

# CORRUPT AND ILLEGAL ACTIVITIES IN THE FOREST SECTOR

Current Understandings and Implications for the World Bank

Background Paper for the 2002 Forest Strategy

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## INTRODUCTION

In 1998, the World Bank commenced a review of its forest policy and its own role in the forest sector. This review, the Forest Policy Implementation Review and Strategy Development (FPIRS)D aims to better direct the Bank's assistance in forest management and consultation in collaboration with other major stakeholders.

The FPIRS)D will be underpinned by selected analytical studies that document current knowledge and views on the crucial issues and questions surrounding forest conservation and management.

This report is one such study. It examines corrupt and illegal activities in the commercial forestry sector and suggests strategies for the Bank to assess and address this problem. *So why should the World Bank be interested in combating illegal and corrupt acts in the forestry sector?* The short answer is that such actions can have a range of negative economic, ecological and social impacts and act as a direct impediment to achieving sustainable forest management (see Section 1.3.2). Therefore, illegal forestry activities serve to directly undermine the Bank's objectives of poverty reduction and sustainable development through improved forest management and forest protection.

Detailed documentation of illegal activities in the forest sector is a relatively recent phenomenon. Determination of strategies to combat it have received less attention, a practice which has extended to its lack of consideration in forestry planning exercises (Contreras-Hermosilla 1997). This failure to analyse what can be an important influence on forestry operations, has been suggested as a significant factor in explaining some forest sector planning failures.

The emphasis in the terms of reference for this analysis is on corruption and identification of strategies to deal with it (Appendix A). Nevertheless, this report also looks at illegal forestry actions more broadly<sup>1</sup>, in recognition of the fact that addressing corruption may only be part of the solution for achieving a legally operating forest sector. However, given their close interlinkages, for the purpose of this report unless otherwise clarified, the terms 'corrupt' and 'illegal' forestry activities should be read as referring to the same generic issue.

Examples of corruption documented in this report come from developing countries and economies in transition<sup>2</sup>. While generally speaking these countries are more susceptible to corruption, this is not meant to infer that such countries are the only ones where illegal activities occur in the forest sector. Rather, this emphasis reflects the Bank's principal area of interest for its forestry assistance efforts. Indeed, it would seem reasonable to assume that the forest sector of any country, no matter how 'developed' the country and 'well-managed' its forests, suffers from some illegal activity at some time.

The first two sections describe the issue and potential solutions, with the last outlining a role for the World Bank in addressing this challenging problem. The report describes the nature and extent of the problem, resulting impacts, and the underlying conditions that promote and facilitate corruption. This is followed by

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<sup>1</sup> It is entirely feasible that illegal activities could be occurring where corruption by officials does not play a role. For example, illegal logging in remote areas that goes undetected because of inadequate enforcement resources.

<sup>2</sup> Countries in transition includes all countries in Eastern Europe and the former USSR. Developing countries refers to all countries in Africa, Asia, Oceania and South, North and Central America, except for South Africa, Israel, Japan, Australia, New Zealand, Canada and the United States of America (FAO 1997).

discussion of strategies that can be employed to combat illegal and corrupt activities. Both these sections commence with a short analysis of the issue as it applies to corruption generally<sup>3</sup>, followed by a more detailed description specific to the forestry sector. The final section uses the preceding analysis to draw conclusions on the implications of illegal forestry activities for the World Bank's forest policy. It suggests strategies for the Bank to address the issue in the short and medium and term, including suggestions for case studies to investigate the issue further and test suggested remedial actions.

## CHAPTER 1

### 1. DESCRIBING THE PROBLEM: ITS NATURE, CAUSES, SCALE AND IMPACT

*Simply to list examples of corruption,... gives little sense of the amount of corruption, or its weight. ...It may be embedded in a wider, but non-corrupt, framework of inept governance (mismanagement, lack of accountability, arbitrary decision-making and so on) that provides the opportunity for specifically corrupt acts... (Lamour 1997, p.10)*

The above comments were made in relation to governance issues in the South Pacific, an area that has had its problems with illegal and corrupt forestry practices. They are as relevant to the forestry sector as any other.

Forest management embraces the legal, economic, administrative, social and technical measures related to the conservation and utilisation of forests (FAO 1997). Given this, it is clear that illegal and corrupt actions in the forestry sector must be seen as a problem of forest management. Likewise, they cannot be divorced from the broader context of law enforcement or integrity of public officials. A simple analogy is the illegal drug trade, which has numerous components, including law enforcement, public health, rural development and so on.

This chapter therefore looks at forest corruption from both angles. Greater attention is given to providing general descriptions of issues relating to corruption and illegality in general, rather than to generic principles of 'good' or 'bad' forest policy and management. The latter issues are widely dealt with in forestry literature and are being examined in great detail in other parts of the FPIRS process. There is, however, far less information on how broad issues to do with corruption translate into the forest sector.

The description of the nature, causes and impacts of illegal forestry activities provided in this chapter serves a number of purposes, that are explored in later chapters. Firstly, identification of the types of illegal and corrupt activities that can and do occur in the forestry sector is a fundamental pre-condition to identification of any solutions. If you don't know what the problem is, how can you know how to fix it, or even that it requires attention in the first place? Directly linked to this is substantiation of what can cause these actions to occur. Again, this is a necessary step in addressing the problem. Thirdly, the discussion of scale serves to indicate the serious extent of this issue and the negative impacts that result from it at the economic, ecological and social level. The determination of the size of the challenge is also important in deciding on a course of action to tackle it — one that involves neither too much nor too little effort.

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These discussions will be brief — there is a sizeable literature on the issue of corruption and it is outside the scope of this paper to review this in detail. However, interested readers can get a comprehensive overview of corruption from publications such as the Transparency International Source Book (Pope 1996) or Tanzi (1998).

## 1.1 Types of corrupt and illegal activities

### 1.1.1 What is corruption?

Corruption can and has been defined in many ways, however the definition that has been adopted by the World Bank is *the abuse of public office for private gain* (World Bank 1997). It can occur in both public and private sectors and may also involve actions that are designed to provide benefit for others close to the perpetrator, such as family, political allies and so on. Key elements is that the action is intentional, involves an improper or non-compliant action and is aimed at deriving a benefit for oneself or others close to them.

Corruption can be further divided into 'grand' and 'petty'. Transparency International describes grand corruption as being characterised by a the involvement of a large bribe, paid to a top government official or politician; petty corruption involves a small bribe given to a junior public official (Pope 1996). Tanzi (1998) has a slightly different interpretation, defining petty corruption as that involving the bureaucracy and grand that which involves politicians. The application of this definition to activities in the forestry sector is discussed below.

### 1.1.2 Corrupt and illegal activities in the forestry sector

Examples of the types of illegal practices that have been detected in the forest industry are shown in Box 1<sup>4</sup>. They largely fall into three categories: illegal logging of various forms; movement of wood products, which may or may not have been harvested legally, without proper authorisation or in contravention of controls; and activities directly aimed at avoidance of payment of taxes or forestry charges. It should be noted, however, that both illegal logging and timber smuggling will also result in the loss of government revenue in many instances, particularly where the two activities are operating together.

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#### **BOX 1: ILLEGAL PRACTICES IN THE FORESTRY SECTOR**

##### ***Illegal Logging***

- . Logging timber species protected by national law<sup>5</sup>.
- . Buying logs from local entrepreneurs that have been harvested outside the concession.
- . Logging outside concession boundaries.
- . Contract with local forest owners to harvest in their land but then cutting trees from neighbouring public lands instead.
- . Logging in protected areas such as forest reserves.
- . Logging in prohibited areas such as steep slopes, river banks and catchment areas.
- . Removing under/over-sized trees.
- . Extracting more timber than authorized.
- . Logging without authorization.
- . Logging when in breach of contractual obligations (e.g. pre-logging environmental impact statement).
- . Obtaining concessions illegally.

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<sup>4</sup> For more specific examples of illegal and corrupt activities in the forestry sector should refer to reports which provide compilations of such actions, including Callister (1992), de Bohan (1996) and World Rainforest Movement and Forests Monitor (1998).

<sup>5</sup> Some authors (Contreras-Hermosilla 1997; de Bohan, *et al.* 1996; Krishnaswamy & Hanson 1999)) also list 'logging timber species protected by international law such as the Convention on International Trade in Endangered Species of Fauna and Flora (CITES)' as illegal logging. This is incorrect, as CITES' provisions only apply to *international trade* and do not prescribe domestic controls over logging of CITES-listed species.

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### ***Timber Smuggling***

- . Export/import of tree species banned under national or international law, such as the Convention on International Trade in Endangered Species of Fauna and Flora (CITES)<sup>6</sup>.
- . Export/import of tree species listed under CITES without the appropriate permits<sup>7</sup>.
- . Export/import of log, lumber or other timber product in contravention of national bans.
- . Unauthorized movement of timber across district or national borders.
- . Movement of illegally logged timber from forest to market.
- . Exporting volumes of forest product in excess of the documented export quantity.

### ***Practices Specifically Aimed at Reducing Payment of Taxes and Other Fees***

- . Declaring selling forest products at prices below market prices to reduce declared profits and corporate and income taxes.
- . Declaring buying inputs at prices above market prices to reduce declared profits and corporate or income taxes.
- . Manipulation of debt cash flows (transferring money to subsidiaries or a parent company where debt repayment is freer than the export of projects; inflating repayments allowing untaxed larger repatriation of profits, reducing the level of declared profits and, therefore, of taxes).
- . Overvaluing services received from related companies to reduce declared profits and corporate and income taxes.
- . Avoiding royalties and duties by under-grading, under-measuring, under-reporting and under-valuing of timber and mis-classification of species.
- . Non-payment of licence fees, royalties, taxes, fines and other government charges.

### ***Illegal Timber Processing***

- . Processing timber without documentation (if required) verifying its legal origin.
- . Operating without a processing licence.
- . Operating without other necessary licences and approvals (e.g. effluent disposal permits).
- . Failing to meet licence provisions, including pollution control standards.

Source: Adapted from Callister 1992; Contreras-Hermosilla 1997; de Bohan, *et al.* 1996; Krishnaswamy & Hanson 1999

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Corruption — paying of bribes, political patronage and so on — operates either to allow many of these activities to occur in the first place, or to allow them to proceed unchecked or unpunished. Examples of corrupt activities which have been observed in the forest sector are given in Box 2. These are divided into ‘grand’ and ‘petty’ corruption, with the distinction largely based on who is acting corruptly and their rank and status in the community, rather than the size of the bribe or the scale of the impact of the resulting activity. Note that I have diverged from the definition of Tanzi (1998), by including corruption involving bureaucrats under the category of ‘grand’ corruption. Some corrupt activities can span either category, such as payment to avoid prosecution for transgressions.

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<sup>6</sup> Applies to CITES Appendix I-listed taxa only.

<sup>7</sup> Applicable to CITES Appendix II and III-listed taxa.

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## **BOX 2: EXAMPLES OF CORRUPTION IN THE FORESTRY SECTOR**

### ***'Grand' Corruption***

- . Companies providing support to political parties, bribing politicians, bribing senior government officials or military officers, to:
  - obtain a timber concession;
  - obtain extensions to existing concessions;
  - obtain approval for a timber processing venture;
  - avoid prosecution for transgressions;
  - avoid payment of fines or other fees; and
  - negotiate favourable concession/investment agreements, including tax holidays and other investment incentives.
- . Politicians and high-ranking military and government officers using their status to effect the same outcomes as listed above, for their own companies or those of relatives or political allies.
- . Companies bribing local communities to influence them to agree to the granting of timber harvesting rights.

