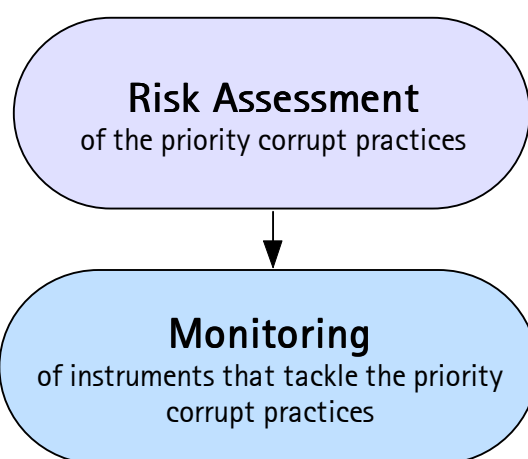
EXECUTIVE SUMMARY

Corruption — the abuse of entrusted power for private gain — undermines good governance and the rule of law. Corruption in forestry further degrades the environment, threatens rural communities and robs the public of billions of dollars each year. Transparency International (TI) is committed to a society where corruption-free forest governance and sustainable management enable increased economic development, poverty reduction and environmental protection. To help achieve this objective, TI's Forest Governance Integrity (FGI) Programme monitors the existing anti-corruption instruments that bring about the greatest improvement in the forestry sector and in good governance overall.

Each country's forestry sector is unique, as are each country's anti-corruption mechanisms — its laws and the initiatives led by government, the private sector and civil society. Therefore, in order to best use their human and financial resources, civil society organisations (CSOs) must prioritise which corrupt practices to monitor. Otherwise, the temptation is to try to monitor *all* corrupt practices, or at least those associated with current programmes. Given the limited resources most CSOs have this would be a logistical impossibility, but perhaps more important, it is vital that activists are critically selective in choosing targets that will provide the most effective impact in the long run.

This manual outlines a generic methodology for prioritising the corrupt practices that pose the greatest risk to governance — i.e. those practices that are the most likely to occur *and* have the greatest impact.

Interviews with key experts, supplemented by publicly available data, inform the rapid risk assessment, the results of which are validated through stakeholder consultation. Based on this priority setting, it will be possible to assess more thoroughly the corrupt practices that pose the highest risk. In a second step, expert analysis and stakeholder consultation then help identify the existing anti-corruption instruments that most efficiently tackle



these priority practices. These anti-corruption instruments then serve as the focus for TI's forestry programme — including its monitoring, outreach and advocacy.

A greater understanding of corrupt practices in the forestry sector should help focus the public and decision-makers on generating the political will needed to tackle criminal activity associated with the forestry sector — activity which in many countries drastically reduces revenues that could be used for economic development.

ACRONYMS AND ABBREVIATIONS

AGO	Auditor General's Office
CIFOR	Center for International Forestry Research
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
Crinis	Benchmarking and advocacy tool on transparency in political finance (Latin meaning: 'ray of light')
CPI	Corruption Perceptions Index
CSO	Civil Society Organisation
CSR	Corporate Social Responsibility
EITI	Extractive Industries Transparency Initiative
FATF	Financial Action Task Force
FAO	United Nations Food and Agricultural Organisation
FGI	Forest Governance and Integrity
FLEGT	Forest Law Enforcement, Governance and Trade (see VPA in Glossary)
FSC	Forest Stewardship Council
GFW	Global Forest Watch
IFI	International Financial Institution
IFM	Independent Forest Monitoring
IFRS	International Financial Reporting Standard
IGO	International Governmental Organisation
ILO	International Labour Organisation
ITTO	International Tropical Timber Organisation
MoF	Ministry of Forestry
NGO	Non-governmental Organisation
NIS	National Integrity System
OECD	Organisation for Economic Co-operation and Development
PEFC	Programme for the Endorsement of Forest Certification
STR	Suspicious Transaction Reporting
UNCAC	United Nations Convention against Corruption
UNDP	United Nations Development Programme
WRI	World Resources Institute
VPA	Voluntary Partnership Agreement (see Glossary), an instrument in FLEGT

INTRODUCTION

Illegal logging

Worldwide, illegal logging robs the public of around US \$10 billion a year from state-owned forests. Underpayment of taxes by legal concession holders amounts to an additional US \$5 billion.¹ In fact, these figures are likely to be underestimates: given the clandestine nature of illicit activity, the true cost of illegal logging is impossible to measure accurately. Apart from its financial cost, illegal logging also significantly undermines authorities' ability to manage forests sustainably.

The serious impacts of such illegal practices include:

- Putting at risk the livelihoods of poor and forest-dependent populations who rely heavily on timber and non-timber forest products
- Distorting markets for timber and posing an obstacle to responsible forest operators attempting to practice sustainable forest management
- A leakage of resources (tax revenues in particular) that legitimately belong to the government treasury for possible use in protecting and improving the quality of the resource and other development activities
- Direct threats to eco-systems, biodiversity and environmental services in protected areas and parks
- Substantial contributions to greenhouse gas emission and increases in the negative effects of climate change
- Reduced beneficial impacts of projects to improve forest governance and compliance with the law



Corruption is a leading driver of illegal logging. It facilitates illegal forest activities, and frustrates many efforts to combat them.

The most visible impact is the environmental destruction caused by over-harvesting, including erosion and loss of soil fertility, and a decline in water quality and quantity. These losses are especially profound for forest-dependent communities, but equally significant is the impact on social wellbeing, as corruption weakens the social fabric. Communities (and indeed entire societies) suffer the loss of government revenue that could otherwise be used to improve citizens' welfare, while the unequal benefits of illegal activities also pit groups against each another, especially when loggers co-opt the local elite in order to gain access to forests. This shift to illegal logging often marks a shift in income to young men, disadvantaging women and older men previously engaged in farming and gathering forest products.

The Forest Governance Integrity Programme

This is why Transparency International (TI), the global coalition against corruption, started a programme to curb corruption in forestry and the timber trade. The Forest Governance Integrity (FGI) Programme was initiated by TI national chapters in the Asia-Pacific region, which saw their natural resources being rapidly depleted without any corresponding benefits to their economies.

However, not all timber use should be considered problematic. TI national chapters recognised that corruption-free, legal and sustainable forest governance and management enables higher levels of sustainable social and economic development and poverty reduction. The knock-on effect of this can include increases in democratic governance, government accountability, the rule of law, judicial integrity, human rights, environmental protection, corporate social responsibility and due diligence of financial institutions.

Given the international nature of the legal and illegal timber industry, the chapters asked the Asia-Pacific department of the TI Secretariat to develop a regional and global forest governance programme to complement their national-level work. TI's FGI Programme was therefore created, which brings together national chapters in the Asia-Pacific region in a concerted effort to tackle illegal logging at a regional level.

The FGI Programme works in forested, timber-producing countries, transit and processing countries, and end-consumer countries. A long-term advocacy programme, it is aimed at influencing governments to recognise the damaging effects of corruption in the forestry sector and to support policies that help fight such corruption. It mobilises civil society to work

towards developing these policies and monitoring their effectiveness. At a later stage, it will also work with the private sector to ensure that it uses timber only from legal sources. The programme is based on the same premise as TI's other work. It sees its value not in fighting individual cases of bribery but in regarding corruption as a failure of a country's integrity system, and in strengthening these systems to fight corruption (or if they do not exist, helping a country develop them).

Broadly speaking — based on TI's experience of fighting corruption in other sectors and on forestry stakeholder consultations — the FGI Programme recognises that there are major areas where advocacy interventions are needed in order to strengthen the forestry and timber trade sectors:

1. Reducing political corruption
2. Reducing foreign bribery in supply countries
3. Reducing corruption in licensing and concessions
4. Reducing incidence of 'timber laundering'
5. Reducing judicial corruption
6. Improving due diligence of financial institutions
7. Reducing unsustainable demand for timber and wood
8. Strengthening national/regional forest governance initiatives
9. Strengthening international forestry and timber trade governance initiatives

The manual

The first stage in such advocacy is to understand clearly where in forestry and the timber trade corruption risks lie; what systemic weaknesses allow corruption to exist and what attempts have been made to correct these weaknesses. The idea is to examine existing environmental, anti-corruption and trade instruments that are relevant to forest governance systems. After such a risk-mapping exercise, the next stage is to assess existing anti-corruption instruments (such as legislation and its implementation and/or enforcement, or civil society actions and private sector initiatives), to see where anti-corruption interventions would be most effective.

This manual has been developed to help civil society conduct systemic corruption, accountability and transparency risk analyses of national and transnational forest governance systems, along with an analysis of anti-corruption interventions in those systems. It enables users then to develop a civil society-based monitoring tool for measuring corruption, anti-corruption measures, accountability and transparency in forest law enforcement, governance, trade and sustainable management.

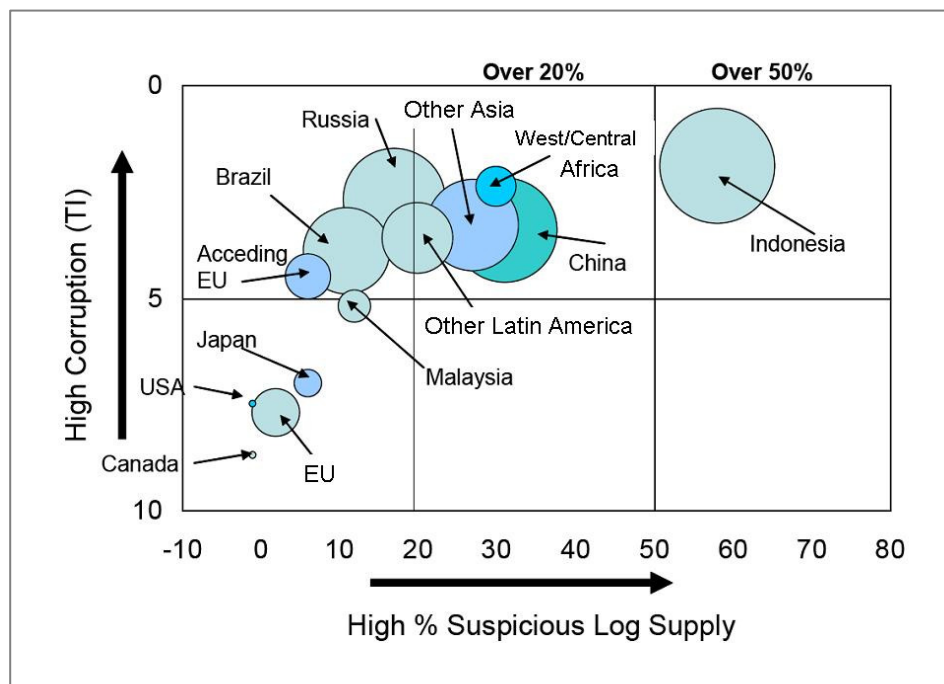


Figure 1. The negative relationship between good governance and illegal logging²

The size of bubbles represents volumes of suspect roundwood, including imports.

Most pernicious is the strong correlation between illegal logging and corruption (see Figure 1, which is from 2004 but is still a good representation of this relationship), and how the interaction undermines governance more generally. Persistent impunity for those able to pay bribes sends a message that there is no rule of law, eroding the legitimacy of the state. As shown in a study on forestry in Liberia, 'hand in hand with the erosion of rule of law is the further entrenchment of official corruption. Officials see their position primarily as an opportunity for self-enrichment and view themselves as accountable, not to their constituents, but to the cultivated patronage of powerful economic interests'.³ A state that cannot (or will not) enforce forestry law will almost invariably fail to enforce financial laws, as well as human rights and other protections of good governance.⁴

While this manual focuses on identifying and assessing the impacts of forestry corruption on good governance, this is not the only possible lens through which to examine the issue. Others may adapt the methodology outlined here to focus instead on the impact of corrupt practices on institutions or power dynamics, or to take a more economic or legal perspective. Likewise, others may choose to expand the definition of forestry to include additional products such as fuel-wood, charcoal or wildlife.

The focus of this manual is producer countries of the Asia-Pacific region. The USA recently amended its Lacey Act (Appendix 5.11) to make it a crime to import illegal wood products, while the European Commission has taken a different approach through its Forest Law Enforcement, Governance and Trade (FLEGT) initiative (Appendix 5.10). Europe is currently debating legislation that would require producers to provide documentation of timber legality for importation into the EU. Within Asia-Pacific, Japan is the dominant player (along with China) and is mainly focused on bilateral cooperation rather than legislative change that would punish the procurement of illegal timber.⁵

TYPES OF CORRUPTION ASSOCIATED WITH THE FORESTRY SECTOR

Without corruption there would be very little illegal logging. Corruption is present at all stages in the lumber production chain:

- Bribes and political influence may be used either to facilitate logging without appropriate permits or to gain access to forests through questionable land concessions
- Enforcement officials are bribed to turn a blind eye to trucks carrying logs
- Corrupt transactions may similarly occur in order to process and trade the logs once they have been harvested, in a form of 'timber laundering' similar to money laundering
- Timber certifiers can be paid off to 'whitewash' illegally sourced logs
- When violations are found, judicial corruption may prevent prosecution and accountability, leaving citizens without legal recourse
- Financial transactions also can be corrupted as a way to hide paper trails of sales and to keep the timber trade flowing.

At any of these points along the chain, the unsustainable global demand for forest products creates added pressures for corruption.

As a framework for understanding how corruption operates, it is worth recognising that it runs two ways. On one hand, companies approach public officials to offer bribes for favourable treatment or to allow an illegal practice (sometimes referred to as [supply-side corruption](#)). On the other, corrupt officials will demand favours from companies ([demand-side corruption](#)), extorting money before they will perform routine tasks such as issuing documents required for legal operations. Forestry corruption can therefore be 'the price of entry' for otherwise perfectly legal logging, through [extortion](#) as well as inducements ([bribery](#)) to allow illicit activities.

Public officials who accept inducements can be divided between those who do so in exchange for: I) the [commission of crime](#) (e.g. accepting bribes to mark trees outside a concession as harvestable) and II) the [omission of duty](#) (e.g. accepting bribes to ignore violations, often known as 'hush money'). In the former case, officials are directly and undeniably engaged in illegal acts, whereas in the latter, officials accused of taking hush money to allow misconduct often attempt to shirk culpability by blaming their lack of implementation or enforcement on a 'lack of capacity'. This distinction is noteworthy for monitoring and prevention in that those acts involving payments to neglect duty are often more socially acceptable and are therefore more deeply entrenched. 'Naming and shaming' tends to

close doors rather than bringing together those who may be willing to take action to build integrity and has been found to be less effective in increasing accountability. Further, from an accountability and enforcement standpoint, it is more difficult to prove a deliberate neglect of duty than it is to prove the direct involvement of officials in illicit acts.

In addition to bribery and extortion, public officials may use their position to engage in **rent-seeking** through their involvement, either directly or indirectly, in commercial forestry operations. Officials may use their influence to obtain logging concessions for themselves, their family (**nepotism**) or their associates (**cronyism**). Public officials may use their position to control the distribution of forestry rents — a practice known as **rent-seizing** (e.g. writing regulations that favour their own or associates' companies). This can include **state capture**, where the private sector exerts undue influence over lawmakers in order to obtain favourable policies and regulations.

In all cases, especially the last, the 'private gain' from corruption need not be monetary. Public officials may be motivated to consolidate political power rather than obtain immediate financial gain; so-called 'timber barons' often have tremendous influence in rural areas, sometimes extending to urban seats of power.

Likewise, corrupt loggers may pay bribes in hope of future favours, or as the price for continuing operations. Legitimate operators flee from a sector if corrupt practices are the cost of entry, unwilling to risk their reputation and the acceptance of the local community that allows operations (i.e. the social licence to operate). Honest companies may find themselves out-competed by operators who can balance the costs of bribes with savings from illegal wood and/or labour violations. Most insidious, legitimate operations fear that a dysfunctional legal system will not protect their investments.

It may be necessary for those working to fight corruption to develop more detailed maps of institutional authority, actors and their interactions in order to further analyse the relevant dynamics within their country's institutions.

Actors and institutions

From both a conceptual as well as a monitoring and prevention perspective, it is vital to identify the actors and institutions involved in the different activities in the sector; their areas of authority; where overlaps and conflicts lie; where power is concentrated and other influential factors. Understanding who is involved helps to determine what to

monitor, but it also helps bring understanding of whose interest it is in that corruption occurs or, conversely, is prevented. This helps activists target activities more effectively, revealing where political blockages are likely to occur and windows of opportunity might lie for engaging constituents who have an interest in preventing corruption and illegal logging.

The Executive

A [Ministry of Forestry](#) (MoF) often has direct legal authority over the sector, including the design and implementation of regulations. However, other ministries play important roles, e.g. [Finance](#), [Labour](#), [Customs/Trade](#), [Planning](#). At the local level, especially under decentralisation, district and provincial forest agencies, as well as [administrative governments](#) (governors and village heads), play significant roles in the management of forestry operations. In many countries, free, prior and informed consent is required — at least in law — from village authorities before logging can occur. The [police](#) have the duty to enforce laws and regulations pertaining to forestry. In many countries, [the military](#) also has a role in enforcement. Geographic scaling — from the national MoF down to local authorities — does not always reflect institutional hierarchy, especially in decentralised political environments. Often the local-level authority has greater control over logging decisions (at least *de facto* control) than national lawmakers. Corrupt officials can often take advantage of the ambiguity created by geographic and institutional complexity.

The Legislative

[Parliaments](#) and [district assemblies](#) also play a role in the development of legislation as they pass laws which influence the forestry sector, including those related to forestry, zoning, taxation, land ownership, labour, anti-corruption, banking and anti-money laundering, freedom of information, the police, the judiciary and election reform. In many cases, [legislative committees](#) also provide oversight of the executive.

The legislature passes laws, while the executive generally drafts rules and regulations to implement these laws. The two distinct, albeit related, roles entail substantial differences: regulations controlled by the executive are much easier and quicker to change than laws.

