

Making the Forest Sector Transparent

Annual Transparency Report 2012

Prepared by Global Witness, February 2013



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Forest sector reforms are not being translated into practice

Since 2009, *Making the Forest Sector Transparent* has documented how well governments have met their commitments to improve forest sector governance and transparency. Forests are under severe threat from logging, mining and other industries, yet poor management and corruption facilitate their destruction and mean that the rights of those who live in them are often ignored. This summary presents findings from our efforts to monitor and help improve forest management systems in seven forest-rich countries. It is accompanied by country-specific report cards.

Transparency is essential for ensuring that people get the information they need to have a real say in decisions affecting their forests. Governments have made numerous commitments to improve forest sector transparency, and governance, but too few of them are effective in practice and not one forest authority is meeting all of its obligations. In the last four years there have been some positive steps towards improving access to information and participation in decision-making, but progress has been slow and implementation has been weak. At the same time, bureaucracies characterised by secrecy and corruption have allowed vested interests to continue to exploit forest resources and contribute few real benefits to either local communities or the national economy.

Key findings from the programme




- Forest authorities often fail to comply with their duty to publish key documents and data as required by freedom of information laws and forest sector-specific obligations.
- Customary rights of indigenous forest peoples and forms of community forest management have received little attention from governments compared to commercial forest resource exploitation. They need to be prioritised.
- New regulations and laws are liable to be undermined from one side by popular resistance and the other by corruption unless developed through an explicitly open and consultative process. Efforts to include all stakeholders in decisions must be improved.
- Unless international efforts to stamp out illegal timber focus on transparency in producer countries alongside entry controls in importing countries to determine where timber comes from, they risk rubber-stamping a corrupt status quo.
- The timber industry avoids and delays paying its dues and funds are not reaching local forest communities. Governments, industry and civil society need to become more transparent in distribution and investment of forestry royalties and incentives.
- Too little consideration is given to what the best use of the forest is, particularly in an era of climate change. Mining, oil, agro-industry and other projects on forest lands are frequently agreed behind closed doors with little consideration of strategic environment impacts.


























































































































































Community Meeting in Saamang, Ghana. (Photo © New Generation Concern)

Making the Forest Sector Transparent is a partnership between Global Witness and leading NGOs in seven countries: Cameroon, the Democratic Republic of Congo (DRC), Ecuador, Ghana, Guatemala, Liberia and Peru. Each year, the partners produce a report card using a common set of indicators. This process monitors progress in forest sector reforms, like the Voluntary Partnership Agreements (VPAs) with the European Union on Forest Law Enforcement, Governance and Trade (FLEGT). Each NGO also carries out country-specific studies to focus on particular issues and document the perceptions of local people, and administers small grants to promote grassroots activism and capacity building. The programme has used these activities to advocate for inclusive forest governance and hold officials to account in each country.

Report Card Indicators

The 2012 report card consisted of 20 'yes'  'partial'  or 'no'  indicators – 12 of which tested whether key provisions exist in the legal, policy and regulatory framework ('framework indicators') and eight tested whether key documents and data are regularly published ('data indicators'). Full information on the indicators with supporting analysis and data sources is available on the interactive website in English, French and Spanish: www.foresttransparency.info, www.transparenceforestiere.info, and www.transparenciaforestal.info.

	 Cameroon	 DRC	 Ecuador	 Ghana	 Guatemala	 Liberia	 Peru
Framework indicators: are applicable policies, laws and norms in the public domain?  Yes;  Partial – they have only been drafted, are out of date or lack regulations;  No – they have not been approved							
Freedom of information legislation							
National forest policy							
Codified forest law and supporting norms							
Signed VPAs and other agreements on forest products							
Provisions for transparency in forest laws and norms							
Recognition of customary rights in forest laws and norms							
Formal procedures for consultation on new forest norms							
Legal right to free prior and informed consent							
National land tenure policy							
Consultation before commercial logging allocation							
Regulation of environmental services							
Strategic environmental assessment							
Data indicators: are key documents and data regularly published?  Yes;  Partial – they have only been drafted, are out of date or lack regulations;  No – they have not been approved							
Forest ownership and resource use maps							
Legal documents for commercial logging operations							
Reports on the verification process of eligibility of commercial operators							
Forest management plans							
Reports from independent forest monitoring							
Data on the distribution of forest royalties or incentives							
Information on forest law infractions							
Annual forest authority report							

