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**DEVELOPMENT OF CASE-STUDIES ON THE EFFECTS OF INSUFFICIENT FOREST LAW
ENFORCEMENT ON FOREST BIOLOGICAL DIVERSITY PROGRESS REPORT****I. BACKGROUND**

1. In paragraph 19 (e) of decision VI/22, the Conference of the Parties requested the Executive Secretary to develop, in collaboration with members of the Collaborative Partnership on Forests (CPF) and relevant bodies, at least two case-studies from each region, with voluntary participation by countries, on the effects on forest biological diversity of insufficient forest law enforcement. The studies and resulting report would address, *inter alia*, the following issues:

(a) Assessment of the unauthorized harvesting of forest biodiversity on: (a) fauna (including bushmeat) and flora; (b) indigenous and local communities; (c) revenue loss, at the national and local level;

(b) Identify the relationship between consumption in consumer countries and unauthorized harvesting activities, including through international trade, noting the decisions and pending work of the International Tropical Timber Organization, and identifying and analysing how market access measures can be used to support conservation of forest biodiversity, sustainable use of its components, and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, and also identifying and analysing market access obstacles for legally-obtained forest biodiversity products.

2. The resulting report was to be submitted to the seventh meeting of the Conference of the Parties for its consideration. The report should include recommendations for further implementation of the relevant areas of the work programme (element 1, goal 4, objective 2 and element 2, goal 1, objective 4) and should be provided for use by the liaison group on non-timber forest resources agreed in paragraph 42 of decision VI/22.

* UNEP/CBD/SBSTTA/11/1.

3. Although legislation related to forest biological diversity covers a wide range of activities, including harvesting of timber and non-timber products, national and international timber trade, land-use changes, and mining and other extractions of non-renewable resources, published information is largely available on illegal logging and associated timber trade due to its economic impacts. ^{1/} The Executive Secretary therefore decided to focus on illegal logging and associated impacts as a first step in response to the request by the Conference of the Parties.

II. CASE-STUDIES

4. The following process was used to implement the request as stated in paragraph 1 above: (a) call for case-studies; (b) literature search/review; and (c) compilation of information gathered under (a) and (b) and validation of information with national focal points.

A. *Call for case-studies*

5. In April 2004, the Executive Secretary sent out notification no. 42949 (7 April 2004) to national focal points, CPF members, and other relevant organizations, requesting voluntary submission of country case-studies that included an outline providing guidance on items to be addressed:

- (a) Description of the forest policy, main laws and regulations and the characteristics of forest management;
- (b) Discussion of illegal and unauthorized activities, related to insufficient forest law enforcement;
- (c) Impact of illegal activities on fauna and flora, indigenous and local communities, and local and national revenues;
- (d) Relationship between consumption in consumer countries and unauthorized harvesting activities;
- (e) Discussion of market access measures which could support the conservation of forest biodiversity; and
- (f) Market access obstacles for legally-obtained forest biodiversity products.

6. To date, the Executive Secretary received contributions from the following CPF members: Center for International Forestry Research (CIFOR), Food and Agriculture Organization of the United Nations (FAO), World Bank, and International Tropical Timber Organization (ITTO). Other organizations such as the International Institute for Sustainable Development, Greenpeace, World Wildlife Fund, and the Environmental Investigation Agency (EIA) also provided information. ^{2/}

B. *Literature review*

7. A literature search was carried out that also included country-related information collected at relevant meetings (mainly at the Joint UNECE-FAO Workshop on illegal logging, September 2004, Geneva, Switzerland), and through web-based searches.

8. An indicative list of relevant documents is attached as annex I. A summary of relevant information found in the literature is presented below.

^{1/} See for example, International Forestry Review Special Issue on illegal logging. Vol. 5 (3). 2003.

^{2/} Can be accessed at: <http://www.biodiv.org/programmes/areas/forest/case-studies.aspx>.

C. Overall findings

9. Illegal activities associated with logging and timber trade and their effects on forest biodiversity can occur at the land allocation, harvest, transport, processing, accounting, taxation, and trade levels (annex II). Therefore, analysing the impacts of unauthorized (illegal) activities on forest biological diversity presents several difficulties as it is an inherently multi-dimensional issue. Other complications arise. It is generally assumed that illegal logging has worse impacts than legal logging, but this is not demonstrated to be true in all cases. Finally, legal logging and associated trade can have, without incorporating technically sound biological considerations, negative impacts on forest biodiversity.

10. Furthermore defining what constitutes illegality is faced with often contradictions and/or inconsistencies at different levels of country government (e.g. federal, state, local). Also, inadequate or unclear forestry legislation at the national level precludes the use of a clear definition of illegality. In those countries where legislation is clear but illegal activities take place, it is often easier to detect illegal activities. Therefore, creating clear definitions of illegal activities from the level of extraction quotas to the end of the commodity chain, are needed in the first place in many locations. Accordingly, legislative reforms outside the forestry sector will also be necessary. ^{3/}

11. It appears that the magnitude of the effects of illegal activities and the adequacy of law enforcement vary greatly from country to country (activities that are illegal in one country can be legal in another one). Efforts have been made to improve forest related legislation, but in many other cases there is still lack of adequate forest policy and lack of adequate law enforcement and control. The causes of poor law enforcement and control of illegal activities in most cases are related to limited human and financial resources and lack of good governance.

