Illegal Forest Production and Trade

An overview

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# Table of Contents

Introduction .......................................................................................................................... 2  
How significant is forest crime? ....................................................................................... 2  
The variety of illegal forest acts .................................................................................. 8  
The special case of corruption ...................................................................................... 10  
Why should be worry about forest crime? ................................................................. 12  
  - Economic impacts ....................................................................................................... 13  
  - Poverty Impacts .......................................................................................................... 14  
  - The quality of forest management ........................................................................... 14  
What causes illegal acts in the forest sector? ............................................................. 15  
  - Legal or Illegal? ......................................................................................................... 15  
  - Failures of the law ....................................................................................................... 17  
  - Insufficient information and inadequate knowledge management ....................... 19  
  - Monopoly power in private sector decisions and excessive discretionary power in public decisions 20  
  - Limited capacity of public forest administration and enforcement agencies ........ 20  
  - Lack of transparency in decisions ........................................................................... 20  
  - Market demand .......................................................................................................... 21  
A strategy for combating illegal practices ................................................................ 21  
  - Governance environment ....................................................................................... 22  
  - Dealing with factors that facilitate or induce illegal acts in a prevention, detection and suppression framework (PDS) ......................................................................................... 23  
    - Addressing policy and legal failures ....................................................................... 23  
    - Addressing insufficient information and inadequate knowledge management .... 2 
    - Dealing with Monopolies and Excessive Discretionary Power ......................... 5  
    - Increasing transparency and accountability .......................................................... 7  
    - Civil service reform ............................................................................................... 7  
    - Managing market demands .................................................................................. 9  
Implementing forest law enforcement strategies .................................................... 10  
  - Where do we start? What strategic elements should receive priority attention? .... 10  
  - Who should do what? ............................................................................................... 11  
    - Governments ......................................................................................................... 12  
    - NGOs .................................................................................................................... 12  
    - Private logging and trading enterprises ................................................................ 12  
    - The international community ............................................................................. 12  
    - Consumer countries ............................................................................................. 13  
  - Forming Coalitions ................................................................................................. 13  
Conclusion ....................................................................................................................... 15  
Annex 1. Some evidence of the importance of illegal activities in the forestry and forest industries sector ............................................................... 17  
Annex 2 Suggested Actions for Various Stakeholders ................................................. 20  
Annex 3 Coalitions: Multilateral Agreements, Bilateral Agreements and Action by Private Enterprise ............................................................... 27  
  - International Agreements ....................................................................................... 27  
  - Bilateral agreements ............................................................................................... 28  
  - The private industrial sector .................................................................................. 28  
References ....................................................................................................................... 30
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Introduction

This paper looks at the evidence on the magnitude and impacts of forest illegal acts, examines the vulnerabilities of the forest sector, and proposes a strategy for combating forest crime.

There is little doubt that forest crime is pervasive and causing enormous damage to the environment and the economy as well as hurting the poor the most. Almost everywhere, forest resources are under the threat of criminal activity by unscrupulous loggers, traders, and corrupt government officials. The World Bank calculates that illegal logging alone costs governments some $5 billion per year in lost revenues and that, in addition, $10 billion per year are lost to the economy of producing countries\(^1\) (World Bank, 2001). Because of widespread illegal activities large sums belonging to the government are diverted to private pockets, impairing the capacity of the State to manage the sector and to improve the quality of forest management.

Forest crime prominently includes illegal logging but acts against the law also affect other sector operations such as forest products transport, industrial processing, and trade. Trade research comparing import and exports records shows fraud in products volume and quality declarations in many exporting nations. Protected species of flora and fauna are harvested for domestic or international markets. Some corporations make use of questionable accounting practices, such as “transfer pricing” to hide profits and avoid paying taxes. Arson and wildlife poaching affect large extensions of forests and threaten biodiversity values in many countries. Military conflict often leads to criminal unsustainable uses of forest resources to generate quick money for financing war operations, at the same time filling the pockets of army generals and other corrupt government officers.

Almost universally, criminal exploitation of forest products and commerce prevail as large amounts are unlawfully harvested, traded against regulations in domestic markets or smuggled across borders, often with the willing participation of corrupt forest service officials and border police. It is highly unlikely that traditional prescriptions for improving the management of forest resources such as “getting policies right”, introducing new harvesting technologies and better training government staff will ever have a noticeable impact when a large proportion of the activity in the sector falls prey to criminal activity. For example, for many years experts advising forest rich countries have made a great deal of emphasis on the various ways in which the management of timber concessions could be improved. The knowledge to do so has been available for decades. However, timber concessions continue to be mismanaged almost in every one of the countries examined in this review. Thus, while this type of expert policy and technical prescriptions for improving the management of forest resources are no doubt worthwhile, they are not likely to have a noticeable impact until governments can achieve higher levels of sector governance.

How significant is forest crime?

Studies leave little doubt that forest crime is prevalent and of a considerable magnitude in many countries.

In Asia, illegal activities in the forest sector affect many countries. For example, various analyses of the forestry sector of Cambodia show that until recently as much as 94 percent, was carried out in illegal ways. A policy review concluded:

“Log production is primarily conducted under the permit systems, with virtually no monitoring or enforcement of laws, policy and procedures. In fact, a significant proportion of log production is actually stolen from forest concession lands or from protected areas and national parks. From 1995 to 1997, forest exploitation formally contributed an average of $15 million per year to Cambodian government revenue…whereas “informal” payments were estimated at $200 million in 1997 alone.

\(^1\) Just for the sake of comparison, the annual ODA financial flow in the forest sector is probably around $ 1.5 billion.
The $12.4 million forest revenue collected by the Government in 1997 came from a mere 450,000 cubic meters of authorized log production from legitimate concessionaires – roughly 10% of the country’s total log production in 1997 of 4.3 million cubic meters” (World Rainforest Movement and Forest Monitor, 1998).

This level of harvest exceeds the sustainable yield of Cambodia’s forests, which is in the order of 0.5-1.5 million cubic meters (Savet, 2000). At that rate, illegal logging would deplete national forest resources in less than a decade and, in some regions, even earlier (UNDP, 1999, Global Witness, 1999a).

During the last few years Indonesia received a great deal of attention as evidence of corruption in government steadily accumulated (The so called “KKN” system, “corruption, cronysism and nepotism”, World Bank, 2000). A study concluded that in 1997/1998 illegal timber harvesting in Indonesia was some 33 million cubic meters. This was more than the official production of 29.5 million cubic meters, and far more than the allowable cut that would allow forests to continue to produce in the future (Scotland, 2000). This is a great deal of wood and since it is reasonable to assume that a large proportion is high priced wood, the volume of money diverted illegally to private pockets must be monumental. In fact, a report shows that criminal logging costs the government, the legal owner of forest resources in Indonesia, a staggering $3.0 billion per year (Kartodiharjo, 2002). Other studies show even higher values (World Commission on Forests and Sustainable Development, 1999). Research also shows that 84 percent of timber concessionaires violated various prescriptions of the law during the mid nineties and that systematic illegal logging is now taking place in some of Indonesia’s most celebrated national parks, the Gunung Leuser, Tanjung Puting and the Kerinci Seblat. (Environmental Investigation Agency, 1999; World Resources Institute, 2000a). A large proportion, as much as 40 percent, of the large pulp and paper industry wood supplies come from undocumented sources (Barr, 2000).

Logs from Indonesia are smuggled to serve international markets in Malaysia, Japan or other countries. Illegal trade involves some species, like ramin, that are protected under CITES (Environmental Investigation Agency and Telapak Indonesia, 2001). According to the secretary-general of the Indonesian Ministry of Forests in charge of controlling illegal activities, major smuggling takes place from Jambi and Riau to peninsular Malaysia and Singapore; from West Kalimantan to Sarawak; from East Kalimantan to Sabah; and from Maluku and Papua to China. He estimates timber smuggling costs the Indonesian government some $96-120 million per year just in lost revenues (Scotland, 2000).

During the eighties illegal logging and trade was so widespread in the Philippines that the country was losing an average of $1.8 billion a year. There is little doubt that illegal acts contributed in a big way to the extensive deforestation that in a short period of time transformed the Philippines from a net exporter into a net importer of wood (World Commission on Forests and Sustainable Development, 1999). Even today, with 90 percent of the primary forest gone, as much as 46 percent of domestic requirements of forest products originate in illegal logging operations (Acosta et al, 2000). Referring to the loss of forest resources in the Philippines, Senator Loren Legarda says “illegal logging remains the main culprit”, and “from 1972 to 1988 the logging industry amassed $42.85 billion in revenues… and laid waste to 8.57 million hectares of forests."

One of the most detailed efforts ever to investigate illegal activities in the forestry sector was carried out in Papua New Guinea where the Government, concerned with widespread illegal acts in the forestry sector, created an independent Commission of Inquiry to investigate them. After two years of study, the Commission produced a report that documented pervasive forest crime in the sector. The Commission revealed that certain companies obtained illegal forest exploitation authorizations, that there was widespread collusion involving regional and national level politicians and foreign companies, as well as massive tax evasion and extensive transfer pricing (see Box 1). After many years of NGO and World Bank efforts to reduce the incidence of illegal activities, little changed. In 1999, the Prime Minister in view of continuing corruption and illegal logging declared a moratorium on new logging concessions and ordered an independent review of the sector’s administration. The independent review exposed many instances of fraud and illegalities throughout the 32 logging concessions. More than one third of the operations were fundamentally illegal. The latest scandal involves the Kiumga-Alambak “road” project. The construction of a road allegedly to promote development
appears to be little more than a crude ruse to gain illegal access to vast ancient forest resources for exports (Greenpeace, 2002). Recently, the Prime Minister joined landowners whose land has been illegally logged and Greenpeace in condemning the Kiunga-Alambak road project. The project currently is being reviewed by the courts (ENS, May 2002).

A study commissioned by the WWF concluded that most of the timber export trade in Asia was illegal (Dudley, 1995). In fact, substantial log trade has been documented between Cambodia and Vietnam despite the legislation of these two countries prohibits such trade (Global Witness 1999). Similarly, illegal timber trade takes place between Myanmar and China, Thailand and India. In 1995, importer countries reported some 276,000 more cubic meters of logs than declared as exports by Myanmar. This could be equivalent to about $86 million being undeclared or almost half of Myanmar’s forest exports revenues that year (World Resources Institute, 1998).

In Latin America, in the mid nineties, the government of Bolivia organized a determined effort to reduce extensive illegal acts and corruption in the management of the forestry sector. A new law, approved in 1996, included various “textbook” provisions to improve prevention, detection, and control of such acts. After a government genuine effort, illegal practices have been reduced. Yet, a recent government assessment reveals that at least 80 percent -- and perhaps as much as 90 percent -- of all forest clearing is still illegal. (Superintendencia Forestal, 2000; Contreras-Hermosilla and Vargas, 2001).

A similar study by a Brazilian high-level commission showed that 80 percent of all logging in the Amazon was illegal during the late nineties (Viana, 1998). Among 13 companies that were investigated at that time, 12 were operating in violation of the law. The research institute, IMazon, estimates that as much as 90 percent of all deforestation in the Brazilian Amazon is illegal (Greenpeace, 1999).

Studies in Colombia show that at least 42 percent of logging in that country is illegal. It is estimated that 42% of forest exploitation in Colombia is illegal (IIRB, 1996).

In the case of economies of the former Soviet Union, in the last few years Russia came under scrutiny for large-scale corruption and other illegal acts within the government and its emerging private corporate sector and, as a result, reports about illegal practices in the forestry sector abound. According to a study, at least 20 percent of timber in Russia is logged in violation of the forest law (Greenpeace, 2000). However, other observers suggest that illegal logging is far more prevalent than suggested by this assessment. Thus, an experienced forest specialist in the Russian Far East estimates that illegal logging in the Primorsky and Khabarovsk regions reaches 50 percent of the total harvest. In Khabarovsk illegal permits to log a cubic meter of ash may cost as little as $1, while these logs sell for $600 per cubic meter in the Japanese market (Mabel, 2000). The incentive to illegal logging is potent.

An undetermined but large illegal flow of eastern Siberian logs goes to China. “No one knows how much forest is cut illegally”, says Alexander Vasyanovich, the head of the Natural Resources Department of the Irkutsk regional administration. “No one will tell you the truth. The trees are cut down, hauled away and stolen”. Some of the illegal logging is due to the so-called sanitary logging, a loophole that some of the regional administrators have turned into a sizeable timber harvesting and export operation. According to Tatyana Goritskaya, a section head at the regional forest administration in Irkutsk, sanitary cuts exploded sevenfold since 1993 to reach some 1.5 million cubic meters of timber in 1998, most of it for the export market (Shulyakovskaya, 2000). Russia’s Institute for Economic Research estimates that at least 20 percent of the value of timber trade from the Russian Far East to Japan, China and South Korea, the three main export markets, is illegal. In 1999, the Primorski region alone illegally exported some 300,000 cubic meters, with a value of some $24 million (Greenpeace, 2000). The Director General of the Primorsky region’s largest logging firm Primorsklesprom, declared that “as much as 40 to 50% of Russian timber is sold to Pacific Rim countries

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under dumping prices and faked contracts” (Newell et al, 2000). On average, 20 to 30 per cent of timber imports into the European Union from Russia and the Baltics are also illegally sourced (Forest Watch, 2001).

Concerning the African continent, illegal activities in the forest sector are common and often associated with other forms of crime, such as illegal mining, and with military operations in various countries.

Research in Cameroon by the Global Forest Watch Initiative, reveals that over half of all the active logging licenses were illegal and that the legality of allocations of 23 timber concessions was in doubt in 1999. At least three companies held concessions of more than 200,000 hectares, in violation of the law. Researchers found that many of the companies operated outside the law but were never prosecuted because of the influence of a higher authority that protected them (World Resources Institute, 2000). Undeclared wood extractions in the Eastern Province were estimated to be one third of the total cut in 1992-1993 (World Rainforest Movement

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3 The Russian Far East comprises Khabarovsk, Primorsky, Sakhalin, Amur and Eastern Siberia – Irkutsk.
and Forest Monitor, 1998). Timber concessions were allocated in a discretionary manner in violation of legislation that mandated the use of open auctions instead. Ninety-six percent of violations reported in 1992-93 were followed by incomplete judicial procedures (Verbelen, 2000). Some, perhaps most, of these acts were carried out in connivance with foreign corporations operating in the country and with the willing support from their own government. For example, there is evidence that French politicians put pressure on the Cameroonian Government to weaken some of the country’s laws that were inconveniencing French companies (Ekoko, 1997).

Recent analysis shows that 80-90 percent of logging in Benin is illegal and is carried out with the agreement of state officials (Siebert, 2002).

Political instability prevailing in certain countries opens opportunities for schemes designed to exploit forests in unsustainable ways, sometimes involving transnational alliances. This is the situation affecting the Democratic Republic of the Congo where various companies from Uganda, Burundi and Rwanda, associated with foreign armies and sometimes in partnership with Congolese firms, illegally extracted and exported wood. As reported by a United Nations Panel, “Exploitation of the natural resources of the Democratic Republic of the Congo by foreign armies has become systematic and systemic. Plundering, looting and racketeering and the constitution of criminal cartels are becoming commonplace in occupied territories... The role of the private sector in the exploitation of natural resources and the continuation of the war has been vital” (UN, 2001).

Global Witness reports the involvement of the Zimbabwean military and Congolese government institutions joining forces for the large scale exploitation of Congolese forest resources. They report that a company from Zimbabwe, with ties to the military have obtained exploitation rights to what must be the largest timber concession in the world, covering some 33 million hectares (Global Witness, 2002).

In Cambodia, forest illegal operations helped fund the Khmer Rouge during the civil war at the tune of as much as $20 million per month (Global Witness, undated).

In Gabon timber concessions overlap with protected areas. Although the law explicitly prohibits timber concessions in excess of 200,000 hectares, 8 concessionaires are reported to exceed that limit (Verbelen, undated). While it is widely acknowledged that *fermage* (a practice by which the permit owner, unable or unwilling to engage in logging activities, rents the logging rights for a concession to a third party) is illegal, a study in 2000 reported that it was widely practiced (World Resources Institute, 2000a).

Excessive and unsustainable illegal logging is reported in Liberia, where funds from the timber trade help fuel political and military conflicts in the region. The pressure to exploit forests to generate revenues to fund war operations is said to have increased after sanctions on diamond trade were imposed by the international community wary that the proceeds from diamond exploitation were being used to finance military operations in Sierra Leone and militias in Liberia. Thus, by imposing these restrictions, the pressure was simply deflected from diamonds to timber (Global Witness, 2001a). Logs were traded for weapons despite the fact that the United Nations has imposed arms embargos in two occasions, in 1992 and 1998. This is a clear case in which illegal logging is tied to broader problems and with linkages to other illicit operations in diamonds and arms trade (Greenpeace, 2001).

Illegal acts are popularly associated with developing countries or countries going through traumatic changes such as those in transition. In this view, industrialized countries are rather immune to the plague of illegalities and corruption. This is misleading. Illegalities do not vanish with industrialization. Thus, the World Commission on Forests and Sustainable Development reports: “in 1994 the European Union charged several corporations for corrupt practices. A decade earlier, the EU fined 40 major pulp and paper producers for similar reasons” (1999).

