



Summary

Forum:
Governance, Legality Verification Systems,
and Competitiveness of the
**Latin American
Forest Sector**
September 30 to October 3, 2014
Quito - Ecuador

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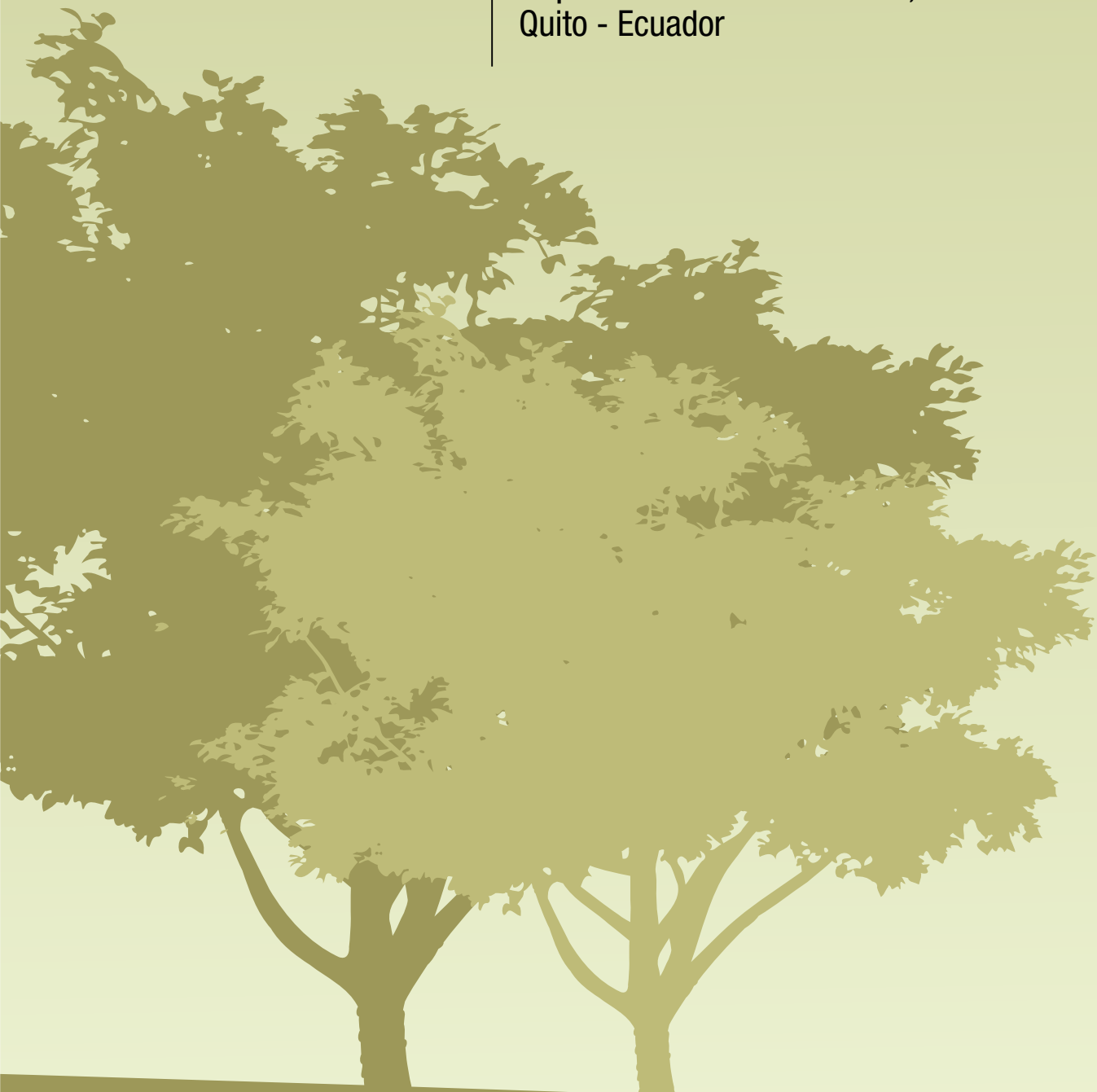
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The Amazon rain forest. Loreto region, Peru. © Brent Stirton / Getty Images