The Judiciary

Although not involved in the immediate regulation of the sector, the judiciary ultimately interprets the laws and regulations that govern the forestry-chain(s), from the adjudication of land-claims to deciding on the guilt of operators accused of illegal logging and other forestry and financial crimes. In some cases, a simple lack of judicial knowledge or capacity, rather than complicity, may act as an impediment to the successful prosecution of corruption.

Civil society

Independent monitoring, whether by formally sanctioned bodies or on the initiative of non-governmental organisations (NGOs) and/or investigative reporters, provides an opportunity to expose corrupt practices. Civil society — albeit often the weakest actor, politically and financially — has a strong role to play in fighting corruption. To do so, it requires the implementation of legislative measures such as [freedom of information acts](#) and [whistleblower protection](#), to obtain the data necessary for analysis. A lack of information handicaps civil society's ability to act as a monitor, as well as undermining its advocacy, such as for indigenous peoples' rights or conservation.

Private sector

The literature on corruption often differentiates between [grand](#) and [petty](#) corruption: between large industrial actors and labourers working in the forest. While approaches for dealing with corruption among the elite as opposed to rural communities may differ, this manual avoids discussion of grand and petty corruption, focusing instead on the corruption risks most responsible for undermining governance. Given the much larger scale of commercial logging in relation to community use, it is likely that corruption at the corporate level has a central role in facilitating illegal logging, if not the leading role.

The transnational nature of the forestry sector means that an assessment of risk within any single jurisdiction should involve the role of its actors not only nationally but also in other countries. For example, any examination of the corruption risks in a country's forestry sector should include a review of the behaviour of its forestry companies operating abroad and an examination of foreign companies operating within its borders.

This transnational nature justifies the regional structure of the FGI Programme, including major timber supply countries as well as dominant transit, processing and consumer countries.

REFERENCES AND FURTHER READING

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² From Seneca Creek Assoc. “*Illegal*” Logging and Global Wood Markets: The Competitive Impacts on the U.S. Wood Products Industry 2004

³ Harwell and Blundell 2008. in Liberia's EITI www.leiti.org.lr/doc/liberias_forestry_report.pdf

⁴ Harwell, forthcoming *Wild Money: The Human Rights Consequences of Illegal Logging and Corruption in Indonesia's Forestry Sector*, Human Rights Watch

⁵ www.mofa.go.jp/policy/environment/forest/illegal.html



SCOPE OF THE MANUAL

This manual proposes a **framework to**

- I. **Identify and analyse the corrupt practices in the forestry sector that pose the greatest risk to governance**
- II. **identify and analyse the existing anti-corruption instruments that should be monitored in order to assess changes in the highest-risk practices.**

The manual first describes broadly how corruption operates in the forestry sector, using a heuristic systems model. It then presents a generic map of corrupt practices in the sector and explains how to use the map to assess the risk posed by each of the practices in any given jurisdiction. This rapid assessment process involves a basic examination of the impact of each issue and the likelihood of such a consequence actually occurring. The product of these two variables is the level of risk posed by the practice. This rapid risk assessment can be used to rank the practices that pose the greatest risk to governance in the sector. Based on this assessment, the highest-priority practices are examined in greater detail in order to understand how corruption operates and where points of leverage exist to tackle criminal practice.

The manual then describes a protocol to identify the existing anti-corruption instruments that best address the highest-ranked corrupt practices, so that the performance of the anti-corruption instruments, as well as corruption itself, can be monitored over time.

The forestry sector is defined as the chain from licensing and regulations, to harvesting and processing, and ultimately to the sale or export of all forest products, including raw logs, processed timber and veneer, and pulp and paper.

Corrupt actors can include both politicians and civil servants who abuse their public office by demanding or accepting bribes, as well as private-sector employees who defraud shareholders by undertaking business practices that benefit them personally.



It is worth noting that corruption is not a necessary precondition for illegal logging. For example, loggers may break the law when they harvest wood without permits or on land that is not their own, but if this goes undetected or unimpeded by public officials, the act, albeit illegal, involves no corruption. Furthermore, the case of officials extorting money for routine tasks in legal operation is a form of corruption that occurs in legal logging (previously described as demand-side corruption). However, only those illicit activities associated with corruption are mapped here.

Further, corruption in the forestry sector is both cause and consequence of corruption in other sectors, such as law enforcement and the judiciary. Operators who log illegally often bribe not only forestry authorities, but the police and judges to avoid sanction or penalty for violations — a practice that further undermines rule of law.

GOVERNANCE AND COMMODITY CHAINS

In this manual we map out the generic issues involved in forestry corruption. These generic descriptions may be modified to expand the definition of forestry beyond timber (to include wildlife, for example), or to include all relevant institutions for a specific jurisdiction. For the sake of ease, we divide the forestry sector into its major constituent chains (Figure 2). The coloured arrows connect this with the sign-posting used in the rest of manual.

SCOPE OF THE MANUAL

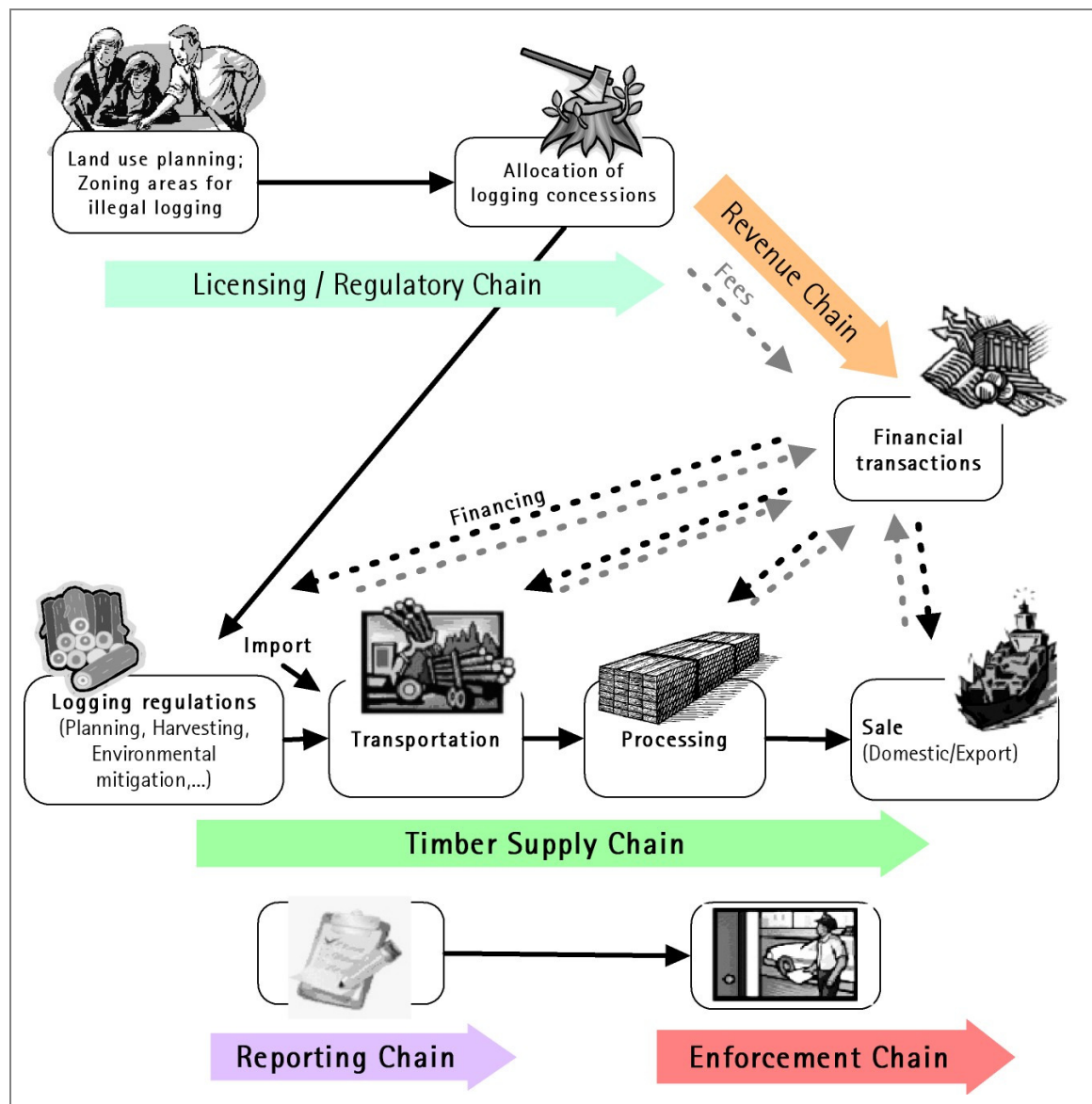


Figure 2. Governance and commodity chains



SCOPE OF THE MANUAL

1. Licensing/Regulatory Chain



The process through which rules (laws and regulations) are made that govern timber supply — i.e. policy formulation.

2. Timber Supply Chain



The process through which the above policies and rules are actually implemented, i.e. how forests are managed and timber harvested, transported, processed and sold (and, if applicable, exported).

3. Revenue Chain



The process through which taxes and fees are paid and government revenues allocated. In corrupt systems, this includes money laundering and other transactions related to the proceeds of crime, such as illegal logging. Likewise, the chain includes the financing of forestry operations.

4. Reporting Chain




The process through which operators and regulators must document forestry-related operations and information, in some cases to the public.

5. Enforcement Chain




This includes both criminal and administrative sanctions, from monitoring, policing and conviction, through to punishment such as fines, incarceration or both.

Interaction among the chains




The first **regulatory/licensing chain** articulates the overarching policies that govern how actors in the other chains operate. Ideally, a system of adaptive management would incorporate feedback from all the chains to allow assessment of the efficacy of policy and, based on this analysis, any necessary reforms. Corrupt lawmakers and regulatory authorities can manipulate this system, as it provides the opportunity to create policies that serve their own interests instead of the public good.


For example, among the most important decisions in the sector are deciding where harvesting can occur and who has the licence to log. Corrupt officials can subvert the allocation and licensing system to ensure private gain. Likewise, although licence agreements generally provide opportunity for the government to review the operator's behaviour and terminate the contract if there is evidence of gross violations, officials can choose to forgo such review (or ignore the evidence it provides). In this way, corrupt officials pervert the normal interaction of the **regulatory/licensing chain** with the other chains in order to favour certain companies.



The **revenue chain** describes where fees and taxes are paid, and the different agencies through which these funds are transferred. The collection of forestry revenue should ideally serve at least three purposes for the state: I) it should provide compensation for the loss of assets (i.e. harvested trees, deteriorated environmental services, etc.) II) it should defray the costs of managing the forest estate (i.e. the state's cost in managing the five chains) and III) the types of taxes should provide incentives for behaviour that is in the public interest. When corrupt actors divert revenue, these objectives are compromised. Moreover, unregulated and poorly reported revenue flows allow for the laundering of the proceeds of crime (i.e. from illegal logging and other associated crimes).



The **reporting chain**, with transparency as a mechanism of accountability and a fundamental component of good governance, should help ensure the operation of the other four chains and act as a safeguard, in both law and practice, to combat illegal activities.



Like **reporting**, the **enforcement chain** is a fundamental component of good governance and of the sound functioning of all chains in the sector. Enforcement involves not only forestry regulations, but also labour and environmental regulations, and covers forestry agencies, zoning boards, the police,

customs, finance ministries, government auditors and the judiciary. Without the rule of law, there is little incentive for operators and public officials to forgo corruption. A lack of enforcement means loggers have little incentive to invest in proper management, sacrificing environmental and economic sustainability for short-term profit.

Thus, the five chains interact, often in non-linear ways. Reductions in enforcement will have a profound influence on all aspects of forestry, including lawmaking. Poor reporting can send the wrong signal, undermining adaptive management and the implementation of forestry laws and regulations. Inappropriate policies create an environment that impedes sustainable forest management, including a profitable forestry sector.

The following Parts 1 and 2 will serve as a guide for the risk assessment and monitoring of anti-corruption instruments:

Part 1 outlines a generic methodology for prioritising the corrupt practices that pose the greatest risk to governance.

Part 2 builds on this risk analysis with a protocol for measuring the performance of existing anti-corruption instruments.



PART 1: MAPPING CORRUPTION — A RISK-ASSESSMENT TOOL

The different chains involved in forestry sector corruption are complex and wide-reaching. Moreover, the relative importance of different corrupt practices will be highly specific to each country and/or region. It is therefore vital to prioritise practices that will be the most useful in a monitoring and advocacy strategy. Figure 3 indicates by means of a simplified flowchart the steps needed to perform a risk assessment and develop a risk management strategy.

Risk assessment is a means of identifying priorities. The first step is to map corrupt practices ('issue identification'), then examine the potential impacts associated with each practice, and the likelihood of the practice actually occurring. Given the product of these two variables, the practices are ranked according to their relative risk.

In Part 2, an anti-corruption monitoring tool will build on this analysis of risk with a methodology for assessing the performance of existing anti-corruption instruments (in law and practice) for the highest risks.

To begin, the corrupt practices must be identified. To assist with this, a simple systems model that describes how corruption works in forestry and a generic map of corrupt practices have been developed.

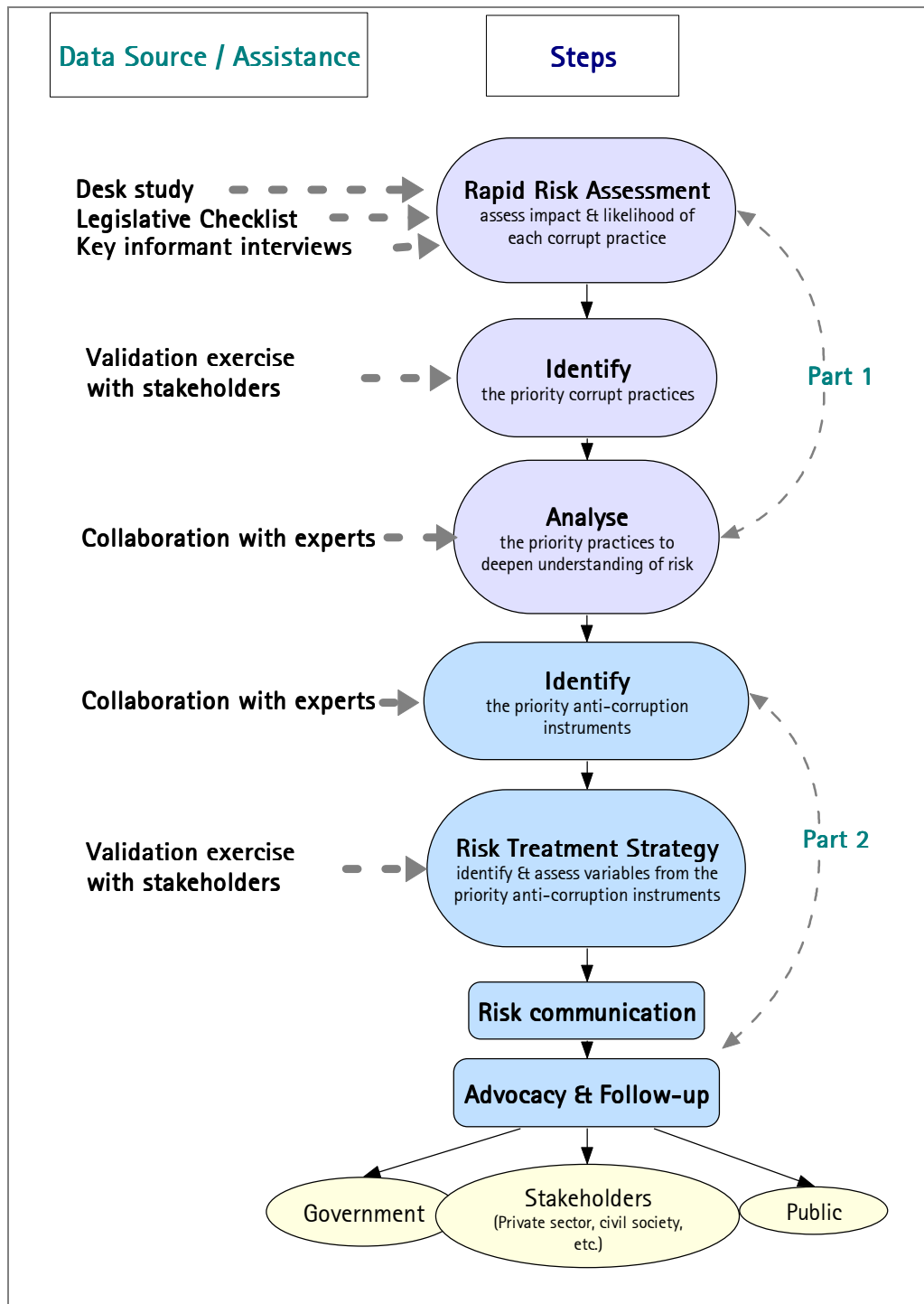


Figure 3. A flowchart of a risk assessment and management strategy

THE DYNAMICS INVOLVED IN CORRUPTION WITHIN THE FORESTRY SECTOR

The generic system dynamics of corruption in the forestry sector are modelled here.⁶ The model describes how corruption occurs in forestry and can serve as an introduction to the risk assessment below. The exact institutional relationship and the specific interactions among corrupt practices within the forestry sector will vary from country to country. However, the overall pattern is generic: some loggers (and other private sector actors) interact with corrupt politicians and bureaucrats to generate illicit operations. The complicity of members of local communities may be gained through coercion (often involving the threat of violence) to allow illegal logging. If end-consumers cannot discriminate regarding the legality of the wood they buy, illegal timber is often laundered into the legal supply chain, making the consumer complicit in illegal activities that undermine the economics of the industry and the overall rule of law.

We start with a simple depiction of the well-known role of supply and demand in setting the price of wood (Figure 4). When demand rises, so too does price (i.e. a positive relation), and conversely, when supply rises, price drops (i.e. a negative relation). In the following figures, grey arrows indicate positive relationships (both variables rise in concert); red arrows indicate negative relationships (as one variable rises, the other declines).