### ***'Petty' Corruption***

- . Companies bribing junior government officials, military personnel and local government officials to:
  - falsify declarations of volume or species harvested;
  - avoid reporting harvesting of prohibited species or diameters;
  - falsify export documentation or ignore document irregularities;
  - avoid reporting and prosecution for non-compliance with forest management regulations established in the concession contract;
  - permit illegal movement of timber;
  - ignore logging in protected areas and outside concession boundaries;
  - allow timber processing without the necessary approvals; and
  - ignore infringements of timber processing regulations, including pollution controls.

Source: Some 'petty' corruption actions adapted from Contreras-Hermosilla 1997.

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The distinction between grand and petty corruption is not always clear and the division in Box 2 should be used as a general guide only. Situations involving provision of inducements to local communities is particularly problematic. For timber companies, the dollar value of the bribe may be low, but given that in some countries (e.g. Papua New Guinea) approval of local communities is key for obtaining timber concessions, I have elected to include these as grand corruption. In some contradiction to what is stated above, this reflects the ultimate goal of the bribe (obtaining a timber concession), rather than the scale of the bribe and who it is paid to.

The distinction becomes further blurred in situations where, for example, there may be distribution of the income received from bribes through the system, from lower to higher-level officials or vice versa. Is this grand or petty corruption? Likewise, how do you classify situations such as systematic and on-going illegal logging, or illegal cross-border trade, where local officials or military personnel are accepting the bribes, but senior officials, military officers and/or politicians are aware of the situation and take no steps to stop it? If the latter are accepting bribes also, then they are clearly corrupt; if not, does condoning corruption make them also corrupt, or just apathetic? As for the grand versus petty corruption question, it is entirely feasible that both types of corruption may be involved in facilitating a particular illegal activity.

These examples illustrate that the distinction between the two types of corruption is less important than the need to recognise and find solutions, based on the individual circumstances of each activity. This is addressed in more detail in subsequent chapters.

Another way of categorising corruption is based on the incentives of the briber (Pope 1996). Transparency International gives four broad categories of bribery according to the type of gain to be achieved (Box 3). Categories 1 and 2 seem most pertinent to the forestry sector, but scenarios can be developed for all four.

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### ***BOX 3: CATEGORIES OF BRIBERY, WITH EXAMPLES FROM FORESTRY***

***Category 1: Bribes may be paid for (a) access to a scarce benefit, or (b) avoidance of a cost.***

- . Obtaining a timber concession.
- . Purchase of newly privatized forest sector-related firm (particularly relevant to economies in transition).

***Category 2: Bribes can be paid for receipt of a benefit (or avoidance of a cost) that is not scarce, but where discretion must be exercised by state officials.***

- . Avoiding payment of royalties, duties or other taxes.
- . Ignoring illegal logging and/or breaches of concession terms and conditions.
- . Allowing timber smuggling to occur.

***Category 3: Bribes can be paid, not for a specific public benefit itself, but for services connected with obtaining a benefit (or avoiding a cost), such as speedy service or inside information.***

- . ‘Fast-tracking’ processing of logging approval applications.

***Category 4: Bribes can be paid (a) to prevent others from sharing in a benefit or (b) to impose a cost on someone else.***

- . Paying law enforcement officials to raid competitors’ timber processing facility.

Source: Categories from Pope 1996.

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An issue which has drawn particular attention over recent years, and is therefore worthy of highlighting, is concern over corrupt and illegal practices by trans-national logging companies. Allegations of corrupt actions by such companies are being increasingly widely documented<sup>8</sup>, with particular concerns raised regarding companies originating from South East and East Asia. While the range of alleged and proven improprieties is diverse, a significant recurring theme is the alleged bribery or patronage of political figures in order to obtain concessions. In the case of some companies, similar allegations of favourable treatment through political allegiances are leveled at their operations in their country of origin.

One area of corruption which has not been mentioned, are corrupt activities purely within private companies. This has been documented, for example, in a case in Australia, where a timber importer testified in court that he routinely paid bribes to Malaysian timber merchants, in order to guarantee a cheap supply of product (Davey 1991). While such activities do not clearly fit within the definition of corruption

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<sup>8</sup> Reports which critically discuss the role of TNCs in the forest sector include, *inter alia*, Colchester 1995; Dauvergne 1997; de Bohan, *et al.* 1996; Dudley 1995; SKEPHI 1996; World Rainforest Movement & Forests Monitor 1998.

given in Section 1.1.1 ('abuse... of *public power...*'), this example illustrates that bribery is also taking place within the private forestry sector.

Finally, it is important to note that while corrupt activities will almost certainly be illegal, not all illegal activities in the forest sector require corruption in order for them to occur. (As already noted, however, corruption can facilitate illegal activity, or stop the perpetrator being held accountable). This means that tackling corruption alone may be insufficient to deal with all aspects of illegal activities in the forestry sector of a particular country. This point will be elaborated on in Section 2.1.

## **1.2 Facilitating Factors**

### ***1.2.1 Causes of corruption — general***

Corruption can be fostered by a range of factors, both direct and indirect (Box 4). Those most likely to be related to 'grand' corruption include (2), (5), (6) and (12). Additional to these more specific issues, poverty is also both a cause and an effect of corruption (Pope 1996). The distinction of Tanzi (1998) between direct and indirect issues that impact on the likelihood of corruption, is only one way in which to categorise contributing factors. They can also be grouped according to whether they are related to the overall social, political and administrative environment, versus those related to project and program implementation (Tables 1 and 2, respectively). Comparison of these Tables with Box 4 indicates a number of common elements.

The following section explores these factors as they relate to the commercial forest sector.

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#### ***BOX 4: FACTORS CONTRIBUTING TO CORRUPTION***

##### ***Direct***

- (1) Rules, regulations, permits and authorizations.
- (2) Taxation regimes and tax administration.
- (3) Public expenditure decisions, including public investment projects, procurement spending and extra-budgetary accounts.
- (4) Provision of goods, services and resources at below-market prices.
- (5) Discretionary decisions including: provision of tax incentives; decisions on land use; authorization of foreign investments; sale of the right to extract natural resources; decisions relating to privatization of state-owned enterprises; and provision of monopoly power over import, export or domestic activities.
- (6) The need to finance political party operations.

##### ***Indirect***

- (7) Quality of the bureaucracy.
- (8) Level of public sector wages.
- (9) Penalty systems, including the size of penalties specified in law and those imposed in practice.
- (10) Institutional controls including: honest and effective supervisors; a free press; effective audit procedures; rules on ethical behaviour; and the existence of anti-corruption commissions.
- (11) Lack of transparency of rules, laws and processes.
- (12) Examples provided by the leadership, particularly political leaders.

Source: Tanzi 1998

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**Table 1: Legal, social and administrative factors that impact on corruption: characteristics and effects** (Source: Anon. undated, p.4)

<b>Environment</b>	<b>Factor</b>	<b>Characteristic Facilitating Corruption</b>	<b>Effect</b>
Legal and Social	Legal framework Enforcement Tolerance of corruption Politicization  Social support for development objectives Press	Weak Weak High High  Low  Controlled	No legal constraints Low risk of being caught No public condemnation Political interference in regulation or resource allocation Society unconcerned about development impact Lack of independence and investigative reporting
Administrative	Institutional capacity  Structure  Decision making process  Discretion Financial accountability Performance accountability  Trust	Low  High  Hierarchical  Centralized  High Low Low  High	Incompetent bureaucrats lack ability to monitor use of funds Bureaucrats are competent but dishonest Low level staff afraid to question decisions of superiors Decisions made by few bureaucrats remote from beneficiaries Individual control over use of funds Few checks on use of funds No evaluation of whether funds have achieved stated objectives Beneficiaries and public accept stated achievements

**Table 2: Program/project planning and implementation factors that impact on corruption: characteristics and effects** (Source: Anon. undated, p.5)

<b>Program/Project Planning &amp; Implementation</b>	<b>Factor</b>	<b>Characteristic Facilitating Corruption</b>	<b>Effect</b>
Planning	Planning process  Beneficiary targeting  Beneficiary participation	Centralized  Low  Low	Planners remote from beneficiaries more susceptible to pressure from special interest groups Funds can be diverted from planned beneficiaries Beneficiaries have little control
Monitoring & evaluation	Monitoring and evaluation	Low	Little accountability
Design	Investment Land tenure Beneficiaries: exclusiveness  Beneficiaries: groups or individuals Number & variety of groups Size of groups Capacity/social capital of groups	High Uncertain Exclusive  Individuals  Few uniform Small Low	Incentives for corruption high Property rights can be manipulated Benefits controlled by small numbers so strong incentive to make corrupt payments to maintain control Ditto  Ditto Ditto Benefit distribution open to manipulation by outsiders

Program/Project Planning & Implementation	Factor	Characteristic Facilitating Corruption	Effect
	Perception of risk Intermediaries Transparency	High Absent Low	Beneficiaries prone to seek quick returns through corrupt practices No independent agency committed to protect rights of beneficiaries Information restricted so that beneficiaries and public not aware of objectives and achievements
Outcome	Value of benefits/incentives Short or long-term benefits/incentives Direct subsidies or grants Equity Product ownership Local fund management	High Short-term Present Inequitable No clear ownership Limited	Incentives for corruption high Incentive to maximize returns as quickly as possible Funds can be diverted from stated purpose Incentives for privileged minority to maintain inequitable distribution of benefits through corruption Benefits can be diverted from rightful owners Ditto
Management	Government rules: - Financial management, procurement - Financial flows - Fund utilization Lending agency rules: - Financial management, procurement - Implementation - Supervision	Lax Uncontrolled Not monitored Lax Poor Weak or irregular	Facilitates diversion and mis-use of funds Ditto Ditto Ditto Ditto Ditto

### 1.2.2 Causes of corrupt and illegal activities — forestry sector

Examination of accounts of illegal forestry activities indicates that many of the factors listed in Section 1.2.1 have been identified as contributing to problems of illegality in the forest sector. Some examples observed in analyses of individual countries are shown in Box 5. Key factors that appear to create a predisposition to corruption and illegalities in the forestry sector are discussed in more detail below.

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#### **BOX 5: FACTORS CONTRIBUTING TO FOREST CORRUPTION AND ILLEGAL LOGGING IN CAMBODIA & PAPUA NEW GUINEA**

##### **Cambodia**

- . Weaknesses in current forest laws.
  - . Inappropriate forest land classification.
  - . Lack of transparency and accountability in timber concession allocation policies.
  - . Absence of an effective concession forest management planning and regulatory framework.
  - . Protection of illegal logging by the military and other powerful interests.
  - . Failure to involve local communities in decision making about forest land use policies and in monitoring of corrupt practices.
  - . Weaknesses in the current revenue collection system.
-

- 
- . Inadequate log surveillance and tracking arrangements.
  - . Weakness of forest harvestin and management monitoring institutions.
  - . Failure to restrict logging in protected areas.
  - . Excessive wood processing capacity.
  - . Ineffective border controls for timber moving to adjoining countries.

### **Papua New Guinea**

- . Staff shortages.
- . Remote locations.
- . Low staff enthusiasm and morale.
- . Inadequate powers of the national forest department over provincial forestry staff.
- . Poor inter-agency liaison and cooperation.
- . Inadequate databases of information from which to work and base decisions.
- . Lack of direction in staff and policy.
- . Political pressure and other coercive influences from politicians, bureaucrats and industry.
- . Inappropriate policies.