INTRODUCTION

Collaboration between TRAFFIC, the EU FLEGT Facility, the EU FLEGT FAO Programme, the IUCN Regional Office for Mexico, Central America and the Caribbean (ORMACC), the World Resources Institute (WRI), WWF, the IUCN South America office, the Ministry of the Environment of Ecuador and the Sustainable Forest Management Corporation (COMAFORS)¹ led to the organisation of the Forum on: Governance, Legality Verification Systems and Competitiveness in the Latin American Forest Sector.

The Forum sought to facilitate the exchange of experiences and lessons learnt, which, without attempting to achieve consensus, would guide decision-making processes that will strengthen institutions, improve the business climate and contribute to fair, equitable and sustainable forestry development in the region.

Some 140 representatives from the public and private sector, international and civil society organisations and indigenous peoples' communities from ten Latin American countries (Mexico, Honduras, Guatemala, Nicaragua, Panama, Bolivia, Brazil, Colombia, Ecuador and Peru), along with representatives from the United States and European Union countries held open and constructive discussions on common issues such as the governance, legality verification systems and competitiveness of the region's forestry sector.

The three topics dealt with at the Forum are considered to be essential for forestry development in each country and in the region. Illegal logging and its associated trade thrive where governance is poor, and in turn, poor governance and illegal logging hamper competitiveness of the forestry sector. Legality verification systems support governance and, if established appropriately, support competitiveness in the forestry sector. The competitiveness of the legal forestry sector is important because a competitive forestry sector attracts and retains investment for forest management in the long term. Long-term sustainable forest management maintains forest cover and economic returns and also provides social, economic and environmental benefits.

Over a three-day period, Forum participants delivered or listened to presentations, discussed the presentations in multi-sector round table groups, and shared their experiences and findings. The presentations as well as interviews with presenters and participants can be accessed at: www.flegt.info.

MEETING SUMMARY

This document summarizes the main ideas which emanated from the round table working groups and the discussions at the Forum. It is divided into two parts: the first part presents ten key messages that emerged from the Forum. These messages do not constitute consensus reached by the participants, but rather a summary of the discussions. The second part presents the overall conclusions of the organizers. The key messages and conclusions are aimed at decision-makers in the public and private sector and civil society.

¹ All these agencies have been working in the region on common issues of governance, legality verification systems and competitiveness in the forest sector.



KEY MESSAGES

The key messages are listed below and discussed in greater detail later in the document:

1. Good forest governance requires channels to generate, obtain and disclose the information necessary to define the problem, understand its causes and find solutions that inform policy-making decisions.
2. An integrated framework is needed to ensure consistency between all those sectoral policies that have an impact on forests. The framework should incorporate the vision of forestry businesses and have sufficient political will to bolster this.
3. It is vital to establish and strengthen authorities that plan and coordinate long-term dialogue processes with the public and private sectors and civil society at various levels (local, national and regional) to define common strategies, with differentiated responsibilities and monitoring processes to ensure the proper implementation of forest legality in the country.
4. Strategies to combat illegality are more likely to succeed if they include incentives for forest conservation and legal timber production.
5. It is necessary to address forestry control better, sharing it across the value chain and placing greater emphasis on illegal timber purchase transactions.
6. Efficient traceability systems that generate sufficient trust among the various stakeholders in the value chain enable control efforts to be directed towards the points of greatest risk.
7. Independent forest monitoring increases the trust of value chain stakeholders in the system.
8. Organized crime poses a major threat to the efforts of various stakeholders (public, private and civil society) to strengthen forest governance.
9. Each country should develop concrete actions to regulate the marketing of illegally-sourced forest products.
10. Legal certainty and economic safeguards improve the competitiveness of the forestry sector of countries.



