Progress on the New York Declaration on Forests

Improving Governance to Protect Forests

Empowering People and Communities, Strengthening Laws and Institutions

Goal 10 Assessment Report

November 2018
forestdeclaration.org

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About the NYDF Progress Assessment

By endorsing the New York Declaration on Forests in 2014, over 190 national and subnational governments, companies, groups representing indigenous communities, and nongovernmental organizations pledged to work toward ending forest loss by 2030. Every year, the NYDF Assessment Partners, an independent network of civil society groups and research institutions, publish a general and goal-specific progress assessment toward the ten goals formulated by the NYDF. Forest governance, Goal 10, is the focus of this report.

The NYDF Assessment Partners include CDP, Center for International Forestry Research, Chatham House, Climate Focus, Conservation International, Environmental Defense Fund, Forest Foundation Philippines, Forest Trends, Global Alliance for Clean Cookstoves, Global Canopy, Instituto de Manejo e Certificação Florestal e Agrícola, the International Center for Tropical Agriculture, International Union for Conservation of Nature, National Wildlife Federation, Overseas Development Institute, Rainforest Alliance, Stockholm Environment Institute, The Nature Conservancy, The Sustainability Consortium, Woods Hole Research Center, World Resources Institute, World Wildlife Fund US, and the Zoological Society of London's Sustainability Policy Transparency Toolkit initiative.

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Contents

Forewords

We must strengthen the rule of law to keep forests standing

A myth has persisted for centuries – that indigenous peoples in our "natural state" represent a lawless and primitive stage of human development – a view embraced by European colonial powers and perpetuated by influential Western philosophers like Adam Smith and Montesquieu.[1]

In tropical forest countries, this perspective endures in legal systems that favor the rights of investors and companies over those of indigenous and other local forest communities.[2] Despite growing evidence that we can outperform all other forest managers, indigenous peoples continue to struggle for recognition and enforcement of rights to our ancestral territories.[3,4] With the climate crisis in full swing, policy-makers must support the people on the front lines of the battle to slow deforestation.

This new report, *Improving Governance to Protect Forests: Empowering People and Communities, Strengthening Laws and Institutions*, pulls back the curtain to reveal the extent to which governments are failing to live up to their pledges to protect forests, while at the same time violating the rights of indigenous peoples who have protected the forests for centuries. The governments of a number of countries are not living up to their promises to strengthen legal systems to safeguard forests, despite their commitments to adhere to the New York Declaration on Forests (NYDF),[5] the Paris Climate Agreement,[6] and other pledges aimed at reducing carbon emissions.

The conclusions of the report are sobering, even frightening. Much of the current tropical deforestation taking place around the world is illegal. Countries with the highest levels of corruption have the highest levels of deforestation. Better laws and more respect for the rule of law are an essential part of the solution – as is the refusal of consumers and commodity buyers globally to purchase the products of mining and agro-industry from land that once held forest.

The relentless destruction of the world's tropical forests is not just an environmental story, however. Indigenous peoples and local communities living in or near the forests bear the brunt of this illegal activity. The disregard for their livelihoods and traditions, the criminalization of their defenders, and the absence of justice do not just facilitate the continued destruction of their forests. They also violate human rights agreements in a separate set of international commitments and declarations.

So, to follow the science – and the many human rights imperatives that most nations have agreed to – we need to implement and enforce legal safeguards that improve people's lives, while giving them the means to combat threats to their forests.

In *The Wealth of Nations*, the bible of our global economic system, Adam Smith argued that people should be free to pursue their own interest as long as they do not "violate the laws of justice."[7]

The findings of this report on progress on NYDF Goal 10 suggest that the relevant laws of justice in many countries are not only violated, but are all too often too weak to provide the protection that forests and communities need. That must change if we are to withstand the power of those who seek to pursue their own interests in the forests that indigenous peoples seek to protect, for ourselves and for all of humanity.

Victoria Tauli-Corpuz

United Nations Special Rapporteur on the Rights of Indigenous Peoples

November 2018

Poor governance is at the heart of forest disappearance

Halting forest loss is fundamental to achieving global environment goals, including those of the Paris Agreement, the Aichi Biodiversity Targets, the Sustainable Development Goals, and, of course, the New York Declaration on Forests (NYDF). Four years after the commitments made under the NYDF, the picture is not encouraging, with natural forests disappearing at an increasing rate.[8] Poor forest governance is at the heart of this, as evidenced by continued high rates of illegal deforestation and a pervasive correlation between corruption and forest loss.

Quite simply, there has been insufficient progress in adopting robust, coherent legal frameworks, tackling corruption, and improving the rule of law. The efforts of enforcement agencies are too often undermined by graft and malfeasance, while legal protection for those on the frontlines of conflict over land is all but absent in many parts of the world. In this context, the rewards for those involved in illegal deforestation are substantial whilst the risks remain small, despite enormous costs to society.

Examples of success do exist. Some countries have shown improvements in transparency and enforcement. International cooperation has been an important tool in this regard, as demonstrated by the gains made by countries with voluntary partnership agreements with the European Union.

On the consumer side, there has been increased action to tackle the demand for goods linked to deforestation, including procurement policies and the introduction of legislation to control imports. Encouragingly, progress here has not been confined to developed economies: a number of emerging and developing economies, where markets for forest products are expected to grow rapidly, have also adopted demand-side policies.

But clearly more needs to be done if NYDF Goal 10 is to be achieved. First, as noted above, tackling the demand for commodities linked to forest loss can help make deforestation less lucrative and create the political space for governance reform, making illegal deforestation a riskier enterprise. Second, political will from governments is needed to not only adopt but also implement governance reforms needed to halt illegal activities in forests. Third, private companies, civil society, and local communities all have important roles to play in pushing for and supporting the design and implementation of these reforms, while development partners need to provide the finance and technical support needed to strengthen implementation capacities.

The recently launched NYDF platform (https://nydfglobalplatform.org) could play an important role in helping to galvanize these actors to step up their actions and address the deficiencies this report lays bare.

Rob Bailey

Research Director of Energy, Environment, and Resources at Chatham House

November 2018

Executive Summary

Farming and forestry, insatiable consumer appetites, population growth, and growing wealth in emerging economies exercise an ever-increasing pressure on forests. Responding to this threat, in 2014, more than 190 governments, corporations, nongovernmental and indigenous peoples' organizations endorsed the New York Declaration on Forests (NYDF), which formulates ten ambitious forest goals and aims at halting natural forest loss by 2030.

Despite this and other pledges to address deforestation, the world continues to lose natural forests at an alarming rate. In the three years following the adoption of the NYDF (2014–17), the average annual rate of natural forest loss was 42 percent higher than in the previous decade.[a]

While not sufficient to address deforestation by itself, good forest governance is a necessary condition for forest protection and sustainable land use. Good governance enables the implementation of and compliance with laws and policies to address deforestation and participatory, informed decision-making processes. Weak governance in the forest sector comes at a cost. Lost revenues from tax evasion, the loss of ecosystem functions, and conflicts with forest communities are estimated to cause more than USD 17 billion in economic losses per year. Goal 10 of the NYDF recognizes the link between governance and deforestation and commits endorsers to

"strengthen forest governance, transparency, and the rule of law, while also empowering communities and recognizing the rights of indigenous peoples, especially those pertaining to their lands and resources."

Over the past year, a coalition of nongovernmental organizations and think tanks – the NYDF Assessment Partners – has analyzed steps taken to achieve this goal. The partners have evaluated progress across eight indicators of forest governance, covering forest laws and policies, the rule of law, demand-side measures, transparency, participation and access to justice, and empowering and ensuring the rights of indigenous peoples and local communities. Despite major data challenges, the assessment highlights the importance of good governance in protecting forests, but also reveals the limited progress in improving it.

Main findings

Improvements in forest governance remain too slow to have a measurable impact on reducing deforestation. There is progress in increasing transparency around forests, improving law enforcement, and expanding demand-side measures to address illegal logging in a number of countries. However, these improvements fall short of what is needed to address the vast governance challenges that continue to allow deforestation and inhibit efforts to improve forest conservation and management. Areas of particular concern include the continued failure to grant indigenous peoples' and local communities' rights and decision-making power over their forests and the increasing violence against defenders of lands and forests. In addition, much deforestation is illegal, and corruption remains rampant in and around forests.

The most serious governance challenges are found in poorer countries, where institutions and the rule of law tend to be weak. Although many countries do have strong laws on the books, particularly concerning access to information and justice, these laws are often inadequately implemented. Some developed countries with high forest cover and large populations of indigenous peoples have stronger rule of law

[a] See progress updates on New York Declaration on Forests (forestdeclaration.org): Goal 1

and minimal illegal deforestation; however, their laws often provide insufficient protection for the land and resource rights of those populations. In many cases, the countries with stronger laws on illegal deforestation have weaker laws on access to information and participation in decision-making.

Criterion 1: Governance, the rule of law and forest-related crime

- Much tropical deforestation is illegal. In particular where commercial agriculture is driving significant forest loss, the risk that forest laws are violated remains alarmingly high. In two thirds of major timber-producing countries and all of the countries that are the largest tropical producers of palm oil, soy, and beef, there is a significant risk of one or – in most cases – multiple forest-related laws being broken in the production of these commodities.
- Forest protection depends on strong national regulatory frameworks combined with local institutions that are empowered and equipped to implement policies and laws. An assessment of efforts in countries that account for almost half of global tropical forest area shows that, with one exception, all countries made progress in strengthening their laws and policies tackling illegal logging and deforestation. However, most countries suffer from major inconsistencies within forest legislation or with legislation governing the sectors that drive deforestation, while some also lack of political will to implement these laws.
- Limited resources and capacities of forest enforcement agencies are a major barrier to ensuring the rule of law and may be symptomatic of limited priority being attached to implementing forest laws. Increased international cooperation among enforcement agencies, has, however, been successful in tackling trade in illegal timber, including the seizure of USD 1.5 billion worth of timber through international cooperation efforts since 2012.
- Countries with high levels of corruption experience the highest loss of forest. Relatively strong forest laws are often undermined by limited enforcement and high levels of corruption. Overall corruption levels remain high and, for the most part, unchanged over the past five years. Several countries have important deficiencies in financial management of forest revenues, which can facilitate corruption and embezzlement.
- Emerging economies in Asia, including China, Indonesia, Malaysia, the Republic of Korea, and Vietnam have begun to adopt demand-side regulations that prohibit the sale and import of illegally harvested timber. While this is a promising step, it remains unclear whether these laws will have the desired effect because they suffer from potential loopholes and weak enforcement mechanisms. Over the past few years, governments and companies have also started adopting policies to eliminate deforestation embedded in agricultural supply chains, in particular palm oil and soy.

Criterion 2: Transparency, participation, and access to justice

- An increasing number of countries are adopting laws giving citizens the right to access forest-related information. However, the forest sector overall remains relatively opaque. In many countries, information may not be available in formats or languages that are accessible to vulnerable groups, and governments are permitted refuse access by citing reasons such as "national interest." Few countries release data proactively and systems that make information available to the public – such as the Environmental Information System of Colombia that provides access to up-to-date regional information on forest types, uses, and deforestation rates – remain the exception.
- Lack of transparency and poor traceability in agricultural commodity supply chains act as a barrier to monitoring corporate commitments to address deforestation. Many companies remain reluctant to share data, and the information they provide is often vague, incomplete, or buried in sustainability reports, which limits its usability for assessing progress and forest impacts. There is, however, some progress: a small group of large companies, including Unilever and Nestlé, has started disclosing supply chain information, especially in the palm oil sector.

- The majority of countries provide for consultations in relation to forest-related policies and projects. However, consultation processes are often overly technical and not linked to concrete decision-making, and governments are not required to take comments provided by stakeholders into account. It is even more difficult for women and other vulnerable groups to be heard. For example, women are 24 percent less likely to be actively involved in the decision-making or implementation of REDD+ projects than men.
- Women and the poor also have less access to justice in forest-related matters. Most countries have laws guaranteeing the right to access judicial and administrative remedies but they are often too costly and slow to provide effective legal protection. Where formal systems are not accessible, grievance mechanisms may provide an alternative avenue for local people to seek redress, but even these informal processes are often out of reach for the most vulnerable in society.

Criterion 3: Empowering and ensuring the rights of indigenous peoples and local communities

- Where indigenous peoples and local communities hold secure rights to their forests, the forests are less likely to be degraded or destroyed, with communities providing better protection than even legally protected areas. Conversely, failure to legally recognize communities' rights to these lands leaves forests and the carbon they contain at risk and threatens the people whose livelihoods, religions, and cultures depend on the forests.
- The total share of forest area across 41 countries to which indigenous people and local communities have legally recognized rights has increased from close to 11 percent in 2002 to more than 15 percent in 2017, almost all of it in low- and middle-income countries. This represents important progress, but leaves much to be done. In the 14 countries assessed for this report – including 5 of the 10 countries with the most forest area[b] – about 33–39 percent of land currently occupied or used by indigenous peoples and local communities has not been legally recognized by governments.
- In many countries, even legally recognized rights of indigenous peoples and local communities may be taken away without consent or compensation, or may be recognized for only a limited time. On average, low- and lower-middle-income countries provide greater tenure security to indigenous peoples and local communities than upper- and upper-middle-income countries that have significant indigenous populations, though they do not always ensure those rights are respected in practice.
- The number of murders of forest and land defenders has increased every year since 2014, and communities increasingly face criminalization for protecting their rights. Weak recognition of tenure rights, failure to respect the principle of free, prior, and informed consent, and growing demand for land have led to an increase in land conflicts and growing dangers for communities defending their land rights.
- Empowerment of indigenous peoples and local communities requires not only secure tenure, but also technical know-how, business capacity, market access, and strong organization. Many indigenous peoples and local communities are vulnerable and need to gain or regain authority, including commercial power, over forest goods and services, to overcome marginalization. Many need support to continue protecting forests and using them sustainably. Support for strengthening forest-dependent community organizations has resulted in rapid gains in development and access to markets and finance. However, governments have made only minimal improvements in supporting rural organizations through providing conducive legal and policy frameworks and engaging them in decision-making. While there have been important advances in making forest-linked development finance directly accessible to communities, this remains the exception rather than the rule.

[b] Brazil, Canada, Australia, Indonesia, and the Democratic Republic of the Congo.

Introduction

There are no signs that tropical deforestation is slowing: 2017 saw the second-highest loss in gross tropical tree cover since 2001.[c] Unsustainable consumption, increased wealth, growing populations and changing diets put increasing pressure on natural ecosystems. The permanent conversion of land for agricultural expansion for the production of commodities such as palm oil, soy, paper/timber, and beef products and other nonforest land use such as mining or energy infrastructure account for 40 percent of tropical deforestation.[d, 9, 10] These activities negatively reinforce each other to threaten forests and the livelihoods of many indigenous peoples and local communities. Investing in roads and energy infrastructure enables access to previously untapped natural resources, while the financial returns of mining and extraction provide justification for more infrastructure development. At the community level, basic needs activities such as subsistence agriculture and fuelwood collection may contribute to forest loss and degradation.[e] In fact, another quarter of forest conversion can be attributed to shifting agricultural practices, in which land is cleared and later abandoned to forest regrowth.[11]

Good governance enables forest protection

Clear and well-designed legal and policy frameworks, strong institutions, and legitimate decisions are essential to end deforestation and use forests more sustainably. In many countries forest-related governance is weak and has negative impacts on poor people, ethnic minorities, and women.[12] Improving the rules and regulations that protect the forest, allowing for participatory decision-making with full inclusion of vulnerable groups, and aligning and implementing policies, are therefore essential strategies to protect tropical forests. Improving governance more generally has a less direct effect on deforestation but is important nevertheless: overall strengthening of the quality of law-making and government transparency and effectiveness leads to wealth creation and poverty reduction, which is correlated with reduced deforestation (**Box 1**).[13]

Box 1. Correlation between governance and deforestation

Empirical evidence shows that countries with poor governance scores tend to show higher annual forest loss than countries with good governance scores. Indeed, countries that score high on governance indicators on average have 15 percent lower forest loss rates than countries with below-average governance scores. The difference is particularly stark in tropical countries, where countries that scored better than average for tropical countries had 31 percent lower forest loss rates.[14] While it is difficult to draw a direct causal relationship between poor overall governance and deforestation, poor governance is almost invariably among the underlying factors that enable deforestation to occur and hinder the implementation of reforms to address deforestation. Almost all of the 19 countries that submitted proposals for a national or regional REDD+[15] program to the Forest Carbon Partnership Facility's Carbon Fund identified issues related to governance as a cause of deforestation (95 percent) or degradation (100 percent). Close to two thirds also consider governance issues as risks to the implementation of the program.[16]

Weak governance in the forest sector comes at a cost. The losses generated by illegal deforestation for industrial agriculture alone are estimated at more than USD 17 billion per year, considering lost government revenues from tax evasion, the loss of ecosystem functions, and conflicts with forest

[c] See progress updates on New York Declaration on Forests (forestdeclaration.org): Goal 1.
[d] Goal 2 progress update on agricultural drivers of deforestation and Goal 3 progress update on other economic sectors.
[e] Goal 4 progress update on deforestation driven by basic needs.

communities.[17] Costs of logging in developing countries are estimated at more than USD 15 billion per year: USD 10 billion from the value of stolen timber and USD 5 billion from evaded taxes in legal logging.[18] Improving governance can help fiscal authorities recapture these lost revenues and potentially lead to a virtuous cycle in which increased revenues are invested in further strengthening governance systems.

Good forest governance also improves people's livelihoods. About 200 million indigenous people depend on natural forests for their livelihoods, and another 350 million people in rural communities rely on natural forest as a safety net or for supplemental income.[19] Indigenous peoples not only have strong legal claims to much of global forest land but frequently provide the best (and often the only) form of forest and land management in remote areas with limited state presence.[20] Whether forests are cleared illegally or legally, local communities are often excluded from decision-making and have limited abilities to defend themselves and their interests. For these communities to continue managing their forests, they must secure legal recognition and enforcement of their rights, as well as broader empowerment in governance and decision-making.

Reviewing progress toward Goal 10 of the New York Declaration on Forests

Box 2. The 10 New York Declaration on Forests goals

Goal 1. At least halve the rate of loss of natural forests globally by 2020 and strive to end natural forest loss by 2030.

Goal 2. Support and help meet the private-sector goal of eliminating deforestation from the production of agricultural commodities such as palm oil, soy, paper, and beef products by no later than 2020, recognizing that many companies have even more ambitious targets.

Goal 3. Significantly reduce deforestation derived from other economic sectors by 2020.

Goal 4. Support alternatives to deforestation driven by basic needs (such as subsistence farming and reliance on fuel wood for energy) in ways that alleviate poverty and promote sustainable and equitable development.

Goal 5. Restore 150 million hectares of degraded landscapes and forestlands by 2020 and significantly increase the rate of global restoration thereafter, which would restore at least an additional 200 million hectares by 2030.

Goal 6. Include ambitious, quantitative forest conservation and restoration targets for 2030 in the post-2015 global development framework, as part of new international sustainable development goals.

Goal 7. Agree in 2015 to reduce emissions from deforestation and forest degradation as part of a post-2020 global climate agreement, in accordance with internationally agreed rules and consistent with the goal of not exceeding 2°C warming.

Goal 8. Provide support for the development and implementation of strategies to reduce forest emissions.

Goal 9. Reward countries and jurisdictions that, by taking action, reduce forest emissions – particularly through public policies to scale-up payments for verified emission reductions and private-sector sourcing of commodities.

Goal 10. Strengthen forest governance, transparency, and the rule of law, while also empowering communities and recognizing the rights of indigenous peoples, especially those pertaining to their lands and resources.

Goal 10 of the New York Declaration of Forests (NYDF) mandates the 197 public and private endorsers of the Declaration to "*strengthen forest governance, transparency and the rule of law, while also empowering communities and recognizing the rights of indigenous peoples, especially those pertaining to their land and resources*" (**Box 2**). The Declaration sets an ambitious target to cut natural forest loss in half by 2020 and end it by 2030. It also calls for restoring 350 million hectares of degraded and deforested land by 2030, supporting the private sector in eliminating deforestation in agricultural commodity supply chains, and providing financial support to reduce greenhouse gas emissions related to deforestation and forest degradation.[21]

Four years after the adoption of the NYDF, with few signs of halting the loss of natural forests, it is time to review global progress toward strengthening forest governance. Over the past three years, a coalition of two dozen nongovernmental organizations (NGOs), research organizations, and think tanks – the NYDF Assessment Partners – has monitored progress toward implementing and achieving the goals of the NYDF. The assessment was conducted in two separate work streams: a continuous assessment toward progress of all 10 NYDF goals (available at forestdeclaration.org) and an annual in-depth assessment of one or two thematically linked goals. The 2018 focus assessment looks at forest governance: Goal 10.

This report evaluates progress based on a framework developed by the NYDF Assessment Partners. The first chapter gives background on the role governance and the rule of law play in reducing emissions from deforestation and the criteria used to assess progress. The second chapter presents our findings of progress under three criteria: (1) the rule of law and forest-related crime, (2) transparency, participation, and access to justice, and (3) empowering and ensuring the rights of indigenous peoples and local communities. The third chapter provides a conclusion.

Assessment framework

We focus our assessment on progress in strengthening **forest governance,**[f] which we understand to cover:

- The institutions, laws, policies, and processes that govern the ownership, management, use, protection, and conversion of forests
- How these institutions, laws, policies, and processes operate in practice, including their degree of transparency
- The strength of the rule of law in forest-related matters, including the implementation and enforcement of the law and access to justice for those wronged by forest-related decisions
- The governance of international trade in forest products and nonforest products linked to deforestation and forest degradation
- The rights and empowerment of indigenous peoples and local communities

The implications of good or bad governance are highly context specific. What works well in one country may fail in another, and the successful management of forests varies widely across regions, forest types, and land uses. However, adopting and implementing strong environmental policies, clarifying ownership rights, and strengthening the rule of law has been proven to remove pressure on forests and help protect forest ecosystems.[22] We also understand that the overall strength of national and local institutions has an important – although indirect – influence on forest governance.

