VERIFOR
Options for forest verification

# Briefing Paper

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## 3. Developmental Impacts of Verification Systems in the Forest Sector

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This paper examines the developmental impacts of verification systems within the forest sector. It covers both the direct impacts of the verification process itself, as well as those indirect impacts arising from the implementation of verification. To–date, there has been much less analysis of this type of impact than other design aspects, but such impacts are clearly influenced by the policy and legal framework, the initial design of the verification system and the way in which verification is carried out. A range of measures to minimise negative impacts can be identified from the experience so far. The absence of any monitoring and evaluation framework is a gap that needs to be addressed to allow progress to be demonstrated to all stakeholders.

**SOME KEY CONSIDERATIONS FOR DESIGNERS OF VERIFICATION SYSTEMS:**

In setting the objectives for a verification system, how can the interests of all stakeholders be taken into account in ways that allow for clear and unambiguous objectives to be set?

What is the nature of the likely developmental impacts of a verification system and how can these be assessed so there is some degree of confidence over attribution?

Is it possible to separate the degree to which the developmental impacts of the verification system are due to the way it is implemented rather than the legal framework on which it is based?

Effective monitoring of the developmental impact of a verification system will require the involvement of all stakeholders, yet there are often large differences of view between different stakeholder groups. Can these be reconciled?

### Introduction

In recent years there has been a dramatic growth in international concern over illegality within the forest sector. Much of this concern has focused on 'illegal logging', where timber is produced at variance with the laws and regulations of the producer country. It is generally recognised that the context of much tropical timber production is problematic, with well developed political networks holding strong economic interest in diluting technical reforms and masking criminal acts in the forest sector (Colchester *et al.*, 2006).

However, much less heard in this debate is a discussion on the likely impact that proposed reforms may have on the lives of the rural poor. In fact, there has been very little experience of formal impact assessment of forest sector verification systems to–date. Developmental impacts – the way that verification systems influence the economic outcomes for small–scale operators and forest–dependent people – appear to be particularly poorly understood. This is because:

- Many of the verification systems are fairly recent and their developmental impact is, as yet, undetermined;
- Impact assessment is complex and requires resources;
- Attribution of impacts to the verification system is not always clear;
- In cases of low ownership (i.e. where verification systems have been externally imposed), there may be little interest in assessing impact.

VERIFOR is an applied research project co–funded by the EC's Tropical Forestry Budget Line and the Governments of the Netherlands and Germany. It will provide practical, research–based policy advice for decision–makers on the verification of legality in the forest sector. The coverage is pan–tropical. http://www.verifor.org/

The paper begins by looking at the drivers for, and objectives of, verification systems[2]. This is followed by a description of the main types of impacts and how negative impacts might be minimised. The paper concludes by discussing issues surrounding the monitoring and evaluation of verification systems.

## Stakeholders, drivers and objectives of verification systems

Although the national government is always a major stakeholder, there are a number of direct and less direct stakeholders[3] that also play a role in the process of forest verification:

- The Ministry of Forestry (or equivalent) is likely to be only one of several ministries with interests in land management and natural resource–based revenues.
- Donors are important stakeholders in aid–receiving countries, providing both financial and/or technical support for verification.
- Timber harvesters and forest users may include large–scale concessionaires, small–scale private forest owners and even individuals harvesting single trees on their farm land.
- Communities can be stakeholders as forest owners or managers (in some countries), as local residents who may benefit and/or suffer from nearby concessions, and as citizens who have a right to benefit from revenue from national resources.
- The processing industry ranges from industrial scale to individual woodcarvers, with very different perspectives and power to make their voice heard.
- Civil society can range from very vocal international environmental NGOs to local organisations representing indigenous peoples.
- Consumers of wood products around the world, who make their voice heard through NGOs, the market and donor governments.
- Those within the international community who are concerned with Global Public Goods, as debated within the Multilateral Environmental Agreements.

Each group of stakeholders may have very different reasons for wanting to see a verification system established. Some of these may be stated explicitly, while others (such as geopolitical aims) may be un–stated. As discussed in the VERIFOR concept paper on ownership (Luttrell, 2006), some objectives may be mutually reinforcing while others may be in conflict, requiring compromise between different stakeholders.

