

Independent forest monitoring: seven years on

D.W. YOUNG

Global Witness, PO Box 6042, London N19 5WP, UK

Email: dyoung@globalwitness.org

SUMMARY

There has been an expansion in Independent Forest Monitoring (IFM) initiatives, with more predicted under the FLEGT processes. Yet the characteristics of IFM are not widely understood, and other activities such as management systems audits, log tracking, civil society activism and NGO campaigning are seen as substitutes, whereas in fact they all complement each other in a 'system of accountability'. The official yet independent nature of IFM is particularly suited to 'bridging the gap' between the role of the state and that of civil society in regulation and law enforcement, and needs to be adapted to local circumstances. IFM-style mechanisms of civil society oversight need to include freedom to investigate a broad range of issues, a review mechanism to build ownership and accountability, a firm legal basis and proper authority, and secure funding, so that reports are acted on and the monitoring function is institutionalised beyond a project horizon.

Keywords: IFM, FLEGT, accountability, civil society oversight, illegal logging

Gestion indépendante des forêts: sept ans plus tard

D. W. YOUNG

Les initiatives de gestion indépendante des forêts (IFM) ont connu une expansion, laquelle devrait encore s'élargir sous l'égide des processus FLEGT. Les caractéristiques de la IFM ne sont cependant généralement pas bien comprises, et d'autres activités, telles que les audits des systèmes de gestion, la localisation des rondins, l'activisme de société civile et les campagnes des organisations non gouvernementales sont perçus comme des substituts, alors qu'ils constituent en fait des compléments dans un système de prise de responsabilité. La nature officielle, et néanmoins indépendante des IFM est tout particulièrement en mesure de "faire le pont" entre le rôle de l'état et celui de la société civile dans la réglementation et la mise en force des lois, et elle doit être adaptée aux circonstances locales. Des efforts pour parer aux erreurs des mécanismes de style-IFM de la société civile doivent inclure la liberté d'explorer un large éventail de questions, un mécanisme de révision pour affirmer le domaine la propriété et celui de la prise de responsabilité, une base légale ferme et une réelle autorité, et soutien financier ferme, pour que les rapports résultent en actions, et que la fonction de gestion soit institutionnalisée au-delà de l'horizon du projet.

Monitoreo forestal independiente: siete años después

D.W. YOUNG

Se han aumentado las iniciativas de Monitoreo Forestal Independiente (MFI), y los procesos FLEGT auguran mayores desarrollos en este sentido. Sin embargo, no se entiende bien las características del MFI, y se consideran como substitutos otras actividades, tales como las auditorias de sistemas de manejo, el seguimiento de los registros, el activismo en la sociedad civil y las campañas de ONGs, cuando en realidad todos estos elementos se complementan en un 'sistema de rendición de cuentas'. El carácter oficial pero independiente del MFI es especialmente adecuado para salvar las diferencias entre el papel del estado y el de la sociedad civil en cuanto a la regulación y el cumplimiento de la ley, y necesita ser adaptado a las circunstancias locales. Los mecanismos de supervisión por parte de la sociedad civil del estilo MFI deben abarcar la libertad para investigar una amplia gama de temas, un mecanismo de revisión para fortalecer el regimen de propiedad y rendición de cuentas, una financiación segura, una base legal firme y una autoridad suficiente para garantizar una reacción adecuada a los informes y la institucionalización de la función del monitoreo más allá del fin de un proyecto específico.

INTRODUCTION: A BRIEF HISTORY OF IFM

Since its introduction in 1999, Independent Forest Monitoring (IFM) has been implemented in Cambodia, Cameroon and Honduras. Scoping / feasibility studies have been undertaken in Honduras, Ghana, Peru, Mozambique, the Republic of Congo (RoC), Tanzania and Nicaragua. Pilot

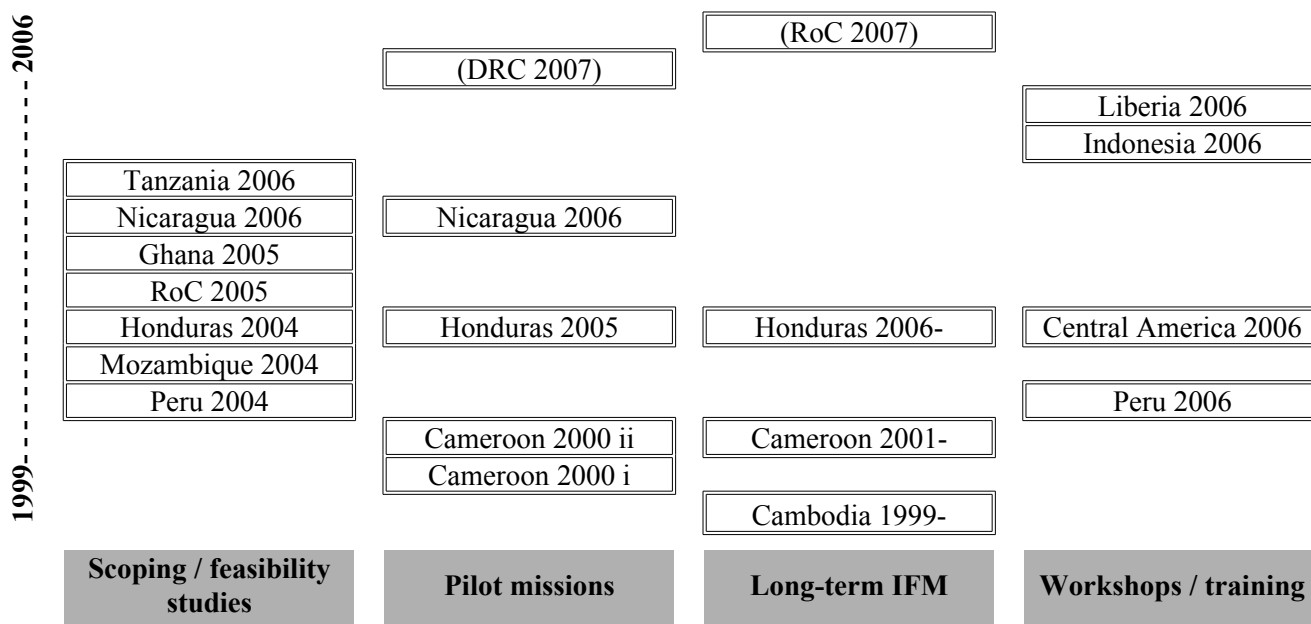
missions, to demonstrate the way IFM works on the ground have been run in Cameroon, Honduras and Nicaragua, and are scheduled for the Democratic Republic of Congo (DRC) and the RoC (Figure 1). Overall, there is a steady increase in interest in independent monitoring in the forest sector, exemplified by the European Commission's decision to make it a key component in the legality licensing system