Similarly, in Canada, a House Standing Committee on Environment and Sustainable Development investigation exposed that polluters routinely escaped prosecution: in 1996 twenty paper mills were caught illegally discharging toxic effluents in Quebec (Ottawa House of Commons, 1998). Research on law
compliance in Ontario found that there were violations in logging operations in 55 percent of areas designated for protection as Areas of Concern and Riparian Reserves (World Resources Institute, 2000b). In one of the cases investigated, the forest management plan of the Algonquin Park, it was found that the Algonquin Forestry Authority, a provincial Crown corporation, had violated thirty five percent of the Areas of Concern investigated (Sierra Legal Defence Fund and Wildlands League, 2000). A recent analysis contends that since 1998, forest companies logging on the west coast have avoided paying $149 million to the British Columbia government by abusing “grade setting”. Grade setting allows companies to scale a large proportion of wood in timber concessions as low value wood in the samples used by government to set the stumpage fee. Thus, companies can harvest high quality wood and pay fees for the artificially low value wood (Anderson and Werring, 2001). This loophole can be abused in benefit of the logging corporations and it appears that some have done so. Although these actions are technically not illegal, they go against the spirit of the law. Reacting to public pressure, the British Columbia Forest Minister announced that the government would address this issue because “the ministry’s preliminary information suggests that while most licensees are operating within the policy and legislation, others continue to manipulate the stumpage system” (Judd, 2001).

Industrialised countries also contribute to the persistence of illegal activities by freely importing and tolerating markets for wood that is illegally sourced. For example, the value of annual EU imports of illegal tropical timber has been estimated at some €2.4 billion (Friend of the Earth, 2001). Analysts estimate that about 25% of mahogany imports into the USA are illegal in defiance of CITES.

Corporations from industrialised countries are often associated with illegal operations in host countries. Industrialised country corporations in association with African firms are involved in illegal exploitation of forests in the Democratic Republic of the Congo while others from Belgium, Denmark, Japan and the United States of America are buying timber known to be extracted illegally (UN, 2001). The Brazilian Environmental Agency (IBAMA) recently announced that a subsidiary of Osaka based Japanese transnational wood products firm Eidai Inc. will be fined the equivalent of $1.88 million for violating various environmental laws for the protection of Brazil’s rainforests (Greenpeace, July 2000). In 1999 a Belgian company was illegally importing Afrormosia logs from Cameroon (a species protected under CITES) while another French corporation was caught importing Moabi undersized logs from Gabon and Cameroon. In 1998, recognizing the responsibility of importing countries, the G8 formally declared that “international trade in illegally harvested timber exacerbates the problem of illegal logging” and asked members to improve their procedures for controlling international trade of illegally harvested timber. Despite this pledge it is reported that various G-8 corporations continue to buy logs from companies with a track record of illicit actions in the Amazon (Greenpeace, April 2000). A recent survey of bribe payers by Transparency International, reveals that despite international agreements and conventions, many corporations from industrialised countries engage in corruption a with the forest sector scoring 5.1 in a ranking from 0 to 10, with being the highest level of perceived corruption (Transparency International, 2002).

The above review makes it clear that illegal acts in the forest sector are common in many countries and there are important linkages between exporting and consuming nations. Also, that the magnitude of these illegal activities is substantial. In this respect, it must be emphasised that the estimates of illegal activities produced by the various studies cited above likely understate the magnitude of forest crime. In many cases local officials are reluctant to report illegal acts either because of fear of reprisals from criminals or because they are personally involved in illegal schemes. Companies, using imaginative procedures, can conceal their illicit operations through complex methods of documentary fraud and corruption. Therefore, a probably important proportion of illegal acts remains undetected. In many countries, the exploitation of forests is an important part of the “shadow” economy with illegal acts remaining either buried and undetected, or even laundered and recorded as legal.

Many other examples of illegalities affecting forest resources in various countries can be mentioned (See Annex1). All these various pieces of research paint a picture of widespread corruption and crime affecting forest resources worldwide. There can be no doubt that illegal acts are a major threat to global forest resources.
The variety of illegal forest acts

Illegal acts are varied and include, *inter alia*, the unauthorised occupation of public and private lands, illegal logging in protected or environmentally sensitive areas, logging of protected species, woodland arson, illegal transport of wood and other forest products, smuggling, transfer pricing and other fraudulent accounting practices, as well as illegal forest industrial processing. Some of the most notorious ones are listed in Box 2.

In developing countries landless peasants following logging operations or infrastructure works that increase accessibility of remote forest areas frequently invade forestlands (Mahar and Schneider, 1994). In other cases, local communities and indigenous peoples have traditional rights over forestlands but these are not recognised by the state and thus their use of resources is technically illegal (although, many would argue, unfairly so).

Companies or individuals extract timber from public or private forestlands without authorisation, log protected species or in excess of prescribed volumes in timber concessions or log outside concession areas. Since many forest management plans allow for “sanitary” cuts (extracting over mature trees, trees infected by pests or killed by fire, etc.) loggers frequently abuse this option to extract large volumes of valuable healthy trees (Newell et al, 2000). Surreptitious girdling of trees to kill them may take place to force their exploitation. Individuals sponsored by logging interests, enter forests and cut down selected trees that then are brought to the attention of the forest authority which often is compelled to sell confiscated illegal logs to the only local buyers: the perpetrators themselves (See, for example, Roper, 2000). Arson is common in certain countries and destroy vast areas of forests every year. The great fires of Indonesian forests in 1997-1998 covered some 7-10 million hectares, fouled the regional environment, causing extraordinary damage to soil, water, air and flora and fauna and negatively affected large number of people and the economies of various countries and enterprises. Many of these fires were the result of arson.

Illegal activities do not stop at the forest. They travel down the line to operations related to transportation, national and international trade of forest products. Individuals and corporations may transport timber without permits or smuggle products across international borders (Global Witness, 1999). Timber smuggling is often induced by restrictions to logging imposed in one the trading countries.

Some corporations inflate the price of imported inputs such as machinery and deflate prices and volumes of their exports to reduce nominal profits and their tax liability with the host country and to illegally transfer funds abroad (See, for example, Barnett, 1992). These illegal practices are facilitated when enterprises are vertically integrated, i.e. when they are exporting to or importing from other branches of the same company thus making it easier to manipulate export-import accounts.
In countries where law enforcement is weak, mobile illegal sawmills operate with impunity often buying illegal logs from local small-scale operators and evading taxes as well as environmental and labour laws. In other cases, large industrial installations, such as pulp and paper complexes may not follow water pollution control and other emission control rules (Ottawa House of Commons, 1998).

**BOX 2  Examples of illegal practices in the forestry and forest industries sector**

**Illegal occupation of forestlands**
- Invasion of public forested lands by either rural families, communities or private corporations to convert them to agriculture or cattle ranching
- Practice of slash and burn agriculture in invaded lands
- Induce landless peasants to illegally occupy forested areas to force governments to grant land ownership rights to them and then buying these lands from peasants.

**Illegal logging**
- Logging protected species
- Duplication of felling licenses
- Girdling or ring-barking, to kill trees so that they can be legally logged
- Contracting with local entrepreneurs to buy logs from protected areas
- Logging in protected areas
- Logging outside concession boundaries
- Logging in prohibited areas such as steep slopes, riverbanks and water catchments
- Removing under/oversized trees from public forests
- Extracting more timber than authorized
- Reporting high volumes extracted in forest concessions to mask the fact that part of the volume declared is extracted from non-authorized areas outside the concession boundaries
- Logging without authorization
- Obtaining logging concessions through bribes

**Woodlands arson**
- Setting woodlands on fire to convert it to commercial uses

**Illegal timber transport, trade and timber smuggling**
- Transporting logs without authorization
- Transporting illegally harvested timber
- Smuggling timber
- Falsifying and/or reusing timber transportation documents
- Exporting and importing tree species banned under international law, such as CITES.
- Exporting and importing timber in contravention of national bans

**Transfer pricing and other illegal accounting practices**
- Declaring lower values and volumes exported
- Declaring higher purchase prices above the prevailing market prices for inputs such as equipment or services from related companies
- Manipulating debt cash flows to transfer money to subsidiary or parent company, for example by inflating debt repayment to avoid taxes on profits
- Under-grading, under-valuing, under-measuring and misclassification of species exported or for the local market.

**Illegal forest processing**
- Operating without a processing license
- Ignoring environmental and social and labour laws and regulation
- Using illegally obtained wood in industrial processing.

Source: Based on Contreras-Hermosilla, 1997.
It is common for dishonest companies to carry out operations in ways that obscure economic links thus making it more difficult for law enforcers to trace illegal activities. For example, some transnational companies may operate as subcontractors to various national concessionaire firms created by them. Concessionaires appear as different entities thus circumventing laws -- such as those of Ghana or Cameroon -- that may limit the extent that a concessionaire is allowed to hold. Companies may incur disproportionate debt, mismanage company operations and divert funds to private accounts. Some can get away with this because their investments are so large that eventually major creditors or the government itself will come to their rescue. Technically, no laws may have been broken: financial frauds are disguised as corporate mismanagement.

Forest resources are also vulnerable to illegal activities in other sectors of economic activities. For example, mineral and oil resources often lie under forests and illegal operations to extract these minerals have caused enormous damage to forests in many parts of the world (see for example, IUCN International, WWF International and Netherlands Committee for IUCN, 1999; Miranda et al, 1998).

Synergies may be created involving various actors and occasionally providing unconvincing excuses for illegal acts. For example, some corporations when caught justify their logging of prohibited species because illegal loggers, coming into the concession areas after they are opened for exploitation, would steal those species anyway (Newell et al, 2000).

**The special case of corruption**

A particular form of illegal forest activity, corruption, has come to the forefront of the international debate on forests and is now being openly discussed in various fora because of the increasing awareness of the immense costs associated with it.

There are many interpretations of what constitutes corruption. Corruption is variously defined as “the sale by government officials of government property for personal gain” (Schleifer, A. and R.W. Vishney, 1993), or “behavior on the part of officials in the public sector, whether politicians or civil servants, in which they improperly and unlawfully enrich themselves, or those close to them, by the misuse of the public power entrusted to them” (Transparency International, 1996). The World Bank defines corruption as “the abuse of public office for private gain” (World Bank, 1997).

In this paper, corrupt deeds are illegal actions that:

(i) *engage public officials*. A private individual stealing wood from public forests is performing a criminal act but according to this definition, not a corrupt act. While corruption engages civil servants, most frequently a party from the private sector or the civil society is also implicated. But the participation of public official in illegal actions makes corrupt acts particularly damaging.

(ii) *involve public property and power*. Public property may be tangible (e.g. timber) or intangible (e.g. selling knowledge about government negotiating position on timber concessions).

(iii) *are perpetrated for private gain*. Thus, a public official misusing public forests but not deriving private gain (financial or otherwise) from that action is a negligent and incompetent individual (and not free from prosecution) but not a corrupt one.

(iv) *are intentional acts*. A public official that unknowingly uses public forest resources illegally is also a negligent and incompetent individual but not a corrupt one.

(v) *are surreptitious.*

Practically all the illegal activities listed in Box 2 may be affected by corruption. Bribing government officials to bend the rules to produce, for example, fake certificates that would allow otherwise prohibited harvests to take place or plotting to steal government property are corrupt acts. Corruption, benefiting unscrupulous concessionaires, and public officials frequently taint the allocation of timber concession contracts. In forest rich
countries where the government is a principal owner, timber concession schemes have been manipulated to reward political, ethnic or economic allies or to simply enrich corrupt government officials.

Sometimes “petty” corruption is contrasted with “grand” corruption. Petty corruption involves junior officials whose actions, or lack of, can introduce great variations in the bureaucratic procedures. Grand corruption affects top officials of government. Petty corruption can involve a few dollars while grand corruption may consist of payments of very large sums of money. Like in the case of other types of crime, there are degrees of importance, but the fundamental point is that both types of corruption are damaging, although in different ways. Grand corruption has a greater potential to affect basic economic relationships and decisions affecting large economic values. It is also very costly to government and enterprises. Petty corruption may seem less important but the cumulative effect of a large number of small bribes can also be very damaging.

The differentiation between illegal acts in general and corrupt activities may seem inconsequential but there are a couple of reasons why corruption deserves special attention.

The fundamental rationale for giving special attention to corrupt actions in the forestry sector is that those actions undermine the apparatus of government. This is critical in a sector -- such as the forestry sector -- that generates many social and environmental impacts that call for a strong and “clean” intervention from the state. If the government is corrupt, there is little hope that illegal operations by other actors in the economy will ever be controlled. One thing is to have a committed government trying to impose the law and perhaps failing because of lack or resources, and another is a government that itself participates in breaking the law. Controlling forest corruption thus goes to the very heart of strategies for improving the forestry sector governance condition of a country.

However, and leaving ethical qualms aside, some analysts attempt to justify corruption on several grounds.

For example, it is maintained that corruption is in some cases part of the “culture” of the country and that therefore is acceptable to most. That corruption is socially acceptable and part of the culture of a country does not resist even superficial analysis. If this were the case, these acts would be carried out in the open, not in surreptitious ways. In countries were illegalities and corruption are rampant, the public overwhelmingly detest their occurrence as illegalities generally favour those few individuals that enjoy power and control but are suffered by the vast majority of those that are poor and powerless. In certain countries where corruption was widely assumed to be tolerated, illegal abuses by the ruling class have brought down governments.

Defeatist arguments tend to justify corruption “because it is everywhere and is uncontrollable”, and that “like sin, is part of the human nature”. If this reasoning were applied to crime in general or to illness, which are everywhere and associated with human existence, the logical consequence would be that no efforts would be carried out to control these social and medical problems. Like general crime and illness, corruption can be controlled if determined efforts are carried out.

Then, it is also argued that corruption allows economic actors to get around absurd, complicated and incoherent administrative requirements imposed by an inefficient and excessively bureaucratic government. In this view, corruption is the “grease of development” equivalent to economic liberalization of economic activity, allowing enterprises to operate at higher levels of efficiency, unencumbered by unnecessary government regulation.

However, this argument has been thoroughly discredited by research that proves that corruption leads to anything but economic efficiency. A corrupt system that tolerates bribes, is much more likely to create new laws and regulations that empower executives in the public sector with additional decision making authority and thus in turn increase their capacity to extract further and higher bribes. Far from being an exogenously generated phenomenon, corruption is endogenous to the system and self-sustaining. It also shows a tendency to grow as a system of governance (or lack of) of the forest sector. Corruption is not completely exogenous but instead creates endogenous vicious circles of self perpetuation and multiplication. Firms may find that the cost
of obtaining a government permit, or go around that permit, may increase rapidly, thus adding further incentives for short term cut and run operations that yield higher profits (Tanzi, 1998).  

Other common arguments for accepting corruption, all of them biased or deeply flawed are listed in Box 3. 

**Why should be worry about forest crime?**

Aside from ethical implications, operating outside the law unfortunately creates a host of negative impacts on various aspects of the economic and political environment of a country, including at least: i) the economy, ii) the poor, and iii) the quality of forest management.
Economic impacts

While there are no comprehensive assessments of the effects of illegal acts on the economy of the forest sector, various macro evaluations and analyses in other sectors reveal that illegal practices produce several negative outcomes on the economy. There is no reason to believe that consequences in the forestry sector would be at variance with these general findings.

For example, in evaluating developmental success and failure in 94 industrial and developing countries over 30 years, the 1997 World Development Report of the World Bank, concluded that the “determining factor …is the effectiveness of the State” and that there was a clear correlation between good policies and stable institutions on one hand and economic growth on the other.

The report emphasises that the rule of law and control of corruption are key components of and are correlated with good governance4. Illegal acts undermine the effectiveness of the state and therefore it is likely that they will generate undesirable economic impacts. Macro analyses also show that there is a significant simple correlation between governance and various desirable outcomes of development such as lower infant mortality, higher per capita income, literacy, and life expectancy (Thomas et al, 2000).

There are several reasons for illegal activities to undermine economic efficiency. Among these:

- Lower propensity to invest in long term options. In an environment where the rule of law is weak, investment risks tend to be higher. Higher levels of risk make investors demand higher and faster financial returns and thus discourage investments in long-term options, such as those related to forest management which require extended periods of time to mature (Kaufmann, 1997). Understandably, entrepreneurs will be reluctant to invest in forest management practices that will produce returns in an uncertain far future. Second, another reason for reduced investment in long term options is that when illegal opportunities are easily accessible, they render a higher profit and therefore are preferred by entrepreneurs. For example, it is hardly surprising that concessionaires will be reluctant to invest in sustainable forest management practices if instead they can steal wood with impunity. In an economic sense, resources in these circumstances become abundant and there is no clear economic rationale on the part of the concessionaire to invest in conserving them or utilize them with a view to their long-term sustainability. In these circumstances, abundant timber is wasted (Southgate, 1998; Newel et al, 2000). Furthermore, when illegalities go unpunished, dishonest operators can effectively drive responsible firms from the market. Furthermore, profits from illegal forest operations are likely to be sent abroad thus negating investments in productive operations in the country.

- Illegal activities depress the market value of forest products and thus reduce the profitability of forest investments. Illegal logging makes logs abundant, as essentially they are a free good for the illegal logger. Should illegal logging be suppressed, investments in forest management would become more attractive.

- Misallocation of investments. Not only the level of investment may be low but also whatever is invested may be in less desirable options. For example, responsible foreign investors may shy away from countries where illegalities are common. But this same environment may attract unscrupulous corporations. Similarly, government decisions influenced by bribes will only by chance coincide with those that most benefit the country’s priorities. For example, equipment for the forest administration may not be well suited to the conditions of the country but chosen nevertheless because of corrupt deals. Large capital-intensive projects are preferred, independently of their economic impact, because they make it easier to skim off substantial sums.