Overall, the report card indicators present a picture of many yellows and reds, showing that there are gaps in the framework and data on the forest sector in all of the countries. This is particularly apparent in relation to the eight data indicators – of this total of 56 'traffic lights' across the seven countries, only six are green to show that the relevant information is comprehensively and regularly published. Not one country publishes comprehensive maps showing all forest owners and resource uses, nor do any publish legal documents and management plans for all commercial operations. This means that local people rarely have the information necessary to know what logging and other activities are happening in their forests, whether these activities are legal, or what revenues are being generated.

In comparison, there are more greens across the twelve framework indicators; 36 out of 84 indicators across the seven countries show that they have adequate provisions for forest sector transparency and management. By this measure, Peru, Ecuador and Liberia have relatively complete legal and regulatory frameworks. In addition, all countries have made progress towards reforming their policies and laws, but applying them transparently, equitably and consistently in practice remains a challenge.

Important Developments and Achievements

The report cards have documented progressive reforms and initiatives in each country. Programme partners have played a part in advocacy work in pursuit of these developments, and in some cases have achieved important changes in how the forest sector is managed.

Cameroon 	<ul style="list-style-type: none"> The VPA and forest law reform herald the advent of new framework for forest governance, including a binding obligation on authorities to regularly publish specific documents and data. Participation in the development of new forest norms has opened up opportunities for the inclusion of historically marginalised groups, as exemplified by the representation of indigenous peoples. Following civil society campaigns, the new Minister of Forests took more concerted actions to suspend 'small permits' linked to illegal logging.
DRC 	<ul style="list-style-type: none"> Contract documents and management plans for converted forest concessions began to be published online for the first time. Civil society exposés of the misallocation of artisanal logging permits lead to the revocation of six permits and a ministerial decree reconfirming who has the right to issue them. The government made a commitment to sign the decree on community forest management following a major mobilisation of civil society calling for it to finally do so.
Ecuador 	<ul style="list-style-type: none"> Forest authorities have improved their fulfilment of the FOI law and the Public Ombudsman has developed systems to apply the law more consistently. The Government has developed a bill on prior consultation, which may establish a legal mandate for participation of civil society, in particular indigenous peoples, in decision-making.
Ghana 	<ul style="list-style-type: none"> A new forest policy has been agreed with proposals to address long-standing issues of tree tenure, customary rights and community forest management. A District Assembly and a group of traditional authorities have adopted byelaws and charters respectively to guide their management of forest resources and royalties.
Guatemala 	<ul style="list-style-type: none"> A participatory evaluation of the forest policy identified its failings and laid the ground for the development of a new policy. Inequities in the incentives programmes were addressed in a new law, which sets a precedent for reviewing it when the current programme ends in 2016.
Liberia 	<ul style="list-style-type: none"> The VPA includes an annex on public information that reinforces application of the Freedom of Information law to the forest sector, including a distinction between proactive disclosure and items available on request. The President issued an Executive Order reinforcing a moratorium on Private Use Permits, and a criminal investigation into the perpetrators, to address serious failures highlighted by civil society. The European Union supported civil society-led monitoring initiatives as part of VPA implementation.
Peru 	<ul style="list-style-type: none"> Public bodies, in particular regional forest authorities, have improved their compliance with the FOI law and the Public Ombudsman has proposed independent oversight of compliance with the law. A guide for strengthening the forest sector through a participatory and decentralised process was published by the forest authority. Lessons learnt from the development of the law on prior consultation of indigenous peoples have informed the role of participation in legislative reform.