12. Strategies aimed at reducing the supply of illegal timber need to address the underlying economic, social and political drivers behind unlawful activities—but it is recognized that these are highly interrelated. It is therefore difficult both to design and implement policies and practices that will usually need extensive legislative reform. Emerging activities at national and international levels such as forest law enforcement and governance (FLEG) initiatives will also require the design and testing of relevant indicators of performance in order to monitor progress in their implementation at the appropriate scale. ^{4/}

13. There is limited information on the specific impact of illegal logging activities on forest fauna and flora, and on local and indigenous communities. A great deal of information exist on the effects of logging on forest biodiversity ^{5/} and these apply to a large extent to situations of illegal harvesting. Nevertheless, some generalizations are described in the following sections below.

^{3/} Brack, D. 2003. Illegal logging and the illegal trade in forest and timber products. *International Forestry Review* 5: 195-198.

^{4/} Kishor, N. M. and K. L. Rosenbaum. 2003. Indicators to monitor progress of forest law enforcement and governance initiatives to control illegal practices in the forest sector. *International Forestry Review* 5: 211-218.

^{5/} Putz, F. E., K. H. Redford, J. G. Robinson, R. Fimbel, G. M. Blate. 2000. Biodiversity conservation in the context of tropical forest management. World Bank Environment Department Paper no. 75; and Meijaard, E. et al. 2005. Life after logging. Reconciling wildlife conservation and production forestry in Indonesian Borneo. Center for International Forestry Research, Bogor, Indonesia.

D. Impacts on fauna (including bushmeat) and flora

14. Examples of severe impacts of both legal and illegal, mechanized selective logging on wildlife have been reported in tropical forests, particularly those in equatorial Africa and South East Asia. ^{6/} In these countries, bushmeat hunting and commercialization increase when logging roads facilitate access to previously remote forest areas. This usually leads to intensified hunting and improved access to urban and sometimes international markets. There is not enough information to assess whether illegal or legal logging differ in rates of associated bushmeat hunting.

15. In addition to the direct local effects of habitat loss for flora and fauna, unsustainable (illegal) logging can also be detrimental to migrating fish stocks and other aquatic life in both inland and coastal areas.

16. The review also reveals that illegal logging is present in many forest protected areas. Although no detailed information on the impact on flora and fauna was provided, it can be assumed that these activities are likely to deteriorate the quality of the protected habitat.

E. Impacts on indigenous and local communities

17. Millions of people depend directly on forests for their livelihoods, especially in developing countries. This dependence varies greatly between regions, countries and social groups. However there appears to be relatively little information on the assessment of the impact of unauthorized or illegal activities on indigenous and local communities. In general, commercial logging (both legal and illegal) may affect indigenous and local communities in various ways. Although in the short term it can provide jobs, the social conditions offered to many logging company workers are often unfavorable and it is assumed that the social conditions are worse in companies that engage in illegal operations. Illegal logging is also more likely to drain local resources without re-investing at least part of the returns into local development.

18. What appears more evident from the review is that: (i) existing legislation in many countries often prohibits small-scale forestry activities; (ii) local and indigenous communities are often ill-equipped and/or poorly trained for undertaking legal forestry activities; and that (iii) local and rural communities in many countries are unrecognized by law as legitimate forest users. This may lead to further aggravating any violations to existing laws on local and indigenous communities and further marginalize them from legally productive activities. ^{7/} Nevertheless, some general impacts on indigenous and local communities can be identified: (i) lost income from forest products; (ii) lost job opportunities; (iii) threats to physical security; (iv) fewer access to forest resources and destabilization of traditional relationships with the resource; and (v) forest loss and its degradation. Implementing community-based approaches to law enforcement and enforcing laws that favor rural, local, and indigenous livelihoods can help to minimize impacts and encourage participation in forestry activities, particularly in localities where decentralized forest management is rapidly evolving. ^{8/}

^{6/} Bennett, E. L. and J. G. Robinson. 2001. Hunting of wildlife in tropical forests. World Bank Environment Department Paper no. 76.

^{7/} Kaimowitz, D. 2003. Forest law enforcement and rural livelihoods. *International Forestry Review* 5: 199-210.

^{8/} Larson, A. M. 2005. Democratic decentralization in the forestry sector: lessons learned from Africa, Asia and Latin America. In: Colfer, C. J. P. and D. Capistrano (eds). *The politics of decentralization*. Earthscan, United Kingdom.

F. Impacts on revenue loss at national and local levels

19. It is estimated that revenue loss due to illegal logging costs Governments at least US\$ 5 billion annually, with a further minimum of US\$ 10 billion lost to the economies of producing countries across major forest biomes. Revenues from illegal logging sometimes fund national and regional conflict and can cause widespread, collateral environmental damage.