proposed under their Forest Law Enforcement, Governance and Trade (FLEGT) initiative (European Commission 2003). This could see tools based on IFM implemented in Ghana, Cameroon, Indonesia, Malaysia, Gabon, the RoC, Liberia, the DRC and possibly Brazil, Bolivia, Vietnam, Ecuador and others.

What can we learn from the examples about the different ways IFM initiatives have been designed and implemented, and about the perception of IFM from different points of view? This article seeks to consolidate experience to date and to indicate pointers, and warnings, about the role of IFM if it is to be adopted in more and more places. The article is largely based on the work of Global Witness; due to commercial confidentialities, the author has only had access

precursors refer to IFM. EU FLEGT Briefing Note 9, *A timber legality assurance system* (European Commission 2005) uses the term ‘independent monitoring’ and gives a few details on how this might differ from IFM (see below). *A Guide to Independent Forest Monitoring* (Global Witness 2005a) provides a practice-based delineation of the term as well as discussing how it might be expanded and adapted whilst separating the tool and values behind it from audit, which portrays a narrow, pre-determined set of checks, and observation, which might suggest a more passive and less formal role. As the rest of this article argues, it is important to keep the term IFM associated with the unique characteristics it has come to represent in order to avoid confusion and maintain effectiveness of the approach.

FIGURE 1 *Timeline of IFM*



to the published reports of other implementers of IFM and the project documents of donors sponsoring various IFM initiatives. We hope that the article will stimulate debate and discussion and look forward to contributions from others on these pages and elsewhere.

The term IFM is becoming increasingly recognised in the forest governance dialogue, although what is commonly understood to be IFM has been called different things, and IFM as a term has been defined in different ways. Early incarnations were known as the Independent Monitor in a Forest Crime Monitoring and Reporting Project in Cambodia, and Independent Observation in Support of Forest Control in Cameroon. The Verifor project¹ and its

WHAT DOES IFM DO?

IFM is a governance tool. In short its objective is to improve government performance through better forest laws, better enforcement, and greater public participation in both the formulation and implementation of forest policy, laws, regulations and management. These broad, high-level objectives will only be achieved through the actions of many players, and mean that successful IFM requires a broad mandate. IFM is not limited to documenting forest crimes, nor to serving a narrow management systems audit function; it has in addition a public interest role to ensure that laws and regulations are upheld and improved in order to meet forest

¹ The Verifor applied research project of the Overseas Development Institute (ODI) and local partners seeks to analyse the institutional architecture of different systems to verify legality in the forest sector. ODI previously published the first review of IFM in 2004. See www.verifor.org for further details.

policy objectives – typically some formulation of equitable, transparent and sustainable management of the forest estate. Monitors can contribute to an improved legislative environment by pointing out where inappropriate legislation has failed to achieve policy choices, based on the results of their investigations. In line with this interpretation, the working definition of IFM put forward by Global Witness in *A Guide to Independent Forest Monitoring* is ‘**the use of an independent third party that, by agreement with state authorities, provides an assessment of legal compliance, and observation of and guidance on official forest law enforcement systems**’ (Global Witness 2005a). The defining characteristic of IFM is the unique position of the monitor as official yet independent.

IFM AS A COMPONENT IN A SYSTEM OF CHECKS AND BALANCES

On initial observation illegal activity may appear to be the fault of those acting in the forest but outside the law, yet they can do so only because the state is influenced by vested interests and therefore failing to implement its own policies for the common good: ‘Protected by powerful patrons, timber companies may evade national regulations with relative impunity. State forestry institutions may become in effect the clients of concession-holders in the ruling elite, exercising their powers as a form of private property rather than as a public service’ (Brack *et al.* 2002).

