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Establishing fair and sustainable forest economies

Lessons learned from tackling illegal logging

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Summary

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- The forest sector is not yet making an effective contribution towards sustainable development. With the global climate and biodiversity crises becoming more evident, establishing resilient land and forest economies is a priority.
 - Decades of work to establish legal and sustainable supply chains for timber and wood-based products provide important lessons for reform of other ‘forest risk’ commodities.
 - Chatham House’s analysis over the last two decades paints a mixed picture – of remarkable progress in forest policy and governance in some countries contrasting with little or no progress in others. Market access regulations and public procurement policies have helped to encourage more responsible business practices. Increased transparency and participation in policymaking have contributed to improved management and oversight of the sector in many countries.
 - Despite improvements in governance, in many instances policy and institutional reforms have been poorly implemented. This can be attributed to weak institutions, entrenched corruption and absence of political will, the latter often due to a mismatch between local and international priorities.
 - Illegal practices remain widespread, contributing to high rates of deforestation and undermining rural livelihoods as well as ecological integrity and resilience.
 - Both governments and rights holders are losing out on economic benefits, and artisanal, small-scale producers and enterprises are not accruing the potential benefits from international markets.
 - Efforts must be redoubled to bring about further reform of both the forest sector and other land-use sectors. Priorities include increased support for enhancing transparency and participation, and for strengthening institutional capacity at both the subnational and national levels.
 - Equitable and inclusive cross-sectoral processes are needed to identify ways to transition to sustainable land use, while the role of national experts in monitoring reform efforts needs to be strengthened.

01

Introduction

With international attention focusing on reducing the impact of ‘forest risk’ commodities, important lessons can be drawn from two decades of efforts to tackle illegal logging.

Halting deforestation and forest degradation is critical if the increase in the global average temperature is to be kept to 1.5 or 2 degrees above pre-industrial levels. Yet global deforestation continues at an alarming rate, the result of the unsustainable production and consumption of natural resources. More than 430 million ha of tree cover has been lost since the beginning of this century. Annual rates of tree-cover loss have increased from an average of 17 million ha in the 2000s to 23 million ha in the 2010s, reaching 26 million ha in the early 2020s.¹

In recognition of this, attention is being given to finding ways to reduce pressure on forests and accelerate the transition to sustainable land-use models. One priority is tackling deforestation in international supply chains of ‘forest risk’ commodities – those agricultural, forest and mining commodities associated with deforestation.

This paper focuses on one group of these commodities, namely wood-based products – which include both timber and paper sector products – and particularly on those wood-based products that are sourced from tropical forest countries. It considers the effectiveness of international efforts to tackle illegality in their production and trade (commonly referred to as ‘illegal logging’), focusing mainly on the suite of measures that have resulted from the EU’s Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan, an initiative adopted in 2003. After two decades of action in the forest sector,² there is a wealth of experience and knowledge on which to draw for the purposes of this study.

Thus, the aim of this paper is to identify the lessons that have been learned from these efforts, in order to support more effective policymaking and implementation in both the forest sector and other land-use sectors.

¹ Global Forest Watch (2022), ‘Global forest change dashboard: Global > Forest Change’, <https://gfw.global/3sn5itx> (accessed 29 Jun. 2022).

² The forest sector is defined here as all activities related to the production and use of wood-based products.

Following this introduction, which includes a discussion on the methodological approach, Chapter Two of the paper provides an overview of the changing narratives on tropical forests and timber in international policy debates. Chapter Three analyses important changes in the prevalence of illegal wood-based products in international trade. Chapter Four discusses the impact of reform efforts in the sector, focusing in turn on demand-side and supply-side measures, and Chapter Five provides a summary of the key findings and considers their implications for future initiatives.

Methodology

Chatham House has been monitoring forest governance and illegal logging since 2008. The methodology is based on a framework of criteria to assess three principal indicators: (1) levels of awareness of the issue of illegal logging; (2) the response of governments and the private sector to this issue; and (3) levels of illegal logging and international trade.

Three policy assessments have thus far been undertaken, in 2008 (covering 12 countries), 2013 and 2018 (each of which covered 19 countries).³ The findings of the first assessment were published in 2010 and those of the second assessment between 2013 and 2015. This paper presents the findings of the third and most recent assessment.

The study countries for the policy assessments were selected because of their relative importance in international trade and their level of engagement with international efforts to tackle illegal logging. They comprise nine tropical forest countries which are important producers of tropical timber (in 2015, they accounted for approximately 10 per cent of global exports of wood-based products in roundwood equivalent – RWE – volume) and 10 countries which are primarily consumers or processors of this timber (accounting for about half of all global imports of such products in 2015). The tropical forest countries are: Brazil, Cameroon, the Democratic Republic of the Congo, Ghana, Indonesia, Laos, Malaysia, Papua New Guinea and the Republic of the Congo. The ‘consumer’ and ‘processing’ countries are: China, France, India, Japan, the Netherlands, South Korea, Thailand, the UK, the US and Vietnam.

The methodology has been amended over the course of the initiative in response to changes in the sector and feedback from stakeholders. Prior to beginning the 2018 assessment, consultations were held with stakeholders to gauge opinions as to whether further assessments would be useful, and, if so, whether the methodology should be amended.⁴ The scope of the current assessment includes:

- Forest policy assessments, to determine the response of governments, based on an evaluation of their policy frameworks; and
- Illegality estimates, to assess the nature and extent of illegal logging and trade.

³ All the publications resulting from this research are available on Chatham House’s Forest Governance and Legality website: <https://forestgovernance.chathamhouse.org>.

⁴ These consultations entailed a series of interviews conducted in 2018 (with 19 individuals, representing government, private and non-governmental sectors), and two workshops to discuss the methodology for estimating levels of illegal trade, convened in 2018 and 2019.

An assessment of levels of awareness of illegal logging, which had previously been implemented through a review of media in the target countries, was not repeated due to the difficulties of interpreting the findings and resource constraints. The response of the private sector was also not assessed, because others are engaged in this area.⁵

The fact that changes have been made to the methodology requires caution to be exercised in any attempt to compare the findings from this latest policy assessment with previous results.

For the illegality estimates, the new methodology was applied in relation to the period 2000–18, so that changes over time are reported and assessed in this study. Thus, the numbers presented in this paper do not directly mirror those published in previous years.

Forest policy assessments: The policy assessments were undertaken in 2018–19.⁶ A framework of questions was used to assess the existence, design and level of implementation of forest sector policies in each of the project countries. The research was undertaken by country experts, who were provided with guidelines on scoring, and their assessment was reviewed by peers and by Chatham House.

The assessment framework includes five broad categories of questions for producer countries, and three categories for consuming and processing countries. A number of amendments were made for the 2018 assessment, with several policy areas being either added or covered in more detail. These were policies related to the small-scale timber sector (including smallholders, artisanal loggers, and small and medium-sized enterprises – SMEs – further down the supply chain), and consideration of gender in policymaking and implementation. Furthermore, questions on demand-side measures were added to the assessment of the producer countries – to align with the questions used for consumer and processing countries – in recognition of the fact that such approaches have been increasingly utilized in these countries. Please see the Annex for the full list of questions used in the assessments.

The initial findings from this research were published in 2019 as part of the New York Declaration on Forests (NYDF) Assessment,⁷ which was rebranded in 2022 as the Forest Declaration Assessment. The individual policy assessments for the countries included within this project are available on Chatham House's Forest Governance website.⁸

Illegality estimates: The methodology for assessing the nature and extent of illegal logging and trade was also amended. The previous method entailed making quantitative estimates for the proportion of illegal trade in specific supply chains, differentiating by destination, type of forest concession and level of certification.

⁵ For example, the FLEGT Independent Market Monitor (for more details, see <https://flegtim.eu>) has been assessing the market impacts of FLEGT voluntary partnership agreements (VPAs).

⁶ This research was implemented in partnership with Climate Focus and with the support of BMZ, Germany's Federal Ministry for Economic Cooperation and Development.

⁷ Climate Focus, New York Declaration on Forests Progress Assessment and Royal Institute of International Affairs (2019), *Strengthening forest governance frameworks: Progress in nine major tropical forest countries*, New York Declaration on Forests Progress Assessment, <https://forestdeclaration.org/resources/strengthening-forest-governance-frameworks-progress-in-nine-major-tropical-forest-countries>.

⁸ Chatham House Forest Governance and Legality (2022), <https://forestgovernance.chathamhouse.org>.

For this assessment of illegality, undertaken in 2020–21, a simpler approach was adopted in order to improve transparency and facilitate feedback. Only the main products were considered, and no differentiation was made between supply chains for different destinations. Furthermore, rather than providing a single numerical estimate, a range of estimates was applied. Four categories of the likelihood of illegal practices were used: low (<10 per cent), low to medium (10–30 per cent), medium to substantial (between 30 per cent and 60 per cent) or substantial (>60 per cent). These were considered for five categories of illegal practice (described in more detail in Chapter Three):

- Customary tenure and resource rights;
- Award of permits;
- Forest management and harvesting;
- Forest sector payments and financing; and
- Transport and trade.

Based on the evaluation of these five categories, the overall likelihood of illegality in a supply chain was determined. Assessments of illegality were made for 37 countries that are important exporters of wood-based products.⁹ These included 13 of the project countries (the nine producer and four processing countries), and an additional 24 countries that were selected because they were considered likely to account for a high proportion of global exports of illegal wood-based products, based on documented evidence of weak governance.

To estimate the total volume¹⁰ and export value of illegal exports, the lower and upper estimates for the overall likelihood of illegality were applied to trade data for each of the main exported products. Consequently, the estimates are expressed as a range of values.

The assessments of illegality were based on the forest policy assessments, analysis of trade data, expert perception surveys,¹¹ and a review of reports and secondary data. Draft assessments were presented in the form of ‘country notes’ and shared with country experts for review before being finalized. These notes are available to download on Chatham House’s Forest Governance website.¹²

⁹ The 37 countries have accounted for between 40 per cent and 50 per cent of the total volume of global exports, or 25–45 per cent by value, over the period 2000–18. Intra-EU trade, and that between the US and Canada, were not included in the global total. The countries are: Benin, Bolivia, Brazil, Cambodia, Cameroon, the Central African Republic, China, Colombia, the Democratic Republic of the Congo, Côte d’Ivoire, Ecuador, Equatorial Guinea, Gabon, The Gambia, Ghana, Guyana, India, Indonesia, Laos, Liberia, Malaysia, Mali, Mozambique, Myanmar, Nigeria, Papua New Guinea, Paraguay, Peru, the Republic of the Congo, Romania, Russia, Sierra Leone, the Solomon Islands, Suriname, Thailand, Ukraine and Vietnam.

¹⁰ Standard conversion factors for all countries were used to estimate roundwood equivalent (RWE) volume. The factors adopted are as follows: 1.4 for particleboard, 1.8 for sawnwood and fibre board, 1.9 for veneer and mouldings, and 2.3 for plywood; and weight by, in m³/tonne: 1.6 for wood chips, 2.4 for pellets, 2.8 for furniture, 3.5 for joinery, and 4.5 for pulp.

¹¹ Surveys were undertaken in 2020 in the nine producer countries to explore perceptions of levels and types of illegal practice, how these had changed over time, and the factors underlying any changes. A total of 104 respondents took part in the survey (accessing it in English, French or Portuguese), with the following geographic distribution: Brazil – 14, Cameroon – 14, Democratic Republic of the Congo – 8, Ghana – 11, Indonesia – 12, Laos – 10, Malaysia – 6, Papua New Guinea – 19, Republic of the Congo – 10.

¹² Chatham House Forest Governance and Legality (2022), <https://forestgovernance.chathamhouse.org>.

02 Tropical forests and timber in international policy debates

With deforestation continuing apace, there is renewed debate in the international policy community as to whether an approach centred on legality in global supply chains is sufficient.

Greater awareness of the global scale and impacts of the unsustainable use of forest resources can be traced back to the 1990s.¹³ Initial efforts focused on voluntary initiatives for sustainable forest management and product supply chains, subsequently shifting towards a regulatory approach and one in which the need for broad sectoral reform was recognized.

A focus on sustainable forest management

Unlike many other environmental topics on the international agenda, no effective global agreement on forests has ever been reached. An attempt to negotiate one at the UN Conference on Environment and Development – also known as the ‘Earth

¹³ A detailed description of the development of the political agenda related to illegal logging is provided in: Humphreys, D. (2006), *Logjam: Deforestation and the Crisis of Global Governance*, London: Routledge. The background to the development of the FLEGT action plan is also described in Terre Environnement Aménagement (TEREA) Consortium (2016), *Evaluation of the EU FLEGT Action Plan (Forest Law Enforcement Governance and Trade) 2004-2014*, Final Report Volume 1 (Main Report), <https://ec.europa.eu/environment/forests/pdf/FLEGT%20Eval%20Consultant%20Report%20EN.pdf>.

Summit’ – in Rio de Janeiro in 1992 foundered on a lack of agreement between ‘developed’ and ‘developing’ countries. The latter wanted to ensure the right to exploit their sovereign natural resources, while the former wanted to discourage tropical forest countries from replicating those economic processes that had previously led to deforestation in the Global North.

However, a broad, non-binding commitment to the idea of sustainable forest management was reached, with agreement to the principle that: ‘Forest resources and forest lands should be sustainably managed to meet the social, economic, ecological, cultural and spiritual needs of present and future generations.’¹⁴

Various processes were subsequently established to develop criteria and indicators for sustainable forest management. The International Tropical Timber Organisation (ITTO) pioneered this in the 1990s as a means to assess and monitor progress in tropical forests.¹⁵ The private sector and NGOs created voluntary forest certification schemes to verify forest management practices, the Forest Stewardship Council (FSC) being established in 1993 and the Programme for the Endorsement of Forest Certification (PEFC) in 1999.

The impact of all these initiatives on forest management remained limited, however. Sales of certified products grew, but remained small in volume and limited to niche markets. Certification systems proved far easier to implement in the Global North than in the Global South, where coverage was – and remains – very limited.

An increased focus on illegal logging

A focus on illegal logging offered an alternative approach. Awareness and understanding of the problem grew steadily, particularly around the turn of the 21st century. NGOs campaigned increasingly on the issue, and in 1996 the International Union for Conservation of Nature (IUCN) World Conservation Congress called for further study and action on illegal logging. The issue was picked up by the G8, and in 1998 it was included within the G8 Action Programme on Forests. This included commitments to assess the nature and extent of international trade in illegally harvested timber, and to evaluate the effectiveness of measures to control illegal activities. The response by G8 members was mixed, but the commitments made served to raise the profile of the issue.

Momentum for tackling the issue of illegal logging picked up further following a series of regional ministerial conferences on forest law enforcement and governance (FLEG), co-hosted by ‘consumer’ and ‘producer’ countries together with the World Bank. These took place in Indonesia in 2001, Cameroon in 2003 and Russia in 2005. These conferences marked the first international recognition

¹⁴ United Nations (1992), ‘Non-legally binding authoritative statement of principles for a global consensus on the management, conservation and sustainable development of all types of forests’, para. 2(b), <https://digitallibrary.un.org/record/144461?ln=en>. This was followed by the establishment in 2000 of the UN Forum on Forests, which agreed the UN Forest Instrument in 2007, and in 2017, a series of Global Forest Goals. See: United Nations (2017), ‘Six Global Forest Goals agreed at UNFF Special Session’, news release, 20 January 2017, <https://www.un.org/esa/forests/news/2017/01/six-global-forest-goals/index.html>.

¹⁵ International Tropical Timber Organisation (2022), ‘Criteria and indicators’, https://www.itto.int/sustainable_forest_management/criteria_indicators.

that consumer-country action (to close their markets to illegal products) was a necessary accompaniment to producer-country action (to prevent illegal activities at source). In turn, attention became focused on the need for mechanisms to enable consumer countries to differentiate legal from illegal timber products.

The focus on timber legality rather than sustainability was in many ways a pragmatic decision. The assumption was that a definition of sustainability risked being developed through a top-down process with limited input from producer-country stakeholders, and that it would also be complicated to establish, given the absence of a globally agreed definition. In contrast, it was considered that legality definitions would be both supportive of national decision-making and easier to establish, as they would be based on the legal framework of each country.

Although the G8 Action Programme on Forests and the FLEG regional ministerial conferences led to relatively few concrete actions in themselves, they helped to raise the profile of the issue of illegal logging and trade. Notably, the meetings helped to trigger discussions within the EU that led to the adoption in 2003 of the FLEGT Action Plan.¹⁶

The EU FLEGT approach

The EU FLEGT Action Plan encompasses a broad set of measures aimed at addressing illegal logging and forest governance.¹⁷ A core element of the action plan is the negotiation of bilateral Voluntary Partnership Agreements (VPAs) between the EU and timber-producing countries.

VPAs are negotiated through a process that is designed to enable national stakeholders to participate in decision-making on forest law enforcement, governance and trade. The EU offers incentives in the form of trade preferences for timber products that are licensed as legal (i.e. that have been issued with a FLEGT licence). This mechanism is combined with capacity-building assistance to partner countries to set up licensing systems, reform legislation and improve law enforcement. It was assumed that the VPAs would lead to a more profitable timber sector, which would absorb the costs of the timber legality and licensing systems; the EU was offering set-up rather than running costs.¹⁸

Alongside the VPAs, the action plan included commitments to consider additional legislative options to prohibit the import of illegal timber; encourage voluntary industry initiatives and government procurement policy to limit purchases to legal sources; and encourage financial institutions to scrutinize investments in the sector.

¹⁶ See Brack, D., Marijnissen, C. and Ozinga, S. (2002), *Controlling imports of illegal timber: Options for Europe*, Brussels and London: Fern and Royal Institute of International Affairs, https://www.cifor.org/publications/pdf_files/reports/OptionsforEurope.pdf.

¹⁷ Commission of the European Communities (2003), *Communication from the Commission to the Council and the European Parliament: Forest Law Enforcement, Governance And Trade (FLEGT) – Proposal for an EU Action Plan*, May 2003, COM(2003) 0251 final, <https://op.europa.eu/en/publication-detail/-/publication/75fd864e-9f38-41c0-beab-fca3abfb1877/language-en>.

¹⁸ *Ibid.*, para. 4.2.3.

The first of these commitments saw the introduction of the EU Timber Regulation (EUTR). Agreed in 2010 and coming into force in March 2013, the regulation prohibits the placing of illegal timber on the EU market.¹⁹ Notably, the development of the EUTR can be partly attributed to earlier moves in the US, where, as early as 2003, the President's Initiative Against Illegal Logging was established. This was initially focused on supporting international forums and working collaboratively with trading countries. For example, memorandums of understanding on illegal logging were agreed with China and Indonesia, and provisions on forest governance and the illegal timber trade were included within the trade promotion agreement between the US and Peru.

The reform of the Lacey Act stimulated the EU to begin work on similar legislation, leading to the introduction of the EU Timber Regulation from 2013.

Although initially reluctant to close off the US market to illegal imports, in 2008 Congress voted to amend the 100-year-old Lacey Act, following a lobbying campaign led by the Lacey Coalition, a group of US NGOs and businesses.²⁰ The 2008 amendment extended the prohibition on the import and sale of illegally produced wildlife to cover timber and wood products.²¹

The reform of the Lacey Act stimulated the EU to begin work on similar legislation, which led to the introduction of the EUTR from 2013. As well as prohibiting the placing of illegally harvested timber and timber products on the EU market, the EUTR obliges timber operators to establish systems of due diligence to minimize the risk of their handling illegal timber products.²² Products accompanied by a FLEGT licence automatically meet the requirements of the regulation, thus providing an incentive to countries to agree and implement VPAs.

Other consumer countries have been influenced by these developments in the US and EU. Legislation similar to the EUTR and Lacey Act now exists in a number of countries in the Asia-Pacific region. Furthermore, the use of public procurement policies to grow the market for legal or sustainable timber products has been expanding.²³ The impact of market access regulations and public procurement policies is discussed further in Chapter Three.

¹⁹ Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010, laying down the obligations of operators who place timber and timber products on the market.

²⁰ Lacey Coalition (2022), <https://www.laceycoalition.org>.

²¹ United States Code (undated), 'Chapter 53—Control of illegally taken fish and wildlife', §3372, <https://uscode.house.gov/view.xhtml?path=/prelim@title16/chapter53&edition=prelim>.