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4 Governance is “the exercise of authority through formal and informal traditions and institutions for the common good. Governance includes three broad categories (a) voice and accountability, which includes civil liberties and freedom of the press, and political stability (b) government effectiveness, which includes the quality of policy making and public service delivery, and the lack of regulatory burden; and (c) rule of law, which includes protection of property rights and independence of the judiciary, and control of corruption” (Thomas et al, 2000)
Illegal acts reduce government income. Forestry Administrations in developing countries and in transition economies operate under a perpetual shortage of funds. Tax evasion and unrealistically low stumpage charges diminish government income that could have been used to promote a better management of forest resources.

Reduced international technical and financial assistance. Some argue that international donors tend to shy away from forest projects and programmes in countries where law enforcement is weak. If this is so, political support for international aid is put at risk. Some institutions such as the World Bank and the International Monetary Fund have been known to withdraw financial support to countries where forest law enforcement is not adequate.

Poverty Impacts

Initially, landless peasants invading public or private lands benefit from poor law enforcement. In some cases, illegal forest operations are their sole means of survival. However, the same environment that allows this to happen also generates a host of other long-term effects that eventually hurt the poor. First, if poor law enforcement is systemic and impairs economic growth, then the poor are likely to suffer the most. When economic expansion is slow, the state may is less inclined to provide public services such as training and extension or subsidized inputs to the poor (Thomas et al, 2000).

While the ability to capture parts of the state is within the possibilities of powerful economic interests, it is beyond the reach of the very poor that are unable to negotiate large operations and pay substantial bribes to benefit from corrupt deals. Thus, the capture of the state by economic and political interests is likely to lead to greater inequality and possibly to a deterioration of the condition of the poor. Given their lack of political influence, the poor may be asked to pay proportionally more than the rich to obtain government services in corrupt environments. For example, research shows that poor households in Ecuador proportionately must spend three times more in bribes than the rich to obtain access to public services. In some cases, public officials, abusing their power, are able to extort money from the disadvantaged for getting access to forest goods and services (such as fuelwood or hunting) that are granted to them by law (World Bank, 1997).

Moreover, the proliferation of illegal logging and other illicit activities affects the poor because those activities may take place in areas that are vital for rural subsistence. Illegal activities reduce the quality of forests or result in outright deforestation thus depriving local populations from an important source of agricultural implements, construction materials, medicines, and fuelwood. In addition, food insecurity is certain to increase, as many of the poorest communities depend on the forests for their subsistence. Sources of local income and employment are also bound to be lost (see, for example, Global Witness, 2001).

The quality of forest management

Given that forest laws aim at the sustainable management of forest resources, illegal acts lead to unsustainable practices and to losses of the various environmental, economic and social services of forests. Many of the environmental services of forests are not transacted in markets. Since they do not have market prices, the private sector will not produce them in sufficient amounts. However, these values of forests are of importance to society. Thus, the government must intervene to establish rules of the game and incentives to prod private initiative in the direction of society’s objectives. Most countries have laws aimed at sustainable forest management that require operators in the sector to utilize forests in ways that would ensure their renewal. However, while sustainable natural forest management can be profitable in many instances, unsustainable illegal practices are even more profitable (Contreras-Hermosilla, 1999). When governments are unable or

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5 For example, a survey of more than 1000 enterprise managers operating in Albania, Georgia and Latvia indicates that many would prefer to pay higher taxes rather than deal with bribery in government. Instead, because of corruption, lost government income is considerable in these three countries (World Bank, 1998). Of course the counterargument to this is that if the government is utterly inefficient then it may be better that tax evasion money remains in private pockets.
unwilling to enforce the law, operators will evade regulations simply because they carry costs that can be avoided.

Forests are the largest terrestrial ecosystem and therefore are the largest reservoir of plants, animals and biodiversity on land. They protect watersheds and have important effects on agricultural, production and fisheries. As such they have a profound influence on the human habitat, locally and globally. However, these services of forests are lost when illegal logging and unsustainable harvesting takes place.

Summarizing, the impacts of weak law enforcement on forest governance, economic efficiency, forest management and equity are numerous and mostly negative. Forest crime undermines the state’s capacity to impose law and order in the sector. It undercuts economic efficiency because it leads to the wrong decisions and mistaken allocation of scarce economic resources. It also goes against the quality of forest management because it favours the unsustainable utilization of public forests for private gain rather than for national benefit. Since corruption tends to hurt the poorest, the fabric of society suffers. The poor perceive government as unfair, favouring those that already have much and hurting the destitute.

What causes illegal acts in the forest sector?

Evidently, a proper understanding of the causes of illegal acts in the forest sector is needed to organise effective actions to counter forest crime. However, this aspect of forest governance has yet to be studied in the forest sector. Hypotheses and concepts discussed below are yet to be substantiated by empirical evidence.

Legal or Illegal?

Governments enact laws to foster behaviour that is deemed desirable or “good” or that advances the “public good”. But largely the “public good” is a concept laden with value judgements. What is good and should constitute an objective of society to be pursued by appropriate legislation may differ from country to country.

Therefore, a first question that arises in discussing causes of illegal acts in the forest sector is the definition of what is legal and what is not. What is illegal in a country may be legal in another. There are no universally accepted standards that would allow an objective classification, accepted by all, clearly separating legal acts from those that are illegal.

Of course, this is a matter of degree. The value of certain forest services, such as the protection of soil and water, are of a more generalised acceptance. Others, such as protection of indigenous values or the strict preservation of remaining primary forests, are characterised by less agreement. For example, some countries may wish to use large areas of their remaining primary forests for agricultural development while others may prefer to leave them untouched in their pristine condition, for future generations. Certain countries’ laws completely ignore customary rights of indigenous populations, while others attach great importance to them. Laws in both types of countries would thus differ and so would their definitions of illegal acts. In some, occupying traditional lands and exploiting their resources, or opening up lands for agriculture, would not constitute illegal acts. In others, those acts would be explicitly condemned by legislation simply because societal objectives and values are different. It is impossible to say which country’s objectives are the “right” ones and that therefore they should prevail.

While this may sound reasonable, the debate on illegal forest activities is both dominated and encumbered by a desire to impose certain values, considered of global validity, on all countries. To a certain extent, this is motivated by the fact that countries and their forest resources are interdependent. Forest fires tolerated in one country affect negatively its neighbours. A government trampling with the traditional rights of indigenous populations may offend sensitivities in other nations. Therefore, it is felt, some global rules of the game should be imposed. But because governments are reluctant to limit their sovereignty so that global values can be satisfied, agreement of global values is elusive. What the international community -- anxious to reach agreement on what these global values should be -- may consider as undesirable and therefore as a candidate
for prohibition and condemnation as an illegal activity, may not coincide with the values that are prevalent in a particular country.

Ideally, universal values would be accepted. For example, that country laws should be geared to protecting customary rights of indigenous peoples and to preserving remaining primary forests. This has not happen in reality and therefore, many of the discussions of what is illegal and what is not, are clouded by personal value judgements and ethical perceptions of what is “good” and should be pursued by legislation and what is “bad” and should therefore be prohibited or restricted by law.

Unbundling causes.

Empirical studies face the difficulty of “unbundling” causes, i.e. the separation of factors causing illegal acts from other forms of institutional inefficiency (poor financing, low implementation capacity, low stability of forest staff in their positions, etc). Also, the fundamental causes of forest crime are rooted in structural factors, such as power inequalities and the prevalence of democratic institutions, that are difficult to analyse.

While at this point it is impossible to completely disentangle the complex interactions and causality chains that determine the incidence of forest illegal acts and their variation across countries or regions, it is possible to advance some of the factors that probably contribute to creating favourable conditions for illegal acts and forest crime to proliferate. Each of these underlying factors is probably insufficient to generate conditions that could be favourable to the propagation of illegal acts. Rather, their interaction, mutually reinforcing in many cases, is likely to create an environment that is propitious to forest crime.

The underlying factors that facilitate illegal actions in the forest sector can be classified in i) faulty legal system, ii) insufficient knowledge and poor knowledge management, iii) excessive discretionary power in both the public and private sector, iv) poor implementation capacity of the public forest administration and enforcement agencies and v) lack of transparency (see box 4).
Failures of the law

The law is a means to implement policy priorities and not an end in itself. Unfortunately, in some cases, the law is flawed and the correspondence between policy priorities and legislation is less than perfect. When this happens, the legal system is fundamentally flawed and achieving better law enforcement does not always lead to better governance and better forest management or to the realization of other policy priorities. When this lack of correspondence is present, laws may be oriented towards the “wrong” objectives. For example, the law may seek sector economic expansion only, sacrificing in the process other national policy objectives such as the conservation of forests or their utilization to improve the condition of the poor. Or the law may go against deeply held values, such as traditional rights of local communities. In this sense, not all legal acts are perceived as “legitimate”, because they may disproportionately and unfairly hurt disadvantaged groups such as forest dependent or indigenous peoples. In these circumstances, the incentives to avoid the law are powerful. People will always find the way around laws that they do not support.

In other situations, the legal system may be inconsistent, with some laws promoting certain objectives and others aiming in the opposite direction. Furthermore, linkages between the forest law and other related legal texts, such as those governing land ownership, environmental, mining and trade laws, may open inducements
and opportunities for forest illegal acts. For example, agricultural or land ownership legislation may favour illegal deforestation that is prohibited by forest legislation. Thus, in some legal texts, proof of substantive presence has been a key factor in obtaining legal land ownership. Since an easy way to demonstrate presence is to burn the forest and plant agricultural crops, land-titling policies led to illegal deforestation in many countries. Latin American governments’ initiatives to support settlement, agricultural expansion and cattle ranching in agricultural frontier areas during the sixties and seventies unintentionally led to a proliferation of illegal activities affecting forests. One of the lessons of the POLONORESTE project in Brazil was that it was necessary to ensure that institutional and enforcement capabilities were in place before embarking massive development of agricultural frontier areas. Similarly, policies for mining and oil exploration, or for infrastructure development are among those that cause greatest damage to forest by increasing the propensity to commit illegal acts in the forest sector. For instance, the increasing accessibility to forest resources from new mining roads facilitates the illegal entry of landless populations to public forest resource areas. The legal system affecting forest resources needs to achieve a level of overall harmony or inconsistencies may materialize, giving both opportunities and incentives to avoid regulations.

In many cases, laws contain objectives that are not commensurate with the resources actors can muster to achieve these objectives. For example, in some cases the law requests formal forest management plans as a precondition for exploiting forests. However, some forest dependent poor people may lack the knowledge or financial resources to hire a professional to produce such plans. In these circumstances, forests will be exploited against the prescriptions of the law simply because the law is unrealistic.

Frequently laws are also obscure in the sense that they are ambiguous, difficult to understand and with unclear prescriptions for behaviour. In Bangladesh the original forest law was issued in 1927 and many amendments have been passed since then and rural courts appeared to make decisions based on versions compiled decades before. Kosovo had laws written in Albanian, Serbian and English from its days as an autonomous region of Yugoslavia, from when autonomy was revoked and since the establishment of the United Nations administration respectively. Translations were poor and the new laws were written without a full understanding of the older laws (Rosenbaum, 2002). At the opposite extreme, sometimes laws are passed but their operational norms are never issued thus causing uncertainty on how legal prescriptions should be applied in practice. Imprecise and obscure laws invite arbitrary interpretation and are more susceptible to abuse by those that have the power to interpret these rules.

Also, it is reasonable to expect that there will be a greater propensity to operate outside the law when net economic rewards of doing so are likely to be considerable while punishment is inconsequential. This situation arises when the law sets financial penalties in fixed monetary terms that quickly lose their meaning through time as inflation reduces their real value.

Laws also may be faulty in the sense that they may not make use of the most efficient and effective instruments to promote the use of scarce resources to achieve national policy objectives. For example, costly and administratively complex command and control instruments may be favoured when market approaches may do a better job. If this is the case, the propensity to avoid the law may increase.

In consequence, forest illegal acts may take place because the system of laws in a country is inconsistent either with national objectives or with the objectives of related laws; is unrealistic because objectives are unfeasible given available resources; or depends on inefficient or ineffective policy instruments. If these problems arise, illegal acts may in a sense be “tolerable” as main actors may be unable to follow the law even if they wanted to do so.
Insufficient information and inadequate knowledge management

Illegal acts are also caused by imperfect knowledge. Knowledge about the attributes of forest resources is generally imperfect in forest rich developing countries. Volumes, quality of forest resources, the distribution of species and their geographical location are only partially known. Forest inventories and forest management plans are either inadequate or non-existent. Governments may have clear boundaries on paper for their national parks and reserves but these limits are seldom demarcated on the ground. Peasants or companies entering these lands may not even know that they are trespassing. The lack of clear and known property lines reduces deterrence and makes prosecution a very difficult task.

In all these cases, a baseline that would allow monitoring changes in the forest condition is inexistent. Loggers and other users of forests can enter forest lands and extract valuable trees or other products and these interventions may go unnoticed for long periods. In absence of a knowledge baseline, it is difficult to monitor changes and gather the necessary evidence to indict and prosecute those that do not comply with the law.

The chances of detecting international forest-related crime are also impaired by the different standards and definitions used in customs procedures in different countries. This lack of homogeneity makes the transfer of knowledge between customs officials difficult and weakens the capacity to trace the movement and changes in value of internationally traded forest products.

Even when information is available, it is common to find that this information flows slowly between government agencies and therefore it has reduced value in terms of providing a basis for decision-making and administration of forest resources. There have been cases of land reform agencies giving land titles in national parks because of an imperfect communication with national forest services.

Information also needs to be translated into terms that can be easily understood by the public. A well informed public is likely to demand a greater say in the way national forest resources are managed, particularly if the benefits of legal use or the costs of illegal operations are highlighted.

Monopoly power in private sector decisions and excessive discretionary power in public decisions

Excessive discretionary power in decisions by public officials, such as the arbitrary and unaccountable awarding of timber concession and procurement contracts, obscure and subjective promotion of staff and so on, invite corruption. As mentioned, in these situations, decision makers have an additional incentive to create more rules that would allow them to increase their discretionary power, thus generating a self-feeding mechanism that fosters illegal actions.

The counterpart in the private sector is monopoly power. Monopoly power here is understood as the overwhelming dominance of one or few companies in the markets for inputs and outputs related to forest production and marketing. Monopoly conditions have a propensity to foster illegal acts as concentration of economic power in the sector goes hand in hand with the ability to wield great political influence. In countries where there is a significant concentration of economic and political power, there is a higher risk that dominant interests will gain control of the sector, sometimes acquiring the ability to manipulate key decisions made by the government.

The potential problems associated with very large industrial operations that can wield substantial monopoly power in the economy are acute when industrial capacity exceeds by a large margin the physical ability of

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6 The distinction between information and knowledge is not always clear. Information is normally understood as a logical organization of data while knowledge is something that is believed to be true and that it works in practice. Thus, knowledge may be information combined with experience, reflection and reference to specific contexts. There is no agreement on what knowledge management is either. Many prefer to use the terms “knowledge sharing” as a better reflection of the meaning of the concept.
forest resources to provide raw materials. In these cases, the considerable economic and political influence of large industry creates an enormous pressure for obtaining wood raw materials in illegal ways to keep expensive factories running (Barr, 2000).

Limited capacity of public forest administration and enforcement agencies

In many forest rich developing countries, the government assumes enormous powers in the management of forest resources. In most cases, the government is either the owner of the nation’s forests or assumes unlimited control of their management. However, government institutions, entrusted with these great responsibilities are generally unable to discharge them. Forest public administrations are understaffed and affected by budgetary shortages and there is a large disconnect between what the government is supposed to accomplish and its actual performance. In this environment the propensity to engage in forest crime is high. When public institutions are not strong, the probability of detection is low and prosecution may be impaired by weak evidence and inefficiencies of the police and the judiciary. For example, crimes committed in the forestry sector may not be subject of prosecution because the judiciary and the police force may be ineffective. Accountability in these cases tends to be very low and the potential rewards of illegalities may abundantly exceed its probable costs, with the result that the inducements to forest crime are powerful.

Also, in these countries, either because of the lack of resources of the public forest administration or of land titling agencies, forestland legal ownership rights are often unclear or absent altogether. Moreover, government forest officers in charge of decisions that involve large financial values are on comparatively humble salaries. If this is the case, the propensity for malfeasance in these circumstances may increase.

Frequently the main executives of the public forest administration are political appointees that must respond to the interests of higher political powers rather than to greater constituencies. Linear authority systems like this facilitate illegal acts if the superior officer is corrupt. A reluctant political appointee can be swiftly removed from his position and replaced by a more pliant one.