Source: Barnett 1989; Callister 1992; Cambodia — Department of Forestry & Wildlife 1998

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**Patron-client relationships.** While there can be numerous factors creating an environment in which illegal forestry activities can occur and flourish, Dauvergne (1997), in his study of the involvement of Japan in the South East Asian timber trade, argues that the fundamental factor is the overall system of ‘patron-client’ relationships existing in the sector. He argues that in South East Asia, patron-client ties are central to decisions on timber concession allocations, protect illegal loggers and illegal timber processors, and influence provision of incentives, the rates at which royalties and other taxes are set, and other aspects of forest policy. If this argument is accepted, it suggests that, in such circumstances, only through tackling the grand corruption that lies at the core of the forest industry, can appropriate policy changes be effected. This is a major challenge indeed.

**Rules, regulations, permits and authorizations.** In order to carry out forestry operations, many different approvals are required. Each time there is a requirement for an official to issue a permit or authorization, this creates an opportunity for a corrupt action (Tanzi 1998). Overly complex laws also create more opportunities for petty corruption and may encourage companies to try and ‘cut corners’ rather than comply with an onerous system of rules, regulations and permissions. Related to this, in some countries forestry legislation is outdated or inadequate. Again, this can add to the likelihood of corrupt or illegal activities.

**Penalty systems.** Related to the above, if penalties for corrupt and illegal acts are low and the rewards are high, the incentive to act legally is greatly reduced. This can certainly be the case in the forest sector. Furthermore, if the maximum penalties provided in the statute are adequate, but the judiciary routinely only imposes punishment at the low end of the possible penalty scale, the disincentive to offend is lowered. Another issue that has been observed in forestry is that severe penalties can be imposed, but companies continue to operate without ever paying them. Another variation can be that some companies are overlooked for transgressions, while others are penalised for the same actions.

**Enforcement capacity.** Interlinked to the above issues, and also related to the overall quality of the bureaucracy discussed below, is enforcement capacity. Capacity to enforce forestry legislation can be poor for a number of factors, including: inadequate human resources; weak judicial support to field staff; inadequate legislation; failure to vest enforcement powers in appropriate agencies; and lack of resources for field enforcement personnel (e.g. no vehicles to inspect concessions). Staff can also be bribed to overlook infractions. In both this issue and the one above, both grand and petty corruption can be playing a part. Petty corruption is likely to be the most prevalent, but lack of enforcement action against certain companies or ignorance of non-payment of large fines suggests higher-level influences.

**Quality of the bureaucracy, wages and institutional controls.** If a forestry bureaucracy operates in an environment where promotion is based on patronage more than merit, this fosters corruption. Similarly, in some countries forestry officials can be very lowly paid, a situation which fosters petty corruption. Related to this are other internal processes such as the quality and quantity of staff training, including on issues relating to ethical behaviour and the extent to which senior staff are leading by good — rather than corrupt — example. Another issue in this area relevant to forestry is the number of officials. Forestry bureaucracies can be seriously understaffed. This not only impacts on their capacity to effectively oversee the sector, it places pressure on limited staff resources, which may lead to corruption. For example, companies bribing officials to move their harvesting or other application forward in the processing queue.

**Taxation regimes.** Taxes are a common feature of forestry, such as timber royalties. There are a number of reasons that can make taxation systems vulnerable to corruption, some of which can be applicable to forestry. These include: complex laws or laws that are open to differing interpretations; contact between those paying and those collecting taxes; low wages of tax (forestry) officials; failure to properly administer collection processes; not treating corrupt acts by tax officials seriously; and bureaucratic discretion over tax incentives and tax liabilities (Tanzi 1998).

An issue of importance to forestry taxes is market transparency. Where governments are unable to ascertain prevailing market prices for timber, they may be being defrauded of revenue through under-valuing of exports. Also relevant to forestry is how a tax is charged. For example, volume-based forest charges have been suggested as being more open to illegal and corrupt activities than area-based charges.

Generally, within the forestry system the many payment-avoidance schemes are facilitated through petty corruption. However, decisions on tax incentives associated with major forestry investments, both local and foreign-owned, can involve much higher-level political patronage.

**Provision of resources at below-market prices.** There has been wide discussion in the literature regarding rent capture in forestry and the failure to set stumpage charges at adequate levels. Aside from other implications more usually associated with this issue, competition for what can be perceived within the market-place as a ‘cheap’ resource, can also foster corruption. This links back to the granting of timber concessions and the grand corruption that can occur in this process.

**Length of timber concessions.** Short-term timber concessions have been suggested to encourage illegal operations through adding pressure on companies to quickly cut their concession, ignoring concession terms and conditions in the process.

**Scale of forestry activities.** Sometimes, the sheer size of forestry operations and the remoteness of the areas in which they are operating, can make the operations difficult to police. This can be compounded where monitoring capacity is already limited. However, this should not be sufficient in and of itself to make timber companies act illegally. There must be other factors acting in concert with this to make the companies take this course.

**Examples provided by the leadership.** In forestry there are numerous allegations of politicians and/or family members being involved in corrupt activities. Unfortunately, punitive action is rare, even in the face of overwhelming evidence. This sends an extremely poor example across the forestry bureaucracy. If they follow the example set by leaders in such instances, the result will be a continuance of corruption.

**Quality of in-company processes.** The factors listed in Section 1.2.1 tend to concentrate on matters related to government, but obviously the private sector also has a role in corrupt and illegal activities. For example, does the company have a strong anti-corruption policy or are such practices condoned as being part of normal business, or even encouraged or rewarded? Also, in the forestry sector the quality of staff training can be a factor. Have relevant supervisory staff been made aware of concession terms and the relevant local laws, for example? If not, illegal activities may be occurring out of ignorance rather than wilful intent. This issue is particularly relevant where companies bring in non-local staff, who may not be fluent in the local language.

**Other.** Other issues which have been suggested as contributing to illegal forestry activities include: use of sub-contractors; logging and export bans; government agencies issuing permits and approvals for which they do not have the authority to do so; and a lack of international scrutiny and commitment to tackle the issue (Callister 1992; de Bohan, *et al.* 1996).

A point to note is that there are many common elements between the above and a broad suite of general forest policy considerations (e.g. legislation; forestry taxations systems; concession terms and conditions; investment incentives; structure of forest management agencies). Likewise, there are links to a pervasive system of corruption that may apply within a country beyond the forestry sector. The implications of these observations in tackling forest corruption is discussed in Section 2.1.

### 1.3 Scale and Impacts

#### *1.3.1 Scale of corrupt and illegal activities in the forestry sector*

*'If corruption could be measured, it could probably be eliminated.'* (Tanzi 1998, p.576)

Corrupt and illegal activities are, by their very nature, difficult to quantify. This is reflected in the literature on this issue, which frequently indicates that illegal forestry activities are occurring in a particular country, without providing quantitative data. Nevertheless, various studies and other sources provide data on the extent of illegal activities in the forestry sector of various countries. Sources of information include: government records on seizures, prosecutions and the like; publications and field reports by non-government organisations<sup>9</sup>; media reports; trade journals; academic studies; results of analyses undertaken as part of forest sector reviews<sup>10</sup>, surveys of perceptions of corruption and so on.

Notwithstanding that data searching for this report was limited to English language publications, there appears to be more easily accessible data on the scale of illegal forestry activities for countries with tropical rather than temperate or boreal forest, for developing countries rather than economies in transition and for the Asia/Pacific region than elsewhere. This probably reflects a range of factors, including: the importance of the timber industry in the country; the extent of forests; level of NGO and other international interest in the country's timber industry; government attention to problems of illegal forestry; media freedom and interest in the issue within the country; the language issue already mentioned; and, of course, the actual extent of illegal activities.

Table 3 shows some recent estimates on the level of illegal activity in the forestry sector in a range of countries. More detailed compilations of figures is given in Appendix B. These data clearly show the significant extent of the illegal trade. Estimates by Callister (1992) put the scale of illegal forestry activity in the Asia-Pacific region in the decade to 1992 as amounting to billions of dollars lost in foreign exchange, uncollected taxes and foregone forest resources. The conclusion was that in the Asia-Pacific region, hundreds of thousands of hectares of forest, containing millions of cubic metres of timber were logged annually either illegally or to supply the illegal trade. While no more recent regional analyses such as this have been compiled, the figures in Table 3 show that illegal forestry activities are still thriving around the world.

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<sup>9</sup> Non-government organizations have been the principal source of compilations of information on illegal forestry activities. Examples include Callister (1992); de Bohan, *et al.* (1996); Global Witness (1995) (1997). These reports draw on the other sources of information mentioned above, although some incorporate their own primary research carried out in target countries (e.g. the reports on Cambodia by Global Witness).

<sup>10</sup> World Bank forest sector reviews in Papua New Guinea and Cambodia, for example, have utilised existing data to calculate estimates of the scale of various components of forestry corruption and illegal trade (World Bank 1990 and 1999, respectively).

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**Table 3: Scale of illegal forestry activities: some recent data**

***TO BE COMPLETED***

Cambodia: 1997 - 3-4 million m<sup>3</sup> illegally logged; revenue loss to government of \$60 million (World Bank 1999)

PNG: 1993 - 193 million Kina foregone in revenue by landowners and governments (Duncan 1994)

Solomon Islands: 1993 - SI\$36-130 million in revenue forgone to landowners and governments (Duncan 1994)

Add in info from FOEI 'Cut and Run' report - Cameroon, Brazil, Ghana, Paraguay

Philippines: early 1990s - US\$800 million annually (Dauvergne 1997)

Cameroon - important share of the domestic timber market (821,320 m<sup>3</sup> or 29.3% of the total log production in 95/96) is supplied by local and illegal sawnwood, some of which is exported illegally to neighbouring countries (mainly Chad and Nigeria). No quantitative estimate available (Eba'a-Atyi 1998).

Figs from Bad Harvest

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Figures from sources such as World Bank (1990; 1999) and Duncan (1994) are worthwhile noting, not just for the information they provide, but for how the figures were derived. These estimates of the value or extent of illegal forestry activities were determined from detailed analysis of government statistics and other relevant information. Such studies indicate that with the appropriate analysis, estimates of the scale of illegal trade can be made.

Investigations in Cambodia also show that it is possible to obtain data on the cost of 'extrabudgetary charges' in the forestry sector (World Bank 1999). For example, in 1997-98, it was calculated that on a particular log shipment being moved internally to a processing facility, extra payments to provincial and military authorities and forestry officials amounted to US\$14.20 per cubic metre. So-called 'facilitation fees' were said to add an extra US\$50 per cubic metre to the cost of a logging operation. However, data such as these are not widely available. Therefore in many instances it is impossible to make estimates on either the value of bribes that are being paid in the forestry sector of a particular country, the number or size of concessions granted, or the volume of timber that is being logged or moved following the payment of bribes.

While the figures in Table 3 seem alarming and rightly point to an issue that requires attention, there are also many things they do not tell us. Firstly, countries for which there are no data in Table 3 or Appendix B should not be assumed to be free of problems of forestry corruption. It may simply be that nobody has tried to quantify the issue in that country, or the information has not received wide circulation. These figures tell us nothing about what is driving this trade. Is the timber for local or international markets? Are the companies involved local or trans-national? These figures must also be seen in context of the overall size of the forestry sector in the country and the size of the permanent forest estate. Such consolidated estimates also tell us nothing about the on-ground impacts. For example, is illegal logging occurring in protected areas or indigenous lands? Does it involve threatened tree species or is it threatening the habitat of threatened species or the livelihoods of local peoples?

Such questions are important both for determining the impact and also for determining strategies for dealing with the issue. Therefore, on-ground assessment of the scale of corrupt and illegal activities in a particular country or area must be a fundamental and early step in addressing the issue. Some sources which can be used to assist in this task were mentioned at the beginning of this section.