This observation suggests it is naïve to think that society can move to a situation where rulers are inherently and unambiguously ‘good’. In reality, this alone is often too much to hope for. Mechanisms by which the populace can effectively hold their government to account need to be in place so that people with power will be obliged to acknowledge their responsibility to those without. The powerless must aim to hold their rulers to account by realising their rights and demanding them, rather than waiting for the powerful to provide them: ‘Establishing entitlement to resources or services as a right, rather than as merely a policy objective which may or may not be changed in the future, improves the sustainability of [local people’s] benefits’ (Conway *et al.* 2002). Furthermore, local peoples’ roles should not be limited to participation in forest management, but should include a voice in policy formulation: ‘procedural rights and rights of association are also needed if local people are to benefit from forest resources and other natural resources. These rights include access to decision-making processes, access to information and access to justice’ (Anderson *et al.* 2006).

In this way, accountability is ensured by checks and balances in the system as a whole, and therefore hinges on the roles of all players. Only through various actions by the majority will illegal activity, including corruption by the minority, be suppressed. In an environment of systemic corruption such as that described in the quotation from Brack *et al.* above, where checks and balances are non-existent or

failing, any internal champions of reform will inevitably be constrained in what they can achieve.

As others have suggested, ‘indirect’ approaches need to be found to further the accountability of officials, including citizen empowerment, information dissemination, building broad coalitions, limiting discretionary powers, and using donor leverage (Shah and Schacter 2004). IFM is one such indirect approach, operating alongside others working to instil a ‘system of accountability’.

Wider civil society will also be unable to ‘realise their rights and demand them’ without support, and IFM is a tool which provides this support. The immediate aim of IFM is to provide credible, objective information on the state of forest governance and to place this in the public domain. The consequent increase in transparency provides the public with the political space and robust evidence which strengthens their ability to hold those with authority to account.

MINIMUM REQUIREMENTS FOR IFM

The credibility and objectivity of IFM stems from a set of structural and procedural elements which are laid out in a contract with a relevant government department. In agreeing the contract, the monitor and host are signing up to a set of shared objectives for IFM, and thereby taking a first step to sharing responsibility for improved transparency and accountability. As official, independent actors, monitors should be contractually obliged to work in the interests of stated forest policy. IFM is about checking that a system is delivering its objectives, and monitors, whether local or international, should not offer their services where they do not share the forest policy objectives, or where these have not yet been formulated and broadly accepted by the citizens of that country, (other than in the short term to help this process).

Experience suggests that certain minimum standards need to be met in the formulation of the contract if the monitor is to meet its responsibility to investigate any suspicions in full. These are:

- The monitor needs access to concession and title permits, maps and other contractual documents.
- The monitor must also have access to relevant government departments and personnel, including the legal, statistical, revenue and enforcement units.
- The monitor must have the authority to inspect any relevant part of the forest estate, forest authority offices and files, and milling, processing, trading or export centres.
- As far as possible, the monitor is accompanied by forest officials, on ‘joint missions’. At the same time, the monitor has the authority to undertake independent missions in order to verify the work of officials. Independent missions may also be appropriate in exceptional circumstances where it may be dangerous or inappropriate for officials to take part, but monitors must avoid usurping official functions.

- A reporting panel, or other peer review mechanism, checks that the conclusions and recommendations made in any report are fully in line with the evidence and the forest, environmental, social/labour, and tax laws. This panel provides an important function of sharing ownership of the reports with the authorities. It provides a forum for discussion of what the implications are of any IFM findings, and for panel members to take responsibility for agreed corrective actions. However, the monitor remains independent and panel is not able to change the evidence base, nor suppress publication of reports.
- All the monitor's reports are published with recommendations for improving the system of forest regulation and law enforcement.
- The monitor must be transparent and justified in its selection of cases for investigation, must treat any tip-offs or denouncements with diligence, fairness and professionalism, and must maintain confidentiality and follow reporting protocols.
- At all times, the responsibility for formal law enforcement and the prosecution of offenders remains with the appropriate state authorities.

The contractual obligation includes working in support of, but when necessary in spite of, the government of the day's interpretation or contradiction of policy, and IFM can reach a crisis when the monitor has to confront the host. Perhaps then, given the poor record of forest authorities in low-governance situations, the contractual partner to the monitor should not be the same forest authority. This approach is supported by EU FLEGT statements: 'To ensure independence, the government agency to engage the [independent monitor] should not be directly involved in management or regulation of the forest resource or industry' (European Commission 2005). A variation on this approach is showing success in Honduras (see below).

Mission reports

Mission reports can have an immediate impact by presenting cases of individual illegality or abuse, and should provide legally robust evidence that the law enforcement authorities can take forwards for legal or administrative action. In Cameroon, individual mission reports have led to penalties in the range of US\$ 2 600 to US\$ 3 500 000 being brought by the forest authority against individual infractors^{2,3}. Mission reports use this evidence to highlight systemic problems. They are not simply 'forest crime' reports but include recommendations for the forest authority.

Summary reports

Typically, a series of individual case studies, or mission reports, are periodically analysed for trends and systemic issues. These are documented in summary reports, which have a much wider, even international audience. The summary reports assess the implementation of policies, laws, regulations and procedures of the forest authority. They provide guidance for improving forest law and government performance in enforcement, as well as general recommendations for forest sector reform. The reports also provide the timber trade and public, locally and internationally, with an overview of forest law enforcement and governance. Box 1 provides some examples of documented actions as a result of summary reports and IFM work.