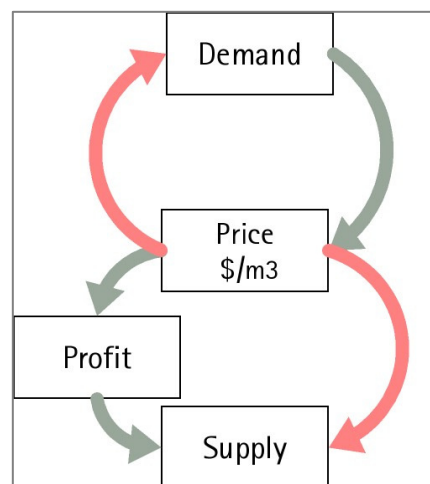


Figure 4. A model depicting the relation between supply, demand, profit, and the price of wood (\$/m3)

This simple model shows that this part of the system is self-regulating — neither price nor demand will escalate uncontrollably. As prices rise, demand should fall; supply will begin to outstrip demand, therefore, prices fall back, which ultimately leads to an increase in demand and in price. The cycle repeats itself — hence the adage: ‘the cure to high prices is high prices’.

The next step is to examine how the influence of corrupt loggers can affect the supply and demand relationship. Production costs, taxes and penalties, and bribes all decrease profit (Figure 5). However, corrupt loggers pay

bribes in order to decrease both the amount of taxes that must be paid (through tax evasion) and the successful prosecution of violations of law. Provided the bribes are lower than the taxes and penalties they offset, profits will rise, regardless of the effects of the market forces of supply and demand (Figure 5).

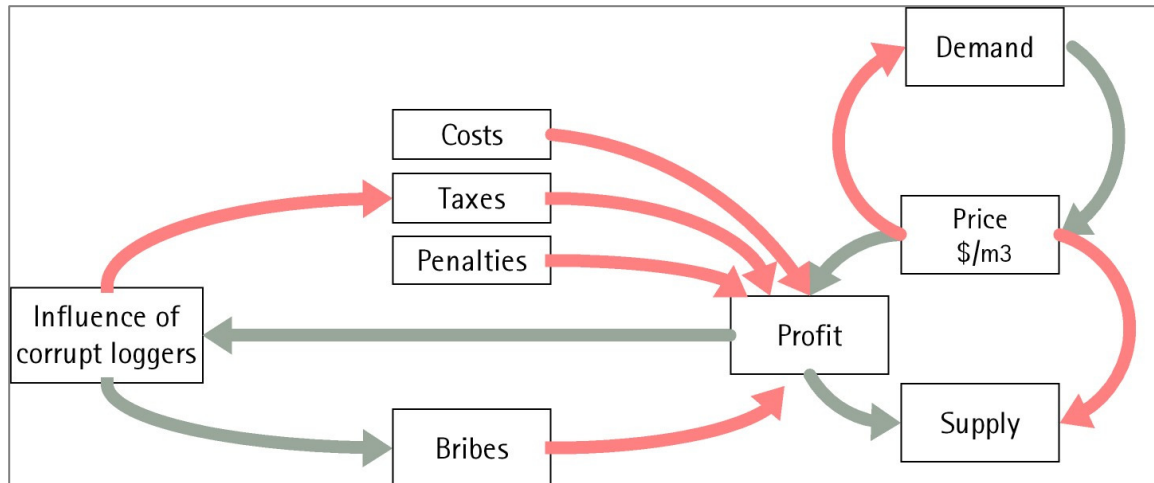


Figure 5. A model depicting the major factors that affect profit (i.e. production costs; taxes; penalties and fines; and, if corrupt, bribes)

Unlike the regulating effects of supply and demand (Figure 4), in Figure 5, there is a positive-feedback loop. As corrupt loggers grow wealthier through higher profits, their influence can extend to larger bribes that allow greater tax evasion and reduced enforcement action. This leads to lower penalty payments and greater profits, which further enrich the loggers, allowing even more corrupt behaviour. However, the cure to corruption is *not* more corruption.

The next step in the model is to examine the role of communities in illegal logging. To simplify: if communities follow the rule of law, they will resist illegal logging and withhold the social licence to operate from corrupt actors. This resistance depends on a number of factors, including economic wellbeing (e.g. the availability of other sufficiently well-paid jobs) and community members' perception of the role the state will play in protecting their interests. Often community leaders are bribed into accepting logging, or the companies (possibly aided and abetted by corrupt officials) physically intimidate communities into dropping their resistance to illegal logging. Good governance, such as accountability, participation, equity and enforcement, plays a strong role in preventing corruption. As governance declines, it is assumed that communities' resistance to illegal logging will also decline (Figure 6).

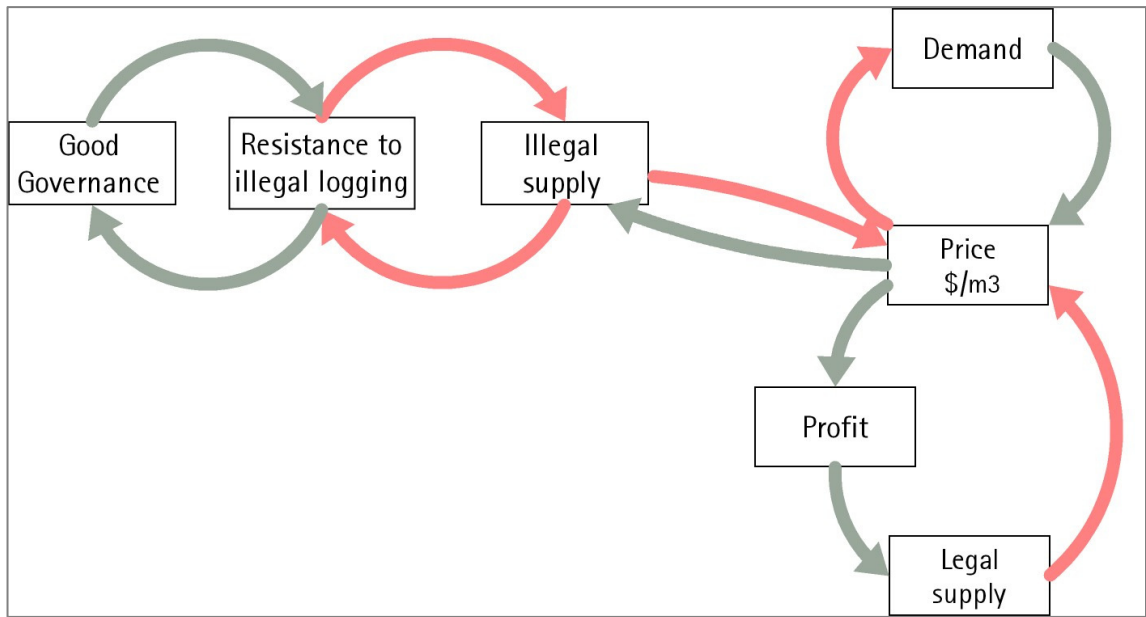


Figure 6. A model depicting the major factors that influence communities' resistance to illegal logging

As in Figure 5, Figure 6 has positive feedback loops leading to escalating effects — an increase in good governance will lead to further increases in resistance to illegal logging.

The final step is to examine the role of government, both politicians and bureaucrats, in forestry corruption (certification bodies and independent advisors could also be included here). Just as declining governance decreases the resistance to illegal logging in communities, so too it increases criminal behaviour in government (Figure 7).

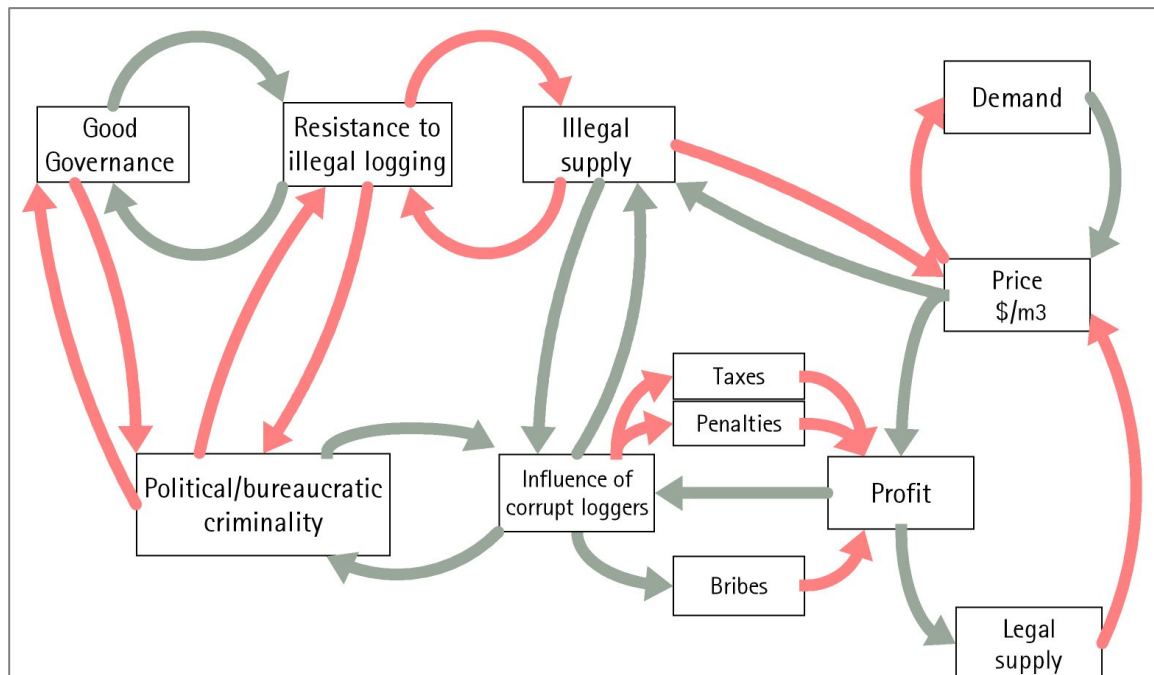


Figure 7. A model depicting the major factors that influence corruption in the forestry sector

Thus there are at least three major feedback loops that increase criminal behaviour (including corruption) among politicians and bureaucrats:

- Decreased quality of governance
- Decreased resistance to illegal logging and associated crime by communities
- Increased influence of corrupt loggers

This escalating system of corruption should be kept in mind while assessing the risk of various corrupt practices and in developing anti-corruption instruments, including monitoring in each individual country.

OUTLINE OF RISK ASSESSMENT METHODOLOGY

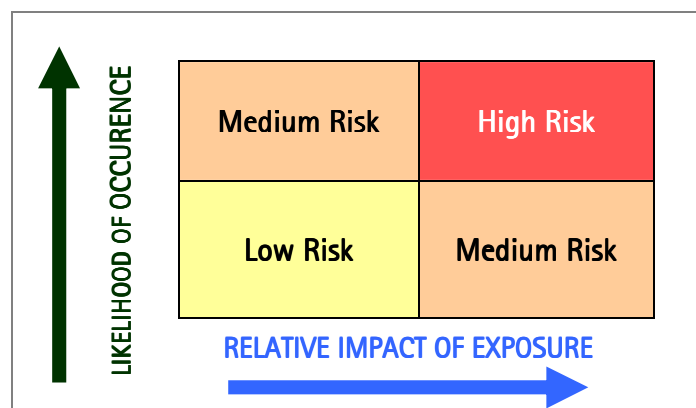
As mentioned earlier, risk has two components:

- The **impact** of exposure to such corruption
- The **likelihood** of a corrupt practice occurring

In order to prioritise corrupt practices, we use risk assessment to determine which practices are most likely to undermine good governance and society overall.

If a corrupt practice is unlikely (i.e. a low probability of exposure), it is only a high risk if its actual occurrence is catastrophic (i.e. a high impact), see Table 1. A single event may be of little consequence in isolation, yet significant if common (i.e. where the likelihood of exposure is high), therefore the sum total of all of its impacts will be profound.

Table 1. Risk is a combination of impact and likelihood



To rapidly identify the relative risk of each corrupt practice in the forestry sector:

- **STEP 1** ranks the significance of the **impact** should a practice occur. (Note that the impact is rated for each practice, regardless of how likely it is actually to occur.)
- **STEP 2** uses a generic risk map to assess the actual **likelihood** of each practice.
- **STEP 3** combines the rapid analysis from Steps 1 and 2 to determine the overall **risk** of each practice.

Having rapidly identified the risks:

- **STEP 4** delves deeper into the major priorities in order to better understand how these corrupt practices operate and to better inform the risk management in Part 2 of the manual.



GENERIC MAP OF CORRUPT PRACTICES IN THE FORESTRY SECTOR

For each of the five governance and commodity chains (Figure 8), Appendix 1 outlines a generic map of corrupt practices, of which an excerpt is given in Table 2. It describes the actors (both at national and district levels) and the type of threat associated with each corrupt practice. It then documents the results of Steps 1 to 3 (the assessment of impact and likelihood, and the corresponding level of risk [impact multiplied by likelihood]). As Appendix 1 is completed, it may be useful to add additional columns for citations and comments. The comments field could contain notes on the level of confidence in the results of Steps 1 and 2, including how sensitive they are to change (i.e. under what conditions impact/likelihood might change).

Table 2. An excerpt of a generic map of corrupt practices in the forestry sector (See Appendix 1 for the complete map)

Activity	Actors Involved		Corruption Threat	Corrupt Practice	Ranking (1 – 5)		Risk
	National	District			Impact	Likelihood	Impact x Likelihood
Regulatory (how ‘rules’ get established)							
Passing forestry legislation/ regulations	Parliament (and its special committees); MoF; Logging/ plantation operators (including foreign owned)	Local assemblies; Operators	Undue influence on forest laws and regulations (state capture)	Commission: Bribery (including kick-backs) to strike or delay bills, include subsidies (e.g. low fees), weaken regulations; Increase the annual allowable harvest and/or, set up ineffective institutions.			
Forest zoning changes	MoF; Parliament; National Planning Boards; Operators	Agencies; Assembly; Governors/ District head; Operators	State capture	Commission: Bribery to change the zoning of an area to allow logging.			
Privatising forestry-sector firms	MoF; Parliament; Operators	Agencies; Assembly; Governors/ District head; Operators	State capture	Commission: Bribery to sell state assets at below-market value			

The next section of the manual discusses how to set parameters for the risk assessment (i.e. how to determine the value for both the impact and the likelihood in Steps 1 and 2).

RISK ASSESSMENT METHODOLOGY

Objective: The purpose is not to provide a detailed analysis for each corrupt practice, but to rapidly assess the likelihood and impact of each, based on basic understanding of the forestry sector. Figure 9 indicates the stage in the risk assessment process.

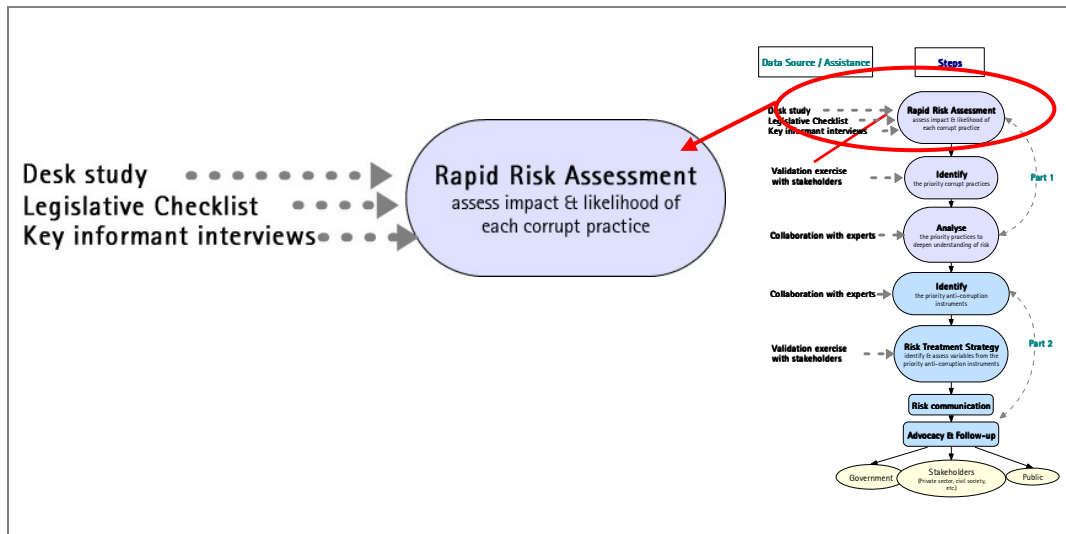


Figure 8. Excerpt of risk assessment and risk management flowchart

STEP 1

Rate each practice (in Appendix 1) based on its impact, if it occurs. In ranking the impact, various indicators could be considered (Table 3).

Table 3. Ranking criteria for the impact of a practice

Rank	Consequence		
	Governance	Human	Financial
1	Nil no impact	none	\$ 0
2	Minor not undermined	few individuals	< \$ thousand
3	Moderate if stopped, would recover rapidly	many individuals	\$ thousands - millions
4	Major even if corrected, would be compromised for some time	many communities	\$ millions - billions
5	Catastrophic undermined irreparably	national	>\$ billions

The major consideration in assessing impact is: How will the practice impact society? Consider how each practice would impact the major constituencies involved in forestry. Who will benefit and who will lose?