Lack of transparency in decisions

Transparency in decision making means easily applicable ways of tracing the logic of such decisions, their consonance with the law as well as who made the decisions. Transparent decisions in both the public and the private sector would make it easier to identify irregular activities and thus, would deter illegalities through easier and accurate monitoring. However, in most cases actions by the forest public administration, other agencies of the government and by private corporations are under a cloud of secrecy that effectively prevents public scrutiny or investigation by government watchdogs. Lack of sufficient transparency translates into low accountability. Often public sector decisions have a logic that is difficult to follow, responsibility is diluted and concealed in complex administrative procedures that are impossible to track and in some case, basic documentation is secreted away or destroyed. Some of the most common practices that corrupt the awarding of concession contracts are described in Box 5. Private sector corporations may employ similar procedures to hide bribes as “facilitation” costs or produce false statements that are difficult to prove wrong. Opportunities for illegal acts increase immensely when the law does not provide for procedures for public disclosure of both private and public sector decisions and operations.
Market demand

High market demand for forest products and high prices produce incentives to operate outside the law. Much of the recent debate on illegal forest acts centres on the responsibility that consumer countries have in making sure that their imports of wood and wood products are legally sourced. The argument is that if importing countries closed their market to all wood that cannot be certified as originating in legal sources, then wood now illegally harvested for export could not be sold. Currently even if illegal wood could be tracked accurately in international markets, none of the main industrialised consuming countries has legislation in place that would allow them to confiscate it at port on entry. Some estimates suggest that annual imports of illegally sourced timber into the European Union reach some $1.5 billion. The United States imports some $450 million from Indonesia alone, and as much as 70 percent of that may be illegally sourced (Environmental Investigation Agency-Telapak Indonesia, 2001). As mentioned before, there are a number of logging and trade corporations aggressively and illegally harvesting wood in various forest rich countries, to satisfy large demands in the consuming countries. Of course, the same argument can be applied to national markets. If wood in general could legally and illegally sourced, market demand could be redirected towards legal wood only either by informing the public or by stricter law enforcement.

A strategy for combating illegal practices

The limited experience in the forest sector (and also the substantially more voluminous experience with battling illegal acts and corruption in other sectors) shows that a strategy for fighting illegal practices must first address the first question of whether there is a reasonable probability that reforms will in fact be implemented in the forest sector. This is because in some situations the government simply may be unwilling to undertake reforms to deal with the problem of illegalities. Political commitment to reform is essential and government must have “ownership” of the reforms process. The experience acquired in Cambodia, where the government committed itself to support policy changes addressing the widespread problem of illegal logging in the country and to back action by an international monitor (Global Witness) shows that combating forest crime can suffer many setbacks when vested interests opposed to reform organise themselves. The tactics may change but not the substance of law enforcement.

Second, and assuming that the assessment of the country’s political climate and determination to control forest crime indicates that interventions have a reasonable probability of success, then specific actions to address the factors facilitating forest illegal activities above can be organised. These actions can be broadly grouped into

BOX 5

Common corrupt practices in awarding concession and procurement contracts

- Artificially increasing discretion in awarding contracts. For example by splitting contracts into smaller subcontracts and thus circumventing requirement of higher-level approval.
- Restricting information about the contract to let preferred parties increase their monopoly power.
- Establishing unnecessary pre-qualification requirements that can only be satisfied by the preferred party.
- Tailoring specifications that only a preferred party can satisfy.
- Leaking confidential information about supposedly competitive bids to preferred party.
- Distorting the evaluation phase of bids by introducing unclear criteria for selection and obscure exceptions to the contract award rules.
- Potential bidders entering into collusive arrangements.
- Potential bidders offering bribes to bid evaluators.
- Potential bidders offer unrealistic performance to win the bid and then offer bribes to controllers to avoid penalties.
- Drafting ambiguous bidding and contract rules to increase discretionary power of decision makers.

Based on Wesberry, 2001.

This section is largely based on an FAO paper and on the discussions during a FAO-sponsored meeting in Rome in January 2002. (See Contreras-Hermosilla, 2002; and FAO, 2002 forthcoming)
three groups aiming respectively at i) preventing illegal acts by changing the system of incentives (negative and positive) to modify behaviour, ii) detecting forest crime in an effective and fast manner and, iii) organizing fast and determined actions for suppressing illegal actions.

Ideally, illegal acts would be combated primarily by preventing their occurrence. Perfect knowledge about the need to impose society’s values over private gain and the consequences of not doing so, as well as setting up proper incentives for aligning private action with the public good would significantly reduce the propensity for illegal acts. But reducing these propensities to commit forest crime is not enough. Measures must be accompanied by the prospect of punishment when the law is broken. In turn, law enforcement, to be effective, needs to rest on a capacity to monitor what is happening in the sector, on the ability to separate actions that are legal from those that are not, as well as on effective means to impose regulations by inflicting adequate punishment on those that do not comply with the rules.

The functions of preventing, improving detection and suppression of forest illegal acts have mutual dependencies and reinforce each other. For example, knowledge of the existence of an efficient system to suppress forest crime is in itself a powerful deterrent. The same is true if potential illegal actors know that the country counts with an effective structure to monitor what is happening in forest areas. Likewise, a good detection mechanism would facilitate proper enforcement of the law by providing early knowledge of the crimes being committed as well as solid evidence that would facilitate arrest and prosecution. Because of these interactions, the categories of possible reform actions should not be seen as individually effective solutions to the problem of illegal activities in the forest sector but rather as components of an integrated policy and legal reform package.

**Governance environment**

Whether democratically elected or not, the government has the unique power to make people do or not do certain things. No other institution in society has this far-reaching ability to shape and, if necessary compel behaviour. Thus, the probability of success in addressing illegal acts in the forestry sector will depend on the governance features of the country. Furthermore, since the forestry sector does not operate in complete isolation from other sectors, enhancing forest law compliance depends heavily on actions by the judiciary, the law enforcement agencies, (police, the army, etc) and so on. Thus, the question arises of whether illegal activities can be combated in the forestry sector when the government apparatus and related sectors are widely affected by corruption or by their incapacity to provide effective services.

Experience shows that when illegal activities are common and corruption permeates the government apparatus, it is difficult to change the situation in a single sector. In these cases, government-wide reforms may be needed and perhaps sweeping political changes as well. Otherwise, reforms in the forestry sector will probably be short-lived: actions in the absence of an integrated reform program have shown a tendency to reversal (Johnston and Doig, 1999, World Bank, 1997).

But because country situations are so diverse, difficulty does not necessarily mean impossibility. There are countries affected in the past by widespread abuse of the law that are making good progress in combating illegal practices in the forestry sector. And if the forestry sector is large relative to the size of the national economy, such as is in Cambodia or Indonesia, combating forest illegal operations may produce a pull for the rest of the government to fall into line. On the other hand, if the forest sector is small and the government is corrupt, the probabilities of success dim.

Furthermore, not all situations are extreme and there are degrees of pervasiveness of illegal acts. When illegal acts are less prevalent, reforms may render desirable results.

Various other factors of the governance situation are relevant. For example, since there is correlation between the existence of effective democratic institutions and law enforcement, the question is to what extent would political forces allow for participation and consultation in decisions related to the forestry sector. Or is the
government dominated by an authoritarian regime that does not tolerate dissent? To what extent is the press free to report instances of illegal acts? Is the judiciary sufficiently independent? Are the policy and the army free from corruption?

In practice, the measurement of illegal acts and corruption are difficult undertakings. In many cases, it is not clear what one would want to measure as proxies for illegalities particularly considering that in some cases there are flaws in the law that may make those acts unavoidable or even legitimate.

Since corruption is widely perceived as the most serious of illegal acts, several institutions have devoted efforts to measure indirectly its prevalence and effects. The Internet has become a valuable source of information. Also, countrywide surveys are available. The Transparency International index, for example, records the perceptions of corruption in various countries.

**Dealing with factors that facilitate or induce illegal acts in a prevention, detection and suppression framework (PDS)**

The various interactions between policy reforms aimed at reducing the impact of factors that facilitate forest crime in the context of prevention, detection and suppression framework are schematically displayed in the matrix next page. It can be observed that single policy reforms can be used to deal with various of the causes of illegal acts.

Because simple solutions are not realistic, actions in a specific situation should probably encompass a wide spectrum of coordinated reforms. The “cocktail” of actions would vary depending on the context.

**Addressing policy and legal failures**

The policy framework governing the management of the forestry sector must be reasonable and adhering to national objectives. It must be feasible and supported by the public. Furthermore, laws must be consistent with related norms in other linked sectors.
## Examples of Policy Reforms and other Actions to Improve Law Compliance

<table>
<thead>
<tr>
<th>Policies and Laws</th>
<th>Knowledge Management</th>
<th>Discretionary and Monopoly Power</th>
<th>Transparency</th>
<th>Civil Service Reforms</th>
<th>Market Demands</th>
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<tbody>
<tr>
<td><strong>Prevention</strong></td>
<td>Focus on core functions of government and divest</td>
<td>Promote public awareness and better knowledge of the law by all stakeholders</td>
<td>Encourage competition</td>
<td>Support the development and adoption of codes of corporate conduct</td>
<td>Carefully select personnel in charge of forest concessions and procurement</td>
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<td></td>
<td>Strive for realistic rules</td>
<td>Support the development and adoption of codes of corporate conduct</td>
<td>Ensure a balance between industrial demands and the level of the allowable cut</td>
<td>Privatisation</td>
<td>Increase staff remuneration</td>
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<td></td>
<td>Simplify rules</td>
<td>Increase use of market forces in decisions</td>
<td>Consider the reduction of length of concession contracts</td>
<td>Publicise bidding for concession and procurements contracts</td>
<td>De-politicise the public forest administration</td>
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<td></td>
<td>Establish clear property rights</td>
<td>Publicise open bidding for concession and procurements contracts</td>
<td>Split large decisions into smaller ones</td>
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<td>Foster professionalism and advance based on performance</td>
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<td></td>
<td>Introduce safeguards in legislation in related sectors</td>
<td>Consider privatisation</td>
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<td>Promote certification</td>
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<td>Keep balance between industrial demands and availability of wood raw materials</td>
<td>Adopt performance bonds and incentive contracts.</td>
<td>Ensure a balance between industrial demands and the level of the allowable cut</td>
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<td>Privatisation</td>
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<td>Increase the use of market mechanisms to replace administrative decisions</td>
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<td>Increase the use of market forces in decisions</td>
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<td>In drafting law reforms, analyse the potential for future forest crime</td>
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<td>Foster competition</td>
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<td><strong>Detection</strong></td>
<td>Facilitate independent reporting of forest crime</td>
<td>Create baseline information and systems to track changes in the use and quality of forest resources.</td>
<td>Encourage competition</td>
<td>Reform disclosure rules and oversight mechanisms</td>
<td>Support the development and adoption of codes of corporate conduct</td>
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<td>Require forest management plans</td>
<td>Require forest management plans and promote certification</td>
<td>Support the development and adoption of codes of corporate conduct</td>
<td>Form coalitions to complement government action</td>
<td>Obtain a balance between industrial demands and the level of sustainable forest harvest</td>
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<td>Improve statistics on production and trade of forest products</td>
<td>Promote certification</td>
<td>Consider decentralization</td>
<td>Consider the reduction of length of concession contracts</td>
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<td>Use surprise controls to monitor operations</td>
<td>Publicise open bidding for concession and procurements contracts</td>
<td>Consider greater use of the police and the army</td>
<td>Foster the development of buyers groups</td>
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<tr>
<td><strong>Suppression</strong></td>
<td>Establish realistic penalties for forest crime</td>
<td>Require forest management plans and promote certification</td>
<td>Encourage self-policing, adoption of codes of conduct by private sector corporations</td>
<td>Form coalitions to complement government action</td>
<td>Foster agreements to prohibit imports of products that cannot be demonstrated to originate in legal sources</td>
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While the reform of the policy framework will vary from country to country, a basic principle is that it should aim at reducing the need for law enforcement as much as possible. This is achieved by concentrating government action on those areas of activity where it has either a clear comparative advantage or exclusive responsibility, and by minimizing the potential benefits of illegal actions while maximizing their costs. Furthermore, a lesson of experience is that effective law enforcement depends on the involvement of the civil society and the private sector.

The following strategic principles are in order.

(i) **Identify core functions of government and share other functions with the private sector and the civil society:** This reform primarily reduces opportunities and incentives to operate illegally. Frequently governments lay claims to the management of forest resources that are in stark contrast with their limited capacity to implement them. But government should not be the sole responsible for the management of national forest resources. All sectors have a responsibility for following the law and public forest administrations sometimes have an opportunity for government for divesting certain functions and transfer responsibility for forest management to the private sector or to key actors of the civil society that may have a comparative advantage in carrying them. If a comparative advantage exists in the private sector or in institutions of the civil society, the government may consider privatisation schemes of selected areas. Areas where there is prevalence of global or national non-market values such as biodiversity, water, and soil protection, and conservation of the natural heritage, will tend to remain as the main responsibility of the state.

(ii) **Streamline the forestry policy, legislative and regulatory framework:** The application of this concept also contributes to preventing forest crime. Its application involves at least two principles. First, policies should be realistic. Commendable forest policy objectives are irrelevant if they cannot be implemented, and unrealistic policy prescription will force actors to operate illegally. The capacity of the government and actors of the private sector and civil society to pursue them must match the objectives of forest policy and the law. While this concept is rather obvious, it is often overlooked (FAO, 2000). Second, fewer and simpler government rules reduce opportunities for arbitrary interpretation and malfeasance. For example, government procurement based on standardized products (logging trucks, all-terrain vehicles, etc.) provides a benchmark for judging decisions, so that violations to the law can be spotted more easily. Or, if subsidy policies are cancelled, then some opportunities for malfeasance disappear (Rose-Ackerman, 1996). The rule of thumb is ‘keep it simple’. Laws that are too complex and difficult to understand, require complicated and expensive procedures or abrupt reorientation of institutional or social behaviour, run the risk of becoming unenforceable, irrelevant, and open opportunities for corruption and other illegal activities.

To mention an example of how simplification of norms may diminish opportunities for illegal acts, the Bolivian government in reforming its timber concession policies decreed that the concession fee would be $ 1 per hectare per year. The rule is simple and clear: a concession covering 100,000 hectares must pay $ 100,000 in concession fees per year. There is no room for interpretations of modifications of this amount based on doubtful criteria. Monitoring compliance and prosecution is extremely easy. While the economic soundness of charging a uniform fee in various timber concessions that may have a very different commercial value is questionable, the new norm has the undeniable advantage of diminishing the incidence of corruption or arbitrariness in determining concession fees.

(iii) **Establish clear property rights; carry out legal delimitation and demarcation of forestlands:** Vague property rights obviously are not easy to enforce. Indisputable forestland ownership rights are a necessary condition for effective enforcement.

Reformed policies may also focus on obtaining a better coincidence between the traditional rights of local and indigenous populations and the “formal” legal system of forestland ownership and access. This goes
back to the need to establish a better and more realistic agreement between informal, traditional, rights and those of the formal legislation.

When governments ignore traditional rights, this creates not only intense conflicts between claims by indigenous populations and those by the state and loggers, but also great incentives for illegal “cut and run” schemes. Uncertain property rights do not encourage long-term investments in sustainable management. Thus, policy reforms should recognize traditional rights and attempt to devolve responsibility for the management of forestlands to indigenous or traditional communities, with the state concentrating its attention on imposing the various rules that are needed to ensure that the interests of the national society are protected (such as sustainability conditions).

The establishment of clear property rights is not an easy task and it does not come cheap. While new technologies now make it easier to determine the physical parameters of a property on the ground, the legal process to take care of conflicting claims is generally quite complex and time consuming. However, it is hard to see how illegal activities in an environment of land ownership disputes, of weak or non-existing formal property rights.

(iv) Introduce safeguards in legislation in related sectors: Development in related sectors may have an important effect on the propensity for illegal acts in the forest sector. Realization of the negative effects of policies in infrastructure, mining, agriculture and other sectors has led institutions such as the World Bank to consider these impacts in their support to governments and there is a strong case for governments to also include these impacts as a matter of routine in their sector development schemes. For example, infrastructure legislation can include provisions for environmental impact assessments; often, new roads can be redesigned to keep them away a certain distance from protected forest areas thus reducing the possibility of illegal invasion of these areas. The design of a Chad-Cameroon Petroleum Development and Pipeline Project, a multimillion venture supported by the World Bank that includes drilling of some 300 wells and the construction of a pipeline that would cross a variety of ecological zones over more than 1000 kilometres, included detailed environmental and social impact assessments as well as safeguards to minimize environmental and social disruptions. Projects of this magnitude implemented without the necessary safeguards, may lead to large-scale illegal access and to the unnecessary destruction of valuable forest areas.

(v) Strive to keep a reasonable balance between industrial demands and the capacity of the forest to produce the necessary wood raw materials: The law can contain provisions for securing a certain balance between industrial expansion and the capacity of forest resources to provide the needed wood raw materials. This would eliminate an important cause of illegal acts.

(vi) Facilitate independent reporting of forest crime: The law can foster independent detection and reporting of forest crimes by creating incentives for citizens to look for, detect and provide testimony for illegal acts. In certain cases the law can provide for protecting for whistleblowers or for rewards such as a substantial proportion of the monetary value recuperated being given to those that detect, report and document illegal activities.

Reporting may originate in many different ways, by officers of the government or by private individuals or corporations. Formal and confidential reports or informal leaking of information to the press are established avenues for whistleblowers to operate. Formal reports by government officers may be more problematic in terms of their notions of loyalty to superiors, the institution and colleagues. The reporter’s prospects for career advancement may be damaged. Anonymous reporting may solve some of these problems but in many cases governments do not allow to initiate action on anonymous reports, because of the obvious possibilities for abuse. Regulations that mandate reporting, as well as statutory protection for the reporter, may contribute to reduce possible reticence to uncover illegal acts.
Whistleblower schemes require an adequate capacity on the part of the law enforcement agency to investigate a large number of allegations.