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[f] There is no commonly accepted definition of the term "forest governance," but attempts to measure it invariably incorporate assessments of transparency, the rule of law, certainty of land tenure, and the control of corruption, among others. See e.g., Davis, C. Williams, L., Lupberger, S., & Daviet, F. (2013). *Assessing forest governance: The Governance of Forests Initiative Indicator Framework.* Washington, DC: World Resources Institute; and Kishor, N. & Rosenbaum, K. (2012). *Assessing and monitoring forest governance: A user's guide to a diagnostic tool.* Washington, DC: Program on Forests.

To assess progress toward the achievement of NYDF Goal 10, we used an assessment framework of three criteria and eight indicators to measure efforts to strengthen forest governance **(Table 1)**. The criteria and indicators were selected on the basis of their ability to reflect the different aspects of governance, and also on the existence of broad data sets (global or for a large number of countries) over time.

Table 1. Assessment framework for New York Declaration on Forests Goal 10

CRITERIA	INDICATORS	MAIN DATA SOURCES
1. Governance, the rule of law and forest-related crime	1.1. Legal and policy frameworks governing forests 1.2. Illegality in and around forests 1.3. Demand-side measures and international cooperation	• Worldwide Governance Indicators • Transparency International Corruption Perceptions Index • NEPCon legality risk assessments • Chatham House policy assessments • INTERPOL (official and open-source data) • EU FLEGT Facility • Literature review
2. Transparency, participation, and access to justice	2.1. Transparency and access to information 2.2. Participation in decision-making 2.3. Access to justice	• Environmental Democracy Index • Protected Planet 'Equity and Protected Areas' studies • FAO Gender and Land Rights Database • EU FLEGT Facility • Supply Change • Literature review • Chatham House policy assessments
3. Empowering and ensuring the rights of indigenous peoples and local communities	3.1. Rights of indigenous peoples and local communities 3.2. Empowerment of communities	• Rights and Resources Initiative • LandMark • Literature review • CIFOR – Global Comparative Study on Tenure Reform • IFAD Rural Sector Performance Assessments • Global Witness • Business and Human Right Resource Centre • Supply Change • Forest and Farm Facility Monitoring and Learning System - IIED • Literature review

FAO = Food and Agriculture Organization of the United Nations, EU = European Union, FLEGT = Forest Law Enforcement, Governance and Trade, CIFOR = Center for International Forestry Research, IFAD = International Fund for Agricultural Development, IIED = International Institute for Environment and Development.

In conducting the assessment, we grappled with the following challenges:

- Many aspects of forest governance (e.g., empowerment of communities) cannot be quantified and must be assessed qualitatively.
- Many criteria and indicators are closely related and interact with one another. In some cases, there is overlap between data sources.
- There is no universally accepted definition or set of indicators for assessing forest governance, and so we must manage different data sources with different approaches and metrics.

The framework draws on and brings together existing work from relevant initiatives **(Annex 1)**.

Findings

Criterion 1: Governance, the rule of law, and forest-related crime

Successfully tackling deforestation and forest degradation implies a delicate balancing of national objectives around rural development and forest protection and management. This requires not only sound policy, but robust governance systems that enable policy to be effectively implemented – including coherent and effective laws, strong institutions, and a system of checks and balances that ensures respect for the rule of law is upheld. Where these systems are absent, corruption and forest-related crime have room to flourish, making the successful implementation of policies difficult or even impossible.

This criterion assesses progress in strengthening forest governance through three indicators that address the problem from different perspectives.

The first indicator assesses the strength of the legal, policy, and institutional frameworks that govern forest and deforestation. In addition to focusing on the laws and policies that govern the forest sector itself, it considers governance beyond the forest sector that nonetheless impacts forests. This includes the coherence between forest laws and policies and those in sectors that are major drivers of deforestation, as well as progress on controlling overall corruption and clarifying land tenure in rural areas.

The second indicator assesses illegalities in and around forests. These include violations of forest laws, land laws, and environmental laws in the process of clearing forest or engaging in logging, as well as links between deforestation and organized crime, including drug trafficking. We assess both the extent of illegal deforestation and logging and the risks that laws are broken in the production of the commodities that drive deforestation and forest degradation.

The third indicator looks beyond the countries where deforestation and degradation are happening to the countries whose demand for commodities is fueling forest loss. Action by these countries to address illegalities and deforestation embedded in their imports is an important complement to improving governance in the countries where forest loss is occurring.

In our assessment we reviewed progress in strengthening forest-related policies and laws across all countries and geographies. However, because evidence points to greater governance challenges and higher levels of illegality in developing countries, the analysis in the first two indicators pays most attention to those countries. It also examines the continued existence of illegal logging within certain developed countries.

Finally, the analysis in this criterion focuses both on **illegal deforestation**, understood as the permanent conversion of forest to other land use in violation of the law, and **illegal logging**, understood as the illegal extraction of trees without conversion of forest, usually resulting in forest degradation.

Indicator 1.1: Legal and policy frameworks governing forests and deforestation

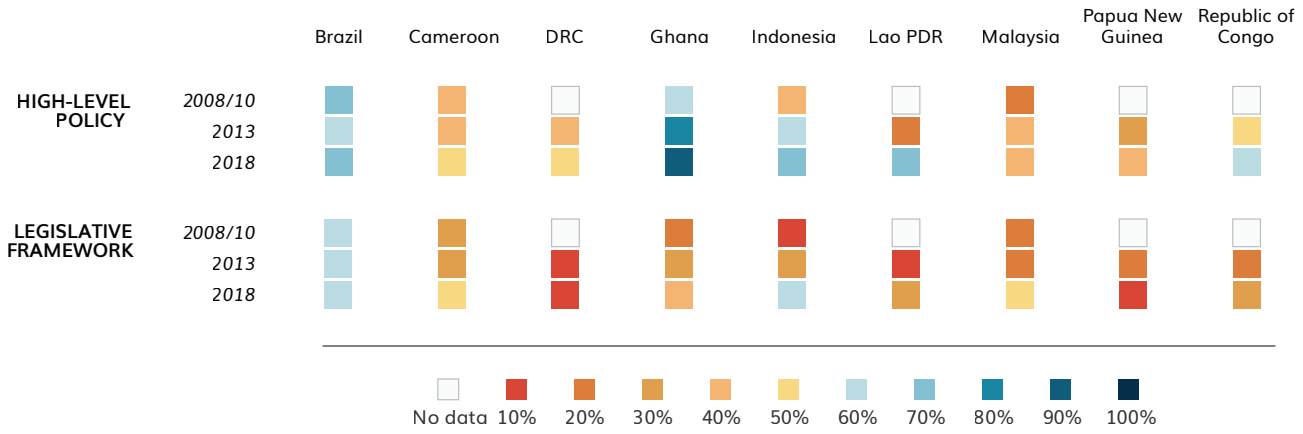
Countries with weak forest laws and policies, insufficient enforcement, and high levels of corruption experience higher rates of deforestation than countries with stronger legal frameworks and institutions. While several countries have made notable improvements in efforts to reduce illegal activities, progress remains slow and, in some countries, has stalled completely. Corruption levels remain alarmingly high.

Laws and policies to address deforestation are often weak and unclear

Positive government action is central to forest protection. While governments have historically been among the main agents of deforestation, they are also responsible for the adoption of laws and policies that are essential to the protection and sustainable management of forests.[23] These laws and policies are generally developed at the national level, though their effective implementation takes place largely at the local level, in specific locations, and by particular groups of people.[24] Thus it is essential to not only formulate forest policies at the national level, but also adopt processes and build institutions to implement these policies locally.

We reviewed nine major tropical forest countries (**Figure 1**) to assess progress in tackling illegal logging and deforestation and related governance issues. Our review builds on previous assessments undertaken by Chatham House, allowing comparison of progress over time. The selected countries collectively account for 48.6 percent of global tropical forest area, and 21.6 percent of global forest area.[25]

Figure 1. Policy scores for high-level policy and legislative frameworks for nine tropical countries



Note: Scores are on a scale of 0 to 100 percent, from worst to best performance. This research builds on two previous assessments carried out by Chatham House under the project Illegal logging and related trade: Indicators of the global response. DRC = Democratic Republic of the Congo, Lao PDR = Lao People's Democratic Republic.

Source: Climate Focus and Chatham House. (2018). Assessments of government forest policy in nine countries.

Over the past five years, all but one of these countries made some progress in developing and strengthening national action plans for tackling illegal logging, improving processes for coordination among governmental and nongovernmental actors in addressing illegal logging, or integrating this action within climate change commitments and REDD+ policies.

Nonetheless, many countries have weak policies and laws. In countries such as Cameroon, Democratic Republic of the Congo (DRC) and the Republic of the Congo, a lack of government ownership of policies to address illegal logging limits their effective implementation. Other countries, for example Lao People's Democratic Republic (Lao PDR), have adopted blunt policy instruments such as timber export bans that have been effective in curbing illegal logging in the short term but may eventually need to be replaced by more sophisticated policy instruments if a longer-term shift to legal and sustainable forest use is to be achieved.

Many governments struggle with ensuring the completeness and coherence of forest legislation and developing adequate forest-related information management systems, which are necessary tools for the effective implementation of policies. All countries whose legal frameworks were assessed scored poorly on this aspect, with most countries experiencing widespread inconsistencies between different

forest laws, as well as between forest laws and other laws relevant to illegal deforestation, such as those governing land rights, mining, and agriculture.

Some developing countries have, nonetheless, made important advances in strengthening and clarifying legal frameworks. In particular, countries that have negotiated and concluded voluntary partnership agreements (VPAs) with the European Union (EU) have clarified the meaning of "legal" versus "illegal" logging. This contributed to notable improvements in the legal framework governing forests in Indonesia between 2008 and 2013. More recently, the Republic of Congo and Cameroon have made some progress in reforming their legislation, although reforms efforts have experienced significant delays.

Legal and policy reforms to address deforestation are most likely to be successful when they are addressed through efforts at national as well as local levels and supported by civil society and corporations. The Soy Moratorium in Brazil is an example of a successful private and public effort to reduce deforestation driven by soy expansion in the Brazilian Amazon (**Box 3**).

Box 3. The mixed success of forest moratoria

While at least four major forest countries (Brazil, Democratic Republic of the Congo [DRC], Indonesia, and Lao People's Democratic Republic [Lao PDR]) have placed moratoria on some form of logging or agricultural concessions in forest areas, these have seen mixed levels of success, with several countries seeing deforestation and forest degradation continuing despite the moratoria.[26] The following highlights some of the factors behind their varying degrees of effectiveness.

Political will

Strong political will – in particular executive support from the Prime Minister – in Lao PDR has led to the partial success of a timber export moratorium. This has been limited by weak local governance structures. While the moratorium has reduced illegal trade significantly, an analysis of import/export data by Forest Trends indicates that imports of sawn logs from Lao PDR into Vietnam continued despite the ban.[27] Concerns have also been raised about the implementation of the moratorium.[28] While logging activities have technically been suspended, large-scale logging may continue through legislative loopholes such as clearance for other land concessions including rubber production, mining, and dam projects.

Legal status and implementation plans

In Indonesia, a moratorium on primary forest and peatland concessions has seen mixed success. Weak enforcement of the 2011 moratorium at province and district levels has been identified as one of the key factors underlying its limited effectiveness. Studies have also highlighted corruption in the issuance of relevant licenses and conversion of forests without, in advance of, or in excess of required permits as among the most prominent types of illegalities.[29] This may be linked to poor spatial data and overlapping forestry maps, which can hinder the proper enforcement of regulations.[30] A newer 2016 moratorium on peatland drainage has found greater success, perhaps because, unlike previous efforts, it was adopted by (binding) presidential decree and immediately followed up by a series of implementing regulations.[31] Since the moratorium took effect, the rate of tree cover loss in protected primary forests on peat soils decreased by 88 percent relative to 2016.[32] However, major pushback within the government and private sector leaves the future of the regulations unclear. A third moratorium was issued in September 2018 that prevents new palm oil concessions on national government land for three years, though it does not extend to land controlled by local governments.[33]

Targeting the main drivers of forest loss

In other cases, moratoria may be less effective because they are simply not addressing the actual drivers of deforestation. Although the DRC has a moratorium on logging concessions, it has only a very small area is under concessions compared with neighboring countries.[34] However, its informal, artisanal sector harvests 10 times as much timber as logging concessions leading to more significant overall deforestation and degradation.[35]

Continued on next page

Box 3. The mixed success of forest moratoria *(cont.)*

Participatory design and stakeholder buy-in

Another important difference in moratoria is the design process. Brazil, which has the most successful example of a moratorium, designed a voluntary sectoral agreement rather than issuing a government mandate. The Soy Moratorium emerged as a result of strong civil society advocacy and consultation, and was enabled by the existence of legislative frameworks mandated by the Forest Code.[36] While risks of noncompliance with Forest Code remain high in some areas, increased enforcement has resulted in almost no new deforestation due to soy expansion in the Amazon. In addition – partially due to pressure from civil society – buy-in from major soy traders was high. However, the coverage of the moratorium is limited to soy and to the Amazon region. Deforestation and loss of natural vegetation for soy still occurs in the Cerrado biome of Brazil.

Limited progress in controlling corruption

The rule of law is frequently undermined by corruption. A comparison of corruption scores and change in primary forest cover in 180 countries reveals that countries with high perceived levels of corruption experienced the most forest loss (**Figure 2**).[g] Nontropical forest countries were perceived as having 20 percent less corruption than tropical forest countries – the countries where deforestation is most rapid.

Globally, there is no indication that corruption levels are going down. Overall corruption levels (i.e., not limited to the forest sector) have remained largely unchanged over the past five years. In forest countries, corruption often undermines other efforts to improve governance and impedes progress in addressing illegality. Similarly, an analysis of over 100 developing countries shows that there has been almost no progress in reducing corruption in rural areas in the past decade.

In several of the nine countries analyzed for this assessment, checks and balances against corruption remain weak (**Figure 3**). In Papua New Guinea, for example, there are no internal systems for government departments to monitor corruption and there is no independent forest monitoring system. Moreover, limits to government officials' discretionary powers are often not respected in practice. The Republic of Congo has an independent forest monitoring system, but has no parliamentary oversight of the broad discretionary powers granted to government officials. Malaysia has an anticorruption unit, but its scope is limited to investigation rather than prosecution.

Several countries also have important deficiencies in financial management of forest revenues, which can facilitate corruption and embezzlement. For instance, Brazil lacks systems for ensuring that fines for forest exploitation activities (e.g., concession fees) are paid to the government, while recommendations arising out of audits of the forest administration system are rarely implemented.

Weaknesses in the rule of law limit the implementation of even relatively robust legal frameworks

The rule of law relies on government accountability, clear and just laws, transparent enforcement, and access to justice. In countries where the rule of law is weak, decisions regarding forests are more likely to be made in accordance with short-term priorities and special interests instead of established legislation and long-term policy priorities. This seriously impedes long-term planning and the implementation of policies to conserve and sustainably use forests.

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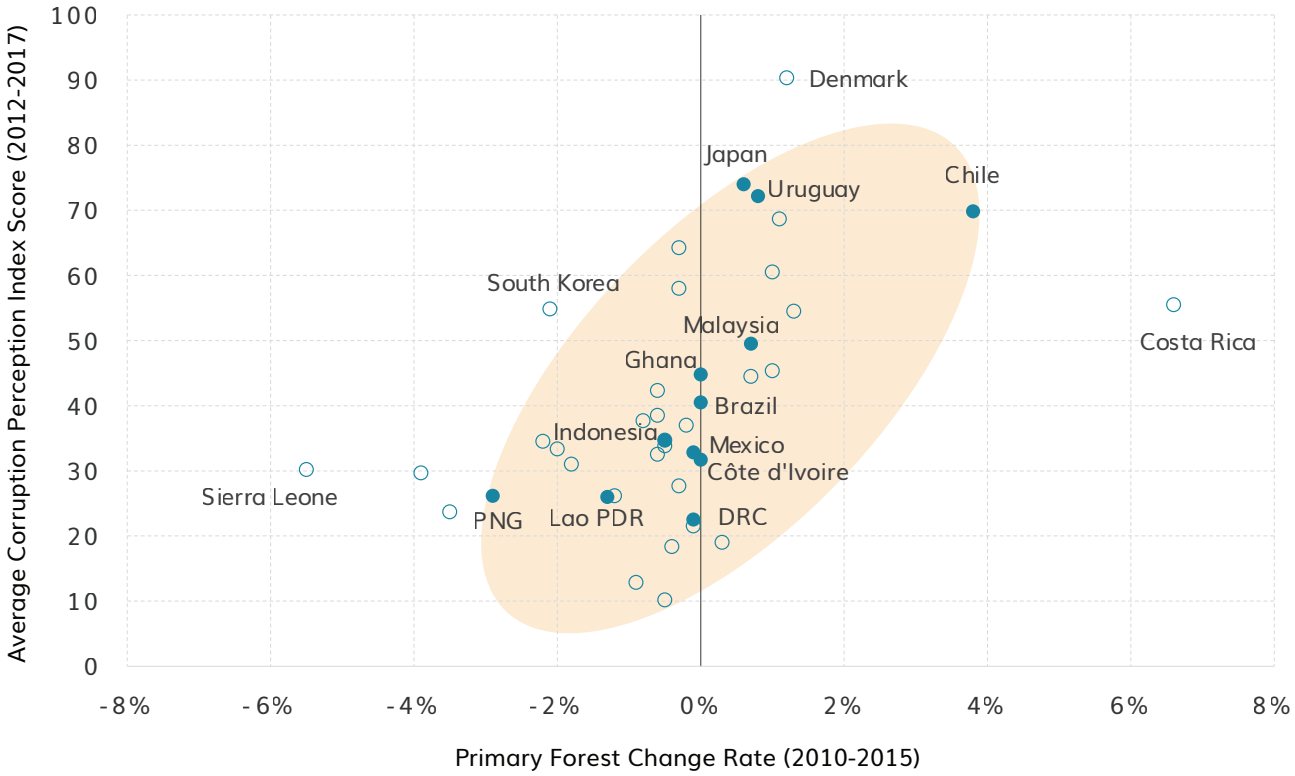
[g] Climate Focus analysis based on average scores from Transparency International's Corruption Perception Index. Note that these scores are not limited to the forest sector.

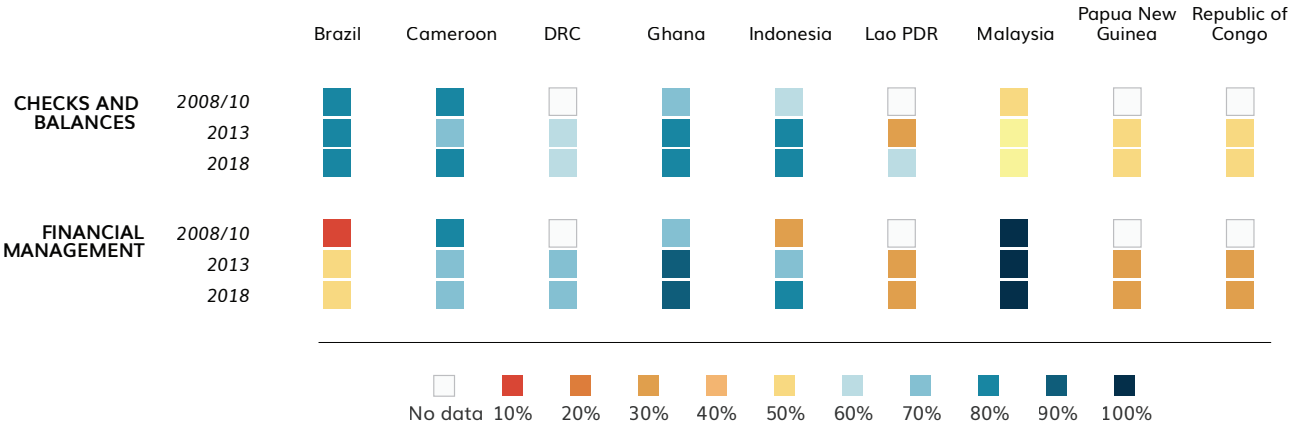
Figure 2. Perceived corruption and rate of primary forest cover change for 42 countries



Note: Scores are on a scale of 0 to 100, from most to least corrupt. Transparency International's Corruption Perceptions Index (CPI) ranks countries by their perceived level of corruption based on surveys and expert assessments and is not limited to the forestry sector. PNG = Papua New Guinea, Lao PDR = Lao People's Democratic Republic, DRC = Democratic Republic of Congo.

Source: Climate Focus analysis based on data from FAO Forest Resources Assessment 2015 (2010-2015 data) and Transparency International's Corruption Perceptions Index (2012-2017 data).

Figure 3. Policy scores for checks and balances and financial management for nine tropical countries

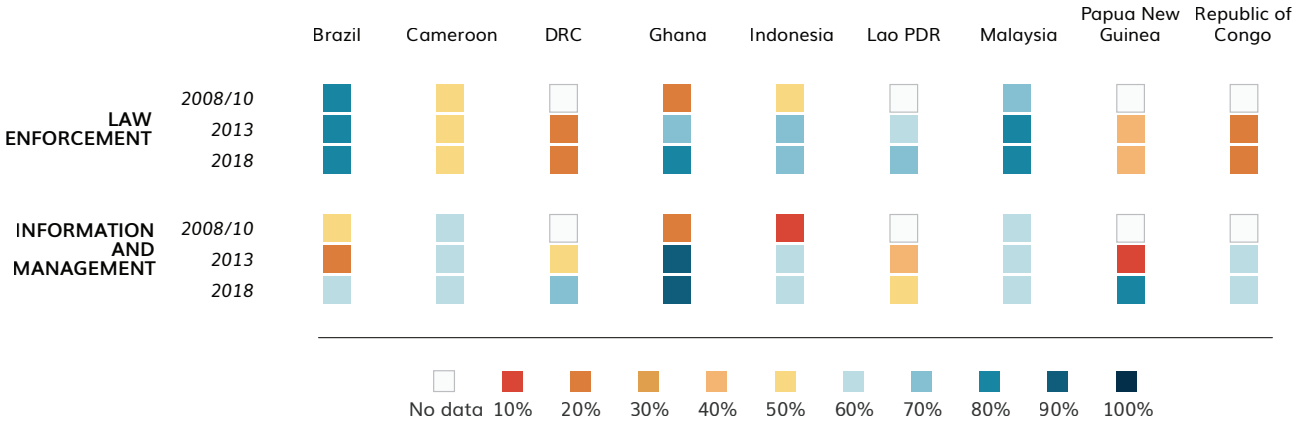


Note: Scores are on a scale of 0 to 100 percent, from worst to best performance. This research builds on two previous assessments carried out by Chatham House under the project Illegal logging and related trade: Indicators of the global response. DRC = Democratic Republic of the Congo, Lao PDR = Lao People's Democratic Republic.