For example, what is the impact on:

Communities

- Local livelihoods (including access to land and forests)
- Environmental services (water, flooding, soil fertility, landslides, etc.)
- Social grievances (e.g. distrust of co-opted elites)
- Tax revenue

Sustainable forest management (SFM)

Enforcement of law and regulations (including the judiciary)

- Access to information; oversight by civil society

Economics (including the profitability of legitimate operators)

- Investment (foreign direct investment)

- Healthy competition (undermined by markets for illegally sourced wood)

Political power

- Ability of the state to deliver services; legitimacy of state institutions
- Elite capture of power

And [what will be the impact on good governance](#) including⁷:

- Transparency
- Integrity/Accountability
- Rule of Law
- Participation
- Equity

Example

If inducements to strike or delay bills, include subsidies or weaken regulations occurred (cf. First rows in Fig. 8), the ramifications on governance might look like this (Table 4):

Table 4. A hypothetical assessment of the impact of corruption in the legislative process on the major constituents of good governance

	Community	SFM	Enforcement	Economics	Political Power
Transparency	Changes made to legislation restrict <i>Freedom of Information</i> → undermine understanding/oversight	Restricts information for adaptive management	Decreases information for court cases	Illegal logging out-competes legal operators	Elites consolidate power
Integrity/ Accountability	Changes made to legislation remove incentives for good behaviour	Removes incentives for good behaviour	Decreases successful prosecutions	Loss of revenue	Elites consolidate power
Rule of Law	Removes incentives for good behaviour	Removes incentives for good behaviour	Removes incentives for good behaviour	Removes incentives for good behaviour	Enforcement capacity is weakened
Participation	Restricts free, prior, informed consent (FPIC)	Restricts FPIC	Reduces information	Loss of revenue	Compromised
Equity	Reduces funds for development	Ignores land tenure → increases exploitation of forests	No incentives for good behaviour → increases exploitation of forests	Legal operators are driven out → increases exploitation of forests	Elites consolidate power and money

Data collection

There are two suggestions for main avenues of research and data collection:

Desk research As much as is practicable, primary and synthesised data should be collected from open source literature/databases (Appendix 4), including:

- **Statistics:** production levels (from which tax revenue can be inferred), tax receipts, revenue flows and enforcement actions. These can be obtained from annual reports from industry, MoF, ministries of finance and internationally from the International Tropical Timber Organisation, United Nations Food and Agricultural Organisation (FAO) and importing countries
- **Independent monitors:** e.g. NGO reports including national and international organisations, such as the World Bank, World Resources Institute, Chatham House, Traffic, Center for International Forestry Research and, where relevant, independent forest monitors sanctioned by the national forest ministry.
- **Certification bodies' reports and documents:** e.g. Indonesian Ecolabelling Institute, Forest Stewardship Council
- **Legal/case research:** e.g. court cases, police cases
- **Forestry authority data** on penalties and wood seizures
- **Media reports**

Expert consultation: This information should be complemented by interviews and surveys with key experts in government, the private sector, independent watchdogs or ombudsmen, auditors, civil society (media, NGOs), donors, academics and consultative bodies (such as for Voluntary Partnership Agreements). Appendix 3 gives a list of research questions.

STEP 2

Rate each practice (in Appendix 1) based on its likelihood of occurrence (Table 5).

Table 5. The ranking criteria for the likelihood of a corrupt practice occurring

Rank	Likelihood of occurrence
1	Impossible never happens
2	Rare has been known to occur in other similar environments
3	Unlikely uncommon, but does occur
4	Likely commonly occurs
5	Highly Likely frequently occurs

The likelihood of a corrupt practice occurring is generally a result of two major factors:

1. What is the existing legislation?

This assumes that the legal requirements for best practices create an environment that makes corrupt practices less likely.

Understanding the existing legislation is matter of researching the pertinent laws and regulations.

Assessment tool

A [checklist](#) is a useful tool for assessing the legislative environment (Appendix 2).⁸ The checklist will be part of a regular monitoring programme, as will be discussed in Part 2. Information should be collected (in a comments column) on issues regarding the legislation (such as its sufficiency and whether it is being amended). This level of detail will be important in assessing the effectiveness of existing legislation, as well as recommending necessary reforms (see Part 2). Care should be taken to understand the essential elements of law and regulations governing, for example, expenditure and revenue planning, finance and timber harvest, transport, sale and export.



Data source

FAO's *National Forest Programme*⁹ database of country profiles has a comprehensive list of relevant legislation, as do the Tropical Timber Action Programme and national databases, such as those maintained by Indonesia's *Hukum Online* or many law schools.

2. How is the legislation being implemented?

Who is responsible for implementing the laws and regulations, and what are they doing to implement them?

Understanding who is responsible for implementing legislation, and their capacity and effectiveness in doing so, is a more difficult and subjective task.

Assessment tool

This requires that the capacity and effectiveness of the agent in implementing each piece of legislation be rated (Table 6):

Table 6. The ranking criteria for the implementation of a given law/regulation

Rank	Capacity and Effectiveness
1	Incapable/Ineffective at implementation
2	Weakly capable/effective
3	Able to meet minimum enforcement requirements
4	Effective able to conduct most duties
5	Highly Effective fully able to enforce the law and regulations

Data source



Use the same main avenues as for Step 1, i.e. desk research and data collection through expert interviews, to assess implementation effectiveness.

STEP 3

Fill in the map from Appendix 1 to incorporate the results from Steps 1 and 2, thus **prioritising various corrupt practices based on their relative risk**.

The results could be colour-coded (cf. Table 7 and Table 8 for an example of a colour code) to increase the visual impact of the various rankings. In a risk assessment, the importance is not so much the actual value (from 1 to 25) assigned to each practice, but its position relative to the other practices in the matrix.

Table 7. Risk matrix, based on a rapid assessment of the severity of impact and the likelihood of occurrence for each corrupt practice

 LIKELIHOOD OF OCCURRENCE	5	Highly likely; No impact	Highly Likely; Minor Impact	Highly Likely; Moderate impact	Highly Likely; Major Impact	Highly likely; Catastrophic
	4	Likely; No impact	Likely; Minor impact	Likely; Moderate impact	Likely; Major impact	Likely; Catastrophic
	3	Unlikely; No impact	Unlikely; Minor impact	Unlikely; Moderate impact	Unlikely; Major impact	Unlikely; Catastrophic
	2	Rare; No impact	Rare; Minor impact	Rare; Moderate impact	Rare; Major impact	Rare; Catastrophic
	1	Impossible; No impact	Impossible; Minor Impact	Impossible; Moderate Impact	Impossible; Major impact	Impossible; Catastrophic
		1	2	3	4	5
RELATIVE IMPACT OF EXPOSURE 						

Example

Table 8 provides a sample risk assessment for the first three practices in the regulatory chain (from Appendix 1). When evaluating risk, care should be taken to discriminate between activities with apparently similar risk. For example, two corrupt practices may demonstrate low risk, but in one case the risk is low because of low impact, whereas in the other the risk is low because of low likelihood of occurrence (i.e. they do not appear in the same box in the risk matrix of Table 7). In the case of low likelihood, monitoring is much more critical; managers will want to know immediately if a corrupt practice suddenly becomes more likely and therefore substantially more risky. For example, when external auditors are suddenly fired: previously the risk of embezzlement was low, but once the auditors are removed, the risk would rise dramatically (even though the impact of embezzlement would remain the same). Therefore, stakeholders should be encouraged to continue monitoring risk.

In the monitoring phase (Part 2 of this manual), the focus is on those corrupt practices that score in the top right of the risk matrix (Table 7). The other practices, albeit corrupt, have lower priority.

In this example, all three practices would have a catastrophic impact, but their risks are substantially different:

1. Bribery to change zoning is the highest risk (score=20), because this practice is frequent and it would provide both officials and the forestry companies with windfall profits that would further undermine governance. (It might also create grievances among communities if their forests were taken and assigned to logging concessions, etc.).
2. Bribery to change laws/regulations would be catastrophic, as the undue advantages would again yield windfall profits. However, the risk of this is lower (score=10) because in this example, there are no revisions of laws/regulations currently under consideration.
3. Privatising forestry sector firms is of low risk because in this example, there are no state-owned forestry companies to privatise.

Table 8. A hypothetical risk assessment of the corrupt practices associated with the regulatory chain

Activity	Corruption Threat	Corrupt Practice	Ranking		Risk
			Impact (1 – 5)	Likelihood (1 – 5)	Impact x Likelihood
Passing forestry legislation/regulations	Undue influence on forest laws and regulations (state capture)	Commission: Inducements (including kick-backs) to strike or delay bills, include subsidies (e.g. low fees), weaken regulations	5: Large profits, lead to an ↑ corruption	2: No bills or regulations being revised in the foreseeable future, but it has happened	10
Forest zoning changes	State capture	Commission: Inducements to change the zoning of an area to allow logging	5: Large profits, lead to an ↑ corruption	4: Legislators frequently do this	20
Privatising forestry-sector firms	State capture	Commission: Inducements to sell state assets at below-market value	4: Large profits, lead to an ↑ corruption	1: There are no firms to privatise	4

STEP 4

The risk matrix should be discussed during a stakeholder workshop. Figure 10 shows this stage in the overall risk assessment process.

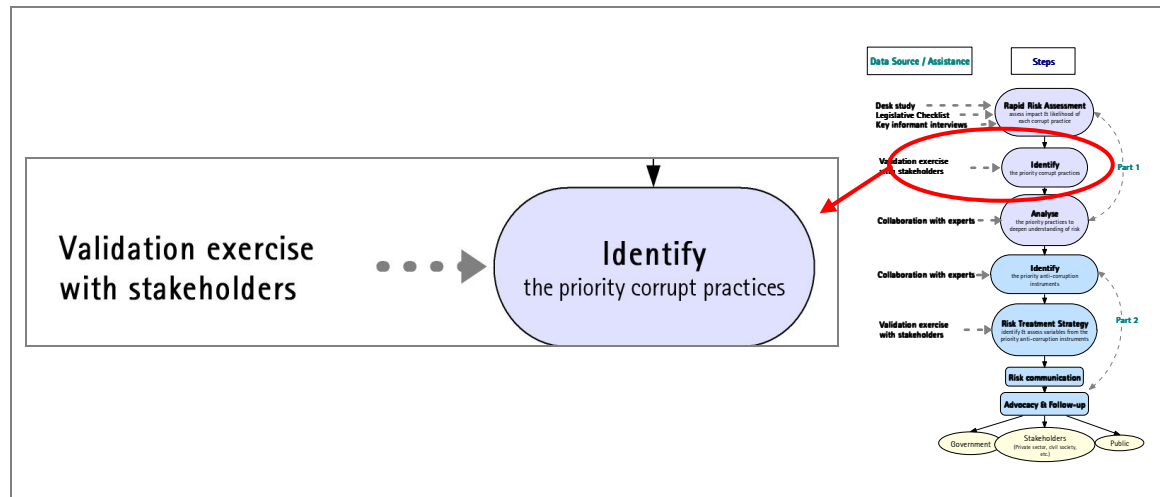


Figure 9. Excerpt of risk assessment and risk management flowchart

In the validation workshop with key stakeholders it may be that different stakeholders have different opinions about risk. This is perfectly acceptable and to be expected, given differing interests and agendas. Indeed, if relations between the various actors in the forestry sector (e.g. civil society, the private and public sectors) are particularly contentious, it may be better to have break-out groups or separate workshops for each constituency. Consensus is not necessary. The critical objective is to collect relevant input to help rank the corrupt practices.

In addition to validation however, it is important to take advantage of the expertise contained in the stakeholder workshops to conduct further analysis on the priority practices. Firstly, greater analysis will validate that the assessment correctly identified the major risks. It may be that on deeper analysis it becomes apparent — remembering the systems model — that different corrupt practices interact. The occurrence of one practice, albeit of relatively low impact on its own, might increase the likelihood of another practice that has a larger impact. For example, while the likelihood that a corrupt judge will dismiss an otherwise valid case may be low, if this occurred, it would have ripple effects that would increase the likelihood of corrupt practice across all five chains.

The highest-ranked practices should be subjected to a deeper analysis in order to better understand how corruption operates. Figure 11 is a reminder of this stage in the risk assessment sequence.

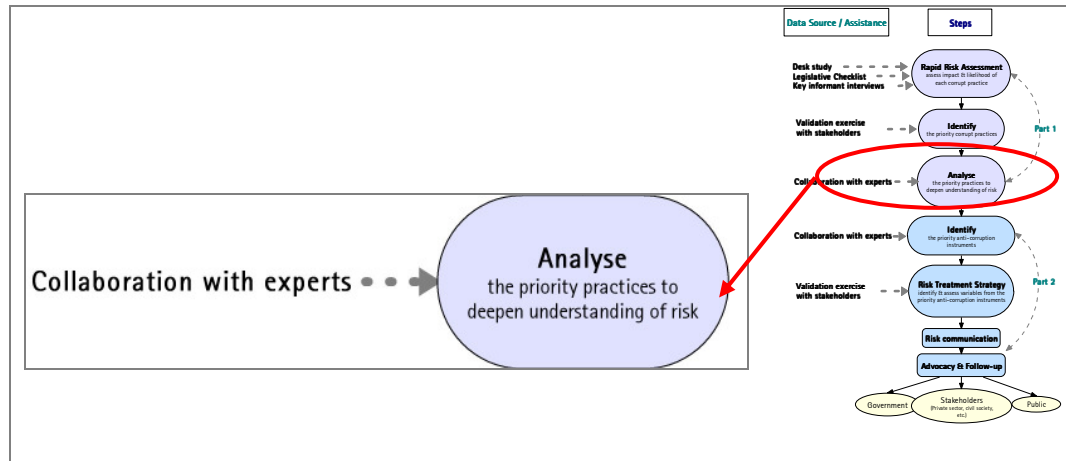


Figure 10. Excerpt of risk assessment and risk management flowchart

Expert consultation can help elaborate more precisely how the most important corrupt practices operate (see Appendix 3 for potential research questions). From the risk assessment analysis, experts can help assess:

- Data availability and quality
- Who is responsible for the corrupt practices, and for the anti-corruption measures?
- If they are ineffectual, is it because of:
 - A lack of political will?
 - What are the political barriers to implementation? Whose interests are served by the *status quo*? Where does their power come from?
 - What trends influence (either positively or negatively) this power?

An inadequate regulatory environment?

A lack of capacity? In which case:

- What kind of capacity is lacking? (e.g. technical, operational)?
- What activities are crippled by the lack of capacity (e.g. detection, investigation, enforcement/levying sanctions)?
- What steps have been taken to address these needs? Why did they fail?

A greater understanding of the manner in which corruption occurs for the highest risk practices will help identify the appropriate monitoring scheme in Part 2.

REFERENCES AND FURTHER READING

⁶ Based on the modelling work by Richard Dudley. (e.g. *Dynamics of Illegal Logging in Indonesia*. (Ch 16) in: *Which Way Forward: Forests, Policy and People in Indonesia*. 2001. RFF. DC.)

⁷ From: UNDP 1997. *Governance for sustainable human development*.
www.mirror.undp.org/magnet/policy/default.htm

⁸ For more examples of assessments of legislative environments, see: Chatham House, 2009. *Illegal Logging and Related Trade: Pilot Assessment of the Global Response, 2008*.

⁹ www.fao.org/forestry/30816/en/ and
www.timbertradeactionplan.info/Page.aspx?PageID=25



PART 2: AN ANTI-CORRUPTION MONITORING TOOL

Armed with the knowledge from Part 1, the next step is to assess the **corruption prevention and mitigation instruments that operate in the priority risk areas**. Repeating this assessment over time will enable the monitoring of progress in the anti-corruption efforts in the forest sector.

What is risk management?

It is important to note that risk management differs from risk assessment. Part 1 ranked corrupt practices according to risk, but it did not necessarily dictate which risks should actually be managed. Risk managers must incorporate other information, such as political realities, management and monitoring capacities, and cost when deciding which risky practices to manage and how to manage them. In addition to risk, managers must weigh the relative opportunities available to deal with the various corrupt practices. In the end, it may make more sense to first tackle practices that represent lower risk because this is where progress can be made. Capitalising on this success, managers can tackle the greater challenges posed by the higher-risk practices.

Risk assessment is a science-based examination of the impact and the probability of occurrence of various practices; risk management is a political and necessarily subjective process that must make value judgements regarding the costs and benefits of action. Management picks up from the identification, assessment and prioritisation of risk, and follows with a coordinated strategy to monitor and manage it.



Briefly, risk management involves identifying options that address risk in four major ways:

- Avoid/eliminate risk
- Reduce/mitigate risk
- Accept risk, but budget for the impacts
- Share risk with other parties

Although the last approach may appear least applicable, it may be warranted, e.g. when a developing country does not have the capacity to manage the risk posed by illegal exports, importing countries could play a strong role by ensuring that only certified imports are permitted. (Regulations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) attempt to effect such risk management by requiring both export permits and import controls for the trade in certain endangered species, see Appendix 4.17).

Different stakeholders manage risk in different ways. Countries ratify anti-corruption conventions and treaties that aim to reduce corruption (see Appendix 4) and their governments pass legislation to prohibit corrupt practices. Governments then implement and enforce these laws and regulations. The non-governmental sector implements various anti-corruption tools, from technical assistance for sustainable forest management, to independent monitoring and advocacy. The private sector also implements anti-corruption instruments such as corporate social responsibility, forest certification and public reporting.

What is the anti-corruption monitoring tool?

This manual was originally designed for the early stages of TI's FGI Programme. In keeping with the way TI operates, the FGI Programme does not directly manage risks; this, it is felt, is the job of a country's own enforcement and regulatory agencies. The programme's mandate is to monitor existing anti-corruption instruments with a view to understanding where interventions would be most effective, and where advocacy by civil society is needed to bring about policy changes. Other civil society organisations may have other final objectives, but with respect to corruption in the forestry sector, any monitoring will likely involve two major assessments:

- The legislative environment
- The implementation of the laws, regulations and other instruments that mitigate corruption

For both these issues, verifiable indicators must be selected and monitored. Based on the output of the assessment, the public should be informed of the changing status of risk posed by corruption in the forestry sector.

The remainder of this manual provides guidance in developing these indicators. Although we discuss monitoring mechanisms for all corrupt practices, it is important to reiterate that TI national chapters would not monitor all anti-corruption instruments, but only those related to the corrupt practices that pose the highest risk.

OUTLINE OF THE STEPS FOR THE ANTI-CORRUPTION MONITORING TOOL

- **STEP 1** reiterates management objectives.
- **STEP 2** identifies the priority anti-corruption instruments.
- **STEP 3** identifies the indicators to monitor for the priority anti-corruption instruments.
- **STEP 4** identifies gaps in legislation.
- **STEP 5** identifies gaps in implementation.