BOX 1 *Results of IFM*

Improved procedures, transparency and accountability:

- Cameroon: 'The adoption of a systematic way of selecting titles to inspect, ultimately aimed at full coverage, has improved the motivation and conscientiousness of [forest law enforcement] staff.' (Global Witness 2005b)
- Cameroon: 'The lists on recovery of [fines, damages and interest resulting from infractions] published by the Ministry have improved in clarity and information.' (Global Witness 2005b)
- Honduras: The IFM reports 'formed a significant part of a report on illegal logging in Honduras published in 2005 by EIA [Environmental Investigation Agency] and CIP [Centre for International Policy], thereby strengthening the integrity of this report.' (CONADEH and Global Witness 2006)
- Honduras: 'Investigations about illegal logging and the reports produced by the Independent Monitor Global Witness document how the volumes of timber are underestimated when auctioned and how the [harvesting] areas are not well defined, thus allowing logging beyond the authorised boundaries'. (MAO 2006)
- Cameroon: 'The access to mission reports of the National Control Brigade is a perceptible step forward in transparency'. (REM 2006)

² US\$ 3 500 000 is enough for an international provider of IFM in Cameroon to operate for ten years.

³ In 2005, the largest fine, against Societe Forestiere Hazim (SFH) increased nearly ten-fold to US\$ 31 000 000 according to the regular press statements from the Ministry of Forests and Wildlife in Cameroon, and the case remains in court. The most recent of such press statements can be found on www.minef.cm

Improved law enforcement:

- Cameroon: 'The issuing of [official statements of offence] and prosecutions for illegal logging has increased significantly.' (Global Witness 2005b)
- Honduras: The forest authority (AFE-COHDEFOR; Administración Forestal del Estado – Corporación Hondureña de Desarrollo Forestal) appointed a commission to follow up the monitor's reports. This commission has verified the monitor's findings and taken appropriate actions including sanctions against the technical staff involved in the cases.
- Honduras: In an example of actions taken in institutions other than the forest ministry, FEMA (Fiscalía Especial del Medio Ambiente, the Environmental Public Prosecutor) has ordered the permanent closure of a sawmill, based on evidence presented by the monitor. It followed up other IFM reports by visiting the sites to corroborate the information gathered by the monitor. (CONADEH and Global Witness 2006)

Changes to the legal framework / operating environment:

- Cambodia: 'SGS noted that the issue of jurisdiction over suppression of forest crime was unclear... . SGS has been advised that new legislation is under preparation to resolve this issue.' (SGS 2005)
- Cameroon: The forest ministry published a comprehensive review of the official strategy for control of timber flows, based in part on the evidence of weaknesses in the previous strategy provided by Global Witness as independent forest monitor. (MINFOF 2005)
- Cameroon: 'Several actors of the forest sector increasingly consider the Independent Observer as an indispensable partner.' (REM 2006)
- Honduras: 'IFM provides the general public with an independent and more credible view: when AFE-COHDEFOR is doing things properly, it provides it with a source of information which allows AFE-COHDEFOR to correct internal flaws and to improve its actions. For those technical staff in AFE-COHDEFOR who are working well, IFM is of great support for detecting illegal logging. For those who work badly, IFM is a headache. IFM is of great support to AFE-COHDEFOR in terms of supervising the performance of the field staff of this institution.' (AFE-COHDEFOR, pers. comm. 2006)
- Honduras: 'IFM reports are corroborated by AFE-COHDEFOR and this is followed by the issuance of the relevant denunciations. The reports are also of use to review the current implementation procedures and search for better alternatives that improve forest controls.' (AFE-COHDEFOR, pers. comm. 2006)

APPROACHES TO IFM – BUILDING TRUST AND CONFIDENCE

The success of IFM is not entirely a function of its structure. Within the minimum standards outlined above, different approaches, contractual partners, and service providers have been adopted, and there remains much to learn from these.

Blue-print and evolutionary approaches

Brown and Tucker (2006) state, 'different solutions might be indicated where independent monitoring is envisaged as a permanent and routine feature of a verification system, or as an interim measure used by donors or others in the attempt to 'kick-start' governance reform and develop national accountability'. Indeed, two distinct tracks in the evolution of IFM can be discerned. One is exemplified by projects in Cambodia and Cameroon, and more recently by the World Bank's request for proposals for a pilot mission in the DRC. These recognise a need at times for the international donor community to make development assistance conditional upon host governments deploying IFM as a good governance tool (amongst other actions). These initiatives have a 'blue-print' feel to them, as they are largely being driven by international donor agencies, with a consequent limited national sense of ownership or adaptation.

Another approach is more evolutionary, seeking to build confidence and trust with those national authorities who are initialising their own forest reform efforts, whilst maintaining standards of independence and professionalism. Such an approach has been effective in Honduras, and is being trialled in the RoC, Nicaragua and Peru. This could be likened to an inception phase during which the issues, actors and interests are identified through as public a process as possible. There are typically three separate stages:

- Scoping studies** are short, preliminary studies examining forest use, industry performance, political will to reform the sector and tackle corruption, and internal and external market demand. They follow a broad and participatory consultation process. They serve to identify if, why, and where monitoring is needed, the scope for future long term independent monitoring activities and appropriate systems for monitoring, including a suitable host, or contractual partner for the monitor.
- One or more **pilot phases**. These demonstrate in practical terms how monitoring works and what it can achieve. They build on scoping studies by testing working relationships and methodology, and building consensus. Pilot field missions are investigative and produce mission reports, which demonstrate the effectiveness of monitoring by leading to real improvements in transparency, a deterrent to others, and possibly prosecutions. A number of mission reports are synthesised into a summary report.
- Support for the design** of long-term IFM: The

design process starts from the consensus built during scoping studies and pilot missions, and adapts IFM to local cultural, political and economic circumstances. The resulting design is pragmatic, locally-owned and learned from experience, but at the same time robust, with effective and clear terms of reference.