National governments have shown a number of reasons for their interest in verification: to increase revenues from the sector; to respond to conditionalities on donor assistance; to improve the rule of law within the forest sector; and to respond to internal social pressure for sustainable forest management or the protection of rights. Forest industry, on the other hand, is often driven by concerns about retaining or gaining access to high value international markets. Environmental NGOs may wish to see verification lead to improved forest conservation, whilst social NGOs may wish to see improved equity in the distribution of the benefits that arise from forest use.

The relative importance of this wide range of possible drivers, and the prominence of different stakeholders, is country specific. For example, in Ecuador internal forces predominated, whilst in Cambodia a very different dynamic involved the international donor community. Market access is a significant driver in several countries, played out through such mechanisms as the EU Voluntary Partnership Agreements.

The ultimate goal of verification is to improve national economic growth in a sustainable manner. While this can lead to poverty reduction, the latter is often not stated as an explicit reason for the establishment of a verification system. This is because its strongest proponents, such as national civil society, often have the weakest voice during the design of verification systems. There is an ongoing debate about whether verification systems should be poverty neutral or actively designed to have positive impacts on the poor. The EU Action Plan for Forest Law Enforcement, Governance and Trade, appears to take the neutral approach, seeking solutions to the illegal logging problem, which 'do not have an adverse impact on poor people'.

In a limited sense, a verification system *per se* has only one objective, namely to demonstrate that observable behaviour on the ground is compatible with existing legislation. Individual components of a verification system may, however, have their own objectives. In the case of Cambodia, the independent monitor between 1999 and 2003 (Global Witness) had the following specific objectives:

- Provide independent oversight to ensure that the Ministry of Environment (MoE) and Ministry of Agriculture, Forestry and Fisheries (MAFF) were in compliance with all provisions of the 25 January 1999 Declaration on Management of Forest and Elimination of Forest Illegal Activity.
- Provide audit and monitoring mechanisms to ensure compliance with established guidelines eliminating forest illegal activity.
- Provide objective and factual activity reviews of achievements by MoE and MAFF to the Prime Minister.
- Provide the international community with documentation of achievements, weaknesses, constraints and/or instances of non–compliance.

In Ecuador, the establishment of Vigilancia Verde, a public/private body, as one of three components of the verification system included the specific objective of involving civil society in verification and making legality more accessible for small–scale producers.

## Impacts of verification systems

In achieving its main purpose of verifying compliance with existing legislation, a verification system can have many impacts. These can be classified as being

of two general kinds: direct impacts brought about by the verification system itself and indirect impacts that arise from the implementation of the verification system.

### (i) Direct impacts

**Increased compliance:** this is the most evident impact of verification and has been observed in Costa Rica, Cambodia and Cameroon. In Ecuador, seizure of illegally transported wood doubled in the two years after the introduction of the verification system, while more than 120 logging licenses were withdrawn for non–compliance.

**Increased government revenue from penalty infractions and the payment of forest taxes**: catching non–compliant operators has brought in additional, significant revenue for governments as far apart as Cambodia, Cameroon and Malaysia.

**Increased availability and accuracy of information**: establishment of new verification systems, whether in Ecuador, Brazil, Cameroon or Cambodia, rely heavily on modern information technology. The use of tools such as GPS and satellite tracking systems provides a greater degree of information about the source and movement of timber.

**Increase in other claims and disputes**: verification may be disputed. For example, the Verification Review Council in Indonesia was established to deal with complaints regarding the certification of forest management units.

**Increased operating costs for industry**: compliance is likely to be more costly than operating illegally. Although the difference may only be marginal in financial terms (as appears to be the case in Ecuador), in other countries compliance entails considerable costs in meeting bureaucratic procedures.

### (ii) Indirect impacts

**Greater transparency:** wider circulation of information leads to greater empowerment of communities, as in the case of Cameroon where communities receive a proportion of the forest taxes in a public ceremony. It can also lead to greater engagement by civil society and other stakeholders in forest policy processes. The availability of all information online in the Brazilian SIRMAT system initially led to IBAMA being overwhelmed by public criticism. In British Columbia, the public watchdog (the Forest Practices Board) provides a neutral forum for constructive debate between stakeholders about key issues of public concern.

**Improved planning**: more accurate information about actual harvested yields can translate into better planning at the level of the processing industry.