(vii) Establish realistic penalties: The problem of financial penalties losing their real value because of inflation is so common that in many cases, it may be advisable to legislate on how penalties will be set and what procedures will have to be followed in order to preserve their force. Ideally, penalties should be commensurate with the offence committed. In some countries illegal products are confiscated as well as the equipment associated with the crime such as trucks, sawmills and so on. In addition, fines can be imposed as well. Governments also have the option of blacklisting companies that commit illegal acts thus barring them from further government contracts. The nature of the crime and the penalties imposed can be widely publicised with the twin purpose of damaging the image of the perpetrator and informing honest operators of the dangers of doing business with the offending company.

One word of caution is necessary. Excessively harsh penalties may not work. Judges may be reluctant to impose penalties that they may be perceived and disproportionate to the gravity of the illegal act committed.

(viii) When possible, increase the use of market mechanisms: In many cases, markets can be used to reduce the discretionary power of government officials, improve transparency, and reduce corruption. For example, if markets are competitive, open and transparent bidding mechanisms can replace administratively determined forest products prices in timber concession contracts.

(ix) When drafting legal reforms, consider the potential to violate future law: Laws that are designed to eliminate opportunities for current forest crimes may inadvertently create incentives for a new breed of future illegalities. Some of these may be more critical than those suppressed by the new law. For example, imposing timber transit controls to suppress illegal harvests create new opportunities for corrupt controllers. As a related theme, it is necessary to analyse how new policies and laws will affect stakeholder groups. In some laws may create new strong vested interests that pursue their objectives through illegal means and which, once entrenched, are difficult to eliminate.

(x) Require forest management plans and foster certification: One of the best ways to secure proper deterrents by facilitating detection of forest crimes is to require the preparation of forest management plans. The knowledge of what is intended to happen in a certain forest and the possibility of contrasting this with what is happening in practice is a powerful deterrent, facilitates detection and prompts action to suppress illegal acts. The Bolivian case shows that even a country affected by lack of financial and human resources can put a large proportion of its forest resources under sustainable forest management plans. The Bolivian case is also interesting because the law required plans that largely coincided with the requirements of independent certification. Thus, the government accepted independent certification as evidence of compliance with the law. A large number of concessionaires and timber owners saw certification as a way to comply with legal requirements but also as a means to secure a market share (if not better prices) in industrialized country markets. Consequently, Bolivia is now the certification leader in the developing world with about a million hectares of forests already certified as being under sustainable forest management (Contreras-Hermosilla and Vargas, 2002).

Addressing insufficient information and inadequate knowledge management

(i) Promote public awareness: An effective way to prevent illegal actions in the forest sector is to increase the general level of knowledge about the features of forest resources, how they are being managed by public and private sector actors and the consequences of illegal schemes on the quality of the resource and the environment, the forest dependent poor and the economy. The civil society and NGOs can effectively contribute to prevent illegalities by expanding public knowledge.
The power of public and international knowledge cannot be underestimated. Although it would be an overstatement to assert that recent policy reforms in Brazil and Cambodia, prohibiting logging of mahogany and logging in general respectively, were due exclusively to a better understanding by government and the public of the consequences of indiscriminate and illegal logging, it is plausible that expanded publicity and the pressure on national and international public opinion had an important role in such decisions. Moreover, world exposure of the illegal logging role in funding the operations of the Khmer Rouge and the civil war in Cambodia is widely credited with triggering a closing of the border with Thailand to prevent illegal trade of Cambodian logs (Global Witness, undated).

Moreover, illegal acts sometimes occur simply because of the ignorance of the provisions of the law and the rationale behind them. Accordingly, better knowledge acquired by all stakeholders should help in the prevention of illegal acts.

(ii) Create baseline information. Carry out resource assessments and link physical changes in resource quantity and quality to human well being: Ignorance about the condition of the forest and how changes of that condition affect human well being evidently do little to prevent, monitor and suppress forest crime. Without knowing the main features of forest resources, their economic, environmental, cultural or social values, there is very little reason for anybody to be concerned about their disappearance or degradation. Illegal forest acts may not be perceived as important enough to deserve greater attention or effort.

Essential elements for preventing, detecting and facilitating suppression of forest crime are: (i) an adequate baseline information and (ii) a mechanism for tracking the evolution of the forest, the movement of forest products and the financial movements associated with production and trade operations.

To help with these tasks, modern technologies, developing at a fast pace and at prices that are more affordable, are now within the reach of most forest services. Remote sensing tools can provide a wealth of knowledge about the condition of forest resources and can detect in real time changes in their condition or provide quick information about developments that may threaten their integrity, such as the illegal construction of penetration roads, or illegal mining operations. While satellite imagery may still be too costly to use on a continuing basis, it is very cost-effective in tracking major disturbances. Furthermore, periodic and relatively inexpensive flights can complement satellite imagery methods to spot illegal operations.

Geographic Positioning Systems is a worldwide radio-navigation system formed by a group of 24 satellites and their ground stations. GPS measures locations on earth by using a satellite triangulation system. GPS receivers are small and very economical making this technology accessible to almost any forest service. Receivers operate under forest canopy. GPS enormously facilitates the identification of property limits, demarcation and legalization of forest lands as well as detection of illegal operations taking place in those lands.

Also, systems have been developed to track logs and forest products from origin to markets (chain of custody). Tracking technologies are available but few governments have yet made serious efforts to introduce them in the forest sector.

Abundant information can help in obtaining public support in combating illegal actions affecting forests. To render this information more effective, it is advisable to translate physical assessments of the quality and quantity of the resource into the effects that these changes will produce on the quality of environment, the economy and the well being of the most affected populations. A good understanding of the consequences of illegal resource use is likely to trigger political support for government as well as private sector action against forest crime (See Box 6).

(iii) Advance the use of forest management plans and certification: As mentioned in the section on measures to reduce policy and legal failures, increase knowledge embodied in forest management plans (baseline
information and intended intervention) provides effective means to monitor the utilization of forest resources and therefore the basis for better enforcement of regulations. The increased use of certification mechanisms can provide similar knowledge and facilitate monitoring particularly if they include chain of custody monitoring (See box 7).

(iv) Improve statistical systems to increase information about production and trade of forest products: Increased knowledge about the forest resources condition can be complemented with information about forest production and trade. Various criminal acts that are not detected at the forest can be noticed at the subsequent stages of transport, industrial processing and trade. An efficient information system able to register data about how forest raw materials are processed and then traded in national and international markets can be a powerful deterrent to forest illegalities involving false declarations of species and volumes used in manufacturing and import and export assessments of value.

For example, comparisons of export quantities and values and corresponding figures registered by importing countries can uncover false volume declarations and underpricing and transfer pricing schemes. If exporters knew a scheme were in place to detect this kind of inconsistencies (and if penalties were harsh), the propensity to produce false declarations would be reduced.

In a similar manner, industrial production of, for example, paper products can be linked to the requirements of wood raw materials. Inconsistencies in input-output relationships can uncover illegal logging. The method, applied to the large pulp and paper industry of Indonesia revealed that as much as 40 percent of industry supplies of wood could not be explained as being legally sourced (See Barr, 2000).

(v) Expand knowledge of operations with surprise controls, and various methods of verifying consistency of information: At the micro level, unannounced inspections to verify compliance with forest management plans can be used. As mentioned, in certain cases, certification by independent entities can substitute for or complement government controls. The examination of tax declarations often can render insights into the operations of private sector entities. And the comparison of declared exports with registered imports in trading countries is a relatively easy way to uncover discrepancies and produce evidence of timber smuggling or fraudulent export declarations.
Dealing with Monopolies and Excessive Discretionary Power

When decisions are concentrated in a few hands and when those decisions can be made with great discretionary latitude and little accountability, the conditions are propitious to the proliferation of forest crime. Possible actions aimed specifically at this problem are the following.

(i) Reduce room for discretionary decisions: Reducing the discretionary power of the public forestry administration staff can prevent illegal acts. This can be done in several ways. Thus, for example, simplification of operational norms reduces the possibility for arbitrary interpretation. Transferring decisions from the public administration to the market also replaces obscure bureaucratic decisions by objective and easily observable criteria. As mentioned before, the use of market processes can reduce discretionary powers and replace them with more objective decisions.

(ii) Encourage competition: Competition for timber concessions or procurement contracts can be encouraged by various means such as establishing open bidding processes with clear rules and specifications, opening competition to international bidders, or increasing the volume of information flowing to potential bidders. Assuring potential bidders of a clean and objective process in awarding contracts can also foster competition. Frequently this may be more credible if an independent agency is contracted to prepare bids and to assess the relative advantages of the various bidders, and if the assessments that determine final decisions are open to public scrutiny. Competition can also be more intense if there is an independent and efficient judiciary that would allow for a fast consideration and resolution of challenges to decisions.

BOX 7: Forest Certification

Some large forest products markets, responding to concerns about deforestation and misuse of global forest resources, are requiring that forest products be certified as originating in sustainably managed forests.

Certification assesses various activities in the forest production chain and corroborates compliance at each stage with certain rules. At present most of the attention is focused on forest management. However, forest products made from raw materials from certified forests are also being certified. Certified products guarantee that sound forest management practices are being employed in the production.

Depending on circumstances, certification may include aspects such as compliance with the law. In other cases, compliance is implicit, as sustainable forest management is frequently a declared forest policy and legislative objective; forests that are certified as being sustainably managed can be safely assumed to be in compliance with the law.

While forest certification is still in its infancy, certified forests may be as much as 90 million hectares world-wide (Bourke, 2001). There are many certification schemes including those of the Forest Stewardship Council, the Pan European Forest Certification Scheme, the ISO 14001 Environmental Management System standard, the Canadian Standards Association and those of the American Forests and Paper’s Association Sustainable Forestry Initiative.

Overwhelmingly, the area of certified forests is still in industrialised countries, obeying to the location of demand for certified products, concentrated in Western Europe and to a less extent in the United States. In major developing markets, such as those of Indonesia and Brazil, internal demand for certified products is much more limited but these countries are also main producers and exporters to Europe and the United States and are thus interested in having their products for the international markets distinguished by certification.

While certification does not appear to guarantee higher export prices, it is of interest to exporters because in many cases it does constitute a growing requisite for international market access. For example, Indonesia developed criteria and indicators for auditing the operations of forest concessionaires and Malaysia formed a National Certification Council which is also establishing a set of criteria and indicators that will facilitate monitoring and evaluation of forest operations in that country (FAO, 2001). At the time of this writing Bolivia had about a million hectares of certified forests, starting practically from zero in 1996 (Contreras and Vargas, 2001). Certification is a promising “soft” policy instrument to promote compliance with the principles of sustainable forest management required in most forest laws around the world.

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(iii) **Split large decisions into smaller ones:** This is another way to encourage competition. In cases where decisions involve massive amount of money and resources, there may be an opportunity for splitting operations and decisions into smaller components. This may expand the number of competitors bidding for a concession or a procurement contract by reducing an important barrier to entry and involve more people in the decisions thus making it more difficult to keep dubious awards secret. Various smaller decisions reduce the comparative power of large companies, which perhaps would have been the only ones with a possibility to bid on larger contracts.

(iv) **Support development and adoption of corporate codes of conduct:** Responsible corporations have an interest in adopting rules of the game that would favour those that follow the law simply because this would level the “playing field”, that is to say it would contribute to eliminating the short term comparative advantage of those that operate outside the law. In a way, the development of codes of conduct is a reaction to the government inability to control illegal acts. It is also a commercially inspired reaction to consumers that may demand products originating in environmentally and socially (and therefore legally) sound sources. Thus, transnational companies that may enjoy monopoly powers in the extraction of forest products in forest rich countries but competitive conditions in their international markets, may be interested in adopting codes of conduct to secure market share. For example, a transnational company from an industrialized country may enjoy monopolistic advantages in a small underdeveloped tropical country where it obtains its raw wood to produce furniture, doors, etc. That company may choose not to abuse this potential advantage in the tropical country and adopt codes of conduct that would assure consumers at home on in its other industrialized country markets that its operations follow the law in the host country. The incentive to do so is largely commercial, particularly if those corporations that ignore legal norms can be identified against the objective framework of the code. The advantage of this type of initiatives is that they do not depend on the ethical undertones of law compliance but rather on the more realistic creation of market incentives to ensure legal actions. Voluntary codes of conduct also get around potential WTO problems.

(v) **Consider privatisation of some responsibilities of the public forest administration:** Some public administration operations can be completely privatised or contracted to private firms. Thus, some countries have entrusted independent agencies of the private sector to control the movement of wood and its export.

(vi) **Reduce length of timber concession contracts:** Long-term concession contracts are usually thought to be essential for respecting the law and implementing long term sustainable forest management plans. However, this result has seldom materialised. Long term contracts effectively discourage competition. Instead, it may be advisable to stimulate more competitive market conditions and grant concessions for a limited period only but with the proviso that they will be extended if the concessionaire satisfies or exceeds transparent standards of performance. This would subject all concessionaires to market forces generating incentives for following the law.

(vii) **Encourage incentive contracts, performance bonds:** Changing rewards and penalties in dealing with monopolistic enterprises may go a long way in altering their behaviour. Contracts that reward companies that perform above standards, may include a favourable treatment in the awarding of future contracts, a differential tax treatment or a public recognition of commendable corporate efforts to comply with legal standards. These measures can be simultaneously tied to increased penalties and policies for non-compliance, such as those requiring “performance bonds” that explicitly link monetary penalties to contract implementation indicators, imposing severe criminal sanctions, and publicly “black-listing” companies that choose to disregard the law. Publicity used to damage company name and image can be an effective deterrent as reputation is an important part of the “intangible” assets of commercial corporations.
Increasing transparency and accountability

(i) Increase transparency and accountability in decisions by public and private sector officials: Greater transparency of decisions by the Public Forest Administration can be achieved through several means, for example, by requiring the administration to hold public hearings on its operations, where interested parties can freely demand information. Independent audits can also force the application of transparent budgetary and expenditure processes. The new in depth governance and corruption surveys of public officials, corporations and citizens provide a tool to identify concrete cases of illegal activities and therefore to increase deterrence. The open bidding processes and the use of independent monitors as well as rules that force disclosure of public and private records mentioned before are all policies that also increase transparency.

(ii) Reform disclosure rules and strengthen oversight mechanisms: Greater transparency in government and private sector operations can be achieved by strengthening the three oversight mechanisms of auditing, inspecting and investigating. The law can be reformed to demand that information on key decisions be given to the public. Public hearings can be held at regular intervals to report major decisions and activities of the forest public administration. This is in addition to habitual audits that also can be effective in introducing greater transparency in decisions. The prospect of independent inspections of documentation can be an useful deterrent. Modern investigative tools such as corruption surveys and computer-assisted detection of patterns of illicit behaviour (for example in procurement) can also help in increasing the transparency of decisions and in preventing illegal acts.

In some cases, rather simple procedures and publicity can deter crime. For example, Poder Ciudadano, the Argentine Chapter of Transparency International promoted accountability in procurement by simply comparing prices of standard good purchased by various agencies. Results showing substantial variations between agencies were published on the Internet and this later led to a considerable drop in the prices of goods procured.

Certain corporations have pledged to disclose the detail of their operations to the public and some, proud of their record, make quite effort to publicise the nature of their operations. This creates pressure for other corporations to do the same. Mechanisms such as certification help in increasing the transparency of operations of private corporations.

(iii) Form coalitions to complement government action: NGOs are particularly effective in forcing greater transparency in forest management, industrial production and trade. In some cases, coalitions of NGOs or of NGOs plus government or private sector actors can be formed to monitor and force action for the suppression of forest crime. The action of Global Witness in Cambodia working in joint programmes with government agencies and international assistance agencies is an example of this concerted action.

Civil service reform

Even with perfect laws, adequate knowledge, competitive markets and transparent decisions, forest institutions may be inadequate to ensure law compliance.

(i) Provide for increased administrative checks and balances.

In some cases, it may be advisable to purposely generate overlaps between agencies thus reducing the discretionary power on one single agency. For example, forest guards may control the transport of forest products but this could also be done by the regular police force. Collusion in these circumstances is less likely (although, unfortunately, not impossible: operators may have to pay bribes twice). Also, the probability of illegal acts going undetected diminishes. This may act as a deterrent for public administration officers inclined to engage in corrupt acts.
(ii) De-politicise the Public Forest Administration: Because in many cases forest authorities are political appointees that are susceptible to higher-level pressure to circumvent the law, some countries have designed procedures to increase the autonomy of forest authorities.

Forest services can be shielded from excessive political interference by designing rules that would advance meritocracy. For example, a new forestry law in Bolivia prescribes the head of the forest public administration must be designated by the President who in turn can only chose from a list of three names provided by the Congress. The head of the administration is appointed for 6 years thus straddling the presidential period, which is 5 years. This procedure avoids undesirable political interference that in the past made the position very unstable and subject to pressure from narrow vested interests.

In other cases, high level officers can be mandated to declare and make public their wealth so that styles of personal expenditure can be contrasted for consistency with their level of income. If discrepancies are detected, the burden of explaining them may rest with the public officer.

(iii) Increase salaries of the Public Forest Administration staff: This theme is introduced with a question mark because while there is a generalized belief that public sector servant commit illegal acts pushed by meagre salaries, there is little evidence that this is fact the case (Shand and Sohail, 2001). It is probably true that poor salaries make the costs of losing a job rather low and that in these circumstances the propensity to accept bribes increases. However, while higher salaries may be a necessary condition to reduce illegal acts by public officials, it is not a sufficient one. The best-paid officials are sometimes the most corrupt: an official with a good salary may demand higher bribes to offset the risk of losing the job, if caught. While, no doubt, in certain countries higher salaries for forestry staff may be warranted, this alone is unlikely to lead to a reduction of illegal acts by officers of the public administration. In addition, higher salaries for public officials clash with the prescriptions of most adjustment programs. Higher salaries, while advisable, are only part of a much more complex response to fighting illegal acts.