### ***1.3.2 Impacts of corrupt and illegal activities in the forestry sector***

There have been few detailed studies on the impacts of corruption in the forestry sector (Anon. undated). Given this lack of comprehensive quantitative and qualitative data on the scale of illegal activity, it is often only possible to generalise on likely impacts. Nevertheless, there is clear evidence that illegal and corrupt

forestry activities have a range of negative and frequently interlinked, environmental, economic and social impacts.

Examples of some of these impacts that have been documented in Cambodia are shown in Box 6. While they are divided into social, environmental and economic costs, there is clearly overlap. For example, soil erosion not only has an environmental impact, but disruption of stream flow may adversely affect downstream agriculture, which in turn can have negative social and economic impacts.

Looking back to the categories of illegal activities outlined in Box 1, to generalise the areas of impact: illegal logging is generally associated with negative environmental impact; timber smuggling both economic and ecological; tax avoidance principally economic; illegal timber processing both economic and environmental; and all of them will likely have social impacts of one kind or other. Overall, where illegal forestry activities are occurring, it is impossible to guarantee that forests are being sustainably harvested and, indeed, such actions can actively undermine attempts to sustainably manage forests.

In examining possible impacts of forestry corruption, it is important to realise that the labels 'petty' and 'grand' do not necessarily correlate to the economic, ecological or social impact of the corrupt activity. Some illegal activities which are usually associated with 'petty' corruption, such as timber smuggling, logging outside concession boundaries and mis-reporting timber grades, volumes, etc. to avoid royalties, can have substantial cumulative impacts.

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### ***BOX 6: SOCIAL, ECONOMIC AND ENVIRONMENTAL COSTS OF ILLEGAL AND CORRUPT FORESTRY ACTIVITIES IN CAMBODIA***

#### **Social costs**

- . Land use conflicts stemming from allocation of timber concessions.
- . Restricted access to forest materials, including food, that are essential to the welfare of the rural poor.
- . Restricted access by local communities to forest products that provide income for small-scale local industries.
- . Large scale job losses as timber supplies run out through unsustainable rates of illegal harvest.

#### **Environmental costs**

- . Illegal logging in protected areas, including in the habitat of endangered species such as the kouprey.
- . Illegal trade in wildlife as a by-product of illegal logging operations, leading to a depletion of biodiversity.
- . Loss of forest biodiversity through unsustainable logging practices.
- . Acceleration in soil erosion, which can impact on downstream agricultural practices.
- . Illegal plantations and agribusiness being associated with large scale forest burning, which leads to loss of biodiversity, health impacts and increases greenhouse gas emissions.
- . May accelerate conversion from forest to shifting agriculture with a resulting loss in forest biodiversity.

#### **Economic costs**

- . Revenue foregone that could have been used for example, for poverty reduction, environmental protection, or economic development programmes.
- . High rates of illegal harvesting predicted to lead to the economic collapse of the timber industry in about five years time.

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Source: Cambodia — Department of Forestry & Wildlife, 1998

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The section above clearly shows that governments lose a large amount of revenue through corrupt and illegal forestry activities. In countries where forestry is a significant market sector, the impact on the overall economy of the country can be substantial. Economic impacts of corruption include: decreases in public revenue and increases in public spending, thereby impacting on overall fiscal policy; declines in economic efficiency and growth; decreased capacity to correct market failures and tendency to add to existing ones; impeding movement towards a market economy; and increasing poverty through decreasing the income earning potential of the poor (Tanzi 1998). There is no reason to presume that the impact of forestry corruption is any different.

Forestry corruption also leads to an increase in transaction costs and a decrease in the efficiency of the sector. This could act to discourage forestry investment and ultimately lead to a substantial decrease in the economic viability of the sector. Countries such as the Philippines, which have been associated with long-term forestry corruption, have ultimately seen declines in their domestic timber industries, as the quantity and quality of the forest estate declines. On the other hand, practical experience in countries such as Cambodia suggest that in the short term corruption does not lead to decreased forestry investment. In such instances, the cost of corruption may instead be working to encourage logging practices that minimise economic outlays and leads to rapid and unsustainable logging practices in order to maximise short-term profits.

In some countries such as Papua New Guinea and the Solomon Islands, local landowners receive a royalty payment for timber taken from their lands. Corrupt activities can result in them receiving less than their due which can, in turn, impact on their livelihoods and social welfare.

Illegal logging pays no heed to the principles of good forest management. As a consequence, as Box 6 shows, there can be a range of negative environmental impacts arising from illegal logging practices. Other impacts could include localised environmental damage through over-harvesting, logging in riparian zones, logging on steep slopes and so on. Illegal logging can also result in over-harvesting of particular tree species or harvesting of protected species or immature trees. All of these may have longer-term impacts on the forest and its biodiversity.

Box 6 also shows that illegal and corrupt forestry activities can have adverse impacts on forest communities, particularly where forestry concessions operate in local community lands, or areas utilised by communities for subsistence or cash income purposes. Such instances can also lead to conflicts between loggers and local people. In countries such as Papua New Guinea, bribery by forestry companies of local community members has led to conflict within the community, particularly where there are conflicting views on whether or not to grant logging companies access to community lands.

At a different level, corruption will erode public trust in the government. Furthermore, the decrease in government revenues mentioned above can ultimately have a negative social impact, by decreasing the income available to the government that could otherwise be allocated to other areas of potentially socially-beneficial spending.

## CHAPTER 2

### 2. STRATEGIES FOR IDENTIFYING AND IMPLEMENTING SOLUTIONS

#### 2.1 National Efforts

##### 2.1.1 Tackling corruption

Tanzi (1998) identifies at least four areas where action will be necessary in any concerted effort to address corruption:

1. *honest and visible commitment by the leadership to the fight against corruption, for which the leadership must show zero tolerance;*
2. *policy changes that reduce the demand for corruption by scaling down regulations and other policies such as tax incentives, and by making those that are retained as transparent and as non-discretionary as possible;*
3. *reducing the supply of corruption by increasing public sector wages increasing incentives toward honest behaviour, and instituting effective controls and penalties on the public servants; and*
4. *somehow solving the problem of the financing of political parties.* (pp.590–591)

Experiences from the Asian Development Bank in anti-corruption efforts reiterate some of these points and add extras:

1. *The importance of political will*
2. *The need to catalogue and understand the specific types of corrupt behaviour to be addressed*
3. *The need to develop an appropriate strategic plan that identifies clear priorities and carefully evaluates tradeoffs*
4. *The need for a comprehensive, integrated approach to anti-corruption issues*
5. *The importance of adequate legislation and institutional capacity for enforcement*
6. *The importance of independence for investigative agencies*
7. *The importance of public involvement*
8. *The importance of prevention vis-à-vis prosecution*
9. *The need to streamline or abolish antiquated procedures and functions*
10. *The need for sustained effort* (Klitgaard 1998, p.30)

Bearing all these issues in mind, the next task is to develop a strategy to tackle corruption. Klitgaard (1998) sees this as having several steps:

1. Using analytical tools to develop an understanding of corrupt systems.
2. Diagnosing how a particular corrupt system works in a specific context.
3. Generating support, including overcoming political and bureaucratic resistance.
4. Developing a sequenced plan of action to fix corrupt systems and ultimately transform government.

He also identifies a number of questions which should be considered in developing the strategy:

1. *What are the costs (and the possible benefits) of various forms of illicit behaviour?*
2. *For each kind or area of corruption, what kinds of preventative measures might reduce corruption?*
3. *What are the benefits in terms of reduced corruption and perhaps enhanced efficiency of the preventative measures? What are the costs of these measures?*
4. *What are the interactions among various anti-corruption measures, both positive and negative?*
5. *How can allies be mobilized, potential enemies neutralized or co-opted?*
6. *How will the choice of measures in this domain help or hinder the policy makers' (or government's) ability to move in other important domains?*
7. *How can the officials implementing the policies gain ownership over what is done?*

8. *How can the officials' incentives be altered to improve the chances that what is designed gets implemented?*
9. *Given the answers to the above, what sequence of measures should be adopted at what levels?*  
(p.32)

Clearly, there are a great many considerations that need to be taken into account in developing a strategy to tackle corruption. Consequently, it is likely to be a complex and time-consuming task. A framework that elaborates on the issues raised above and provides guidance on how one might go about this, is given in Appendix C.

There are a number of important players in the development and implementation of an anti-corruption strategy. They include political leaders, public servants, the judiciary, civil society including NGOs and industry, and donor agencies. How they relate to any anti-corruption effort should be determined depending on the nature of the particular problem. However, a key factor in any anti-corruption strategy is the support of political leaders. Without this, despite whatever short-term gains may be made, in the longer term the situation may revert back to a corrupt one.

In developing a strategy to tackle corruption, it is also important to be cognisant of pitfalls and to learn from the past failures of others. According to Transparency International, the over-arching rule to remember is not to attempt the impossible (Pope 1996). They have identified eight factors which have caused anti-corruption efforts to falter:

- *the limits of power at the top. An incoming president may wish to tackle the challenge but has, by definition, inherited a corrupt governmental machine which impedes efforts for change;*
- *the absence of commitment at the top. Lower ranking political and administrative figures may wish to effect change but be severely restricted by an absence of commitment at the leadership level;*
- *overly ambitious promises leading to unrealistic and unachievable expectations. Those who promise what they cannot deliver quickly lose the confidence of those around them and those looking to them for effectiveness;*
- *reforms have taken place piecemeal and in an uncoordinated manner so that, in the end, no-one can be said to "own" the reforms in the sense of being personally committed to them and being driven to see them implemented effectively and kept up to date;*
- *reforms have relied too much on the law, which is an uncertain instrument in trying to change the way people behave, or too much on enforcement, which leads to repression, apparent abuses of power and the emergence of another corrupt regime;*
- *reforms tend to overlook those at the top and focus only on the smaller fry, the assumption being that those at the top either do not "need" reform or that they would be openly hostile towards anyone who attempted it. As a result, the law is seen as being applied unevenly and unfairly, and soon ceases to be applied at all;*
- *reforms do not have a specific and achievable focus and so fail to deliver any real change to the public (without which the public belief essential to successful reform quickly ebbs away); and*
- *institutional mechanisms are not constructed, even where reform is real, to carry reforms forward after their initial proponents passed from the scene. (Pope 1996, Part A, Chapter 3, p.1)*

While the strategies and considerations discussed above are designed to address corruption, it is clear that many, if not all of them, would also form the basic elements of a strategy to address illegal activities in a given sector such as forestry. How this myriad of complex considerations relates to illegal and corrupt activities in the forestry sector is discussed in the following section.

### ***2.1.2 Applying these approaches to the forestry sector***

The first conclusion that can be made from analysis of the information provided in the preceding sections, is that there is no one magic solution to the issue of forestry corruption. It is a complex issue, with a range of contributing factors and players and, consequently, a range of possible solutions, which must be designed

with the specific circumstances in mind. This points to a key first step in the process — diagnosis of the nature of the problem: what sort of corruption? who is involved? where? what sort of scale? and so on.

To some extent the discussion above, and much of the general literature on corruption, tends to look at it in a country-wide context, rather than narrowing down strategies and approaches to one particular sector within government. Nevertheless, it does provide guidance which can be applied to forestry.

Box 7 shows examples of actions to combat forestry corruption that were identified by the World Commission on Forest and Sustainable Development. The factors contributing to corrupt and illegal activities outlined in Section 1.2 include issues relating to legislative frameworks, trade controls, taxation and financial incentives and tenure and property rights. These are all key components usually identified for attention in forest policy reforms. This again demonstrates that the forest corruption issue cannot be divorced from the broader context of policies for sustainable forest management.

