Chapter 4

FOREST RIGHTS & GOVERNANCE

Theme 4 Assessment

KEY MESSAGES

- The coverage of protected areas has steadily increased over the last twelve years, and will likely continue to increase as countries committed to massively scaling up protection of the world's ecosystem in December 2022. However, several countries are taking steps towards downgrading, downsizing, and degazettement of protected areas and there continues to be serious human rights violations in the establishment of protected areas around the world.
- Several tropical forest countries – notably Indonesia and Lao PDR – have adopted moratoria on activities that threaten forests over the past decade, with partial success. More recently, some subnational governments in Australia and the United States have also begun to adopt moratoria.
- There have been important legal and policy developments in tropical forest countries, notably in Indonesia and Brazil. Many of these developments have been positive, addressing inconsistencies and gaps in legal frameworks and enhancing environmental monitoring and land use planning. However, progress on legal and policy reforms have recently slowed in Cameroon, Côte d'Ivoire, and the Republic of the Congo; while in Indonesia, the government risks its previous success through a new regulation that weakens safeguards on forest protection.
- Despite international commitments to forest, climate, and biodiversity protection, several boreal and temperate forest countries, including Canada, the United States, and Northern European countries, permit intensive forest management practices that lead to degradation. International discourse has focused on tropical forest protection, with only limited scrutiny given to industrial logging in developed countries. Fortunately, policymakers are increasingly noting and addressing the impacts of forest degradation in some of the concerned countries, including through adopting stronger domestic forest policies.
- An increasing number of countries are adopting demand-side measures to restrict the import and trade of products linked to deforestation and forest degradation, including the EU's landmark Regulation on deforestation-free products (EUDR) . However, the effectiveness of these measures will depend on robust implementation from all sourcing countries and support for developing countries to comply.
- There have been increased efforts over the last two decades to include deforestation-prevention and biodiversity protection provisions in trade agreements. However, the impacts of these provisions on forest protection are not always clear, and in some cases there are points of contention, as exemplified by ongoing negotiations between the EU and the Mercosur bloc.
- Better enforcement of forest laws has helped address deforestation in a number of tropical countries, notably Indonesia, Brazil, Cameroon, Côte d'Ivoire, and the Republic of the Congo. However, corruption and weak governance continue to facilitate high levels of illegality as well as human rights violations across a large number of countries.
- Corruption and poor governance continue to lead to high risks of illegal deforestation in many tropical forest countries. Challenges in tracking illegal deforestation continue to limit the availability of quality data on the scale of illegal activities.
- There are increasing efforts to enhance international cooperation on fighting forest crime. However, these initiatives are new, and it remains too early to assess how effective they will be.
- There has been some progress made in the legal recognition of Indigenous Peoples (IPs)' and local communities (LCs)' land across multiple regions. However, progress remains slow, and globally at least 1.375 billion hectares of lands which IPs, Afro-descendant Peoples, and LCs have customary or historic claims to have not yet been legally recognized by national governments.
- Within the past year, there have been significant positive developments in protecting IPs' and LCs' rights in a number of countries, most notably in Brazil. However, in other countries there have also been attempts to weaken IPs' and LCs' rights. Across many countries, even where there are existing legal frameworks for the protection of IPs' and LCs' rights, implementation remains weak.
- Environmental defenders – many of them Indigenous – continue to face violence, harassment, and criminalization for seeking to protect their lands and forests from outside incursions. 194 killings of environmental

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defenders were recorded in 2022, making them the most targeted of all categories of human rights defenders last year.

- There have been positive steps toward enhancing transparency and participation in forest-related decision making in several tropical forest countries. However, progress has largely been driven by processes like FLEGT VPAs or REDD+, and momentum of implementation has recently waned following an absence or reduction in political push and accountability from these processes or projects.
- There has been a sharp increase in public interest litigation seeking to protect forests and IPs' and LCs' rights, some of which have led to positive outcomes in the protection of forests and Indigenous land rights.

INTRODUCTION

Why look at forest governance?

Forest governance generally refers to legal and policy frameworks that regulate land use. Strong governance systems provide opportunities to improve legal frameworks, expand opportunities for local stakeholders to influence and participate in decision making, and ensure the protection of ecosystem values and sustainable and adaptive management of resources. They provide for transparent, predictable, and defensible rights, effective institutions, the rule of law, and accountability of public and private actors that violate the law.

Effective forest governance results in clear policy and legal frameworks that enable meaningful participation by all groups, hold governments accountable, and advance action toward the achievement of shared goals. In the context of this report, such goals include forest protection and restoration, improved land tenure, and access to natural resources.