(iv) Privatise: Privatisation can not only be an instrument for increasing transparency but also for divesting certain functions, diminishing the administrative burden of the public forest administration. Policy reformers must identify the “core” functions of the forest public forest administration, those that no other institution can perform adequately and that therefore must remain as part of the central responsibility of the state. Broadly, government institutions should not do things which individuals or corporations are doing already or have a comparative advantage to do better. Concentrating on these functions would free resources to improve efficiency and to design better laws and ensure better compliance.

However, privatisation carries it own risks of illegalities. The very act of privatisation can be corrupted and therefore the appropriate safeguards must be in place to avoid these dangers.
(v) **Decentralise**: Centralised government forest institutions generally lead to disappointing results. Centralisation is often associated with a lack of transparency in decision-making, with corruption and a lack of enthusiasm for participatory schemes that would contribute to establishing a proper system of checks and balances. With decentralisation, decisions have the potential of being more sensitive to local conditions and some of the local talents can be exploited to a greater extent. Good governments are closer to the people and thus the rationale for decentralization is closely related to questions of local political participation and democracy, often sought as political objectives per se, but also because of their potential to control illegal acts. With decentralization, there is a possibility for greater coincidence between traditional rights and formal norms imposed by government, thus reducing an incentive to deviate from the law. Decentralised schemes offer opportunities for resisting political interference from the centre, more transparency in decision-making and less corruption.

As local constituencies derive greater benefits for forests, rather than having financial proceeds sent to the central government, these approaches have the potential advantage of promoting greater accountability.

(vi) **Engage law enforcement agencies and the army**: Suppression of illegal forest acts is a dangerous operation. In the Philippines, the Department of Environment and Natural resources stepped up efforts to reduce illegal logging. The difficulty and risk of combating entrenched logging syndicates is illustrated by the fact that the enforcement efforts of the Department generated violent reaction, with five DENR staff investigating illegal acts killed during year 2000 (Republic of the Philippines, 2000). Examples of enforcement violence abound in other countries.

Forest service officers are seldom trained in law enforcement operations and the help of specialized agencies of the government may be needed. Particularly so, because enforcement of the forest law requires deployment of force over vast geographical areas. In some countries, the forest authority has the legal option to call the regular police force and in some cases even the armed forces to impose the law. Because many of these operations will take place in remote areas, and human rights may be abused, there must be adequate regulations in place to ensure accountability and use of force that is commensurate with the gravity of the situation. Also, in some cases the police or the army may be as corrupt as the criminals they are supposed to stop. Thus, suppression by these forces may need to be independently verified in a transparent manner and in any case, it is generally advisable to separate institutions in charge of suppression activities from those that have the responsibility for detection.

**Managing market demands**

Some of the policies discussed above can also have the simultaneous effect of helping manage demand to ensure that only supplies originating in legal sources are accepted in the market. **Certification**, for example contributes to this end. **Codes of corporate conduct** that bind main market players to buy legal forest products while rejecting those that cannot not be proven to be “clean” produce the same effect. Also, the **proper management of the demand and supply balance** to avoid excessive industrial requirements that the forest cannot possibly produce would contribute to reducing some of the “pull” factors that induce illegal acts.

(i) **Promote the development of buyers groups**: Buyer groups, formed by retailers and major users of wood are proliferating around the world. These buyer groups pledge to buy certified products. For example the WWF joined forces with Friends of the Earth Amazonia to form an alliance of 42 timber companies in Brazil, “Compradores de Madeira Certificada”, committed to certification and to ensuring that their wood is not the product of illegal harvest (WWF, 2000). National forest policies should support these groups.

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10. For example recently the WWF joined forces with Friends of the Earth Amazonia to form an alliance of 42 timber companies in Brazil, “Compradores de Madeira Certificada”, committed to certification and to ensuring that their wood is not the product of illegal harvest (WWF, 2000). National forest policies should support these groups.
The organization of a comprehensive operational PDS requires a critical mass of institutional organization and associated financial and human resources to make it work. In many cases, financial resources can originate in the greater government revenues that are likely to flow from more efficient law enforcement as many of the leakages from lax policing disappear in, for example, timber concessions. The human resources required to improve forest law enforcement may be more difficult to obtain in many countries, particularly those in earlier stages of development. There is an important role for the international assistance community to support activities such as the streamlining of the policy and legal framework, increasing awareness about the economic, environmental and social costs of poor law enforcement and the provision of modern PDS technologies in countries where the right government conditions exist.

Implementing forest law enforcement strategies

The multiplicity of policy and operational strategies reviewed above reflects the complexity of the initiatives to improve forest law enforcement. Questions that immediately come to mind are, where do we start? What strategic elements should receive priority attention for action? Who should do what?

Where do we start? What strategic elements should receive priority attention?

Since situations in different countries are varied, it is not possible to establish a unique path for combating illegal activities. As mentioned before, priorities and the particular “cocktail” of policy measures for combating forest crime depend on the context. Priorities and sequencing will have to be established on a case by case basis.

The task of establishing priority reforms and their sequencing according to the particular circumstances dominating in a given country is a daunting challenge because of the wide variation in circumstances. For instance, a country with a developed forest industrial base such as Indonesia may require radically different reforms than another such as Bolivia, where the forest-based industries are not well developed. In a few countries, powerful logging elites may have “captured” the government decision-making machinery, while in others the government may be relatively immune to such pressures. In other countries, illegal logging may be of paramount importance while in still others illegal trade may dominate the scene instead. In some situations, monopolies wielding substantial political influence may engage public officials in corrupt acts while in others illegal activities may be the result of the operations on hundreds of even thousands of small-scale enterprises. These different scenarios require different responses to improve law enforcement and the challenge is to adequately prioritise strategic measures according to the country’s reality and how to establish a proper sequence and linkages in implementation.

Kaufmann and others propose surveys to diagnose the governance condition in a given country committed to improve law enforcement (Thomas, 2000) see box 8 below).
Survey diagnostics are effective instruments to determine what illegal actions are most important. They provide a starting point for designing remedial actions in countries that are committed to policy reforms. Surveys can be aimed at government officials, local communities, NGOs, or private corporations to obtain a reasonable clear picture of the main law enforcement problems. Contrary to initial fears, experience shows that respondents normally are quite honest and informative in their responses (after all, and until recently some illegal acts, such as paying bribes to foreign officials were tax deductible in many countries). While some methodological challenges remain, particularly those related to the transition from diagnostic to remedial action and the ways in which main stakeholder groups can be effectively involved in combating illegal activities, survey diagnostics have proven to be an effective tool in providing a more objective focus to the policy reform dialogue. Data collected in surveys and disseminated in workshops have contributed to mobilizing support for consensus building and collective priority action against illegal activities in various countries (Thomas et al, 2000).

Who should do what?

Survey diagnostic tools are also useful to determine the main actors in the forestry sector, the roles that they may play in improving law enforcement, the potential conflicts that may arise among stakeholders and ways to resolve them. It should be stressed that concerted action is much more important than uncoordinated individual stakeholder initiatives. Normally, it is not the action of a particular stakeholder group but rather the harmonized initiatives of various sectors of society working towards common objectives that will provide workable solutions for the control of illegal acts. Thus, government policy reforms are unlikely to take place unless there is political pressure of some sort. This political pressure is more likely to materialize if NGOs, a free press and other concerned groups of the civil society and the private sector organize campaigns to educate the public on the nature, magnitude, and consequences of illegal forest activities. Similarly, private sector corporations would be willing to renounce to illegal activities when the government establishes a level playing field for all enterprises.

Despite the above, there are certain activities by various stakeholder groups that in most countries should receive priority. These are discussed below.

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11 Other problems include the fact that surveys invariably contain some subjective elements, but still, in most cases data thus collected is relevant because these are the only available. Hard data (quantitative) has been almost impossible to collect.
Governments.

Governments have the main responsibility for ensuring a closer degree of coincidence between society’s priorities and their own actions and those of the private and civil society. Assuming a government commitment to control illegal acts, the following areas of action have a generalized validity, especially in developing economies:

- Actively promote political and institutional reforms that will involve all segments of society in transparent decision-making processes.
- Ensure the establishment of clear forestland property rights, including the recognition of traditional rights.
- Divest functions that other sectors of society can discharge in a better way. This may include the privatisation of several activities.
- Increase penalties for illegal acts.

NGOs.

A wide range of nongovernmental organizations can play an active role in urging national and local governments to move towards better law enforcement in the forestry sector, in detecting illegal acts and educating the public. NGOs may consider paying an increasingly proactive role in:

- Promoting more transparent and democratic political and institutional arrangements for forest policy reform dialogues aimed at reducing the impact of illegal activities.
- Continuing and expanding their role exposing illegal logging, trade and other criminal acts.
- Pursuing campaigns to publicise detected illegal acts and their consequences.
- Taking a lead role in fostering wider adoption of responsible forest stewardship standards.
- Promoting coalition building to legalize traditional rights of indigenous peoples and forest dependent communities.

Private logging and trading enterprises.

Some private enterprises could take the lead in supporting clear standards of forest harvesting and management that exclude illegal acts. They could contribute to the law enforcement process by:

- Adopting transparent and verifiable codes of corporate conduct that make explicit provision for excluding illegal acts such as bribery, tax evasion and transfer pricing.
- Promoting partnerships with NGOs to lobby governments to establish a level playing field for all enterprises in the forest sector.
- Accepting certification and independent assessment of their logging and trading operations.
- Fostering links with consuming countries to exclude from business those enterprises that do not follow codes of corporate conduct.

The international community.

Various initiatives that contribute to improve forest law enforcement, organized by international NGOs and Government International Organizations are under way (See Annex 3 for a description of the main initiatives). International NGOs, UN Organizations and other international bodies can play a useful role in detecting illegal activities and in designing systems for more transparent data exchange and dissemination. They could give priority to:
Activities to increase awareness of the costs of forest management unsustainable practices to the country and the global environment as well as the role of illegal and corrupt actions. The international community can do much to change the world of ideas not only in government but also in the public.

Policy advice. Institutions such as the World Bank and FAO have a long experience in lending expert advice in reforming policies and laws. Future advise may continue to concentrate on ways to achieve an improved management of forest resources but with an eye to introducing measures that would reduce the opportunity for illegal acts, and that would contribute to improve their detection and suppression.

Increase focus. Future international assistance will probably need to focus much more on improving the efficiency and effectiveness of the public forest administration so that more can be done with less. For example, agencies need to promote “meritocracy” in government appointments and promotions, as opposed to uncontrollable political patronage. Or, personnel will need to be trained in modern technologies for observing and interpreting developments affecting national forest resources.

Sustain and coordinate effort. The international community must consider that support to better governance in the forestry sector, including combating illegal acts, will probably require long-term support and concessional financing. Given the dearth of concessional funds, international donors would do well in organizing more collaborative efforts to avoid dispersion of resources and sometimes even conflicting aims.

Consumer countries.

Importing countries can introduce several measures to improve forest law enforcement in exporting countries. However, some of these measures can be interpreted as non-tariff barriers to trade of forest products. Some may be challenged at WTO. A main problem of importing countries is to identify illegal forest products produced in exporting countries. Thus, some form of identification of legal products must be agreed between importing and exporting countries. Priority measures to be considered are:

Stop buying forest products from illegal sources. While there are no international schemes to identify illegally produced forest products, certification schemes that include the chain of custody generally imply legal production. As long as these schemes are private and voluntary, no WTO issues arise. Recently, following a G8 agreement, the UK government started to implement a series of measures to prevent government agencies from buying from illegal sources. It is uncertain whether exporting countries in the WTO will challenge these measures.

Blacklist corporations that engage in illegal acts. The OECD rules against corruption include provisions to punish corporations that engage in bribery of foreign public officials with their exclusion from government procurement contracts.

Improve customs inspections. Customs personnel have little possibility of identifying and stopping the importation of illegal forest products unless there is a bilateral or multilateral treaty that translates in some form of identification of wood produced according to domestic legislation.

Promote codes of conduct and ethical investment. A relatively small number of companies hold the key to success in improving forest law enforcement. The top 50 companies produce almost half of the world’s harvest and the largest, International Paper processes more than 100 million cubic meters of wood per year, just about the entire production of industrial wood of Sweden and Finland combined. If a few of the largest corporations follow voluntary codes of conduct and independent certification, this may create a hostile environment for those that have a tendency to break the law.

Forming Coalitions

The above is a formidable set of activities and many countries would find it difficult to implement them. But implementation can be facilitated if the actors above form some sort of coalition with various interests working for a common objective. Reforms for better law compliance can be introduced and better sustained by encouraging the public forest administration, groups of the civil society and the private business
community to participate in the process. In other words, better law compliance needs participatory action motivated by adequate incentives.

Coalitions -- alliances of people, governmental and non-governmental organizations, organizations of the civil society and the private sector, or nations -- can reinforce the political determination for fighting illegal acts and give greater vitality to the civil society and the private sector by bringing together groups that are interested in creating a solid legal framework for their operations. Coalitions can contribute to change cultural values and the way the public think about poor governance as well as to change perceptions that forest crime is either unavoidable or uncontrollable.

There is little chance that much will accomplished unless there is a strong political will to improve law compliance, reduce apathy and neutralize opposition. Without a strong political commitment to reform, most campaigns to improve governance and reduce corruption are ineffective and some times are little more than political window dressing, generating insignificant change. Abuses are likely to continue unabated. While groups of the civil society and of the business community participating in a coalition can perhaps counter the lack of political commitment, they must have a good reason to believe that they will have a possibility of introducing genuine change.

Many coalitions prove difficult to sustain over time. It is extremely difficult to create a blueprint for forming coalitions that would be motivated by coincidental interests and able to share both the planning and execution of specific actions as well as the rewards from success (or the blame for failure). There are many reasons for organizations to be reluctant to join coalitions, including the need to share scarce resources and the possible loss of the organization’s identity.

Costs of illegal forest acts are often diffuse, shared by the whole society and as explained earlier, these costs are probably more compelling for those that are the poorest who also happen to be the ones that have the least voice. Benefits instead tend to concentrate on the few that commit forest crime, the same that are well connected and enjoy economic and political power. Consequently, often there are few incentives for organizations or individuals to enter into coalitions to fight illegal acts.

Moreover, coalition members may agree on a broader front but disagree on some of the details. For example, there may be a substantial agreement on the need to stop illegal logging, but some organizations may differ on how to achieve this goal. Some may prefer confrontational and public line of attack that would shame the public forest administration into action, while others may prefer taking the less controversial way of providing the administration with better information and perhaps some of the human resources needed to reduce crime. Since combating illegal activities implies taking on powerful groups in an environment where the rule of law is generally weak, risks are usually high and thus these differences in approaches are not surprising. Also, the broader the coalition becomes, the more difficult it will be to achieve coincidence of objectives and procedures.

Despite these problems, there are a number of groups working to build coalitions to combat illegal acts and, particularly, corruption. According to some authors the coalitions that have been able to sustain activities focus on causes rather than on issues, stress cooperation rather than confrontational approaches and avoid antagonizing the regime (See Box 9). They also are content with achieving incremental rather that large discrete changes (Kpundeh and Johnston, 2001). In practice this means focusing on positive incentives to fight illegal acts including the generation and provision of information, vulnerability evaluations, surveys of illegal acts, training programmes, auditing and so on. Coalitions could broker integrity pacts and codes of conduct among large firms in the private sector, among bidders for timber concession contracts, etc.
Virtually any of the policies to improve law compliance undertaken by government can also be the subject of action by coalitions. Many actors and institutions can contribute to fighting forest crime:

- National, regional and local governments
- Local communities
- Forest industry
- Forest product retailers
- Consumers
- Certification bodies
- Non-governmental organizations
- Financing agencies
- The media
- Policy research institutions
- Technical assistance agencies
- Institutions promoting and implementing regional and global conventions

A catalogue of possible specific actions to combat illegal forest acts by each one of these actors discussed during the meeting is displayed in 2. Some of the main actions that are under way by the actors above acting independently or in coalitions are described in Annex 3.

**Conclusion**

Illegal activities are a main threat to global resources. A wide variety of illegal acts, including, among others, illegal logging, illegal trade, arson and unauthorized occupation of forestlands, take place in all kinds of forests, in developing and industrialized economies. Often illegal activities are associated with corruption, involving the willing participation of government officers, usually in complicity with parties of the private sector, in schemes to abuse public property. Illegal acts generate a number of undesirable economic impacts, harm the environment and the most vulnerable sectors of society.

The forestry sector as such has some inherent vulnerability derived from some of its unique features such as the large geographical extensions that need to be monitored and controlled, the heterogeneous nature of forest products and services and the remoteness of many forest areas. The text suggests approaches for enhancing forest law enforcement that rely on a three-pronged strategy including an assessment of the probabilities of success, specific forestry sector policy strategic initiatives addressing some of the causes or factors that make illegal acts possible and desirable to unscrupulous operators and operational implementation of prevention, detection and suppression actions. The mixture and sequencing of policy reforms will largely depend on the specific circumstances faced in each country, although there are some reforms that seem to have a generalized validity. The success of these approaches depends largely on the adequate involvement of key sectors of society including national and local governments, NGOs and the private sector. Also of the private sector and governments in consuming countries, international financial and technical assistance agencies and initiatives by groups of countries such as the G8, the OECD and the European Union.