20. Revenue loss can also be analysed in terms of the opportunity cost of 'wasted expenditure', that is, money which could have been invested on sustainable forest management by the national forest sector and foreign aid and that includes the costs of tackling illegal logging itself. In addition, illegal logging and associated ecosystem degradation contributes directly to the monetary loss of value of environmental services and other 'non-market' values provided by forests both at national and global levels.^{9/} Therefore, the need to improve law enforcement is clear if sustained provision of key forest ecosystem services that are relevant to human being is a goal.

21. Estimates of the quantity of illegal timber are often inaccurate as it generally refers only to the value of roundwood, and not to the whole chain of processing and trade. Thus for a better understanding of the economic impact of unauthorized activities it is suggested that the chain of custody, including logging, transport, processing and trade be analysed in more depth, in particular when sub-contractors, domestic trade and further processing are involved. This analysis could also contribute to the development of sound approaches to improve law enforcement such as tools and methods for independent verification and codes of practice.^{10/}

G. Relationship between consumption in consumer countries and unauthorized harvesting activities

22. At national and international levels, three main actions are needed to tackle consumption of illegally harvested timber (Brack, op. cit.). One is to reduce the demand for illegal logs, which in essence means the proper identification along the chain of custody of legally produced material. Certification schemes have an important role, as it implies that a certified product was legally harvested; certification systems that identify only the legality of production are also being explored as alternatives.

23. The other action is to reduce the supply of illegal timber and for this, legal and institutional reforms that target the underlying social, political, and economic drivers of illegal logging need to be implemented within the national and regional context of forest management and other productive sectors. Finally, controlling trade in illegal timber involves implementing law enforcement along the chain of production. International concern about illegal forestry activities has grown substantially and a number of efforts are already being directed at controlling the trade of illegally harvested timber along the supply and demand chain in the context of Forest Law Enforcement and Governance (FLEG) initiatives.

H. Preliminary conclusions

24. Although the synthesis presented in this note provide some indication of the effects of insufficient forest law enforcement on timber harvesting and its trade, it lacks both the perspective and views from

^{9/} Pearce D., Putz F., Vanclay J., 1999 – *A sustainable forest future?* Report prepared for Natural Resources International, United Kingdom and the United Kingdom Department for International Development. Department of Economics, University College, London.

^{10/} Dykstra, D. P., G. Kuru, R. Taylor, R. Nussbaum, W. B. Magrath, and J. Story. 2003. Technologies for wood tracking: verifying and monitoring the chain of custody and legal compliance in the timber industry. The World Bank, Environment and Social Development Department, East Asia and Pacific Region, Washington, D.C. 68 p.

countries due to the absence of voluntary submissions (as requested in paragraph 19 (e) of decision VI/22).

25. As a next step, and as requested also in the above decision, the Executive Secretary will undertake an assessment of the effects of unauthorized harvesting on fauna (including bushmeat) in order to provide recommendations to Parties on bringing bushmeat hunting to sustainable levels. This assessment will facilitate the implementation of objective 2 of goal 4 of programme element 1 of the expanded programme of work on forest biological diversity.

Annex I

INDICATIVE LIST OF REFERENCES CONSULTED

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Annex II

ILLEGAL ACTIVITIES ASSOCIATED WITH THE TIMBER TRADE ^{11/}

Illegal logging

- Logging in breach of contractual obligations (e.g. without an environmental impact assessment);
- Illegally obtaining concessions through, for example, corrupt means;
- Logging nationally-protected species without explicit permission;
- Logging outside concession boundaries;
- Logging in prohibited or protected areas and in forests with important protective functions, such as steep slopes or designated riparian zones;
- Laundering illegal timber through a concession;
- Use of old log permits or licences to collect illegally felled timber to 'sanitize' illegal timber;

Timber smuggling

- Log import/export in defiance of trade restrictions and/or national control measures;
- Unauthorized or unreported movements across State boundaries;
- Avoidance of CITES restrictions;

Misclassification

- Under-grading and misreporting harvest;
- Under-valuing exports;
- Misclassification of species to avoid trade restrictions or higher taxes.

Transfer pricing

- Nil profit accounting and manipulating revenue flows for services to avoid revenue.

Illegal processing

- For example, at unlicensed facilities.

Grand corruption

Characterized by long-term, strategic alliances with high level of mutual trust. For example, companies providing support to senior politicians, political parties or major components of a State's apparatus to:

- Obtain or extend a concession or processing licences;
- Avoid prosecution or administrative intervention for non-compliance with national legislation;
- Negotiate favourable terms of investment, i.e. tax holidays or non-collection of statutory duties etc.

Petty corruption

Shorter-term, more tactical, employer-employee relationship, facilitated by and may develop into grand corruption. Most obvious as graft given to or solicited by junior officials to:

- Falsify harvest declarations;
- Avoid reporting restrictions;
- Overlook petty infringements;
- Ignore logging or laundering of logs from outside proscribed boundaries.

^{11/} Adapted from Brack, D. 2003. International Forestry Review 5(3).