Evidence suggests that weak forest governance is harmful, not just for forest landscapes and their ecosystems, but also for societies – particularly those who are most dependent on forest lands, including IPs, LCs, poor people, rural communities, and other marginalized groups. Countries with strong governance are best placed to curb deforestation and ensure stable and prosperous local landscapes. Investments into forest governance should therefore be a priority in any effort to protect forests and enhance conservation.

Political will and investments in forest governance are among the best tested approaches for ensuring long-term conservation outcomes. Historical and more recent conservation successes in Brazil, Indonesia, and Malaysia can be linked to government measures such as investments into institutions or law enforcement, land titling and planning, moratoria, and improved legal and policy frameworks.[1] Improved forest governance can also be linked to improved local livelihoods, increased social resilience, and reductions in violence at the forest frontier.

What has been pledged on forest governance?

In recent years, several governments and non-government entities made voluntary pledges relevant to forest governance and rights protection, such as the IP and LC Tenure Joint Donor Statement and the Glasgow Leaders' Declaration (GLD) on Forests and Land Use. These pledges include a number of important commitments to ensuring good governance and protecting rights (**Table 4.1**).

In 2022, the Forest Tenure Funders Group published its first progress report on the state of the IPLC Forest Tenure Pledge. The report shows that USD 321.7 million of the USD 1.7 billion pledged has been disbursed. Over 80 percent of the funding was aimed at building the capacity of IPs and LCs or supporting community-level action, but only 7 percent of the nearly USD 321 million delivered in 2021 went directly to organizations led by IPs or LCs. About half of the funding was channeled via international NGOs. The group has also established a dialogue with leaders of IPs and LCs to learn from their perspectives and needs.[2]

While the signatories of the GLD have yet to announce a reporting mechanism for progress, a sub-group of countries, the Forests and Climate Leaders' Partnership (FCLP), has come together to enhance the delivery and ambition of the GLD's commitments and plans to publish annual progress reports. Progress reporting is also not yet available for Global Biodiversity Framework (GBF) commitments, as many countries are still preparing their national biodiversity strategies and action plans (NBSAPs).

Table 4.1. Pledges related to forest rights and governance

Pledge or Initiative	Endorsers	Pledges and targets related to forest rights and governance
Glasgow Leaders' Declaration on Forests and Land Use	145 countries	Empowering communities while recognizing the rights of Indigenous Peoples (IPs) and local communities (LCs) and redesigning agricultural policies and programs, and ensuring robust policies and systems are in place to accelerate transition to an economy that advances forest, sustainable land use, biodiversity, and climate goals.
IPLC Joint Tenure Statement	23 countries and philanthropic organizations	USD 1.7 billion in 2021-25 to secure and strengthen IPs' and LCs' tenure rights and the role of IPs and LCs.
Kunming-Montreal Global Biodiversity Framework	More than 190 countries	Bring the loss of areas of high biodiversity importance, including ecosystems of high ecological integrity, close to zero by 2030. Ensure that all areas are under participatory, integrated, and inclusive management processes, equitable governed systems of protected areas and other effective area-based conservation measures; recognize and respect the rights of IP and LC;, ensure that the use, harvesting and trade of wild species is sustainable, safe and legal; and ensure the full, equitable, inclusive, effective and gender-responsive representation and participation in decision making, and access to justice and information related to biodiversity by IPs and LCs.
Belém Declaration	8 Amazon countries	Tackle illegal activities that are contributing to the deforestation of the Amazon, promote sustainable development and ensure the rights of the rainforest's IPs and local and traditional communities.
Global Biodiversity Framework Fund (GBFF)	185 countries	Mobilize and accelerate investment in the conservation and sustainability of wild species and ecosystems whose health is under threat from wildfires, flooding, extreme weather, and human activity.

How do we assess progress?

This chapter assesses progress based on the following five elements that are essential for coherent, effective, equitable governance for forests and forest lands, and guarantees protections of rights related to forests:

- Clear, equitable, and effective legal, policy, and institutional frameworks on the sustainable management, use, and protection of forests.
- Effective demand-side regulations that are implemented and enforced, and international engagement to address deforestation and forest degradation.
- Effective and equitable implementation of laws and policies ensuring detection, prosecution, and just enforcement of penalties on forest crimes.
- Recognized, respected, and protected IPs' and LCs' rights, including those relating to land and forest tenure, Free, Prior and Informed Consent (FPIC), and traditional knowledge and practices, as well as empowerment of IPs and LCs.
- Guaranteed transparency and public participation in forest-related decisions, and access to justice for impacted populations.