**Concentration of the industry**: as verification of compliance becomes more stringent, some (often small) companies tend to be unable to meet the necessary standards. In addition, small producers often bear a relatively higher burden of sanctions because they are easier to apprehend by under–resourced government officers and have less political clout than major industrial concerns. In the case of Costa Rica, the fact that it takes one year to obtain approval for management plans has led to the development of a discretional system that favours those with political or financial power. As smaller producers are forced to cease operation, the industry is increasingly concentrated in a few hands.

**Small operators marginalised into illegality**: as the legal industry becomes more concentrated, small producers may be pushed into illegality. In Papua, Indonesia, police sweeps were very effective in stopping illegal movements of timber. However, these also had a severe impact on the poor, as all community forestry licenses were withdrawn. The cancellation of these licences was apparently because they were being abused by syndicates to secure access to the resource.

**Displacement of illegal timber harvesting to non–forest lands**: the limited focus of verification systems on forest land and timber production – at the expense of clandestine harvesting and land use change – has pushed illegal activities into other (agricultural) lands as noted in Ecuador, Cambodia and Costa Rica.

**Impact on the forest policy process**: a high level of disputes can eventually lead to the downfall of the verification system, as happened in Cambodia. However, initial antagonism can also result in a longer–term positive impact of raising the public awareness of forest governance issues, as has been the case in Cameroon.

**Disincentive to plant trees**: depending on the cost structure, verification may act as an unwitting disincentive to plant trees. This is the case in Ecuador, where planted trees now have higher transaction costs to bring them to market than agricultural produce.

## What factors determine the impacts of a verification system?

### (i) The policy and legal framework

The aim of a verification system is to verify that the law is being implemented. Thus, even an excellent verification system cannot deliver more than is required under the law. In the case of British Columbia, NGOs and others continue to be concerned that, in spite of an effective verification system that delivers very high compliance levels, sustainable land use is not being achieved under the present legislation, stringent though it is relative to that in other countries. According to the environmental movement, improving verification is desirable but the real need is to improve the province's forest laws to secure sustainability.

Elsewhere, there is a common concern about the lack of consideration of the needs of forest–dwelling communities. In a review of forest–related laws and enforcement in Bolivia, Cameroon, Canada, Honduras, Indonesia and Nicaragua, Colchester *et al.* (2006) found that the rights of the poor are often inadequately protected. Under these conditions, any verification system that leads to more rigorous enforcement of the law is likely to disadvantage the poor.

An important issue – discussed in more detail in the VERIFOR concept paper on legality standards (Wells *et al.*, 2006) – is which set of laws a verification system

should verify. Forest lands and forest products are subject to numerous, often overlapping and sometimes contradictory, bodies of legislation.

From a pragmatic point of view, it is understandable that verification systems may be designed to focus on a subset of these laws, but this kind of decision–making can have far–reaching consequences. In the case of Ecuador, the outsourced verification system focused only on forest lands – as these were clearly in the remit of the Ministry of the Environment – leading to a displacement of illegal activities into non–forest areas. In Indonesia, many concessions have been allocated without first completing the process of gazettement and delineation of customary lands. One consequence of this is there is now disagreement as to whether the government or the concessionaires are responsible for resolving the situation.

Whether verification should begin by highlighting this issue or simply ignore it and focus on more technical aspects of forest management is now under debate. What is clear, however, is that unless verification systems encompass the 'upstream' issues of resource acquisition and resource allocation, they will fail to address the root causes of much of the conflict associated with the forest sector. The likelihood of positive developmental impact resulting will be much less in such circumstances.

### (ii) The design of the Verification System

The question of which laws to verify enters into the design of the verification system. Depending on who is involved in the design (see also the VERIFOR concept paper on ownership by Luttrell, 2006) and how well the different interests at play in the forest sector are understood, a verification system can be more or less effective in improving compliance and providing information in the form that can be used by different groups of people.

An important element of the design is the degree of independence that is achieved by the verification system. As discussed in the VERIFOR briefing paper on independence (Brown and Tucker, 2006), independence can be achieved in a number of ways including through the architecture of the system (involving several different actors who can check each other) and/or by focusing on the independence of key components of the system (e.g. the independent monitor in the Cambodian and Cameroon cases). A system that is not independent, but beholden to a particular set of interests, is more likely to ignore impacts that affect other interest groups.