Source: Climate Focus and Chatham House. (2018). Assessments of government forest policy in nine countries.

A number of countries have relatively strong checks and balances to ensure the rule of law is respected. These include limiting the powers of senior government officials to override laws, providing for performance audits, ensuring parliamentary and judicial oversight of government decisions and enabling the public to mount legal challenges against government decisions. Notable improvements to the rule of law in recent years include the adoption of laws in Ghana and Indonesia to strengthen public control and transparency and hold government officials and forest officers accountable for their involvement in the trade of illegal timber (**Figure 4**). Ghana also recently increased penalties for forest offences.

Figure 4. Policy scores for law enforcement and information and management for nine tropical countries



Note: Scores are on a scale of 0 to 100 percent, from worst to best performance. This research builds on two previous assessments carried out by Chatham House under the project Illegal logging and related trade: Indicators of the global response. DRC = Democratic Republic of the Congo, Lao PDR = Lao People's Democratic Republic.

Source: Climate Focus and Chatham House. (2018). Assessments of government forest policy in nine countries.

The effectiveness of solid legal frameworks further depends on consistent and reliable law enforcement. While many countries have made some progress in strengthening institutions to enforce laws, progress remains slow and limited. Enforcement is particularly challenging in developing countries, where governments struggle to enforce forest laws that may be as strong or stronger than those in developed countries.[37] Common issues inhibiting enforcement include a lack of coordination, limited resources, and lack of capacities, all of which may be symptomatic of limit prioritization of implementing laws linked to forest use and conversion.[38] Some countries, such as Ghana and the Republic of Congo, have been active in training law enforcement officials, but resources for local enforcement offices are lacking. In Cameroon and DRC, major shortcomings are evident both at the national level (e.g., systems to monitor enforcement) and at the local level, such as limited numbers of inspections and preferences for "amicable" solutions between offenders and enforcement officers over fines and prosecutions.

Lao PDR made significant improvements in law enforcement by establishing a new information management system, developing and implementing smartphone-based reporting and assessment systems, and executing more enforcement activities. In Cameroon and the Republic of Congo, the forthcoming Timber Legality Assurance Systems are expected to result in significant improvements in this area. In Brazil, legislative amendments to improve the Forest Code have helped improve the predictability and enforcement of the law. However, the levels of illegality and informality remain high (see **Indicator 1.2**) and the percentage of fines actually paid continues to be low. Sharp reductions in the budget allocated to Brazil's lead enforcement agency, IBAMA, in 2017,[39] as well as indications by president-elect, Jair Bolsonaro, that he will further limit the agency's enforcement actions,[40] have raised concerns that recent increases in deforestation will worsen.

Several countries that have adopted some form of moratorium on forest use have experienced difficulties enforcing it (see **Box 3**). For example, in Indonesia the 2011 moratorium on concessions in forest and peatland areas is not legally binding and the lack of implementing regulations limited its effectiveness, though a separate moratorium adopted in 2016 appears to have addressed these limitations.

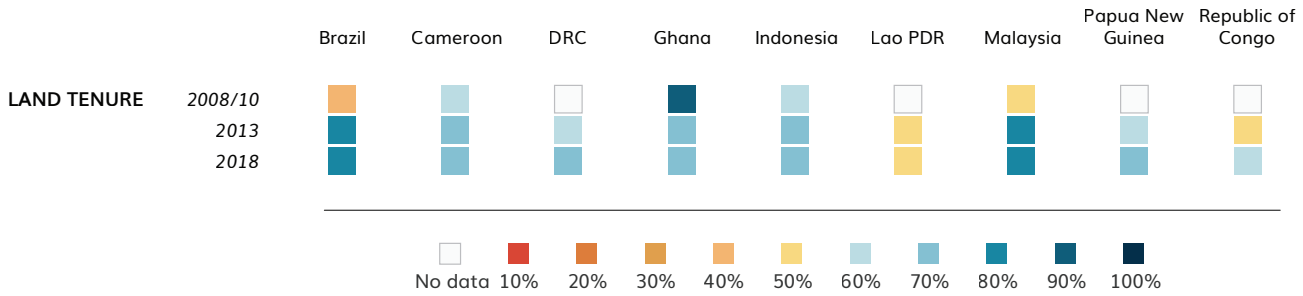
Weak land tenure continues to contribute to deforestation

Clear and uncontested land rights are essential for forest stewardship and investment in sustainable landscapes. Deforestation is more likely in areas where land tenure is insecure,[41] and 75 percent of countries cite land tenure as an underlying cause of deforestation.[42] Reasons for this include: weak or absent land rights that limit access to credit and remove incentives for long-term investment in sustainable land management practices; landholders seeking to strengthen their claim to untitled land by clearing forest and using the land "productively"; and untitled land being a likely target for land grabbing or speculation with a view to agricultural development.[43]

Absent and insecure land titles remain a major challenge in rural areas of developing countries (**Figure 5**). While many countries have laws requiring demarcation of land ownership both on the ground and in publicly accessible maps, few developing countries have achieved this in practice for the majority of forest or other rural land. Similarly, while many countries have systems for resolving land conflicts, most of these systems have deficiencies that hinder their effectiveness.

Recent years have seen some improvements in several countries. For instance, in Papua New Guinea an online REDD+ and forest monitoring tool, which provides maps of concessions and REDD+ activities, was launched in 2016. The Republic of Congo is developing a land-use plan that should help clarify land tenure, but the country still lacks legislation requiring land tenure to be shown in publicly available maps. In the DRC, these requirements exist, but are poorly implemented.

Figure 5. Policy scores for land tenure for nine tropical countries



Note: Scores are on a scale of 0 to 100 percent, from worst to best performance. This research builds on two previous assessments carried out by Chatham House under the project Illegal logging and related trade: Indicators of the global response. DRC = Democratic Republic of the Congo, Lao PDR = Lao People's Democratic Republic.

Source: Climate Focus and Chatham House. (2018). Assessments of government forest policy in nine countries.

Indicator 1.2: Illegality in and around forests

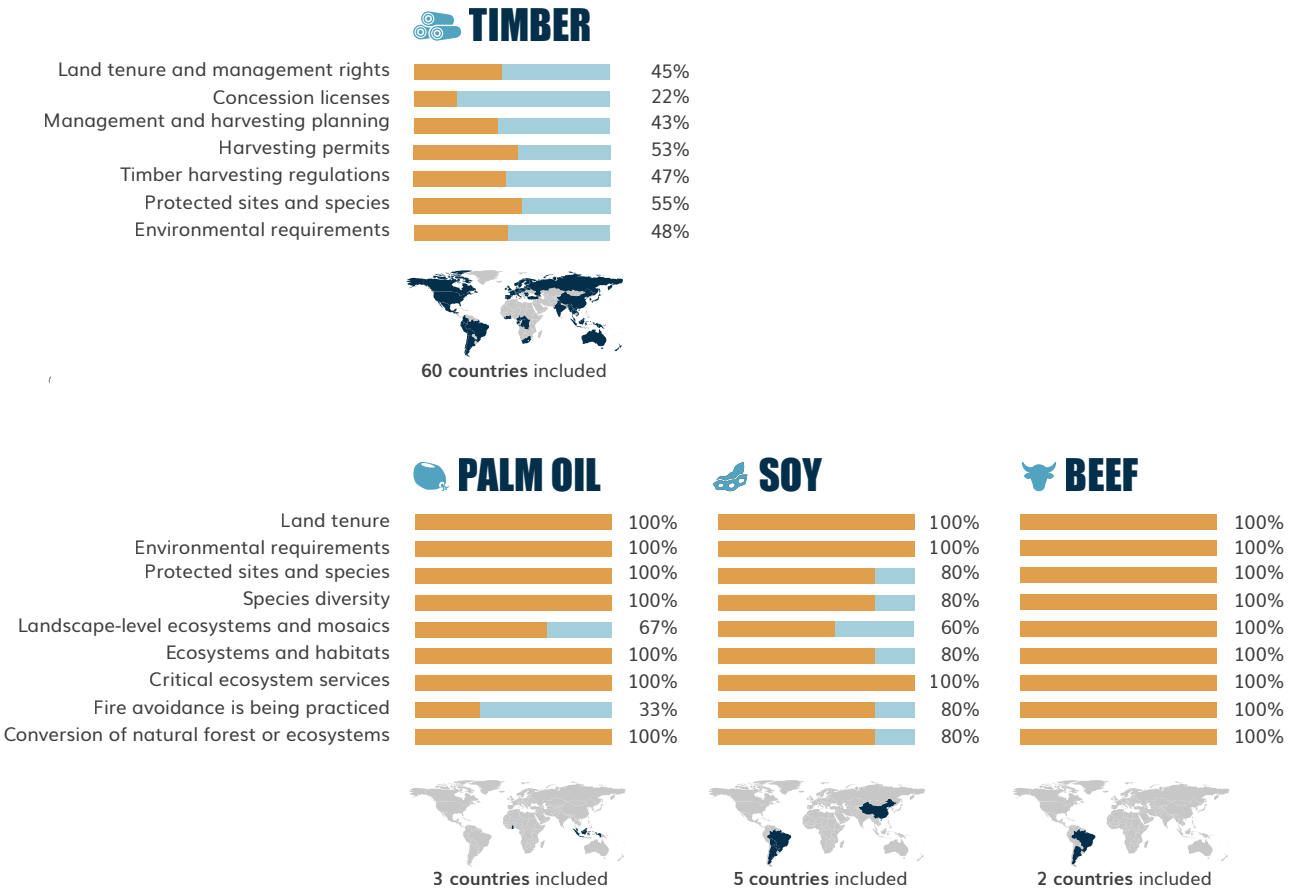
In countries with high rates of commodity-driven deforestation, violations of agricultural production laws remain alarmingly high. In 75 percent of major timber-producing countries – and all of the largest palm oil, soy, and beef producing countries in tropical regions – there are significant risks of one, or usually multiple, laws being broken in producing these commodities.

Almost half (49 percent) of all tropical deforestation in recent decades was due to the illegal conversion of forests for commercial agriculture, in particular for the "big four" commodities: palm oil, soy, paper/timber,

and beef products (**Figure 6**).[44] The majority (75 percent) of illegal deforestation took place in Brazil and Indonesia – the two largest producers of forest-risk commodities and the countries with highest forest loss globally.[45]

Illegal deforestation and risks of illegality remain particularly high in the palm oil, paper/timber, beef and soy sectors.[h, 46]

Figure 6. Legality risks in forest and agricultural commodity supply chains (2017)



Note: NEPCon conducts country-level legality risk assessments for forest and agricultural commodity supply chains.

Source: Climate Focus analysis based on 2017 data from Nature Economy and People Connected (NEPCon)'s Sourcing Hub.

In the palm oil sector, the important producing regions in Indonesia and Malaysia – which account for 85 percent of global supply[47] – have some of the highest risks of illegality in their supply chains compared with other commodities and countries. Common risks include illegal clearing of forest for plantations, noncompliance with laws protecting high-conservation-value areas, and failure to carry out environmental impact assessments.

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[h] The definition of illegality used by Lawson (2014) encompasses two general categories: illegalities in licensing and illegalities in forest clearance. Estimates of illegality in Brazil are based on breaches of legal reserves. Lawson assumes that conversion that complies with legal reserve requirements in all other ways is legal, meaning this method is likely to underestimate noncompliance. Estimates of illegality in Brazil consider corruption in the issuance of licenses and conversion of forests without appropriate permits. Beyond these categories, there are also cases of illegal forest clearing by companies (e.g., clearing outside concession boundaries, including in protected areas), clearing in prohibited zones, felling of protected species, illegal use of fire for clearance, and converting more than the maximum of 90 percent of natural forest conversion within a concession.

In the timber sector, an analysis of 60 countries where timber is produced found that, significant legality risks exist in three-quarters of these, many of which are directly relevant to deforestation and forest degradation.[48] The most frequent violations related to illegal logging including bribery, violating forest management requirements, and improperly acquiring permits for timber trading and transport.

In beef sector, risks of illegal forest conversion in Brazil – which has one of the world's largest cattle herds[49] – remain high including risks of failure to comply with environmental protection requirements and laws protecting areas of high conservation value.

Brazil's Soy Moratorium has been effective in reducing deforestation linked to soy production in the Amazon due to enforcement and buy-in from major soy traders. However, deforestation and loss of natural vegetation for soy still occurs in the Cerrado biome and Brazil remains one of the world's largest soy producers[50] (see **Box 3**).

While nontropical countries tend to have stronger governance and lower legality risks than tropical forests, illegal logging is still a problem in some countries. In Russia, 20 percent of logging is estimated to be illegal, with logging companies in the country's far eastern area frequently harvesting well beyond the limits in their permits. The country has become a major exporter of illegal hardwood in recent years, especially to China.[51] In Romania, which is home to some of Europe's oldest and most extensive forests, it is estimated that nearly a quarter of logging from 1990 to 2011 was illegal.[52] Illegal logging was also recorded in 2016 in the primeval Bialowieza forest in Poland – one of Europe's oldest intact forests[53] – and a number of legality risks exist in the Italian timber sector. In other developed countries, such as Canada, most logging is legal but often unsustainable, threatening carbon sinks and indigenous peoples' rights.[54]

Forestry crime often converges with other crime, including counterfeiting, drug trafficking, cybercrime, and financial crime.[55] These crimes may occur at various levels of the supply chain and limit the design, implementation, and monitoring of policies to protect forests.[56] Purchasing land and converting forest areas into agriculture is a means for drug traffickers to launder money and establish land control in remote areas. In Central America, drug trafficking is increasingly linked to forest loss, with evidence suggesting that cocaine trafficking may have been responsible for up to a third of annual forest loss in some countries over the past decade.[57] Such crime has a major impact on the rights of indigenous peoples and other local communities (see **Criterion 3**, **Indicator 3.1**).

Finally, it is important to formalize informal markets and activities. In many poorer developing countries the informal forestry sector is larger than the regulated forestry sector.[58] While many informal activities drive forest loss (e.g., much of Latin America's small-scale cattle ranching or Africa's charcoal production), they are often crucial for supporting rural economies and maintaining rural livelihoods.[59] Ensuring that legal and policy frameworks are equitable, providing support for smallholders to formalize their activities, and providing for alternative livelihoods is essential for curbing forest loss associated with these activities.

Indicator 1.3: Demand-side measures and international cooperation

Emerging economies in Asia have begun to follow the lead of developed countries by adopting demand-side regulations that prohibit the import and sale of illegally harvested timber. While this is a promising step, most of these measures have important weaknesses. In recent years, governments and private actors have also started moving to eliminate deforestation embedded in palm oil, soy, and beef production, though these actions lag behind efforts in the timber sector.

Deforestation is fueled by growing demand for commodities.[60] A large share of this demand comes from export markets, especially in the palm oil and soy sectors. The majority of Indonesian and Malaysian palm oil is exported (74 and 84 percent, respectively), as is the bulk of soybean from Brazil (64 percent) and Paraguay (62 percent).[61] Exports account for a much smaller share of Latin American beef, where 80–95 percent of the production supplies domestic markets. The level of timber exports varies by country.

To transform supply chains, action from all large consumers and importers, including emerging economies, is needed. China is the world's largest importer of soy and pulp and paper products,[62] and is projected to become the world's largest importer of beef by 2024, overtaking the United States.[63] India is the world's largest importer of palm oil products, followed by the European Union and China.[64] The participation of supply-chain actors in China and India – including governments, the private sector, and consumers – is therefore key to tackling the most important drivers of deforestation.

Emerging economies are increasingly adopting demand-side measures for timber

Robust legislation and policies in countries that are major consumers and importers of deforestation and degradation-risk commodities are an important complement to forest country efforts to reduce illegal logging and unsustainable exploitation. To date, most demand-side regulations have focused on limiting illegal timber imports. Several major consumer countries have placed obligations on timber importers.[65] The amendment to the U.S. Lacey Act in 2008, which prohibited the import and trade of illegal wood products, prompted a series of measures by consumer countries across the globe. Most notably, the European Union adopted the EU Timber Regulation in 2010, following its Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan. Similarly, the Illegal Logging Prohibition Act was introduced in Australia in 2012.[66]

These laws and regulations have helped reduce illegal imports and supported action in producer countries. A 2016 evaluation of the EU FLEGT Action Plan found that it had helped reduce consumption of illegal timber in the European Union, leading to a decrease in illegal logging and related trade.[67] Similarly, imports of illegal wood into the United States have declined by 32–44 percent since the Lacey amendments took effect. The Lacey Act is considered one of the main factors driving this reduction.[68]

Despite these successes, implementation challenges remain. The EU Timber Regulation continues to suffer from insufficient action and inadequate legal enforcement by Member States.[69] Several countries lack dissuasive penalties and undertake few enforcement actions, resulting in a lack of effective deterrents that enables operators to place illegal timber on the EU market.[70] Some lagging countries, such as Slovakia and Belgium, now face legal action by the European Commission.[71] Similarly, illegal imports into the United States were estimated to have been worth USD 2.8 billion in 2013 despite the Lacey Act.

A 2015 analysis indicated that gains in combating illegal timber through timber legality requirements in the European Union, United States, and Australia were at risk because timber exports were shifting to less sensitive markets, particularly in Asia.[72] However, there have been several encouraging developments in major importing economies in recent years. Since 2016, China, Japan, Indonesia, Malaysia, South Korea, and Vietnam have launched or begun to develop systems to reduce market access to illegally harvested timber:

- The 2012 Forest Act of South Korea, which aims to eliminate illegal wood from the Korean market, was revised with the Act on the Sustainable Use of Wood, which came into effect in March 2018, and aims to control imports of illegal timber.[73] This new framework obliges domestic timber importers to submit documents to prove that timber imports are legal and imposes penalties on those who do not comply.[74]
- Indonesia adopted import controls in 2016 as part of its VPA with the European Union. Although no criminal penalties are applied for violation, offenders may have their operations suspended for 12 months.
- In Malaysia, a new Import Legality Regulation came into effect in July 2017. It requires that legality documents be obtained for the imports of timber or timber products, in particular those that will be reprocessed and exported to the European Union, from the supplying country.

- Japan's Clean Wood Act also entered into force in mid-2017, introducing a system in which businesses who voluntarily register have an obligation to check the legality of timber they import. The government has yet to implement guidelines for implementation and establish a designated authority.[75]

- China is currently developing Administrative Measures for Strengthening the Legality of Imported Wood. These normative documents would be promulgated by an administrative authority and are likely to be legally binding. It is not yet clear what obligations will be placed on importers, though it is expected that they will involve some form of due diligence requirements.[76]

- Vietnam has committed to adopt legislation to limit illegal imports, as agreed in their VPA with the European Union, which was signed in May 2017. It is expected that legislation will require proof of legality or a declaration of due diligence to be provided by importers, and that "adequate, proportional and dissuasive" administrative sanctions, including the suspension of activities and/or prosecution will apply to violators.[77]

While the rapid expansion of demand-side measures for timber is encouraging, these systems vary in their scope and stringency, and several have important deficiencies compared with existing frameworks. For instance, the Japanese requirements are not mandatory, and several other systems include potential loopholes and do not appear to have enforcement rules comparable to those in the European Union and the United States. These weaknesses are cause for concern, particularly in light of the growing share of imports going to Asian markets.[78]

Several developing countries are also adopting public procurement policies that seek to exclude the public purchase of illegal timber. Cameroon has developed a draft framework that is awaiting approval by the Prime Minister, and Ghana is also considering such measures. Malaysia has adopted a target of ensuring 20 percent of green public procurement by 2020, with paper and furniture among the priority items for applying green procurement standards.[79]

Demand-side measures to address illegality linked to other commodities are emerging but still lag far behind those for timber

Over the past number of years, governments and private actors have also started taking action to eliminate deforestation embedded in palm oil and soy. The European Union already restricts biofuels originating from recently deforested areas,[80] while the European Parliament recently voted in favor of further tightening biofuel restriction through a complete ban on the import of biofuels based on palm oil.[81] The European Union is also considering the development of an EU Action Plan on Deforestation and Forest Degradation, which could include interventions to address both the demand and supply of commodity-driven deforestation.[82]

Several European countries have also adopted measures to restrict imports of forest-risk commodities. The Norwegian Parliament has voted to ban the public procurement and use of biofuels based on palm oil and the government is currently developing a regulation to implement this.[83] In France, under a national law passed in 2017, large French companies are required to establish and implement a due diligence plan that includes measures to identify and prevent environmental risks occurring from their own activities and activities along their supply chains.[84] The law has been strongly advocated for by civil society organizations, which will likely play a strong role in holding companies accountable to their plans.[85] It includes provisions on transparency, assessing and mitigating risk, and penalties for noncompliance.[86]

Increasing pressure from civil society organizations is also driving the development of a number of voluntary initiatives to address deforestation from agricultural commodities. The Amsterdam Declarations of December 2015 commit signatories to coordinated demand-side efforts to eliminate deforestation from the palm oil supply chain,[87] and other agricultural supply chains.[88] The endorsers

pledge to actively support private-sector efforts toward 100 percent sustainable palm oil for Europe, and reiterate the goals of the NYDF. The declarations, signed by the governments of Denmark, France, Germany, Italy, the Netherlands, Norway, and the United Kingdom, make a promising start on coordinated demand-side efforts to eliminate deforestation from the palm supply chain.