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***BOX 7: EXAMPLES OF ACTIONS TO COMBAT CORRUPTION IN THE FOREST SECTOR***

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- . Promote measures to describe accurately and unambiguously the terms of government procurement and timber concession contracts.
- . Force publication of invitations to bid.
- . Establish fair and clear criteria for decisions.
- . Rank bids according to pre-established and transparent criteria.
- . Award contracts to the selected bidder without requiring price reductions or other changes in the bidding offer.
- . Ensure open access to information on contracts, particularly to the press.
- . Promote freedom of the press to enable it to perform its role as public watchdog and increase public awareness of rights and responsibilities.
- . Rotate frequently personnel in charge of awarding contracts.
- . Establish independent checks and audits.
- . Ensure that the government agency has adequate powers to combat corruption when it occurs in agency-funded transactions.
- . Prosecute and blacklist contractors who are found to have been party to corruption.
- . Create channels for reporting acts of alleged corruption and ensure independent monitoring of procedures and systems. Create mechanisms to protect “whistle-blowers”.
- . Promote the independent monitoring of assets, incomes and liabilities of those in positions of influence.

Source: WCFSD undated

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On this point, it is worthwhile noting that analyses of forest policy reforms, particularly economic and market reforms, fail to routinely examine (although they may in some cases) how they might foster, or otherwise, illegal and corrupt forestry activities. With legislative reforms the situation is better, with generally an implicit assumption that such reforms will assist in tackling corruption. Nevertheless, the motivation for suggesting a particular forest policy reform may be unrelated to the objective of tackling corruption. Improvements in this area may simply be a fortunate additional benefit to the originally identified motive. For example, simplifying legislation may have been designed primarily to assist industry and improve bureaucratic efficiencies, but could also assist in reducing corruption.

The key message from this is that, in contemplating the appropriate policy mix in the forest sector, the implications of suggested measures should also be assessed for their potential impact on reducing or promoting illegal and corrupt activities. This is of course on top of the other numerous environmental, economic and social factors that also require consideration.

Analysis of the information presented in this report suggests that there are some key approaches that will be required in order to effectively address corrupt and illegal activities in the forestry sector. These include:

- Analysis of the nature, extent and cause of the corrupt and illegal activities at an early stage of any plan of action.
- Examination of the situation with corruption more broadly in the country. Where corruption is systemic, an isolated effort on forestry corruption may fail ultimately unless corruption elsewhere in the system is also addressed.
- Need for high-level support for anti-corruption efforts.
- Need to involve relevant areas of civil society, particularly the forest industry and local communities.
- Requirement to identify strategies that will be able to be sustained over the long-term, without necessarily the ongoing support of donor agencies.
- Development of indicators or other measures of outputs in order to assess the success of any strategy that is implemented.
- Examination of any proposed corruption mitigation-related policy reforms in terms of their impact on other aspects of forest management, and vice versa.

Some examples of approaches and initiatives that have been adopted in certain countries are given in Box 8 and further elaborated in Appendix D. These illustrate both the general approach that can be adopted, plus some specific areas that may need to be tackled.

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### ***BOX 8: STEPS SUGGESTED TO TACKLE FORESTRY CORRUPTION IN INDIA AND CAMBODIA***

#### **Cambodia**

- . Development and implementaiton of a forest law enforcement strategy.
- . Securing high-level government commitment to elimination of illegal logging and corrupt practices.
- . Revision of forest laws.
- . Re-classification of forest land.
- . Alteraton of timber concession allocation and monitoring procedures.
- . Reform of revenue collection arrangements.
- . Involvement of the business community.
- . Involvement of local communities and NGOs.
- . Regional collaboration in law enforcement.
- . International support for law enforcement, including involvement of the international donor community.

#### **India**

- . Work in parallel on anti-corruption strategies at both the sectoral (forestry) and overall country level.
  - . Study the extent, type and causes for corruption.
- 
- . Review Bank-assisted projects to see whether they are being affected by corruption.
  - . Analyse the impact of the activities, including social and economic costs.
  - . Develop a constituency for reform, using a stakeholder workshop as the starting point.
  - . Develop and disseminate anti-corruption strategy and action plans.

Source: Anon. undated; Cambodia — Department of Forestry & Wildlife

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There are other issues that are important in tackling this issue. Firstly, more information is required on initiatives that countries have undertaken or are developing to tackle illegal forestry activities, such as those shown above. It is important that this information is documented and circulated to the wider community in order that others can learn from the successes and failures of others. In this context, it is important that such information is presented critically, with good documentation of why a particular approach was taken and what impact it had.

Linked to this is the issue of assessment of changes as a result of policy interventions. Countries such as Ghana have introduced substantial policy reforms which are aimed at, *inter alia*, tackling problems with illegal activities in the forestry sector. It is important that not only are these initiatives well documented, but also that some method of analysis is employed that will allow an objective assessment to be made of the situation regarding illegal trade before and after the policy reforms. This is necessary not only to ascertain whether or not such reforms are working, but also so that a sceptical external community, particularly the NGO community, can be convinced that they are. If they are found to not be working, then analysis is required as to why, and what remedial action is required.

In addition to the list of more general issues mentioned above, some of the specific areas of reform which are may require attention are:

- reform of forestry legislation, including penalties for breaches
- adjustment of licencing, concession and other approval processes to make them more transparent and accountable
- improved pay for forestry department staff
- introduction of incentive systems for improved levels of staff performance
- implementation of internal processes to adequately deal with corrupt officials
- improvements in training for forestry personnel
- increases in the numbers of staff, particularly field staff, in forestry departments, or if this is not possible, more strategic deployment of staff
- moratoriums on the issuing of timber concessions in situations where illegal activities are particularly bad
- attention to forestry land classification to ensure that current classifications are not facilitating illegal forestry activities
- development of industry codes of conduct
- revision of forestry taxes and charges to make them simpler and less open to corruption
- attention to better law enforcement strategies, including risk-assessment based processes for checks of compliance with laws
- cooperation with neighbouring countries, particularly in relation to control of cross-border illegal trade.

There are no doubt others, but this list and other strategies discussed in this and the preceding section provide general guidance on the sorts of initiatives that may need to be employed in order to effectively tackle illegal and corrupt activities in the forestry sector.

## **2.2 International Treaties and Related Initiatives**

### ***2.2.1 Forestry, conservation and sustainable development agreements***

This section provides a brief overview of the relevance or otherwise of the principal forest-related international conventions, to the issue of forestry corruption. While there are numerous global and regional agreements relevant to the forestry sector (see Tarasofsky 1995), discussion here concentrates on those most relevant (or potentially relevant) to forest corruption. There is also a brief discussion of inter-governmental initiatives on forests that have arisen from UNCED, operating through the Commission on Sustainable Development (CSD).

**International Tropical Timber Agreement (ITTA) 1994.** The ITTA was originally negotiated in 1983 and renegotiated in 1994. While its application is confined to tropical forests, its focus on tropical production forests, and objective of promoting sustainable management of tropical forests, means that the ITTA has an obvious relevance to the issue of illegal timber trade. This notwithstanding, the ITTA's implementing agency, the International Tropical Timber Organization (ITTO), has failed to address this issue in any substantial fashion.

The text of the agreement calls for actions in a number of areas that could have a positive impact in tackling forest corruption. However, the closest the text of the Agreement comes to specific mention of the issue is in Article 27, paragraph 1(c) when it tasks the ITTO's Committee on Economic Information and Market Intelligence to review the international timber market using, *inter alia*, 'information related to undocumented trade'. While far from specific, this is probably meant as a reference to illegal trade.

In 1998 the ITTO produced a revised action plan — the 'ITTO Libreville Action Plan 1998 to 2001' (ITTO 1998). It provides a strategy for implementing the ITTA, 1994 and project and policy guidance for the ITTO over the next few years. Box 9 gives text in the Action Plan that most obviously refers to corrupt and illegal activities in the forestry sector. The use of euphemistic terms such as 'undocumented' and 'irregular' forestry activities suggests a sensitivity among ITTO members to being up-front about forestry corruption and the obvious role that the organisation has in assisting its members to combat it. This could reflect a lack of willingness to address the issue within the ITTO itself, a broader international political sensitivity to raising the topic, or both. Whatever the reason, it sends fairly unhelpful messages about the willingness of the international community to utilise existing multi-lateral frameworks relating to forests to tackle illegal forestry practices.

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### ***BOX 9: ITTO LIBREVILLE ACTION PLAN 1998–2001 — ELEMENTS RELATING TO ILLEGAL FORESTRY ACTIVITIES***

#### **Economic Information and Market Intelligence**

*Goal 1: Improve transparency of the international timber market*

- Action 4. Monitor and analyse statistical data and other relevant information, including any information on undocumented trade.

#### **Reforestation and Forest Management**

*Goal 1: Support activities to secure the tropical timber resource base*

- Action 6. Review the current situation regarding any undocumented forestry activities relating to the objectives of the Organization.
- Action 7. Encourage and assist Members, as appropriate, to:
- Develop, adopt and apply forest policy and legislation to secure the forest resource base;
  - Identify and prevent irregular forestry activities;
  - Establish and secure forests (e.g. a Permanent Forest Estate) likely to remain under forest cover in the long-term, including:
    - . securing the production forest area (e.g. legal land status, long-term concessions);
    - . classifying a sufficient proportion of totally protected area for conservation purposes (including tree species conservation, bio-diversity conservation and watershed protection).

Source: ITTO 1998

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**Convention on Biological Diversity (CBD).** Examination of the text of the CBD suggests that it has a potential role in combating illegal forestry practices. Key articles that suggest this are:

Article 8(c) — *Regulate or manage biological resources important for the conservation of biological diversity whether within or outside protected areas, with a view to ensuring their conservation and sustainable use;*

Article 8(i) — *Endeavour to provide the conditions needed for compatibility between present uses and the conservation of biological diversity and the sustainable use of its components.*

It has been suggested that the Parties to the CBD could adopt forestry codes of conduct, or an annex to the Convention covering procedural, scientific, technical and administrative matters relating to forests (Tarasofsky 1995). However, in 1996 the Parties agreed to a more limited programme of work on forests (FAO 1997), suggesting that such eventualities are unlikely, at least in the short term.

**Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).** CITES controls international trade in taxa through the use of trade controls and a permitting system. The level of control is determined by the Appendix taxa are listed on (see Box 10); there are criteria that determine which taxa can be listed on what Appendix.

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#### **BOX 10: THE CITES APPENDICES**

**Appendix I** includes species, subspecies or populations threatened with extinction that are, or may be, affected by trade. International commercial trade in wild specimens of taxa or populations listed in Appendix I is prohibited. Under exceptional circumstances trade is permitted — for example for scientific or conservation purposes — but not without appropriate import and export permits issued by the competent government authority in the importing and exporting country.

**Appendix II** includes species, subspecies or populations which may become threatened if trade in them is not controlled and monitored. It can also include other 'look-alike' species which, although not necessarily threatened, must be subject to regulation in order that trade in other Appendix II species may be brought under effective control. Trade in Appendix II species requires an export permit only, issued by the competent government authority in the country of origin. If the species is exported from a country other than where it originated, a re-export permit is needed. Permits should not be issued unless it has been determined that the specimen of the species in question was *legally obtained*, and *export will not be detrimental to the survival of that species*.

**Appendix III** contains species subject to regulation within individual countries and for which the cooperation of other Parties is sought in order to control that trade. Therefore, Appendix III listing is specific to exports of certain taxa from given countries.

Source: Callister & Broad 1994.

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Timber species have been listed in the CITES Appendices since its inception, however during this decade more commercial timber species have been proposed for listing on the CITES Appendices, with mixed success. In recent years, a number of countries have taken a decision to list their domestic populations of *Swietenia macrophylla* on Appendix III of CITES.