### (iii) How the verification system is implemented

A verification system may be well designed but constrained by financial and other constraints. In the case of IBAMA in Brazil, a new satellite–based system allows for the creation of location–specific maps to highlight legal and illegal timber harvesting. The robustness of this system is weakened by the need to secure funding to purchase the relevant images to make maps at 3–month intervals in order for government inspectors to stay one step ahead (or at least keep up) with illegal loggers. IBAMA also has a limited number of staff to carry out sufficient inspections on the ground.

For some roles, the approach taken by specific actors within the verification system may also have an effect on the kinds of impacts created. Thus, the role of independent monitor in Cambodia was first filled by Global Witness, an international advocacy–oriented NGO, which raised considerable suspicion as to the monitor's own agenda. The British Columbia Forest Practices Board has become more conciliatory and constructive over the years in an attempt to work with industry to improve practices by praising good practices and innovation as well as criticising non–compliance.

## How can negative developmental impacts be minimised?

Several of the indirect impacts of verification systems may prove negative for poor people. Such negative impacts are generally unintended and sometimes unexpected. They may result from an insufficient understanding and recognition of:

- The interests of different stakeholders
- Their power to impose their interests
- The separate impacts of different components of the verification system.

From a developmental perspective, there is great interest to ensure that negative impacts on poor people are minimised. The VERIFOR case studies and the broader literature suggest a number of possibilities for minimising negative impacts.

### (i) Explicit statement of objectives

The first of these is a clear and unambiguous statement of the objectives by all stakeholders during the design phase of the verification system. Un–stated objectives, ranging from individual desires to maintain illegal revenue streams to government geopolitical aims can lead to the downfall of the verification system. Perhaps embedding the system design within a broader policy reform process (e.g. a national forest programme) may provide the opportunity for a wide range of stakeholders to raise these difficult issues. Without such a mechanism un–stated reasons may be missed, as happened in Ecuador. A reason given for the Ecuadorian Ministry of Environment not wholeheartedly supporting outsourcing of some of its administrative functions to a private sector operator was the loss this implied of a key revenue–generating activity.

### (ii) Poverty and social impact assessment

Ideally, the design of a verification system would benefit from an ex ante poverty and social impact assessment (PSIA) to examine the likely poverty and social related impacts of the system. By identifying impacts in advance better decisions can be made about which interventions should proceed and how; and mitigation or compensation measures can be implemented as necessary. Of special importance is the awareness that PSIA can provide into the differential distribution of impacts among different groups in society, and particularly the impact burden experienced by vulnerable groups in the community.

However, a review of PSIAs by Bird et al., (2005) found

that few aid recipient governments routinely implement PSIAs to identify the likely impact of proposed policy changes or to highlight suitable mitigation measures for groups likely to be negatively affected. Where PSIAs are implemented, civil society has only had limited opportunity to engage with them. The reasons for this apparently limited application include:

(a) resource constraints, in terms of funding and capacity;
(b) weak commitment amongst many national and local policy elites to poverty reduction; and
(c) the limited role that evidence plays in many countries in national policy–making and reform.

Participatory Poverty Assessment (PPA) is another useful technique that could be used to inform verification system design. This approach is now required by the World Bank to ensure that the priorities of all stakeholders are fed into Poverty Reduction Strategy Papers (PRSPs). However, not surprisingly, PPAs usually focus on the immediate concerns of poor people, be it shelter, healthcare or their educational needs. Natural resources are unlikely to feature prominently. For example, a review of 17 PPAs found that only five included any explicit mention of forest resources (Dickson and Bird, 2004). The frequently illegal nature of people's use of forest products constrains such evidence gathering exercises, making it unlikely that PPAs can uncover the true dependence on these resources.

However, the use of PPAs, PSIAs or other ex ante analysis would allow stakeholders to reach agreement on the relative importance and acceptability of different impacts. Some of the unexpected or undesirable impacts might be considered to be sufficiently serious to require a rethink of the verification system, and possibly of the legal framework on which it is based.

### (iii) Parallel process of legal reform

Verification cannot substitute for legal reform. If developmental impacts are desired, these need to be specified in the legislation that is being verified. The law may therefore need to be changed to ensure that the rights and livelihoods of forest–dependent communities are established in law, and not further compromised by more rigorous law enforcement.

