

Working Paper

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Corruption in Logging Licenses & Concessions

Corruption is one of the main drivers of illegal logging. It runs through the whole timber production and marketing chain. Corruption in logging is fuelled by a range of factors,¹ such as the lack of institutional capacity to monitor and enforce existing legal and policy frameworks, low transparency and accountability, and overall weak governance.²

In most countries, the government is legally the largest landowner and the key actor overseeing national logging matters.³ The majority of the global timber trade, estimated at US\$ 120 billion annually, is produced as a result of government contracts. These are often assigned through public tendering processes and include licenses and concessions.⁴ Licenses and concessions refer to contracts extended to companies for the use and cutting of forests. The only difference is that concessions also give a contractor access to a demarcated piece of land for extraction or processing of timber.

But such contracts concentrate power in the hands of those who award them and are highly lucrative to the companies that win them. This situation leads to a high risk of corruption. If public contracting processes are misused by corrupt individuals who decide on the basis of what is most beneficial to them personally, rather than the public good, environmental degradation and over-exploitation of natural resources will be the likely outcome.

The Tropical Connection

Timber from tropical wood, which comes from more fragile ecosystems in the South, accounts for around 40 per cent of total log production, and 25 per cent of total global exports of wood.⁵

Asia, the region of focus in this paper, accounts for about 20 per cent of the tropical wood trade worldwide.

1. The corruption of logging licenses and concessions

Licensing and concession agreements govern approximately 90 per cent of the industrial wood harvested worldwide.⁶ When falsely and illegally issued, they lead to the loss of revenue to governments and royalties to land owners. In many countries the awarding of concessions and other licenses for logging has been the result of political patronage rather than an open competitive tender. Patronage can manifest in timber licensing and concessions through the acceptance by forestry officials of inducements for the omission of duty or commission of crime.⁷

Corrupt practices in the forest sector have far reaching impacts. Corrupt logging companies and a few 'bought' officials stand to gain, while local forest communities, the economy and the nation as a whole lose out on revenue, services and forest resources that future generations are entitled to. According to the World Bank, developing countries forfeit roughly US\$ 15 billion in revenue each year due to trading in illegal logging.⁸ In Indonesia alone, it has been estimated that more than US\$ 2 billion in revenues has been lost in one year (2006) due to taxes foregone on illegal logging, artificially low forest royalties and illicit transfer pricing.⁹

Where corruption exists, contracts extended to timber companies — either through a license or concession — rarely reflect world market prices. Forest concession rights are often owned and regulated by government institutions, who distribute them to companies at fixed rates rather than specifically assessing the value of the land. Even if national or regional forest governance programmes are well-designed, international timber concessionaires may impede implementing the strategy as a result of their undue influence in political circles and asymmetrical bargaining power with governments.

Through corrupt practices such as bribery and cronyism, companies and those in authority can easily turn a blind eye to local peoples' complaints about how the forests are being treated. Systematic bribes paid by companies to forestry officials for the issuance of logging permits have been reported all over the Asia Pacific region, including Malaysia,¹⁰ Laos¹¹ and Indonesia.¹² When complaints have been raised against the illegal buying of licenses and other corrupt company practices, governments have at times ruled against their own citizens and in favour of companies.

2. Drivers of corruption: reasons and symptoms

The use of corrupt means to secure illegal licenses and concessions to exploit a country's forests do not stop once the contract has been issued. Opaque licensing, government's insufficient enforcement capacity and timber companies' undue influence over political decision-makers create broader corruption challenges for the sector and nations that rely on their forests as a key part of their economy. The spillage of corruption from licensing into other areas of forest management can lead to large-scale deforestation and degradation.¹³

Addressing corruption in licensing and concessions begins by understanding some of the key sources and manifestations of it:

Lack of proper public procurement practices: These problems may be symptoms of more generally dysfunctional and ineffective procurement rules and regulations in a country. The significant areas for corruption in logging licences and concessions include bribery of government officials, collusion and lack of transparency surrounding the award of contracts.

Lack of accountability and transparency of contracts: A major issue in the awarding of contracts to timber companies, either as licences or concessions, has been the lack of a transparent, competitive and public process. Many times, contracts have been awarded under the fair market value and without disclosing where the land is located and the identity of the concession holder.¹⁸ This is a particular problem when only the names of local concession holders are made available, while the names of the subcontractors or parent companies remain undisclosed (see side bar).¹⁹

Patronage systems and political leverage: The issuance of forest related licences and concessions is often linked to patronage systems, where political elites receive financial benefits from logging companies. These benefits can range from 'study' trips abroad to the provision of financial support for electoral campaigns. In turn, political elites exert their influence in the issuance of licences and awarding of concession areas. Actions that are taken to 'legalise' otherwise illegal and improper conduct by companies may increase the political elite's manipulation of the sector's regulatory framework.