Chinese importers of palm oil and soy are moving toward more sustainable procurement. A China Sustainable Palm Oil Working Group (POWG) was established in late 2016, including members from China's leading palm oil companies COFCO, Fangshun Group, Julong Group, Sinograin, and Wilmar China. Together, these companies control 45 percent of global palm oil production and trade.[89, 90] The POWG aims for consensus building around zero-deforestation in the short term and to promote sustainability in the palm oil sector to benefit all stakeholders within China and Asia in the long term. Julong Group, the largest Chinese palm oil importer, is also working with Solidaridad to develop an environmentally sound supply chain linking producers in Indonesia to the Chinese market.

In 2016, the Chinese Soybean Industry Association became a partner of the Soja Plus Program for economic, social, and environmental management of Brazilian soybeans.[91] The Soja Plus Program aims to ensure compliance of the Brazilian soybean industry with the domestic legal forest framework. Furthermore, the Sustainable Soy Trade Platform – a partnership between The Nature Conservancy, Solidaridad–China, World Wildlife Fund, and the Paulson Institute – was established in 2015 to engage key public and business players to facilitate better communication between China's importers and soy suppliers.[92,93] The China Meat Association has also committed to deforestation-free sourcing through the China Meat Declaration, though implementation has been slow.

Evidence from voluntary sectoral agreements in Brazil indicates that these efforts can have a positive impact on the environment, particularly if implemented with cooperation between the public and private sectors (see **Box 3**).[i] The Soy Moratorium in the Amazon has contributed to a substantial decrease in forest loss linked to soy expansion in the region, with almost no new clearance occurring in 2014, although much of the expansion has shifted to the neighboring Cerrado region.[94] In 2017, over 62 companies signed a Statement of Support for the Cerrado Manifesto, a call for action by companies and investors to address leakage from the Amazon region and halt deforestation and native vegetation loss in the Cerrado. Significant changes in the behavior of meatpackers and ranchers and in rates of deforestation were also seen after small and major meatpacking companies signed cattle agreements, such as the G4 Zero-Deforestation Agreement and the Terms of Adjustment of Conduct.[95]

Increasing international cooperation on enforcement

In recent years, efforts to align action, gather intelligence, and identify hotspots of illegal activity have increased. INTERPOL's Law Enforcement Assistance for Forests, a global initiative launched in 2012 to support law enforcement across the entire timber supply chain, has set up 11 operations in 34 participating countries and trained 800 law enforcement officials (**Box 4**). Timber worth more than USD 1.5 billion has been seized and more than 547 arrests have been made. Nearly 90 percent of arrests were of loggers and truck drivers (48 percent) and middlemen (40 percent), while the remainder were of company owners and heads of criminal groups.[96]

To further increase international cooperation on forestry enforcement and associated crimes, the Law Enforcement Assistance Programme to reduce tropical deforestation was launched in July 2018. The program aims to support law enforcement agencies in their joint efforts to reduce illegal deforestation and associated crimes in key tropical countries.

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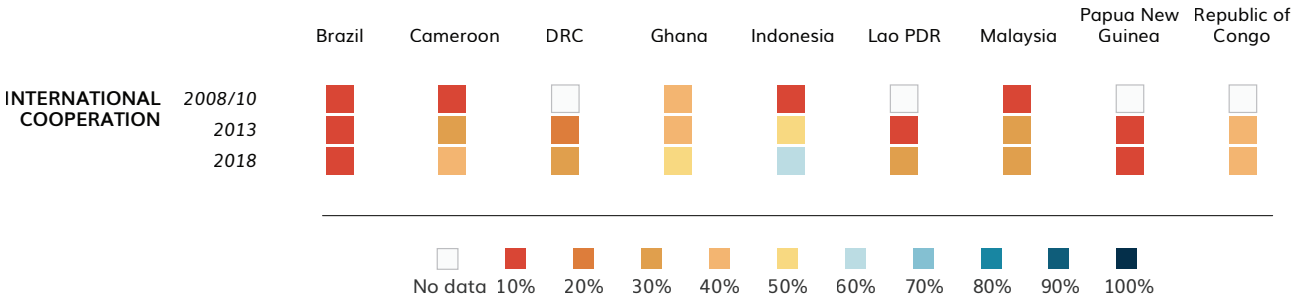
[i] A limitation with these efforts is that they are not yet being implemented at scale, risking leakage to areas outside the moratorium.

Box 4. Case study: "Thunder" – A successful country-led operation in international law enforcement

In June 2018, law enforcement officers from 92 countries completed a month-long coordinated enforcement operation against illegal wildlife and timber trade. The operation resulted in 1,974 seizures of goods ranging from 647,000 metric tons of timber to over 30,000 live animals. In the European Union, 1,500 inspections led to the seizure of 1,000 metric tons of timber among other items. Over 1,400 suspected traffickers were identified worldwide, with arrests and investigations are ongoing. Operation Thunderstorm, the second in INTERPOL's "Thunder" series of global enforcement operations, was organized by the INTERPOL Wildlife Crime Working Group with the World Customs Organization and the International Consortium on Combating Wildlife Crime. The operation revealed the extent to which trafficking routes for environmental goods often align with those of drugs, laundered money, and other criminal activity. Extensive intelligence gathering and analysis leading up to the operation identified hotspots of illegal activity for targeting, including ports and national parks.

This area of cooperation is relatively new and still limited. For instance, the nine tropical forest countries whose forest governance frameworks were analyzed for this report scored more poorly on indicators relating to international cooperation than on any other set of indicators (**Figure 7**). Most countries assessed do not have formal trade arrangements to address the export of forest-risk commodities, nor do they have systems for sending and receiving enforcement alerts regarding illegal shipments in transit to destination countries. Having become the first country to both enter into a voluntary partnership agreement with the European Union and issue FLEGT-licensed timber, Indonesia has made important strides toward greater international cooperation, though the country still has very limited cooperation on cross-border enforcement.

Figure 7. Policy scores for international trade cooperation for nine tropical countries



Note: Scores are on a scale of 0 to 100 percent, from worst to best performance. This research builds on two previous assessments carried out by Chatham House under the project Illegal logging and related trade: Indicators of the global response. DRC = Democratic Republic of the Congo, Lao PDR = Lao People's Democratic Republic.

Source: Climate Focus and Chatham House. (2018). Assessments of government forest policy in nine countries.

Criterion 2: Transparency, participation, and access to justice

Accountability, inclusion, and transparency are important building blocks of good forest governance.[97] Under this criterion we review progress in committing to and implementing rules on transparency, participation, and access to justice in relation to forests. These rules are fundamental components of good governance, and are anchored in various international conventions (**Box 5**). They are intended to ensure processes conducive to better forest management and the avoidance of corruption and crime.

The first indicator under this criterion assesses the performance of countries and companies in ensuring transparency and access to forest-related information.[j] Transparency is closely associated with accountable, inclusive, legitimate, and democratic governance.[98] It is also a necessary condition for enabling access to information, though it is not sufficient by itself because in many cases stakeholders require further assistance in obtaining information.

The second indicator assesses the performance of countries, companies, and other entities in ensuring the effective participation of affected groups, civil society, and the general public in forest-related decision-making. All relevant stakeholders – people and organizations – should have the opportunity to participate in deliberations on forest policy and program development in order to reach inclusive decisions that integrate varying perspectives, priorities, and concerns.

The third indicator assesses the performance of countries in ensuring access to justice for stakeholders affected by forest-related decisions and the implementation of those decisions. Access to justice refers to the ability to challenge decisions and actions through judicial and administrative mechanisms. Access may include grievance or conflict resolution mechanisms outside of formal systems. Full access includes ensuring necessary support for poor and vulnerable groups, for example through free legal aid.

Box 5. International law on transparency, participation, and access to justice

International law on the right to transparency, participation, and access to justice in forest and other environmental matters is an important catalyst for strengthening these rights. The 1998 Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters (Aarhus Convention) was the first international treaty to make procedural environmental rights binding for parties. With 47 signatories, including most European countries and several central Asian nations, the Convention is considered to have been instrumental in improving the transparency and governance of environmental decision-making in these countries.

In 2018 nations in Latin America and the Caribbean followed the Aarhus example by adopting the Regional Agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean. The agreement goes beyond Aarhus in several respects, including commitment to protect the security of human rights defenders working on environmental matters. As of October 2018 the agreement had been signed by 15 countries and is open for signatures until 2020. It includes its own governance system, including a conference of the parties and a compliance committee.

[j] Forest-related information includes general information such as forest area, biodiversity, and deforestation rates; forest laws, policies, and plans; and specific information regarding the existence and location of forest concessions, protected areas, and other areas.

Indicator 2.1: Transparency and access to information

An increasing number of countries are adopting laws giving citizens the right to access forest-related information. However, interested stakeholders – particularly vulnerable groups – often lack the means to obtain such information. Lack of transparency in agricultural commodity supply chains remains a barrier to monitoring corporate commitments to address deforestation.

The quest for transparency is premised on the notion that information empowers citizens, businesses, and civil society organizations to effectively pursue their interests and defend their rights. As procedural standards, disclosure requirements do not directly regulate the protection of forests.[99] Rather, access to information such as deforestation rates, forest tenure, and concessions in forest areas enables stakeholders to participate in decision-making and compliance monitoring by providing a check on government action and empowering stakeholders to monitor and influence decision-making.[100] In contrast, a lack of transparency provides fertile ground for illegalities and corruption, threatening the sustainable use of forests.[101]

To enable informed decision-making, data needs to be not just accessible but also actionable.[102] What is considered actionable is highly context specific but it often involves the timing of information release as well as its form. In general, information on public programs, conservation areas, REDD+ activities, and concessions should span the period from land allocation and licensing to management, monitoring, and implementation of activities. Data should also include spatial components, which are necessary to monitor forest-related commitments by the government and private entities and to prevent the allocation of overlapping land uses.[103] Other examples of rules that enable actionability include laws requiring that concession applications be published locally and online in advance of their approval, or mandating that companies disclose the impacts of their actions on forests, enabling consumers to choose products from companies with lower deforestation impacts.

Progress and restrictions in access to information laws

The number of countries with access to information laws has steadily increased in recent years,[104] and most governments now have laws mandating that forest-related information be placed in the public domain and that access be provided on request. However, in many countries these laws are hampered by significant restrictions that limit their effectiveness (**Figure 8**). An analysis of 70 countries across all continents[k] identified common barriers that limit access to forest-related information.

A majority of countries allow for multiple and often loosely defined grounds for refusal of a request. For instance, China allows refusal based on broadly-defined provisions covering "national interests," "confidential commercial and industry information," and "confidential personal information." Other countries, such as Australia, define grounds for refusal more narrowly ("national security, defense and international relations") but still leave room for interpretation. Uganda gives an even more restricted criteria for refusal, excluding only information that is "detrimental to state security or sovereignty or that infringes on the right to privacy."

In most countries, access to information comes at a cost, which places a de facto restriction on those who can't afford it. In many cases, there are no requirements to make information available proactively, putting the onus on citizens to seek out information. Countries where information must be made proactively available often establish environmental information systems to meet this requirement. For example, the Environmental Information System of Colombia provides access to the texts of laws, policies, and decisions relevant to forests as well as up-to-date regional information on forest types, uses, and deforestation rates.[105]

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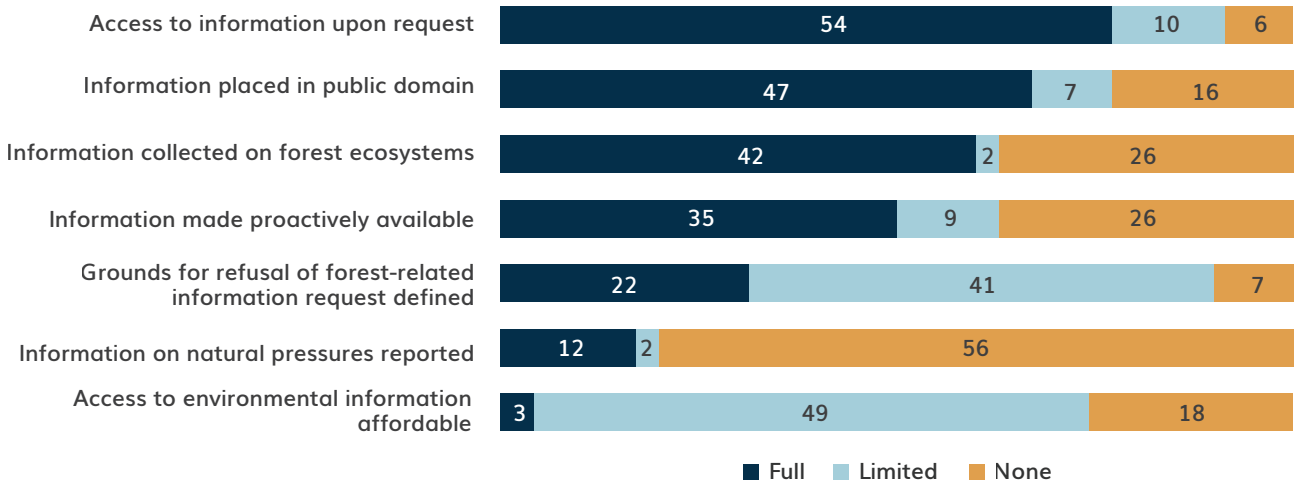
[k] Including 12 developed countries, 3 economies in transition and 55 developing countries. Based on classifications in United Nations. (2018). *World Economic Situation and Prospects 2018*.

Figure 8. Performance of 70 countries on access to information in forest-related matters indicators



Note: The Environmental Democracy Index assesses countries based on an evaluation of national legislation on access to information on environental matters against a range of indicators. The indicators above have been adapted from this Index to assess performance on a selection of issues concerning access to information on forest-related matters. The Environmental Democracy Index was developed by The Access Initiative and the World Resources Institute. Evaluations were conducted in 2014.*Source*: Climate Focus analysis based on data from the Environmental Democracy Index.

Source: Climate Focus analysis based on data from the Environmental Democracy Index.

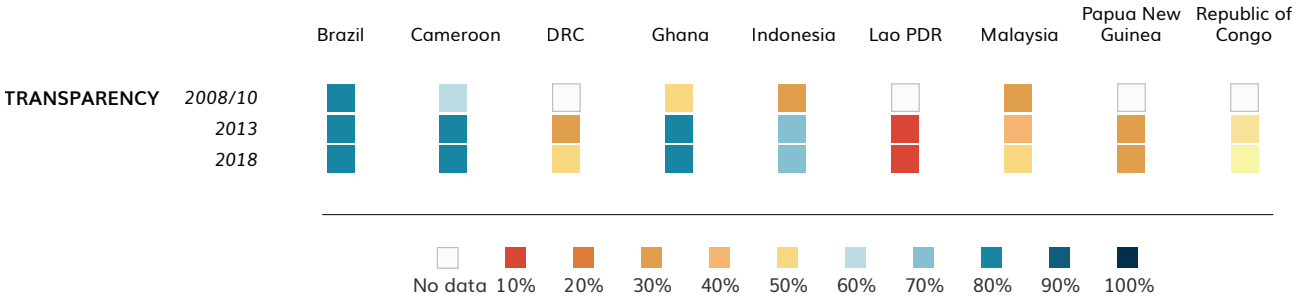
An analysis of general access to information laws reveals that two thirds of the reviewed laws suffer from major weaknesses.[106] They are often limited scope, allow for overly broad exceptions, provide for weak oversight and appeals mechanisms, and lack requirements to promote awareness of the public's right of access to information. Many of the higher-scoring countries are developing countries, such as Liberia, Mexico, and Sri Lanka, which have adopted their laws more recently. Meanwhile many developed countries – like Austria, France, and Belgium – have weak, outdated access to information laws.

Progress in forest sector transparency fails to benefit vulnerable groups or women

An assessment of forest governance in nine major forest countries revealed slow progress on transparency in the forest sector over the past 10 years (**Figure 9**). While countries such as Indonesia, Ghana, and Cameroon made important progress between the 2008/2010 and the 2013 assessments, from 2013 to 2018, only two of the nine countries showed significant progress: Malaysia and DRC. In Malaysia, improvements have centered on clarifying government entities' roles and responsibilities in regulating the sector, and publishing more information on forest planning, enforcement, revenue, and expenditure. In DRC, progress was linked to participation in the Extractive Industries Transparency Initiative[107] and the preparation of transparency rules in the context of a future voluntary partnership agreement (VPA) with the European Union. However, overall transparency in DRC remains low. **Box 6** summarizes country progress with respect to VPA negotiations more generally.

Many countries have established or are developing digital databases that consolidate data on land and forest rights, forest inventories and management plans, timber processing, trade and transportation documents, and financial data. These include the OneMap in Indonesia,[108] the Interactive Forest Atlas in Cameroon,[109] and the National Forest Inventory in Papua New Guinea.[110] These databases feature data provided by state authorities, corporations, civil society organizations, or international institutions and is displayed as online interactive maps. These tools can help strengthen law enforcement efforts, transparency, accountability, and the implementation of forest polices. Their effectiveness is currently limited by incomplete coverage in some countries and slow progress in sharing the data with the public.

Figure 9. Policy scores for transparency for nine tropical countries



Note: Scores are on a scale of 0 to 100 percent, from worst to best performance. This research builds on two previous assessments carried out by Chatham House under the project Illegal logging and related trade: Indicators of the global response. DRC = Democratic Republic of the Congo, Lao PDR = Lao People's Democratic Republic.

Source: Climate Focus and Chatham House. (2018). Assessments of government forest policy in nine countries.

Protected areas cover a fifth of the world's natural forests.[111] Historically, protected areas were established and governed by states but more recently there has been an increase in community approaches to protected area governance.[112] The existence and effective participation of local stakeholder groups in decision-making is essential for equitable procedures in protected areas; top-down approaches can undermine the effectiveness of conservation.[113] A recent assessment of protected forest areas in tropical and nontropical countries found that only 4 out of 15 areas had a mechanism to ensure that land management information was broadly accessible (e.g., available in relevant languages and accessible media formats).[114]

Box 6. Progress on transparency and participation in voluntary partnership agreement processes

All countries that have signed voluntary partnership agreements (VPAs) commit to disclosing forest sector information, including on forest legislation, planning, and management, as well as data on production, revenues, and enforcement. Major accomplishments include the establishment of independent forest monitoring systems in several countries. However, progress and sustainability of these transparency efforts varies significantly across countries.[115]

Where progress has been made, it has often had tangible impacts on forest governance, enabling the identification of gaps and inconsistencies in the frameworks of partner countries and the adoption of needed reforms. For instance, in Lao People's Democratic Republic, increased transparency has helped stakeholders identify eight forest regulations that need amendment, which the national government has now committed to undertaking. Similarly, increased transparency facilitated through the VPA process in Liberia, Ghana, Honduras, and the Republic of Congo has helped identify areas of law in need of reform.[116]

Some positive progress on participation in decision-making has also been made in countries implementing VPAs. Six countries have agreed to allow civil society organizations to be "independent observers" or "independent forest monitors." In this role they can assess companies' compliance with forest laws and report noncompliance, track law enforcement activities and responses to noncompliance, or monitor progress on transparency and institutional reforms.

Women and minorities often face additional barriers to accessing relevant information. This is an issue of particular concern because, in many poorer communities, women's roles and household responsibilities make them more heavily dependent on forests to meet their daily subsistence needs. A study from Bangladesh indicates that the primary hurdles preventing women from accessing information were illiteracy, lack of time and mobility, lack of information on where and how to find information, and social barriers such as disapproval or cultural inappropriateness.[117]

Slow progress on enhancing the transparency of private-sector commitments to reduce deforestation

Hundreds of companies have made public commitments to address deforestation driven by agricultural commodities. Initial estimates show that these commitments have reached significant market shares for some commodities and regions. Nevertheless, major gaps remain. Of the 250 companies with the greatest exposure to forest-risk commodities, 58 percent has at least one forest-related commitment, according to Forest 500, a project of the nonprofit Global Canopy that identifies and ranks the most influential companies, financial institutions, and governments in forest-risk commodity supply chains.[l, 118]

Lack of transparency and poor traceability in agricultural commodity supply chains remain barriers to implementing corporate commitments to address deforestation. The majority (more than 60 percent) of these Forest 500 companies with a commitment do not report their progress on implementing their commitments.[119] Many companies remain reluctant to share data, and the information they provide is often vague, incomplete, or buried in sustainability reports, which limits its usability for assessing progress and forest impacts.[120] Even where companies do report, their self-reported company data is rarely independently verified and often lacks specificity regarding suppliers, sourcing areas, and other information necessary to conduct third-party verification.

A small number of large companies especially in the palm oil sector, has made great progress in disclosing supply-chain information. Several large traders and refiners share lists of their suppliers in an effort to increase transparency.[121] In response to a challenge from Greenpeace, 17 companies have revealed the names of their sourcing mills and the producer groups controlling them.[122] Nestlé and Unilever, two companies that together purchase around 4 percent of global palm oil, recently published information on all their direct and indirect palm oil suppliers and mills. Such moves can drive action by previously nontransparent traders by forcing them to reveal actors within their own supply chains.[123]

Similarly, companies relying on certification schemes to implement their commitments, a common practice in the palm oil and wood sectors, must meet clear production and chain-of-custody requirements for certification, including requirements for transparency. For example, participants in the Roundtable for Sustainable Palm Oil Standard provide information to stakeholders on environmental, social, and legal risks.

Developments in traceability, monitoring, and accountability platforms, including the following, are expected to allow for greater transparency in commodity supply chains.

- The platform **Global Forest Watch-Pro** allows companies to plot the locations of farms and production facilities and save location data securely. The platform also offers alerts on environmental risks such as tree cover loss, fires, and more.[124]
- **Trase** maps the supply chains of globally traded agricultural commodities, linking regions of production to countries of import via the individual companies that export and import these commodities.[125]
- **The Accountability Framework** is being developed by a coalition of leading environmental and social NGOs in close consultation with companies, governments, and other stakeholders in response to the need for clear and consistent guidance on definitions, implementation, monitoring, verification, and reporting on supply-chain commitments.[126]

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[l] Goal 2 progress update on agricultural drivers of deforestation

Indicator 2.2: Participation in decision-making

There is an increase in consultations across the majority of countries. However, public participation processes are often poorly designed and focus on discussion rather than concrete decision-making, with governments often not required to take comments provided by stakeholders into account. Women and other vulnerable groups are often excluded from decision-making processes even though they may be most affected by land and forest-related decisions.