Over four years, the report cards have shown that positive-sounding agreements, commitments and initiatives do not necessarily result in effective implementation across the sector. The 'business as usual' model of forest resource exploitation can find ways around the best laid laws. Nine core recommendations from *Making the Forest Sector Transparent* on the next page are key to future improvements in transparency, accountability and governance in the sector.



'Business as usual'? (Photo © Global Witness)

Conclusions

Recommendations

Access to Information

Even where there are freedom of information laws and forest sector-specific agreements on public information, forest authorities often avoid their duty to publish key documents and respond to requests for information.

Central authorities often make decisions arbitrarily behind closed doors, and information stays at this level instead of reaching the local communities that most need to know what is happening to their forests. Ill-informed and disempowered front-line staff fear retribution if they release 'confidential' information.

The capacity of civil society organisations and the media to analyse and disseminate information so that it can be understood and used by people is limited.

Legal obligations need to be backed by strong independent ombudsmen and compliance monitoring. Considerable further work is necessary to change institutional cultures and develop information management systems.

Authorities should more clearly delegate responsibilities to ensure front-line staff have the information and guidance they need to work constructively with communities. They should seek opportunities to present themselves positively and proactively, including through greater use of websites and new media.

Efforts to promote transparency must strengthen civil society's ability to use information. NGOs and their constituencies should determine priority information needs, develop activities for collection, synthesis and dissemination, and promote openness in their own work.

A rights-based approach

Indigenous peoples often have little say over decisions to exploit natural resources on land that they have been living on for centuries. Customary rights are increasingly recognised in forest reforms, but too often are disregarded by authorities.

Innovations in community forestry are under-resourced, and lag years behind investments in industrial-scale timber extraction, mining operations and agricultural plantations, reflecting a reluctance by the state to relinquish power.

Land use decisions must fundamentally recognise indigenous peoples' rights, and then ensure that they understand what is proposed for their forest land and are able to give or withhold consent.

The current situation where forms of community forest management receive little attention – both in policy and practice – compared to commercial forest resource exploitation urgently needs to be reversed.

Participation in rule-making

There are encouraging signs that civil society and forest communities have participated more actively in forest sector reforms in recent years. However, there remains a risk that consultation processes are largely lip service. If citizens are denied a real say the outcomes are liable to be contested through popular resistance and undermined by corruption.

The inclusion of citizens in decision-making must be strengthened by legal backing for consultation processes; appropriate, complete and timely information; and adequate representation, and integration of inputs.

Rule of law

New forest laws have set out more rigorous procedures for regulating timber rights, but authorities have often failed to apply them and vested interests have exploited loopholes whenever possible. Civil society oversight combined with persistent demands for information has proven effective in exposing irregularities and holding officials to account.

Efforts to build authorities' capacity need to be backed by strong independent monitoring, and effective use of sanctions provided for in international processes such as FLEG. Importer governments must therefore place greater emphasis on bringing civil society oversight mechanisms into forest governance.

Revenue transparency

There is a lack of accountability on the collection, distribution and investment of revenues, and little sign that national governments are taking the necessary measures to ensure that the timber industry stumps up its dues on time. There is more transparency in incentives programmes to support social and conservation objectives, but concerns persist over whether they are reaching the most marginalised groups as intended.

Civil society groups should strengthen links with other work to improve fiscal transparency – such as the Extractive Industries Transparency Initiative and the Open Budget Initiative – to share lessons on how to improve transparency and management of forest sector financial flows.

Best use of the forest

As competition over diminishing resources intensifies, poor coordination and unclear planning processes are preventing forests from being valued for their environmental services.

Efforts to promote better forest management must include lobbying political and business elites to consider alternative – and more climate friendly – uses of forest land than deforestation, mining, large-scale agriculture or infrastructure projects. Thereafter, governments need to set out clear, consistent legal parameters for assessing trade-offs between these, and make their strategic land-use decisions in a transparent way.