These five elements are also important for providing an enabling framework for forest restoration. This chapter primarily focuses on the protection, sustainable management, and sustainable use of forests, since there is extensive research pointing to the importance of rights and governance for ensuring protection and sustainable management and use. There is less research available on the links between rights and governance and forest restoration.

This report builds on previous Assessment reports on forest governance, complemented by updated data, where available, and by an additional literature review. The Assessment Framework underlying this report is inspired by the Chatham House forest governance and legality assessments, where policies and interventions are assessed for their existence, quality of design, and level of implementation. European Forest Institute (EFI)'s Forest Governance Index, Chatham House's study on fair and sustainable forest economies, Forest Trends' Illegal Deforestation and Associated Trade (IDAT) Risk, and Rights and Resources Initiative (RRI)'s progress reports on Who Owns the World's Land? provided valuable information in assessing the

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progress in forest rights and governance. Additional information came from reports from Forest Declaration Assessment Partner organizations and other institutions as well as a diversity of other sources. A forthcoming special report from the Forest Declaration Assessment will present an analysis of past NBSAPs and an initial look at prospects for new plans, with a particular focus on the extent to which NBSAPs respect and protect the rights of IPs and LCs. High-level findings from that report are referenced where relevant in this chapter.

This report aims to assess progress globally. However, due to data and literature availability, this chapter includes relatively more information on i) tropical forests rather than temperate or boreal forests, ii) developing countries rather than developed countries, iii) supply-side measures rather than demand-side measures. Notably, this year's assessment aims to include more information on developed country progress where data is available. As always, future assessments will aim for a more comprehensive analysis.

FINDINGS

4.1. Legal, policy, and institutional frameworks and mechanisms for protection, sustainable use, and management of forests

4.1.1. Expanding protected areas while respecting rights

Protected areas continue to be among the most common legal and policy instruments governments used to address deforestation and forest degradation. Countries committed to massively scaling up protection of the world's ecosystems in December 2022 when adopting the Global Biodiversity Framework (GBF). While there has been a steady increase in the global coverage of terrestrial protected areas over the past decade, several countries are taking steps towards downgrading, downsizing, and degazetting protected areas. Meanwhile, there continue to be serious violations of IPs' and LCs' rights in the establishment of protected areas around the world.

Protected area expansion

Protected area coverage has steadily increased globally over the last twelve years (**Figure 4.1**). The coverage is likely to continue increasing as countries agreed to conserve 30 percent of the Earth's lands, oceans, coastal areas, and inland waters by 2030 under the GBF. Advancements towards expanding protected areas, including through the identification, recognition, and reporting of other area-based conservation measures and Indigenous and community conserved areas, are underway in many countries. Several national and subnational governments (in both the developed and developing countries) are developing measures to declare, expand, and manage protected areas.

How do we assess progress?

Achieving forest goals requires countries to develop coherent and equitable laws and policies governing forests and land use as well as effective institutions. This includes having mechanisms in place that enable meaningful participation of stakeholders to shape laws and policies, and to allow civil society to support and monitor effectiveness. This chapter reviews progress made on the most common legal and policy instruments, including:

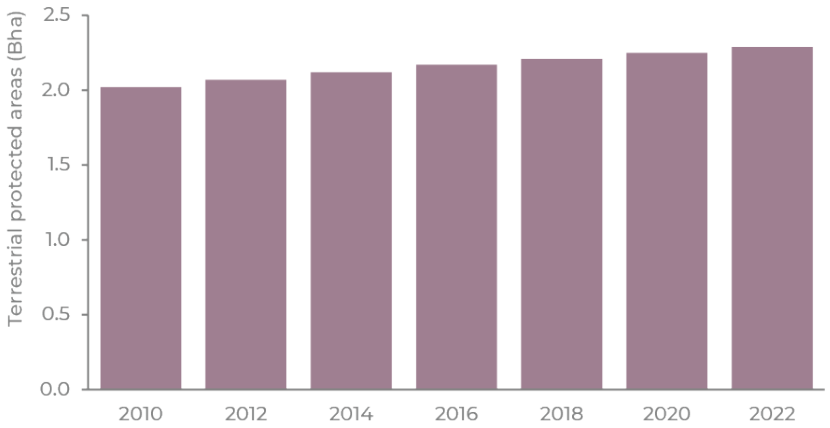
- PROTECTED AREAS: While protected areas are an important tool for conservation and sustainable use of forests, literature shows mixed results on their effectiveness to reduce deforestation and forest degradation. Most studies show positive outcomes on reduced deforestation associated with protected areas, but some show that their impacts have been negligible, and others show increased deforestation in protected areas.[3] In some contexts, protected areas are controversial.4 Without proper safeguards, protected areas can limit people's access to land or resources. Combining protected areas with a rights-based approach can be a powerful strategy to protect forests, and other conservation areas while also respecting Indigenous Peoples (IPs)' and local communities (LCs)' rights. This chapter assesses the legal and policy frameworks that designate or downgrade protected areas while respecting (or failing to respect) IPs' and LCs' rights.
- MORATORIA: Moratoria can help to reduce deforestation and/or degradation if well designed and adequately implemented. Limited literature is available on the implications of moratoria on deforestation rates, but with what is available, this chapter assesses moratoria that have been adopted by countries, their implementation, and their implications for preventing or reducing forest loss.
- OTHER LEGAL AND POLICY DEVELOPMENTS: This chapter considers examples of major positive or negative legal and policy developments from recent years, focusing on the adoption of laws and policies aimed at forest protection.