RISK MANAGEMENT

STEP 1

Reiterate management objectives: *clear plans require clear goals.* Figure 12 shows this stage in the overall risk management strategy.

For example, for TI, the overall objective is **a society where corruption-free forest governance and sustainable management enable increased economic development, poverty reduction and environmental protection.** More immediately, for those fighting corruption, the objective for this project is to monitor the development and efficacy of existing anti-corruption instruments linked to those corrupt practices in the forestry sector that pose the greatest risk.

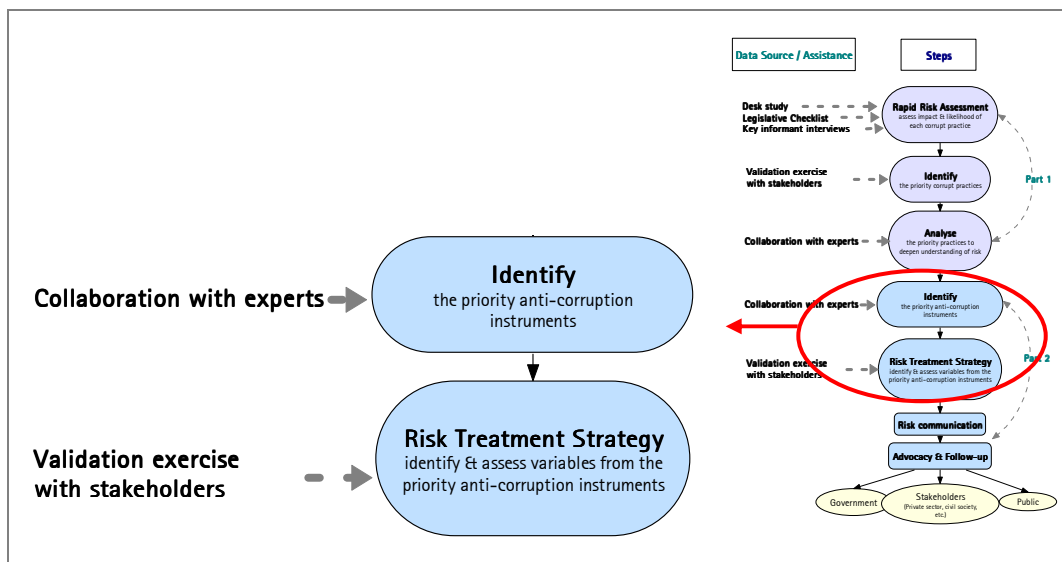


Figure 11. Excerpt of risk assessment and risk management flowchart

STEP 2 identifies the priority anti-corruption instruments to assess, based on those that have the greatest ability to exert leverage to reduce corruption.

STEP 3 identifies the best indicators for the priority anti-corruption instruments, i.e. what you are able to measure that best assesses how effective the instruments are at reducing corruption.

STEP 2

Identify the priority anti-corruption instruments *(cf. Appendix 2, 5, 6)*

In order to monitor corruption, which anti-corruption instruments to follow must be chosen. For each of the priority risk areas identified during the risk assessment, existing anti-corruption instruments that address these risks need to be assessed. The monitoring system should be SMART¹⁰:

- **Specific:** the monitoring system should be focused solely on achieving the objective;
 - In this case, the monitoring system should be focused on the anti-corruption instruments relevant to the most risky corrupt practices.
- **Measurable:** the monitoring system should have practical ways to measure unambiguously the changes in the anti-corruption instruments.
- **Attributable:** the system should be able to measure the instruments in a way that links causes to effects.
- **Realistic:** the anti-corruption instruments should be able to be measured under anticipated conditions.
- **Timely:** their progress should be trackable with desired frequency.

First examine the existence of relevant laws and regulations.

The mere existence of legislation is not sufficient to stop corrupt behaviour, but it is generally necessary. Although social mores can be strong motivators prohibiting corruption, without laws, there is no legal remedy. Thus it is useful to monitor the legislative environment in which forestry operates.

The checklist (Appendix 2) used in Part 1 is a useful tool for the regular monitoring of a legislative environment. It should be linked to a database of existing laws and regulations. Such an online reference could allow the public to obtain the specific statute or regulation relevant to each of the checklist's entries.

A checklist allows for regular reporting through a standardised format, which enables the immediate detection of change over time (in both positive and negative directions). The format is clear and media-friendly, allowing comparisons among jurisdictions as well as across time. The checklist can also serve as an advocacy tool that campaigners can use to highlight deficiencies in legislation and to lobby for necessary reform (See STEP 4).

Then assess what instruments can best be used to implement the legislation, thus tackling corruption directly

In addition to the presence or absence of legislation ('inputs'), it is also possible to measure performance 'outputs' (assessments of the effectiveness of implementation of these laws and regulations in practice). Such an analysis does not need to be completed for all corrupt practices — only those ranked as the highest priorities.

A note of caution: output indicators can be ambiguous to interpret as they do not always indicate the reason for poor implementation, making it difficult to assess what reforms are necessary. For example, an increase in court convictions related to forestry corruption may be an indication of an increase in crime (a negative outcome) or conversely an improvement in law enforcement (a positive outcome).

For each of the priorities, the stakeholder/expert consultations should be used to identify the relevant anti-corruption instruments operated by government, the private sector and civil society, at both domestic and international levels. For each of these instruments, the implementing agent, their capacity and their effectiveness at tackling the corrupt practice should be identified (using criteria for capacity/effectiveness similar to those in Table 4).

Example

Table 9 provides a hypothetical analysis for three major corruption risk areas identified during the risk analysis process. For each area, the table describes the anti-corruption instruments implemented by government (both legislation and implementing actions), civil society and the private sector. For each of these stakeholders, the table identifies the implementing agent, and on a scale of 1–5 (1 = incapable/ineffective, 5 = highly capable/effective), their capacity and effectiveness in tackling corruption. The table then identifies a mechanism that can be used to monitor each of the anti-corruption instruments. The table should also include a comments column to note issues such as data quality.

While Table 9 identifies the anti-corruption instruments and monitoring mechanisms for three hypothetical examples, Appendix 5 provides sample mechanisms for all the major corrupt practices identified in Appendix 1.

¹⁰ www.gefweb.org/MonitoringandEvaluation/MEPoliciesProcedures/MEPIndicators/mepindicators.html

Table 9. A sample assessment of anti-corruption instruments that tackle priority risk areas identified in the risk analysis

Anti-corruption instruments		Implementing Agent	Capacity	Effectiveness	Monitoring Mechanisms
Licensing	<u>Priority Risk Area:</u> undue influence on legislative process; preferential award of concessions and licences				
Government					
Legislation					
International United Nations Convention against Corruption (UNCAC); OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions		Ministry of Justice	2	1	UNCAC and OECD reporting mechanisms
Domestic Transparency regulations for legislative process; bill drafting working groups; lobbying regulations; procurement and bidding regulations		MoF	2	1	Checklist (Appendix 2); Reports from NGOs involved in the drafting process
Implementing action					
Domestic Procurement website; government tender board/procurement office; accurate and unambiguous description of procurement and concession terms; publication of bid proposal and decision criteria; debarment for corrupt actors; independent audits; participatory bill drafting, public comment periods		MoF	2	1	Independent monitoring by civil society; legislative reports; MoF reports on bidding processes

Anti-corruption instruments	Implementing Agent	Capacity	Effectiveness	Monitoring Mechanisms
Civil Society				
Domestic Independent forest monitoring (IFM)	NGO 'A'	3	2	IFM reports; NGO reports
International Transparency International (TI)	TI	4	3	TI Corruption Perceptions Index
Private Sector				
Domestic Industry voluntary agreements/codes of conduct; certification	Forest Stewardship Council	5	5	Certification reports
International Global Forest Trade Network; corporate social responsibility (CSR)	Company 'A'	4	3	CSR/industry reporting
Timber supply Priority Risk Area: illegal logging				
Government				
Legislation				
International CITES (Appendix 4.17) FLEGT VPA (Appendix 4.10) Lacey Act (Appendix 4.11) and other laws restricting illegal wood) UNCAC OECD	MoF	2	2	CITES/FLEGT Anti-bribery/money laundering Suspicious Transaction Reporting/Financial Action Task Force (FATF) reporting

Anti-corruption instruments	Implementing Agent	Capacity	Effectiveness	Monitoring Mechanisms
Domestic Forestry laws and regulations	MoF	2	1	Checklist (Appendix 2)
Implementing action				
International Customs regulations prohibiting illegal wood	Customs	3	2	WRI, Chatham House illegal logging indicators; customs reporting
Domestic Chain of custody timber tracking; independent observer at timber checkpoints; GIS monitoring; citizen complaint channels; incentives for MoF employees	NGO 'B'	4	4	Chain of Custody reporting; MoF data (website); IFM reporting
Civil Society				
Domestic Independent field monitoring; trade statistic analysis	NGO 'C'	3	2	IFM reporting; FAO/ITTO/MoF trade data
International GIS/satellite monitoring	Global Forest Watch (GFW)	4	3	GFW
Private Sector				
Domestic Certification; responsible purchasing policies	Company 'B'	4	3	Certification reports
International Voluntary codes of conduct	Company 'C'	4	3	

Anti-corruption instruments		Implementing Agent	Capacity	Effectiveness	Monitoring Mechanisms
Enforcement	Priority Risk Area: failure to investigate, punish companies; charges reduced or otherwise flawed, including manipulation of evidence				
Government					
Legislation					
International	UNCAC, OECD	MoF	3	2	Anti-corruption assessments (OCED, FATF, UNCAC)
Domestic	Forestry laws and regulations	MoF	2	1	Checklist (Appendix 2)
Implementing action					
International					
Domestic	Regular reporting of forestry audits to identify compliance rate; Risk-based compliance checks and law enforcement; Public access to police/Auditor General's office/court records	MoF	1	1	
Civil Society					
Domestic	'Judicial watch' court-case monitoring	NGO 'C'	2	2	Global Integrity Index; Freedom House <i>Freedom in the World</i> index; World Bank Governance Index
International					

Anti-corruption instruments	Implementing Agent	Capacity	Effectiveness	Monitoring Mechanisms
Private Sector				
Domestic Industry codes of conduct	Assoc. 'A'	3	2	Industry/NGO reports
International Corporate Social Responsibility (CSR)	Company 'D'	4	3	CSR reporting

STEP 3

Identify the indicators to monitor for the priority anti-corruption instruments

Not all the anti-corruption instruments need to be monitored — only those most sensitive, i.e. those that make the 'best' indicators. In the example from Table 9, for the needs of TI's FGI Programme, monitoring mechanisms would be selected that would be most useful in advocacy and outreach.

One thing to consider in deciding on the most appropriate instruments is the identification of existing anti-corruption programmes for which opportunities exist to collaborate. Rather than trying to develop new monitoring mechanisms, it is likely to be much more productive to work with and support existing NGOs. Again, the stakeholder consultations should be very useful in identifying such opportunities for coalition.

The most useful indicators will be cost-effective, and in particular they should be 'sensitive':

- Easy to detect, record and interpret in a reliable manner
- Have data available:
 - Public reports, such as MoF websites
 - Develop coalitions with established constituencies willing to share information, such as private sector initiatives or civil society programmes (which TI can help reinforce with its monitoring, outreach and advocacy)
- Sensitive — responding well to anticipated changes in corruption (changes in either its occurrence or its consequence)
- Unambiguous (understandable, with clear cause and effect)

Example

In the hypothetical risk assessment in Table 8, 'inducements to change the zoning of an area to allow logging' was the riskiest corrupt practice. The first step in risk management would be to identify the process for lawful land-use planning and zoning. This should be followed by 'meta-monitoring', examining which NGOs are monitoring the actions of the MoF and the legislature. Relying on [Freedom of Information](#) legislation, you could request MoF reports to determine whether logging concessions are being allocated on land previously designated for other uses (such as community forests or parks). This could be supplemented by monitoring ombudsperson's reports for any change in complaints about inappropriate land seizures. Such monitoring could be used in advocacy to demonstrate that the MoF is not lawfully implementing its land-use policy.

ASSESSMENT OF THE RISK-TREATMENT STRATEGY

Having identified the major risks and the indicators to monitor, the gaps in the way risks are handled should be examined. Based on this analysis, strategies to eliminate, mitigate and cope with corruption should be recommended, or risk should be shared with other parties better able to cope.

STEP 4

Identify gaps in legislation (*cf. Appendix 2*)

The starting point is to use the legislation checklist (Appendix 2 from Part 1) to identify obvious gaps. However, the 'yes/no' aspect of the checklist belies the complicated nature of legislation. In many cases, legislation will not be complete (nor completely absent). In some progressive situations, government will be reforming legislation in order to close the gaps. A comments column in the checklist (Appendix 2) allows users to annotate the checklist, clarifying the shortcomings and/or strengths of existing legislation, including any overlaps or conflicts between laws, as well as any reform efforts. Consideration should be given to assessing whether the scope and jurisdiction of the legislation is appropriate, that it is enforceable and that penalties are appropriate, proportionate and dissuasive. [Civil society](#) can use this information to make recommendations for further reform.

STEP 5

Identify gaps in implementation

Having identified gaps in legislation and suggested necessary reforms to close them, the next step is to focus on the high-risk practices and, based on TI's monitoring, determine what gaps exist in managing these corrupt practices.

The assessment format of Table 9 should make clear where gaps in anti-corruption efforts exist. Table 9 required an assessment of the capacity and effectiveness of the agents responsible for anti-corruption instruments. Those agents with inadequate capacity and incomplete implementation should be the focus of reform efforts such as technical assistance and capacity building. For cases where a lack of political will undermines anti-corruption efforts, TI and its partners may focus advocacy efforts on changing this.

Civil society organisations should collaborate with existing initiatives aimed at improving forestry management, such as:

- Forestry, anti-corruption and transparency NGOs
 - *e.g.*, Indonesia Corruption Watch, Environmental Investigation Agency, WRI, Global Witness, Indonesia Forest Working Group (Telepak, CIFOR, WWF).
- International efforts
 - FLEGT (VPAs), the US- and Japanese-led forestry initiatives.
- Extractive Industries Transparency Initiative (if nations can be convinced to include forestry, as has Liberia).

RISK COMMUNICATION

Once the assessment of risk and the corresponding risk-treatment strategy is complete, results should be shared with stakeholders and the general public. Figure 13 shows this stage in the risk management sequence.

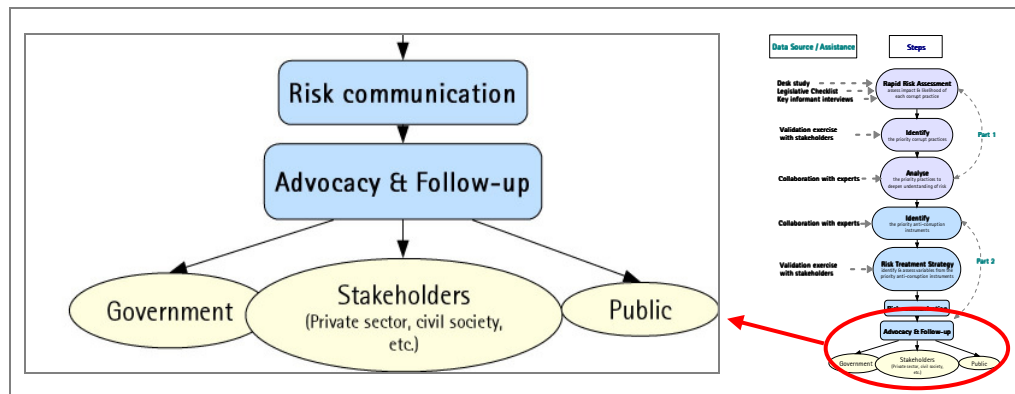


Figure 12. Excerpt of risk assessment and risk management flowchart

Based on the risk assessment and the monitoring of the anti-corruption instruments, the following information should be communicated:

1. Which corrupt practices related to the forestry sector pose the greatest risk to governance, and why
2. Which instruments are best positioned to address these corrupt practices:
 - What laws and regulations exist
 - How government is working to implement the legislation
 - Which civil society and private sector initiatives are aimed at tackling corruption
3. How well these anti-corruption instruments are doing at managing these risks
4. Where gaps exist:
 - What laws and regulations are lacking (or need reform)?
 - Where implementation of legislation is insufficient
 - What monitoring tools are needed
5. Recommend steps in legislative reform, capacity building, technical assistance and advocacy that aim to improve the development and implementation of anti-corruption instruments, improving governance not just in forestry, but throughout society.

A rectangular banner with a wood grain texture in shades of brown and tan. The word "APPENDIX" is centered in a dark teal, sans-serif font.