²² Paper and pulp (which are not typically referred to as 'timber products') are included within the scope of the EUTR.

²³ Uehara, T. (2020), *Public Procurement for Sustainable Development: A framework for the public sector*, Research Paper, London: Royal Institute for International Affairs, <https://www.chathamhouse.org/2020/11/public-procurement-sustainable-development>; Brack, D. (2014), *Promoting Legal and Sustainable Timber: Using Public Procurement Policy*, Research Paper, London: Royal Institute of International Affairs, https://www.chathamhouse.org/sites/default/files/field/field_document/20140908PromotingLegalSustainableTimberBrackFinal.pdf.

A roadmap for change

The theory of change underpinning these activities on forest law enforcement and governance was never explicit. The early years of discussions were characterized by an openness to find anything that seemed likely to work. The FLEGT initiative has been described as an ‘experimentalist’ regime that was ‘assembled piece by piece’,²⁴ as well as one that was developed stepwise, and that had multiple objectives.²⁵

While pathways for change, targets and indicators were not clearly mapped out, the EU FLEGT Action Plan has three central elements.²⁶ First, support for governance reforms in tropical forest countries to reduce the supply of illegal timber; second, promotion of demand-side measures to reduce the consumption of illegal timber; and third, establishment of trade measures to link the supply- and demand-side measures, with the support of dialogue and international collaboration.

Ultimately, through reducing illegal logging and trade, the EU hoped to foster sustainable forest management, while also improving rural livelihoods and supporting sustainable development more broadly.²⁷

With illegal logging recognized as undermining many of the EU’s development objectives, it was hoped that the action plan would help improve the effectiveness of EU development cooperation. Implicit within this was the assumption that, through strengthening legality, producer countries would be better able to harness the economic benefits from the sector, which could be used to support their national development objectives. The action plan notes that ‘it is through enhanced revenues that partner countries stand to gain most from reducing illegal logging’.²⁸

Recent developments

Recent trends have seen some challenges to this theory of change. The world’s timber trade has shifted greatly since the EU and US turned their attention to tackling illegal logging in the early 2000s, and they now exert a much less significant influence in global markets. China has seen rapid and sustained growth in industries transforming unprocessed wood-based products such as logs, sawnwood and pulp into finished and semi-finished products for export, and also, increasingly, for domestic consumption.

²⁴ Zeitlin, J. and Overdevest, C. (2020), ‘Experimentalist interactions: Joining up the transnational timber legality regime’, *Regulation and Governance*, 15(3), pp. 686–708, <https://doi.org/10.1111/rego.12350>.

²⁵ Booth, D. and Unsworth, S. (2014), *Politically smart, locally led development*, Discussion Paper, London: ODI, <https://cdn.odi.org/media/documents/9204.pdf>.

²⁶ TERA Consortium (2016), *Evaluation of the EU FLEGT Action Plan (Forest Law Enforcement Governance and Trade) 2004-2014*, <https://ec.europa.eu/environment/forests/pdf/FLEGT%20Eval%20Consultant%20Report%20EN.pdf>.

²⁷ Commission of the European Communities (2003), *Communication from the Commission to the Council and the European Parliament*, Section 2, Introduction.

²⁸ Commission of the European Communities (2003), *Communication from the Commission to the Council and the European Parliament*, para. 4.1.4.

China is now by far the world's largest importer of unprocessed products and the largest producer and consumer of most categories of wood-based products. China's general approach has been not to seek to interfere in other countries' internal affairs and to accept any products they choose to export, although in recent years it has taken some tentative steps to exclude illegal timber from imports (see Chapter Four). Other countries showing recent growth in imports and consumption, such as India and some Middle Eastern countries, have shown little interest to date in regulating their imports.

Many producer countries have also experienced growth in their domestic markets for wood-based products, which potentially lessens the impact of any measures taken by those countries to which they export. Despite the growing number of countries that have taken action, as well as attention from international forums, including the Asia-Pacific Economic Cooperation (APEC) and signatories to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), a global framework for the control or elimination of illegal logging has not emerged.

Questions have been raised over the impact and cost-effectiveness of the FLEGT approach. A comprehensive evaluation of the action plan published in 2016 concluded that its overall design was 'innovative, comprehensive and future-proof', and that it had 'clear EU added-value through its market leverage and increased political weight'. Also, the evaluation drew attention to the need for 'a shift in geographical focus to non-VPA countries and focus on international coalitions', and for greater attention to be paid to domestic timber markets.²⁹

In 2020–21, the European Commission also undertook a 'fitness check' of the VPAs and the EUTR.³⁰ The findings of the fitness check were mixed, with the official report acknowledging that while there had been some successes in reducing the levels of illegal timber products being placed on the European market, it was unclear what impact there had been on illegal logging globally. The methodology and findings of the fitness check have been strongly criticized, with some civil society organizations pointing to genuine improvements in governance in many VPA countries³¹ which fell outside the scope of the assessment.

In addition, the last decade has seen growing recognition that illegal logging is not the only, nor even the most important, cause of deforestation. Worldwide, clearance of forests for agriculture is a more significant driver of forest loss than illegal, or legal, logging for wood-based products; in recent years, studies have

²⁹ TERA Consortium (2016), *Evaluation of the EU FLEGT Action Plan (Forest Law Enforcement Governance and Trade) 2004-2014*.

³⁰ European Commission (2021), Fitness Check on Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (the EU Timber Regulation) and on Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community (FLEGT Regulation), https://environment.ec.europa.eu/system/files/2021-11/SWD_2021_328_1_EN_bilan_qualite_part1_v2.pdf.

³¹ See, for example, Fern (2021), *Raising the bar: Strengthening EU biodiversity and climate leadership through FLEGT and Forest Partnerships*, <https://www.fern.org/publications-insight/raising-the-bar-strengthening-eu-biodiversity-and-climate-leadership-through-flegt-and-forest-partnerships-2336>.

suggested that agriculture is responsible for anywhere between 50 and 80 per cent of global forest loss.³²

Recognition of this trend has tended to reduce the focus on illegal logging for wood-based products, with attention being centred instead on policy options for tackling deforestation associated with the production and trade of forest risk commodities. Such policy initiatives are under way in a number of countries/regions, including China, the EU, Japan, the UK and the US.

Alongside these developments, there has been a growing awareness of the role and rights of indigenous peoples and forest communities in forest governance, management and conservation. This is a matter of substantial importance; the world's remaining tropical forests are in many cases where indigenous peoples and traditional communities live and have their territories, and studies suggest that many such areas have deforestation rates significantly lower than those found elsewhere.³³

There has been a growing awareness of the role and rights of indigenous peoples and forest communities in forest governance, management and conservation.

This issue has been reflected to some extent in recent debates on the impact of business activities on human rights, as articulated, for example, in the UN's Guiding Principles on Business and Human Rights, adopted in 2011, which describe the responsibility of companies to respect human rights in their operations and supply chains.³⁴ Within the EU, for example, this has led to the drafting of legislation that requires businesses to exercise due diligence with regard both to potential human rights abuses and to environmental harms associated with their operations and supply chains.³⁵

All these developments raise questions as to the best route forward for international cooperation on forests: where the opportunities lie for future engagement, and what types of measures and interventions are most likely to be effective.

³² Dummett, C. et al. (2021), *Illicit Harvest, Complicit Goods: The State of Illegal Deforestation for Agriculture*, Report, Washington, DC: Forest Trends, <https://www.forest-trends.org/publications/illicit-harvest-complicit-goods>.

³³ Food and Agriculture Organization of the UN (2021), 'Forest governance by indigenous and tribal peoples: An opportunity for climate action in Latin America and the Caribbean', FAO Regional Office for Latin America and the Caribbean.

³⁴ Office of the UN High Commissioner for Human Rights (2011), *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework*.

³⁵ European Commission (2022), 'Corporate sustainability due diligence: Fostering sustainability in corporate governance and management systems', https://ec.europa.eu/info/business-economy-euro/doing-business-eu/corporate-sustainability-due-diligence_en?mselkid=06688819a6b311ecb9709a502c20c7a9.

03

Forest legality and sustainability

Although the proportion of illegal wood-based products traded internationally has declined over the last decade, improved legal compliance does not necessarily imply improved sustainability.

Discussion has re-emerged as to the merits, or otherwise, of focusing international reform efforts on legality or sustainability. As outlined in Chapter Two, in the context of the forest sector the focus for the last two decades has been primarily on legality, because this approach was seen as being more supportive of a country's sovereignty, and was considered to be easier to implement, compared to approaches that were focused on sustainability. However, experience has shown that the reality is not quite so straightforward.

Defining legality in the forest sector

One of the issues faced when considering legality is that the legitimacy of state sovereignty may not be accepted by all national stakeholders. For example, customary legal frameworks may have a high level of social recognition and acceptance, but these are generally ignored, or are not adequately recognized within some countries' formal legal frameworks. For instance, a 2020 review of 42 countries estimated that 49 per cent of their total land area comprised indigenous and local communities' land, of which 46 per cent was not legally recognized.³⁶

³⁶ Rights and Resources Initiative (2020), *Estimate of the area of land and territories of Indigenous Peoples, local communities, and Afro-descendants where their rights have not been recognized*, Technical Report, <https://rightsandresources.org/wp-content/uploads/Area-Study-v2021.pdf>.

Similarly, artisanal and small-scale producers and enterprises are often not accounted for or regulated, which excludes them from operating legally, while some of their activities are banned in certain countries (see also Chapter Four). This is in spite of the fact that artisanal and small-scale producers provide most of the timber consumed in the domestic markets of many tropical forest countries, and play an important role in rural economies.³⁷ Furthermore, certain legal principles that are well established in international law may not be reflected at the national level – for example, those related to human rights, labour rights or tenure of land and resources.

The laws in many countries are unclear and at times contradictory or incomplete.

A further challenge is that defining what is legal (and illegal) can be complicated. One reason for this is that opinions may differ as to the scope of laws that should be considered. For legislation regulating trade in timber, most definitions of legality or illegality refer to the legal framework of the country where the wood raw material of the products has been harvested. There are variations within this, with some definitions emphasizing particular aspects of the law. For example, the Lacey Act refers to ‘any foreign law’, and also specifies that regulations related to the fiscal regime are within scope.³⁸ The EUTR refers to national legislation of the country of harvest as well as any ‘relevant international conventions’ to which the country is party. For the national legislation, five areas are identified as being applicable: rights to harvest within legally gazetted boundaries; payments for harvest rights and timber; timber harvesting, including environmental and forest legislation; third parties’ legal rights concerning use and tenure that are affected by timber harvesting; and trade and customs.³⁹ The South Korean Act on the Sustainable Use of Timbers focuses on illegality with respect to non-compliance with regulations related to harvesting,⁴⁰ and the definition of illegal logging developed by the APEC countries refers to domestic laws or regulations ‘related to the protection, conservation, or management of forests and timber’, also noting that countries may consider additional categories of law.⁴¹ As noted above, for some, such definitions are too narrow, particularly in failing to require compliance with certain international norms.

³⁷ Tacconi, L. et al. (2016), ‘Defining Illegal Forest Activities and Illegal Logging’, in Kleinschmit, D., Mansourian, S., Wildburger, C. and Purret, A. (eds), *Illegal Logging and Related Timber Trade – Dimensions, Drivers, Impacts and Responses: A Global Scientific Rapid Response Assessment Report*, IUFRO World Series Volume 35, Vienna: International Union of Forest Research Organizations.

³⁸ Animal and Plant Health Inspection Service, US Department of Agriculture (2021), ‘Lacey Act’, 21 December 2021, <https://www.aphis.usda.gov/aphis/ourfocus/planthealth/import-information/lacey-act?msclkid=92518c81aabb11ec94a325d5a3bfd55>.

³⁹ See the Preamble, section 14; and Article 2(h), on the definition of applicable legislation. European Commission (2010), ‘Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market Text with EEA relevance’, October 2010, Official Journal of the European Union, L 295/23, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32010R0995>.

⁴⁰ Food and Agriculture Organization of the UN, FAOLEX Database (2022), ‘Republic of Korea: Act on the Sustainable Use of Timbers (No. 11429 2012)’, <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC136715>.

⁴¹ Asia-Pacific Economic Cooperation (2015), APEC Common Understanding of the Scope of Illegal Logging and Associated Trade, paragraph 3, https://www.apec.org/docs/default-source/groups/egilat/15_sce3_017_zcommon-understanding-of-scope-of-ilat.docx?sfvrsn=87c63a0c_1.

Another factor that can make defining legality complex is that the laws in many countries are unclear and at times contradictory or incomplete. This complexity has implications for those who are trying to comply with the law – this is particularly the case for artisanal producers and SMEs, which often have limited capabilities to evaluate and meet legal requirements. It also presents challenges for those seeking to enforce the law, whether within the country of production or further down the supply chain, for example, where there are market access regulations related to the legality of timber.

It is for these reasons that a fundamental element of the VPA negotiations has been to implement a national process for each partner country to define what constitutes legal timber.

Stakeholder engagement in defining legality

The national processes established under the VPAs to define what is legal in timber production and trade have proven to be transformative in some countries. These multi-stakeholder processes entailed reviews of national legal frameworks and prompted reforms where conflicting or weak laws were identified. Furthermore, they served to enhance the legitimacy of the law. For example, the new Forest Code in the Republic of the Congo was the result of such a process and has been met with a high level of support from civil society (although the implementing decrees have yet to be finalized).⁴² In Laos, the VPA supported wide-ranging forest sector reforms and helped to raise awareness of the legal framework and of the institutional responsibilities for its implementation.⁴³

Of course, the process has not always been smooth, and the legality definitions agreed have at times been criticized for not adequately addressing certain areas of law. The legality definitions vary between countries, reflecting the particular national contexts and priorities of those engaged in the negotiations as well as their awareness of relevant issues. This has meant that some issues have not been adequately covered, while changes in the sector have also highlighted gaps. This has been the case, for example, in Indonesia, where the legality definition did not initially consider the issue of corruption in permit allocation, nor did it cover timber from customary forests. The former issue has in part been addressed, and sustainability certification can now be revoked in certain cases: for example, if there is a conviction for corruption linked to a company's permits.⁴⁴ The issue of timber from customary forests became a priority with the recognition of customary land rights by Indonesia's Supreme Court in 2013.⁴⁵

⁴² Bollen, A. (2020), *Evaluating the VPA process in the Republic of Congo: Views from civil society*, Brussels: Fern, <https://www.fern.org/publications-insight/evaluating-the-vpa-process-in-the-republic-of-congo-2110>.

⁴³ Smith, H. (2018), *Assessment of reforms related to the FLEGT-VPA in Lao PDR*, Executive summary, EFI; To, P. X. and Boutthavong, S. (2021), *Survey of timber operator in Lao PDR: Current situation and policy implications*, FLEGT Laos, https://flegtlaos.com/wp-content/uploads/formidable/8/InfoBrief_Operator-Survey_Final_EN-21-10-21.pdf.

⁴⁴ The robustness of the mechanisms for revoking certification in such cases has been questioned, however, see Rainforest Action Network (2015), *False Assurances: A briefing for international buyers and customs authorities on how Indonesia's timber legality verification system fails to protect community rights*, https://www.ran.org/wp-content/uploads/2018/06/RAN_False_Assurances_LOW.pdf.

⁴⁵ Johnson, C. (2013), 'Indonesia: Forest rights of indigenous peoples affirmed', 3 June 2013, <https://www.loc.gov/item/global-legal-monitor/2013-06-03/indonesia-forest-rights-of-indigenous-peoples-affirmed>.

The need for customary forests to be integrated into the country's Legality and Sustainability Assurance System (Sistem Verifikasi Legalitas dan Kelestarian – SVLK) is recognized in the VPA⁴⁶ and options for implementing this are being explored.⁴⁷

Negotiating legality definitions is not straightforward, and it has been more complex and time-consuming than originally foreseen. This in part reflects the weakness of the legal framework in many countries. Consequently, these processes have not simply entailed deciding on the scope of laws to be included within the legality definition, but have also required reviews of the existing legal framework and the elaboration of new or revised laws and policies.

A further complexity results from the fact that legality definitions cannot be seen as static. Rather, they need to be amended, as opinions on what issues (and thus, which areas of law) should be included are changeable, and because the law itself is subject to change.

Changes in law can of course be either positive – with the clarification of laws, or implementation of reforms that address existing inequities – or negative. There have been many cases over the last two decades in which the law has been changed to facilitate the exploitation of forests and forest lands to the detriment of sustainability. For example, the 2012 revision to Brazil's Forest Code granted amnesties to those who had deforested land, exempting them from the requirement to restore forest cover on their property.⁴⁸ Furthermore, in recent years, easing of social and environmental safeguards linked with the approval process for changes in land use has been reported in a number of tropical forest countries, as governments have sought to boost short-term economic growth following the COVID-19 pandemic.⁴⁹

These issues have come to the fore in recent discussions of policy measures to address deforestation in supply chains, with debate centring on whether such measures should target only illegal practices, or all deforestation – an issue which will be revisited below.

⁴⁶ Amendment to Annex V of the VPA, in Commission Decision (EU) 2015/1158, 8 July 2015, notes that 'Changes in the procedures for utilization and/or administration of timber from Customary Forests, to address implementation of Constitutional Court Decision (MK) No 35/PUU-X/2012, shall be introduced after the adoption of related implementing legislation.' European Commission (2015), 'Commission Decision (EU) 2015/1158 of 8 July 2015', July 2015, Official Journal of the European Union, L 187/30, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015D1158&from=EN>.

⁴⁷ Wicaksono, S. A. (2021), 'Customary forests and timber management: a way forward in Indonesia', EUREDD Facility Blog, 28 July 2021, <https://www.euredd.efi.int/blog/-/blogs/customary-forests-and-timber-management-a-way-forward-in-indonesia>; Broadhead, J., Steni, B. and Hinrichs, A. (2018), *Implementing SVLK in customary forests*, EU FLEGT REDD Facility and EFI, <https://euredd.efi.int/integrating-customary-forests-indonesia-legality-assurance-system>.

⁴⁸ Guidotti, V. et al. (2017), *Números detalhados do novo Código Florestal e suas implicações para os PRAs*, Piracicaba, SP: Imaflo, https://observatorioflorestal.org.br/wp-content/uploads/bkps-old/2018/02/numeros_detalhados_codigo_florestal_e_suas_implicacoes_para_os_pras.pdf.pdf.

⁴⁹ Dil, S., Ewell, C., Wherry, A. and Doyle, C. (2021), *Rolling back social and environmental safeguards in the time of COVID-19: The dangers for indigenous peoples and for tropical forests*, Discussion Paper, Middlesex University, Lowenstein International Human Rights Clinic, Yale Law School and Forest Peoples' Program, <https://www.forestpeoples.org/sites/default/files/documents/Rolling%20Back%20Social%20and%20Environmental%20Safeguards%20-%20Global%20Report%20ENGLISH%20FINAL.pdf>.

Assessing types of illegal practices and their prevalence

As noted above, defining illegality is complicated. To try and understand how the nature and scale of illegal practices have changed over the last two decades, the approach adopted for this analysis was to take a broad definition of illegality. Thus, it is assumed to include illegal practices as recognized within national definitions, as well as *contentious* practices, which are those prohibited in international law or norms but not necessarily embedded within national definitions of legality.

This approach was adopted in recognition of the fact that, even if contentious activities are not illegal under a particular national framework, they often serve to undermine confidence in government and can conflict with best practice for sustainable and equitable forest and land use. Consequently, the analysis presented here does not necessarily reflect the risk of non-compliance with regulations aimed at controlling the trade in illegal timber. Rather, it serves to highlight where there may be a need for further scrutiny and debate – by those in government, as well as the private sector and civil society.

Five categories of illegal practice were chosen, as follows.⁵⁰

- Customary tenure and resource rights:
 - Free, prior and informed consent (FPIC) not obtained from affected people or communities; or
 - The rights of affected peoples or communities not adequately taken into consideration and addressed in the process of allocating permits or developing management plans; and any loss of rights not adequately compensated.
- Award of permits:
 - Environmental impact assessments (EIAs) not conducted in accordance with legal requirements;
 - Legally required process not followed in decision-making for the award of permits, e.g. calls for tenders not published; technical requirements for selection of bids not followed; corruption influences decision-making; or
 - Use of proxy companies by an entity that would otherwise be ineligible for being granted a permit.