For timber species listed its Appendices, if implemented properly, CITES has direct application to controlling illegal international timber trade. In particular, CITES permits should not be issued by exporting countries for illegally obtained specimens. However, it has no application for in-country illegal

trade or for trade in the vast majority of timber species, which are not listed under CITES. Therefore, it is best seen as providing a security net to protect species which have become vulnerable to an international trade threat (Callister & Broad 1994), rather than as the mechanism whereby all the world's international timber trade can be brought under effective monitoring and control.

**Commission on Sustainable Development (CSD), Intergovernmental Panel on Forests (IPF) and Intergovernmental Forum on Forests (IFF).** There were two outcomes of UNCED that, while not legally binding, do indicate a general policy consensus on issues relating to international forests: *The Non-legally Binding Authoritative Statement on Principles for a Global Consensus on the Management, Conservation and Sustainable Development of Forests* and Chapter 11 of *Agenda 21* on Combating Deforestation. Oversight of progress in implementing UNCED outcomes has been given to the CSD. In 1995 the CSD agreed to establish the IPF, which reported in 1997 and was then succeeded by the IFF (FAO 1997; IISD 1997).

To cut a long story short, involving several years of international deliberations, for its May 1999 meeting the IFF identified 'illegal trade in wood and non-wood forest products' as a 'matter left pending' in its considerations on forestry trade and environment. But it is yet to make any substantive recommendations on this issue. **CHECK OUTCOMES AND UPDATE**

**Regional Treaties.** Tarasofsky (1995) lists a number of regional agreements that have some application to forests. These have not been examined in detail, but the *Treaty for Amazonian Cooperation* and *Central American Regional Convention for the Management and Conservation of the Forest Natural Ecosystems of the Development of Forestry Plantation* appear to have either the most application, or been the most active, in the area of forests. Given the limitations of existing international treaties (mentioned above), pursuing regional cooperative agreements that can assist in tackling forestry corruption may be a more politically feasible option. Such approaches have been taken for anti-corruption treaties, as is discussed in the following section.

### 2.2.2 Anti-corruption treaties

There are a growing number of developments in the area of multi-lateral anti-corruption treaties (see World Bank 1997). These actions were pioneered by the U.S. *Foreign Corrupt Practices Act*, which was adopted in 1977 and prohibited US companies from bribing foreign officials (Low & Burton 1998; World Bank 1997). There are now, however, a growing number of countries that have, or are developing, legislation to prohibit the bribery of foreign officials (Vanstone 1999).

The first multi-lateral agreement was the Inter-American Convention Against Corruption, which was signed by the 23 of the 35 member states of the Organization of American States (OAS) on 29 March 1996, and entered into force on 20 March 1997 (Low & Burton 1998; WCFSD undated; World Bank 1997). The purposes of this Convention are:

1. *To promote and strengthen the development by each of the States Parties of the mechanisms needed to prevent, detect, punish and eradicate corruption; and*
2. *To promote, facilitate and regulate cooperation among the States Parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption in the performance of public functions and acts of corruption specifically related to such performance.* (Article II)

Within this framework the Convention calls for Parties to 'consider the applicability' of measures, including: enforceable standards of conduct for public officials; whistle-blower protection; anti-corruption oversight bodies; and transparent systems of government procurement of goods and services. It covers introduction of laws to deny tax-deductibility for illegal bribes made in Party countries and also bribery by transnational corporations. (See Appendix e for more detail.)

Following its entry into force, the OAS adopted a Plan Against Corruption, which includes elements for the OAS to provide support to its member countries in preventing and controlling corruption (World Bank 1997).

On 17 May 1997, 29 member states of the Organisation for Economic Cooperation and Development<sup>11</sup> (OECD) and five non-member observers — Argentina, Brazil, Bulgaria, Chile and the Slovak Republic — signed the Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions (Campbell 1999; Low & Burton 1998). This convention came into force on 15 February 1999, and requires signatories to enact laws that allow them to prosecute domestic companies for bribing foreign officials. The convention does have some limitations, by failing to cover: bribes to political parties, political candidates and party officials; and the elimination of tax-deductibility of foreign bribes (Low & Burton 1998). Implementation of the convention is monitored by the OECD Working Group on Bribery in International Business Transactions.

Other bodies which have taken decisions, made formal declarations and the like on corruption and bribery include the United Nations General Assembly in 1996, the European Union (1997) and Council of Europe (1996) (Campbell 1999; Low & Burton 1998; World Bank 1997).

Given the concern over the involvement of foreign logging companies in fostering illegal and corrupt activities (see Chapter 1), initiatives such as these have obvious relevance to the forestry sector. A prosecution by a signatory to an anti-corruption convention, relating to a forestry firm, would set a very significant precedent and send a timely message throughout the forest industry. The Inter-American Convention Against Corruption has the advantage of covering corrupt acts within the country, not just the activities of transnational corporations originating from signatory States. The OECD Convention allows developed countries to assist developing countries in combating corruption, which is of particular benefit where the judicial system in the latter is weak.

A limitation of such conventions in their current potential for addressing forest corruption is their geographical coverage, particularly for developing countries outside Latin America and for economies in transition. These initiatives are also quite new, so it is yet to be seen to what extent they are effectively implemented by Party States. There is a role for the Bank in assisting in the effective implementation of these agreements and encouraging the development of similar arrangements elsewhere in the world.

### 2.2.3 Other relevant initiatives

At present there are a myriad of national, regional and international consultations and processes dealing with forests and, in particular, sustainable forest management. To support these there are many organisations, Secretariats, meetings, committees and so on. Examples include: numerous initiatives relating to development of criteria and indicators for sustainable forest management (Wijewardana, *et al.* 1997 and related papers in the same volume provide a summary of these); World Commission on Forests and Sustainable Development (WCFSD); and timber certification programs. The latter two are discussed below.

**World Commission on Forests and Sustainable Development:** The WCFSD is an independent body, established in the mid-1990s and co-chaired by Ola Ullsten, former Prime Minister of Sweden and Emil Salim, former Indonesian Minister of Population and Environment (Krishnaswamy & Hanson 1999). Its aim '*...was to increase awareness of the dual function of world forests in preserving the natural environment and in contributing to economic development; to bridge the gap between the North and South; and to broaden consensus on the data, science and policy aspects of forest conservation and management*'. (p.35)

<sup>11</sup>

Current members of the OECD are Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Republic of Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States of America.

It's report was released in April 1999 and devotes a chapter to the issue of forest corruption. Recommendations in the draft report (WCFSD undated)<sup>12</sup> largely focus on supporting existing anti-corruption efforts and some general recommendations such as open auctions of timber concessions. It also suggests the establishment of an institution called FORESTRUST '*...a citizens' force envisaged as a set of global, national and local level arrangements to involve people for all parts of the world in solving the forest crisis*' (Krishnaswamy & Hanson 1999, p.18). It would have four main components, FOREST MANAGEMENT COUNCIL, FOREST AWARD, FOREST OMBUDSMAN and FOREST WATCH, with the latter two having particular application to tackling forestry corruption. The basic premise behind such bodies — using civil society to assist in the fight against corruption — seems relatively uncontroversial. Without more information on this proposal, it is difficult to assess whether FORESTRUST is the best means to achieve it.

While a body such as the WCFSD may not have any direct capacity to bring change in the forest sector, the prominent raising of the problem of illegal activities in its report does send an important message to decision makers regarding the seriousness of the issue.

**Timber certification:** Despite some initial reluctance, the role of independent, third-party certification in the promotion of forest conservation and sustainable forest management is increasingly being recognised. The World Bank has acknowledged the role of timber certification and has adopted a target of independent certification of 200 million hectares of well managed production forests by 2005 — 100 million hectares in temperate and boreal forest regions and 100 million hectares in tropical forest regions<sup>13</sup>. In providing guidance on how to reach this target, the Bank recognises that compliance with national and international law is a fundamental principle that underscores any standard for improving forest management (World Bank – WWF Alliance undated).

The role of timber certification in tackling illegal forestry activities is clear: in order for timber to be certified, it has to come from legal sources. Therefore, increasing the extent of certified forests will have a direct impact on countering illegal forestry activities.

Where corruption is rampant within a country, any certified timber originating from that country may face a credibility challenge. Certifiers need to be prepared to show how they are able to guarantee the legality of a concession that is operating in such an environment. Operations that are able to be successfully certified in such environments, also provide useful models of 'anti-corruption' forest management approaches which could be studied and adopted elsewhere, if appropriate.

#### ***2.2.4 Conclusion — adequacy of existing multi-lateral agreements for addressing forest corruption***

Anti-corruption treaties, backed up with effective domestic implementation, appear at present to offer more direct application to dealing with corruption in the forestry sector than existing conservation and forestry agreements. There is still no global forest convention and the treaty with the most comprehensive application to tropical forest management, the ITTA, has failed to address the issue with any conviction.

If a forests convention is ever negotiated, it should incorporate elements dealing with the need and means to tackle illegal and corrupt forestry activities. The actions outlined in Section 2.1.2 and in anti-corruption treaties ( Section 2.2.2) provide guidance on possible options. There is a growing recognition internationally of the scale and negative impact of illegal and corrupt practices in the global forestry sector. Despite this, the 'softly-softly' approaches of bodies such as the ITTO and IFF do not give much hope for a

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<sup>12</sup> At the time of writing, a copy of the chapter on corruption in the final report had not been sighted.

<sup>13</sup> This target has also been adopted by the World Wide Fund for Nature (WWF) and the two organisations have joined forces to effect its achievement by forming the *World Bank - WWF Alliance for Forest Conservation and Sustainable Use*.

particularly direct approach to dealing with this issue in a multilateral framework. There would need to be a groundswell of change internationally for a more honest effort to deal it.

Independent timber certification should be promoted as a mechanism that will enhance the legal operation of the forest sector. There may also be potential for regional agreements to address forest corruption, although, with the exception of anti-corruption treaties, this has not occurred to any great extent to date. Of the current regimes — both anti-corruption and conservation and forestry agreements — there are more initiatives covering Latin America than other developing countries; economies in transition seem to be the most poorly covered.

### **2.3 World Bank Anti-Corruption Efforts**

In 1997 the World Bank published a framework for the Bank to address corruption (World Bank 1997). It's aim is to provide guidance at four levels:

1. *Preventing fraud and corruption within Bank-financed projects.*
2. *Helping countries that request Bank support in their efforts to reduce corruption.*
3. *Taking corruption more explicitly into account in country assistance strategies, country lending considerations, the policy dialogue, analytical work, and the choice and design of projects.*
4. *Adding voice and support to international efforts to reduce corruption.*' (p.3)

Within this inter-linked approach, it is recognised that responses will need to be tailored to the type and extent of corruption involved. The Bank also notes the complexity of the issue and the need for careful guidance for its staff in dealing with the issue. Box 11 lists the issues which underpin the Bank's strategy.

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#### ***BOX 11: ISSUES UNDERPINNING THE WORLD BANK'S ANTI-CORRUPTION STRATEGY***

1. Corruption is a global problem.
  2. Sustainable development requires the control of corruption.
  3. Corruption puts political support for aid programs at risk.
  4. A window of opportunity has opened to address corruption in a more comprehensive way.
  5. Corruption is a governance issue, and can be addressed by the Bank within the framework established for governance.
  6. Tackling corruption is neither easy nor quick.
  7. Political will is essential.
  8. The Bank should address corruption more explicitly than in the past, but in ways that reflects its mandate and its comparative advantage.
  9. The Bank can help countries design and implement anti-corruption strategies.
  10. The Bank can pay more attention to corruption when designing and assessing economic reforms.
  11. The Bank can put additional emphasis on strengthening public sector management and governance.
  12. Ensure that the projects it supports and its operational procedures set an example of best practice, while taking into account their effect on borrowing countries.
  13. Raise the impact of corruption in its dialogue with borrowers.
  14. Address corruption and its economic effects more explicitly in country assistance strategies and the design of projects.
  15. Build knowledge.
  16. Fill critical skill gaps.
  17. Continue to build working relationships with partners.
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18. Become an active partner in multilateral efforts to control corruption and reduce transnational bribery.