The results of any of these stages may be that long-term IFM is not instituted, but each stage itself opens up debates and generates public awareness of forest governance issues.

The longest-running IFM initiative, in Cameroon, whilst not using the exact terminology and sequence above, shows the value of doing so. After two demonstration missions in 2000, the terms of reference for the first long-term phase (2001 to 2005) were negotiated between client (the forest ministry, with assistance of donor community) and service provider (Global Witness). This period saw the greatest impact of monitoring of the sector, overcame at least two significant tests of the objectivity and independence of the monitor, and perhaps most significantly developed the highest level of cooperation with the forest law enforcement agents (Box 2). Unfortunately, the design for the second phase, for which invitations to tender were released in mid-2004, has

BOX 2 *Stakeholder views of IFM in Cameroon, 2001-2005*

In the opinion of government agents:

- Promoted transparency, decreased illegal forestry activity, highlighted shortcomings in the 1994 forest law.
- Central Control Unit responsible for forest law enforcement learnt how to operate effectively.
- Decreased level of corruption.
- Influenced the ways in which private companies collaborate with the government.

In the opinion of donors:

- Increased the level of discussion on governance issues in the reporting panel, and increased technical reporting ability in the Central Control Unit.
- Increased transparency in the claims made by the Central Control Unit.
- Improved mission planning and reporting capacities in the forest ministry.
- Local population observed a decreased level of impunity of forestry companies.
- “Good companies” were happier to follow the rule of law.

In the opinion of private forestry companies:

- Previously openly practiced illegal forestry activity no longer possible.
- International monitor perceived as a source of added value for exported products.

In the opinion of local NGOs:

- Monitor was able to establish a good network of contacts.
- There was a diminished level of corruption between officials and private companies during joint missions.

Source: End of contract project review for DFID (Cerutti and Assembe 2005)

seen an erosion of the terms of reference. This compromises the independence of the monitor in a number of ways. Most significantly, the minister now signs off on reports, usurping the role of the reporting panel (Global Witness 2005).

It is no coincidence that this second phase was competitively tendered, and followed the ‘blue-print’ rather than the evolutionary approach to project design, not least by remaining linked to aid conditionalities. This raises a difficult challenge for IFM: how can transparency and objectivity in project design and the appointment of the monitor be assured whilst at the same time enabling an evolutionary approach? The fact that out of eleven invitees – international and local – only one candidate submitted a tender for the second phase in Cameroon strengthens the call that those contracting or funding IFM need to find more appropriate mechanisms than competitive tendering to meet this challenge. Pro-active steps, in line with the public interest role of IFM, to consult with a wide range of civil society stakeholders in the design work of IFM goes some way to doing this.

Two recent invitations to tender for short term inputs have taken different approaches. Although neither fully addresses this challenge they are worth noting when formulating future tenders. In the first example, donors in Tanzania followed a strict due diligence policy: ‘companies are reminded that according to the manual for the procurement of services participation to this [scoping] mission (all parties of the joint mission) will disqualify from participation to the tendering of the possible implementation of the [long term] project’ (Finland Ministry for Foreign Affairs Tanzania 2006). This approach risks a loss of learning and trust-building between the scoping study and any subsequent work. It may also put potentially good candidates off doing the scoping studies because they do not want to lose out on subsequent longer-term work. In the second case, the World Bank invitation to tender for a pilot mission in the DRC states, ‘this mission will possibly be extended or converted into a long term mandate at the request of the government / administration and subject to the availability of funds’ (World Bank 2006). This approach addresses continuity issues but could be questioned as ‘unfair’ or accused of limiting opportunities for competition.

An evolutionary approach to successful IFM

Work in Central America has taken an evolutionary approach. In Honduras, a scoping study in 2004 outlined the feasibility of IFM in terms of geographical priority areas and an assessment of the key players in the sector. This established a constructive relationship between Global Witness, local NGOs, AFE-COHDEFOR, and other state institutions. Uniquely, the Honduran Commission for Human Rights (CONADEH, Comisionado Nacional de Derechos Humanos) emerged as a key partner, one with a core interest in the rights of individuals in respect of the state, and with a desire to engage more in environmental rights. Following the drafting of joint protocols, fundraising, and identifying local team members, an extended pilot phase ran from mid-2005 for about a year. Under an agreement between Global Witness and CONADEH, each organisation provided one team-member and additional legal, logistical and other support. In particular, CONADEH has been able to draw on the expertise of its own lawyers and the Public Environmental Prosecutor (FEMA, Fiscalía Especial del Medio Ambiente) to strengthen the legal basis of reports and to pursue subsequent cases. The project mandate was to provide a service to an appropriate official institution under the Ministry of Agriculture (Box 3).

During the pilot phase, field missions were carried out in the target area involving a variety of stakeholders, ranging from local NGOs, forest and other authority officials, and private sector representatives. Gradual confidence-

building and capacity-building has paid off, and since April 2006 CONADEH and AFE-COHDEFOR have signed an agreement acknowledging the former's role as the independent forest monitor for the next year, enabling it to take on more team members and cover a larger geographical area. Global Witness continues to provide technical support to CONADEH and all three organisations are working together to seek funds for further expansion and continuation of the initiative.