⁵⁰ This list draws on the various categorizations of illegal practice that have been made, including: the Sourcing Hub developed by Preferred by Nature (<https://preferredbynature.org/sourcinghub/timber/timber-democratic-republic-congo>), WWF's TRAFFIC timber legality framework (<https://www.traffic.org/site/assets/files/6500/common-framework-for-assessing-legality-of-forestry-operations.pdf>), the Open Timber Portal (<https://opentimberportal.org/observations>), and APEC's national timber legality guidance (see <https://www.apec.org/Groups/SOM-Steering-Committee-on-Economic-and-Technical-Cooperation/Working-Groups/Illegal-Logging-and-Associated-Trade>), as well as country overviews prepared by the UN Environment Programme World Conservation Monitoring Centre (UNEP-WCMC) to aid implementation of the EUTR. Examples have been provided for the types of illegal activity that each category can include. These are not comprehensive, nor is each of them found in every country or region.

- Forest management and harvesting:
 - Management plans not developed or implemented, e.g. plans do not meet legal requirements; logging in restricted areas; overharvesting of particular species, etc.;
 - Health and safety and/or labour laws not complied with, e.g. no provision of safety equipment; employment of illegal immigrants; non-payment of salaries or of minimum legal wage; or
 - Environmental legislation not complied with, e.g. logging of protected areas or species; non-compliance with requirements for protection of wildlife; pollution of water courses.
- Forest sector payments and financing:
 - Relevant royalties, fees, taxes and fines not paid, or not paid in full;
 - Benefit-sharing agreements with local communities not complied with;
 - Fraudulent financing /money laundering by concessionaires or in relation to mills; or
 - Illegal forms of transfer pricing.
- Transport and trade:
 - Export bans or quotas breached or exceeded for certain species or products;
 - False declarations made; e.g. misdeclarations of species, value or source; or
 - Non-compliance with CITES requirements.

Some of these – notably, the first two categories, ‘customary tenure and resource rights’ and ‘award of permits’ – are somewhat different in nature to the others. This is because illegalities in these categories are likely to be intractable. As such, unless there have been robust processes to address such illegal practices, they will affect the legality of all subsequent production. For example, if the process of granting a permit involved corruption, or if a logging permit was granted on land for which existing land rights were not recognized, the timber subsequently produced under these permits is considered illegal.

Addressing such issues, particularly where the illegal practices took place in the past, is challenging. However, it is possible to do so, for example, through a review of existing permits. Such a process was implemented in the Democratic Republic of the Congo (DRC) in the late 2000s, with the cancellation of 76 out of 156 concessions⁵¹ – although widespread breaches have since been reported.⁵² A further review of all forestry concessions is to be implemented in 2022.⁵³

⁵¹ Centre d’Etudes Pour l’Action Sociale (CEPAS) research report, unpublished. See <http://cepas.online>.

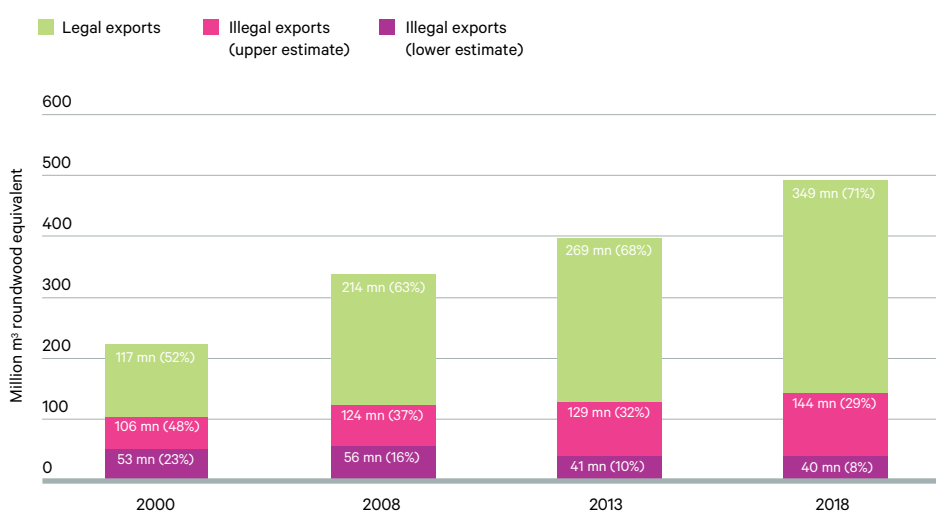
⁵² Democratic Republic of the Congo, Presidency of the Republic, General Inspectorate of Finance (2020), *Rapport de mission relatif au contrôle de la légalité des allocations et cessions des concessions forestières et des droits dus au Trésor public par les exploitants forestiers formels* [Mission report on the control of the legality of the allocations and transfers of forest concessions and rights due to the public treasury by formal loggers], <https://medd.gouv.cd/wp-content/uploads/2022/04/Rapport-de-mission-relatif-au-contrôle-de-la-légalité-des-allocations-et-cessions-des-concessions-forestières-et-des-droits-dus-au-Trésor-public-par-les-exploitants-forestiers-formels.pdf>.

⁵³ Central African Forest Initiative and Government of the Democratic Republic of the Congo (2021), ‘Letter of Intent and Country Allocation’, 2 November 2021. http://www.cafi.org/sites/default/files/2022-03/EB.2021.18%20-%20Letter%20of%20Intent%20with%20the%20DRC%202021-2031%20with%20annexes_0.pdf.

Key findings

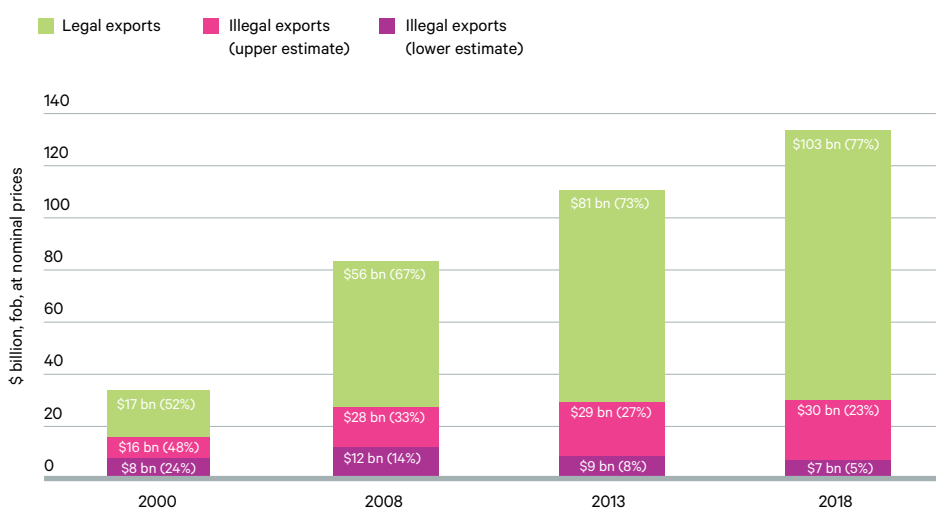
Analysis for the 37 countries included in this study indicates that, globally, the proportion of illegal trade in wood-based products has declined in the past 20 years, with respect to both volume and export value.⁵⁴ However, there has been an absolute increase in these volumes, in particular between 2000 and 2008, because of an overall increase in international trade. (Detailed analysis for each of the project countries is provided in the country notes.)⁵⁵

Figure 1. Volume of legal and illegal exports of wood-based products, 2000–18, total from 37 study countries



Source: Chatham House illegality estimates.

Figure 2. Value of legal and illegal exports of wood-based products, 2000–18, total from 37 study countries



Source: Chatham House illegality estimates.

⁵⁴ The analysis for the project countries is available in the country notes, published online at Chatham House Forest Governance and Legality, <https://forestgovernance.chathamhouse.org>.

⁵⁵ See country notes at Chatham House Forest Governance and Legality, <https://forestgovernance.chathamhouse.org>.

On the assumption that all other countries' exports are entirely legal, it can be estimated that this illegal trade on the part of the 37 study countries accounted for at least 9 per cent of global exports in 2000, and 4 per cent in 2018, by volume; and for a minimum of 8 per cent in 2000 and 3 per cent in 2018, by value. Using the upper estimates for illegal trade (i.e., the worst-case scenario), the proportion of illegal trade can be estimated at up to 19 per cent in 2000 and 14 per cent in 2018, by volume; and up to 15 per cent in 2000 and 11 per cent in 2018, by value (Table 1).

These estimates hide significant variation both between countries and supply chains, with the picture being dominated by a few countries, and so it is useful to consider the disaggregated estimates.

Table 1. Estimated total illegal exports of wood-based products in 2000–18 from 37 countries, and as a proportion of all exports of wood-based products from these countries and globally

	Estimated export volume (million m3 roundwood equivalent/% of total)				Estimated export value (\$ billion, fob, ⁵⁶ at nominal prices/% of total)			
	2000	2008	2013	2018	2000	2008	2013	2018
All exports – 37 selected countries	224	339	399	492	33	83	111	133
Illegal exports – 37 selected countries	53–106	56–124	41–129	40–144	8–16	12–28	9–29	7–30
Illegal exports as % of 37 selected countries' total exports	23–48%	16–37%	10–32%	8–29%	24–48%	14–33%	8–27%	5–23%
Total exports – global	570	770	890	1020	104	203	242	264
Illegal exports from 37 selected countries as % of global exports	9–19%	7–16%	5–15%	4–14%	8–15%	6–14%	4–12%	3–11%

Source: Chatham House estimates.

Sources of illegal wood-based products

The timber and paper sectors are quite distinct (Figures 3–6). For the timber sector, in some parts of the world illegal exports are on a downward trend. This has been particularly marked in Indonesia and Malaysia, reflecting improvements in governance in both countries. For Malaysia, the decline in illegal exports also reflects an increase in production from certified plantations as well as an overall decline in exports, in particular from the states of Sabah and Sarawak, where illegal practices have been more prevalent.

⁵⁶ Free on board.

Elsewhere, however, illegal timber exports are estimated to have increased. This is most notable in Russia. Illegal practices are widespread in the country's eastern regions, where production has increased rapidly over the last two decades, mainly to supply the timber-processing industry in China. In terms of smaller countries, illegal exports are also estimated to have increased in Papua New Guinea and the Solomon Islands. Exports from both countries have continued to grow over the past 20 years, but there has been little evidence of improvements in forest governance in either. Lastly, central African countries account for a relatively small proportion of global exports, but illegal practices continue to be widespread across many supply chains.

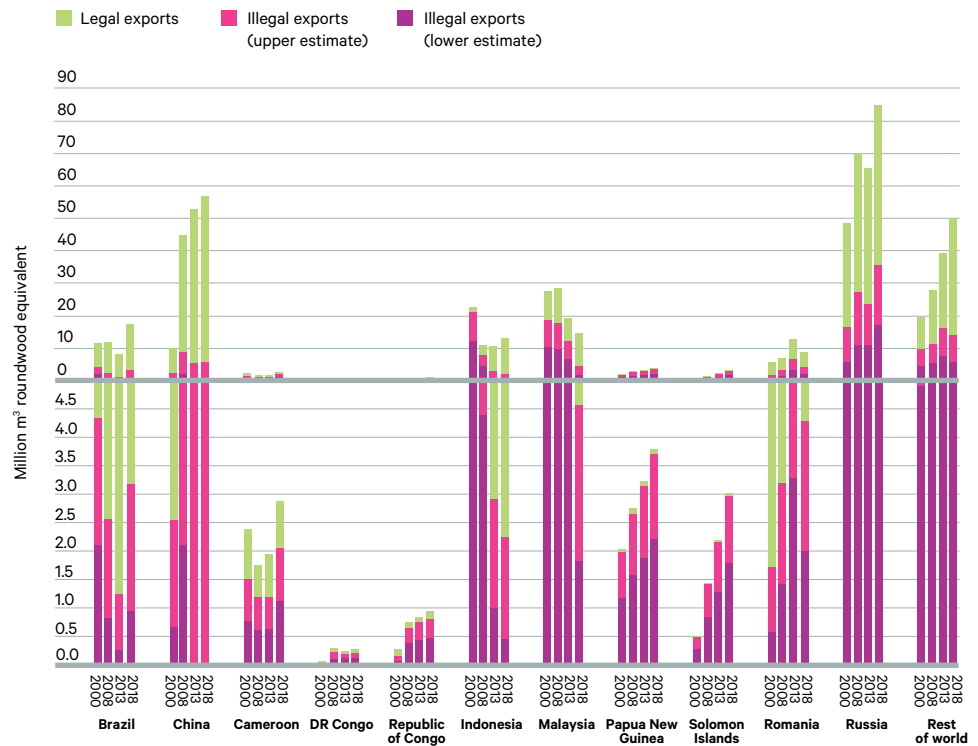
Central African countries account for a relatively small proportion of global exports, but illegal practices continue to be widespread across many supply chains.

For the paper sector, the range of estimated illegal exports (i.e. the difference between the upper and lower estimates) has widened in the last two decades. The primary reason for increases in the upper estimates is the growth of trade in the paper sector. The illegalities pertaining to the sector tend to be intractable, and many remain to be resolved. Hence, the increase in trade has resulted in a commensurate increase in illegal exports.

The picture is dominated by Indonesia, where the majority of exports for the paper sector are sourced from plantations whose legality is contested because of allegations of corruption in the allocation of permits, failure to respect customary rights, and certain financial practices among parent companies.⁵⁷ Some of these issues are not included within the country's current definition of legality, and so they were not reflected in the lower estimates of illegality. The importance of these issues for establishing a sustainable and equitable sector is acknowledged by the Indonesian government, and efforts are under way to address a number of them – including for example, a process to allocate customary forests. However, progress has been slow, and these issues are yet to be resolved for a significant number of concessions and plantations.

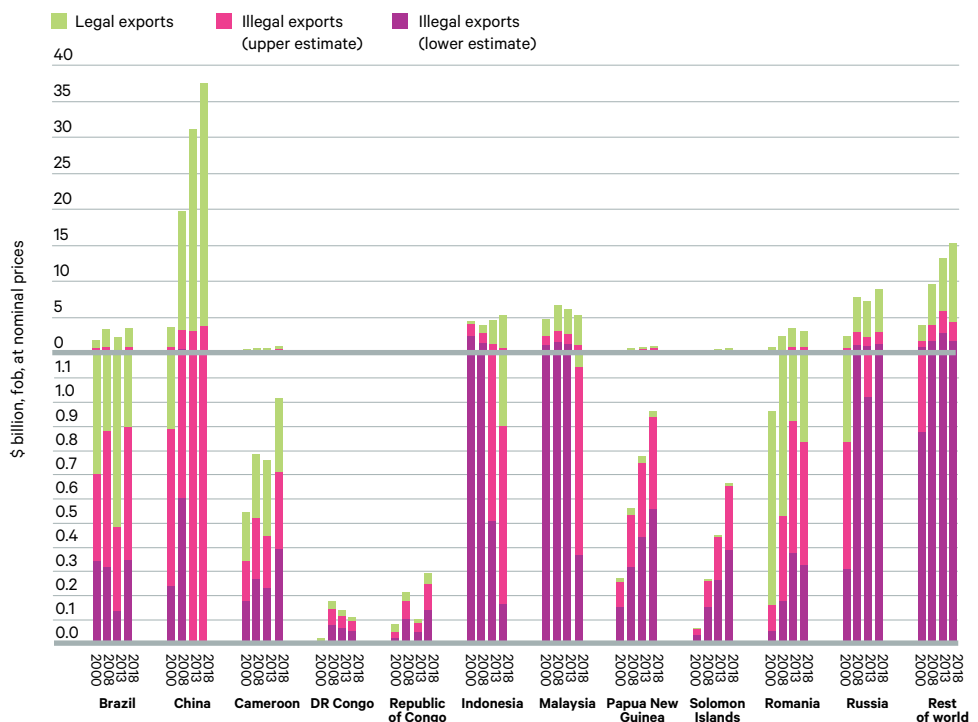
⁵⁷ See, for example, Jong, H. N. (2020), 'Pulp producers pull off \$168 million Indonesia tax twist, report alleges', Mongabay, 2 December 2020, <https://news.mongabay.com/2020/12/pulp-paper-toba-pulp-lestari-april-tax-export-report>; Wakker, E. (2014), *Indonesia: Illegalities in Forest Clearance for Large-scale Commercial Plantations*, Washington, DC: Forest Trends, <https://www.forest-trends.org/publications/indonesia-illegalities-in-forest-clearance-in-large-scale-plantations>. For further details, see Indonesia country note at Chatham House Forest Governance and Legality, <https://forestgovernance.chathamhouse.org/countries/indonesia>.

Figure 3. Volume of legal and illegal exports of timber, 2000–18, selected geographies



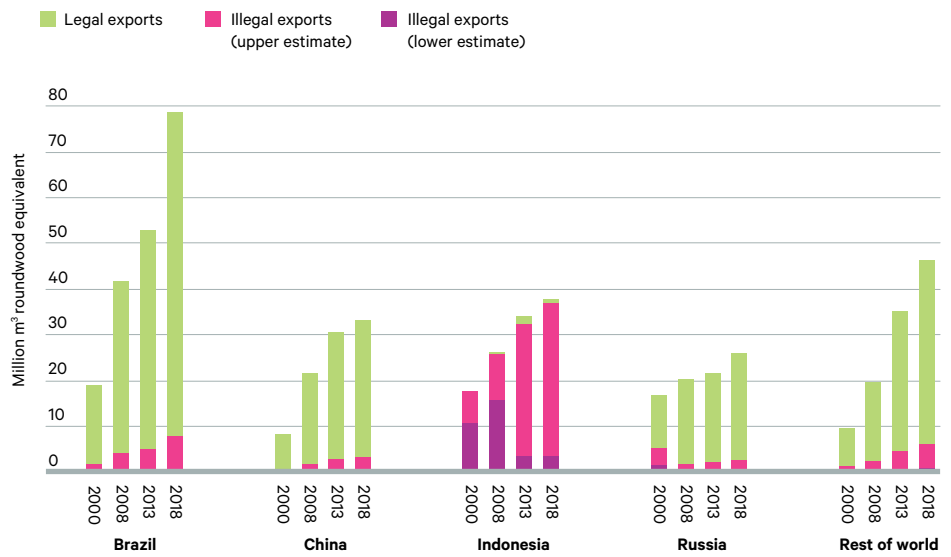
Source: Chatham House estimates.

Figure 4. Value of legal and illegal exports of timber, 2000–18, selected geographies



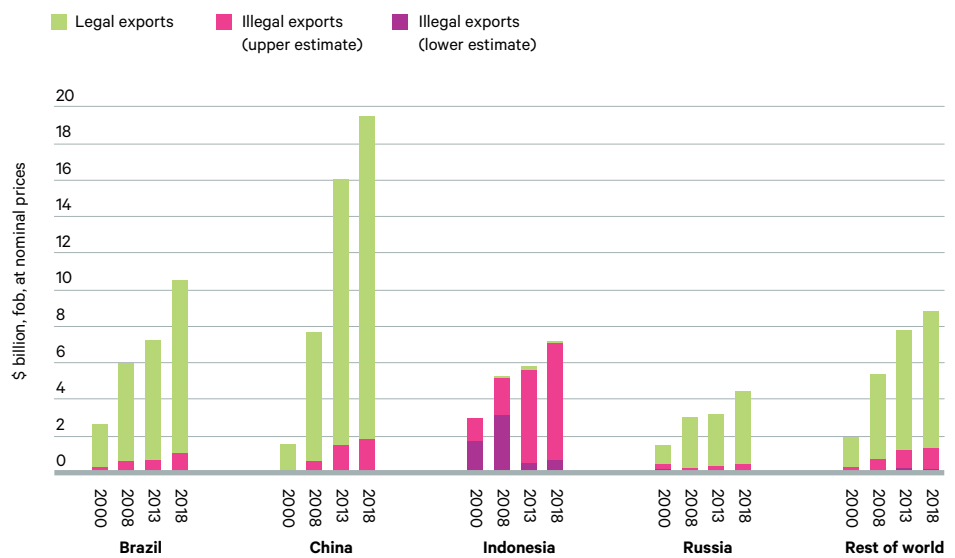
Source: Chatham House estimates.