APPENDIX

APPENDIX 1. A GENERIC MAP OF CORRUPT PRACTICES IN THE FORESTRY SECTOR

Activity	Actors Involved		Corruption Threat	Corrupt Practice	Ranking (1 – 5)		Risk
	National	District			Impact	Likelihood	Impact x Likelihood
Regulatory (how ‘rules’ get established)							
Passing forestry legislation/ regulations	Parliament (and its special committees); MoF; Logging/ plantation operators (including foreign owned)	Local assemblies; Operators	Undue influence on forest laws and regulations (state capture)	Commission: Bribery (including kick-backs) to strike or delay bills, include subsidies (e.g. low fees), weaken regulations, increase the annual allowable harvest, and/or set up ineffective institutions			
Forest zoning changes	MoF; Parliament; National Planning Boards; Operators	Agencies; Assembly; Governors/ District head; Operators	State capture	Commission: Bribery to: <ul style="list-style-type: none">change the zoning of an area to allow logging			
Privatising forestry-sector firms	MoF; Parliament; Operators	Agencies; Assembly; Governors/ District head; Operators	State capture	Commission: Bribery to sell state assets at below-market value			

Activity	Actors Involved		Corruption Threat	Corrupt Practice	Ranking (1 – 5)		Risk
	National	District			Impact	Likelihood	Impact x Likelihood
Licensing (who gets to operate)							
Awarding logging concessions (including salvage licences and annual timber sales), plantation licences	MoF; Operators; Middlemen	Forestry agencies; Communities (where consultation is required by law); Operators; Middlemen	Preferential award of concessions and licences (due to patronage, conflict of interest); Misrepresentation of the capacity of the enterprise applying for the concession/licence	Commission: Bribery to refrain from competitive bidding, or to award the licence to a company other than the ‘best’ applicant Collusion in leaking bidding information (minimum bids, bids of other operators, etc.) Extortion: ‘Grease payments’ for issuing legal permits and documents required for bid submission			
Issuing permits for small logging cooperatives		Agencies; District heads; Community leaders; Operators; Middlemen	Logging community land against wishes of community, with little collective benefit or even with harm	Omission: Bribery to community leaders to allow logging (co-optation) Extortion: for issuing permits required for harvest or to submit routine documents/reports			

Activity	Actors Involved		Corruption Threat	Corrupt Practice	Ranking (1 – 5)		Risk
	National	District			Impact	Likelihood	Impact x Likelihood
Timber supply (how ‘rules’ are operationalised)							
Planning	MoF	Forest agencies; Operators	Inflate annual allowable harvest	Commission: Bribery to overestimate harvest			
Logging operations	MoF	Operators; Subcontract loggers; Middlemen; Landowners; Communities; Forestry agencies	Over-harvesting (illegal volume), allowing introduction of logs from illegal sources (timber laundering)	Omission: Bribery to submit false timber inventories (weak sampling, fraudulent documents) that over-estimate legal volumes Extortion of ‘field expenses’ for issuing permits required for harvest, or to submit routine documents/reports			
			Illegal locations; conservation areas; outside licensed areas	Omission: Bribery to allow logging outside concessions (in parks, for example); to allow roads on steep slopes or near stream beds Extortion of ‘field expenses’			
			Illegal product	Omission: Bribery to allow the harvest of undersized or protected species			
			Fraudulent documentation for CITES-protected species	Commission: Provide false documents			
		Police; Immigration; Ministry of Labour	Use of illegal labour including imported workers; unsafe working conditions, debt bondage	Omission: Bribery to allow labour trafficking; ignore labour violations			

Activity	Actors Involved		Corruption Threat	Corrupt Practice	Ranking (1 – 5)		Risk <i>Impact x Likelihood</i>
	National	District			<i>Impact</i>	<i>Likelihood</i>	
		Police; Military	Use of illegal security forces (illegally armed; violating human rights)	Omission: Bribery to allow illegal security operations Extortion to employ government forces as security			
		Forestry agencies	Officials use government resources for private operations	Commission: Embezzlement; Conflict of interest			
Salvage logging	MoF, military and other government offices	Forestry and land use agencies	Salvage licences for non-salvage operations; dam projects to access wood without normal restrictions/processes	Omission: Bribery to allow illegal, undocumented or fraudulent operations			
			Fraudulent documentation for CITES-protected species	Commission: Provide false documents			
Transport licences	MoF	Forestry agencies; Police; Navy/Coast Guard	Transport of logs without proper documents	Commission: Bribery to issue false permits for illegally sourced or sized logs, and/or illegal species Omission: Bribery to allow undocumented transport of logs Commission: Extortion to issue valid permits			

Activity	Actors Involved		Corruption Threat	Corrupt Practice	Ranking (1 – 5)		Risk <i>Impact x Likelihood</i>
	National	District			<i>Impact</i>	<i>Likelihood</i>	
Wood processing industry		Forestry agencies; Police; Wood processors	Use of illegally sourced wood to keep costs low or to meet demand when production capacity outstrips legal supply	Commission: Bribery to issue false permits			
	MoF	Forestry agencies; Police; Operators	Failure to respect contract terms regarding infrastructure development	Commission: Bribery to issue false permits Omission: Bribery to ignore contract terms Extortion to issue permits			
Sale/Export	Customs; Ministry of Finance; Ministry of Trade	Customs; Police; Navy; Coast Guard	Smuggling (black market)	Omission: Bribery to allow fraudulent or undocumented shipments across borders Extortion to issue permits			
		Customs; Forestry agencies (log scalers); Accountants;	Transfer pricing (undervaluation of exports to subsidiary in another country in order to evade taxes)	Commission: Bribery to undervalue timber Omission: Bribery to ignore irregularities in pricing			
		Customs; Forestry agencies	Illegal export of protected species	Omission: Bribery to allow fraudulent or undocumented export of protected species Commission: Bribery to issue false documents or to ignore other forms of timber laundering			

Activity	Actors Involved		Corruption Threat	Corrupt Practice	Ranking (1 – 5)		Risk
	National	District			Impact	Likelihood	Impact x Likelihood
Reporting (how operations are monitored)							
Annual harvest	MoF; Operators; Consultants/ certification bodies	Forestry agencies; Operators; Heads of districts; Certification bodies	Under-reported volume, undervaluing production	Commission: Bribery to falsify data Omission: Bribery to refrain from reporting to other agencies or to withhold information from the public			
Timber consumption (production)	MoF; Wood processors	Forestry agencies; Operators; Accounting operators	Overestimated use of 'old stock' (laundering illegally sourced wood); Fraudulent documents (changing volumes, areas of origin, etc.)	Omission: Bribery to fail to check stock volumes			
Timber revenue	MoF; Operators	Forestry agencies; Operators; Financial accounting firms	Failure to fully and accurately report revenues, including unpaid/underpaid fees	Commission: Embezzlement of forestry revenue Omission: Bribery to fail to accurately record fees paid			
			Excessive credits for fees and taxes; Unacknowledged subsidies	Commission: Bribery to issue payment documents (when underpayment or no payment was made);			

Activity	Actors Involved		Corruption Threat	Corrupt Practice	Ranking (1 – 5)		Risk <i>Impact x Likelihood</i>
	National	District			<i>Impact</i>	<i>Likelihood</i>	
				Material/logistical support offered in exchange for excess credit on unpaid or underpaid fees Extortion: Demand for 'payments in kind' (buildings, field expenses, 'entertainment', weapons trafficking, etc.) in exchange for tax receipts			
			Failure to satisfy financial obligations to communities	Omission: Bribery to fail to monitor or sanction operators for violating contractual obligations to communities			
Revenue (<i>what happens to logging proceeds</i>)							
Tax evasion	MoF; Ministry of Finance; Operators	Forestry agencies; Operators	Non-payment of fees; (Tax evasion)	Omission: Bribery to evade taxes/fees			
	Ministry of Finance		Lack of oversight or sanction for unpaid taxes; Late transfers of forestry revenues	Omission: Bribery to avoid penalties			
	Government auditing bodies		Unaudited or falsified audits; Failure to report irregularities	Omission: Bribery to fail to audit/report			

Activity	Actors Involved		Corruption Threat	Corrupt Practice	Ranking (1 – 5)		Risk <i>Impact x Likelihood</i>
	National	District			<i>Impact</i>	<i>Likelihood</i>	
	Banks and other financial institutions; Financial intelligence units	Accounting firms	Neglect of <i>Know Your Customer</i> due diligence/Suspicious Transactions and other financial reporting	Omission: Bribery to fail to implement financial regulations (See financial regulations – Appendix 2)			
	Political candidates; Financial institutions; Operators		Money laundering of proceeds from illegal logging to support political campaigns	Omission: Bribery to allow money laundering			
Failure to distribute tax revenue	Ministry of Finance; MoF	Heads of Districts	Failure to distribute tax revenue to regions	Omission: Bribery to funnel tax revenue away from appropriate recipient			
	National auditing body; Company accountants		Falsify audits	Commission: Bribery to falsify audits			
Alternative Remittance Systems			Failure to enforce regulations on remittance systems; Laundering proceeds of corruption/forestry crime	Omission: Bribery to avoid financial regulations			
Enforcement (<i>how rules are enforced</i>)							
	MoF	Forestry agencies	Failure to punish operators that violate regulations (e.g.	Commission: Inducement so officers will undertake enforcement crackdowns on			

Activity	Actors Involved		Corruption Threat	Corrupt Practice	Ranking (1 – 5)		Risk <i>Impact x Likelihood</i>
	National	District			<i>Impact</i>	<i>Likelihood</i>	
			fail to penalise or withdraw licences); Interpretation of law/regulations favourable to certain operators; Failure to enforce internal sanctions against officials or agencies that violate regulations on reporting or revenue	competitors Omission: Bribery to avoid reporting infractions or levying sanctions Extortion of 'field expenses' for forestry authorities to conduct monitoring			
		Police	Failure to investigate	Extortion of suspects Bribery by suspects			
		Customs; Ministry of Finance	Timber laundering	Commission: Collusion in seizure and auction of timber (no public notification of auction, tip off loggers so no personnel are arrested, etc.)			
			Charges reduced; only labourers arrested/indicted	Commission: Bribery to reduce charges or to avoid arrest			
			Evidence ruled insufficient for charges	Commission: Bribery to influence evidence			
			Investigations dropped	Commission: Bribery to drop investigations			
Prosecutions/	Attorney General's	Prosecutor's office	Failure to issue indictments;	Commission: Bribery to manipulate			

Activity	Actors Involved		Corruption Threat	Corrupt Practice	Ranking (1 – 5)		Risk <i>Impact x Likelihood</i>
	National	District			<i>Impact</i>	<i>Likelihood</i>	
Issuing indictments	office		Flawed indictments issued using more lenient statutes	indictments Extortion of accused			
			Manipulation of evidence/witnesses or court arguments; Failure to meet time deadlines, jeopardising the case (e.g. appeal of acquittal)	Commission: Bribery of witness or judicial official			
Trial	Supreme Court; Federal Court	Criminal court judge; Appellate court judge	Dismissal of case; Rulings on evidence	Commission: Bribery by suspect Extortion of accused			
			Judgments in favour of the accused	Commission: Bribery by suspect Extortion of accused			
			Sentencing, including jail time and financial penalties that favour the accused	Commission: Bribery by suspect Extortion of accused			

APPENDIX 2. CHECKLIST FOR LEGISLATION (LAWS AND REGULATIONS) RELATED TO GOVERNANCE OF THE FORESTRY SECTOR

Element	✓/✗	Indicators	Comments
Transparency	<input type="checkbox"/>	• Freedom of Information legislation ¹¹	
	<input type="checkbox"/>	• Comprehensive legal framework for forestry sector, available to the public	
	<input type="checkbox"/>	• MoF regulations ensuring public access to forestry data, and concession and revenue information	
	<input type="checkbox"/>	• Whistleblower protection legislation	
	<input type="checkbox"/>	• Constitutional protections for freedom of expression	
	<input type="checkbox"/>	• Freedom of the press ¹² : laws protecting journalists and regulatory boards from interference	
	<input type="checkbox"/>	• Chain of custody timber-tracking system to verify legal origin and payment of taxes/fees	
	<input type="checkbox"/>	• Publication of a schedule of fees, and payment systems for forestry fees and revenue-tracking	
	<input type="checkbox"/>	• Regulations requiring the regular publication by the police and the judiciary of enforcement activities (i.e. rates of detection, arrests, charges, seizures, convictions, sentencing, penalties)	
Integrity/ Accountability	<input type="checkbox"/>	• Public procurement and concession regulations that require competitive bidding (e.g. pre-qualification, due diligence review of the companies making bids, debarment lists, etc.)	
	<input type="checkbox"/>	• Annual audits (to international standards) throughout forestry-related ministries	
	<input type="checkbox"/>	• General Accounting Office with subpoena authority	
	<input type="checkbox"/>	• Merit-based hiring and firing policies in forestry-related ministries	
	<input type="checkbox"/>	• Laws prohibiting conflict of interest (e.g. beneficial ownership of forestry companies)	
	<input type="checkbox"/>	• Parliamentary oversight mechanism and ethics review board	
	<input type="checkbox"/>	• Annual concession performance review by MoF, made publicly available	
	<input type="checkbox"/>	• Political campaign finance laws restricting undue influence from industry or individuals ¹³	
	<input type="checkbox"/>	• Regulations restricting undue influence of lobbyists on government activities and decisions	

Element	✓/✗	Indicators	Comments
	<input type="checkbox"/>	• Civilian oversight of police force (and military, if relevant)	
	<input type="checkbox"/>	• Complaint mechanism/ombudsman, public right to bring legal suit against government for failure to apply laws/regulations	
Rule of Law	<input type="checkbox"/>	• Anti-corruption legislation consistent with UNCAC	
	<input type="checkbox"/>	• Independent anti-corruption commission/court	
	<input type="checkbox"/>	• Ministry-sanctioned independent forest monitoring	
	<input type="checkbox"/>	• Oversight and auditing of customs department	
	<input type="checkbox"/>	• Independent judiciary ¹⁴ , including laws governing: <ul style="list-style-type: none"> ○ Conflicts of interest, acceptance of gifts, asset reporting by judges and prosecutors ○ Transparent process for selecting and confirming national-level judges ○ Judges must give a legal explanation for their decisions ○ Legal explanations required when investigations halted and/or charges dropped ○ Independent disciplinary bodies for judiciary 	
	<input type="checkbox"/>	• Law enforcement (MoF/police/military): as above, and free from political interference	
	<input type="checkbox"/>	• Anti-money laundering, with strict penalties; corruption and illegal logging as predicate crimes	
	<input type="checkbox"/>	• For financial institutions: <i>Know Your Customer</i> regulations, including enhanced due diligence requirements for Politically Exposed Persons (as required by UNCAC – see Appendix 4.1)	
	<input type="checkbox"/>	• Required reporting of Suspicious Transactions (as required by UNCAC)	
	<input type="checkbox"/>	• Free prior informed consent for forestry decisions that affect local communities	
Participation/Equity	<input type="checkbox"/>	• Social agreements with communities required as a condition of operation	
	<input type="checkbox"/>	• Forest Working Groups in MoF that involve relevant civil society actors	
	<input type="checkbox"/>	• Laws requiring public consultation for drafting legislation and resource management decisions	
	<input type="checkbox"/>	• Indigenous and communal tenure legally recognised and indicated on publicly available maps	

Element	✓/✗	Indicators	Comments
	<input type="checkbox"/>	• Forestry authorities have clear jurisdictions over management responsibilities	
International best practices	<input type="checkbox"/>	• Forest Certification (e.g. FSC or PEFC) required	
	<input type="checkbox"/>	• Signed a Voluntary Partnership Agreement (VPA) with the European Union	
	<input type="checkbox"/>	• Complies with the Extractive Industries Transparency Initiative (EITI), with terms covering forestry	
	•	• Signed UN Convention against Corruption, Transnational Organised Crime (Appendix 4.2)	
	•	• Signed OECD Convention on Combating Bribery (Appendix 4.3)	
	•	• Signed International Labour Conventions	

¹¹ For more detailed indicators, see *Global Integrity Index* (Appendix 4.5)

¹² For more detailed indicators, see the *Freedom in the World Index*; International Research and Exchange Board's *Media and Sustainability Index* (Appendix 4.6)

¹³ For more detailed indicators, see TI, Crinis www.transparency.org/regional_pages/americas/crinis

¹⁴ For more detailed indicators, see *Global Integrity Index*; *Freedom in the World Index* (Appendix 4.5 and 4.6)

APPENDIX 3. EXAMPLES OF RESEARCH QUESTIONS TO ASSESS/ANALYSE IMPACT AND LIKELIHOOD OF CORRUPT PRACTICES IN FORESTRY

These questions can be used to collect data for the risk analysis as well as the assessment of anti-corruption instruments. They can be grouped into three major categories:

1. Legislation

What are the laws/regulations?
Have they been recently reformed?
How are they available to the public?

2. Who is involved

Who makes the laws/regulations?
Who enforces them?
How high is their capacity/political will?

3. What has been done

How are laws/regulations implemented?
How are they enforced?
What role does civil society play?

POLICY	PURPOSE	SURVEY QUESTIONS
Regulatory Land use planning Forest zoning	Identify suitable areas for forest concessions	Legislation
		• What is the existing legislation on zoning?
		• Has it been recently reformed, e.g. decentralisation of decision-making authority?
		• How does the legislation deal with overlapping uses (e.g. logging and mining rights, logging and local rights)?
		• Is the process based on best practices?
		• Is the process based on the best science/information available?
		• Does the process include free, prior informed consent from community groups and/or landowners?
		Who is involved
		• What groups/individuals are involved in the zoning process?
		• What groups/individuals have the power to change zoning?
		• What groups/individuals are involved in identifying possible forestry concessions?
		• What groups/individuals review proposed forestry concessions prior to their approval? (Whose signatures are required to designate a unit of land as a forest concession?)
		• Do local communities have adequate representation on planning and assessment boards/committees?
		• What groups/individuals are responsible for negotiating with local communities?
		• Who settles disputes between communities and logging operators?
		What has been done
		• Is there adequate data on land-use?
		• Has land been zoned according to land-use?
		• What criteria are used to determine if an area is zoned for forestry?