An evolutionary approach can also be seen in Nicaragua. The support for IFM in Honduras has generated interest in neighbouring countries, and following a regional workshop in early 2006 the Nicaraguan forest authority (INAFOR, Instituto Nacional Forestal) has moved particularly fast to initiate a pilot phase. This started in August 2006, and follows the Honduran model in terms of a small, low profile and low budget team at the start. There are two team members, plus limited support from Global Witness international staff and logistical support from INAFOR. The latter will review the reports produced by the monitor at a local level from a legal perspective, hence increasing the sense of shared ownership and commitment to the success of the project, and it is anticipated that this will evolve into a more formal reporting panel function. INAFOR has also been swift in taking the first steps to ensure the future of monitoring is made more secure by working towards including it as part of its official budget.

IFM and civil society oversight

The pattern so far that IFM is conducted by international organisations needs to change. The evolution of IFM in Honduras described above, and the particular role of the Commission for Human Rights, is one example of an international provider establishing an exit strategy by working with a local partner from the outset. However, it remains dependent on the will of a human rights commission or ombudsman to move beyond its core function and embrace environment-related human rights, and this is likely to be influenced by the financial security, and possibly the legal basis, of such organisations.

IFM might be described as a form of civil society oversight. Through articulating the public's right to know, together with a process of building trust and professionalism amongst the forest officials it works with, the monitor is opening up the administration to public scrutiny (cf Box 4). The resulting increase in transparency and accountability is locked-in through the creation of political space: as authoritative information on forest governance is published, civil society gains in confidence to speak about the issues, and to speak out – to hold the state to account. Citizen activism within the forest sector has increased in all the countries where IFM has been implemented.

Civil society oversight should be genuinely based in a country's citizenry, and cannot continue forever through a proxy such as an international monitor. International monitors have limited credibility – they risk the criticism of working to an international rather than local agenda

BOX 3 *IFM in Honduras – Objectives*

- Establish the institutional basis for IFM in Honduras, by developing working relationships with the forest authority as well as liaising with other government bodies, civil society and the private sector.
- Generate reliable information about illegal logging and its associated trade in select regions of the country. This will contribute independently verified case study evidence to all stakeholders in order to inform debates about forest regulation and management.
- Develop and demonstrate a specific methodology tailor-made to the needs of the country.
- Propose recommendations and amendments to the legal framework of the forestry sector and of the administrative procedures involved in forest management.
- Recommend objectives, terms of reference, operating procedures and a timeframe for a long-term IFM project.

Source: (CONADEH and Global Witness 2005)

BOX 4 *Building effective voice requires four processes:*

- Capacity building and participatory dialogue to create an inclusive voice of individuals and the community at local level.
- Aggregating this voice and achieving greater influence by strengthening local organisations, and improving the quality and frequency of interactions with higher levels.
- Building the accountability of service providers and governments. The ability to listen to and respond to community level voices requires very different ways of working and thinking by authorities. Their downward accountability is critical, though they still need to be effective in their links to higher levels of governance.
- Developing advocacy, mediation, and facilitation skills and processes to ensure linkage between local voices on the one hand and authorities on the other.

Source: (Anderson et al. 2006)

– if the local public do not increasingly voice concerns from their own perspective. This is especially the case on issues relating to indigenous peoples or forest dependent communities, although an international or local monitor will have a difficult path to tread when illegal acts are committed by the needy rather than the greedy.

Hence, particularly in relatively open countries⁴ with a buoyant and active civil society, opportunities for local NGOs to undertake monitoring need to be embraced from the start. One possibility – especially in a large country such as Indonesia – is that a number of civil society organisations assume a more formal role in monitoring in different geographical areas. Where many groups have the ability and desire to build on their skills in forest investigations, they should be supported by a central team, which provides training, quality control, and coordination. Different groups need to have the same terms of reference and contractual provisions, and resources must be available to exchange information, capitalise on each other's experience and build synergies.

However civil society groups taking on a monitoring function without being officially recognised through a contract and provided access to a statutory forestry supervisory and advisory body – that they simply produce forest crime reports at their own initiative and cost – will not have the same impact as IFM. As Brown and Luttrell

(2004) have said, this approach, which they term 'External Monitoring', implies 'monitoring without necessarily an official cachet or the immediate intention of verifying the activities of the official agency'. This is not so different from a conventional campaigning approach, which is effective and necessary, but should not be confused with or substituted for IFM. The official but independent status that characterises IFM provides an important assurance that monitoring is formally acknowledged, reports are based on information which is harder for officials to deny, carry an authority and are acted on, and funding is provided.

External monitoring, in contrast, lacks the same level of formal acceptance, and there is a danger that if this form of monitoring becomes a substitute for IFM, access to information, acceptance of reports and recommendations, and security of funding will dwindle. Local civil society groups undertaking monitoring will be particularly vulnerable to this.