In most cases, progress to improving law compliance probably will be incremental rather than sweeping with laws suffering from some imperfections that would force some actors to operate outside the law and some levels of corruption that would be too difficult or too costly to eradicate completely. But even a

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**BOX 9  Coalition-building in Practice**

**Lessons of experience**

1. Political commitment is indispensable. Throughout all levels of government, this is a crucial condition for achieving comprehensive reforms.
2. Surveys are a useful method for raising awareness and designing, monitoring and evaluating reforms. To give credibility to the reform effort, independent, reputable consultants should conduct the survey.
3. Participatory approaches are needed to ensure consensus.
4. The consensus building approach enhances the sustainability of the reforms. Because a broader section of the citizenry becomes involved in defining priorities and determining trade-offs, they demand efficiency in the execution of projects. As stakeholders, they have been empowered to care about projects and monitor their performance. In turn, the propensity for citizen participation in government is increased.
5. A innovative mix of political will, technical capacity to execute reforms, and a strong partnership with civil society in the drive to enhance efficiency, equity and transparency may have powerful beneficial effects.

Based on Gonzales de Asis, 2000.
marginal increment in law compliance can result in rather dramatic changes in the way forest resources are managed simply because illegal acts are so pervasive. If a country such as Indonesia could reduce illegal acts, not entirely, but by only 50 percent, this could represent improved management in about 25 percent of all forests that today are being harvested in the country. If global illegal logging were reduced by only 25 percent, the financial value would be equivalent to all present development assistance flowing to the forest sector of developing countries. Thus, the improvement of the policy and legislative framework and the proper enforcement of the law may be the most important issue in the future management of forest resources worldwide.
## Annex 1. Some evidence of the importance of illegal activities in the forestry and forest industries sector

<table>
<thead>
<tr>
<th>Region/Country</th>
<th>Assessment</th>
<th>Source</th>
</tr>
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<tbody>
<tr>
<td><strong>ASIA</strong></td>
<td></td>
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<tr>
<td>Malaysia</td>
<td>One third or more of forest exports were illegal in the early nineties.</td>
<td>Dudley et al, 1995</td>
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<tr>
<td></td>
<td>Forest products exports to Japan were undeclared by 40 percent in the early nineties</td>
<td>Environmental Investigation Agency, 1996; Sizer, 1997.</td>
</tr>
<tr>
<td>Cambodia</td>
<td>A recent survey revealed that households and enterprises perceive corruption in the country as the leading problems for citizens and enterprises.</td>
<td>World Bank, 2000</td>
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<td></td>
<td>Substantial problems with illegal exports through the Thai border.</td>
<td>Callister, 1992</td>
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<td></td>
<td>In 1997 a minimum of US$ 184 million worth of timber was felled in Cambodia, much of it received by corrupt officials</td>
<td>Global Witness, 1998</td>
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<tr>
<td></td>
<td>In 1997, 10 percent of logging was legal.</td>
<td>World Rainforest Movement and Forest Monitor, 1998</td>
</tr>
<tr>
<td>Laos, Cambodia, Thailand and the Philippines</td>
<td>Almost all timber exports in the early nineties were illegal</td>
<td>Dudley et al, 1995</td>
</tr>
<tr>
<td>Cambodia and Vietnam</td>
<td>Substantial illegal log trade between these two countries</td>
<td>Global Witness, 1999</td>
</tr>
<tr>
<td>Indonesia</td>
<td>95 percent of exports were not legal in the early nineties.</td>
<td>Dudley et al, 1995</td>
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<td></td>
<td>Malaysian companies have been accused of logging illegally and smuggling logs to Malaysia</td>
<td>SKEPHI, 1993</td>
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<td></td>
<td>Illegal logging supplies 52 percent of logs. In the mid 1990s, 84 percent of timber concession holders failed to obey the law.</td>
<td>Environmental Investigation Agency, 2000; Scotland, 2000</td>
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<tr>
<td></td>
<td>Losses due to illegal logging estimated to be $3.5 per year in the mid nineties. Current losses seem to be of the same order of magnitude.</td>
<td>World Commission on Forests and Sustainable Development, 1999; Kartodiharjo, 2002</td>
</tr>
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<td></td>
<td>84 percent of timber concessionaires do not follow the law. Illegal logging is taking place in national parks</td>
<td>Environmental Investigation Agency, 2000; World Resources Institute, 2000a</td>
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<tr>
<td></td>
<td>As much as 40 percent of the pulp and paper wood supplies come from undocumented sources</td>
<td>Barr, 2000</td>
</tr>
<tr>
<td>Myanmar</td>
<td>In 1995, some 276,000 cubic meters valued at $86 million or almost half of the country’s forest exports were undeclared.</td>
<td>World Resources Institute, 1998</td>
</tr>
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<td></td>
<td>Senior officials awarded logging rights in exchange of bribes.</td>
<td>Sizer and Plouvier, 2000</td>
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<td></td>
<td>Fraudulent activities in the forestry sector led to an estimated losses in national income equivalent to the annual aid the country receives from Australia: more than 300 million Australian dollars in 1998, or $180 million.</td>
<td>Glastra, 1999</td>
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<tr>
<td></td>
<td>In 1994 Forest Minister Tim Neville estimated that $1 million a day were being lost to illegal practices</td>
<td>World Rainforest Movement and Forest Monitor, 1998</td>
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<tr>
<td></td>
<td>Bribes were given by foreign corporations to local leaders and national ministers or members of the parliament and at least to one secretary of the Department of Forests</td>
<td>Barnett, 1992; Filer, 1996</td>
</tr>
<tr>
<td>Philippines</td>
<td>16 million hectares of forest have shrunk to 70,000 today, mainly because of illegal logging.</td>
<td>ENS, October 11, 1999.</td>
</tr>
<tr>
<td></td>
<td>During the eighties the country lost $ 1.8 billion a year because of illegal logging. This figure was close to the country’s GNP.</td>
<td>Environmental Investigation Agency, 1996</td>
</tr>
<tr>
<td>Country</td>
<td>Description</td>
<td>Source(s)</td>
</tr>
<tr>
<td>------------------</td>
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<td>--------------------------------</td>
</tr>
<tr>
<td>Solomon Islands</td>
<td>Several Malaysian companies have been involved in a number of corruption controversies.</td>
<td>Sizer and Plouvier, 2000</td>
</tr>
<tr>
<td><strong>LATIN AMERICA</strong></td>
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<tr>
<td>Bolivia</td>
<td>Illegal deforestation is at least 4 times and it may be as high as 8 times legal deforestation.</td>
<td>Contreras-Hermosilla and Vargas (2001)</td>
</tr>
<tr>
<td>Brazil</td>
<td>A presidential commission found out that fully 71 percent of the management plans in concessions did not comply with the law.</td>
<td>Dudley et al, 1995; Greenpeace, 1999</td>
</tr>
<tr>
<td>Chile</td>
<td>Alerce is listed under Appendix 1 of the CITIES, but illegal trade continues.</td>
<td>WWF undated</td>
</tr>
<tr>
<td>Colombia</td>
<td>42 percent of logging is illegal</td>
<td>Plan Estratégico, 1996</td>
</tr>
<tr>
<td><strong>NORTH AMERICA</strong></td>
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<tr>
<td>Canada</td>
<td>20 paper mills in Quebec illegally discharged toxic effluents in 1996. Violations to logging laws have been detected in 55 percent of areas designated for protection as areas of concern and riparian reserves.</td>
<td>Ottawa House of Commons, 1998</td>
</tr>
<tr>
<td></td>
<td>The Algonquin Forestry Authority violated 35 percent of the areas of concern in the Algonquin Park.</td>
<td>World Resources Institute, 2000b</td>
</tr>
<tr>
<td></td>
<td>Since 1998, west coast logging companies have avoided paying as much as $149 million by “grade setting”.</td>
<td>Sierra Legal Defence Fund and Wildlands League, 2000 Anderson and Werring, 2001</td>
</tr>
<tr>
<td>Russia</td>
<td>The deputy head of the Federal Forestry Service, Dmitry Odintsov recently complained about the rise in illegal operations noting that there were “some timber procurement offices controlled by organized criminal groups engaged in illegal timber exports”. Poachers cut down about 20 percent of the official harvest in Russia’s far east.</td>
<td>Medetsky, 2000</td>
</tr>
<tr>
<td></td>
<td>Corruption in the countries of the Commonwealth of Independent States including Russia is higher than in any other region of the world. Public corruption and arbitrary government behavior continue to be major impediments to private sector development.</td>
<td>EBRD, 1997; Solberg and Rykowski, 2000</td>
</tr>
<tr>
<td></td>
<td>About 20 percent of timber logged in Russia violates the law.</td>
<td>Greenpeace, 2000</td>
</tr>
<tr>
<td></td>
<td>As much as 50 percent of logging in the Primorsky and Khabarovsk regions may be illegal.</td>
<td>Newvell et al, 2000</td>
</tr>
<tr>
<td></td>
<td>There is a substantial export trade from Siberia to China.</td>
<td>Shulyakovskaya, N., 2000</td>
</tr>
<tr>
<td>Georgia</td>
<td>In 1998, the Parliament adopted a resolution forbidding commercial logging. However, this directive is largely unenforced and illegal logging continues.</td>
<td>ENS, May 8, 1999</td>
</tr>
<tr>
<td><strong>AFRICA</strong></td>
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<td></td>
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<tr>
<td>Tanzania</td>
<td>As much as 500,000 ha of the country’s forests are lost annually through illegal timber trade.</td>
<td>Glastra, 1999</td>
</tr>
<tr>
<td></td>
<td>Illegal exploitation occurs almost all over the country both in forest reserves and in unreserved forest areas. Illegal trade in forest products is especially intense in border areas. The Permanent Secretary in the Ministry of Natural Resources and Tourism admitted that some of the forestry staff are guilty of engaging in illicit timber trade.</td>
<td>ENS, August 22, 1999</td>
</tr>
<tr>
<td>Kenya</td>
<td>In the nineties logging of native forests was prohibited but, because of the lack of enforcement, native timber trade continued unabated.</td>
<td>Marshall and Jenkins, 1994</td>
</tr>
<tr>
<td>Democratic Republic of Congo</td>
<td>Various companies from Uganda, Burundi and Rwanda, associated with foreign armies and sometimes in partnership with Congolese firms, illegally extracted and exported wood. Zimbabwean companies controlled by the military and in association with Congolese firms are exploiting vast areas of forests.</td>
<td>Global Witness, 2002 UN, 2001</td>
</tr>
<tr>
<td>Cameroon</td>
<td>During 1997-1998, over half of the operating licenses failed to comply with the law. The risk of being caught and punished for illegal operations is slight. During the period 1993-1994, only 4 percent of the citations for illegal activities in the Central and East provinces were brought to trial. A review of 63 citations for illegal activities revealed that 20% of the citations were dropped after the intervention of an influential person.</td>
<td>Martin, 1996</td>
</tr>
</tbody>
</table>
In 1996 a Malaysian firm was reportedly illegally exporting some 30,000 cubic meters of logs.

Working in collusion with provincial governors, corporations have circumvented the law. This has resulted in harvesting almost unlimited amounts of wood, despite legal restrictions.

About one-third of logs harvested for the local market are illegal.

One third of the timber output of Cameroon-Est was undeclared in 1992-1993

French politicians have intervened to persuade the government to weaken the law and favour French companies

<table>
<thead>
<tr>
<th>Country</th>
<th>Details</th>
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</thead>
<tbody>
<tr>
<td>Liberia</td>
<td>In 1989, recorded log exports to Europe were $ 80 million, but the value declared at ports of entry was $ 200 million.</td>
</tr>
<tr>
<td>Benin</td>
<td>80-90 percent of logging in Benin is illegal and is carried out with the agreement of state officials.</td>
</tr>
<tr>
<td>Gabon</td>
<td>Timber concessions overlap with protected areas. Although the law explicitly prohibits timber concessions in excess of 200,000 hectares, 8 concessionaires are reported to exceed this limit. Fermage, although illegal, is widely practised.</td>
</tr>
<tr>
<td>Ghana</td>
<td>Financial assistance granted as part of a Structural Adjustment Programme led to illegal practices on a massive scale. Several (at least 11) companies receiving British aid were implicated in fraud. 15 other companies receiving loans from the World Bank, were implicated in illegal acts. As much as one third of the volume harvested in the mid nineties may have been illegal. The Technical Director of the Ministry of Lands and Forestry complained bitterly: “Much of the felling was illegal and speculative, undertaken by unauthorized contractors….All too often the logs went to waste, huge sums of revenue were being lost and the resource was heading for oblivion with little gain”</td>
</tr>
</tbody>
</table>

Sources:
- Seymour and Dubash, 2000
- The World Bank, 1999
- Eba’a-Atyi, 1998
- Glastra, 1999
- Ekoko, 1997
- Eba’a-Atyi, 1998
- Glastra, 1999
- Ekoko, 1997
- Sizer and Plouvier, 2000
- Siebert, 2002
- Verbeelen, undated World Resources Institute 2000a
- Dudley et al, 1995
- FoEI, 1997
- Smith, 1996
Annex 2 Suggested Actions for Various Stakeholders

ACTION FOR NATIONAL REGIONAL AND LOCAL GOVERNMENTS

The FAO Expert Meeting on Improving Law Compliance in the Forest Sector held in Rome Early in 2002 produced the following suggestions for the different forest sector stakeholders:

- Simplify laws and rules
- Establish realistic penalties
- Recognize traditional rights
- Introduce safeguards in legislation in other sectors
- Reduce discretionary powers
- Establish clear property and use rights
- Provide for independent audits, inspections and investigation
- Provide for public hearings
- Facilitate independent reporting (whistleblowing)
- Promote public education and awareness
- Carry out resource assessments and monitoring systems
- Improve statistical systems and generate baseline data and information
- Require forest management plans
- Promote certification
- Foster producers and buyers groups
- Promote free markets and competition
- Establish efficient product tracking systems
- Employ survey diagnostic tools
- Promote meritocracy
- Obtain balance between industrial demands and capacity of forest resources
- Support and promote codes of conduct
- Make use of incentive contracts, performance bonds.

ACTION FOR LOCAL COMMUNITIES

- Pressurise governments for clarification and legalisation of forest ownership and land use rights.
- Insist on community participation in negotiation of timber concessions and legal protection that will ensure equitable benefit sharing.
- Seek government support to empower some members of Forest Protection Committees, Joint Forest Management or Community Forest Management Committees to act as “forest officers”. Empower locally appointed village “forest guards” to arrest, and/or compound offences up to a certain amount of money. (Link to restrictive conditions, to ensure that these privileges are not abused).
- Press for national government support for creation of sustainable livelihood opportunities within and adjacent to forest areas including incentives such as abandonment of poaching in exchange for employment as wildlife/forest guards.
- Ensure that State legislators are made conversant with cases of forest corruption. Seek opportunity for meetings with environmentally sympathetic congress or senate representatives (e.g. members of GLOBE).
- Focus on corrupt practices that negatively impact on social needs at the village level and the misappropriation of funding needed for Forest Conservation and Development. (i.e. not just large scale timber theft)
- Urge all village and local community members to report on situations of log theft wildlife poaching and forest related corruption
Foster improved communication strategy. Encourage the establishment of corruption networking arrangements (e.g. India’s “Jungles” project and Indonesia’s SKEPHI) and ensure that the media are supplied with well substantiated material.

Support national government “Forest Crime Monitoring Units’ by regular reporting of corrupt acts.

Urge government to establish a system for rewarding excellent forest stewardship and for apprehension and penalization and public humiliation of those engaged in corrupt practices.

Develop simple indicators for village level monitoring of the health and quality of local forest resources.

Foster and participate in the establishment of multi stakeholder representative national bodies that are mandated annually to review and report on the status of National forest resources and their social environmental and economic impacts.

**ACTION FOR FOREST INDUSTRY AND FOREST INDUSTRY ASSOCIATIONS**

- Develop and implement Codes of Conduct for social environmental and economically sustainable and responsible forest harvesting and management.
- Use industry association pressure and support agencies such as ITTO, FAO the World Bank and other financing agencies to marginalize harvesting and marketing opportunities for companies that fail to abide by industry agreed codes of conduct.
- Endorse public and internationally acceptable principles criteria and national standards for SFM.
- Collaborate with independent certification bodies.
- Accept chain of custody analysis and transparent logging tracking procedures.
- Accept legislated arrangements for ensuring governments receive a fair and regularly adjusted economic rental value for timber derived from state forest lands.
- Accept transparency in timber concession negotiation processes and willingness to engage local communities in the dialogue and implementation of harvesting and management.
- Abide by the conditions of performance bonds.
- Agree to legalize arrangements for equitable benefit sharing with local communities.
- Support poorer communities within concession areas in their efforts to secure sustainable livelihoods.
- Foster reforestation and in appropriate situations support compensatory plantation establishment by local communities, farmers and private woodland owners (and thereby reduce the risk of non sustainable and illegal harvesting of natural forest resources).
- Commit to containment of wildlife poaching within concession areas and take action to ensure arrest of those involved.
- Commit to avoid harvesting and illegal logging within concession areas in clearly defined areas of high conservation value.
- Avoid the pressure from foreign investors and local business interests to install industrial capacity in excess of sustainably allowable harvest volumes.
- Adopt a company financial structure that has an acceptable debt/equity ratio and that does not depend to a high degree on turn-key supplier credit.
- Engage in multi stakeholder dialogue on experiences of forest law enforcement and possibilities for wider replication of more promising solutions.
- Collaborate with Transparency International and other agencies involved in establishment of a Forest Integrity Network.