- In June 2023, **Brazilian** President Lula da Silva signed a decree for the creation and expansion of conservation areas in Paraíba and Pará states. The decree creates a 61,000-hectare Serra do Teixeira National Park and adds an 1,800-hectare expansion to the Chocoaré-Mato Grosso Extractive Reserve. President Lula da Silva also signed eight further decrees addressing climate change mitigation and deforestation,[5] as well as signing the demarcation of two Indigenous territories in the municipalities of Fonte Boa and Jutaí in the Amazonas.[6]
- Early this year, the **Togolese** government adopted a draft bill for the creation and management of protected areas. The bill seeks to amend and update the existing legal frameworks to improve the management of protected areas.[7] While the bill still has to go through Parliament, this

is a significant step considering that the total area of Togo's primary forest has decreased by 20 percent in the last two decades.[8]

- **China** announced a plan to build the world's largest national park system by 2035. The plan includes a list of 49 sites proposed to become national parks that together cover 1.1 million square kilometers.[9]
- The **United States** finalized protections for the Tongass National Forest, the world's largest intact temperate rainforest.[10]
- The **Canadian province of Quebec** approved numerous Indigenous Protected and Conserved Areas (IPCA) at the end of 2020 in pursuit of its commitment to protect 17 percent of lands by 2020.[11] However, almost none of these were in the managed forest, where logging concessions are located, with the province rejecting 83 IPCA proposals in this area.[12] The Canadian government has also stated that it may allow certain industrial activities in areas it deems "protected."[13]
- In **Chile**, the government has implemented the Biodiversity and Protected Areas Service (SBAP) within the framework of the Law for Nature. The SBAP is the first public agency dedicated exclusively to protecting Chile's biodiversity and managing natural protected areas in an integrated manner. The Minister of Environment has stated that approving this initiative will increase the annual environmental budget by nearly 58 percent, strengthen the participation of the private sector in the management of protected areas, and double the number of park rangers. Furthermore, it will recognize the contribution of private protected areas to conservation by integrating them into the National System of Protected Areas.[14]

Figure 4.1. Steady increase in global coverage of terrestrial protected areas from 2010-2022



Source: Climate Focus elaboration based on data from the World Database on Protected Areas

Protected area downgrading, downsizing, and degazettement

Despite this progress, elsewhere there have been efforts to weaken, reduce, or eliminate protected areas, including in countries that have created and expanded protected areas. 74 countries have enacted more than 4,400 protected area downgrading, downsizing, and degazettement (PADDD) events since 1892, and an area equivalent to about 52 million hectares has been subjected to PADDD from 1892 to 2018, most being affected since 2000.[a]

For example, in **India**, the proposed Forest Conservation (Amendment) Bill, 2023 could lead to the weakening of the Forest Conservation Act and allow for the opening of more areas to mining and infrastructure. Under the bill, forest lands could be exempted from the legal protection to fast-track implementation of strategic and security-related projects that are of national

[a] This phenomenon can accelerate habitat loss, fragmentation, and carbon emissions, especially when related to industrial-scale resource extraction and development, but PADDD has been an under-recognized threat to biodiversity conservation until recently. In rare cases, PADDD may strengthen conservation outcomes by enhancing conservation planning or returning resource rights to Indigenous peoples and local communities. Data via PADDDtracker. (2022). https://www.padddtracker.org.

importance. The new legislation would leave 15 percent of the country's forests (which are "unclassed") vulnerable to exploitation without regulation.[15]

Risks to the rights of IPs and LCs from protected areas

Countries will set out their respective contributions and approaches to achieving the targets set by the GBF in their updated NBSAPs, to be presented to the United Nations by late 2024. Initial analysis undertaken by Forest Declaration Assessment indicates that rights-based approaches will be higher on the agenda in this round of NBSAP updates than in previous processes, but IPs' and LCs' rights are still at risk as countries move to expand protected areas.