Training needs

Training for local NGOs and forest officials, such as that provided by Forests Monitor, the Environmental Investigation Agency and Global Witness in Russia, Indonesia, Central America, Peru, Cameroon and Liberia, has focused on understanding the regulatory structure and procedures, preparing for and undertaking investigations, reporting, legal case-tracking and monitoring institutional reform. From this wide experience, it is clear that training needs to emphasise three core issues:

1. Information Management: ensuring investigative reports remain robust and legally submissible necessitates good information management, some form of legal case-tracking system, and managing publicity and the media.
2. Planning: it is not the prime purpose of monitoring to look at every suspicious case, and inevitable resource limitations require monitors to select topics or cases to investigate in a way that demonstrates wider systemic weaknesses and is effective in persuading those responsible to make improvements to the law, regulations and organisational procedures and systems. At the same time, cases for investigation need to be selected in an objective and justifiable way.
3. Interpersonal Skills, to address the management of relationships between the various actors so that monitoring is perceived as a constructive contribution to improved forest governance and development. It may be particularly challenging for any organisation that has had a different previous relationship with the state to reinvent itself as an independent monitor. One

⁴ For example Freedom House ratings for political rights and civil liberties in Ghana and Indonesia are relatively high (1 or 2 out of 7) whilst those for the DRC and Cameroon are very low, at 6 out of 7. (Freedom House 2005)

local NGO in Ghana said: ‘the monitor’s only *raison d’être* in a country is to monitor. By definition, any pre-existing local NGOs exist for a different purpose, which does not necessarily fit well with a monitoring function’ (Global Witness 2006). Explanations for these difficulties, as given during civil society consultations in Ghana, are no reason to avoid promoting local groups, but underline the need for training and committed support: ‘local NGOs are too easy to buy off; they are too dependent on the vagaries of their funders to remain committed; they are private businesses in disguise; their approach may not be the same as an experienced monitor; and international-local partnerships may be artificially created in order to meet the requirements of competitive tendering, and therefore fragile’ (Global Witness 2006).

In spite of the difficulties reported, it is better to build on existing status and connections in local civil society structures, if possible technically, than to start with a completely new local entity. Such groups are likely to have already learned ways in to deal with obstructive vested interests.

The extent to which capacity building of local civil society groups can be provided by an experienced IFM team whilst simultaneously contracted as a long-term monitor will depend on interpretation of the term ‘independence’ when negotiating the terms of the contract. In Cameroon, for example, capacity building for civil society groups has been prohibited on the grounds that it would undermine the independence of the monitor. In contrast, in Congo Brazzaville, the forest ministry ‘requested that the long-term project include element of training of civil society representatives to ensure their participation in independent monitoring’ (REM 2007).

The legal basis for IFM

There is a need to look at how the monitoring function can be sustained beyond one or two contracts and become a commonplace component in a set of checks and balances. One possible innovation is to base the IFM mandate in a law, decree or other legal instrument, probably in conjunction with other new sector legislation, for example one required for a legality licensing system. The Forest Practices Board (FPB) in British Columbia is an example of where this has happened: ‘The independence of the FPB is assured by legislation and it reports directly to the public without interference or vetting’ (Schreckenberg 2006). The inclusion of IFM was considered by the drafting committee of the 2006 National Forestry Law in Liberia, but not included in the final legislation. This is something of a missed opportunity as Liberia has expressed an interest in an EU FLEGT legality licensing scheme, for which independent monitoring will be an essential component (see next section). One clear advantage of a legal basis for IFM is that it could formalise the reporting panel and give it the legal identity required to enter into contracts. In situations where an international monitor was initially selected, it would also represent a

clear exit strategy for them by institutionalising the IFM function.

There are other legal instruments which are pertinent to civil society oversight mechanisms, such as witness protection schemes (under discussion in Indonesia), access to information (such as that enjoyed by CONADEH in Honduras) or wider freedom of information legislation, and clarifying the role of different actors in litigations and case-tracking (undertaken through a series of workshops in Cameroon in 2004-5). IFM can take advantage of, and promote, these tools where they exist, and recommend their adoption elsewhere.

IFM UNDER THE EU FLEGT LEGALITY LICENSING SYSTEM

The EU FLEGT initiative has provided the strongest impetus to date for IFM to be introduced to a significant number of timber-producing countries. This is in the context of a legality licensing system that intends to provide certification of legality for some categories of timber products traded between countries that enter into a Voluntary Partnership Agreement (VPA) with the EU. EU FLEGT Briefing Note 9 outlines five components for each licensing system, the details of which will be specific to each agreement. These are: a legality standard codifying which parts of the law are applicable to ‘legal timber’, a chain of custody to ensure legal timber is separated from other timber, a verification system comprising checks in the forest, sawmills, and export centres; a license issuing function; and independent monitoring, which it defines as ‘monitoring of the whole system to assure its credibility and to provide transparency’ (European Commission 2005).

There are a number of issues pertinent to the discussion of IFM. As described in the previous sections, illegal logging and the approaches to tackling it are fundamentally issues of governance. There is a danger of modelling the scheme on trade, economic, food standards or other similar agreements: ‘For many tropical timber producer states it is likely to involve decision making processes that are considerably more sophisticated than the simple model of licensed export trade’ (Brown 2006). Two topics in Briefing Note 9 – evidence-based reporting and publishing, and the need to distinguish between individual and systemic failures – highlight the risks of a narrow interpretation of monitoring:

- Note 9 states that monitoring ‘does not include reporting on forest crime’. This is somewhat misleading as elsewhere the Note concurs that monitors will undertake a ‘mix of accompanying verifiers while they work, independent field observations, observing export licensing, observing export control activities, and examining verifiers’ and licence authorities’ records. All observations must be properly documented with reference to supporting objective evidence’ (European Commission 2005). It appears, therefore that the EU envisages monitors *collecting*, but not *reporting* field

evidence, whereas IFM publishes the full evidence base as well as drawing conclusions about systemic weaknesses. Failure to publish this evidence base is non-transparent and risks putting the whole system under suspicion even if only a minority of operators are in breach. It also puts monitors in a vulnerable position in the event of any leak of ‘confidential’ information as it is easier to accuse the monitor than other members of the reporting panel of the leak. In addition, a monitor must report crime in the same way as would be expected of any private individual to avoid accusations of complicity.