Source: World Bank 1997, pp.4–7.

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To assist its efforts in tackling corruption, the Bank has established an internal anti-corruption unit and is developing a series of regional anti-corruption Action Plans. In order to implement its objectives in this area, the Bank must also address corruption issues through other processes such as in Country Assistance Strategies (CAS) and in sectoral policies. It is also involved in anti-corruption/governance projects in various countries, including Indonesia, the Philippines, Papua New Guinea, Uganda, Ethiopia, Latvia, Albania and Georgia (Anon. 1999; Kaufmann, *et al.* 1998; World Bank 1998).

This report is an example of the World Bank examining corruption in a sectoral context — in this case forestry. To fit in with the Bank's overall anti-corruption strategy, policy and projects on forestry and corruption at the international, regional and national level must be inter-linked. This report is evidence that steps are being taken in that direction.

## CHAPTER 3

### 3. IMPLICATIONS FOR THE WORLD BANK

#### 3.1 Key Considerations and Findings

The preceding analysis points to a number of important issues that the Bank should bear in mind in developing and implementing actions to address forest corruption. These are discussed below and are divided, somewhat arbitrarily, into general over-arching considerations, areas where data are lacking and a reiteration of the types of reforms that may be required. In developing strategies for tackling forest corruption, the Bank should be mindful of these issues and use them to guide their actions.

##### *3.1.1 General Considerations*

1. **There is no single solution.** Corrupt and illegal forestry activities occur for a complex range of reasons, can involve a range of different actors and can take many forms. Consequently, remedial action will likely involve a suite of actions, specifically designed to deal with the particular situation. These may vary from country to country and even from area to area within a country.
2. **High level commitment is essential.** Unless governments are committed at the highest levels to tackling illegality and corruption in the forestry sector, the chances of long-term success are greatly diminished. Practical experience from countries such as the Solomon Islands bears this out.
3. **Corruption in the forestry sector cannot be addressed in isolation of the overall pattern of corrupt and illegal activities in the country.** Tackling one sector in an what is a broadly corrupt system may yield some short-term benefits. However, if corruption is pervasive throughout a country, any gains are likely to be lost in the longer-term if no effort is being made to address systemic corruption issues in other sectors that will ultimately impact on the forestry sector (e.g. taxation, customs).
4. Related to the above, **anti-corruption initiatives in the forestry sector will need to be integrated with broader Bank efforts in CAS and regional anti-corruption strategies.** Where the Bank is working on broad anti-corruption strategies in a country or region, these should take account of the specific needs and actions required in the forestry sector. This is first and foremost an issue of intra-Bank coordination.
5. **Anti-corruption and law enforcement efforts cannot be separated from general considerations on forest policy reform.** Wherever the Bank is making forest policy reform recommendations, these should be considered both for their potential impact in mitigating against forestry corruption, and whether they may in fact encourage it.
6. **Both government and civil society need to be involved in the development and implementation of solutions.** Government agents may include central and regional governments and a range of agencies, including forestry, conservation, taxation, border control and the military. Obviously the timber industry is a key player in this issue and must be engaged in dialogue on how to reduce forestry corruption. However, non-government organisations and local communities also have the potential to play a useful role in addressing illegal forestry activities.
7. **Do not be too ambitious.** This is a complex issue. Expecting rapid results at a country-wide level may be unrealistic. It may be more appropriate to develop a mitigation strategy involving a number of short and longer-term goals that address the issue at different scales, from local through to country-wide.
8. **Ongoing assessment of the situation.** There is generally a lack of data on forestry corruption. Designing anti-corruption strategies requires assessment of the nature and scale of the problem at the outset. Tools such as surveys can be useful in this regard. This analysis should occur at intervals throughout the implementation of any actions, in order to monitor their efficacy.

9. **Communicate outcomes.** To assist the global community in its efforts to tackle forestry corruption, the Bank should ensure that it communicates the results of its work in this area to a wide audience. This should include what was done, what worked, and also what did not, preferably with an assessment of likely causes for failure. This information may assist others in their work in this area and also have applicability or provide lessons to different sectors that are also facing corruption problems.

### *3.1.2 Areas Where Data Are Lacking*

In compiling this report, it has become clear that there are some areas where there is a particular lack of information or previous analysis. Unfortunately, these gaps are in many of the areas this study was designed to specifically address. There is undoubtedly more information available on illegal forestry than what is included in this report. However, collating this data is a longer-term task that could not be completed within the timeframe available for this study. The next section provides some guidance to the Bank on how it might continue to gather data and fill in some of these information gaps.

1. **Geographical regions.** As noted in section 1.3.1, there is less data on the scale and nature of illegal forestry activities for areas outside the Asia-Pacific region and for European economies in transition in particular. This does not mean that these areas are free from forest corruption, it just may not have been well documented.

2. **Quantitative assessments of scale and impacts.** Obtaining quantitative estimates of the scale and impact of illegal forestry activities remains problematic. However, using sources such as government statistical data, in-country surveys and so on, experience shows that it is possible, at least in some instances, to get reasonably reliable estimates on the nature and extent of illegal forestry activities (see section 1.3.1).

3. **Role of local trade in illegal forestry activities.** Most of the literature on illegal forestry activities looks at the export trade and related issues such as the role of trans-national logging companies. The nature, scale and impact of illegal activities in the domestic timber industry is less well studied, but may be having a significant impact on the forest resources in some countries (for example, China and India). More work is needed in this area to understand better what is happening, why and what can be done to address it.

4. **Outcomes of policy interventions in countries known to be suffering from forestry corruption.** The Bank has been working for many years in the forestry sector of countries that have been identified as having problems with forestry corruption. An analysis of the actions taken in these countries and their impacts on illegal and corrupt activities would be very beneficial in better identifying successful and unsuccessful strategies for tackling this issue. Such analysis does not seem readily available at present.

### *3.1.3 Areas where action may be required*

There are a number of broad areas where the World Bank could actively work to address problems of forest corruption. These are further explored in the next section.

1. **Changes to forest policy and governance systems.** This is the most important area where action is necessary. Tackling illegal forestry activities will almost certainly involve changes to forest policy, with the specific changes dependent on the individual circumstances within each country. Possible reforms were outlined in section 2.1.2 and include: simplification of legislation; changes to taxation systems, including collection mechanisms; increased transparency in concession awarding systems, such as the introduction of auctions; institutional reforms in forest agencies; increased forest penalties; changes in forest land classifications; and introduction of internal audit or similar systems of internal checks on the bureaucracy. These initiatives, with the exception of transparent concession allocation systems, are more directed at petty corruption. Tackling grand corruption is likely to involve initiatives that go outside forest policy to more over-arching reforms relating to the system of governance.

2. **Increasing information flow.** There is a glaring need for better communication of information on illegal and corrupt forestry activities and successes and failures in trying to deal with problems. The Bank could take a leading role in ensuring the wider publication of reliable information on this issue and, in particular, data on on-ground work that is and has been undertaken to address it.
3. **Case studies.** Linked to this, undertaking pilot studies in certain countries would be beneficial. Of particular use would be if these dealt with countries facing a range of different types of illegal forestry problems and with different political-economic systems. These studies should be well documented and the results communicated widely. Some work of this nature is already occurring, for example in Cambodia and India.
4. **Regional cooperation.** Cooperation between neighbouring countries will be necessary to deal with any problems of illegal cross-border timber trade. However, for countries with similar forest sectors and common problems of illegal activities, sharing of experiences and working together to find solutions would be very worthwhile. The initiative being undertaken by Mekong Region countries, with the Bank's assistance, is a good example in this regard.
5. **Forging alliances with other organisations/agencies.** The Bank would be advised to work with other organisations and agencies that are also tackling the difficult issue of corruption, including other lending agencies and non-government organisations such as Transparency International. An exchange of experiences has many obvious benefits for all involved.
6. **International treaties.** Despite the lack of action to date within conservation/forest management treaties to address illegal timber trade, the World Bank should promote efforts to tackle this problem within these fora, wherever possible. More useful in the short term, however, would be for the Bank to encourage implementation of existing anti-corruption treaties. They should also consider the applicability of such treaties for regions in which they are working on anti-corruption issues, but which are not covered by existing anti-corruption treaties. It may be possible for the Bank to promote accession to such treaties by non-Party states that qualify for membership.

### 3.2 Strategy for World Bank Future Activities

This section outlines some suggestions for actions that the World Bank could carry out to address forestry corruption. They are divided into short-term activities that could be initiated within the next twelve months (although completion may take longer and some may be ongoing), and those that will follow from these or that could be commenced at a later stage.

***Establishment of an internal illegal forestry working group.*** (Short-term; ongoing) The Bank should establish an internal group on illegal and corrupt forestry issues, with participants from forestry and anti-corruption sections of the Bank. Consideration should also be given to involving outside experts in this group, although this is most likely to be required on an *ad hoc* basis only. This working group would foster a cross-flow of ideas within the Bank, so that anti-corruption experts can provide their expertise for application by the forestry team, and the forestry team provide insights from their experience. It should aim to ensure that the forestry anti-corruption work does not occur within a vacuum from broader anti-corruption efforts of the Bank, and vice versa. This group could also operate as a steering committee to provide broad guidance on the development and implementation of the strategy elements that are outlined in this section and the next.

***Continuing implementation of ongoing initiatives.*** (Short-term; ongoing) The Bank is already embarking on a number of initiatives to address forestry corruption, such as the Mekong Country seminar and work in Cambodia and India. This is useful work and should continue, bearing in mind other suggested actions outlined elsewhere in this chapter (e.g. communications).

***World Bank-WWF Alliance.*** (Short-term; ongoing) The Bank should continue action to meet the targets on forest protection and certification set under the Alliance with WWF. As mentioned previously, timber certification is a tool that can assist in tackling illegal forestry activities.

***Inventory of existing activities. (Short-term)*** Linked to the above, there are undoubtedly many other activities which the Bank is carrying out that are relevant to the issue of illegal forestry. However, it is difficult to assess the lessons they may provide to the Bank's future work in this area, without knowing what they are. Consequently, an inventory should be carried out of work that the Bank has been involved in that is relevant to the forestry corruption issue.

***Assessment of lessons learned from past activities. (Short-term)*** Once the above inventory has been completed, an assessment should be made of the types of actions that were implemented at a country level and their impact on illegal and corrupt forestry activities. This analysis should feed into the refinement of the Action and Assessment Framework discussed below.

***Assessment of possible insights from other natural resource sectors. (Short/medium-term)*** Problems of illegal and corrupt actions are not unique to forestry; sectors such as fisheries and mining also suffer from problems in this area. It would be worthwhile investigating what work has been done to try and address illegal activities in these sectors and whether it provides any lessons or offers any insights or solutions for forestry.

***Identification and prioritisation of target countries and regions. (Short/medium/term; ongoing)*** A mechanism needs to be established for identifying and prioritising target countries, based on considerations such as: importance of forestry to the country's economy; extent and biological significance of the country's forests; scale of existing Bank involvement in the country, particularly in the areas of forestry and anti-corruption; whether the country has approached the Bank for anti-corruption assistance; known or suspected level of illegal forestry activity in the country; treatment of anti-corruption and forestry activities in the CAS; and so on. Within this consideration; the Bank needs to decide whether to focus its activities in particular countries or regions, or to spread its interest across the spectrum of countries that are suffering from problems of illegalities in the forestry sector.