POLICY	PURPOSE	SURVEY QUESTIONS
		<ul style="list-style-type: none"> Which zones are available for forest concessions (e.g. private land) and which are not (e.g. designated parks)?
		<ul style="list-style-type: none"> Are field visits part of the zoning process? Are there initiatives in place to educate communities on the land assessment process? Are there public forums and meetings at which communities can voice concerns?
Licensing and/or Allocation	Generate the highest revenue for the state, while operating under best practices	Legislation
		<ul style="list-style-type: none"> What are the regulations concerning contracting/procurement, including the bidding process for forestry concessions?
	Privatising forest-sector firms	<ul style="list-style-type: none"> Who can bid? (Are there conflict-of-interest regulations? Are there pre-qualification requirements?)
		<ul style="list-style-type: none"> What elements are required in a bidder's application (e.g. financial statements, environmental plan, background check, etc.)?
		<ul style="list-style-type: none"> How are applications verified for authenticity (due diligence)?
		<ul style="list-style-type: none"> What are the criteria for disqualification/rejection of an applicant's bid?
		<ul style="list-style-type: none"> Is there a list of disqualified applicants? Are there suspension/debarment lists?
		<ul style="list-style-type: none"> What are the criteria used to determine a winning bid?
		<ul style="list-style-type: none"> What steps are in place to avoid collusion among bidders?
		<ul style="list-style-type: none"> Does the public have access to bidding applications and lists?
		<ul style="list-style-type: none"> Is there a review and possible termination process for contracts?
		Who is involved
		<ul style="list-style-type: none"> Who is responsible for the allocation of forestry concessions? What groups/individuals review bids?
		<ul style="list-style-type: none"> Who has access to a bidder's application?
		What has been done
		<ul style="list-style-type: none"> Describe in detail the steps to bid for a forestry contract How are forestry companies notified of new bidding applications (e.g. newspaper advertisement)?
Timber supply regulations	Achieve sustainable forest management	Legislation
		<ul style="list-style-type: none"> What laws and regulations govern forest practices? How often are regulations updated? Are they recently reformed?
	Logging	<ul style="list-style-type: none"> Through what process can a regulation be changed? Whose signature(s) is required? Is a public comment period required?
		Who is involved
	Transport	<ul style="list-style-type: none"> Who creates regulations? Who monitors regulations?
		<ul style="list-style-type: none"> Which group/individuals issue export permits?
	Processing	What has been done
	Sale/Export	<ul style="list-style-type: none"> Are regulations clear and concise?

POLICY	PURPOSE	SURVEY QUESTIONS
		<ul style="list-style-type: none"> Do regulations have the support of government? And of the public? Is there opportunity for community/public input?
		Transport <ul style="list-style-type: none"> Are there policies in place to discourage illegal transport (e.g. no transportation at night)? What tracking system exists for the transport of wood products? At what points in the transport chain does tracking occur (e.g. ports, lumber yards, etc.)? Where is the tracking data stored? Are monitors independent and free from conflicts of interests? Who is able to view tracking summaries? Is there a certification system in place? Sale/Export <ul style="list-style-type: none"> Is the customs-clearance process transparent? What documentation is required to receive an export permit? What form of checking occurs prior to the issuance of an export permit? Are permits allocated only once taxes/fees are paid? Do importing countries have laws and/or policies to ensure that only legal goods are imported?
Reporting		Legislation <ul style="list-style-type: none"> What laws and regulations govern reporting? Who is involved <ul style="list-style-type: none"> Who must report? Who has access to the reporting? (Is it publicly available?) What has been done <ul style="list-style-type: none"> What is being reported? Is it possible to track: <ul style="list-style-type: none"> The location and ownership of all concessions – in order to know where it is legal to harvest How these concessions were awarded – to ensure that only legitimate transactions are conducted For each annual harvest, a map of the location of all commercial species – to know the volume of wood available for harvest Volumes and values of the harvest, production and sale/export of all timber products (processed and unprocessed) by species – to know what was harvested and how much tax/fees should be assessed All tax/fees assessed and paid, including services provided <i>in lieu</i> of taxes – to ensure that all taxes are collected All charges and violations, arrests, fines and penalties paid – to determine whether enforcement is practised? Is there reporting under the Extractive Industries Transparency Initiative (EITI) on forestry?
Revenue		Legislation <ul style="list-style-type: none"> What laws and regulations govern revenue? Regarding forestry:

POLICY	PURPOSE	SURVEY QUESTIONS
		<ul style="list-style-type: none"> What is the revenue structure for the sector, including taxes and fees? Within the financial sector: <ul style="list-style-type: none"> Are there <i>Know Your Customer</i> laws? Are there Reporting of Suspicious Transactions laws? Are there Politically Exposed Persons laws? Is there individual liability for those who violate these laws and regulations?
		<p>Who is involved</p> <ul style="list-style-type: none"> Who receives taxes and fees from the forestry sector? Who has the authority to exempt taxes? Who insures full compensation is paid to community groups? If compensation is not paid, to whom do communities complain (e.g. an ombudsman)? Who must monitor and report? Who has access to the reporting? (Is it publicly available?) <p>What has been done</p> <ul style="list-style-type: none"> Who determines the amount of fees and taxes to be paid on a forestry contract? How are they assessed? What methods are in place to ensure taxes and fees are paid (e.g. cancelling of export permit, suspensions)? On what grounds may taxes be exempt? How frequent are audits? Are tax records and audits available for public access on request? Are there procedures that detail the amount of compensation due to communities? What forms can compensation take (e.g. building/operating schools, clinics, etc.)? Are there penalties for failure to compensate community groups?
Enforcement	Ensure legal practices	<p>Legislation</p> <ul style="list-style-type: none"> What are the laws and regulations on enforcement? <p>Who is involved</p> <ul style="list-style-type: none"> What group/organisation is responsible for the enforcement of forestry regulations (the military)? Is independent monitoring protected by law? <p>What has been done</p> <ul style="list-style-type: none"> What methods of enforcement and monitoring are employed (e.g. audits, open data, checks, etc.)? Is there regular publication of the number of cases, trials, convictions and penalties recovered? Who pays the salaries of law enforcement officers? Who pays the salaries of monitors? Are the financial records of law enforcement officers and monitors disclosed to the public? What form(s) of security do forestry companies employ? Do forest companies employ any groups with conflicts of interests (e.g. local police)? Do forest companies abide by human rights laws? Are these enforced?

POLICY	PURPOSE	SURVEY QUESTIONS
		<ul style="list-style-type: none"> Do forest companies abide by health and safety regulations? Are these enforced?

APPENDIX 4. EXISTING ANTI-CORRUPTION INSTRUMENTS

At the international level

5.1 United Nations Convention against Corruption (UNCAC)

Countries are legally required to establish procedures and bodies to develop measures to prevent and punish corruption in the private and the public sectors, including among others:

- The criminalisation of the obstruction of justice
- The establishment of jurisdiction to prosecute
- The seizing, freezing and confiscation of proceeds or other property
- The protection of witnesses, experts and victims
- Measures to prevent money-laundering
- Public procurement and financial management
- The requirement of some form of civil, criminal or administrative liability for legal persons

At the Third UNCAC Conference of States Parties in November 2009, signatory governments established a peer review process for monitoring implementation. This review process will provide a useful opportunity to focus governments on their anti-corruption performance.

5.2 United Nations Convention against Transnational Organised Crime (UNTOC)

In addition to establishing corruption (and the participation as an accomplice) as a criminal offence, UNTOC legally requires countries to provide standardised legal assistance, investigative cooperation, preventive measures, etc. as necessary, in preventing:

- Corruption (including both 'the promise, offering or giving' to a public official, as well as 'the solicitation or acceptance' of any 'undue advantage')
- Participation in organised criminal groups
- Money-laundering
- The obstruction of justice

Assets seizure and forfeiture

Countries adopt provisions to enable the confiscation of proceeds from corruption. Courts must have powers to order disclosure or seizure of bank, financial or commercial records to assist in tracing. Bank secrecy cannot be raised as an obstacle either to the tracing of the proceeds of crime or mutual legal assistance in general.

5.3 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997)

The OECD convention legally binds countries to criminalise:

- Bribery for purposes in which the offender promises or gives 'any undue pecuniary or other advantage... to a foreign public official...' in order to induce the recipient or another person to act or refrain from acting in relation to a public duty, and thus to gain (or retain) undue advantage in the conduct of an international business
- Incitement, aiding and abetting or authorising bribery; the offences apply to corporations and other legal persons

Punishments must be 'effective, proportionate and dissuasive', and any proceeds must be the subject of powers of seizure and forfeiture. Bribing foreign public officials must also trigger

national money-laundering laws to the same extent as the equivalent bribery of a domestic official.

5.4 Revised Recommendations of the OECD Council on Combating Bribery in International Business Transactions

The revised recommendations further require:

- Appropriate company and business accounting practices
- Banking, financial and other relevant provisions
- The denial of public subsidies, licences, government procurement contracts or other public advantages as a sanction in bribery cases
- In addition to criminalisation, ensuring that bribery is illegal under civil, commercial and administrative laws
- Providing for international cooperation in investigations and other legal proceedings

The OECD has developed scorecards for 'self-assessment' and 'peer review' monitoring, as well as its own *Governance at a Glance* assessments. Since 1999, the organisation has been reporting annual statistics and biennial policy reports for fisheries; similar reporting in forestry is a distant possibility, perhaps in collaboration with FAO's ongoing monitoring/reporting.

5.5 Global Integrity Reports

Issued annually, on a country-by-country basis, these contain:

- Timelines of significant developments in corruption-related topics, drawn from English-language international and national media sources
- Open source data on governance (media reports, World Bank Development Indicators, UNDP Human Development Index, Legatum Prosperity Index)
- The Reporter's Notebook — a peer-reviewed 1,250-word essay by a leading in-country journalist on the culture of corruption and the state of governance.

Global Integrity Index (GII)

Published as part of the Integrity Report, this combines input ('in law') and output ('in practice') measurements to generate an Integrity Scorecard that examines the existence of public integrity mechanisms, their effectiveness and citizens' access to them. The indicators are grouped into six areas with several sub-indicators relevant to the task of monitoring corruption in forestry:

1. Civil Society, Public Information and the Media
 - NGOs; Media; Public access to information
2. Elections
 - Voting and participation; Election integrity; Political financing
3. Government Accountability
 - Executive; Legislative; Judicial; Budgeting
4. Administration and Civil Service
 - Civil service regulations; whistleblowing channels and protections; Procurement; Privatisation
5. Oversight and regulation
 - National Ombudsman; Supreme Auditor; Taxes and Customs; State-owned Enterprises; Business licensing and regulation
6. Anti-Corruption and Rule of Law

Each indicator is scored by a lead researcher and substantiated with references (from media reports, academic/policy papers, government studies, international organisation studies,

interviews with government officials, academics, NGOs and journalists) and additional comments. The input indicators are scored on a presence/absence basis (present=100 and absent=0). The output indicators are scored 0, 25, 50, 75 or 100, with guidelines given for identifying the score.

5.6 Transparency International

National Integrity System (NIS) Assessment

Provides an across-the-board evaluation of the main public institutions and non-state actors in a country's governance system. It measures a country's 'pillars of integrity' in terms of their capacity, independence, transparency, accountability, integrity and role in promoting the overall integrity of the national governance system.

The institutions or 'pillars' of the NIS are:

- Legislature
- Executive
- Judiciary
- Public Sector
- Law Enforcement Agencies
- Electoral Management Body
- Ombudsman
- Supreme Audit Institution
- Anti-corruption Agencies
- Political Parties
- Media
- Civil Society
- Business

Global Corruption Barometer

Public opinion survey which collects data on perceptions and experience of corruption, making available knowledge of the forms, extent and costs of corruption for society. The Barometer enables assessments of change over time; in terms of the institutions deemed to be most corrupt, the effectiveness of governments' efforts to fight corruption, and the proportion of citizens paying bribes.

5.7 Freedom House *Freedom in the World* report

An annual survey that assesses outcome-proxies in political and civil liberties, including:

- Electoral process; Political participation; Freedom of expression and of the press
- Associational and Organisation rights (including freedom of NGOs, trades unions and community grassroots groups to operate without interference or intimidation)
- Functioning of government (including detailed questions on transparency and pervasiveness of corruption)
- Rule of Law (including detailed questions on independence of the judiciary, civil control of the police, equality of access to justice)
- Personal autonomy and individual rights (including influence on business from government or state security, property rights and economic freedom — which includes questions related to the prevalence of corruption, undue influence of the private sector,

labour conditions, equity of economic opportunity and control of government over the economy)

5.8 World Bank Governance Indicators

These combine citizen surveys and expert views (both national and expatriate) on governance. Those of relevance to corruption in the forestry sector are:

- Voice and accountability; Government effectiveness; Regulatory quality; Rule of Law, and Control of corruption.

The quantitative index is derived from secondary data collected from other indices (such as the GII) and surveys of experts. Because the indices are derived in part from scalar survey data rather than objective measurement of outcomes, they are difficult to compare over time, because the analyst cannot be sure whether change is attributable to changes in perception or to actual changes in corruption itself.

5.9 World Bank

Public Expenditure and Financial Accountability (PEFA) aims to support integrated approaches to assessment and reform in the field of public expenditure, procurement and financial accountability.

Doing Business evaluates the legal and regulatory environment for business operations in a country, including the number of days and cost of performing a variety of licensing and regulatory requirements. The reports can be used as an indicator of the impact of efforts to reduce corruption and the opportunity for corruption.

5.10 International Labour Organisation *Gaps in Basic Workers' Rights*

This measures gaps between labour conventions and their implementation.¹

Forestry-specific anti-corruption measuring at the international level

Although many of the initiatives listed below do not publish data that can be used for regular monitoring, it may be that through a strategic partnership with TI, these initiatives could provide valuable data.

5.11 Forest Law Enforcement, Governance and Trade (FLEGT)

In 2003, the European Commission adopted a European Union (EU) Action Plan for FLEGT². The key regions and countries targeted include Central Africa, Russia, Tropical South America and South-east Asia. Although the ultimate goal of the action plan is to encourage sustainable management, ensuring the legality of forest operations is considered a vital first step. A key element is a bilateral FLEGT Voluntary Partnership Agreement (VPA) to ensure that only legally harvested timber is imported into the EU from countries agreeing to take part in the scheme. An important aspect of the VPA is regular reporting, including by independent forest monitors. So far only Ghana has signed a VPA; however, negotiations are ongoing with Cameroon, Central African Republic, DR Congo, Indonesia, Liberia and Malaysia.

¹ www.ilo.org/declaration/info/publications/lang--en/docName--WCMS_DECL_WP_15_EN/index.htm

² www.eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32005R2173:EN:HTML

Through the action plan, an increasing number of EU member states³ are adopting green public procurement policies requiring timber products to be from legal and sustainable sources. A number of timber trade federations have made commitments through codes of conduct to eliminate illegally harvested timber from their supply chains.⁴ Major banks (*e.g.*, ABN-AMRO and HSBC) have put in place policies to ensure clients are not associated with illegal logging activities.

5.12 USA Lacey Act

In 2008 the USA amended the Lacey Act to make it unlawful to import, export, sell, purchase or transport plants or products made of plants harvested or traded in violation of domestic and international laws, including timber products. The Act requires importers and traders to prove the legality of wood (given the producer countries' own laws) and specifies penalties. If a shipment can be shown to be illegal, it can be seized, thus removing the defence of 'plausible deniability'. The Act provides a powerful incentive for importers to practice due diligence to eliminate illegal wood from their consignments.⁵ However, the Act only entered into force on 1 April 2009, therefore little experience is available about what will be reported, when and by whom.

Prior response

FLEGT and Lacey Act provisions are, in part, a response to the failure of the forestry sector to clean up its act.

5.13 Extractive Industries Transparency Initiative (EITI)

The EITI requires the regular publication, by individual companies and government, of the reconciliation and audits of all material benefits made by companies and revenue received by government in the oil, gas and mining sectors. At present only Liberia includes forestry in its EITI (see Appendix 6 for the monitoring template). TI might lobby to include forestry in other national EITI programmes.

5.14 Year 2000 Objective — International Tropical Timber Organisation (ITTO)

In 1990, ITTO announced that by the year 2000 all trade in tropical timber was to be supplied from sustainably managed sources.⁶ Until 2000, tropical countries had made significant progress in the formulation and adoption of compatible policies, but there was little progress in implementing such policies. The 'Objective 2000' remains a central goal of the organisation.

ITTO also publishes⁷ useful monthly and annual trade reviews, based on comprehensive national surveys.

5.15 Food and Agriculture Organisation of the UN (FAO)

ITTO and FAO collaborated to produce a volume on *Best practices for improving law compliance in the forestry sector*.⁸

³ Including Belgium, Denmark, France, Germany and the UK.

⁴ Including Finland, France, Netherlands, Spain, the UK, the EU, ACE and CEPI.

⁵ www.eia-global.org/PDF/EIA_Lacey_FAQII.pdf

⁶ www.itto.int/en/feature01/

⁷ www.itto.int

⁸ www.itto.int/direct/topics/topics_pdf_download/topics_id=10940000&no=1

The FAO provides a great deal of forestry data online through its *FAOSTAT* production and trade database.⁹

As part of the Collaborative Partnership on Forests (CPF), the *Global Forest Information System*¹⁰ is an information clearing-house, including reporting bilateral funding. CPF has coordinated the International Union of Forest Research Organisations to provide objective and independent scientific assessment of key issues in order to support more informed decision-making through *Global Forest Expert Panels*.¹¹

FAO's *National Forest Programme* database of country profiles includes legislation, institutions, forest ownership, state of the forest resource, etc.

5.16 World Bank

The World Bank tackles corruption throughout its programmes¹² (c.f. Appendix 4.7), not just in forestry — including reporting, analysis and diagnostic toolkits.

Its forests group produces analytic work aimed at improving the link between forestry and poverty reduction, economic development and preserving the environment.

5.17 United Nations Forum on Forests (UNFF)

UNFF has an *ad hoc* expert group developing approaches and mechanisms for monitoring, assessment and reporting.¹³

5.18 Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES)

National management authorities track the trade in species covered by CITES.¹⁴ Although only a few timber species are covered, TI may encourage CITES to consider creating a programme similar to CITES' 'Monitoring the Illegal Killing of Elephants' (MIKE), whose overall goal is to provide the information needed to make appropriate management and enforcement decisions, and to build institutional capacity for the long-term management of elephant populations.

More specific objectives include to:

- measure levels and trends in the illegal hunting of elephants
- determine the factors causing or associated with changes in trends
- assess to what extent trends are a result of decisions taken by CITES.

A similar effort is the Elephant Trade Information System (ETIS), which records and analyses trends in illegal trade, rather than the illegal killing of elephants.

At the regional level

In addition to the above international efforts, the international community is engaged in a number of regional efforts (not reviewed here), including the **Meso-American Biological Corridor**

⁹ www.fao.org/forestry/law/en/; www.faostat.fao.org/site/630/default.aspx

¹⁰ www.fao.org/forestry/cpf/en/; www.gfis.net/gfis/home.faces

¹¹ www.iufro.org/science/gfep/

¹² www.worldbank.org/forests; www.worldbank.org/anticorruption

¹³ www.un.org/esa/forests/adhoc-monitor.html

¹⁴ www.unep-wcmc.org/citetrade/trade.cfm

(MBC); Amazon Region Protected Area Programme (ARPA); Yaoundé Declaration; Central African Regional Program for the Environment (CARPE); Liberia Forest Initiative; Peru Forest Initiative; Heart of Borneo Declaration and Responsible Asia Forestry and Trade (RAFT).