MESSAGE

Buenaventura, Valle del Cauca, Colombia. © Proyecto Posicionamiento de la Gobernanza Forestal en Colombia

1

Good forest governance requires channels to generate, obtain and disclose the information necessary to define the problem, understand its causes and find solutions that inform policy-making decisions.

Transparent information on the current situation of forests and value chains creates trust in the legality of forest products. This trust is especially important in markets that seek to eliminate the marketing of illicit products.

Similarly, it is necessary to generate information on the difference in production costs for a producer that operates within the legal framework, and production costs of a producer operating outside the framework. This information would strengthen the position of the legal forestry sector (in strategic, political, economic, social and environmental terms) in order to summon the political will for decision-makers to improve forest governance.

It is estimated that the financial losses to countries as a result of illegality represent hundreds of millions of dollars; however, in some countries the information is not available and for others it is out-dated. It is important to address these information gaps and to update the information on an on-going basis.

In addition, information on current forestry exploitation sites approved by the environmental authority should be made available to all stakeholders in the forestry sector. Disclosing this information would help local stakeholders, and especially communities, to identify and monitor the legality of logging from the start of the operation.

Likewise, the process of defining forestry policies should take into account local conditions and knowledge. Large tracts of forest are in the hands of indigenous and Afro-descendant populations, which requires clearly differentiated policies.



MESSAGE

Itacaré, Bahia, Brazil. © Michel Gunther / WWF-Canon

2

An integrated framework is needed to ensure consistency between all those sectoral policies that have an impact on forests. The framework should incorporate the vision of forestry businesses and have sufficient political will to bolster this.

The conservation and sustainable use of forests cannot be achieved with public policies that are defined only for the forestry sector, but require policies that seek the sustainable management of the country. Cognisance should be taken of the impact that other sectoral policies (for example mining, hydrocarbons, agriculture, infrastructure) have on forest ecosystems, and establish inter-ministerial forums for dialogue about the decisions that are taken on these issues.

In order for these forums to work, political will is required at the highest level of the State, starting with adequate understanding and appreciation of the importance of forest ecosystems.



MESSAGE

Labores de control a la movilización de madera, Risaralda, Colombia. © Proyecto Posicionamiento de la Gobernanza Forestal en Colombia

3

It is vital to establish and strengthen authorities that plan and co-ordinate long-term dialogue processes with the public and private sectors and civil society at various levels (local, national and regional) to define common strategies, with differentiated responsibilities and monitoring processes to ensure the proper implementation of forest legality in the country.

The complexity of illegality requires flexibility from governance processes so that they can take into account specific circumstances, sharing out the roles that each sector must play. It is therefore necessary to establish multi-stakeholder dialogues to find solutions and coordinate interests aimed at achieving reforms to guarantee a public good without affecting the competitiveness of the forestry sector.

These dialogue and consultation processes will be successful if: i) they enjoy appropriate methodological support to facilitate effective and efficient dialogue and to resolve conflicts that arise; ii) they are allocated adequate financial and human resources for the scale of the task, it being understood that the task involves intensive and long-term initiatives; iii) they are given continuity by the organizing institutions, by keeping managing technicians in their positions and if the institutions generate trust through effective implementation on the ground of decisions taken.

It is important to build dialogue and consultation processes that link local forest governance forums with national decision-making bodies. To encourage the participation of informal and illegal stakeholders who are not yet present at the dialogue table, it will be necessary to accept that the transition from illegality to legality will be gradual and that it needs to be inclusive and not deal with illegal stakeholders only from a monitoring and control point of view.



MESSAGE

Measuring trees in a well managed forest in Panama © Miguel Armando Pacheco / WWF-Colombia

4

Strategies to combat illegality are more likely to succeed if they include incentives for forest conservation and legal timber production.

Combating illegality through monitoring and punitive measures only does not work. Monitoring bodies tend to focus on legal role-players in the chain. At the same time, legal role-players incur additional production and transaction costs when trying to comply with the numerous requirements of the law. In addition, there are generally not sufficient resources to carry out the monitoring, and the system ends up neglecting illegal role-players in the value chain. This often results in unfair competition between legal and illegal products which serves as a perverse incentive, driving legal producers towards illegality and discouraging illegal producers from conforming to the law. One of the greatest challenges in combating illegality is reversing the reality in which the person supporting legality loses.