- Comparisons which the Note makes with financial audit or management systems monitoring, whilst useful, underestimate the political and low-governance environment typical in the sector. Systems such as ISO 9000 and ISO 14000 are voluntary, and designed for high-governance situations. By design, ‘both ISO 9000 and ISO 14000 require organisations that implement them to improve their performance continually’ (ISO 2006). As ‘neither ISO 9000 nor ISO 14000 are product standards’ (ISO 2006) there is a tendency to believe that identifying sub-standard practices and accepting the notion of continuous improvement, no matter how slow, is sufficient – in a sense, everyone qualifies. Such approaches tend to overplay the identification of ‘gaps’ or irregularities in a system and underplay the necessary remedial action. The system-wide approach and a lack of product standards also make it hard to discriminate between ‘good’ and ‘bad’ actors by labelling the system a failure when it may only be some players who are at fault.

A monitoring initiative that does not take account of the political realities common to the timber sector of FLEGT partner countries will risk becoming an exercise in ‘green-wash’. There is already evidence to suggest that monitoring may simply strengthen the politically expedient positions that illegality is carried out by poor people with few livelihood alternatives when in fact, all too often it is a well organised commercial operation sanctioned by the highest state authorities. These two perspectives (with emphasis added) on Cambodia demonstrate the point:

- From the Independent Monitor: ‘In summary, SGS’s initial observations suggest that illegal forest activities remain confined to small scale and ‘low tech’ operations.... SGS found many cases where the FA [Forestry Administration] has been able to suppress these illegal activities...Also, the constant stream of fresh incidents occurring ...is most likely to continue as the problem is closely related to poverty alleviation, these illegal activities *in most cases being carried out by people in desperate need for income and/or land on which to live.*’ (SGS 2004)
- From the Independent Forest Sector Review: ‘Since FA introduced a moratorium on commercial logging in 2001 the situation has changed. Demand is being

met largely from both the post-concession areas and from Protected Areas. Many of the large scale loggers have been replaced by (or reorganised as) small scale operators, operating from areas of lower commercial value... but nonetheless areas with important ecological significance.... These *reports suggest that the main culprits, the military*, in illegal logging find MOE [Ministry of Environment; i.e. protected] areas “easier” to work.’ (Miller and Shields 2004)

To remain credible and useful, it is critical that monitoring, particularly as a component in an internationally recognised legality licensing system such as that proposed by EU FLEGT, continues to have an investigative and analytical edge, to probe for deeper systemic problems and not just report symptoms and evidence at face value. To do otherwise is extremely damaging if it provides protection for those opposed to reform to operate business as usual.

CONCLUSIONS

The essence of IFM is that it is official, independent, investigative and in the public interest. Its credibility is rooted in this structure, which provides access to official information and the ability to publish meaningful reports in a way they will be acted upon by those with authority. However to gain and maintain credibility reports need to be evidence-based and justified; it’s hard to see how publication of only summary information, without individual case studies, would be seen as providing this credibility. It is critical that standards in design and implementation of IFM are maintained.

Thus IFM has a clear role to play in a system of accountability, not least by asserting the right of citizens to know what their government departments are doing with public goods such as forests. There is a dual function for monitors with respect to the forest authority: to point out systemic failures, but also to support professionalism (and internal reformers). Monitoring contracts for the EU FLEGT legality licensing system run the risk of failure to build a system of accountability unless they build trust amongst a wide cross-section of local stakeholders. An imposed, blue print approach is particularly likely to fail if the host government is an unwilling partner.

An evolutionary approach has the advantage of increasing a sense of ownership for the host. Rights and responsibilities for the contractual partners are agreed – within the boundaries of a set of minimum standards – through a process of scoping studies and pilot missions. The negotiation process itself should be informed by realities on the ground and consultations with all stakeholders, and result in jointly-owned objectives to which the host and the monitor fully subscribe.

Blue-print and evolutionary approaches may be appropriate to different circumstances, and both present different challenges in procuring IFM and in implementation. In particular, the blue-print approach undermines local

ownership but there's evidence that this can still be built. For example, in the first phase of IFM in Cameroon, 'Global Witness was solely seen as "another externally imposed measure" by powerful international donors... According to [ministry] officials, things started to get better when Global Witness' attitude changed towards a more collaborative and open way of cooperation with the Central Control Unit, which left more time for discussions about the different actor's opinions' (Cerutti and Assembe 2005).

In broadening the range of groups able and willing to undertake IFM – and ultimately to 'institutionalise the IFM function' – the need for capacity building is clear. CONADEH in Honduras provides a particularly informative example of local adoption of the IFM function as it demonstrates the parallels between IFM and the work of official human rights commissions or ombudsmen, and underlines the rights-based basis for IFM. In seeking to expand the number of providers and encourage local civil society groups to play a role, designers and funders must ensure IFM-style contracts meet the minimum standards outlined above, and avoid relying solely on unofficial and often under-funded, generalised civil society support.

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