Figure 5. Volume of legal and illegal paper sector exports, 2000–18, selected geographies



Source: Chatham House estimates.

Figure 6. Value of legal and illegal paper sector exports, 2000–18, selected geographies



Source: Chatham House estimates.

For many stakeholders, natural tropical forests – rather than plantations – have been the main focus of efforts to establish legal and sustainable forestry, and so it is useful to take a more detailed look at those products (here termed ‘tropical timber’ products).⁵⁸

For tropical timber products, the volume of illegal log exports (see Figures 7–8) is estimated to have remained at roughly the same level between 2000 and 2018, although the countries of origin have changed. Illegal exports of logs from Malaysia are estimated to have decreased, and those from the Mekong region (Cambodia, Laos and Myanmar), Papua New Guinea, the Solomon Islands and the Congo Basin to have increased. However, in terms of export value, measured in US dollars and at nominal prices (Figures 9–10), illegal exports of logs are estimated to have doubled between 2000 and 2013 before declining in the period to 2018, albeit to a higher level than was observed during the 2000s. This contrasting trend in export values is in part a reflection of rising nominal prices for all tropical timber products, and is also linked to the increased share of illegal exports that is represented by higher-value logs – in particular, rosewood – from the Mekong region (in the period to 2013) and from several African countries.

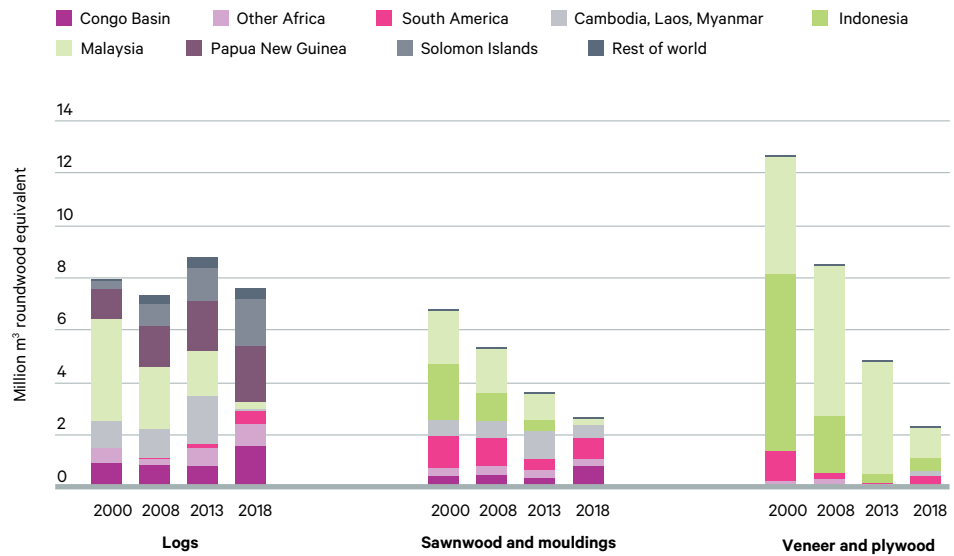
For many stakeholders, natural tropical forests – rather than plantations – have been the main focus of efforts to establish legal and sustainable forestry.

For all other tropical timber products – sawnwood, mouldings, veneer and plywood – illegal exports are estimated to have declined, both in terms of volume and export value. As noted above, this has primarily been because of developments in Indonesia and Malaysia, where there have been improvements in governance and declining export volumes in some supply chains.

For the other timber sector products, which include those predominantly sourced from plantations and in non-tropical regions, the proportion of illegal production is estimated to have declined. Exceptions are Russia’s and (on a lesser scale) Romania’s exports of sawnwood (see Figures 3–4). Hence, the problem of illegal production and trade is not limited to tropical forest countries, but is also an issue in temperate forests.

⁵⁸ ‘Tropical timber products’ include logs, sawnwood, mouldings, veneer and plywood that derive from natural forest, considering only those supplied direct from the tropical country of their origin. The estimates take into account the sum of all quantities supplied from tropical countries other than Thailand and Vietnam and reported in official trade statistics with customs codes commencing with 4403, 4407, 4408, 4409, and 4412 (referred to herein as logs, sawnwood, veneer, mouldings, and plywood, but with several exceptions). A number of other supply chains have also been excluded: wood from Brazil; logs which, given their export value per unit of volume, are likely to derive from plantations; logs and sawnwood likely to comprise teak (especially if recorded as imports of teak by India) from countries other than Myanmar; and, for Indonesia only, customs codes (other than 441231 and its predecessor codes) commencing with 4412.

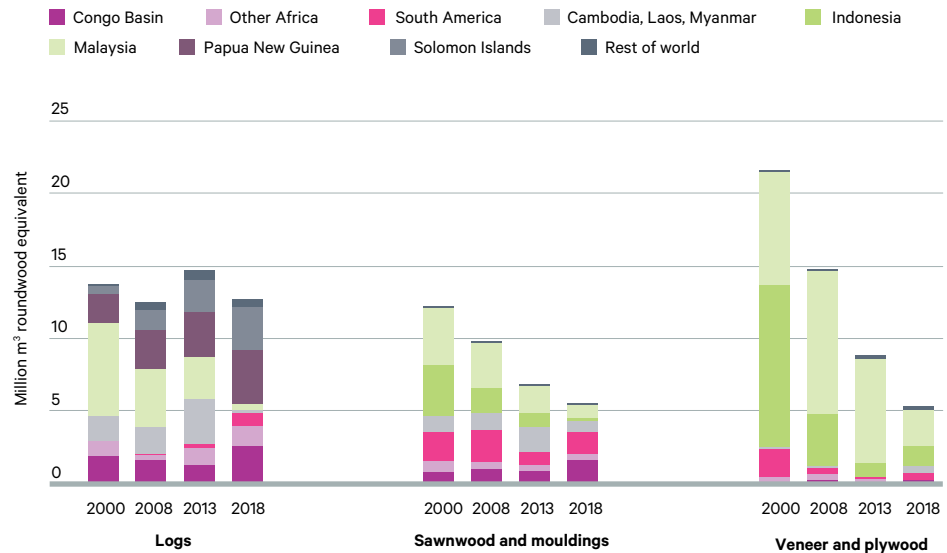
Figure 7. Volume of illegal exports of tropical timber products, lower estimates, 2000–18, selected supplying countries/regions



Source: Chatham House estimates.

Note: Tropical timber is defined here as logs, sawnwood, mouldings, veneer and plywood likely to derive wholly from natural forest and supplied direct from the tropical country of its origin.

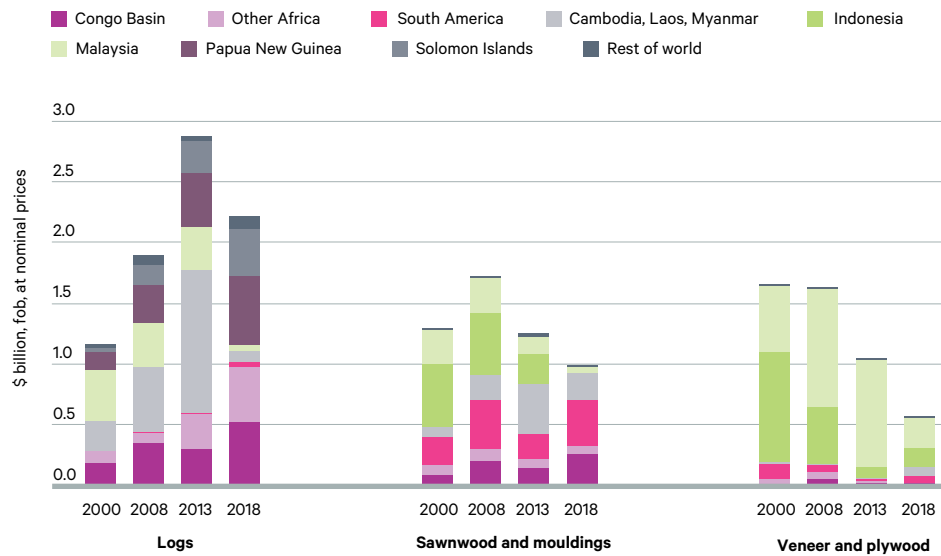
Figure 8. Volume of illegal exports of tropical timber products, upper estimates, 2000–18, selected supplying countries/regions



Source: Chatham House estimates.

Note: Tropical timber is defined here as logs, sawnwood, mouldings, veneer and plywood likely to derive wholly from natural forest and supplied direct from the tropical country of its origin.

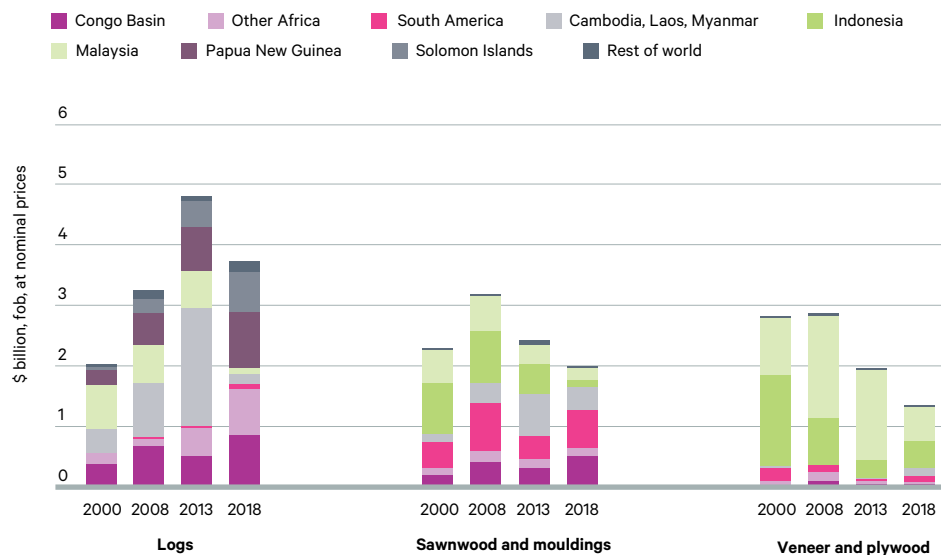
Figure 9. Value of illegal exports of tropical timber products, lower estimates, 2000–18, selected supplying countries/regions



Source: Chatham House estimates.

Note: Tropical timber is defined here as logs, sawnwood, mouldings, veneer and plywood likely to derive wholly from natural forest and supplied direct from the tropical country of its origin.

Figure 10. Value of illegal exports of tropical timber products, upper estimates, 2000–18, selected supplying countries/regions



Source: Chatham House estimates.

Note: Tropical timber is defined here as logs, sawnwood, mouldings, veneer and plywood likely to derive wholly from natural forest and supplied direct from the tropical country of its origin.

Destinations for illegal wood-based products

Over the last two decades, the EU, Japan, the UK and the US have become less important as destination or import markets for illegal timber and paper sector products, while China has become more important – as has Vietnam, albeit to a far lesser extent (Figures 11–14). This change has been most marked with

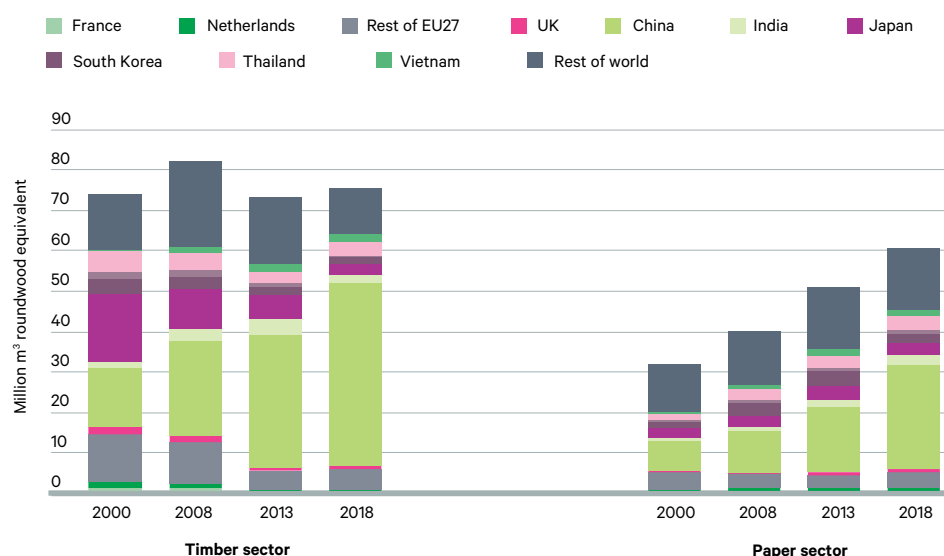
regard to the timber sector. It reflects the emergence of both China and Vietnam as processing hubs, as well as expanding domestic consumption in China. Since 2015, China's processing sector has increased its supplies from lower-risk sources of timber, such as Australia and Germany;⁵⁹ however, there continues to be strong demand in the domestic Chinese market for high-value tropical hardwood, much of which comes from high-risk sources.

Figure 11. Volume of global exports of illegal timber sector and paper sector products, lower estimates, 2000–18, by destination



Source: Chatham House estimates.

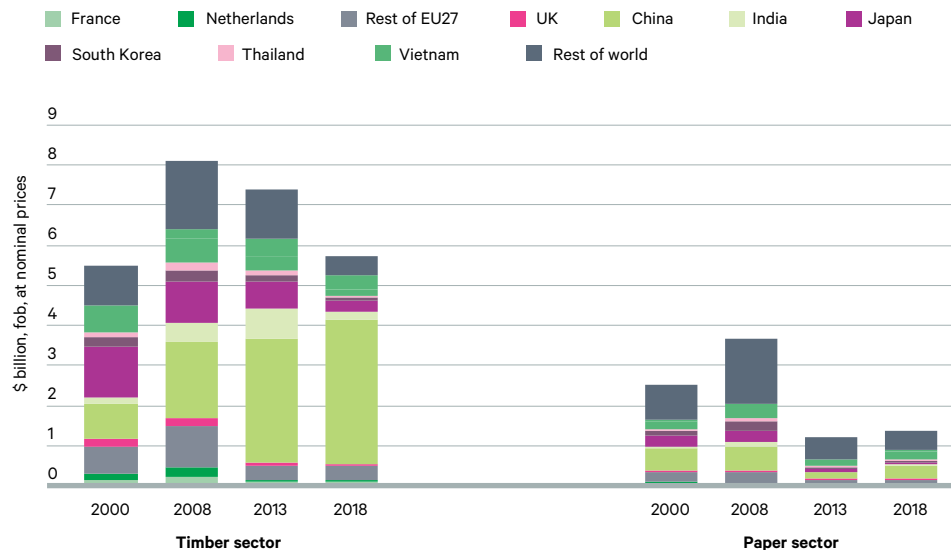
Figure 12. Volume of global exports of illegal timber sector and paper sector products, upper estimates, 2000–18, by destination



Source: Chatham House estimates.

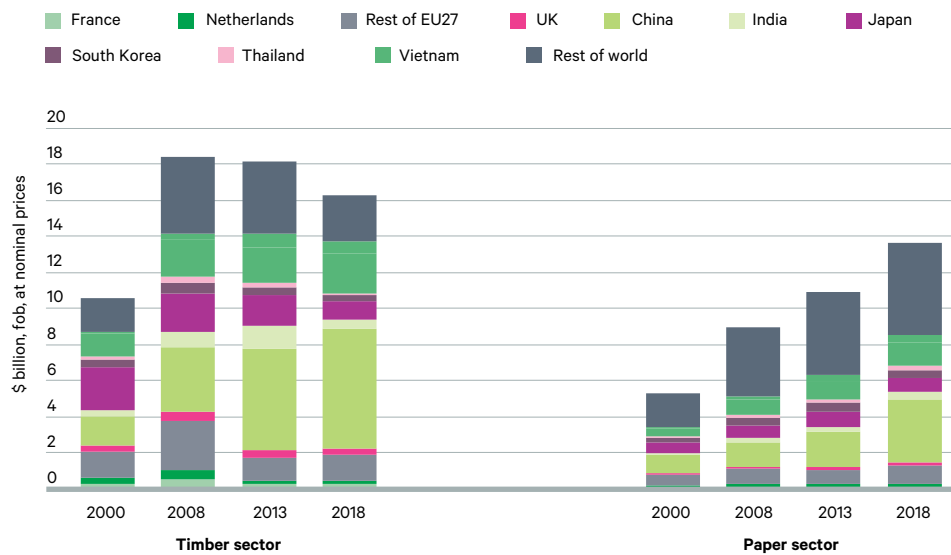
⁵⁹ Chatham House resourcetrade.earth (2022), Fastest growing (2015–2020), <https://resourcetrade.earth/?year=2020&category=28&units=value&autozoom=1> (accessed 29 June 2022).

Figure 13. Value of global exports of illegal timber sector and paper sector products, lower estimates, 2000–18, by destination



Source: Chatham House estimates.

Figure 14. Value of global exports of illegal timber sector and paper sector products, upper estimates, 2000–18, by destination



Source: Chatham House estimates.

A return to the question of legality and sustainability

In many countries there has been an increase in the proportion of wood-based products coming from the clearance of forests and from plantations (see Box 1). These two modes of production are linked to varying degrees, depending on the extent to which forests are cleared for wood plantations, rather than for other economic activities, such as for agriculture or infrastructure development. The trend towards increased production from plantations is also forecast to continue.⁶⁰

Box 1. Plantations and forest clearance as sources of logs in Laos and Indonesia

In Laos, log production from forest clearance (linked with infrastructure projects, mining and wood plantations) became increasingly important between 1990 and 2010, accounting for 80 per cent of official production at the end of this period.⁶¹ This share subsequently declined, in part due to the introduction of a moratorium on wood plantations and mining concessions in 2012.⁶² The ban was partially lifted in 2018, and it has been forecast that plantations will become the main source of domestically produced logs in the coming years.⁶³

In Indonesia, plantations replaced natural forest concessions as the main source of logs (for large timber processors) in 2000, and logs from forest clearance also became increasingly significant over the following decade.⁶⁴ The vast majority of log production is now from plantations: in 2019, 39 million m³ of logs were from plantations, compared to 6 million m³ from natural forest concessions.⁶⁵

This change in the sourcing of wood-based products has two implications. Firstly, it changes the types and risks of illegal practices. The risks of illegality are low in many contexts. For example, this is the case in Brazil, Thailand and

⁶⁰ Held, C., Meier-Landsberg, E. and Alonso, V. (2021), *Tropical timber 2050: an analysis of the future supply of and demand for tropical timber and its contributions to a sustainable economy*, ITTO Technical Series No. 49, Yokohama: International Tropical Timber Organisation, https://www.itto.int/direct/topics/topics_pdf_download/topics_id=6750&no=1&disp=inline.

⁶¹ Smirnov, D. (2015), *Assessment of Scope of Illegal Logging in Laos and Associated Trans-Boundary Timber Trade*, WWF, <https://wildleaks.org/wp-content/uploads/2016/07/CarBi-assessment-of-scope2.pdf>; Baird, I. G. (2009), *Quotas, Powers, Patronage and Illegal Rent-Seeking: The Political Economy of Logging and the Timber Trade in Southern Laos*, Forest Trends, https://www.forest-trends.org/wp-content/uploads/imported/Baird_Timber_Trade_and_Patronage_Laos_Final.pdf; LTS International (2012), *Study for Understanding Timber Flows and Control in Lao PDR*.

⁶² Smith, H. et al. (2020), *Rubber Plantation Value Chains in Laos: Opportunities and Constraints in Policy, Legality and Wood Processing*, report produced for ACIAR project: Advancing enhanced wood manufacturing industries in Laos and Australia, Forest Trends, <https://www.forest-trends.org/wp-content/uploads/2020/07/Rubber-Plantation-Value-Chains-in-Laos.pdf>.

⁶³ UNIQUE GmbH (2021), *Analysis of the Forestry and Wood Processing Sector in Laos*, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), https://flegtlaos.com/wp-content/uploads/formidable/8/20211119_Analysis_of_the_Forestry_and_Wood_Processing_Sector_in_Laos_EN.pdf.