On the regional level, it would also be worthwhile for the Bank to identify regions where cooperative actions would be beneficial. The work currently being done in the Mekong region provides a useful model that could be emulated. However, this existing work should be evaluated for its successes and failures as it proceeds and approaches modified for other areas as required. Possible countries that may be appropriate for regional cooperative work include members of the OAS that are signatories to the Inter-American Convention Against Corruption (which could provide the broad framework for pursuing regional cooperation on forestry corruption), or members of the Treaty for Amazonian Cooperation.

***Should the Bank focus on specific areas of reform. (Short-term)*** One approach would be for the World Bank to focus its activities on a particular type of reform, such as changes to forestry legislation. However, given the complex range of causal factors in forestry corruption, such an approach is not recommended. A more holistic approach would appear to offer the best chance of seeing long-term improvements. Attention to one area of required policy change only may provide limited assistance, without the support of other required areas of change.

***Communications strategy. (Short-term; ongoing)*** There is a clear need for more information to be circulating both on the issue of forestry corruption and ways and means to address it. In particular, there is a lack of information on on-ground reforms that may assist in tackling forestry corruption. This should be communicated both within the Bank and to an external audience. The issue of information dissemination also needs to extend to any countries within which the World Bank is working on forestry corruption and will likely need to be targeted to a range of different audiences (government, industry, civil society).

In the short-term the Bank should draft a communications strategy on its forestry corruption work, or ensure that this topic is adequately addressed in any broader forestry and anti-corruption communications strategies. It should also look to publicise the issue in appropriate Bank publications, including those dealing with general anti-corruption efforts. Some simple messages on why it is a problem, what strategies can be used to address it and information on current Bank initiatives in this area would be a good start. A strong effort should also be made to publicise success stories — showing the world that it is possible to make inroads against illegal timber trade.

**Dialogue with other relevant institutions.** (*Short-term; ongoing*) The Bank should initiate discussions with other relevant institutions on possible collaboration or exchange of ideas on this issue (e.g. ADB, FAO, Transparency International). Organisations such as FAO may also be able to provide insights gleaned from work in other natural resource sectors (agriculture, fisheries) that may be applicable to forestry.

**Development of a Draft Assessment and Action Framework.** (*Short-term; ongoing*) It would be useful to develop some tools that could be used to guide staff of the Bank and other organisations on how to address forestry corruption. A simple outline of a possible framework is shown in box 12. Other more specific steps which could be incorporated into this framework, particularly where the problem relates to corruption, are given in Appendix C. A rough outline of the problem/cause/solution matrix mentioned in Box 12 is at Appendix F. Incorporation of the information in this report would be a good starting point for developing this matrix more fully. Both the matrix and the framework could be tested in the case studies mentioned below, and modified according to an on-ground evaluation of their usefulness and completeness.

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### **BOX 12: POSSIBLE ILLEGAL FORESTRY ASSESSMENT AND ACTION FRAMEWORK**

1. In-country analysis to determine the probable scale and nature of problems. This could use, *inter alia*: surveys of relevant players; analysis of trade data; examination of taxes levied and collected; review of local media reports and trade journals; assessment of government law enforcement statistics; and so on.
2. Investigate existing policies, laws and other relevant factors that may be contributing to illegal and corrupt forestry activities in areas such as: anti-corruption/law enforcement/internal audit laws and policies; forest management; taxation; land tenure and land allocation; public service terms and conditions, including wages and disciplinary procedures; and freedom of the press.
3. Apply the results of steps 1 and 2 to the problem/cause/solution matrix (Appendix F) to determine possible reforms that may be required.
4. Develop and implement a program of action based on the outcome of this analysis, including measurable indicators of success and evaluation procedures.

The involvement of government, industry and civil society is an important component in implementing this framework.

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**Case studies.** (*Short/medium-term; ongoing*) As well as the analysis of past work that is suggested above, it would be worthwhile for the World Bank to undertake some case studies to further analyse the types, scale and causes of illegal and corrupt activities in the forestry sector. In the short term, these case studies would largely cover steps 1 to 3 in Box 12. Longer-term work would involve implementation of reforms and monitoring of their effectiveness. This work would also assist in developing and modifying the framework and matrix mentioned in Box 12. They should also be assessed on completion to see if the approaches used could be modified in future in order to be more effective.

It would be useful for these case studies to cover a range of different situations, in order to provide a good mix of different information output. Trying to fill in some of the information gaps mentioned in 3.1.2 would also be helpful. Suggestions for possible case studies are:

- A country where Bank activities in this area are already well under way, such as Cambodia.
- An Eastern European economy in transition, preferably one where the Bank is already actively working on anti-corruption initiatives (e.g. Latvia, Albania, Georgia).

- Work in a country that has problems with illegal activities in the domestic (rather than export) timber industry, such as India.
- A case study at the local level to address a local-scale problem such as illegal logging in a protected area.

The outcomes from these case studies and the other work described in this section should feed into the development of longer term guidance on how to tackle illegal and corrupt forestry activities more broadly, while also providing specific guidance on approaches that may be necessary for particular situations.

***Integration into general forestry and anti-corruption work.*** (Short/medium-term; ongoing) The Bank needs to consider mechanisms to ensure that the illegal forestry issue is kept in mind by Bank officials engaged more generally in forestry work in particular, but also anti-corruption work, particularly in countries with a significant forest industry. The communications strategy will be key in this. The point is to ensure that in carrying out general work in these areas, Bank staff are aware of the illegal forestry issue and assess their recommendations for their potential impact — positive or negative — on forestry corruption. The ultimate aim is to make this issue as mainstream a consideration in forest management as other matters, rather than one that is put in the ‘too hard’ basket as is often the case at present.

***Working with the forest industry.*** (Medium-term; ongoing) The World Bank could have a useful role in encouraging forest industry associations to develop and implementation of codes of conduct. These should incorporate elements specifically designed to condemn corrupt and illegal activities by signatory companies. It would also be useful for the Bank to consider initiating dialogue with high-profile timber industry people, to encourage improved actions by particular companies. This is particularly relevant for some of the Indonesian and Malaysian trans-national corporations, which have a single powerful individual heading up the company.

***International treaties and agreements.*** (Short/medium-term; ongoing) The Bank could play a role in bringing the issue of illegal timber trade to higher prominence in relevant bodies such as the ITTO. The specific way in which it could best approach this would require careful consideration, but given that the Bank is carrying out work in this area, it should not be shy about communicating its efforts in international fora and encouraging complementary work. There would also seem to be a role for the Bank in assisting in the implementation of anti-corruption treaties. This includes encouraging countries to sign up to such agreements, and assisting signatories in the development and implementation of domestic legislation, policies and programs that give effect to the treaty.

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## **APPENDIX E**

### **INTER-AMERICAN CONVENTION AGAINST CORRUPTION: KEY ELEMENTS**

#### **Article III**

##### *Preventive Measures*

For the purposes set forth in Article II of this Convention, the States Parties agree to consider the applicability of measures within their own institutional systems to create, maintain and strengthen:

1. Standards of conduct for the correct, honorable, and proper fulfillment of public functions. These standards shall be intended to prevent conflicts of interest and mandate the proper conservation and use of resources entrusted to government officials in the performance of their functions. These standards shall also establish measures and systems requiring government officials to report to appropriate authorities acts of corruption in the performance of public functions. Such measures should help preserve the public's confidence in the integrity of public servants and government processes.
2. Mechanisms to enforce these standards of conduct.
3. Instruction to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities.
4. Systems for registering the income, assets and liabilities of persons who perform public functions in certain posts as specified by law and, where appropriate, for making such registrations public.
5. Systems of government hiring and procurement of goods and services that assure the openness, equity and efficiency of such systems.
6. Government revenue collection and control systems that deter corruption.
7. Laws that deny favorable tax treatment for any individual or corporation for expenditures made in violation of the anticorruption laws of the States Parties.
8. Systems for protecting public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities, in accordance with their Constitutions and the basic principles of their domestic legal systems.
9. Oversight bodies with a view to implementing modern mechanisms for preventing, detecting, punishing and eradicating corrupt acts.
10. Deterrents to the bribery of domestic and foreign government officials, such as mechanisms to ensure that publicly held companies and other types of associations maintain books and records which, in reasonable detail, accurately reflect the acquisition and disposition of assets, and have sufficient internal accounting controls to enable their officers to detect corrupt acts.
11. Mechanisms to encourage participation by civil society and nongovernmental organizations in efforts to prevent corruption.
12. The study of further preventive measures that take into account the relationship between equitable compensation and probity in public service.

#### **Article IV**

### *Scope*

This Convention is applicable provided that the alleged act of corruption has been committed or has effects in a State Party.

### **Article V**

#### *Jurisdiction*

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offenses it has established in accordance with this Convention when the offense in question is committed in its territory.
2. Each State Party may adopt such measures as may be necessary to establish its jurisdiction over the offenses it has established in accordance with this Convention when the offense is committed by one of its nationals or by a person who habitually resides in its territory.
3. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offenses it has established in accordance with this Convention when the alleged criminal is present in its territory and it does not extradite such person to another country on the ground of the nationality of the alleged criminal.
4. This Convention does not preclude the application of any other rule of criminal jurisdiction established by a State Party under its domestic law.

### **Article VI**

#### **Acts of Corruption**

1. This Convention is applicable to the following acts of corruption:
  - a. The solicitation or acceptance, directly or indirectly, by a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions;
  - b. The offering or granting, directly or indirectly, to a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions;
  - c. Any act or omission in the discharge of his duties by a government official or a person who performs public functions for the purpose of illicitly obtaining benefits for himself or for a third party;
  - d. The fraudulent use or concealment of property derived from any of the acts referred to in this article; and
  - e. Participation as a principal, coprincipal, instigator, accomplice or accessory after the fact, or in any other manner, in the commission or attempted commission of, or in any collaboration or conspiracy to commit, any of the acts referred to in this article.
2. This Convention shall also be applicable by mutual agreement between or among two or more States Parties with respect to any other act of corruption not described herein.

## **Article VII**

### *Domestic Law*

The States Parties that have not yet done so shall adopt the necessary legislative or other measures to establish as criminal offenses under their domestic law the acts of corruption described in Article VI(1) and to facilitate cooperation among themselves pursuant to this Convention.

## **Article VIII**

### *Transnational Bribery*

Subject to its Constitution and the fundamental principles of its legal system, each State Party shall prohibit and punish the offering or granting, directly or indirectly, by its nationals, persons having their habitual residence in its territory, and businesses domiciled there, to a government official of another State, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage, in connection with any economic or commercial transaction in exchange for any act or omission in the performance of that official's public functions.

Among those States Parties that have established transnational bribery as an offense, such offense shall be considered an act of corruption for the purposes of this Convention. Any State Party that has not established transnational bribery as an offense shall, insofar as its laws permit, provide assistance and cooperation with respect to this offense as provided in this Convention.

## **Article IX**

### *Illicit Enrichment*

Subject to its Constitution and the fundamental principles of its legal system, each State Party that has not yet done so shall take the necessary measures to establish under its laws as an offense a significant increase in the assets of a government official that he cannot reasonably explain in relation to his lawful earnings during the performance of his functions.

Among those States Parties that have established illicit enrichment as an offense, such offense shall be considered an act of corruption for the purposes of this Convention.

Any State Party that has not established illicit enrichment as an offense shall, insofar as its laws permit, provide assistance and cooperation with respect to this offense as provided in this Convention.