Strategies to combat illegality must create conditions that allow legal transactions to be cost-effective, removing barriers to competitiveness in the sector. It is recommended that incentives for legality be established which include, among others: reducing transaction costs by simplifying procedures or removing unnecessary legal requirements; more versatile tax procedures; technical assistance for forestry development and capacity building of informal organizations (mainly small producers); funding for conservation and forest restoration; and the establishment of responsible purchasing policies that favour products of legal origin.



MESSAGE

Measuring trees in a well managed forest in Panama © Miguel Armando Pacheco / WWF-Colombia

5

It is necessary to address forestry control better, sharing it across the value chain and placing greater emphasis on illegal timber purchase transactions.

The weaker the governance, the easier it is to fall into vicious circles of inefficiency, illegality and insufficient resources, making it even more costly for the production sector to be legal. Conversely, as governance is strengthened, the vicious circle can gradually be reversed to become a virtuous one. If the rules are the same for everyone and exemplary sanctions are imposed on those who break these rules, others will be discouraged from being illegal. Legal role-players generate revenue for the State (through taxes), more resources are therefore made available which means additional staff to exercise control. There are signs that the region is moving in this direction and the trend should be supported and encouraged.

The verification of legality should be strengthened. But legislation and current control efforts seem to focus mainly on the first tier of the value chain, at the expense of attention to markets; that is to say control over the demand for illegal timber is not sought. If there were no demand for illegal timber, there would be no illegal production and producers would not run the risk of bringing illegal timber onto the market. A demand for legal timber will put pressure on the value chain to produce legal timber. It is therefore appropriate in this case to start developing effective strategies to control buyers of illegal timber.

There is evidence of corruption by multiple stakeholders across the value chain and both the corruptor and the person corrupted should be punished. To achieve this, instead of creating more rules, it is proposed that field audits be carried out along the value chain, thereby verifying that the volumes are adjusted from the beginning of the exploitation work until delivery to the final consumer.

There must be transparency along the value chain so that the irregularities that occur are known to all stakeholders involved in order to bring about effective social control and action by all against illegality.

The supervisory body must immediately communicate in public the name of companies that commit irregularities, so that the company does not continue to deceive buyers with fraudulent documents and furthermore, so that social control can be exercised effectively by everybody.



MESSAGE

Labores de control a la movilización de madera, Risaralda, Colombia. © Proyecto Posicionamiento de la Gobernanza Forestal en Colombia

6

Efficient traceability systems that generate sufficient trust among the various stakeholders in the value chain enable control efforts to be directed towards the points of greatest risk.

The effectiveness of a traceability system depends on the trust that the value chain role-players have in the system. A system will be reliable insofar as it is comprehensive, with a clear legal framework covering all the sectors in the chain, identifying all stakeholders and the roles they play, and reducing to the minimum gaps through which illegal timber can be laundered. The traceability system must be flexible enough to deal with the large-scale exploitation of forests and plantations, as well as exploitation at community level, including timber for other uses such as firewood or construction.

The traceability system must have a database with information of irrefutable credibility, available to role-players in the value chain in real time, thus reducing the margins for technical subjectivity related to processes and corruption. The system could also envisage including registered and legal plantations for productive purposes that have an initial baseline inventory against which a discount can be given as their exploitation and marketing [of timber] are recorded.

Traceability systems should also be efficient. It is important to map their implementation costs through every stage of the value chain and to identify those currently covering the costs and those who should bear them in future, based on equity, and in accordance with the situation in each of the countries concerned. If the cost of implementing traceability and control systems must be borne by only one of the value chain stakeholders and if the cost thereof is equal to or greater than its expected usefulness, the system will be detrimental to competitiveness and encourage illegal trade, the cost of which is low and the profit margin very high.