⁶⁴ See Figure 5, Forest Trends and Koalisi Anti-Mafia Hutan (2015), *Indonesia's Legal Timber Supply Gap and Implications for Expansion of Milling Capacity: A Review of the Road Map for the Revitalization of the Forest Industry, Phase 1*, Forest Trends, Figure 5, https://www.forest-trends.org/wp-content/uploads/imported/for165-indonesia-timber-supply-analysis-letter-15-0217_smaller.pdf.

⁶⁵ Ministry of Environment and Forestry, Republic of Indonesia (2020), *The State of Indonesia's Forests 2020*, Table 6.3.

Vietnam, where there are long-established plantations. (In the case of the latter two countries, these are mainly owned by smallholders.) The same is also true in Ghana, where there has been a more recent expansion in plantations, but this has generally been well regulated. Elsewhere, however, the legality risks are higher. This has been documented in both Laos and Indonesia – in the case of the latter, for example, with respect to the paper sector (as noted above). In the case of Laos, legal compliance is made challenging by the complexity of the legal framework for smallholders.⁶⁶

The laws for forest clearance are often less clear, and non-compliance has been widely documented. In a 2021 report, Forest Trends estimated that more than two-thirds (69 per cent) of tropical forest conversion for agriculture and pulp plantations between 2013 and 2019 took place ‘in violation of national laws and regulations’.⁶⁷ In many countries, most of the timber from forest clearance is destined for domestic markets, but it also enters international supply chains. For example, in the same study, Forest Trends reported that nearly two-thirds of timber exported by Papua New Guinea originates from illegal clearance conducted under agricultural permits.⁶⁸

Where forest clearance and plantation establishment are linked with high incidences of illegality, improving compliance with the law should also strengthen sustainability.

The changing nature of illegal practices has been recognized in many countries. In the context of some of the VPA processes, for example, national definitions of legality have been amended so that they include conversion timber (that is, timber resulting from the clearance of forests in order to convert the land to other uses, such as agriculture or mining), this having been previously omitted from national definitions. However, the fact that decisions regarding forest conversion often involve government departments in other sectors significantly broadens the scope of the governance reforms that may be needed and of the expertise necessary for enforcement officials to check compliance.

The second implication of changes in the sourcing of wood-based products is for sustainability. Forest clearance and wood plantations (which are typically monocultures) can have negative impacts on biodiversity, water, soil and rural livelihoods. In many contexts, the legal framework requires the social and environmental impacts of these land uses to be considered prior to the approval of permits, but such processes are often not implemented.

⁶⁶ UNIQUE GmbH (2021), *Analysis of the Forestry and Wood Processing Sector in Laos*.

⁶⁷ Dummett et al. (2021), *Illicit Harvest, Complicit Goods*. The commodities considered were beef and leather, palm oil, pulp and paper, soy, rubber, cocoa, coffee and maize.

⁶⁸ For example, illegal practices in the allocation of these agricultural permits have included violations of land rights, and incidences of fraud and corruption. See Global Witness (2017), *Stained Trade: How U.S. imports of exotic flooring from China risk driving the theft of indigenous land and deforestation in Papua New Guinea*, <https://www.globalwitness.org/en/campaigns/forests/stained-trade>. Such illegal exports are estimated to account for 63 per cent of timber exports. See Dummett et al. (2021), *Illicit Harvest, Complicit Goods*, p. 16.

Where forest clearance and plantation establishment are linked with high incidences of illegality, improving compliance with the law should also strengthen sustainability. However, clearly it cannot do so where the legal framework does not include strong sustainability provisions.⁶⁹

Such situations have raised questions about whether a focus on legality can achieve broader sustainability goals, as has been seen in some of the discussions about legislation aimed at reducing deforestation in supply chains. The UK has decided to focus on illegal deforestation⁷⁰ and the US is also considering such an approach,⁷¹ while the EU has proposed legislation that would require products to be both legally produced and ‘deforestation free’ (the latter also including forest degradation).⁷²

Defining deforestation is no less challenging than defining sustainability: the question of whether net or zero deforestation should be the target has already proved contentious.⁷³ One lesson that is clear from the forest sector is that establishing precisely what is meant by forests and deforestation is dependent on particular national contexts and on the priorities and needs of stakeholders in the producer countries. Many producers of forest risk commodities have precarious livelihoods; issues of food and economic security need to be integral to the design and implementation of policy measures to ensure that these are just. Linked to this, unless demand-side measures align with the priorities of producer countries and their citizens, they are unlikely to be effective – either supply chains will simply be diverted to other markets, or cooperation on enforcement and traceability will be minimal.

⁶⁹ Dummett et al. (2021), *Illicit Harvest, Complicit Goods*.

⁷⁰ UK Department for Environment, Food & Rural Affairs (2020), ‘Government sets out world-leading new measures to protect rainforests’, press release, 11 November 2020, <https://www.gov.uk/government/news/government-sets-out-world-leading-new-measures-to-protect-rainforests>.

⁷¹ Schatz, B. (2021), ‘Schatz, Blumenauer Unveil New Bipartisan Legislation To Help Stop Illegal Deforestation Around The World, Fight Climate Change’, press release, 10 June 2021, <https://www.schatz.senate.gov/news/press-releases/schatz-blumenauer-unveil-new-bipartisan-legislation-to-help-stop-illegal-deforestation-around-the-world-fight-climate-change>.

⁷² European Commission (undated), ‘Proposal for a Regulation on deforestation-free products’, <https://ec.europa.eu/environment/forests/deforestation-proposal.htm>.

⁷³ Hoare, A. (2021), ‘How to ensure the COP26 forest declaration is a success’, Chatham House Expert Comment, 23 November 2021, <https://www.chathamhouse.org/2021/11/how-ensure-cop26-forest-declaration-success>.

04

International trade and aid as a driver of reform

There has been a shift to more responsible business practices and stronger forest governance in certain countries. But faster and more comprehensive progress has been undermined by political and social factors.

As outlined in Chapter One, the theory of change underpinning the FLEGT Action Plan, as well as other international efforts to tackle illegal logging, has been based on the assumption that the combination of strengthening the market for legal timber and supporting improved forest governance in producer countries would help to establish a legal and sustainable forest sector. This, it was hoped, would in turn help ensure that the forest sector was better able to support development in these countries, including through supporting rural livelihoods and increasing government revenues.⁷⁴

This chapter considers the achievements and limitations of these efforts to date. It considers the extent to which demand-side and supply-side measures have, respectively, contributed to improved legality and sustainability in the forest sector, and the extent to which they have been working in concert.

Demand-side measures

The two main policy tools that have been deployed as part of efforts to reduce demand for illegal timber are market access regulations⁷⁵ and public procurement policies.

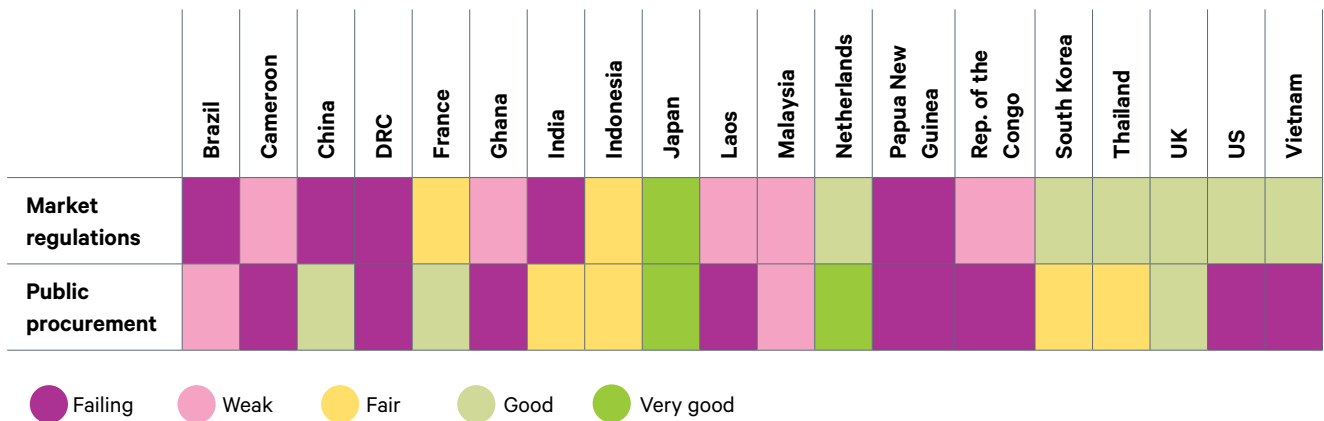
⁷⁴ Commission of the European Communities (2003), *Communication from the Commission to the Council and the European Parliament*.

⁷⁵ These regulations usually apply to both domestically-produced and imported products.

In the last 10 years, both approaches have increasingly been utilized, not only by ‘traditional’ consumer countries but also by many producer and processing countries.

Of the 19 countries investigated by Chatham House, 13 now have either market access regulations or public procurement policies for legal or sustainable timber, or both, and a further two countries are developing these. These two policy tools serve different purposes, and so the approaches adopted by each of these countries reflect the nature of their forest sectors and the particular issues that they have prioritized. Thus, for those countries that are major exporters to the EU and US, the increased adoption of market access regulations has been driven by the need to meet the demands of these markets, while the adoption of public procurement policies has been aimed at reforming domestic markets. The quality of these policies is variable, as is the level of compliance and enforcement. Figure 15, below, presents a visual summary.⁷⁶

Figure 15. Assessment of demand-side measures to address trade in illegal timber, by country



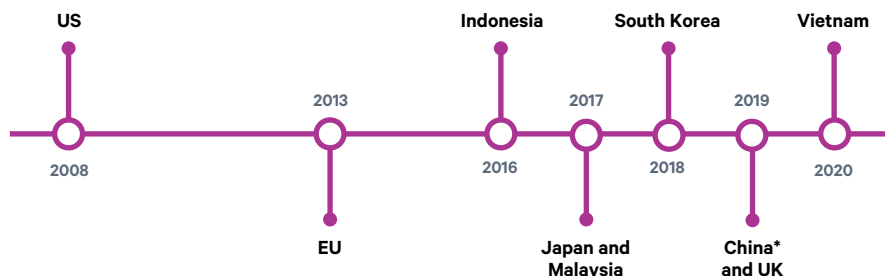
Source: Chatham House Forest Policy Assessment, 2018 data.
 Note: The summary scores reflect both whether a country has a policy in place, and an assessment of the quality of its design and level of implementation. See the Annex for the framework of questions used in the policy assessment. The scores here are for the questions on ‘Regulating demand’ (question 3 for producer countries, and question 2 for processing and consumer countries). The policy assessments for each country are available at Chatham House Forest Governance and Legality, <https://forestgovernance.chathamhouse.org>.

Market access regulations

As at 2022, market access regulations for illegal timber were in place for 10 of the 19 countries included in this study. This compares to just five countries in 2015 (of which three – France, the Netherlands and the UK – were EU members, and so were implementing the EUTR).

⁷⁶ The policy assessments for each country are available for download at Chatham House Forest Governance and Legality, <https://forestgovernance.chathamhouse.org>.

Figure 16: Timeline of market access regulations, by implementing country



(*) Yet to be finalized or implemented.
 Source: Chatham House research.

The regulations differ in their legal approaches. In the EU, South Korea, the UK, the US and Vietnam, the import of illegal products is banned, and undertaking due diligence is either implicitly (in the US) or explicitly (in the other markets) required as a means to avoid engaging in it. There is no explicit ban in Indonesia or Malaysia, where importers are required to provide certain documentation as proof of legality. Japan has adopted a different approach, which encourages traders to ensure legal supply chains through a registration system.⁷⁷

China introduced a prohibition on the purchase, processing and transport of ‘illegally felled timber’ under the 2019 revision to its Forest Law, as well as a requirement for operators to record their input of raw materials and output of products. However, how this law will be implemented is still unclear, including whether it will entail the introduction of legislation to regulate imports.

Evidence of the impact that market access regulations have thus far had on illegality is hard to establish because of the multiple factors involved. However, there are indications that the amended US Lacey Act and the EUTR have had some positive impacts.⁷⁸

With respect to the Lacey Act Amendment, analysis has only been undertaken for the early years of its implementation. This analysis indicated that between 2008 and 2013 the revised legislation has served to reduce illegal imports.⁷⁹

More extensive information is available for the EUTR. The 2020–21 ‘fitness check’ of this and the FLEGT Regulation (which allows for the control of timber imports from VPA countries) concluded that the EUTR has led to a positive change in transparency and the availability of information and documentation on timber supply chains. It also found that both regulations had been ‘moderately successful

⁷⁷ The Japanese regulation, despite being voluntary and not including a prohibition, scored highly in the Chatham House policy assessment because of the design of the questions. The full assessment is available on the Chatham House Forest Governance and Legality website, at <https://forestgovernance.chathamhouse.org/countries/japan>.

⁷⁸ There is as yet little information available on the impact of the regulations in Asia.

⁷⁹ Prestemon, J. P. (2014), ‘The impacts of the Lacey Act Amendment of 2008 on U.S. hardwood lumber and hardwood plywood imports’, *Forest Policy and Economics*, 50, pp. 31–44, <https://doi.org/10.1016/j.forpol.2014.10.002>.

in their aim to prohibit the placement of illegally logged timber on the EU market', but went on to note that 'it is difficult to conclude (based on the data available) that they have had a significant effect on illegal logging globally'.⁸⁰

There have been a number of studies investigating the impact of the EUTR on businesses within Europe. Based on interviews with businesses across the EU and in the UK, Forest Trends found evidence of increased scrutiny of supply chains and changes in purchasing practices.⁸¹ Such changes have also been reported in China, where wood-processing companies have reportedly replaced some high-risk imports with those from lower-risk sources – a shift that has been partly driven by market requirements for legality, in particular those relating to markets in Europe and the US.⁸²

However, increased scrutiny and changes in purchasing practices do not necessarily have the intended outcome. For example, many importers reported sourcing indirectly from countries considered at an elevated risk for illegal harvesting.⁸³ Based on trade data analysis and interviews with companies that had been subject to enforcement actions in the UK, Forest Trends found that while there has been a shift in sourcing away from some high-risk countries, imports from such countries increased overall.⁸⁴

The inconsistent implementation and enforcement of the EUTR is likely to have limited its impact. In 2018, an assessment by Client Earth found wide variations in penalties and their application across the EU, and highlighted the need for strengthened enforcement of the regulation.⁸⁵ The 2020–21 fitness check reiterated these findings, and also reported a lack of understanding of due diligence, particularly within the legal system, as a factor undermining the EUTR's effective enforcement.⁸⁶

Similar challenges are emerging in the early stages of implementation of Vietnam's regulation. Both the private sector and enforcement officials have been struggling to comply with and enforce the legislation, notably because of the complex and

⁸⁰ European Commission (2021), *Fitness Check on Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (the EU Timber Regulation) and on Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community (FLEGT Regulation)*, p. 28.

⁸¹ Norman, M. (2021), *How is the European Union timber regulation impacting industry due diligence and sourcing practices?*, Forest Trends, <https://www.forest-trends.org/wp-content/uploads/2021/03/EUTR-DDS-FINAL.pdf>; Norman, M. and Saunders, J. (2021), *The United Kingdom Timber Regulation: Changing the market to protect forests?*, Forest Trends, <https://www.forest-trends.org/wp-content/uploads/2021/05/UKTR-Report.pdf>.

⁸² Barua, S. K., Penttilä, J. and Malmström, M. (2016), *China as a Timber Consumer and Processing Country: An Analysis of China's Import and Export Statistics with in-depth Focus on Trade with the EU*, Final Report, Helsinki: Indufor Oy and WWF-UK, https://www.wwf.org.uk/sites/default/files/2017-03/WWF%20UK%20%20Indufor%20China%20Timber%20Trade%20-%20Final%20Report_dec16.pdf; Zeitlin and Overdevest (2020), 'Experimentalist interactions'.

⁸³ Norman (2021), *How is the European Union timber regulation impacting industry due diligence and sourcing practices?*

⁸⁴ Norman and Saunders (2021), *The United Kingdom Timber Regulation*.

⁸⁵ See also Client Earth (2018), *National EUTR penalties: are they sufficiently effective, proportionate and dissuasive?*, <https://www.clientearth.org/latest/documents/national-eutr-penalties-are-they-sufficiently-effective-proportionate-and-dissuasive>.

⁸⁶ European Commission (2021), *Fitness Check on Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (the EU Timber Regulation) and on Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community (FLEGT Regulation)*.

often unclear legal regimes in many source countries.⁸⁷ The authorities have acknowledged that there is a need to strengthen enforcement. Following concerns among US trade officials about the risk of illegal imports from Vietnam, the two countries have agreed to cooperate on efforts to combat illegal logging. As part of this agreement, the Vietnamese government committed to improve ‘the capacity of the competent Vietnamese authorities to make effective, country-specific, and risk-based evaluations of the documentation certifying timber legality’.⁸⁸

Experiences in the forest sector have contributed to a shift in attitudes as to what should be expected of businesses, with growing acceptance that they have a responsibility to know their supply chains and to ensure that best practice is followed.

One of the broader impacts of the timber regulations has been in contributing to the body of knowledge regarding best practice for the design and implementation of legislation aimed at promoting responsible business practices. In recent years, an increasing number of countries have introduced such legislation: as well as the recent regulations to eliminate deforestation in supply chains, regulations requiring responsible sourcing in the mining sector and human rights due diligence by corporations have been introduced, or are being considered.⁸⁹ The design of these various regulations has been informed by countries’ experiences in the forest sector. For example, the EU’s legislative proposal on deforestation has drawn elements from both the EUTR and the Lacey Act.⁹⁰

More broadly, experiences in the forest sector have contributed to a shift in attitudes as to what should be expected of businesses, with growing acceptance that they have a responsibility to know their supply chains and to ensure that best practice is followed. Thus, actions in the forest sector have contributed to the emergence of a ‘new norm’ for responsible business practices.⁹¹

⁸⁷ To, P. X., Cao, T. C. and Tran, L. T. (2020), *Vietnam’s Import of Tropical Timber and the Implementation of the Vietnam Timber Legality Assurance System: Africa, Cambodia, Laos and Papua New Guinea*, Forest Trends, VIFOREST, Forest Products Association Binh Dinh, HAWA and BIFA, <https://www.forest-trends.org/wp-content/uploads/2020/11/Vietnam-import-tropical-timber-FINAL.pdf>; Cowan, C. (2022), ‘Vietnam’s timber legality program not making a dent in risky wood imports’, Mongabay, 2 February 2022, <https://news.mongabay.com/2022/02/vietnams-timber-legality-program-not-making-a-dent-in-risky-wood-imports>.

⁸⁸ Governments of the United States of America and the Socialist Republic of Viet Nam (2021), *Agreement between the Government of the Socialist Republic of Viet Nam and the Government of the United States of America on Illegal Logging and Timber Trade*, Article 10, 2(b), [https://ustr.gov/sites/default/files/files/Vietnam%20Timber/VN%20Timber%20Agreement%20Text%20\(9-30-21\).pdf](https://ustr.gov/sites/default/files/files/Vietnam%20Timber/VN%20Timber%20Agreement%20Text%20(9-30-21).pdf).

⁸⁹ Regulations on responsible sourcing in the mining sector include the US Dodd-Frank Act (section 1502 on conflict minerals), and the EU Conflict Minerals Regulation (Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017). Regulations on human rights include France’s Corporate Duty of Vigilance Law, and Germany’s Act on Corporate Due Diligence in supply chains. The European Commission has drafted a proposal for legislation for corporate due diligence on environmental impacts and human rights.

⁹⁰ Client Earth (2021), *The proposed EU law on deforestation-free products: What is in the European Commission’s proposal and what is left out?*, https://www.clientearth.org/media/sbjhtw3c/eu-deforestation-proposal_main-elements-and-omissions_dec21.pdf.

⁹¹ Partzsch, L. and Vlaskamp, M. C. (2016), ‘Mandatory due diligence for ‘conflict minerals’ and illegally logged timber: Emergence and cascade of a new norm on foreign accountability’, *The Extractive Industries and Society*, 3(4), <https://doi.org/10.1016/j.exis.2016.07.003>.