Effective participation enhances the ownership of affected people, communities, corporations and civil society organizations in laws, policies, and decisions regarding the conservation and management of forests, which in turn affects the perceived legitimacy of these government actions. Public acceptance of decisions and rulemaking is essential for effective governance because it affects respect for, and willingness to comply with and support implementation of, those decisions. This is particularly true for women, who are likely to be more motivated and better placed to participate in forest protection and monitoring.[127]

Public participation in decision-making regarding forests generally, and by women in particular, remains limited in most countries

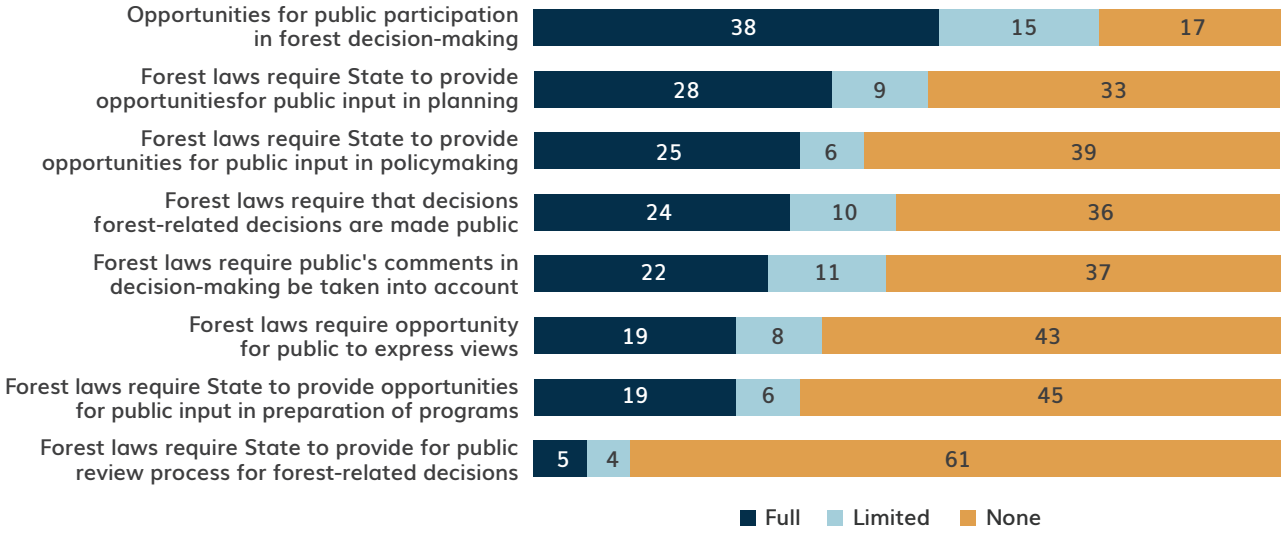
A majority of countries provide for public participation in decision-making related to forests, but the extent of such participation differs significantly across countries and among types of decision-making (**Figure 10**). In more than half of 70 countries assessed in the Environmental Democracy Index, governments are required to solicit input into planning decisions, while just under half provide for participation in policy-making. Similarly, less than half of the evaluated countries require governments to take comments from the public into account when making decisions on forests. Fewer than 10 percent of countries require the state to provide a public review process for decisions relating to forests if previously unconsidered environmental impacts become apparent. In the United Kingdom, the government must provide notice to the public early in forest and other environmental decision-making processes of the right to participate and is specifically required to take comments into account. In Mexico, by contrast, the government is required to provide opportunities for consultation on forest-related decisions, but there is no obligation to proactively consult affected stakeholders or inform them of their right to participate, meaning that in practice most are unlikely to take part. There is also no requirement for explaining how public comments have been considered.

Public participation in the protection and sustainable management of forests in protected areas is often limited. In 11 of the 15 international protected areas assessed by the Protected Planet Assessment, most stakeholders expressed dissatisfaction with how decisions are made.[128] Only in the protected areas assessed in Senegal, Lao PDR, and Uganda were stakeholders broadly satisfied with decision-making processes, while in the protected area in Burundi, stakeholders were partially satisfied.

Actionable participation needs to be conducted in the context of concrete decision-making and be correctly timed and targeted to the right actors. Consultations during the readiness phase of REDD+ programs have often been overly technical or focused on topics not directly relevant to stakeholders and have raised stakeholder expectations that were frustrated when finance was slow to materialize at the community level.[129] As a result, some organizations have recommended more guidance on when and how consultations are conducted.[130]

Overall, however, the strong emphasis placed on recognizing procedural rights to consultation in REDD+[131] has led to increased participation of public and private stakeholders in many countries, in particular at the national level. However, fewer advancements were made in integrating local stakeholders in decision-making processes.[132] In Uganda, for instance, the involvement of elected local authorities was largely denied, based on the justification that they did not have capacity and would slow the process.[133]

Figure 10. Performance of 70 countries on indicators on participation in forest-related decision-making (2015)



Note: The Environmental Democracy Index assesses countries based on an evaluation of national legislation on access to information on environental matters against a range of indicators. The indicators above have been adapted from this Index to assess performance on a selection of issues concerning access to information on forest-related matters. The Environmental Democracy Index was developed by The Access Initiative and the World Resources Institute. Evaluations were conducted in 2014.

Source: Climate Focus analysis based on data from the Environmental Democracy Index.

In REDD+ projects, participation of local actors is greater but also suffers from limitations. The significant take-up of additional certification that ensures local benefits of REDD+ projects – in particular through the Climate, Community, and Biodiversity Standards – has led to participation rights being given prominence in many projects.[m, 134] At the same time, participation is not always effective. A Center for International Forestry Research (CIFOR) study examining 22 subnational REDD+ projects and programs in six tropical countries[n] found that, while almost half of local households were consulted at some stage during the projects' design or implementation,[135] most of the participation involved attending meetings but not actively contributing to the design of REDD+ activities.

Women have significantly lower participation in decision-making on forests than men. The same study of REDD+ projects found that rural women were equally informed about the initiatives as men in the same villages but were 24 percent less likely to be actively involved in the decision-making or implementation of the programs.[136] Women are also rarely represented in land-related institutions, and few countries are working to improve female representation.[137] Quotas for the appointment of women in land management and administration committees are included in draft legislation in two countries (Kenya and Sierra Leone). Rwanda, Nicaragua, and South Africa regulate this in their existing laws, and three additional countries have national gender policies ensuring representation. The large majority of the 25 countries assessed, however, have not adopted such laws.

Some positive progress on participation in decision-making has been made in countries implementing voluntary partnership agreements (see **Box 6**). Other positive developments include increased progress toward the adoption of binding international commitments on transparency, participation, and access to justice in environmental matters (see **Box 5**).

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[m] Sixty-three percent of credits from forestry and land-use projects transacted in 2017 were certified under the Climate, Community and Biodiversity Standard.

[n] Selected countries include Brazil, Peru, Cameroon, Tanzania, Indonesia, and Vietnam. The REDD+ projects assessed included those implemented by nongovernmental organizations, private organizations, and subnational governments.

Indicator 2.3: Access to justice

Most countries have laws guaranteeing the right to access judicial and administrative remedies, but they are too costly and slow to provide effective legal protection, in particular for women and the poor. Where formal systems are not accessible, grievance mechanisms may provide an alternative avenue for local people to seek redress, but even these informal processes are often out of reach for the most vulnerable in society.

The best legal frameworks will not translate into improved decision-making and social inclusion without access to justice. Individuals, especially the most vulnerable, need advocates and assistance to realize their rights. Sustainable Development Goal 16 calls for "access to justice for all" which – if achieved – would ensure that people and organizations both have rights to legal remedies and have the means to exercise those rights in practice. The ability to defend their rights is important for people who are directly impacted by forest-related programs and projects and other activities but also extends to the right of citizens and organizations to challenge decisions in the wider public interest.

Justice can be provided through formal court and administrative systems or through grievance mechanisms. Feedback and complaint mechanisms are particularly important where judicial and administrative remedies are not accessible or are not likely to provide justice, either because they are too slow and expensive or they are not impartial. Grievance mechanisms have been contemplated in the context of REDD+ institutional arrangements to facilitate complaints by local stakeholders, in particular those that are geographically, culturally, or economically isolated. The existence of grievance mechanisms should not prevent people or communities from pursuing formal legal action but should provide an opportunity to file complaints before seeking redress through the courts or formal dispute resolution mechanisms.[138]

Access to justice is guaranteed in the law but remains out for reach for many

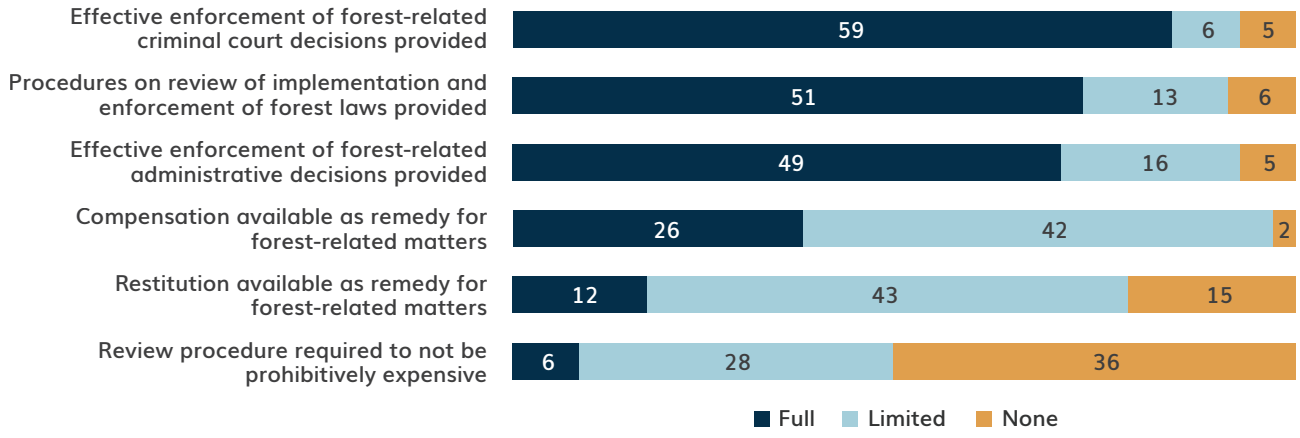
Countries tend to perform strongly on some measures of access to justice in forest-related matters but often fall short in making judicial and administrative procedures accessible for those with limited financial resources (**Figure 11**). Most countries provide for review procedures on the implementation and enforcement of forest laws and require effective enforcement of both judicial and administrative decisions. Some, such as Paraguay, also require that enforcement of criminal, civil, and administrative decisions be timely, though many other countries lack this requirement.[139]

However, fewer than 10 percent of countries put review procedures within reach of all citizens. Ecuador is one of the few countries that provides comprehensive measures to ensure affordability, including allowing persons with limited resources to avail themselves of public advocacy and ombudsman services and placing the onus of proof on the party defending allegations of environmental damage (usually a project developer or investor). The Philippines allow persons with limited resources to avoid paying court fees but does not provide for legal assistance in litigating cases, though the government may cover attorney's fees for successful litigants.

Fewer than 20 percent of countries assessed make restitution fully available for forest-related matters, limiting the ability of courts and administrative bodies to require that companies or government bodies restore land that has been deforested or degraded. In contrast, almost all countries provide for compensation as a remedy. In more than half of these cases, however, compensation is either limited to specific circumstances or is constrained by onerous requirements for proving specific costs that have resulted from the illegal action in question. These requirements make it difficult to access compensation in practice.

European, North American, and South American countries tend to provide better access to justice, though the country with the highest overall score is India. Australia, China, Japan, Turkey and a number of Sub-Saharan African countries are among those that scored the lowest.

Figure 11. Performance of 70 countries on indicators on access to justice in forest-related matters (2015)



Note: The Environmental Democracy Index assesses countries based on an evaluation of national legislation on access to information on environental matters against a range of indicators. The indicators above have been adapted from this Index to assess performance on a selection of issues concerning access to information on forest-related matters. The Environmental Democracy Index was developed by The Access Initiative and the World Resources Institute. Evaluations were conducted in 2014.

Source: Climate Focus analysis based on data from the Environmental Democracy Index.

Practical access to effective dispute resolution processes regarding the establishment and management of protected forest areas is severely limited in 9 of the 15 protected areas across countries assessed in the Protected Planet Assessment. This includes several countries whose legal frameworks provide relatively strong protection,[o] indicating that such legal frameworks are not always implemented at the local level. In four other countries, dispute resolution processes provide limited access for vulnerable people, such as the poor and disempowered.

Access to and representation in dispute resolution mechanisms is often more limited for women than for men. An assessment by the Food and Agriculture Organization of the United Nations (FAO) found that at least 22 out of 25 countries across Africa, Asia, and Latin America have at least one law mandating equal access to statutory or customary dispute resolution mechanisms for tenure rights cases. Chile and Nepal lack such laws.[p] In contrast, the majority of countries do not require women's participation in land dispute resolution committees. Of the 25 countries assessed, only Ecuador and Rwanda require female representation through legislation, while Mali includes a requirement in its national gender policy. Experience in local dispute resolution processes indicates that decision makers tend to give greater weight and consideration to older men in conflict-resolution processes, despite the fact that women participate in dispute resolution processes in higher numbers.[140]

[o] Colombia, Brazil, Peru, and Cameroon all scored highly in access to justice indicators on the Environmental Democracy Index, with the first three receiving average scores of 2 and Cameroon receiving an average score of 3 (out of a maximum of 3). Protected Planet assessments of governance in protected forest areas gave all three countries a score of 1 out of 3, which was the lowest score possible and indicates the absence or ineffectiveness of access to effective dispute resolution for stakeholders in the protected areas.

[p] The FAO database indicates that Mali has no such laws. However, information from other sources indicates that this may be incorrect.

Criterion 3: Empowering and ensuring the rights of indigenous peoples and local communities

Many indigenous peoples and other local communities (IPLCs) depend on ecosystems, particularly native forests, for their livelihoods by using plants and animals and their products for food, clothing, fuel, medicine, and shelter. The economy, social organization, identity, and cultural and spiritual values of these communities are closely linked to forests. Many also have long-standing claims to the lands and forests they have customarily owned, used, and occupied.

Whether communities should be identified as indigenous or in another way is recognized as a matter for self-determination, and the international community has rejected attempts to adopt an internationally recognized definition of indigenous people.[q] Nonetheless, national laws may provide definitions for the purpose of defining the scope of legislation recognizing indigenous peoples' and other specific groups' rights to land. Local communities include forest-dependent communities that are not recognized as indigenous peoples in national legislation but who manage land collectively often based on customary practices or other community-defined norms (**Box 7**).[r]

Box 7. How is community land managed?

Community land is often – though not always – managed based on customary rules. Most statutory regimes that recognize community land rights based on customary ownership also recognize customary rules for their management, though they may be supplemented by rules provided by statutes. This is less common for community tenure regimes built around formal cooperatives, though even these may reference custom.

While processes differ from community to community – even within a given country or area – many regimes share common characteristics.[141] For example, even where communities hold land collectively, they often assign individual parcels to families or individuals within the community, as is common across many countries in Africa, Asia, and Latin America.[142] In some cases, these parcels are assigned permanently. In others, such as in the Moi country in Central Vietnam, individuals or families that clear forest or shrubland to practice rotational agriculture are assigned the rights to that land while it is being farmed. However, once the land is abandoned and allowed to regrow, it reverts to the community.[143]

In hunter-gatherer and pastoral communities across Africa, Asia, and Latin America, it is still relatively common for all land to be held and used collectively. For instance, the Hadzabe hunter-gatherer people in Tanzania share their land collectively and provide all community members the equal right to participate in decisions regarding community affairs.[144] At the other end of the spectrum, in many European and Central Asian countries, only forests, rangelands, or comparable communal areas are shared collectively, with farms and buildings held under individual freehold tenure.

[q] Perhaps most notably, the 2007 UN Declaration on the Rights of Indigenous Peoples refrains from defining this term.
[r] For example, the 1973 Indian Statute in Brazil. (Estatuto do Indio [Statute of the Indian] Law 6.001 of 1973).

This criterion assesses progress in securing IPLC rights to land and resources, as well as in empowering communities to determine their own future, claim their rights, and act on their own authority.

Indigenous peoples and local communities have long been the principal stewards of forests and have long-standing legal claims to land and forest ownership. Under the first indicator, we assess the extent of legal recognition of IPLCs' customary rights to land and forests. We also evaluate how secure community rights are in statute and in practice, and the link between insecure tenure rights, land conflicts, and violence.

The second indicator assesses progress in empowering communities by enabling them to control their livelihood and defend their rights. Evidence suggests that recognizing legal rights, while essential, is by itself not always sufficient to enable IPLCs to follow their own development path, or to prevent deforestation. Strong community organizations, capacity building, finance, and more recently, access to technology are also important factors that allow communities to independently and sustainably manage forests.

Indicator 3.1: Rights of indigenous peoples and local communities

Many indigenous peoples and local communities lack recognition of their rights by governments, particularly in high-income countries. Communities defending their rights increasingly face violence, criminalization, and murder. There continues to be significant gender bias in the recognition of land and forest tenure rights and in decision-making processes concerning forests.

In managing forest land, IPLCs provide an important ecological service and contribute to climate change mitigation. They manage at least 17 percent (293 billion metric tons) of the total carbon stored in the forestlands of 64 assessed countries,[s, 145] equal to 33 times the global energy emissions of 2017. At least a third of the carbon stored in tropical and subtropical countries is in forests where many IPLCs lack formal recognition of their tenure rights. Government recognition of IPLC rights can have a significant impact on forest protection. Studies in South America, where local communities hold rights to large areas of land, found that deforestation rates are two to three times lower in lands where IPLCs have secure tenure rights than in land with similar characteristics but without IPLC tenure, including in protected forest areas.[146]

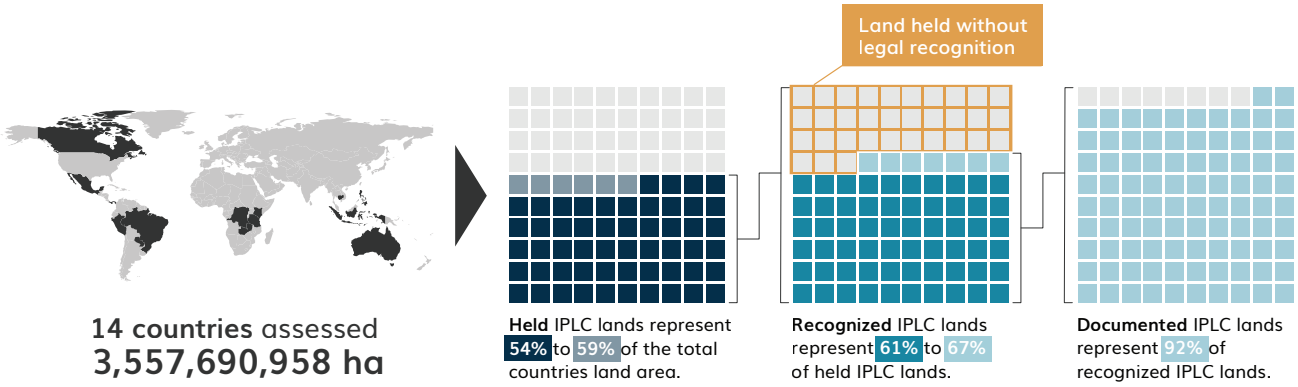
IPLCs continue to lack legal recognition for much of the land they customarily own

Progress in recognizing the rights of IPLCs has been decidedly mixed. On the one hand, one assessment of 41 countries by the Rights and Resources Initiative found that the amount of forest land where IPLCs have legally recognized rights increased from 10.9 percent in 2002 to 15.3 percent in 2017. This represents an increase of 147 million hectares – an area the size of Peru or Mongolia. Positively, most of this increase has been in the recognition of IPLC ownership of forests, meaning that communities are recognized as holding a broad set of rights to access, use, manage, and exclude others from forests for an unlimited duration of time and cannot have their rights taken away without due process and compensation. Almost all of the gains in recognition of IPLC forest tenure rights during the period 2012-17 took place in low- and middle-income countries, with only marginal increases in high-income countries with significant IPLC populations.[147]

[s] Based on 64 countries accounting for 69 percent of the world's forest cover.

On the other hand, a large portion of IPLC territories remain unrecognized.[t] While neither global nor forest-specific data exist, data on land rights in 14 countries with significant forest cover[u] indicates that 33–39 percent of land currently occupied or used by IPLCs has not been recognized by governments (**Figure 12**). IPLCs currently hold[v] 54–59 percent of national land area in these 14 countries combined, indicating that the area under customary IPLC ownership, use, or occupation is significant.

Figure 12. Assessment of land rights in 14 countries (2018)



Source: Climate Focus analysis based on Dubertret, F., & Veit, P.G. (2018). Held, recognized, documented, and claimed indigenous and community land in 14 countries. Research prepared for the New York Declaration on Forests Assessment. IPLC = indigenous peoples and local communities.

In most countries, rights must be formally registered for ownership to be legally recognized. The documentation that is required for registration can be a slow process, leaving a large amount of IPLC land unrecognized. In the Democratic Republic of the Congo, IPLCs have recognized rights to only 0.11 percent of national territory even though they hold up to 86 percent of this land, though the government has recently committed to expanding recognition of community forests.[w] Approximately a quarter of national land in Canada (22–27 percent) and Australia (24 percent) and significant areas in Brazil (4–14 percent of land) and in Indonesia (9–13 percent) are also subject to outstanding IPLC claims.

In some countries, such as Kenya, Philippines, Tanzania, and Zambia, laws provide for recognition of community land without requiring documentation.[x] This reduces the burden for communities and leads to large shares of IPLC lands being formally recognized in these countries. However, it also makes rights less secure and defensible. Many communities therefore seek documentation to "double lock" their rights, but with mixed results. In Kenya, for example, fewer than 10 percent of community land recognized by the government has been formally documented, while in Zambia the law does not even allow communities to have their rights documented.