The primary costs of traceability systems vary from country to country, according to the level of development of the country's forestry systems. While the challenges can be quite specific in some countries (for example, the high costs of controlling sawn timber only in terms of staff training), technological constraints or basic infrastructure do not make it possible in other cases to have a reliable and economically viable traceability system. The level of detail of traceability should be proportional to the size of the operation so that legality can be accessible to small farmers, without this implying the need to accept too costly impositions for larger operations.

More training for forest users is also needed on the regulatory, technical and operational aspects of traceability systems.



MESSAGE

Mahogany (*Swietenia macrophylla*); Bolivia © André Bärtschi / WWF-Canon

7

Independent forest monitoring increases the trust of value chain stakeholders in the system.

Government institutions, NGOs, communities and the private sector can formalize mutually supportive agreements with properly defined roles that contribute towards strengthening and complementing the authorities, taking advantage of the identified synergies in a transparent and efficient manner. In turn, government systems can make good use of independent system standards for products that cannot achieve certification (because of the size of the sector, level of investment, etc.) and which need to demonstrate aspects of their origin.

However, the following issues are still a matter of debate: how to establish the legitimacy of the body which will perform the independent monitoring; to whom will the body be accountable; how can sustainable financing for its operation be ensured without relying on funds from international cooperation and without adding additional costs to the private sector thus impacting on the competitiveness of the sector.



MESSAGE

Madre de Dios, Peru ©André Bärtschi / WWF-Canon

8

Organized crime poses a major threat to the efforts of various stakeholders (public, private and civil society) to strengthen forest governance.

The power of organized crime is acknowledged, exerting increasingly strong territorial controls and mobilizing financial resources that surpass the capacities of the public and private sectors and of civil society. Mindful of this situation, one could ask what can be done by the sector to support those who try to do things in the best manner possible so that they can remain within the system.



MESSAGE

Paragominas, Pará, Brazil © Juan Pratginestos / WWF-Canon

9

Each country should develop concrete actions to regulate the marketing of illegally-sourced forest products.

The global timber market is changing. Increasingly stringent measures are taken by major buyers when it comes to the legality of products. The countries in the region must respond to these new demands for legal products by identifying and implementing the necessary measures to verify and demonstrate the origin and legality of the products in their markets.

Moreover, products from an illegal source that are imported into the countries represent unfair competition to national producers of legal timber. Countries in the region could develop or implement legislation similar to the Lacey Act in the United States, or the EU Timber Regulation to regulate the marketing (import and export) of illegally sourced timber products.





MESSAGE

Planta ENDESA-BOTROSA. Ecuador

10

Legal certainty and economic safeguards improve the competitiveness of the forestry sector of countries.

In many cases, legislation and related forestry regulations aim to achieve a balance between forest conservation, the protection of human rights groups associated with forestry, maintaining the competitiveness of forestry companies and improving the business and investment climate of the forestry sector. Thus, the regulation of sustainable forest management should provide parameters to ensure the ecological integrity of the ecosystem and minimize the environmental impact of logging activities, without removing opportunities for technological innovation.

Legislation and the associated regulations should, on issues of competitiveness, ensure legal certainty and reduce the risk to forestry businesses; they should also promote the consumption of legal timber through campaigns, social agreements and procurement policies, as part of a sustainable development strategy that results in an increase in the value of forests, allows for the moving of materials with a high environmental footprint, the creation of significant co-benefits in rural areas, and improved direct investment in forestry businesses. In addition, the control of illegal activities should be improved in order to increase the risk of operating illegally and the costs associated with illegal operations, thus discouraging such practices.

In the same way as environmental and social safeguards were defined on the issue of forest legality, it is necessary to define economic safeguards to protect the competitiveness of legal forestry businesses. Economic safeguards are necessary when formulating regulations so that they do not increase transaction costs or the time needed for procedures beyond certain thresholds and thus compromise the profitability of forestry businesses. Each rule and regulation proposed should be clear about what cost it represents for legal forestry companies and how it will affect their competitiveness and profitability.