### (iv) Recognition of the legality of poor people's modes of using timber

Building on the previous point, the legal change that may be required is simply to recognise the reality of how poor people use timber. In both Costa Rica and Ecuador, licenses are given in several land tenure systems, recognising the fact that small producers often do not have full title. Similarly, the Brazilian Law on Public Forest has opened the door to legality for timber harvesting operations in 45% of the Brazilian Amazon where harvesting was previously illegal on public forest land. The 100–year concessions being allocated in Sabah, Malaysia, recognise not only the usufruct rights of communities within these concessions, but also their right to establish community forests.

In addition to recognising the uncertain tenure status of many forest–dwellers, some laws make the distinction between trees in forests and those planted in agroforests or small plantations. Thus Costa Rica allows farmers to obtain free transport permits for felling up to three trees per farm per year. If farmers have planted trees in agroforestry systems or forest plantations, they do not need a permit but simply need a certificate from a forest regent. Ecuador accepts that forest may be an important land reserve for poor people and allows for land use change on up to 30% of the area.

### (v) Increased access to legality for poor people

Several of the verification systems reported in the VERIFOR case studies made some attempt to make it easier for small producers to access legality. In Ecuador, this was achieved through the introduction of regional, local and itinerant administrative units to bring administrative services directly to communities. In Brazil, timber transport permits can be obtained over the internet, even in very remote locations.

### (vi) Improved information flows and transparency

Providing more information, in a form that is accessible to small producers, is an important way of facilitating their engagement in the verification process. In the case of Cameroon, communities can hold their local councils accountable as they now know how much tax revenue is being distributed to them from the central forest fund. It may also open the debate to communities from non–forest rich areas, who might dispute the return of forest taxes to communities in forest–rich areas alone.

### (vii) Establishment of an easily accessible dispute resolution system

A verification system will inevitably lead to complaints by those who feel that their rights have been compromised. However, most dispute resolution mechanisms are too costly and complex for small communities to access. This could be remedied through the availability of legal aid to enable all people to raise complaints about the impacts of the system.

## Monitoring and evaluation of verification systems

Given that many of the impacts of verification systems are likely to be fairly complex, most will need to be assessed using a set of indicators. Examples of measurable indicators in the VERIFOR case studies include:

- Increased financial resources made available by government
- Increased enforcement capacity (trained staff, cases prosecuted, etc.)
- Reduced bureaucracy (time taken to obtain a logging permit; number of administrative steps required by the forest user)
- Strengthened checks and balances within the regulatory system that satisfy all parties
- Increased national ownership that includes both government and wider Civil Society.

Although it is helpful to break down overall impacts

into measurable indicators for assessment purposes, indicators are in fact inter–linked components and processes, and not a group of separate variables. Therefore, interpreting each indicator independently would not provide an assessment of the impact of an overall verification system. To achieve this, a framework is required which links the separate indicators. In rural development projects, the sustainable livelihoods framework has allowed for the integration of indicators of financial, physical, natural, social and human capital. No such framework exists for forest verification systems, but a context–specific one could be constructed. This would allow the verification system to be described according to a number of key characteristics, the relative importance of which can be determined in any specific context.

Compounding this complexity is the highly political dimension of regulation and verification. Powerful vested interests can negate attempts at reform. This brings us full circle to the need for explicit objectives and involvement of all stakeholders in the design phase of the system. The Kimberley Process Certification Scheme (Smillie, 2006) is an example of a robust verification system that, through a period of intense negotiation, evolved over just a few years to include almost all major diamond producing and importing nations, showing that disparate groups and interests can be reconciled.

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See also the case studies and other concept papers on the VERIFOR website: www.verifor.org

## Endnotes

[1] The paper draws on VERIFOR case studies of forest–sector verification, as well as discussions at the VERIFOR Experts Meeting (Palma de Mallorca 27 – 28 April 2006).

[2] For the purposes of this paper, a verification system is defined very broadly as the system responsible for verifying that the law is implemented on the ground.

[3] "Anyone who is concerned with the objectives or activities of a verification system, who may benefit or suffer from the impact of verification activities, or who can influence the outcome of verification activities" (modified from Herweg et al., no date).

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