Non-compliance with the procedures and legal requirements: Logging licenses obtained through non-compliance with set procedures and legal requirements may arise in cases where public officials turn a blind eye to irregularities or where applicants forge documentation to prove compliance with regulations when in fact they have not done so.

Inadequate consultation with landowners: In countries like the Solomon Islands, where the majority of land is held collectively by traditional communities, one of the main issues is that inadequate consultations have allegedly taken place with landowners during the negotiation and licensing process of the country's forests.²⁰ Moreover, the reported bribing of selected landowners to allow logging to take place on their lands has been signalled as contributing to social conflict in the country.²¹

Institutional weaknesses: Insufficient budget allocations to governments' forestry agencies have reduced their enforcement and monitoring capacity. Similarly, low wages of forestry officials may entice them to accept bribes from logging companies and act in their favour when issuing licences. For example, in Indonesia, one district regent was sentenced to 11 years in jail after being found guilty of illegally endorsing authorisation letters for the use of the local forests.²² Even when officials try to properly execute their duties, forestry officials still may be subject to external pressure or political directives from more senior officials to illegally grant licenses and concessions.

The nature of transnational companies: The cross-border operations of transnational companies often make it difficult to track or trace financial transactions and exert effective control over their operations within a country. Companies can often flout greater accountability and responsibility through the reliance on opaque chains of sub-contracting and the decision to produce company annual reports that do not provide a country-by-country breakdown of operations.²³

3. The impact of corruption

Once granted through corruption, licenses and concessions can be used outside the legal remits. Concession terms are violated by extracting more timber than authorised, logging protected species, operating outside of strict concession boundaries, duplicating licenses, or misstating the logged volume.²⁴

What's in a Name?: Global Giants and Local Front Companies

The use of domestic 'front' companies in logging makes it difficult to trace international timber companies' operations and financial dealings, and to ensure the local accountability of their actions.

In Papua New Guinea the practice by global logging conglomerates of operating through other locally-registered companies reportedly has permitted large players to dominate the country's forestry sector without the commensurate levels of oversight.

In Cambodia, the haphazard nature of obtaining local logging permits has been blamed for allegedly allowing transnational companies a means to easily gain access to primary forests in the country.¹⁴ Cambodia's forests are under severe pressure after shrinking by 30 per cent in the first part of the last decade (2000 to 2005).¹⁵

Mixing Business with Politics

News reports allege that in the Solomon Islands, a number of politicians have business connections with Rimbunan Hijau, a Malaysian company and the region's biggest industrial logger.¹⁶ The company operates subsidiaries around the world, seven of which have operations in the Solomon Islands.¹⁷

Rimbunan Hijau has been the subject of criticism by governments and environmental organisations in a number of countries, including neighbouring Papua New Guinea, for rights and environmental abuses.

Corruption Risks to Indonesia's Forests: The Case of Aceh

In Aceh, Indonesia, there is estimated to be a high risk of corruption in licensing given that opportunities for expanding timber operations are limited despite the province's richness in forests. The province is extensively covered with forests, largely protected and publicly owned, leading to licensing being required to extract timber.

Concerns about corruption risks in licensing have been voiced in the case of the Tripa region that is covered with peat swamps and forests and which is a habitat for endangered species like the Orangutan.

Local advocates are worried that private companies are encroaching on the lands to use for oil palm plantations and that timber licensing processes are not following the established rules.²⁶

Corruption siphons off the funds destined for the public purse, either by underpricing contracts or simply by never putting the money paid in the government's coffers. Corruption in logging licensing and concessions is not only a market failure but it also causes undesirable results for a nation's governance and democratic processes. When licences and concessions are not granted in an open, fair, transparent and consultative manner, it undermines trust in government, promotes secrecy and prevents accountability to citizens. The collusion that usually accompanies corruption in timber licensing and concessions proscribes any opportunity for public participation and voicing concerns. Such an omission seriously undercuts the principles of ownership and engagement on which democratic governance is founded.