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[t] We define "recognized lands" as IPLC lands that are recognized under national law, and for federal states (e.g., Canada and Australia), federal and state law. National laws include the constitution, statutes, regulations, and technical directives (also court rulings but only where they have been implemented by the government). National laws do not include political statements, public policy, administrative guidelines, or other documents that are not legally binding.

[u] Democratic Republic of Congo, Tanzania (minus Zanzibar), Kenya, Zambia, Panama, Peru, Brazil, Paraguay, Philippines, Indonesia, Australia, and Canada.

[v] Held land is understood as land that is currently occupied and/or used by indigenous peoples or other local communities, often under customary tenure systems.

[w] These figures are correct as of June 2018. Note that in October 2018 provincial government authorities approved a further 30,000 hectares in community forests. The government, has, moreover, committed to further expanding community forests. In a first, DRC communities gain legal rights to forests. (2018, October 18). Mongabay.

[x] Community *forests* are nonetheless subject to registration requirements in Tanzania and Zambia.

Procedures for communities to ensure formal recognition of their rights are typically lengthier and more burdensome than procedures for companies to obtain land for commercial purposes.[148] It can take years or even decades for communities to formalize their land rights. In the Philippines, for example, there are 56 legally mandated steps in the process; in Indonesia, communities must lobby regional legislatures for recognition; and in Peru, legal rights must be entered in four different registries (**Box 8**). In addition, many statutory regimes that do provide for documentation of rights lack the implementing legislation and guidelines needed to allow documentation to happen, as well as the indicators needed to assess implementation.[149]

Box 8. Case study: Indigenous titling in Peru[150]

Since 1974 more than 1,300 indigenous communities in the Peruvian Amazon have obtained title to about 12 million hectares, including 17 percent of the country's forests. This is hugely significant for forest protection, given that titling has been shown to reduce the risk of forest clearance by three quarters in the Peruvian Amazon.[151] Nevertheless, the process that has led to these gains has seen both progress and setbacks for indigenous communities. In 2017, la Asociación Interética de Desarrollo la Selva Peruana (AIDESEP) estimated that approximately 20 million hectares were pending recognition as indigenous lands, while data provided by the National Ombudsman's Office in 2014 estimated that about 600 communities had not been titled.

The titling process – which is long, complicated, and costly – is still plagued by logistical difficulties. The law defines 8 steps for recognition, 11 more steps for titling, and 1 for the usufruct contract, or 20 in total. In practice, research demonstrated that communities must take 10 steps for recognition, 20 for titling, and 5 for usufruct contract, for a total of 35. Formalization of rights for indigenous communities may take as long as 20 years. There are, however, some positive developments. The violent events of Bagua in 2009 galvanized national and international support for indigenous rights and international efforts to address climate change have also begun to create opportunities for indigenous communities. By the second decade of the 2000s, nearly a dozen titling programs were under way for collective lands in the Amazon.

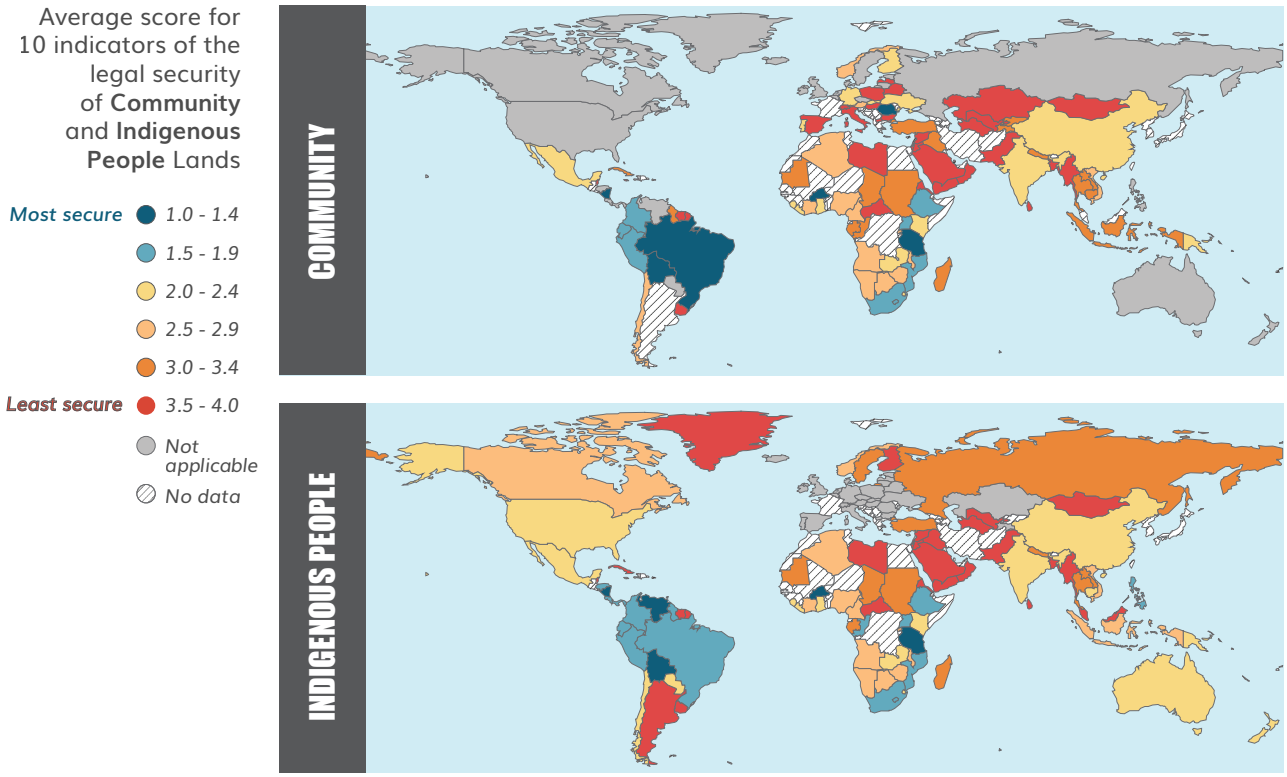
Even if IPLCs enjoy formal recognition of rights, they may not be fully secure

While legal recognition of rights is a crucial step in achieving tenure security for IPLCs, the level of security also depends on the extent of rights that are recognized by the law. In many countries, IPLC rights are limited in one or several ways, and are frequently less secure than other forms of tenure.[152] Higher-income and upper-middle-income countries perform particularly poorly in recognizing IPLC rights, scoring worse than lower and lower-middle-income countries in all but one of 10 indicators of tenure security **(Figures 13 and 14)**.[y]

Common weaknesses in IPLC tenure include laws enabling even legally recognized IPLC lands to be acquired without consent or compensation, particularly when communities do not hold formal titles. IPLC rights are also often only provided for a limited period of time and often do not include the rights to trees and other resources on the land, though they may be allowed to use them for subsistence purposes.

[y] Upper and upper-middle-income countries performed better on recognition of indigenous peoples as legal persons for the purposes of land ownership.

Figure 13. Land tenure security for local communities (top map) and indigenous peoples (bottom map)



Note: Each map depicts the average of scores across 10 indicators of the security of land tenure for recognized community lands assessed across 91 countries (top map) and recognized indigenous lands assessed in 95 countries (bottom map).

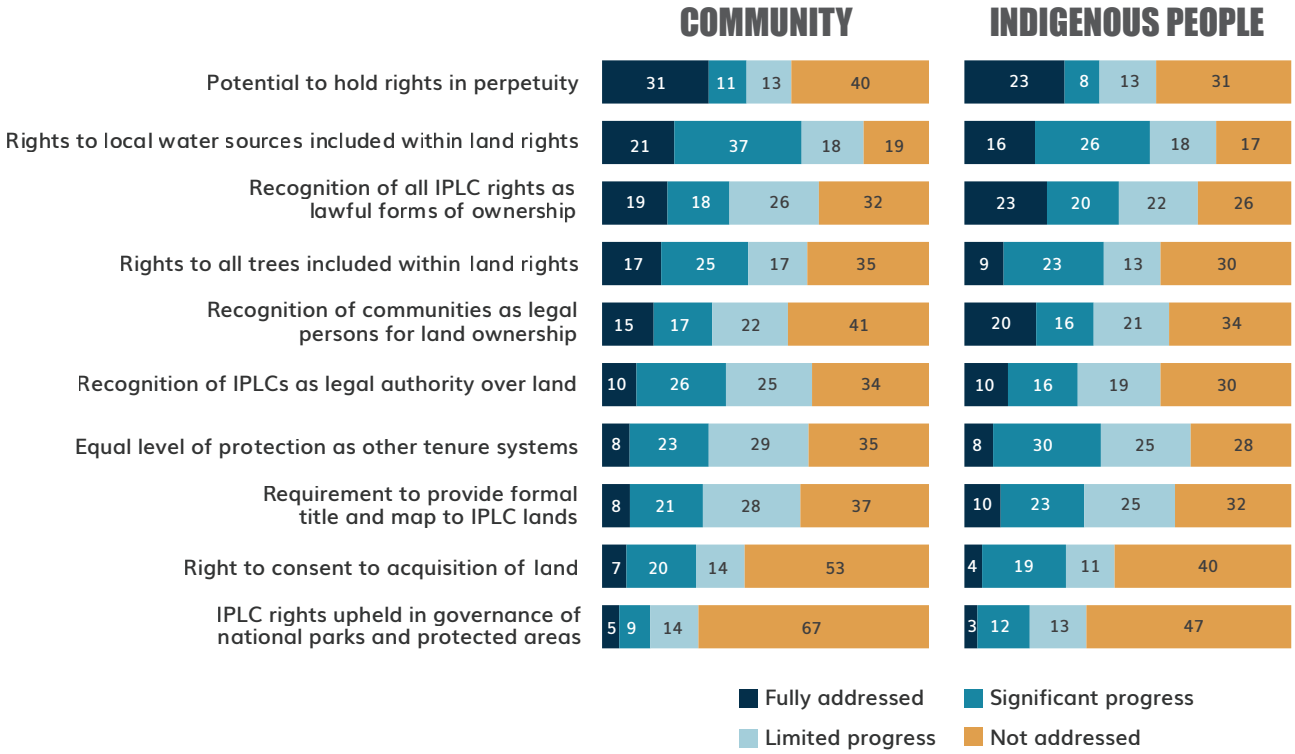
Source: Climate Focus analysis based on data from LandMark.

Even where rights are relatively strong on paper, they are often not fully secure in practice. The most common failings are not proactively enforcing and protecting IPLC rights; not providing sufficient funding to secure rights provided for in the law; failing to keep clear, spatially explicit and publicly available data on IPLC rights; and failing to protect communities from land grabbing and violence by third parties.[153]

Regimes providing formal rights to IPLCs often fail to uphold these rights in national parks and other protected areas. Indeed, 50–80 percent of protected areas are estimated to overlap with IPLC lands. In many cases, communities were forcibly evicted from their land after it was designated as a protected area. This has led to loss of livelihoods, conflicts, and even killings linked to the "militarization of conservation."[154] With the amount of land being designated as protected areas continuing to expand and protected areas being anchored into the international sustainable development agenda,[z] even more IPLCs may be displaced. Ironically, this may lead to less forest protection, given the evidence that forests are better protected in secure IPLC lands than in protected areas.

[w] The official indicators adopted by the United Nations to measure progress toward Goal 15 of the Sustainable Development Goals (protecting terrestrial ecosystems) include "Proportion of forest area within legally established protected areas."

Figure 14. Scores for each of the 10 indicators of land tenure security assessed for local communities (95 countries) and indigenous peoples (91 countries)



Note: The assessment of each indicator is based on a review of relevant national laws, including the constitution, statutes, regulations, and high court cases, to the extent they are available. They do not assess the implementation or enforcement of the law, or government, community or indigenous peoples' perceptions of the security of their land rights. IPLC = indigenous peoples and local communities.

Source: Climate Focus analysis based on data from LandMark.

Women have even fewer rights in recognized tenure regimes

Land laws also frequently fall short in providing equal rights for men and women. While women's rights are often protected by national constitutions, laws that provide for community tenure regimes often lack gender-sensitive provisions to translate constitutional protections into actionable rights. For example, of 30 countries analyzed in one study, only a third provided for equal rights to inheritance, and only 3 percent of community-based regimes defined in their laws required that women have equal voting rights.[155] Tenure regimes that provide communities with strong overall tenure security, especially full ownership over land and forests, tend to also have stronger provisions protecting women's rights within the tenure regime than those that recognize a more limited set of community rights (such as the right to access and use).[156]

The recognition of women's rights to land tenure differs between regions. African community tenure regimes provide greater equality in dispute resolution processes while regimes in Asia provide greater recognition of women's inheritance rights. Latin American regimes provide better guarantees of community membership rights.[157]

Even where laws do provide protections for women's tenure rights, implementing legislation or guidelines needed to make legislation operational and track progress toward implementation are often lacking.[158] Men tend to participate more than women in reform efforts linked to community tenure regimes. Research from CIFOR finds that there is a statistically significant correlation between gender, economic, and social status, and participation in rule making.[159] While women may participate in meetings and in forest management activities, they tend to have more limited rights to make decisions about forests.

Implementation of the principle of free, prior, and informed consent remains limited

The rules of free, prior, and informed consent (FPIC) require governments and companies whose planned actions may impact indigenous peoples to seek their free (i.e., voluntary and in the absence of coercion), prior (i.e., consent sought in advance of project approval), and informed (i.e., seeing a comprehensive list of impacts and risks) consent.

International recognition of FPIC as a principle of international law has been growing in recent years. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted in 2007, recognizes indigenous peoples' right to FPIC.[160] While the Declaration was originally opposed by major developed nations – Australia, Canada, New Zealand, and the United States – these countries have since declared their support, with Canada becoming the last country to drop its opposition to UNDRIP in 2016. In that year, the American Declaration on the Rights of Indigenous Peoples recognized FPIC as a fundamental right.[161] Despite broad recognition of the principle, however, FPIC remains nonbinding for most countries at the international level. Only one international treaty – the 1989 Indigenous and Tribal Peoples Convention of the International Labor Organization (ILO 169 Convention) – has fully enshrined the right to FPIC. As of late 2018, only 23 countries had ratified this treaty.

Some international courts have, nonetheless, been willing to recognize the right to FPIC even in countries that have not become part of ILO Convention 169. The Inter-American Court of Human Rights and the Inter-American Commission on Human Rights (IACHR) have been the most active on this matter.[162] They have affirmed that indigenous people have the right to FPIC, and that this procedural right is binding on signatories of the Charter of the Organization of American States and the American Convention on Human Rights. This applies even if domestic laws do not protect property or self-determination rights of indigenous communities.[163] The African Commission on Human and People's Rights, another international monitoring body, recognized the existence of FPIC as a procedural right in a Kenyan case in 2009, despite Kenya not being a party to ILO Convention 169.[164]

At the national level, few countries have enshrined FPIC in national law. Of 60 countries for which laws relevant to timber extraction were examined, only 16 had laws requiring companies to obtain FPIC of local communities. In several of these countries, such as Peru and Bolivia, FPIC is defined to require only *consultation* with communities, as opposed to consent. In countries that have recognized FPIC in their laws,[165] FPIC often applies only to indigenous communities, though how this limitation is applied in practice varies across countries.[aa166] In countries that limit FPIC to indigenous peoples, other local communities that do not identify as indigenous may remain vulnerable to projects that infringe on their territory.

A further limitation of laws requiring FPIC is that many lack regulations or guidelines, which can hinder their implementation in practice. This and other weaknesses lead to such laws frequently not being respected. For example, of the 16 countries referenced above whose timber sector laws require companies to obtain FPIC, 11 have a significant risk that those laws will not be respected.[167]

Whether or not FPIC is required by law, companies investing in projects that may impact local people can voluntarily commit to respecting FPIC in their investments. Currently, 127 corporate supply-chain commitments tracked by Supply Change include an explicit commitment to respect FPIC. Although welcome, this represents a relatively small share – 27 percent – of overall commitments.[168] However, companies that meet their commitments through product certification also typically commit to ensuring FPIC in their operations.

More recent initiatives to address tenure insecurity and respect IPLC rights include the Interlaken Group, a multistakeholder group formed in 2013 that seeks to fulfill commitments to implement FPIC and scale-up efforts to secure community land rights[169] and has adopted a guide for companies on respecting land and forest rights.[170] It includes a number of large supply-chain companies such as Unilever, Coca Cola, Nestlé, and Rabobank, as well as international organizations and civil society organizations.

[aa] In the Philippines, for instance the Indigenous People's Rights Act only applies FPIC to indigenous peoples.

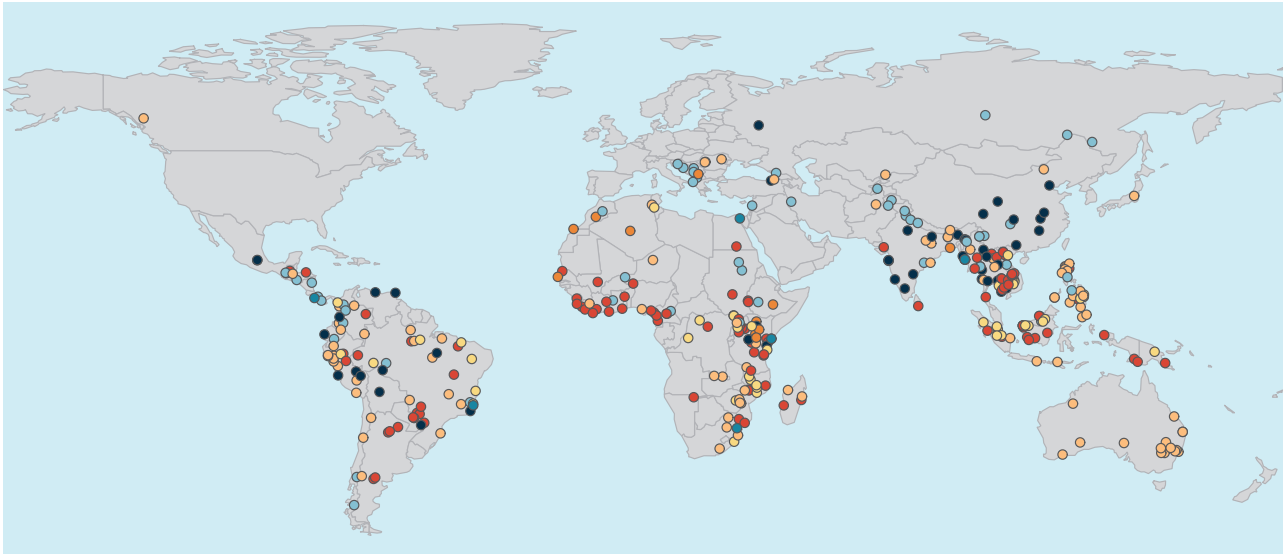
Tenure insecurity fosters land conflict and violence against local communities and forest defenders

Because of increasing demand for land for agriculture, mining, and other development, governments are allocating more and more land to commercial concessions. These concessions are often in direct competition with community lands and, where customary rights and FPIC are not upheld, they pose a high risk of displacing or coming into conflict with local communities. Rising land values have also led to transactions that are often to the detriment of forest-dependent communities and, increasingly, to accumulation of land in the hands of big companies.[171]

Geospatial data indicates that the vast majority (93–99 percent) of concessions in emerging markets are in inhabited areas.[172] A study that reviewed agricultural concessions in 12 emerging economies found overlap with community lands in at least 31 percent of commercial concessions though the real figure is estimated to be much higher.[173] These findings are in line with research in Peru, which found that 88 percent of oil and gas concessions in the Peruvian Amazon – which together occupy over 40 percent of land there – overlap titled indigenous lands.[174]

Analysis of over 550 cases of disputes between local populations and project developers shows high concentrations of disputes in many regions of Africa, Asia, and Latin America (**Figure 15**), with many new disputes beginning each year (**Figure 16**). Many of these cases persist for many years, with some remaining unresolved – only 33 percent of cases analyzed that started between 2000 and 2015 had been resolved as of 2016.

Figure 15. Geographic distribution of land and resource disputes in forest-risk sectors (1926-2015)

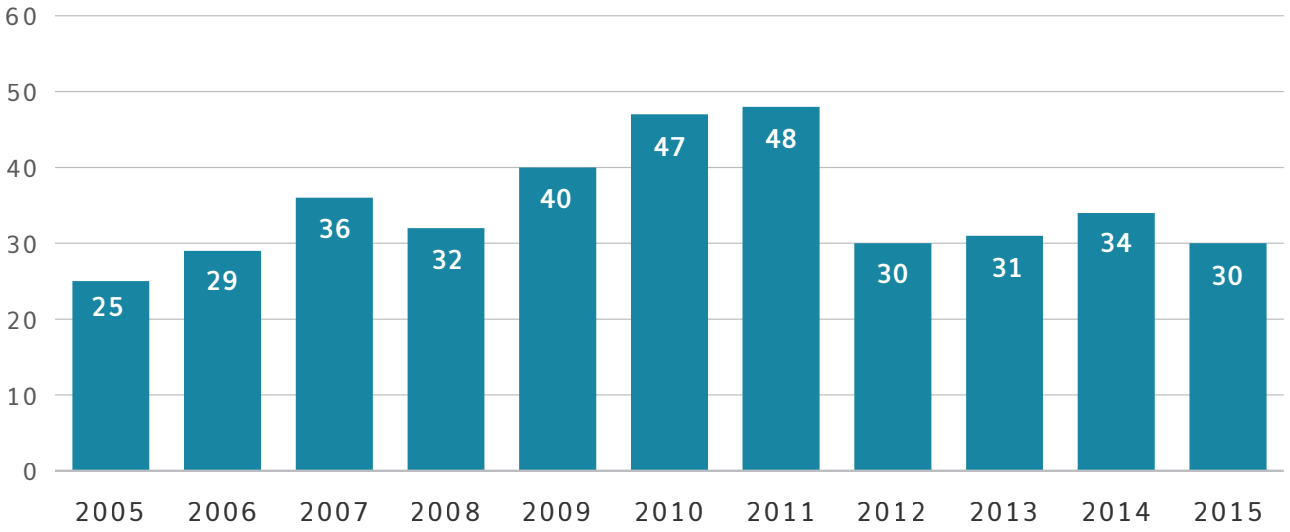


Note: TPM Systems' IAN project collects case studies on land and resource disputes for the purpose of assessing risks for investors. The primary focus of the research is on risks in developing countries. The data presented here focuses on risks in sectors where there is a link to forests or deforestation in a significant number of cases, which covers the majority of sectors.