Public procurement policies

Over the last two decades, an increasing number of countries have amended their public procurement policies to require or encourage the purchase of legal or sustainable timber and its derived products. Of the 19 countries reviewed in this study, seven have procurement policies relating to timber and a further three have such policies for the purchase of particular types of wood-based products.

Indeed, this reflects a global trend to try and utilize the power of government purchasing to achieve national objectives for sustainable development.⁹² Within the framework of the UN's Sustainable Development Goals (SDGs), adopted as part of the 2030 Agenda for Sustainable Development, the promotion of sustainable public procurement is one of the targets under Goal 12 – Responsible consumption and production.⁹³

Some of the pioneers of public procurement policies for legal or sustainable timber have been the Brazilian state of São Paulo, France, the Netherlands and the UK, all of which introduced such policies in the late 1990s and early 2000s.⁹⁴ During the 2010s, the Brazilian federal government amended its policies to require the purchase of sustainable timber (in 2010), while Indonesia (in 2015), Japan (in 2016) and Cameroon (in 2020) introduced requirements for the purchase of legal timber (SVLK-certified, in the case of Indonesia). Ghana has been debating the introduction of a similar policy for a number of years,⁹⁵ while Vietnam is in the final stages of developing a sustainable procurement policy.⁹⁶

For the major importing countries (or states, in the case of São Paulo), public procurement was considered a valuable tool to help reduce imports of illegal and unsustainable timber; while for tropical forest countries, this tool has been deployed to help reform the informal domestic timber sector, which is the main source of timber for government purchases in many countries.

A number of other countries have procurement policies that focus on certain product groups. For example, China, South Korea and Thailand have policies that specify 'green' or 'sustainable' standards for a number of products, such as furniture, paper and some building materials, and India has been consulting on a sustainable public procurement policy for paper.⁹⁷

⁹² OECD (2019), *Reforming Public Procurement: Progress in Implementing the 2015 OECD Recommendation*, OECD Public Governance Reviews, Paris: OECD Publishing, <https://doi.org/10.1787/1de41738-en>.

⁹³ UN Department of Economic and Social Affairs (2021), 'Goal 12: Responsible consumption and production: Ensure sustainable consumption and production patterns', <https://sdgs.un.org/goals/goal12>.

⁹⁴ Uehara, T. H. K. et al. (2011), *Poder público e consumo de madeira: Desafios e alternativas para a gestão responsável da madeira amazônica* [Government and wood consumption: Challenges and alternatives for the responsible management of Amazonian wood], São Paulo: Programa Gestão Pública e Cidadania, Fundação Getúlio Vargas.

⁹⁵ Oduro, K. A. et al. (2020), *The public procurement policy on timber and timber products and supply of legal wood to the domestic market*, Nature and Development Foundation and Tropenbos International, Kumasi, Ghana, <http://www.tropenbosghana.org/resources/publications/the+public+procurement+policy+on+timber+and+timber+products+and+supply+of+legal+wood+to+the+domestic+market>.

⁹⁶ To, P. X. (2020), 'Efforts to exclude illegal timber from public purchasing: Unfolding developments of a public procurement policy in Vietnam', Viewpoints: A Forest Trends Blog, 18 June 2020, <https://www.forest-trends.org/blog/efforts-to-exclude-illegal-timber-from-public-purchasing-unfolding-developments-of-a-public-procurement-policy-in-vietnam>.

⁹⁷ Glover, A. and Uehara, T. (2020), 'Buying Better in the Asia-Pacific: the Role of Public Procurement in Sustainable Supply Chains', Chatham House Forest Governance and Legality, 7 July 2020, <https://forestgovernance.chathamhouse.org/publications/buying-better-in-the-asia-pacific-the-role-of-public-procurement-in-sustainable-supply-chains>.

In many cases, these product-specific policies sit within a broader framework of sustainable procurement. A number of national frameworks have been amended in recent years to strengthen provisions on sustainability.⁹⁸ For example, Indonesia's procurement policy was amended in 2018 to require consideration of environmental impacts throughout the life cycle of goods and services, as well as the legality of the use of natural resources related to these, and promotion of the participation of micro- and small businesses.⁹⁹ The new procurement law approved by Papua New Guinea in 2018 promotes the use of local expertise and materials, the participation of local communities and organizations, and the application of appropriate, sustainable and cost-effective technologies.¹⁰⁰

Public procurement can have an important role to play in driving change in business practices and in markets. Although evidence for this is generally limited due to a lack of monitoring and evaluation, some indications exist within the forest sector. For example, the implementation of timber procurement policies in the Netherlands and the UK is reported to have been a factor behind an increase in the volume of certified timber products on these markets,¹⁰¹ while the adoption of such policies for the 2012 London Olympics was found to be influential in shifting businesses towards more sustainable practices.¹⁰²

An important factor underpinning these successes has been the provision of training and advice, both for the private sector and procurement officials. However, in many countries, the resources for providing these are limited – and, in fact, the public services which provided such advice in the Netherlands and the UK have since been cut.¹⁰³ Monitoring of compliance and impact is another factor which supports implementation, by increasing both the accountability of procurement officers and political support for this approach where it is proving effective. However, little attention is given to monitoring in the countries reviewed here.

Thus, while the expansion of public procurement policies focused on legality and sustainability is to be welcomed, adequate resources for training and monitoring will be essential if such policies are to be effective in those countries where expertise in sustainable procurement is much lower.

⁹⁸ Uehara (2020), *Public Procurement for Sustainable Development*.

⁹⁹ Hoare, A, (ed.) (2020), 'Chatham House Forest Policy Assessment, Indonesia', Chatham House Forest Governance and Legality, <https://forestgovernance.chathamhouse.org/media/data-download/Forest-Policy-Assessment-Indonesia.pdf>.

¹⁰⁰ Uehara (2020), *Public Procurement for Sustainable Development*.

¹⁰¹ Jackson, D. (2009), *Buying a sustainable future? Timber procurement policies in Europe and Japan*, Brussels: Fern, https://www.fern.org/fileadmin/uploads/fern/Documents/FERN_buying.pdf.

¹⁰² UK Department for Environment, Food & Rural Affairs (DEFRA) (2013), *London 2012 Olympic and Paralympic Games - The Legacy: Sustainable Procurement for Construction Projects. A Guide*, DEFRA and Olympic Delivery Authority, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/224038/pb13977-sustainable-procurement-construction.PDF.

¹⁰³ White, G. (2019), *A study of EU public timber procurement policies, related guidance and reference to FLEGT*, International Tropical Timber Organisation and FLEGT Independent Market Monitor, https://flegtim.eu/wp-content/uploads/resources_specialStudy_procurement_2019.pdf; Brack, D. (2017), *Buying right? Implementation of the UK's timber procurement policy 2017*, https://www.wwf.org.uk/sites/default/files/2018-06/Buying_Right_Implementation_UK_Timber_Procurement_Policy_2017.pdf.

Supply-side measures

A range of measures to reduce illegal logging and the export of illegal timber have been undertaken by tropical forest countries. A starting point for many of these initiatives – particularly, but not exclusively, under the VPAs – has been the strengthening, or establishment, of information systems to enable the tracking of timber and the overall management of the sector. Linked to the development of these systems, legal reform processes have also been instigated. As well as these more structural elements, procedural aspects of forest governance such as transparency, participation and accountability have been a priority focus.

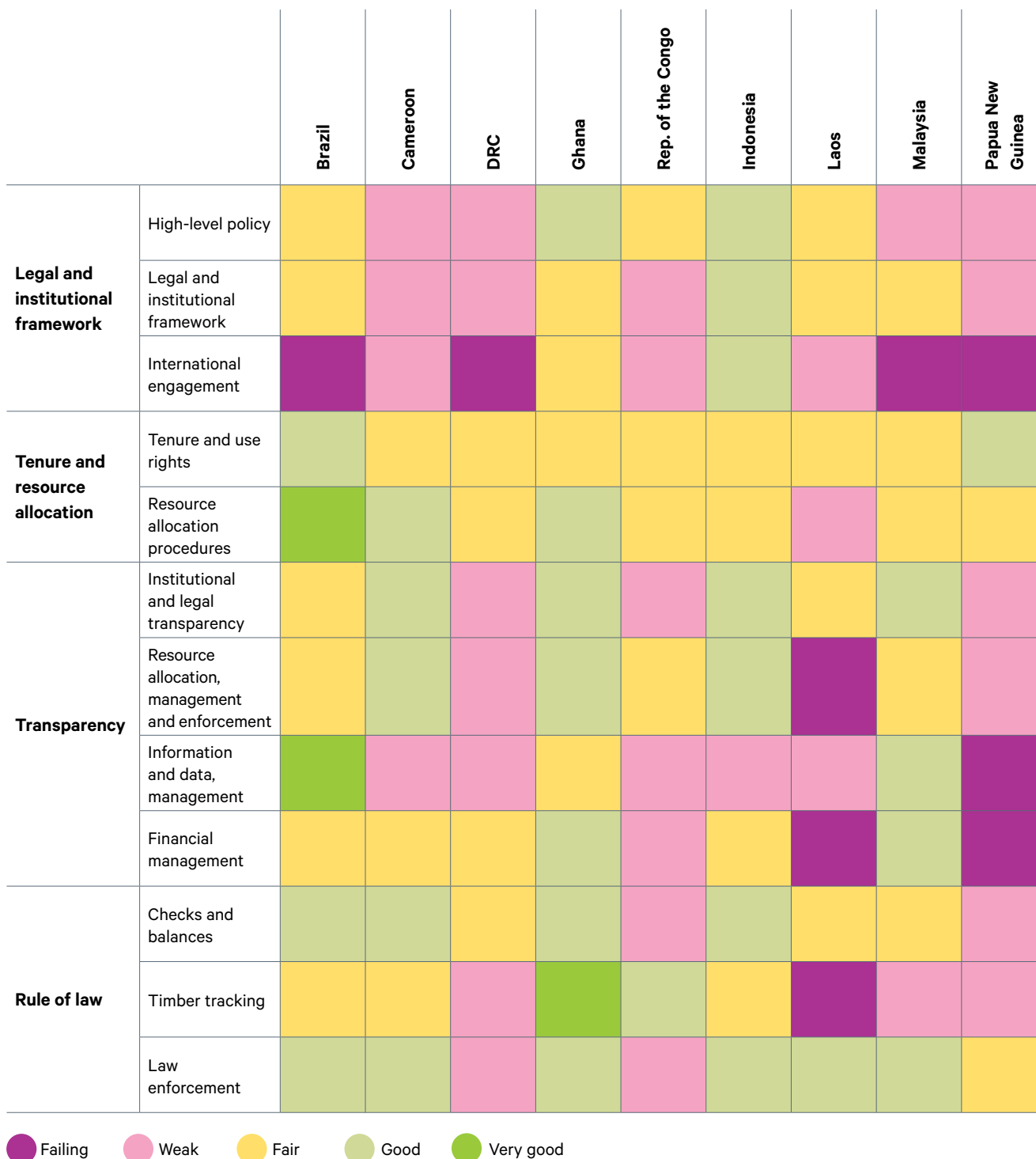
These different initiatives and reforms cut across the four broad aspects of forest governance that Chatham House has explored in its policy assessment of the nine tropical forest countries covered in its research (in addition to demand-side measures, covered above):

- **Legal and institutional framework** – covering high-level policy, the legal and institutional framework itself, and international engagement;
- **Tenure and resource allocation** – tenure and use rights, and resource allocation procedures (i.e. the allocation of logging rights);
- **Transparency** – institutional and legal transparency; resource allocation, management and enforcement, information and data management, and financial management; and
- **Rule of law** – checks and balances (including independent forest monitoring), timber tracking and law enforcement.

Chatham House’s research found improvements in many of these areas, although progress varied considerably between countries. The most positive changes were observed in the legal and institutional frameworks, transparency and accountability mechanisms, and the rule of law, while comparatively less progress has been seen with respect to tenure and resource allocation.¹⁰⁴ The research also highlighted that governance remains inadequate in all nine countries – ‘good’ or ‘very good’ judgments for the policy assessments were all too rare (Figure 17).

¹⁰⁴ Hoare, A. and Conway, D. (2019), *Strengthening Forest Governance Frameworks: Progress in Nine Major Tropical Forest Countries*, NYDF Assessment Partners, Chatham House and Climate Focus, Briefing Series, June 2019, <https://forestdeclaration.org/resources/strengthening-forest-governance-frameworks-progress-in-nine-major-tropical-forest-countries>.

Figure 17. Summary of forest governance assessments, tropical forest countries, by country



Source: Chatham House Forest Policy Assessment, 2018 data.

Note: The summary scores reflect both whether a country has a policy in place, and an assessment of the quality of its design and level of implementation. See the Annex for the framework of questions used in the policy assessment. The scores here are for questions 1, 2, 3 and 5. The policy assessments for each country are available at Chatham House Forest Governance and Legality, <https://forestgovernance.chathamhouse.org>.

Structural reforms: forest information systems and the legal framework

One key focus for reform initiatives has been the strengthening or development of systems to improve information management and to track and license legal timber. Such systems are important tools to support effective governance of the sector. Through improving the quality of data and its management, forest information systems facilitate effective decision-making and oversight by government officials. If data are published, this can also enable civil society to monitor the sector.

Strengthening information systems has at times been a domestic priority – as exemplified by Brazil – and it has also been the focus of much international support, both within the framework of the VPAs and outside these processes.¹⁰⁵ This focus on information systems has at times been criticized for being overly technocratic:¹⁰⁶ for example, the risks of information systems being circumvented by existing networks of elite actors have been highlighted.¹⁰⁷ An additional criticism has been that such systems favour big business at the expense of SMEs, because the latter are less able to meet the requirements of licensing (an issue which will be revisited below).¹⁰⁸ However, the processes of negotiating and developing information systems have contributed to improved forest sector governance in certain countries.

As highlighted in Chapter Three, the establishment of timber-tracking systems under the VPAs has entailed a review of the national legislation, leading many countries to effect legal and policy reforms. The fact that a range of stakeholders have been involved in these processes has not only improved their robustness, but has meant that these reforms have included issues that have previously been neglected. For example, the development of the wood-tracking system in Ghana played an important role in instigating reform with regard to the system for social responsibility agreements.¹⁰⁹

¹⁰⁵ See for example: International Tropical Timber Organisation (2012), *Report of Workshop on Tracking Technologies for Forest Governance, Kuala Lumpur, Malaysia, 15–17 May 2012*, <https://www.itto.int/files/user/pdf/Meeting%20related%20documents/Malaysia%20Timber%20Tracking%20Report.pdf>; International Tropical Timber Organisation (2016), 'ITTO projects share experiences on timber tracking at APEC', news release, 18 August 2016, https://www.itto.int/news_releases/id=4859; and Morgado, R. (2020), 'The Use of Open Data to Tackle Illegal Logging in Brazil', 29 July 2020, Chatham House Forest Governance and Legality, <https://forestgovernance.chathamhouse.org/publications/open-data-in-brazil-the-challenges-and-opportunities-for-tackling-illegal-logging>.

¹⁰⁶ Acheampong, E. and Maryudi, A. (2018), 'Avoiding legality: Timber producers' strategies and motivations under FLEGT in Ghana and Indonesia', *Forest Policy and Economics*, 111, <https://doi.org/10.1016/j.forpol.2019.102047>; Hansen, C. P., Rutt, R. and Acheampong, E. (2018), 'Experimental' or business as usual? Implementing the European Union Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreement in Ghana', *Forest Policy and Economics*, 96, pp. 75–82, <https://doi.org/10.1016/j.forpol.2018.08.012>.

¹⁰⁷ Obidzinski, K. and Kusters, K. (2015), 'Formalizing the Logging Sector in Indonesia: Historical Dynamics and Lessons for Current Policy Initiatives', *Society & Natural Resources*, 28 (5), pp. 530–42, <https://doi.org/10.1080/08941920.2015.1014605>.

¹⁰⁸ McDermott, C. L., Hirons, M. and Setyowati, A. (2019), 'The Interplay of Global Governance with Domestic and Local Access: Insights from the FLEGT VPAs in Ghana and Indonesia', *Society & Natural Resources*, 33(2), pp. 1–19, <https://doi.org/10.1080/08941920.2018.1544679>.

¹⁰⁹ Hoare, A. et al. (2020), *Forest sector accountability in Cameroon and Ghana: Exploring the impact of transparency and participation*, Research Paper, London: Royal Institute of International Affairs, <https://www.chathamhouse.org/sites/default/files/2021-07/2021-07-22-forest-sector-accountability-hoare-et-al.pdf>; Overdevest, C. and Zeitlin, J. (2018), 'Experimentalism in transnational forest governance: Implementing European Union Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreements in Indonesia and Ghana', *Regulation & Governance*, 12(1), pp. 64–87, <https://doi.org/10.1111/rego.12180>.

The increased availability of data facilitated by the establishment of information systems has also contributed to improvements in governance in some countries. In Indonesia, for example, improved access to robust data has enabled more effective law enforcement by government and independent monitoring by civil society – although further improvements are needed, with civil society continuing to face challenges in obtaining information.¹¹⁰ In Ghana, improved data on forest production and revenues has helped to improve compliance with benefit-sharing arrangements on the part of operating companies, because communities have been able to negotiate more effectively and government officials have been able to provide better oversight.¹¹¹

Given low levels of revenue collection in some countries, it had been hoped that information systems would have a positive impact in this area. For example, the government of the Republic of the Congo collected only about 60 per cent of the harvesting taxes due in the period 2000–19, representing annual shortfalls amounting to millions of dollars.¹¹²

In Ghana, improved data on forest production and revenues has helped to improve compliance with benefit-sharing arrangements on the part of operating companies.

Systems for managing financial information are also an important tool to facilitate revenue collection, although they too are only part of the solution. For example, Malaysia and Indonesia have such systems in place and both countries have good rates of collection. In other countries, however, broader governance challenges have meant that revenue collection has remained poor in spite of the strengthening of financial management systems. In Ghana, disagreement between the government and the private sector around the process of converting existing timber permits resulted in certain fees not being collected for a number of years, while in Liberia widespread corruption continues to undermine the revenue collection system.¹¹³

Thus, investment in information and timber-tracking systems cannot by themselves overcome endemic corruption or guarantee political commitment to reforms.¹¹⁴ This is also clear from reported instances of fraud and corruption

¹¹⁰ Jaringan Pemantau Independen Kehutanan [Independent Forest Monitoring Network] (JPIK) (2019), ‘Critical Note from the Independent Monitors: “Improvement of SVLK Must Be Done Continuously To Increase Its Credibility and Accountability”’, Press release/Position paper, 27 November 2019, <https://jpik.or.id/en/critical-note-from-the-independent-monitors-improvement-of-svlg-must-be-done-continuously-to-increase-its-credibility-and-accountability>.

¹¹¹ Hoare, A. and Kanashiro Uehara, T. (2022), *Forest sector revenues in Ghana, Liberia and the Republic of the Congo: The impact of reforms on collection and disbursement*, Research Paper, London: Royal Institute of International Affairs, <https://doi.org/10.55317/9781784135188>.

¹¹² Ibid.

¹¹³ Ibid.

¹¹⁴ Grant, J., Freitas, B. and Wilson, T. (2021), *Traceability systems: Potential tools to deter illegality and corruption in the timber and fish sectors?*, WWF and Targeting Natural Resource Corruption, Topic Brief, August 2021, https://files.worldwildlife.org/wwfmsprod/files/Publication/file/8k8yky4541_Topic_Brief_Traceability_systems_Potential_tools_to_deter_illegality_and_corruption_in_the_timber_and_fish_sectors.pdf; Hoare and Kanashiro Uehara (2022), *Forest sector revenues in Ghana, Liberia and the Republic of the Congo*.

linked to the issuance of timber permits, and timber-tracking systems in Brazil¹¹⁵ and Indonesia.¹¹⁶ The experience of Cameroon, where the development of a robust timber-traceability system has been mired by delays and disagreements between the government and international donors, also highlights the limitations of this approach.¹¹⁷

Procedural reforms: transparency, participation and accountability

Improvements in transparency, participation and accountability in the forest sector have been achieved in some countries. These have been integral to the structural reforms outlined above, with enhanced participation in policy design and delivery leading to improved legal frameworks.¹¹⁸

Increased participation and transparency have also strengthened the role of civil society in monitoring the forest sector in a number of countries, including Cameroon, the DRC and the Republic of the Congo.¹¹⁹ In Cameroon, for example, the establishment of a network of NGOs engaged in independent monitoring has proven valuable in holding powerful actors – within government and the private sector – to account, while also helping to strengthen the voice of rural communities.¹²⁰ Similarly, in the Republic of the Congo, civil society monitors have supported law enforcement and have used their expertise to contribute to legal reforms.¹²¹

VPAs have played a role in driving these changes.¹²² The participation of civil society and businesses in the negotiation and implementation of the VPAs has resulted in increased openness on the part of government towards non-state actors, along with a growing acceptance that the latter can play a valuable role in shaping policy. In Laos and Vietnam, the government has been engaging civil society in policy discussions for the first time as a result of the VPA process.