**ACTION FOR FOREST PRODUCT RETAILERS**

- Commit to purchase and retailing of timber and forest products derived from forests that have been independently certified as being sustainably managed according to acceptable social, environmental and
economic principles (i.e. use market based instruments including civil society consumer pressure to ensure that private sector corporations practice sound forest management and adhere to codes of conduct.)

- Through retail industry association pressure expose the activities of companies that are marketing illegally harvested timber and which fail to adopt responsible forest management practices.
- Through public awareness raising media campaigns emphasize corporate commitment to preservation of the global environment.
- Use corporate advertising as a vehicle for highlighting the negative social environmental and economic aspect of irresponsible harvesting and forest degradation.
- Through public awareness raising emphasise how acceptance by consumers of independent certification is creating opportunities for them to influence how forests are managed and for whose benefit.
- Convince corporate shareholders of the positive influence on corporate profitability and shareholder dividends of corporate commitment to adoption of environmentally responsible practices.
- Provide grant aid funding to NGO’s and local groups that are committed to attainment of responsible forest conservation and management.

**ACTION FOR CONSUMERS**

- Commit to purchasing timber and other forest products that have been independently certified as derived from forests that are being managed in a social, environmental and economically sustainable manner.
- In extreme cases support import bans and boycotts of companies that are heavily engaged in corrupt practices.
- Promote environmental consciousness and awareness of forest values within the family.
- Through the activities of parent / teacher associations take a special interest in environmental education that incorporates improved understanding of the environmental values of forests.
- Promote within local neighbourhoods the use of environmentally friendly products including certified timber.
- Support with financial contributions the work of leading NGO’s that are supporting forest conservation and sustainable management.

**ACTION FOR CERTIFICATION BODIES**

- Support multi stakeholder Working Groups developing National Standards for SFM
- Support national capacity building of local multi stakeholder representative certification bodies that have a mandate systematically to monitor private company and government performance.
- Promote independent certification according to internationally acceptable Principles and Criteria.
- Establish and monitor the effectiveness of different log tracking and chain of custody analysis systems.
- Raise public awareness of the merits of independent certification and the opportunity that it creates for civil society to influence how forests are managed and for whose benefit.
- Collaborate with national multi stakeholder forest auditing bodies that are mandated annually to review the status of national forest resources and to identify weakness in forest governance and priority areas for immediate action.

**ACTION FOR NON GOVERNMENT ORGANISATIONS**
• Map concessions and ownership (who is doing what, where)
• Monitor concessionaire performance, by cross-checking government records and by using remote sensing satellite imaging and GIS technology to detect and monitor illegal logging roads and forest degradation
• Support the development and introduction of log tracking systems.
• Monitor log and timber exports through collaboration with customs and excise agencies.
• Support the establishment of National Standard Setting Working Groups and local multi-stakeholder representative certification bodies.
• Build local capacity for watchdog monitoring and reporting
• Gather factual evidence, research and document chain-of-custody from individual forest operators to end-consumers, and publicise illegal activities of irresponsible private sector companies (‘Whistle blowing’)
• Supply the media with information on illegal activities and corruption
• Undertake regional studies of the social, environmental and economic impacts of illegal logging and corruption
• Lobby for transparency and generate political pressure for high-level government action to achieve rapid prosecution of offending companies and individuals.
• Mobilise the support of the international financial and environmental communities in addressing issues of forest law enforcement. (Especially through involvement in global initiatives relating to illegal logging, such as those being pursued by the G8, OECD, FLEG and various NGO coalitions)
• Foster codes of conduct by private sector industry
• Foster producer and buyer groups
• Pressurise governments to clarify property rights and develop mechanisms for conflict resolution over forest land rights.
• Promote decentralisation of forest resource ownership and management with adequate safeguards for mismanagement.
• Insist on local community participation in policy decisions on allocation of timber concessions and in law enforcement
• Promote forest based livelihood opportunities for local communities within concession areas
• With WCMC monitor the management of biodiversity “hot spots”. Report situations of illegal logging and corruption
• Promote environmental education
• Collaborate with and support the establishment of national multi-stakeholder forest auditing bodies that are mandated annually to review the status of national forest resources, to identify weakness in forest governance and priority areas for immediate action.

ACTION FOR FINANCING AGENCIES

WORLD BANK

• Build on the experience gained by the Bank’s Oversight Committee on Fraud and Corruption (which to date has declared mis-procurement on about 40 contracts with a total value of $40 million)
• Mobilise collective action by Consultative Groups to address severe situations of illegal logging and corruption
• In collaboration with PROFOR, undertake policy based and structural adjustment lending incorporating where appropriate, conditionality clauses relating to containment of corrupt practices
• Through its Alliance with WWF support the application of independent certification
• Finance and undertake economic sector work aimed at analysis of the underlying causes of illegal logging and forest related corruption including analysis of possibilities for cross sectoral interventions
• Through capacity building projects support the establishment of both multi stakeholder national forest auditing bodies that are mandated annually to review the status of national forest resources, to identify weakness in forest governance and priority areas for immediate action as they relate to the national permanent forest estate.
• Support the establishment and activities of accredited certification bodies that monitor private company and government performance within specific timber concession areas and forests of high conservation value.
• Support the development of an International Plan of Action and Agreement for containment of forest corruption.
• Through the World Bank Institute research best practices and use the WBI as training ground for national policy leaders.

MULTI LATERAL DEVELOPMENT BANKS
• Support policy based lending for projects that incorporate provision for strengthening national capacity for containment of corruption improved forest law enforcement.
• Support other relevant activities suggested for the World Bank above

PRIVATE FOUNDATIONS
• Support forest law enforcement activities of Non Government Organisations.

EXPORT CREDIT INSTITUTIONS
• Adopt environmentally responsible credit practices. Refrain from financing industrial enterprises that will create excessive pressure for illegal and ecologically damaging non sustainable harvesting of forest resources. Collaborate with Transparency International and other anti corruption bodies in decision-making about disbursement of export credits.

MULTILATERAL INVESTMENT GUARANTEE AGENCY (MIGA)
• Use MIGA to influence private sector corporate behaviour through conditionality attached to Export Credit Guarantee operations

ACTION FOR THE MEDIA
• Special TV and Radio features relating to forest corruption (e.g the CNN piece on wildlife poaching and illegal logging in Cameroon)

ACTION FOR RESEARCH INSTITUTIONS
• Support technological research into low cost log tracking systems and options for effective chain of custody analysis.
• Research methodologies for low cost monitoring of the health and quality of forest resources.
• Research the economics and politics of illegal logging at the local level, the role of district governments in 'legalizing' and taxing previously illegal activities, the link between overall timber supply and demand and illegal logging, and the potential role of the financial sector in curbing illegal logging.
• Analyse links between regulatory systems and poverty and the extra-sectoral aspects of some of these issues.
• Use the literature from law enforcement in other sectors to provide insights to the regulatory issues related to forestry.
• Empirical analysis of existing government regulatory systems. What resources and incentives do they have? How do they use their resources? How do they measure their effectiveness? and what could be done to achieve a more results-driven process?
• Research the impact of forestry regulatory systems on the rural poor and ways that the existing regulatory systems are used to allow larger and more powerful actors to monopolize forest resources.
• Research how financial sector regulation, at both the national and multilateral level, can be used as a tool to curb illegal activities (since most companies depend heavily on bank lending.)
• Research on forests and violent conflict. (This links directly with the illegal activities issue, since often the ‘illegal activities’ occur in areas where the government has no effective control over the territory and where those engaged in illegal forestry activities are armed groups that are also engaged in other activities considered illegitimate by the national government).

ACTION FOR TECHNICAL ASSISTANCE AGENCIES

**FAO**

• Through its National Forest Programme Implementation Facility support strengthening of national capacity for improved forest law enforcement, including the establishment of multi stakeholder national forest auditing bodies that are mandated annually to review the status of national forest resources, to identify weakness in forest governance and priority areas for immediate action as they relate to the national permanent forest estate.
• Support the establishment and activities of accredited certification bodies that are mandated to monitor private company and government performance within specific timber concession areas and forest of high conservation value.
• Finance areas of technical assistance to National Governments (See Annex 1) Local Communities (see Annex 2), Certification Bodies (see Annex 6) Watchdog NGO’s (See Annex 7) and Policy Research Institutions (See Annex 10).
• Provide technical assistance for the development of improved log tracking systems (e.g see the EU supported TRATEK network)
• Through FAO publications and workshops raise local and international awareness of the social environmental and economic costs of forest related corruption and promoting promising solutions such as log tracking.
• Through COFO and regional Forestry Commissions interact with high level national government Ministers to encourage adoption of incentive policies and more stringent measures for containment of illegal logging and corruption.
• Collaborate with ITTO in its proposed Law Enforcement activities and with specialised anti corruption agencies such as Transparency International and the emerging Forest Integrity Network.
• Promote and support an International Plan of Action for controlling illegal activities in the forest sector

**BILATERAL DONORS**

• Funding of policy research and in country technical assistance programmes aimed at improved forest law enforcement. As suggested for FAO above.

ACTION UNDER REGIONAL AND INTERNATIONAL CONVENTIONS AND AGREEMENTS
• CITES to limit trade in forest endangered species (Appendix 111 which focuses on monitoring of international trade)
• The CBD to highlight illegal logging affecting critical biodiversity reserves. (Refer to the Cartagena Protocol).
• The Ministerial Declaration on Forest Law Enforcement signed by Ministers of leading East Asian Nations.
• Regional Forest Conventions (Helsinki, Montreal; Tarapoto, Central America etc) draw attention of high level government Ministers to illegal acts and corruption that are undermining adherence to the requirements of such conventions.
• The European Convention on Protection of EU Community Financial Interests
• The OAS Inter American Convention Against Corruption.
• OECD’s Financial Task Force (FATF) on Money laundering
• The International Chamber of Commerce Rules of Conduct on Global Extortion and Bribery in International Business transactions.
• The FOPAC Branch of Interpol (Fonds Provenant d’Activites Criminelles)
• The Strasbourg Convention
• The Vienna Convention
• The Montreal and Basel Conventions
• WTO’s Government Procurement Agreement
• Tabling corruption through activities of the United nations Forum for Forests
• Support the G8 forthcoming Forest Law and Governance conference (Scheduled for Congo Brazzaville in the Fall of 2002)
• Table the issue of Forest Corruption during the World Summit on Sustainable Development scheduled to be held in Johannesburg in September of 2002.
Annex 3 Coalitions: Key Multilateral and Bilateral Agreements, and Concerted Action by Private Enterprise

International Agreements

**CITES.** At present, and still lacking other relevant legislation, CITES is the only way producing and consumer countries can limit trade of endangered forest species. It is the only tool importing countries can use to legally seize illegally sourced timber. Producer countries use CITES sparingly and thus only a few species are included despite that the potential for including many others is large. For example, using CITES, Indonesia recently placed ramin on Appendix III, with a zero quota, thus outlawing imports of ramin by any CITES signatory (excepting already harvested timber or certified ramin timber). However CITES although useful, has some problems. It only covers threatened species. Also, it suffers from problems of implementation as certificates can be forged.

**Yaoundé Summit.** In Africa, the Yaoundé Summit in 1999 recognized problems related to illegal poaching and logging.

**Lomé Convention.** The extension of the Lomé Convention also provisions to support certification and indirectly to reduce illegal operations.

**The East Asia Ministerial Declaration.** In September 2001, Ministers of East Asian Governments meeting at the East Asia Ministerial Conference on Forest Law Enforcement and Governance in Indonesia issued this declaration that promises to take immediate steps to intensify efforts to address violations of the forest law and forest crime, in particular illegal logging and associated illegal trade and corruption. A follow up meeting to initiate steps for the implementation of this declaration took place in Bali in May 2002.

**The World Bank.** In 1997, the World Bank launched a major initiative to fight corruption in Bank-financed projects, help countries and international efforts to reduce corruption. In 1998, the World Bank-World Wide Fund for Nature Alliance was launched. The Alliance seeks the protection of 50 million hectares of forest areas under threat and 200 million hectares under certification by 2005. Although the Alliance does not aim at fighting illegal acts, achieving its certification targets will contribute indirectly to this objective. Furthermore, the World Bank new Forest Policy consults activities for improving governance through the support to reforms to concession and subsidy policies and specifically for containing illegal activities and corruption by improving laws, regulations and the law enforcement apparatus of member countries. One of the quantitative outcomes sought is to reduce illegal logging losses by $5 billion per year mainly by strengthening institutional capacity.

**The OECD** launched its Convention on Combating Bribery of Foreign Public Officials Officials in International Business Transactions in February 1999. The Convention commits 34 countries, the world’s biggest economies, to adopt common rules against bribery.

**Anti Corruption Action Plan for Asia Pacific.** At the Seoul Conference on Fighting Corruption in Asia and the Pacific Economics organized by the Asian Development Bank, OECD and the Republic Korea in December 2000, participants from 35 countries endorsed the ADB/OECD Anti Corruption Initiative for Asia Pacific. An Action Plan was subsequently prepared, and in November 2001 this plan was endorsed by 17 countries at the Tokyo Conference.

**The G-8.** G8 countries at their meeting in Birmingham in 1998 approved an Action Programme on Forests that included actions against illegal logging and trade. They confirmed their commitment to fight illegal forest acts at their Okinawa meeting in 2000.
UNIPF/IFF. The United Nations Intergovernmental Panel on Forests as well as its successor the Intergovernmental Forum on Forests, issued calls to governments to combat illegal logging and trade of forest products.

UNFF Ministerial Declaration and Message to WSSD. The Ministers asked the forthcoming World Summit on Sustainable Development “call for immediate action on domestic forest law enforcement and international trade in forest products, including in forest biological resources with the support of the international community, to provide human and institutional capacity building related to the enforcement of national legislation in these areas”.

ITTO. The Libreville Action Plan of the International Tropical Timber Organization contains a number or references to undocumented trade and irregular forest activities. Recently, the ITTO launched an initiative to improve forest law enforcement and to combat illegal timber trade. The Organization will provide support to countries interested in controlling illegal international timber trade. It will also investigate trade statistics reporting systems in selected countries to identify problems and recommend actions to strengthen these systems and to deal with apparent instances of illegal trade.

OAS. In 1997, the Inter American Convention Against Corruption of the Organization of American States entered into force and the declarations of the second and third Summit of the Americas reinstated the decision of signatories to continue to implement measures against corruption.

FAO. The most recent State of the World’s Forests report highlighted the severity and impact of forest illegal activities and contributed to increase awareness of the problem. Its support to the implementation of National Forest Programmes includes the development of policy and legislative frameworks as well as capacity building for improving forest governance in interested countries. Increased awareness also resulted in the FAO Committee on Forests emphasizing the need for organizing concrete activities to combat forest crime. In January 2002, the organization held an expert meeting on the subject, to develop priority areas for FAO action.

Bilateral agreements

The first agreement between a producing and a consuming country took place in April 2002 between the Governments of Indonesia and the United Kingdom to reform legislation and put a system in place for controlling illegal logging and trade of timber.

The private industrial sector

During the recent World Economic Forum, CEOs recommended a Framework for Action that chief managers, board directors and chief executives can use to develop strategies for managing their company impact on society. Corporate citizenship means many things but includes among its components, transparency and accountability as well as tackling corruption. Also, the International Chamber of Commerce, the only representative body that speaks with authority on behalf of enterprises from all sectors in every part of the world, with thousands of affiliate companies and associations from 130 countries, provided practical advice to its members on business principles in a paper published in May 2000 entitled Responsible Business Conduct: An ICC Approach where it states that national and international law provide the essential framework within which business has to operate.13

There are many other initiatives to develop voluntary corporate codes of conduct. In the forest sector, perhaps the most notable one is that of the certification schemes. These schemes identify those products that

13 See document at www.iccwbo.org
have been produced in accordance with a pre established system of criteria and indicators of sustainable development production. The best know one is that of the Forest Stewardship Council. Certification of sustainability is of course a great deal wider than the certification fulfilment of criteria of legality. However, the FSC certificate denotes that the product has followed the laws of the country including legal agreements to which that country is signatory. But making sure that products originate in legal sources also requires the certification of the “chain of custody” and the FSC is only scheme that provides for this. Certification however includes only a tiny proportion of the world’s forests.

The Société Générale de Surveillance, SGS, proposes a scheme aimed to the problem of illegal sourcing. Its Independent Validation of Legal Timber proposal is based on independent monitoring and verification of land use changes, timber flows and resource management. The scheme could be linked to the certification of sustainable forest management\textsuperscript{14}.

There are other proposals aimed at producing voluntary codes of conduct for forest corporations and some of them include provisions for complying with the law. The Interafrican Forest Industries Association for example has proposed a Code of Conduct for the Sustainable Management of Forest Concessions in Africa that includes prescriptions related to the respect of the legal environment of the country.

Recently the International Council of Forest and Paper Associations produced a Statement on Illegal Logging containing several principles for fighting illegal logging.

\textsuperscript{14} \url{http://www.sgs.com/SGSead.nsf/Files/Legal%20Timber%20Validation/$file/LegalTimberValidation.pdf}
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