CONCLUSIONS

The Forum was a success, mainly because it managed to create a space for frank and constructive dialogue between sectors and countries that do not usually sit at the same table. The majority of participants asked for similar events to be organized on a regular basis (perhaps every two years) to continue sharing regional experiences for mutual benefit.

Despite the high number of participants, those present found it useful to exchange experiences over a 3 day period (4 days for those who took part in the field trip). Some representatives mentioned the limited opportunities that exist to exchange knowledge with stakeholders from other countries on the same issues that they deal with.

Given the number of participants in the working group discussions (25-30 people per group), it was not possible to have in depth discussions of the topics; this does not however mean that the group work was not useful. In general terms, the following aspects are shared.

- The large majority of participants (from all countries and all sectors) realised that they were facing problems and challenges that were similar to those of other countries and sectors (public, private and civil society). It was also observed that noteworthy efforts were being made to improve governance in other countries, and which others could learn from. There was an exchange of knowledge and requests for countries to work together in the future.
- All participants talked about “legal timber”, but there was no further discussion about what this concept entails. For almost everyone, “legal timber” is timber which complies with forestry law. It is assumed that compliance with the law, and the control and verification [of timber], are the only obligations to fulfil, while neglecting to address fiscal, labour, social and environmental standards and others in general that differ from forest standards, but that also contribute to legality as a whole.
- As regards issues such as verification, traceability, control, forest monitoring etc., it was clearly demonstrated that the understanding of what these issues entail may differ greatly between sectors and countries and between sectors of the same country. These are not minor differences. Many people for example assume that traceability is the same as control and verification. In this regard, it is important that all the various sector representatives in one country and also representatives across various countries have a similar conceptual understanding in order to open up possibilities for effective exchanges in the future.
- While it is true that representatives of the public and private sector, of civil society and of indigenous peoples’ communities have discussions among themselves, it would appear that there is a risk of nothing substantial being shared through these talks. It seems that each sector is complaining of poor governance. Despite the fact that sectors face similar challenges, there is little consensus-building dialogue. Discussions on “legal timber” (or another topic) for example would generate very useful exchanges to increase awareness and understanding of other sectors.

- As mentioned above, irrespective of the country concerned, the public and private sectors tend to have a similar discourse, among which the following is worth mentioning:
 - Government representatives talk about control and verification, and that “the law is the law”. When a sector problem is raised, it is very common for the problem to be addressed in general terms such as “Let us pass a new law” or “establish an additional control”.
 - Representatives of the private sector mention that everything has to be simplified and that the Government must focus on controlling illegal timber instead of focussing on legal timber only. True, but practical solutions need to be proposed for Governments to change. It is easy to say “one must”.
 - It is interesting to see that representatives of the public and private sectors talk to one another, but they do not seem to reach conclusive agreements on how to improve [the industry]. It is as if each person were just repeating his / her arguments over the arguments of the other.
 - Although civil society makes constructive proposals, these proposals do not always succeed in steering all the stakeholders in the same direction. They either support the Government on issues of control and verification and disagree with the private sector, or they are in disagreement with the Government because of transparency issues. A creative role should be sought [for civil society] to respond to new challenges and not fall back into their traditional roles.
- On several occasions the need was mentioned to create measures that could have an impact on demand, such as public procurement policies.
- The private sector (small and large-scale) made it very clear that excessive paperwork was a big problem in the region. This is a complaint from almost all the countries. However, when asked to what extent a procedure had to be simplified, how it should be done, and with the participation of whom, the answers were not very clear. It could be useful to have discussions between the private sector and the other stakeholders to start defining how the procedures could be simplified, i.e. say who should decide on what needs to be simplified and based on what criteria.
- Despite the fact that forestry is paramount to the participants, major problems of governance and deforestation are the result of other activities removed from forestry itself, such as mining, livestock farming or agriculture. This is the reason why the forestry sector urgently needs to position itself politically if it wants to have a greater impact. This in turn requires that stakeholders join forces and speak as one.

TRAFFIC, the wildlife trade monitoring network, is the leading non-governmental organization working globally on trade in wild animals and plants in the context of both biodiversity conservation and sustainable development.

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