Corruption that begins in timber licensing also becomes very corrosive to other sectors, as it breaks down the web of processes, laws and regulations overseeing the forestry sector and beyond. If government actors, such as forestry licensing agents, are regularly seen to break the law, there is no incentive for others to not do so. Corruption in licensing can lead to a 'resource curse' as in other extractive industries such as oil, gas and mining. This can result in a culture of widespread corruption, and a country that comes to rely on foreign companies for government revenues rather than its taxpayers.²⁵

Underlying all the effects from corruption is the fact that illegal logging destroys forests and the livelihoods of the communities that have depended and coexisted with them. Corruption violates any notion of sustainability and biodiversity, and accelerates the devastating destruction of forests and the impending calamity of climate change.

4. The way forward

To effectively curb corruption, political will and state support is a pre-requisite. However, wherever corruption and patronage systems are entrenched within politics, anti-corruption measures may be seen to threaten the status quo. It was not until a change of government occurred in the Philippines that logging licences were cancelled as a result of claims of collusion.²⁷ Moreover, wherever legislation is unclear, open to interpretation, or does not impose transparent procedures for the processing and awarding of logging licences and concessions,²⁸ it will encourage malpractice to continue.

Measures to combat corruption in logging licences and concessions must take into account these political dimensions and seek out collaborative approaches to the problem. Steps for action should address the underlying root causes of the issue at the local, national and international levels.

Potential areas for work could include:

Assessing the existing situation: Each country situation is different and confronts different corruption risks. Some countries may have better enforcement systems while others have better access to information (as a result of greater press freedoms). A first step should be to assess the current situation to determine the extent of corruption in licensing and concessions, and to identify the major corruption issues and root causes in order to formulate an appropriate anti-corruption strategy. (The Transparency International Forest Governance Integrity Risk Map and Monitoring Tool may be useful here). The assessment should include a review of legislative powers and regulations and their capacity to effectively control the discretionary powers of decision-makers.²⁹

Strengthening procurement systems: Procurement can be improved through efforts to develop the capacities of officials responsible for the awarding of

licenses and concessions. Systems and measures also need to be in place to prevent and report corruption. These can include codes of conduct, whistleblowing systems, improved audit and control systems, and effective complaints and appeals mechanisms accessible to competitors. All these factors help to create an enabling environment for transparency and accountability in procurement and make more effective the prevention of corruption during the award process.

Improving transparency: Greater transparency should be promoted across the board. In the case of licenses, this can be done through open tender systems, full information on the funds paid for licenses and concessions, and increased data on how money from licensing fees is used by governments. Citizens armed with this information can help to convince or pressure governments to apply earnings from licensing and concessions for the public's benefit. TI's Integrity Pact (IP)³⁰ — a tool aimed at preventing corruption in public contracting — may be useful for increasing transparency (see side bar).

Strengthening monitoring and enforcement mechanisms: Monitoring mechanisms that are used should cut across government agencies. They should be effective at monitoring, sharing information and enforcing existing regulations for licensees and concessionaires. Forestry officers should be trained to use technical information (such as satellite based assessments), enforce regulations and be able to cooperate with local communities and the police in order to prosecute offenders. The Independent Forest Monitoring projects of Global Witness,³¹ which have been pioneered in Cambodia and Cameroon, are a successful example of such partnerships. It is also essential to involve local communities in monitoring as they know the region and its timber resources best, and stand to lose the most in the long term.³²

Effective national integrity institutions: From top to bottom, anti-corruption and integrity institutions at all levels should be strengthened in order for the public to have confidence to report corruption-related cases that occur in the forestry sector and to expect that some action will be taken. Corruption cannot be curbed in isolation. For the sector to have integrity, all the components of a country's integrity system need to be put in place or strengthened. The National Integrity System assessment, developed by TI, provides one framework for guidance. Areas to consider and strengthen include pillars that contribute to integrity in a country: a free and robust media, an ethical and non-corrupt business sector, a strong and well-trained judiciary, and auditors and ombudsmen, among others. Allowing environmental non-governmental organisations space to operate is also necessary, as civil society groups can act as observers and monitors, and publish reports of incidences of corruption.⁶

Integrity Pacts for Logging Licenses and Concessions

An integrity pact consists of a process that includes an agreement between a government or a government department and all bidders for a public contract to abstain from corrupt practices.

The pact typically contains the rights and obligations by each party that it will not pay, offer, demand or accept bribes; collude with competitors to obtain the contract; or take part in related abuses while carrying out the contract. The pact also provides for setting up an independent monitoring system to ensure oversight and accountability.

Along with these pacts, access to information laws and general guidelines for providing information to local communities and landowners on their rights and how to report violations, often help to ensure that corruption risks are spotted early on in any public contracting process related to forestry.

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