NGO responses

Despite the attention of the above initiatives, many NGOs have been unimpressed with progress towards achieving sustainable forest management, and more than a decade ago, several began working on anti-corruption measures.

5.19 World Resources Institute¹⁵

The Governance of Forests Initiative is developing a framework of indicators for assessing and improving governance in the forestry sector, as a precursor to determining whether markets can play a role in achieving emissions reductions from forests.

5.20 Royal Institute for International Affairs (Chatham House)

Chatham House maintains a clearing-house for information on illegal logging, including a site dedicated to issues dealing with corruption.¹⁶ Most recently Chatham House published: *Illegal Logging and Related Trade: Pilot Assessment of the Global Response, 2008*.

5.21 WWF-World Bank Alliance¹⁷

Mainly focused on protected areas and facilitating certification, the Alliance regularly reports the area brought under new and effective protection and the area of production forest brought under certification.

5.22 Global Forest and Trade Network (GFTN)¹⁸

WWF also manages the GFTN, which facilitates trade links between companies committed to responsible forestry through independent, multi-stakeholder-based certification. The most widely recognised certification system is the FSC¹⁹, which has awarded more than 7,500 certificates to more than 100 million hectares of forest in 80-plus countries in compliance. FSC reports regularly on implementation.

5.23 Global Forest Watch²⁰

This provides map-based (geo-referenced) data on forest-rich countries.

5.24 Forest Trends²¹

Forest Trends conducts research on forest trade, finance and policy, especially aimed at ecosystem services. Although it does not report regularly on any anti-corruption instruments, it provides comprehensive analyses on a case-by-case basis related to corruption.

5.25 Global Witness²² *Making the Forest Sector Transparent*

¹⁵ www.wri.org/project/governance-of-forests-initiative

¹⁶ www.illegal-logging.info; illegal-logging.info/sub_approach.php?approach_id=1&subApproach_id=201

¹⁷ www.worldwildlife.org/what/globalmarkets/forests/worldbankalliance.html

¹⁸ www.gftn.panda.org/

¹⁹ www.fsc.org/facts-figures.html

²⁰ www.globalforestwatch.org

²¹ www.forest-trends.org/

Global Witness will work with partners in Liberia, Ghana, Cameroon and Peru to:

- Increase access to information through report cards on:
 - Transparency norms; Transparent access to decision-making
 - Legal standing; Forest legal framework; Forest law enforcement
 - Tenure and land use; Allocation of permits/user rights
 - Logging operations; Other forest (extractive) operations
 - Environmental services; Cultural services
 - Extra-sectoral activities affecting forests
 - Fiscal regime: collection and redistribution
 - 'Anti-transparency' norms, and publications
- Increase the effectiveness of advocacy through mini-grants aimed at:
 - Public awareness; Research
 - Improving internal governance of civil society groups
 - Improving governance through improved transparency and accountability
- Strengthen coalitions through networking, such as support for:
 - Travel, training and coordinated lobbying with Global Witness

Further countries, such as Brazil, Bolivia, DRC, Ecuador, Guatemala, Guyana, Honduras, Indonesia, Malaysia, Nicaragua, Panama, Papua New Guinea and Tanzania may be considered during Phase 2 of the project.

Actions by private industry

5.26 International Council for Forest and Paper Associations²³ (ICPFA)

As its first official act, ICPFA adopted a position statement against illegal logging. The council posts only secondary-sourced data on its website.

At the national level

There is not space here to review the anti-corruption measures for individual countries. Based on the legislation covered in the checklist from Part 1 (Appendix 2), you should ask the government and forestry-focused NGOs to describe existing anti-corruption instruments. Likewise, the international treaties and conventions described above generally require national-level implementing legislation and instruments. Based on these instruments, TI can identify indicators at the local level to monitor.

²² www.globalwitness.org/pages/en/gtf.html

²³ www.icpfa.org

APPENDIX 5. AN EXAMPLE OF ANTI-CORRUPTION INSTRUMENTS AND THE CORRESPONDING MONITORING MECHANISMS

(Mechanisms are described in Appendix 4.)

Risk area	Anti-corruption instruments	Monitoring mechanisms
Regulatory		
Undue influence on forest laws and regulations; Forest zoning	MoF working groups for regulations (regs); Lobbying regs; Transparency regs for drafting of bills; Legislative ratification of bills/major regs; Well-advertised public comment periods; Freedom of expression and free press; Whistleblower protection; Ombudsman	National ethics board; NGO newsletters/reports on the legislative process for the bills/regs they follow; Annual checklists; Global Integrity Index; OECD 'Government at a Glance'; World Bank Governance Index
Licensing		
Preferential award of concessions and licences	Procurement website; Government tender board/procurement office; Accurate and unambiguous description of procurement and concession terms; Publication of bid proposal and decision criteria; Debarment for corrupt actors; Independent audits	TI CPI; Global Integrity Index; Local environmental NGO monitors' occasional reports
Logging community land without consent	Grassroots engagement and awareness campaigns; Citizen complaint boards	WRI illegal logging indicators; Local community-based organisations' occasional reports
Timber supply		
Illegal logging	Chain of custody timber tracking; Independent observer at timber checkpoints; GIS monitoring; Independent field monitoring; Citizen complaint channels; Industry codes of conduct; Incentives for MoF employees	WRI; Chatham House illegal logging indicators; Mirror statistics for production/trade
Illegal use of labour	Citizen complaint channels; Labour review boards	International Labour Organisation (ILO) <i>Gaps in Workers' Rights</i> ; Local labour-NGO reports
Illegal use of (unaccountable/armed) security forces	Citizen complaint channels; Voluntary private sector agreements on use of security; NGO and grassroots field observations; engagements with local communities	Freedom in the World; Global Integrity Report; Human rights NGOs' occasional reports
Officials use government resources for their own logging companies	Public access to annual audit of uses of government resources; Citizen complaint channels	Public Expenditure and Financial Accountability (PEFA) Assessments; National auditing body reports
Log transport without proper	Chain of custody; Independent observer at checkpoints	WRI; Chatham House; Local environmental NGOs' occasional

Risk area	Anti-corruption instruments	Monitoring mechanisms
documents		reports
Use of illegal wood in processing industry	Chain of custody; Independent observer at entry points	WRI; Chatham House; Local environmental NGOs' occasional reports
Smuggling	Chain of custody; NGO undercover investigations; Wood balance analysis; FLEGT or similar import requirements	WRI; Chatham House; Local environmental NGOs' occasional reports
Reporting		
Transfer pricing	Mirror statistics; Customs reporting reforms; Training of customs agents to recognise high-value species.	FAOSTAT; ITTO Market Information System
Under-reported volume or value (domestic tax evasion)	Chain of custody	FAOSTAT; ITTO Market Information System; Chatham House; WRI
Laundering illegally sourced wood into the legal supply chain	Transparent annual reporting by wood industry	WRI; Chatham House
Failure to fully and accurately report revenues; Excessive credits for fees and taxes	Transparent online payment systems at MoF	Global Integrity Index; PEFA; National auditing body reports; (For publicly traded companies) company internal audits
Failure to satisfy financial obligations to communities	Transparent reporting of payments; Annual audits of community development funds; Citizen complaint channels	Grassroots advocacy groups; Citizen whistleblowers
Revenue		
Non-payment of fees	Transparent online payment systems; Annual audits of MoF accounts	Global Integrity Index; Open Budget Index; World Bank Governance Index; PEFA; National auditing body reports; company internal audits
Use of sweep accounts to make overnight loans using deposits of forestry fees	Requirement that fees be paid directly to Ministry of Finance/national bank; Transparent online payment systems at MoF and Ministry of Finance	PEFA; National auditing body reports
Lack of oversight; Sanction for unpaid taxes; Late transfers of forest revenues	Transparent online payment systems at MoF; Annual audits of MoF accounts	PEFA; National auditing body reports
Falsified audits; Failure to report irregularities to proper authorities	Public access to audits	PEFA; National auditing body reports; (For publicly traded companies) company internal audits
Neglect of <i>Know-Your-Customer</i> due	Summary reporting of STRs from each institution (publicly available)	OECD; Financial Action Task Force (FATF); National financial intelligence

Risk area	Anti-corruption instruments	Monitoring mechanisms
diligence/ Suspicious Transactions Reports (STRs)		body
Money laundering of proceeds from illegal logging to support political campaigns	Assets disclosure regulations and reporting; Campaign financing reporting (publicly available)	OECD; FATF; Freedom in the World; Global Integrity Report; National financial intelligence body; National auditing body; National election oversight body; Candidate wealth reporting body
Enforcement		
Failure to investigate or punish companies that violate regulations; Failure to enforce sanctions against officials	'Judicial watch'; Regular reporting of court cases; Regular reporting of forestry audits to identify compliance rate; Risk-based compliance checks and law enforcement	Global Integrity Index; Freedom House <i>Freedom in the World</i> index; World Bank Governance Index; Local environmental and anti- corruption NGOs' occasional reports
Investigations dropped without cause	As above	As above
Charges reduced by prosecutors; Only low-level labourers indicted	As above	As Above
Deliberately flawed (or no) indictments issued	As above	As Above
Manipulation of evidence; Deliberate failure to meet filing deadlines	As above	As Above
Improper dismissal of case; Unwarranted acquittals or other judgements; Light sentencing/ penalties	As above	As Above

APPENDIX 6. TEMPLATE FOR FORESTRY REPORTING WITHIN THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (EITI)

The reporting template is 'designed to provide sufficient information to reconcile payment obligations versus actual payments made. That is, one can calculate tax obligations based on the land rental... and the volumes and values harvested... One can further examine the fines and penalties to determine if any corrective action was taken to recover evaded taxes. Finally, one can reconcile the company reports against Government [reports]'.²⁴

'Space is left at the end of the template for voluntary disclosure of any additional information... [I]ndustry conveyed a strong desire that the public recognise the various contributions that the sector makes to society. Voluntary disclosure is an opportunity to publicise such activities'.

Template for Forestry Company Reporting

Name of Company: _____ Reporting Period: _____

Contract area: _____ ha Area logged in reporting period: _____ ha

Ref	Volume	units	units	Value
Benefit Stream				
1	Production	m ³		
2	Processed products	m ³	US\$	
3	Export	m ³	US\$	
Payments to Central Government				
4	Land rental fees		US\$	
	Amount to:			
	40% Ministry of Finance	US\$		
	30% Communities ²⁵	US\$		
	30% Counties ²⁶	US\$		
5	Stumpage Fees		US\$	
	Amount to:			
	90% Ministry of Finance ²⁷	US\$		
	10% Protected Areas	US\$		

²⁴ Adapted from the Liberia EITI; www.leiti.org.lr/doc/liberias_forestry_report.pdf

²⁵ To be distributed to affected communities through the National Community Benefit Sharing Trust.

²⁶ To be distributed equally among the counties through the County Forestry Development Fund.

²⁷ To be administered by the Forestry Development Authority to manage a network of protected areas.

6	Forest Products Fees		US\$
	Amount to:		
	90% Ministry of Finance ³	US\$	
	10% Protected Areas	US\$	
7	Log Export Fees		US\$
8	Sawmill Licence Fee		US\$
	Size of mill: _____ m ³ /yr		
9	Corporate Income Tax		US\$
	Withholding Income Tax		US\$
10	Contract Administration Fees		US\$
11	Inspection Fees		US\$
12	Waybill Fees		US\$
13	Export Licence Fees		US\$
14	Other Fees		US\$
			L\$
	In-kind payments (and monetary value)		
			US\$

Payments to Local Governments			
15	Harvest volume-based payments		US\$
16	Other monetary payments		US\$
17	In-kind payments (and monetary value)		
	_____		US\$
	Other voluntary disclosures		
	_____		US\$

Management sign off:

We acknowledge [or On behalf of the Board of Directors (or similar body) we acknowledge] our responsibility for the fair presentation of the Reporting Template in accordance with the Reporting Guidelines, with the exception of:



GLOSSARY

Beneficial owner

The individual(s) who enjoy the 'benefits' of ownership of a property, company or security, regardless of whether their name is on the title.

Bribery

The offering, promising, giving, accepting or soliciting of an advantage as an inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other advantages (taxes, services, donations, etc.).

Chain of custody (CoC)

A system for tracking individual logs from their stump to the point of sale/export to ensure that illegal logs do not enter the legal supply chain and that all taxes and fees are paid.

Civil society

The arena, outside of the family, state and market, where people associate to advance a common set of interests. Voluntary and community groups, non-governmental organisations (NGOs), trade unions and faith-based organisations are commonly included in this sphere, making the term broader than an NGO.

Corruption

The abuse of entrusted power for private gain.

Cronyism

Favouring friends, business associates and other allies.

Demand-side corruption

The solicitation or acceptance by a foreign public official or an official of a public international organisation, directly or indirectly, of an undue advantage, for the official him- or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.²⁸

Due diligence

The investigation and verification of material facts of operations and management by the investor. Also refers to the investigation and verification of the identity of Beneficial Owners of accounts (see *Know Your Customer*), and the monitoring and reporting of Suspicious Transactions to ensure that financial institutions are not trafficking in illicit funds.

Extortion

Act of utilising, either directly or indirectly, one's access to a position of power or knowledge to demand unmerited cooperation or compensation as a result of coercive threats.

Financial institutions

Companies (e.g. banks, investment companies and alternative remittance organisations) that act as a channel between savers and borrowers of money.

²⁸ Definition from UNCAC Art. 16

Forest concession

A lease or contract for the extraction and use of forest resources within a specified time period for a given area of forest.

Forestry sector

The actors and processes involved in the chain from logging through processing and ultimately to the sale/export of all forest products, including raw logs, processed timber and veneer, and pulp and paper.

Freedom of Information Act (FOIA)

A law that allows individuals and organisations to compel the government to release copies of documents it might not otherwise choose to disclose.

Free, prior and informed consent (FPIC)

To ensure concerned stakeholders, such as indigenous communities, have knowledge of the impact of an action at an early stage, so they can exercise control to the greatest extent possible over their own economic, social and cultural development, including having full pertinent information prior to decision-making. This is most relevant to the protection of indigenous populations from unwelcome incursion and investment in their resources.

Good governance

A concept that goes beyond the traditional notion of government to focus on the relationships between leaders, public institutions and citizens, including the process by which they make and implement decisions. The term can also be applied to companies and NGOs. 'Good' governance is characterised as being participatory, accountable, transparent, efficient, responsive and inclusive, respecting the rule of law and minimising opportunities for corruption.

Grand corruption

Acts committed at a high level of government that distort policies or the central functioning of the state, enabling leaders to benefit at the expense of the public good.

Illegal logging

Forestry practices that violate domestic laws and regulations, such as harvesting without, or in excess of, permit and/or avoiding taxes and fees.

Know Your Customer

The responsibility of financial institutions to verify the identity of individuals conducting transactions. For anti-money laundering/counter-terrorism financing (e.g. the US Patriot Act), suspicious transactions are subject to greater due diligence and, where appropriate, reported to law enforcement agencies for investigation.

Nepotism

Form of favouritism based on acquaintances and familiar relationships whereby someone in an official position exploits his or her power and authority to provide a job favour to a family member or friend, even though he or she may not be qualified or deserving.

Petty corruption

Everyday abuse of entrusted power by low- and mid-level public officials in their interactions

with ordinary citizens, who often are trying to access basic goods or services in places such as hospitals, schools, police departments and other agencies.

Politically Exposed Persons

Individuals (often limited to senior officials) who hold (or recently held) positions in the political arena and are therefore subject to greater due diligence by financial institutions. The most useful legal definition includes officials' immediate family members, business associates and related corporate entities.

Rent-seeking

The use of influence to obtain direct or indirect involvement in commercial operations, e.g. officials abuse their entrusted power to obtain logging concessions for themselves, their family or their associates.

Rent-seizing

Public officials use their position to control the distribution of rents (taxes, fees, contracts), e.g. writing regulations that favour their own or associates' companies.

Risk assessment

Methodology used to assign a level of impact associated with an event and the corresponding likelihood of exposure to the event (i.e. risk = impact x likelihood).

Risk management

The coordinated application of resources to minimise, monitor and control the impact and the likelihood of exposure to unfortunate events.

Social agreement

Negotiated (prior to logging and under FPIC) between a logging company and affected communities, a social agreement articulates the rights (including access) and the responsibilities of both the communities and the company and its employees, and details the benefits the communities will receive in exchange for allowing logging.

Social licence to operate

Stakeholder acceptance of the legitimacy of a company's business so that normal operations are not disrupted.

State capture

A situation where powerful individuals, institutions, companies or groups within or outside a country use corruption to shape a nation's policies, legal environment and economy to benefit their own private interests.

Supply-side corruption

The promise, offering or giving to a foreign public official or an official of a public international organisation, directly or indirectly, of an undue advantage, for the official him- or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.²⁹

²⁹ Definition from UNCAC Art. 15

Transfer pricing

The practice of undervaluing goods and/or services sold to an overseas subsidiary (usually wholly owned) in order to repatriate profits and/or evade tax/duty.

Whistleblowing

The sounding of an alarm by an employee, director or external person, in an attempt to reveal neglect abuses within the activities of an organisation, government body or company (or one of its business partners) that threaten the public interest, and the organisation's integrity and reputation.

Voluntary Partnership Agreement, also FLEGT

The FLEGT (Forest Law Enforcement, Governance and Trade) is an action plan that sets out a range of options for European institutions wishing to support global efforts to reduce market demand for cheap illegal forest products. At the heart of these options is a bilateral voluntary partnership agreement (VPA) between the EU and tropical timber-producing countries, which will form the basis for future legality licensing schemes.