Source: Climate Focus analysis based on data provided by TMP Systems, October 2018. A dataset covering years up to 2018 is to be released in January 2019.

Disputes occurred more frequently in countries with higher rates of poverty and weaker governance, and in places where local poverty is more severe than the national average. Disputes are typically driven by displacement of people (46 percent), destruction of the environment (28 percent), or the shortage of resources (10 percent). For forestry cases, shortage of resources is a much more common driver (23 percent).[175]

Figure 16. Number of new land and resource disputes arising each year



Note: TPM Systems' IAN project collects case studies on land and resource disputes for the purpose of assessing risks for investors. The primary focus of the research is on risks in developing countries. The data presented here focuses on risks in sectors where there is a link to forests or deforestation in a significant number of cases, which covers the majority of sectors.

Source: Climate Focus analysis based on data provided by TMP Systems, October 2018. A dataset covering years up to 2018 is to be released in January 2019.

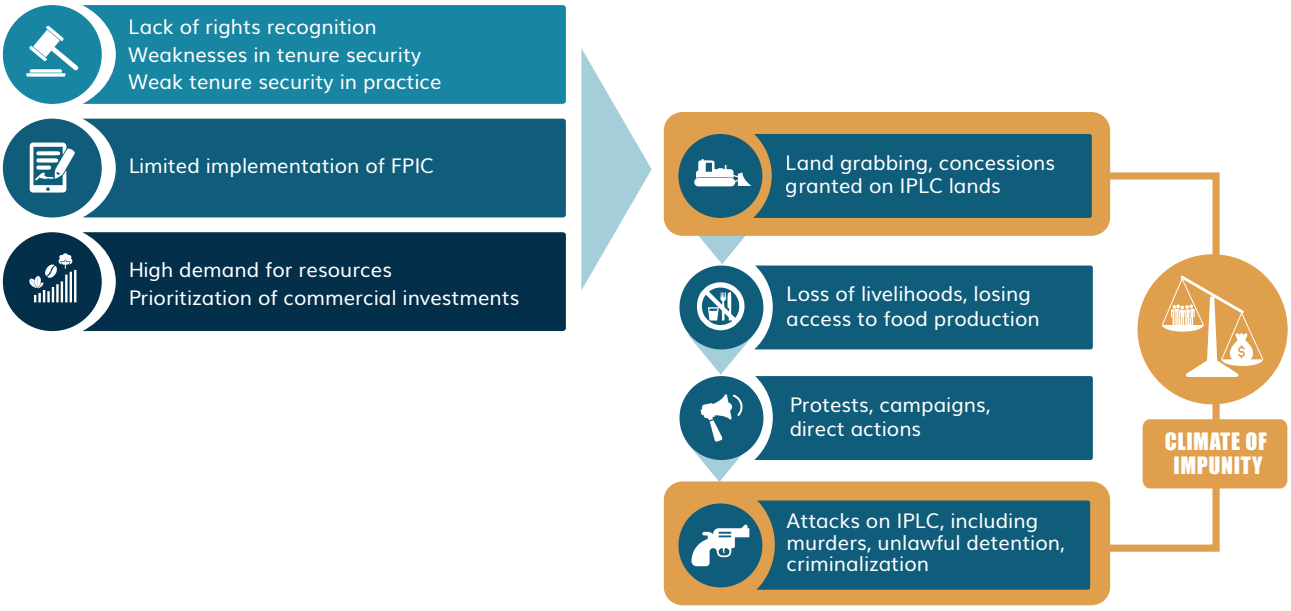
When companies acquire land that communities own or use under customary law, communities often lose access to food, water, and other resources crucial to their livelihoods. With limited or no access to legal remedies, many communities find their only recourse is to oppose developments through campaigns and physical protests. In many countries, this carries major risks, with land and forest defenders subject to intimidation, violence, arbitrary detention, murder and, increasingly, criminalization (**Figure 17**).

Killings of land and forest defenders have increased in recent years. Each of the years 2015, 2016, and 2017 saw the highest number of killings since recordkeeping began (**Figure 18**). These figures likely show only part of the picture, with many more killings going unreported. The majority of killings are related to the sectors most responsible for global forest loss, particularly agribusiness, mining, and other extractive industries, as well as logging.

Brazil consistently ranks as the country with the highest number of killings, and promises by the new president-elect to open indigenous lands to commercial activities provide cause for concern that this situation could worsen in coming years.[176] In 2017 the Philippines overtook Colombia as the second deadliest country amid growing violence in the former and a landmark peace agreement that led to fewer killings in the latter country. However, Colombia remains dangerous for land defenders, with new armed groups emerging following the peace accord.

Other attacks on and criminalization of indigenous land rights defenders are also on the rise, as recently highlighted in the 2018 report from the UN Special Rapporteur on the Rights of Indigenous Peoples.[177] Criminalization refers to governments seeking to intimidate land and forest defenders by arresting and prosecuting them for protesting development projects. Arrests are often made without sufficient evidence of a crime. For example, data from the Business and Human Rights Resource Centre (BHRCC) shows that only 8 out of 97 cases of land and forest defender arrests since 2011 have resulted in convictions. Another recent synthesis found that in 2017 alone there were 827 unjust incarcerations of indigenous peoples in Colombia, 61 in the Philippines, and 141 in Bangladesh. A large portion of these cases were related to land and forest rights.[178]

Figure 17. The consequences of insecure tenure and limited recognition of free, prior, and informed consent



Note: FPIC = free, prior, and informed consent, IPLC = indigenous peoples and local communities.

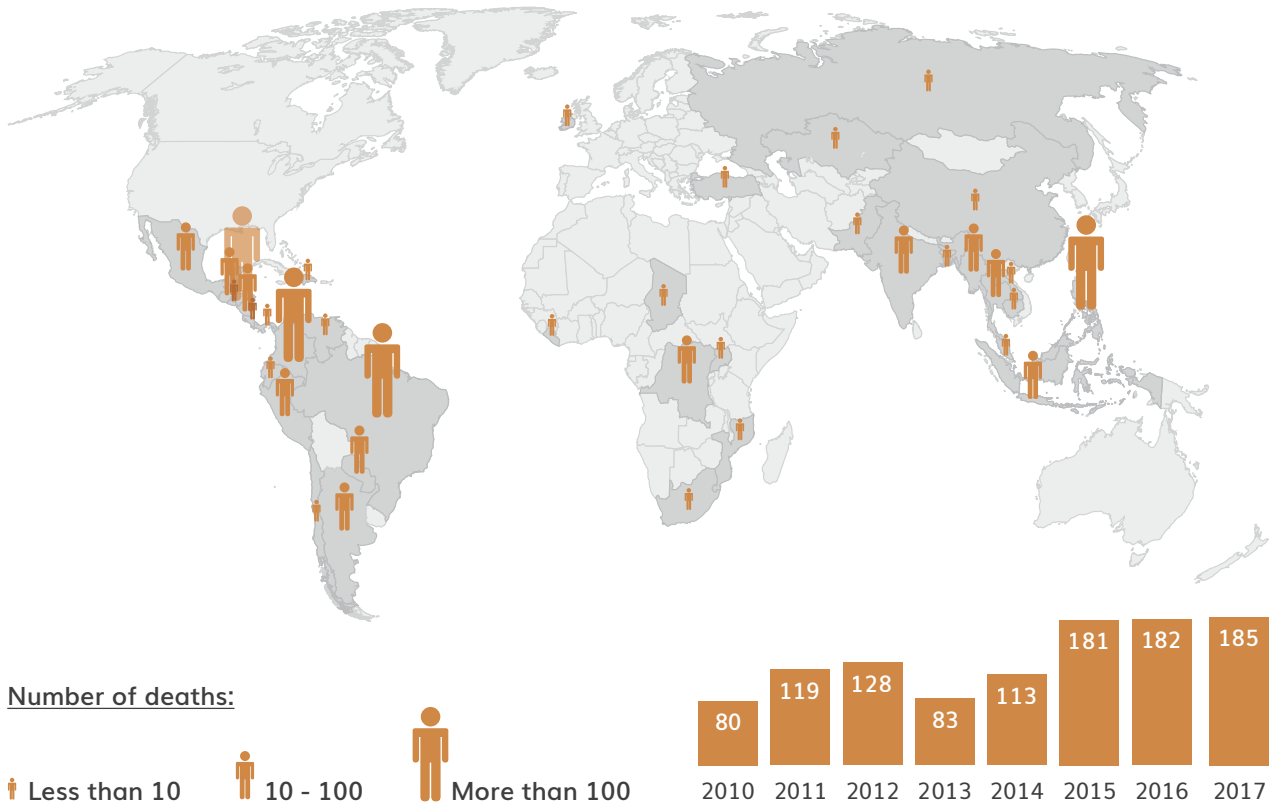
Source: Climate Focus

IPLCs are also subject to a range of violent attacks. The UN Special Rapporteur has recorded a rising number of attacks on indigenous peoples in, among other countries, Brazil, Colombia, Ecuador, Guatemala, Honduras, India, Kenya, Mexico, Peru, and the Philippines.[179] This finding is supported by data from the BHRCC, which found 104 reported cases of attacks on land defenders in 2017, just under half of which occurred on forest-related land. Many of these attacks were directed at indigenous peoples, while others were directed at human rights groups, environmental concerns groups, community leaders or members, workers, and the press. Common forms of attack include threat, violence or injury, arbitrary detention, and denial of freedom of movement.

The UN Special Rapporteur's report highlighted the primary responsibility of states to ensure the ability of indigenous peoples to safely exercise their rights. The report recommended, among other things, that governments take a zero-tolerance policy to attacks on indigenous rights defenders, fully prosecute all offences, and address the root causes of attacks by fully recognizing indigenous land rights and ensuring proper implementation of FPIC. Indicative information from many countries and an in-depth analysis for Colombia (**Box 9**) show that the vast majority of killings of land and forest defenders currently go unpunished. This environment of impunity creates the conditions for such killings to continue unchecked. Available information indicates that the armed forces, criminal gangs, paramilitaries, and police are the most common perpetrators of these crimes.

While the situation for indigenous peoples and local communities remains acute, some recent positive developments have advanced the cause of protecting their rights. The Regional Agreement on Access to Information, Participation, and Justice in Environmental Matters in Latin America and the Caribbean, adopted in 2018 by 24 countries and already signed by 15, is the first international agreement that includes explicit provisions requiring states to protect the rights of human rights defenders working on environmental matters and to prosecute crimes against them. International organizations are also paying increased attention to this issue, including through the work of the UN Environment's Policy on Promoting Greater Protection for Environmental Defenders.[180]

Figure 18. Annual killings of land and forest defenders globally (2010–2017)



Source: Climate Focus analysis based on data provided by Global Witness, June 2018.

Box 9: Case study: Impunity for killers of land and forest defenders in Colombia

Colombia is among the most dangerous countries in the world for land and forest defenders. Research from Global Witness and the Vance Center for International Justice highlights how low prosecution rates help create the conditions for this violence to continue.[181]

Global Witness recorded 122 killings of Colombian land and environmental defenders between July 2010 and June 2016. An analysis of the Colombian judiciary's response to each case shows that, while an investigation was launched in 102 cases, only 9 investigations led to a verdict and only 8 resulted in a conviction. A further 10 cases were not investigated because the prosecutor's office had no information to go on. This puts the impunity rate – the proportion of people literally getting away with murder – at 92 percent.

A primary factor in the high impunity levels is public prosecutors' failure to collect the evidence they need at the early stages of a case. Sixty-one of the 102 investigations examined in Colombia were still at the inquest stage, with insufficient information collected even to determine the existence of a crime. Prosecutors' limited training and resources, along with widespread corruption, prevent the proper investigation and prosecution of killings of defenders.

The government recently pledged to tackle impunity for these killings, stating they had set up an elite police task force and investigation unit to dismantle criminal groups and investigate attacks against activists. The task force will need proper resourcing and guarantees of independence, if it is to do its job to prosecute offenders and deter future attacks.

Indicator 3.2: Empowerment of IPLCs and other rural communities

Many indigenous peoples and local communities are vulnerable and need to gain or regain authority and commercial power over forest goods and services, to overcome marginalization. Support for strengthening community organizations has proven to result in rapid gains in business development and access to markets and finance. However, governments have made only minimal improvements in supporting these organizations. Moreover, while there have been important advances in making forest-linked development finance directly accessible to communities, this remains the exception rather than the rule.

Indigenous peoples and local communities are often the best stewards of lands and forests, particularly those with which they have strong cultural, religious, and historical ties and to which they have long-standing customary claims (see **Indicator 3.1**). Secure legal title to such land and strong community organization help IPLCs maintain and defend traditional lifestyles, of which forest conservation and management is often a central component.

In contrast, where indigenous peoples are displaced from their forests, they may lose their language, social structure, and sense of identity. This can lead to a further loss of their traditional lifestyles and connection to the land, which, in turn, diminishes their propensity and ability to protect forests. The loss of indigenous territory often leads to forest loss and other environmental stress (e.g., related to degraded land and water shortage) that exacerbates economic and social marginalization. Absent secure rights, IPLCs are often marginalized and exposed to racism and discrimination.[182]

For example, in its 1952 land reform Bolivia classified indigenous people as "peasants" under the law and land claims were based on class rather than ethnicity and customary rights.[183] Under this reform, the receipt of land titles often required forest land to be developed, usually involving forest clearance.[184] Even though later land reforms initiated in 2009 have re-introduced land claims based on indigenous indentity, they have not fully restored indigenous peoples' relationship with their customary land. With identities and cultural and religious ties to the forest lost, many newly-titled forest areas are not used sustainably.[185]

Many IPLCs are vulnerable and need to gain or regain authority, including commercial power, over forest goods and services, to overcome marginalization. To gain such authority, they require support. Empowerment that allows IPLCs to claim authority is based on four pillars:

- Secure tenure
- Technical know-how
- Business capacity and/or market access
- Strong organization[186]

Effective policy and management support from governments is essential for communities to manage forest resources sustainably. The ability of IPLCs to protect the forests where they have lost customary access and traditional lifestyle often depends on restoring their capacity to manage forests sustainably and build their own local enterprises. In the Maya Biosphere Reserve, Guatemala, the active and supportive role of the government agency charged with overseeing the reserve has been instrumental in enabling Forest Stewardship Council-certified community forest enterprises to conserve forests and undertake sustainable, "state-of-the-art" tropical forestry.[187]

Fragmentation of land holdings and difficulties in accessing finance are major barriers to empowerment

The ability of forest-dependent communities to access land is crucial for ensuring their livelihoods. Over the past decade, there has been minimal progress in improving access to land for poor rural households. Data from over 100 developing countries show that, on average, countries made only slight

improvements in ensuring equitable distribution of land, creating fair and effective land administration systems, and enabling access to land markets.[188] This means that, while governments are making efforts to improve the situation, there remain major deficiencies in land administration systems that prevent equitable distribution.

Competition for land is increasing in much of the world.[189] Across much of Africa, for example, there is a trend toward increasingly commercialized land. As land values are pushed up, disadvantaged groups are increasingly displaced into marginal areas. At the same time, government officials and political leaders seek a greater role in allocating land as its value increases. This can lead to unregulated, and in some cases corrupt or otherwise illegal, transactions, to the detriment of forest-linked and other rural communities.[190]

Meanwhile, landholdings are subject to dual trends toward fragmentation and concentration in different contexts. In densely populated areas, demographic factors are driving fragmentation, with growing populations dividing plots of land into increasingly smaller holdings. This poses a challenge to the use of sustainable land management practices and can exacerbate land degradation and vulnerability to food insecurity.[191] Conversely, in many agricultural areas the rise of medium- and large-scale farming is fostering greater land concentration.[192] This trend favors actors who can leverage opportunities for commercial land use, such as large-scale commercial investors (national or foreign), speculators, and urban elites.

As land becomes concentrated in the hands of those who have the financial means and the political connections acquire it and develop it for agricultural or other purposes, a constellation of other local players also benefits. In Ghana, for example, customary chiefs and groups connected to them appear to be at the center of these processes; while in Senegal there is a close relationship between municipal administrations and people acting as brokers and intermediaries.[193] Because these ancillary beneficiaries are often local government actors, there is often very little political will to reform land distribution. In these contexts, communities and farmers whose customary tenure rights have not been legally recognized are particularly vulnerable.

Limited access to land makes it more difficult for communities to access finance. This, in addition to limited connections to official processes and information, is a barrier to seizing opportunities linked to land markets and the cash economy. This barrier is particularly daunting for women who depend on their husbands or male relatives for their access to land and for youths who traditionally have a limited voice in land management. In this way, a lack of land inhibits investment and the accumulation of capital, perpetuating a lack of resources for poor rural communities.

Support for organizational empowerment is slowly improving

Supporting the agency of communities by strengthening their organizational structures is an important strategy for securing empowerment and overcoming some of the obstacles discussed above. Organizational forms such as associations, cooperatives, and other participatory institutions support communities and their members through sharing information and knowledge, increasing negotiating power in market and political spaces, and reducing transaction costs.[194] Improved organization also helps communities defend against unjust or illegal actions like land expropriation and illegal logging.

While aggregate data on the empowerment of IPLCs is unavailable, data from rural communities suggests some progress in providing policy conducive to engaging rural organizations in dialogue and access to land. Rural sector performance assessments conducted in 101 countries by the International Fund for Agricultural Development show that, on average, there is a slight upward trend in governments providing supportive legal and policy frameworks for community organizations and involving them in decision-making.[195]

More significant progress has been made in empowering communities through strengthening producer organizations. FAO's Forest and Farm Facility (FFF)[ab] provides support to forest and farm producer organizations[ac] to increase their technical and business capacities to fight climate change and improve food security.[196] From 2012 to 2017, the FFF has supported 937 local producer organizations in 10 countries[ad] through grants, training, peer-to-peer exchanges, and policy representation. The initiative also supports efforts to establish regional processing and marketing organizations.[197] The second phase of the FFF, launched in 2018, will expand the approach to 25 countries across Africa, Asia, and Latin America.

The approach taken by the FFF has facilitated business opportunities for forest and farm producer organizations, establishing a tiered marketing structure along value chains that link communities with market demand. A review of activities in the 10 focus countries reveals that support for organizations has contributed to progress in a number of areas:

- Development of business opportunities (e.g., local forestry enterprises)
- Improvements in policies and laws and their implementation
- Advancements of market and financing options
- Equal access to empowerment for women, the poor, and other marginalized groups[ae]

Case studies (**Box 10**) demonstrate how producer organizations have helped to improve business incubation services.[198] Establishing organized businesses has substantially raised incomes for hundreds of thousands of forest and farm producers, with documented business income increases of 46–65 percent in Kenya, 12–18 percent in Myanmar, 30–50 percent in Nicaragua, and 10–20 percent in Vietnam.

Successes were also due to the efficacy of linking these organizations to different policy fora at multiple levels. Thousands or even millions of producers gained powerful agency to influence policy-making related to their rights and fiscal measures. In total, support by the FFF is estimated to have helped governments and organizations contribute 51 specific changes in policy or institutional arrangements that improved livelihoods of communities.

Similarly, the FFF has worked to build organizational capabilities and histories. Having a clear track record improves organizational access to finance not just through increased finance available from growing memberships, but also through semiformal and formal finance channels. These can include bank loans, public investments or incentive programs, and overseas development assistance (including climate finance).[199]

Partnerships with responsible international timber buyers and access to finance can accelerate the development of locally run forest businesses but may also pose major risks for communities. Evidence from case studies in Guatemala[200] and Honduras[201] illustrates that community engagement with buyers and financiers can motivate groups to address foundational issues around legal compliance, forest management, and enterprise administration. Yet the case studies also show that entering demanding markets and taking on loans require communities to transform their operations into competitive businesses, a goal that is often hard to achieve while following traditional governance norms.

[ab] The Forest and Farm Facility is a partnership between FAO, IIED, IUCN, and AgriCord.

[ac] Forest and farm producers are women and men, smallholder families, indigenous peoples, and local communities who have strong relationships with forests and farms in forested landscapes. Forest and farm producer organizations are formal or informal associations of such producers.

[ad] Bolivia, Gambia, Guatemala, Kenya, Liberia, Myanmar, Nepal, Nicaragua, Vietnam, and Zambia.

[ae] For all aspects, the analysis found strong evidence for progress in at least 4 out of the 10 countries and some evidence in most other countries.

Box 10. Examples of empowerment of forest and farm producers

Kenya – Scaled up organization serving local businesses. The Forest and Farm Facility (FFF) supported a three-tier program structure in Kenya to align work on tree-grower livelihoods at the local, regional, and national levels. First, the FFF channeled small grant support, three facilitated peer-to-peer exchanges, and market analysis and development training directly to 12 local tree-grower business groups in Laikipia and Nakuro counties.[202] It also helped facilitate and finance six marketing structures at the county level. Further support was given to strengthen a national federation called the Farm Forestry Smallholder Producers Association of Kenya (FF-SPAK) – which expanded its membership by 800 percent to involve roughly 3,500 smallholder households (20,000 people), including the groups above. Better business skills, greater scale, and efficiencies led to more secure and lucrative contracts with buyers and average incomes increased by 46-65 percent. FF-SPAK's affiliation to the Kenya National Farmers Federation, which centers tree-grower interests in a group with 2.2 million members, was reinforced through improved internal organizational structures. Factors explaining the empowerment success include: the core focus on organization, strong market demand (a timber supply deficit within Kenya), clarity over tenure, appropriate business training approaches, and the alignment of local, regional, and national interests.

Bolivia – Catalyzing policy and financial incentive programs. With a high level of pre-existing producer organizations in Bolivia, FFF directly offered small grant support, training, and technical assistance to 11 national producer organizations.[203] One example is the National Association of Coffee Producers (ANPROCA), which represents 85 coffee groups involving 17,500 households. Facilitated support enabled ANPROCA to negotiate a USD 30 million, five-year investment incentive program with the government, linked to a new coffee control laboratory and technical assistance program. FFF support for a national coffee tasting competition led to sales at USD 53 per pound (far higher than the average USD 10–30 market price). Factors explaining the empowerment success include: the negotiating power of national federations, the strong focus on particular value chain upgrading, and the independent facilitation between producer organizations and government.