¹¹⁵ Brancalion, P. et al. (2018), 'Fake legal logging in the Brazilian Amazon', *Science Advances*, 4(8), <https://doi.org/10.1126/sciadv.aat1192>.

¹¹⁶ Jong, H. N. (2021), 'Monitoring reveals Indonesia's 'legal timber' scheme riddled with violations', Mongabay, 29 September 2021, <https://news.mongabay.com/2021/09/monitoring-reveals-indonesias-legal-timber-scheme-riddled-with-violations/?msclkid=34c3c934a55011ec99111180b123907c>.

¹¹⁷ Atibt (2021), 'Position of European Partners on SIGIF 2 in Cameroon', 2 April 2021, <https://www.atibt.org/en/news/12967/position-of-european-partners-on-sigif-2-in-cameroon>; Business in Cameroon (2022), 'Forest Management: Cameroon issues transitional measures to deal with SIGIF2's current challenges', 8 March 2022, <https://www.businessincameroon.com/public-management/0803-12395-forest-management-cameroon-issues-transitional-measures-to-deal-with-sigif2-s-current-challenges>.

¹¹⁸ Hoare et al. (2020), *Forest sector accountability in Cameroon and Ghana*; Kwon, Y. and Ward, W. (2021), *Increasing stakeholder participation in forest law reform process: Case studies from FAO-EU FLEGT Programme*, Rome: Food and Agriculture Organization of the UN, <https://doi.org/10.4060/cb8049en>.

¹¹⁹ Vallee, M., Moukouri, S., Vauthier, V. and Labaste, S. (2022), *Independent Forest Monitoring in the Congo Basin: Taking Stock and Thinking Ahead*, WRI Working Paper, <https://doi.org/10.46830/wriwp.21.00042>; TERA Consortium (2016), *Evaluation of the EU FLEGT Action Plan (Forest Law Enforcement Governance and Trade) 2004-2014*.

¹²⁰ Mbzibain, A. and Ongolo, S. (2019), 'Complementarity, rivalry and substitution in the governance of forests: Learning from independent forest monitoring system in Cameroon', *Forest Policy and Economics*, 109, <https://doi.org/10.1016/j.forpol.2019.101981>.

¹²¹ Korwin, S. (2021), *Gouvernance forestière et climatique en République du Congo: quel avenir pour l'observation indépendante externe des forêts?* [Forest and climate governance in the Republic of the Congo: what future for external independent observation of forests?], Fern, <https://loggingoff.info/wp-content/uploads/2021/12/Note-danalyse-OIE-VFFR.pdf>.

¹²² Cerutti, P. et al. (2021), 'Voluntary Partnership Agreements: Assessing impacts for better policy decisions', *Forest Policy and Economics*, 124, <https://doi.org/10.1016/j.forpol.2020.102386>; Fern (ed.) (2020), FLEGT VPA update January 2020, <https://loggingoff.info/wp-content/uploads/2020/01/VPA-Update-January-2020-2.pdf>; FERN (undated), Do FLEGT VPAs improve governance? https://www.fern.org/fileadmin/uploads/fern/Documents/impactreport_lowres.pdf; Hoare et al. (2020), *Forest sector accountability in Cameroon and Ghana*.

A similar trend has been observed in the Republic of the Congo, where civil society organizations now have the opportunity to be ‘agents for change’ in the sector, which had previously been entirely controlled by the government.¹²³

The extent to which forest communities and marginalized groups have been able to be included in the conversation has not always been ideal.¹²⁴ For example, there was no direct representation of local and indigenous communities in the negotiation of the VPA in the Republic of the Congo, although this has been addressed in the implementation phase.¹²⁵ Furthermore, it has proven challenging to overcome existing inequalities. In Laos, traditionally powerful actors have dominated the country’s VPA process, risking the further marginalization of forest communities and informal operators.¹²⁶

However, the overall trend has been towards greater transparency and engagement, and in some countries this is evolving into a normal way of working. In contrast, the participation of civil society in Brazil’s forest sector has declined in the past decade. In the 2000s and 2010s, Brazil chose not to engage in international cooperation mechanisms on forests due to principles of sovereignty. This did not hinder the country in developing accountable systems in which civil society co-managed public policies with the state.¹²⁷ Co-management practices, however, have been retrenched since 2013, and this retrenchment accelerated following the impeachment of President Dilma Rousseff in 2016.¹²⁸ The case of Brazil acts as a reminder of how political swings can quickly weaken governance mechanisms that have taken decades to develop.

Allocation of resources and distribution of power

There has been little progress on resource allocation and the recognition of tenure and resource rights during the last two decades. In many countries, land and forest resources are still allocated without sufficient regard for the rights and needs of rural communities, and in particular those of indigenous peoples. Furthermore, artisanal producers and SMEs continue to face difficulties in operating formally and in accessing export markets.¹²⁹

¹²³ Bollen (2020), *Evaluating the VPA process in the Republic of Congo*.

¹²⁴ Setyowati, A. and McDermott, C. L. (2016), ‘Commodifying Legality? Who and What Counts as Legal in the Indonesian Wood Trade’, *Society & Natural Resources*, 30(6), pp. 750–64, <https://doi.org/10.1080/08941920.2016.1239295>; McDermott, Hiron and Setyowati (2019), ‘The Interplay of Global Governance with Domestic and Local Access’; Maryudi, A. et al. (2020), ‘“A Level Playing Field”? What an Environmental Justice Lens Can Tell us about Who Gets Leveled in the Forest Law Enforcement, Governance and Trade Action Plan’, *Society & Natural Resources*, 33(7), pp. 859–75, <https://doi.org/10.1080/08941920.2020.1725201>.

¹²⁵ Bollen (2020), *Evaluating the VPA process in the Republic of Congo*.

¹²⁶ Ramcilovic-Suominen, S., Lovric, M. and Mustalahti, I. (2019), ‘Mapping policy actor networks and their interests in the FLEGT Voluntary Partnership Agreement in Lao PDR’, *World Development*, 118, pp. 128–48, <https://doi.org/10.1016/j.worlddev.2019.02.011>.

¹²⁷ Grisa, C. and Schneider, S. (2014), ‘Três gerações de políticas públicas para a agricultura familiar e formas de interação entre sociedade e estado no Brasil’ [Three Generations of Public Policies for Family Farming and Forms of Interaction Between Society and State in Brazil], *Revista de Economia e Sociologia Rural*, 52 (Suppl. 1), pp. 125–46, <https://doi.org/10.1590/S0103-20032014000600007>.

¹²⁸ Kanashiro Uehara, T. H. (2021), ‘Peasants, Markets and Austerity: State Retrenchment and Rural Livelihoods in Amazonas and São Paulo in the Aftermath of Constitutional Austerity (Brazil Post-2015)’, PhD Thesis, London: Imperial College London.

¹²⁹ Cerutti, P. O. et al. (2021), ‘Voluntary Partnership Agreements: Assessing impacts for better policy decisions’, *Forest Policy and Economics*, 124, 102386, <https://doi.org/10.1016/j.forpol.2020.102386>; see for example, To, P. X. and Bouthavong, B. (2021), *Survey of timber operator in Lao PDR*; Food and Agriculture Organization of the UN (FAO) and European Forest Institute (2021), *Promoting legality within the private forest sector: obstacles and incentives to formalization*, Rome: FAO, <https://www.fao.org/3/cb5956en/cb5956en.pdf>.

The issue of land and resource rights has received less attention, within the context of legality initiatives,¹³⁰ in part because the issue of land tenure has been considered beyond the remit of the VPAs.¹³¹ For example, while Ghana has seen remarkable progress in many aspects of forest governance, issues related to land and tree tenure remain unresolved.¹³² In the Republic of the Congo, despite progress on the recognition in law of the rights of communities and indigenous peoples, these have yet to be translated into changes on the ground.¹³³

More attention has been given to the SME sector, and a number of countries have undertaken reform processes that are aimed at enabling small-scale producers and enterprises to formalize their operations and to participate in international supply chains. For example, in the DRC legislative reforms were made in 2016 to enable artisanal loggers to operate legally. In addition, new regulations, introduced in 2014 and 2016, enabled the implementation of community-based forest management, and over 100 communities have since been granted rights to manage their forest resources.¹³⁴ Targeted support to enable SMEs to operate legally and to obtain legality verification has also been provided within the framework of the VPAs in many countries,¹³⁵ thereby helping to improve the operating environment for SMEs. For example, in Cameroon the VPA has reportedly contributed to an increase in the availability of information for SMEs, and in their technical capacity to operate legally, as well as a reduction in the informal taxes that they pay.¹³⁶

However, in many cases these efforts have yet to overcome the prevailing political and economic systems. The same study from Cameroon also noted that despite some improvements in SMEs' capacity, technical and financial requirements continue to hinder them from operating legally.¹³⁷ In most of the countries assessed, the legal framework remains poorly adapted to accommodate or incentivize SMEs to operate formally, and the odds remain weighted against them.¹³⁸ For example, in Vietnam, the policy framework remains focused on large-scale operators; in their assessment of the governance reforms implemented in the country, the NGO Center for Sustainable Rural Development noted

¹³⁰ Africa Community Rights Network (2014), *FLEGT, REDD+ and community forest and land rights in Africa: lessons learned and perspectives*, Study Report, https://rightsandresources.org/wp-content/uploads/ACRN_Rapport_Etude_FLEGT_REDD_2014_English1.pdf; TERA Consortium (2016), *Evaluation of the EU FLEGT Action Plan (Forest Law Enforcement Governance and Trade) 2004-2014*.

¹³¹ TERA Consortium (2016), *Evaluation of the EU FLEGT Action Plan (Forest Law Enforcement Governance and Trade) 2004-2014*.

¹³² Leszczynska, N. et al. (2022), *Collecting evidence of FLEGT-VPA impacts: Ghana country report*, Bogor, Indonesia: Center for International Forestry Research, <https://www.cifor.org/knowledge/publication/8443>.

¹³³ Ibid.

¹³⁴ Ministry of Environment and Sustainable Development, Democratic Republic of the Congo (undated), 'Community Forest Database', <https://rdc.geocfcl.org>.

¹³⁵ See for example: Food and Agriculture Organization of the UN (FAO) and European Forest Institute (2021), *Promoting legality within the private forest sector*; Pohnan, E. and Cavanagh, T. (2021), *Supporting forest sector micro, small and medium enterprises at scale – The experience of the FAO-EU FLEGT Programme*, Rome, FAO, <https://www.fao.org/publications/card/en/c/CB7205EN>.

¹³⁶ Cerutti, P. O. et al. (2022), *Collecting evidence of FLEGT-VPA impacts: Cameroon country report*, Bogor, Indonesia: Center for International Forestry Research, https://www.cifor.org/publications/pdf_files/reports/Cameroon-VPA-Report.pdf.

¹³⁷ Ibid.

¹³⁸ See for example: Hiron, M. et al. (2018), 'Illegality and inequity in Ghana's cocoa-forest landscape: How formalization can undermine farmers control and benefits from trees on their farms', *Land Use Policy*, 76, pp. 405–13, <https://doi.org/10.1016/j.landusepol.2018.02.014>; Obeng, E. et al. (2020), *Bottlenecks to supplying legal wood to the domestic market*, Nature and Development Foundation and Tropenbos International, Kumasi, Ghana, <https://www.tropenbos.org/resources/publications/bottlenecks+to+supplying+legal+wood+to+the+domestic+market>; and see the various publications of the Center for International Forestry Research's Pro Formal project, <https://www1.cifor.org/pro-formal/publications.html>.

that ‘the tradition of communities in using and owning forests has not been institutionalized yet’.¹³⁹ In spite of the legal reforms that have been implemented in the DRC, artisanal logging continues to be predominantly informal.¹⁴⁰ The weak institutional framework and entrenched nature of informal systems in the country mean that there are few incentives to operate formally.

Supply- and demand-side measures in driving reform

The original intention of the FLEGT action plan was that the combination of demand-side and supply-side measures would facilitate progress towards establishing a legal and sustainable forest sector. In particular, it was hoped that strengthening the market for legal timber would encourage governments to implement and support reform of the sector, these incentives being created through the establishment of trade measures. As preceding sections of this paper have described, the various demand- and supply-side measures have led to progress in many areas. However, the extent to which there has been positive interaction between them is less apparent.

The various demand- and supply-side measures have led to progress in many areas. However, the extent to which there has been positive interaction between them is less apparent.

One reason for this is the uneven response in consumer countries – both within Europe and elsewhere. The implementation of the FLEGT action plan has meant that, in general, the EU has seen the most sustained levels of activity. However, as noted above, member states have responded very differently. The design and implementation of public procurement policies, the resources devoted to the enforcement of the EUTR and the penalties applying to non-compliance have all varied significantly between countries.

This has contributed to one of the weaknesses of the VPAs – that the EU’s partner countries have not seen enough rewards for their efforts. Exports of Indonesian timber products to the EU did increase after FLEGT licensing began in 2016, but the rise was small and it was evident mostly in exports to the UK and Netherlands.¹⁴¹

¹³⁹ Center for Sustainable Rural Development (2020), *Issues relating to forest governance and measures against the illegal timber trade and implementing the VPA and EVFTA*, Report, <https://loggingoff.info/wp-content/uploads/2021/03/PH-Updating-of-EVFTA-VPAFLEGT-implementation-in-Vietnam-RK-comments-1.pdf>.

¹⁴⁰ Ecole Régionale Postuniversitaire d’Aménagement et de Gestion Intégrés des Forêts et Territoires Tropicaux (2019), *Etat de lieu des acteurs de la filière forêt-bois en République Démocratique du Congo* [State of play of the actors of the wood forest sector in the Democratic Republic of the Congo], ATIBT, https://www.atibt.org/wp-content/uploads/2020/03/Rapport-final_Etude-sur-l%27etat-de-lieu-du-secteur-forestier-1.pdf.

¹⁴¹ See FLEGT Independent Market Monitor reports linked from page on Indonesia: <https://www.flegtim.eu/index.php/vpa-countries/indonesia>.

Stakeholders in Indonesia, and in other VPA partner countries, have highlighted the fact that FLEGT-licensed timber is not recognized by most EU member state public procurement policies, and has no visibility in consumer markets, where FSC and PEFC certification are the main labels. This reflects an underlying mismatch between the objectives of some of the policy measures. The focus of some initiatives, such as timber procurement policies, is on sustainability, which has made it difficult to promote legally sourced products in the market. This, together with uneven and inconsistent implementation of the EUTR, has meant that the benefits of FLEGT licensing have been less apparent than was hoped for.

Action on the part of other major consumer countries has also been varied. In those countries that have introduced market access regulations or public procurement policies, implementation has often been weak. Furthermore, a number of large importing countries, most notably China and India, have yet to take concrete action to regulate illegal imports. The lack of demand for legal timber in these markets has further reduced the incentives for reform.

With the growing adoption of demand-side measures by many countries, and most notably by China, this may change in the coming years. If China does regulate its imports, the great majority of wood-based products that are traded internationally will be subject to such requirements. Furthermore, the increased attention being paid by many countries to reforming their domestic markets may also help tip the balance in favour of legal and sustainable production.

Market mechanisms and economic incentives are only part of the picture, however. Political and social factors can prove equally – if not more – influential in shaping decisions and behaviours. Thus, national political priorities and local issues are often given precedence over any incentives created by international trade measures. Furthermore, corruption and limited capacity can hinder the influence of market mechanisms. In spite of these limitations, markets can provide a valuable entry point for discussions between trading partners, enabling the initiation of broader discussions in which the different political, social and economic priorities of stakeholders can be addressed – which has been the case with the VPAs, for instance. Thus, although the trade incentives of the FLEGT action plan have been weaker than hoped, the processes of dialogue and international cooperation that have taken place in parallel with these incentives have proven influential, helping to drive progress in forest governance by partner countries.

05 Towards fair and sustainable forest economies

The forest sector is not yet contributing as it should towards sustainable development. Reform efforts must be redoubled to achieve the necessary transformation.

Key findings

Over the last 20 years, a range of measures to tackle illegal logging have been adopted in different countries around the world. These measures have resulted in improvements in many aspects of forest governance and a reduction in illegal practices in some countries.

The introduction of market access regulations and public procurement policies has contributed to changes in business practices in many parts of the world. Furthermore, there has been growing acceptance that companies have a role in ensuring and driving best practice, which is reflected in the increasing adoption of legislation aimed at reducing the environmental and human rights impacts of operating companies.

At the same time, the management and oversight of forest resources within many tropical forest countries have been strengthened as a result of improvements in participation, transparency and accountability. In particular, the engagement of national stakeholders in decision-making has resulted in a transformation of how the sector is governed, with governments increasingly accepting the role that civil society can play – in drafting and implementing policies, and in forest monitoring and law enforcement.

Increased transparency – both in the legal framework and in sectoral data provision – has contributed to more effective monitoring of the sector by both government officials and civil society, while also facilitating compliance by the private sector. These changes have contributed to the reduction in illegal practices that has been seen in some countries and an overall decline in the proportion of illegal products being traded internationally.

The improvements seen in the last two decades are remarkable, particularly given the challenges that have needed to be overcome. However, governance remains weak in many parts of the world, with high levels of corruption and inadequate law enforcement.

Consequently, illegal practices remain widespread and the forest sector is not yet contributing towards sustainable development to the extent that it should. In particular, small-scale producers and enterprises are not yet participating fully in the sector, which limits their role in strengthening rural economies. Furthermore, the collection and disbursement of revenues remains poor in many countries, with the consequence that neither governments nor rural communities are receiving the benefits that are due from the sector.

Future cooperation on forests

The forest sector has undergone transformative change in the last 20 years. Over this period, market dynamics have changed, and demand for forest resources has grown. Production systems for wood-based products have also evolved, with an increase in the proportion of timber coming from forest clearance and from wood plantations, particularly from non-tropical regions. At the same time, competition for forest lands has intensified, primarily due to agricultural expansion, but also because of mining activities and the construction of transport infrastructure. As a result, the loss of forests, particularly natural forests, has been continuing at an alarming rate.

Increased competition for forest lands has also led to social conflict and violence against rights holders in many parts of the world, although at the international level there has been increased recognition of the rights of indigenous peoples and local communities. Furthermore, the impacts of climate change on forests are becoming increasingly evident. These impacts include more frequent and intense forest fires, which have implications for wood supply chains and for the integrity and resilience of forest ecosystems.¹⁴²

As a consequence of these changes, priorities for forest governance reform have also shifted. The growing competition for land and resources increases the urgency of establishing equitable processes for the recognition of rights and for land-use planning; while continuing growth in demand for commodities highlights the need for more effective measures to reduce consumption, as well as consideration of how

¹⁴² Intergovernmental Panel on Climate Change (2022), *Impacts, Adaptation and Vulnerability: Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, Cambridge: Cambridge University Press, In Press, Chapters 2 and 5.

demand can be met while also maintaining ecological functions and adapting to climate change.

Thus, facilitating a transition to sustainable land use will require responses beyond the market-based approaches that have been pursued for tackling illegal logging. As the Intergovernmental Panel on Climate Change highlighted in its 2022 assessment report on the impacts of climate change, policy responses have so far been insufficient to stem the loss and degradation of forests.¹⁴³

However, the achievements of the past two decades should not be minimized, nor must they be overlooked.