Vietnam – Attracting inward investment on community terms. The FFF has directly channeled small grant support, business training, and peer-to-peer exchanges to 14 local producer organizations in Yen Bai and Bac Kan provinces[204] alongside grant support to the national 10-million member Vietnam Farmers Union (VNFU). One grant enabled an Acacia tree-grower cooperative to develop a joint business plan, and, through a peer-to-peer exchange with the Forest Stewardship Council (FSC), certified growers in North Vietnam to develop plans for FSC certified wood in their region. Roundtable policy platforms funded by FFF at commune, district, and provincial levels led to their establishment as a pilot hub for certified timber sawmilling. Market research led to the identification of a buyer and attracted inward equity investment for a USD 46,000 new sawmill co-owned by the Binh Minh Agroforestry Cooperative. Similar investments have been documented into tree nurseries, star anise oil, cinnamon oil, spice and furniture, tea, and fruit (pomelo). Factors explaining the empowerment success include: formation of product-specific farmers groups, direct small grant financing and training, multitiered policy dialogues facilitated by the VNFU, and a supportive government.

Nepal - Gender-based investment funds for organizations. Among the 51 producer organizations supported by FFF in Nepal, a needs assessment showed that financial management skills were a barrier to access to finance – especially among women.[205] FFF supported gendered training in financial management, and linkages were brokered with a newly established Women's Entrepreneurs Development Fund from the district government office for low-interest-rate (6 percent) collateral free loans. This FFF-mediated link directly led to financing for several of the newly strengthened women's business groups. Additional FFF support to national federations led to the establishment of a Central Women's Entrepreneurs Committee to build such ideas into future work. Factors explaining the empowerment success include: cross-sectoral policy platform discussions on gender empowerment, strong national apex-level forest and farm producer organization with 16,000 member groups and strong gender equality principals, and tailored financial products specific to women's groups.

Innovations in community empowerment are coming from local organizations themselves

When communities form locally controlled forestry businesses, innovations can follow that foster local empowerment. A review of 50 case studies of such businesses (**Table 2**) found a number of these innovations, leading to several important conclusions.[206]

- **Democratic oversight bodies support sustained environmental and cultural heritage.** Evidence from case studies in Mexico and Peru illustrate how a general assembly body within forestry businesses can help avoid unequal power structures by providing a balanced governing structure and maintaining cultural values. These democratic bodies can mobilize actions that support environmental stewardship, such as mapping landscapes to identify potential conservation interventions and demanding high environmental standards from members (e.g., through certification). Local community practices have also gone on to inform national practices.

- **Negotiated benefit distribution and financial vigilance mechanisms enhance the material wealth and health of communities.** Financial vigilance mechanisms can ensure that the best interests of the community are considered in decision-making and in the distribution of negotiated benefits. Financial vigilance committees can ensure that profits are reinvested with local priorities in mind. A cooperative in Brazil, for example, developed a mechanism to allocate about half of its profits to a business investment fund and to distribute the rest among funds for community development, legal fees, healthcare, and education, as well as dividends for members.

- **Networks for better access to markets and decision-making build affirmative social relationships.** Locally run forestry businesses can aggregate products of members to increase market access. Businesses can serve as buyers and distributors of products from members to larger or more specialized markets. Additionally, they can advocate for member interests at the political level.

- **Branding that reinforces local visions of prosperity contributes to cognitive identity and purpose.** This can support empowerment by aligning the goals and interests of individual members, the community, and forest-controlled businesses to increase motivation across stakeholder groups. Successful branding helped a village in Thailand create support for their fight against government moves to turn their community forest into a national park.

- **Training women pays off.** Case studies demonstrate the success of supporting a critical mass of women (over 50 percent) in organizational membership, developing tailored capacity development programs for women, and improving peer-to-peer mentorship opportunities to develop capability and confidence.[207] Business recruitment and training programs in Mexico and Honduras that focus on increasing women's employment have had positive impacts on income, childcare, reduced-impact harvesting, and quality control.

- **Processes for conflict resolution and justice promote security.** The democratic legitimacy of locally run forestry businesses can help members mitigate risks by securing tenure, mediating conflicts, and reducing theft or illegal activities related to resource rights. In Myanmar, legal registration of community forests and the development of related businesses have helped diffuse tension in a formerly a conflict-ridden area. Local businesses have supported their members in agreeing on resource harvesting rights, developing joint forest management strategies, and resolving boundary disputes.

The percentage of this sample of 50 case studies of locally controlled forest enterprises that document favorable use of these six types of empowerment innovation are illustrated in **Table 2**.

Table 2. Empowerment innovations found effective by locally controlled forest enterprise organizations

TYPES OF EMPOWERMENT INNOVATION THAT LOCALLY CONTROLLED FOREST BUSINESSES USED TO DELIVER PROSPERITY FOR FOREST-LINKED COMMUNITIES	PERCENT OF CASE STUDIES THAT EXPLICITLY DOCUMENT FAVORABLE PRACTICE
Democratic oversight bodies for environmental and cultural stewardship	72
Negotiated benefit distribution and financial vigilance mechanisms for enterprise profits	62
Networks for better access to markets and decision-making	62
Branding that reinforces local visions of prosperity	56
Entrepreneurial training and mentoring opportunities that are gender equal	44
Processes for conflict resolution and justice	36

Note: Fifty case studies covering twenty-four countries were examined. Countries include: Bolivia, Brazil, Burkina Faso, Cambodia, Cameroon, Chile, Ecuador, Ethiopia, Gambia, Guatemala, Honduras, Indonesia, Kenya, Lao People's Democratic Republic, Mexico, Myanmar, Nepal, Nicaragua, Peru, Philippines, Tanzania, Thailand.

Source: Macqueen, D., Bolin, A., Greijmans, M., Grouwels, S., & Humphries, S. (2018) Innovations towards prosperity emerging in locally controlled forest business models and prospects for scaling up. *World Development* (in press).

Effective international development finance can support empowerment, but too little finance reaches communities

Various sources of international finance seek to support the empowerment of forest-linked communities while promoting sustainable land use and forest protection. Both traditional channels of finance for forests and land rights and newer forms such as REDD+ finance have an important role here.

There is no systematic data to assess the share of REDD+ funds – more than USD 3 billion in total[208] – that has contributed to empowerment of communities. Overall, there is evidence that REDD+ finance has helped to strengthen capacities and participation in the forest sector. Much of this support has, however, been disbursed at the national level and has yet to reach the areas where forests are cleared and local communities live.[209]

Concerns have been raised that too much REDD+ finance is being spent on building technical capacity such as monitoring capabilities, at the expense of strengthening civil society and supporting communities in land-use planning and transitioning to sustainable practices.[210] Several multilateral funds have responded by setting up dedicated mechanisms to support the participation and capacity building of indigenous peoples and communities in REDD+ processes.[211] In some cases, resources have been dedicated to local IPLCs.

The World Bank-administered Forest Investment Program (FIP) aims to provide strategic investments in forest-friendly economic and social development, including direct investments to address the drivers of deforestation and forest degradation.[212] A recent analysis[213] found that about half of investments by the FIP were allocated to micro livelihood and income generating activities – all essential components of community empowerment. However, only a minor share of funds was allocated to technical assistance and business incubation for small- and medium-sized enterprises owned by the poor. This indicates a missed opportunity for empowerment in the long term and for providing lasting economic incentives for communities to use forests sustainably.[214]

A CIFOR study demonstrates the importance of benefit allocation in support of local communities in REDD+ initiatives.[215] A review of short-term social impacts of subnational REDD+ projects in Brazil, Peru, Cameroon, Tanzania, Indonesia, and Vietnam found that interventions focusing on restrictions only (e.g., restrictions on forest use through the implementation of village management plans) can, in some cases, cause a decrease in the perceived well-being and tenure security of local communities. In contrast, no negative effects were found where restrictions were combined with positive incentives (e.g., technical assistance and benefit sharing).

Although REDD+ finance has been relatively slow to reach local communities, recent developments indicate that international donors recognize the need for dedicated finance flows and direct access to support local communities:

- In 2018, a group of U.S.-based charitable foundations announced USD 459 million to be spent through 2022 to support forest protection, primarily through securing indigenous peoples' land rights.[216] This would be the largest dedicated source of finance for forest protection by IPLCs.
- Launched in 2014, the International Land and Forest Tenure Facility is the first international, multistakeholder financial mechanism exclusively focused on securing land and forest rights for IPLCs. It provides grants to help secure tenure rights under existing law and policy and shares the knowledge, innovations, and tools that emerge. The facility aims to invest at least USD 10 million per year for the first 10 years.[217]
- In 2016, the World Bank's Dedicated Grant Mechanism for Indigenous Peoples and Local Communities became the first operational mechanism to provide direct access to REDD+ finance for IPLCs, helping them participate in the FIP and other REDD+ programs. As of 2017 the mechanism has approved half of its available USD 80 million to projects across Africa, Asia, and Latin America.[218]
- The U.S. Agency for International Development (USAID) has dedicated USD 215 million to strengthen land tenure and property rights. Since 2013, these funds have supported over 140,000 people in gaining formal documentation of land rights and 182 million people in benefitting from improved land tenure policy frameworks.[219]

Technology developments offer both promise and threat to community empowerment

Technologies are likely to simultaneously create and stifle opportunities for forest-linked community empowerment in the coming years. A bundle of developments may be involved: biotechnologies, machine learning and artificial intelligence, distributed ledgers, and communication technologies. At the heart of many of these innovations lie exponential advances in digital processing. As with other approaches to empowerment, the most promising – and threatening – relate to organization strengthening.[220] Examples include:

- Cell phone technologies have already brought immense benefits for livelihoods along with access to services and information for smallholders. For example, the Center for Tropical Agriculture has been working with cell phone technology to provide weather forecasts and recommendations

to farmers.[221] Similarly, in Indonesia, a smartphone app developed by The Nature Conservancy has helped communities transform communications about how they can improve their village governance, create economic opportunities, and better manage natural resources.

- Social media and blockchain technologies can provide a platform for various aspects of empowerment, such as peer-to-peer learning, marketing, organizations, and the mobilization of political action. The Mexican "Ejercito Zapatista de Liberación Nacional," an indigenous peoples' revolution for social justice, has effectively used digital technology for organize, spread their message, and gain financial support, although it has also led so some conflict with the government.

Conversely, if automation lets agribusiness develop more profitable business models, it could drive further waves of commercial land acquisition, which, under weak land governance, would put the asset base of poor households or forest-linked community organizations at risk. Similarly, digital management of supply chains will increasingly integrate production, processing, and marketing, and smallholders and community organizations may struggle to engage with these changing distribution systems.

Concluding Remarks

The New York Declaration on Forests is a unified commitment to stop forest loss. Our annual assessment of progress toward the individual goals finds that we are not on track to meet the upcoming target to halve natural forest loss globally by 2020. Achieving all 10 goals of the NYDF requires a strong legal and institutional foundation that can enable policy reforms to conserve and enhance forests, provide stakeholders equal access to information and justice systems, and empower the people who depend on forests to sustainably manage and protect them. For the first time, this report brings together new and existing research from these areas to present a global picture of the state of forest governance.

Overall, we find that progress to improve forest governance is slow. Evidence shows that strengthening forest governance is essential to driving transformational and sustainable change across sectors. While stakeholders, such as countries and companies, have committed to improvements in policy areas such as transparency and due diligence, implementation is sluggish. Collaborating with and empowering indigenous peoples and local communities to sustainably manage their lands presents a significant opportunity to protect and enhance forests. Nevertheless, secure land rights and access to resources remain limited for many forest-dependent groups.

Individual developments, such as advancements in legality in the timber sector and case studies on sustainable business cooperatives, hold promise for change at scale. It clear from our assessment that achieving Goal 10 and all the goals of the NYDF will require greater global coordination and cooperation, as well as redoubled efforts to follow through on the commendable commitments countries and companies have made in this area.

Annex A

Selected data sources used for the Goal 10 Progress Assessment are shown in Box A.1.[222]

Box A.1. Selected Data Sources for Goal 10 Assessment

The **Environmental Democracy Inde**x was developed by The Access Initiative and World Resources Institute in collaboration with partners around the world. The Environmental Democracy Index provides information on a number of key indicators concerning transparency, participation and access to justice related to forests. The data covers 70 countries across all continents other than Antarctica, including 12 developed countries, 3 economies in transition, and 55 developing countries.

The **Rights and Resources Initiative's Forest Tenure Data** quantitatively tracks legal ownership of the world's forests since 2002 across 58 countries encompassing nearly 92 percent of the global forest area. This data is underpinned by a qualitative "bundle of rights" approach, which assesses the strength of indigenous peoples' and local communities' forest rights under national law. Detailed "bundle of rights" data is available for 30 low- and middle-income countries across Africa, Asia, and Latin America.

The **LandMark Initiative** is a global platform that provides maps and other critical information on lands that are collectively held and used by indigenous peoples and local communities. It enables land tenure to be compared within and across countries.

Global Witness Environmental and Land Defenders data uses publicly available information to identify and investigate cases of killings and forced disappearances of land and environment defenders, defined by Global Witness as people who take peaceful action to protect land or environmental rights, whether in their own personal capacity or professionally.

The **Business and Human Rights Resource Centre (BHRRC)** database on human rights defenders includes data on attacks of defenders captured by BHRRC researchers, as well as in databases of attacks compiled by Global Witness and the Global Public Policy Institute. Several cases from other sources such as the websites of Front Line Defenders and Amnesty International are also included. Data includes information on the gender of the defender, date, type and location of attack, and rights and issues related to the case.

The **EU FLEGT Facility** supports the implementation of the European Union Forest Law Enforcement, Governance and Trade (EU FLEGT) Action Plan with a focus on voluntary partnership agreements. They provide information on the approaches countries are taking to combat illegal logging and foster good forest governance, as well as on initiatives that cross national borders.

The **Center for International Forestry Research's (CIFOR's) Global Comparative Study on Forest Tenure Reform** is a research program that aims to improve the knowledge needed by a range of actors to improve the design and implementation of forest tenure reform by providing them with needed information, analysis, and tools. Potential outputs from the program include assessment of institutional structures, processes, and outcomes and improved methods and frameworks for assessing tenure reform outcomes.

Supply Change is an initiative implemented by Forest Trends that tracks over 900 companies with exposure to forest-risk commodities, focusing on corporate commitments to avoid deforestation in palm, soy, cattle and timber and pulp supply chains and their implementation. Given that information captured through this assessment is limited to what companies publicly disclose, typical data sources include company websites, dashboards, and annual reports.

Box A.1. Selected Data Sources for Goal 10 Assessment *(cont.)*

The **Worldwide Governance Indicators** project reports numerous aggregated and individual governance indicators for over 200 countries and territories from 1996 to 2016, for six dimensions of governance: voice and accountability, political stability and absence of violence, government effectiveness, regulatory quality, rule of law, and control of corruption.

The **Chatham House Indicators of Illegal Logging** were developed to monitor levels of illegal logging (defined to include illegal deforestation) and the related trade, and to enable an assessment of the effectiveness of efforts to tackle the problem in producer, consumer and processing countries. Countries covered by the assessment were selected based on their relative importance in the world's forest sector. The policy assessments in nine forest product producing countries were updated in 2018 by Climate Focus and Chatham House.

The **International Fund for Agricultural Development** has assessed rural sector performance based on 6 indicators and 12 dimensions of rural policy environment across the world since 2004. This assessment measures the quality of policies and institutions in the rural sector for achieving rural development and rural transformation that benefits the local population.

The **Protected Planet Assessment** evaluates the three dimensions of social equity – distribution, procedure and recognition – in 31 protected areas in tropical and nontropical countries, using a set of 10 indicators developed by Zafra-Calvo et al.* Each indicator is scored based on responses collected from a variety of stakeholders involved in the management of protected areas (government, private agencies, nongovernmental organizations, communities) using a multiple-choice questionnaire. We include 15 of the 31 protected areas in our assessment, selected according to extent of their forest cover.

The **FAO Legal Assessment Tool (LAT)** undertakes legal assessments of 25 developing countries across Africa, Asia and Latin America, based on different legal indicators for gender-equitable land tenure covering three sources of law: constitutions, statutes, and regulations. The LAT uses government sources including official journals and ministries to verify the extent to which each legal indicator is addressed in the law, ranging from in multiple legal instruments to does not appear at all.

The **Forest and Farm Facility (FFF)** has provided support to forest and farm producer organizations representing 30 million producers in 10 countries: Bolivia, Guatemala, Nicaragua, The Gambia, Kenya, Liberia, Zambia, Myanmar, Nepal, and Vietnam. For this assessment, the International Institute for Environment and Development assessed baseline and evaluative material from their work conducted under the FFF to contribute an analysis of community empowerment in forest landscapes.

Data limitations:

- There is no recent data on the extent of illegal deforestation and logging. We present data from illegal deforestation from 2014 and data on illegal logging from 2015, while also presenting more recent (2017) data on risks of illegalities in the production of forest-risk commodities.
- There is limited data on forest land held by indigenous people and local communities, which makes it difficult to identify the gap between the forests in which they have recognized rights and the forests they hold but do not have recognized rights to. We have sought to take a first step toward addressing this data gap by working with LandMark to gather data on overall land held by indigenous people and local communities in 14 countries, including 5 of the countries with the highest forest cover.

- Most datasets we use do not have comprehensive geographic coverage. Where we have undertaken new research or extended existing research for this report, we have sought to strategically select countries based on factors such as their importance in terms of tropical deforestation (Chatham House governance assessments), the presence of large areas of forests and lands customarily owned by indigenous peoples and local communities (LandMark assessment of IPLC lands) and the availability of existing data (analysis of lessons from the Forest and Farm Facility).
- Several datasets are limited to developing countries, often because they are drawn from organizations whose mandates only extend to developing countries (e.g. the International Fund for Agriculture and Development) or because they are focused on countries where forest governance challenges are greatest (Chatham House governance assessments). Where possible, we have sought to also provide insights into progress in progress in developed countries based on other sources.
- Several datasets, such as the Environmental Democracy Index and NEPCon risk assessments, provide data for only a single point in time, which makes it challenging to assess progress. Where possible, we have sought to use multiple sources to get a sense of progress; however, in some cases this has not been possible due to the difficulty in comparing different data sources.

Glossary

EU Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan: European Union initiative to address illegal logging by strengthening sustainable and legal forest management, improving governance, and promoting trade in legally produced timber.

Forest and Farm Facility (FFF): Representing 30 million forest and farm producers in 10 countries, the FFF provides support to forest and farm producer organizations to increase their technical and business capacities to contribute to fighting climate change and improving food security.

Forest countries: Although difficult to clearly define, this term usually refers to countries that have large extensions of forest or in which forests account for a significant proportion of national land area.

Forest governance: A concept that incorporates the quality of institutions, laws, policies, and processes that govern the ownership, management, use, protection, trade, and conversion of forests and how they operate in practice.

Forest-risk commodities: Agricultural commodities such as palm oil, soy, and beef, or forest commodities such as timber, whose production frequently creates risks of deforestation and forest degradation.

Free, prior, and informed consent (FPIC): A principle that requires governments and/or companies whose planned actions may impact indigenous peoples to seek their free (i.e., voluntary and in the absence of coercion), prior (i.e., consent sought in advance of project approval), and informed (i.e., after being presented with a comprehensive list of impacts and risks) consent.

High-conservation-value (HCV) forests: Forests considered especially significant or critically important at the national, regional, or global levels for biological, social, cultural, or ecological reasons.

Illegal deforestation: Permanent conversion of forest to another land use in violation of applicable laws.

Illegal logging: Illegal extraction of trees without conversion of forest, usually resulting in forest degradation.

Indigenous peoples and other local communities (IPLCs): Because whether communities should be identified as indigenous or in another way is recognized as a matter for self-determination, the international community has rejected attempts to adopt an internationally recognized definition of "indigenous peoples." National laws may provide definitions for the scope of legislation recognizing indigenous peoples' and other specific groups' rights to land. Local communities include forest-dependent communities that are not recognized as indigenous peoples in national legislation but who manage land collectively, often based on customary practices or other community-defined norms.

Intact forests: Forests that are unbroken, that is, not fragmented

INTERPOL's Law Enforcement Assistance for Forests: This global initiative launched in 2012 to support law enforcement working across the entire timber supply chain, has set up 11 operations in 34 participating countries as of 2018.

Legality risk: The risk that one or more applicable laws are not respected in the production of commodities produced in forest areas. Risks are assessed based on expert analysis of laws and their implementation in each country.

Natural forests: Forests that reproduce naturally and originate from the original forest cover.

Primary forests: Natural forests that have never been logged and have not been disturbed to any significant degree by human activity.

Protected areas: Clearly defined geographical spaces, recognized, dedicated, and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values.

Readiness: Strategies and processes at national or subnational levels that prepare developing countries to get "ready" to access and make use of financial sources for climate change mitigation and adaption or for REDD+.

Recognized lands: IPLC lands that are recognized under national law, and for federal states, under federal and state law. National laws include the constitution, statutes, regulations, and technical directives (also court rulings but only where they have been implemented by the government). National laws do not include political statements, public policy, administrative guidelines, or other documents that are not legally binding.

REDD+: Efforts to reduce emissions from deforestation and forest degradation, and foster conservation, sustainable management of forests, and enhancement of forest carbon stocks in developing countries.

Sustainable Development Goals: A set of 17 global economic, environmental, and social goals. An initiative of the United Nations, the goals replace the Millennium Development Goals and cover the period 2015–30.

UN Declaration on the Rights of Indigenous Peoples (UNDRIP): Adopted in 2007, it recognizes, among other rights, indigenous peoples' right of self-determination, the right to protect their culture, obtain land rights, and the right to FPIC.

Voluntary partnership agreements (VPAs) with the European Union (EU): Bilateral timber–trade agreement between the European Union and a timber-exporting country outside the EU, within the framework of the FLEGT Action Plan.

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