As synthesized above, notable progress has been made in some areas of the forest sector. This needs to be further built on and reinforced – especially where the reforms are at the incipient stage or are not yet fully embedded, as shifting attention from these ongoing processes would risk their reversal. Moreover, future efforts will need to be implemented in close alignment with those in other sectors – the interlinked nature of land use, as well as the cross-cutting nature of many challenges to governance (such as corruption and inequality), mean that reforms will be most effective when they are coherent between sectors. The IPCC report also identified cross-sectoral decision-making as one of the priority levers for transforming environmental governance.¹⁴⁴

Reflecting on where future efforts need to be focused, there are a number of areas that must be prioritized. With respect to demand-side measures, a key lesson from the forest sector is that more concerted efforts are needed to strengthen enforcement. This requires the provision of adequate resources by governments, as well as measures to enable international cooperation at the level of both policymakers and enforcement officials. Cooperation is particularly important for those countries that have recently introduced such measures, to enable sharing of lessons and best practice.

Further engagement is also needed with those countries that have not yet sought to regulate their consumption of illegal or unsustainable products, to make the case as to why they should do so. This will require continued efforts to document the impacts of illegal and unsustainable production as well as evidence of the need for establishing resilient supply chains in light of the climate and biodiversity crises.

With respect to governance reforms, participation has been key to many of the improvements seen, and more inclusive processes have become accepted practice in certain countries. However, multi-stakeholder engagement is always at risk, and more open approaches to governance can quickly be reversed. Therefore, support for inclusive approaches must continue to be prioritized. While this is widely acknowledged – the IPCC report also identified inclusive approaches as one of the priorities for effective environmental governance¹⁴⁵ – there is a risk of this becoming an empty catchphrase, or of processes being inadequately

¹⁴³ Intergovernmental Panel on Climate Change (2022), *Impacts, Adaptation and Vulnerability*, 'Cross-Chapter Paper 7, Tropical Forests', https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_CrossChapterPaper7.pdf.

¹⁴⁴ Ibid.

¹⁴⁵ Ibid.

designed or implemented.¹⁴⁶ Sufficient time and resources are needed so that there is genuine collaboration, delegation and co-production of ideas and actions.

Such processes will be of critical importance as countries consider how they should be using their forests and lands, and as they strive to establish the types of land-based economies that meet the needs of their citizens. Finding equitable models to achieve national priorities for sustainable development – including the balance between different land uses and sectors, modes of production, and markets – will require robust and inclusive processes of decision-making.

The role of international trade in re-shaping economies and landscapes also merits greater attention, particularly within impact assessments and monitoring, so that it can help drive transformations towards sustainability.

Donors can play an important role in opening up opportunities for such approaches – as has been seen with the VPAs. The multi-stakeholder mechanisms already established must be maintained where they have been functioning well, and ways must be found to adapt or build on these where new international initiatives are being developed – for example, with the broadening of the EU's approach beyond legal timber to deforestation-free commodities.

The adoption of inclusive approaches also needs to be strengthened and implemented more widely within international relations. This has been taking place within some trade agreements; for example, civil society has been given a greater role in monitoring of some of the EU's free trade agreements. But there remains scope for much more progress in opening up the negotiation and implementation of these agreements to a broader group of stakeholders, and in particular, to those most at risk of negative impacts.¹⁴⁷ Furthermore, the role of international trade in reshaping economies and landscapes also merits greater attention, particularly within impact assessments and monitoring, so that it can help drive transformations towards sustainability.

Transparency has also underpinned many recent improvements in governance, and this needs continued support. Information systems remain very poor in some countries and the lack of reliable and timely data hinders management of the sector by government officials. Civil society continues to face challenges

¹⁴⁶ See for instance, Chandrasekaran, K. et al. (2021), *Exposing corporate capture of the UNFSS through multistakeholderism*, Food Systems 4 People, <https://www.foodsystems4people.org/wp-content/uploads/2021/11/UNFSSreport2021-pdf.pdf>; Potjomkina, D. (2018), 'Multistakeholderism in the EU's Trade Governance', Institute for European Studies Policy Paper, 2018/01, <https://cris.unu.edu/sites/cris.unu.edu/files/Diana%20Potjomkina%20IES%20Policy%20Paper%202018-1.pdf>; Barletti, J. P. S. and Larson, A. M. (eds) (2021), 'Introduction - Multi-stakeholder forums and the promise of more equitable and sustainable land and resource use: perspectives from Brazil, Ethiopia, Indonesia, and Peru', *International Forestry Review*, 23, Supplement 1, pp. 1–8, <https://doi.org/10.1505/146554821833466086>.

¹⁴⁷ Kanashiro Uehara, T. H. and O'Reilly, K. (2022, forthcoming), *Trade policy rewired [working title]*, Research Paper, London: Royal Institute of International Affairs; Client Earth (2021), *A new blueprint for environmental provisions in EU trade agreements: ClientEarth contribution to DG Trade review of Trade and Sustainable Development chapters*, <https://www.clientearth.org/media/0ybtiaq/blueprint-for-environmental-provisions-in-eu-ftas-final-071221.pdf>.

in accessing data and information, limiting its ability to monitor the sector and to hold their governments and the private sector to account. Strengthening of information systems needs to continue, including through improving public access to the data. Institutional support, both for government agencies and civil society, is also important so that the data can be used to maximum effect in the management and oversight of the sector.

Finally, much greater attention must be paid to the monitoring and evaluation of reform processes and international cooperation initiatives. While national monitoring systems were provided for under the VPAs, they have been delayed and have not been implemented in a uniform way across countries.¹⁴⁸ Priority must be given to enabling national civil society organizations and research institutions to undertake this work. Experience from independent monitoring of the sector has highlighted the valuable role that civil society can play in strengthening management and enforcement in the sector. This body of expertise – as well as that existing within national research institutions – must be utilized to strengthen monitoring and evaluation of reform efforts. This is the next step in giving greater voice and agency to national stakeholders in the forest sector. A significant shift has been seen towards more inclusive approaches in decision-making about forests and land use in the last two decades. But more progress is needed to ensure that national experts and stakeholders are the ones who are shaping national and international reform efforts.

¹⁴⁸ Cerutti et al. (2021), 'Voluntary Partnership Agreements'.

Annex: Policy assessment framework

For each question, scoring was applied as follows:

- Does the policy exist? (0–2)
- Quality of design (1–5)
- Level of implementation (1–5)

Questions for producer countries

1. Legal and institutional framework

1.1 High-level policy

1.1.1 Does the country have high-level political and governmental mechanisms in place to tackle illegal logging?

- Has a review of the causes and severity of illegal logging been conducted by the government?
- Is there a national action plan in place for tackling illegal logging?
- Does a formal process exist for high-level coordination of action on illegal logging across departments and sectors (e.g. a parliamentary committee or interministerial task force)?
- Are there formal consultation processes in place for multi-stakeholder involvement in developing policy and legislation to tackle illegal logging?
- Are there formal processes/policies in place aimed at ensuring a balanced participation of men and women in the development and implementation of forest policies? (*Question added in 2018*)
- Is illegal logging considered in the country's climate change strategy (e.g. intended nationally determined contributions – INDCs, REDD+ strategy or other climate change national policy)? (*Question added in 2018*)

1.2 Legal and institutional framework

1.2.1 *Is forest legislation and regulation coherent and unambiguous?
(Question added in 2018)*

1.2.2 *Is the legislation and regulation for artisanal and micro-scale enterprises coherent and unambiguous? [i.e. considering all relevant areas of law, e.g. fiscal, rights of association, SMEs, forestry...]*

1.2.3 *Is there legislative/institutional coherence across sectors?*

- a) *Are formalized forest laws and regulations consistent (non-conflicting) and harmonized with other laws and regulations affecting forests (e.g. for land-use planning, agriculture, mining...)? (Question added in 2018)*
- b) *Is there a legal framework for selling or licensing of any timber resulting from forest clearance driven by activities in other sectors? (Question added in 2018)*
- c) *Is there a legal framework for selling or licensing of timber produced by informal enterprises? (Question added in 2018)*
- d) *Are there systems in place for cross-sectoral coordination between ministries and agencies responsible for planning and land-use allocation?
(Question added in 2018)*

1.2.4 *Is gender considered within policymaking and implementation?*

- a) *Is there a designated agency/focal point with the mandate to ensure gender perspectives are mainstreamed in forest policies? (Question added in 2018)*
- b) *Are there processes/policies in place to assess gender impact in the development and implementation of forest policies? (Question added in 2018)*

1.3 International engagement

1.3.1 *What level of international cooperation has been shown by the country?*

- a) *Does the country have formalized trade or customs arrangements with major trading partners e.g. FLEGT VPAs or Free Trade Agreements (FTAs) which include specific provisions on illegal logging?*
- b) *Does the country have a system in place for sending and receiving enforcement alerts regarding illegal shipments in transit to destination countries?*

2. Tenure and resource allocation

2.1 Tenure and use rights

2.1.1 *Are property, use rights and tenure arrangements clearly defined, documented and secure (including those of indigenous and local communities)?*

- a) *Does the law require that property, use rights and tenure arrangements are set out on publicly accessible maps (and/or GIS) and demarcated at ground level?*

- b) Are there formalized mechanisms in place for resolving conflicting or overlapping property rights?
- c) Are there formalized mechanisms in place for accommodating customary rights in law and regulations?
- d) Does the legal and policy framework provide for gender-equal use rights and tenure? (*Question added in 2018*)

2.2 Resource allocation procedures

2.2.1 Do resource allocation regulations and procedures include measures consistent with good forest governance?

- a) Is there a pre-qualification process which is designed to exclude inappropriate bidders from resource allocation awards?
- b) Is there a competitive award process which is designed to be open to all eligible bidders?
- c) Does the law require prior informed consent procedures or stakeholder consultations for local communities (with respect to logging interests and rights) to be carried out?
- d) Are measures to protect and develop forest-based livelihood opportunities for local communities within concession areas built into concession contracts?

3. Regulating demand

3.1 Legislation and regulations on illegally sourced timber

3.1.1 Does the country have adequate legislation and regulations in place to prevent illegally sourced timber from being imported or sold?

- a) Has the country analysed its existing legislation and regulations on preventing imports and sales of illegally sourced timber? (*Question added in 2018*)
- b) Has additional legislation been enacted and regulations put in place to prevent illegally sourced timber from being imported or sold?
- c) If there is legislation in place to prevent the import of illegal timber, how broad is the product scope of this legislation? (*Question added in 2018*)
- d) If there is legislation in place to prevent the import of illegal timber, does it apply only to importers and those that first place on the market, or to all those along the supply chain? (*Question added in 2018*)
- e) If there is legislation in place to prevent the import of illegal timber, does it include a requirement on businesses to implement due diligence? (*Question added in 2018*)
- f) Is implementation of the policy systematically monitored and assessed? (*Question added in 2018*)

3.2 Policies and measures to promote demand for legal timber

3.2.1 Is there a public procurement policy in place excluding illegal (and/or unsustainable) timber products from government purchasing? (Question added in 2018)

- a) What level of adherence does the policy require? *(Question added in 2018)*
- b) Does the policy cover all timber products, including paper? *(Question added in 2018)*
- c) Does the policy rest on independent certification or verification schemes (or equivalent) for identifying legal products? *(Question added in 2018)*
- d) Is assistance offered to government purchasers (advice, guidance, training, etc)? *(Question added in 2018)*
- e) Is implementation of the policy systematically monitored and assessed? *(Question added in 2018)*
- f) Does the procurement policy apply to subnational (provincial, regional, local) government? *(Question added in 2018)*

3.2.2 Do forest-related policies encourage legal timber production and discourage illegal timber production by ensuring that the level of demand does not exceed legal supply?

- a) Does the permitting system for primary wood processing facilities require evidence of sufficient legal sources of raw material?

4. Transparency

4.1 Institutional and legal transparency

4.1.1 Is there a unified document which describes the roles, responsibilities and controls for all agencies involved in regulating forest utilization and trade from harvest rights allocation to point of sale or export, and is it accessible to the public?

4.1.2 Is there a legal requirement to make forest legislation and regulations readily accessible to the public? (Question added in 2018)

4.2 Resource allocation, management and enforcement

4.2.1 Do policies, laws or regulations contain provisions designed to ensure that resource allocation and management is carried out transparently?

- a) Do policies, laws or regulations stipulate that rules for resource allocation processes (e.g. concession allocation and competitions) are made publicly available?
- b) Do policies, laws or regulations stipulate that dates for when resource allocation processes are to be held are made publicly available?

- c) Do policies, laws or regulations stipulate that the results of resource allocation processes are made publicly available (e.g. bids and awards for concession allocation and competitions)?
- d) Do policies, laws or regulations stipulate that up to date summary data is published on harvesting, processing and international trade?

4.2.2 Do policies, laws or regulations contain provisions designed to ensure transparency in concession use?

- a) Do policies, laws or regulations stipulate that information on location of concessions, ownership and contact details is publicly available?
- b) Do policies, laws or regulations stipulate that information on concession contracts, inventories and plans are publicly available (i.e. long term and annual forest management and harvest plans)?
- c) Do policies, laws or regulations stipulate that results of environmental and social impact assessments and mitigation measures are publicly available?

4.2.3 Do policies, laws or regulations contain provisions designed to ensure that information on enforcement activities is publicly available?

- a) Do policies, laws or regulations stipulate that data is published on forest crimes, including success rates on detection, interdiction, prosecution and conviction (including fines levied and fines paid) and volumes seized?
- b) Do policies, laws and regulations stipulate that information on disposals of confiscated wood or results of public auctions of confiscated wood (or other kinds of public bidding) are publicly available?

4.3 Information and data management

4.3.1 Is there an up-to-date, accurate information management system in place through which relevant government agencies can access data related to forest enforcement and management?

4.3.2 Is there an up-to-date, accurate information system in place to gather data on employment in the forest sector? (Question added in 2018)

4.4 Financial management

4.4.1 Is there an effective financial management system in place for the forest sector?

- a) Does the forest administration have a system for monitoring revenue collected from utilization of forest resources against revenue owed, as well as a procedure for investigating discrepancies?
- b) Is there an audit of the forest administration whose findings are publicly available?

4.4.2 Does the country report on its forest sector to the EITI? (Question added in 2018)

5. Rule of law

5.1 Checks and balances

5.1.1 Are mechanisms (checks and balances) in place to ensure government fully applies forest law and regulations?

- a) Does the law make provisions for protecting the right of the public to mount legal challenges against forest management decisions/practices and failure by government to apply forest law?
- b) Does the law stipulate penalties for staff for corruption?
- c) Does the law include clear limits to the power of Forest Ministers (or equivalent) or other senior government officials to override forest-related laws, regulations and procedures (e.g. concession allocation procedures) – i.e. does the law limit discretionary powers?
- d) Does a parliamentary committee (or equivalent) have formal oversight over the national government forest service and associated agencies?
- e) Is there a system in place through which relevant government departments and agencies carry out self-monitoring of their performance and internal corruption investigation (this could be carried out by an internal or external inspectorate) which includes making the findings public?
- f) Is there an independent national forest monitoring system in place?

5.1.2 Is customs specifically mandated to check that timber consignments meet the country's forestry-specific legal export requirements?

5.2 Timber tracking and chain of custody

5.2.1 Are there effective mechanisms in place to detect instances of illegal timber entering the supply chain?

- a) Is there a system in place designed to verify the origin of timber (i.e. forest management unit) in transport, transfer and delivery?
- b) Does the system design include the following components?
 - i) independent monitoring procedures (independent government body or third party)
 - ii) reconciliation systems
 - iii) tamper-resistant documentation procedures
 - iv) computerized systems
- c) Does the system also cover timber for the domestic market (as compared to systems explicitly targeting exports)? (*Question added in 2018*)

5.3 Law enforcement

5.3.1 Do policies, laws, regulations and procedures facilitate and promote effective law enforcement?

- a) Are penalties and sanctions against illegal logging and forest-related crime proportionate and dissuasive?
 - i) For legislation on domestic production and trade
 - ii) For legislation to prevent the import of illegal timber (if in place)
- b) Are there systems in place to ensure coordination between relevant ministries and agencies on illegal logging cases?

5.3.2 Do government institutions and agencies have sufficient capacity and resources to monitor forest areas and detect and suppress forest crime?

- a) Are forest officials/law enforcement staff sufficiently resourced for monitoring and enforcement? (Relevant resources include budgets; numbers of staff; communications; transport; equipment; and salaries, as well as training in understanding of regulatory framework and knowledge of techniques for monitoring and enforcement.)
- b) Are the following non-forest sector officials, who are involved in forest enforcement, trained and kept up to date in relevant forest sector issues?
 - i) judges and prosecutors
 - ii) customs officials

5.3.3 Do government agencies systematically use appropriate information-gathering tools in order to identify illegal activities?

- a) Are remote sensing systems used for this purpose (such as satellite imagery and/or aerial surveillance)?
- b) Are in-the-field investigatory tools used for this purpose (such as confidential diagnostic surveys, informants and NGOs)?
- c) Are material flow analyses used for this purpose (such as wood input/output estimates, comparison of import/export data)?
- d) Are log tracking and check point systems used for this purpose?

Questions for processing and consumer countries

1. Legal and institutional framework

1.1 High-level policy

1.1.1 Does the country have high-level political and governmental mechanisms in place to tackle illegal logging?

- a) Has a review been carried out which both assesses how the country's market activities impact on the problem of illegal logging and related trade and also investigates the extent and sources of potential illegal imports?
- b) Is a national action plan in place for preventing illegally sourced timber from being imported or sold?
- c) Does a formal process exist for high-level coordination of action on illegal logging across departments and sectors (e.g. a parliamentary committee or interministerial task force)?
- d) Are there formal consultation processes in place for multi-stakeholder involvement in developing policy and legislation to tackle illegal logging? These processes should ensure that viewpoints of stakeholders affected by legislation are taken into consideration.
- e) Are there formal processes/policies in place aimed at ensuring a balanced participation of men and women in the development and implementation of forest sector policies? *(Question added in 2018)*
- f) Is illegal logging considered in the country's climate change strategy (NDC or other climate change national policies – e.g. in relation to embedded deforestation in imports)? *(Question added in 2018)*

1.2 International engagement

1.2.1 What level of international cooperation is shown by the country?

- a) Does the country have formalized trade or customs arrangements with major trading partners e.g. FLEGT VPAs or Free Trade Agreements (FTAs) which include specific provisions on illegal logging?
- b) Does the country have a formalized system in place for sending and receiving enforcement alerts regarding illegal shipments in transit to destination countries?

2. Regulating demand

2.1 Legislation and regulations on illegally sourced timber

2.1.1 Does the country have adequate legislation and regulations in place to prevent illegally sourced timber from being imported or sold?

- a) Has the country analysed its existing legislation and regulations on preventing imports and sales of illegally sourced timber?
- b) Has additional legislation been enacted and regulations put in place to prevent illegally sourced timber from being imported or sold?
- c) If there is legislation in place to prevent the import of illegal timber, how broad is the product scope of this legislation?
- d) If there is legislation in place to prevent the import of illegal timber, does it apply only to importers or to all those along the supply chain?
- e) If there is legislation in place to prevent the import of illegal timber, does it include a requirement on businesses to implement due diligence?
- f) Is implementation of the policy systematically monitored and assessed?

2.2 Policies and measures concerning demand for legal timber

2.2.1 Is there a public procurement policy in place excluding illegal (and/or unsustainable) timber products from government purchasing?

- a) What level of adherence does the policy require?
- b) Does the policy cover all timber products, including paper?
- c) Does the policy rest on independent certification or verification schemes (or equivalent) for identifying legal products?
- d) Is assistance offered to government purchasers (advice, guidance, training, etc.)?
- e) Is implementation of the policy systematically monitored and assessed?
- f) Does the procurement policy apply to subnational (provincial, regional, local) government?

3. Rule of law

3.1 Law enforcement

3.1.1 Do government institutions and agencies have sufficient capacity and resources to monitor trade in timber products and detect and suppress any related crime?

- a) Are the relevant law enforcement staff sufficiently resourced for monitoring and enforcement? i.e. competent authorities for legislation to prevent illegally sourced timber from being imported? (*Question added in 2018*)

b) Are the following officials who are involved in forest sector enforcement, trained and kept up to date on relevant forest sector issues? (*Question added in 2018*)

i) customs officials

ii) judges and prosecutors (*Question added in 2018*)

3.1.2 Are the penalties/sanctions for non-compliance with legislation to prevent illegally sourced timber from being imported (if in place) proportionate and dissuasive? (Question added in 2018)

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