The expansion of protected areas without proper rights assurances and safeguards continues to pose major risks for IPs and LCs. The Special Rapporteur on the Rights of Indigenous Peoples has reported a high number of allegations of "alarming violations" of Indigenous rights in the declaration of protected areas, including not only a lack of compliance with FPIC, but also forced evictions, killings, physical violence, and abusive prosecution.[16] The Rapporteur highlights that not enough assurances are given to IPs that their rights will be respected in reaching the 2030 global biodiversity targets, and calls for a strict rights-based approach to be applied in the declaration or expansion of existing protected areas. The Forest Declaration Assessment's forthcoming special report on NBSAPs shows that these documents rarely ensure FPIC is respected either in developing national plans or in declaring protected areas.

4.1.2. Effectiveness of moratoria in addressing deforestation

Several tropical forest countries –- notably Indonesia and Lao PDR – have adopted moratoria on activities that threaten forests over the past decade, with partial success. More recently, subnational governments in Australia and the United States have also begun to adopt moratoria.

Several developing countries have utilized moratoria to address deforestation, with mixed results.

- In **Indonesia**, there have been two main moratoria in place, along with one regulation, that aim to protect remaining natural forests and peatlands. One moratorium focuses on palm oil expansion (presidential instruction 8/2018); the other moratorium bans the clearing of primary natural forests and peatland (instruction 5/2019); and the peatland regulation sets rules for the depth of allowed peatland drainage (regulation 57/2016). The moratorium on clearing primary forests and peatlands was made permanent in 2019, while the palm oil moratorium has not been renewed since its expiration in 2021. Indonesia's decline in deforestation from 2017 to 2021 has been linked to, among others, the implementation of the moratoria.[17] With the non-renewal of the palm oil moratorium, analyses suggest that the country risks losing 21 million hectares of forests.[b]
- In **Lao PDR**, support from the Prime Minister continues to be a key factor in the partial success of a timber export suspension adopted in 2016.[18] Illegal trades experienced a significant drop in exports after the moratorium was declared, but legislative loopholes left conditions for large-scale logging to continue.[19]
- In the **Philippines**, all timber cutting is banned in existing forests under Presidential Decree 705 Forestry Code. However, in practice, deforestation has continued despite the ban.[20]

Though national moratoria have been less common in developed countries, some subnational governments have begun to introduce them. **Western Australia,** for example, recently banned logging of native forests, starting in 2024.[21] In June 2023, the state of **Massachusetts in the United States** extended a pause on logging contracts in state forests.[22]

[b] Based on calculations by Forest Watch Indonesia analyzing lands suitable for conversion to plantations.

4.1.3. Legal and policy developments in tropical forest countries

There have been important legal and policy developments in tropical forest countries, notably in Indonesia and Brazil. Many of these developments have been positive, addressing inconsistencies and gaps in legal frameworks, and enhancing environmental monitoring and land use planning. However, progress on legal and policy reforms have recently slowed in Cameroon, Côte d'Ivoire, and the Republic of the Congo; while in Indonesia, the government risks reversing its previous success through a new law that weakens safeguards on forest protection.

Recent years have seen improvements in strengthening legal and policy frameworks in tropical forest countries. In 2020, the **Republic of the Congo** enacted a new forest law[23] and **Vietnam** issued the Timber Legality Assurance System Decree.[24]

Prior to 2020, the FLEGT Voluntary Partnership Agreements (VPAs) and REDD+ processes have fostered improvements in the legal infrastructure in **Cameroon, Côte d'Ivoire**, and the **Republic of the Congo**.[25] These improvements have led to addressing inconsistencies and gaps in legal frameworks, empowering stakeholders to voice concerns, and improving transparency. However, despite these positive shifts, more work is needed to clarify overlaps and conflicts of roles and powers within the administrative bodies responsible for the forest sector. Likewise, resolving overlapping use conflicts remains an outstanding concern.[26] Furthermore, EFI's Forest Governance Index shows that legal and policy developments seem to be slowing down in the three countries assessed.[27]

Notable developments also took place in Brazil and Indonesia in 2023:

- In June 2023, **Brazilian** President Lula da Silva launched the Amazon Security and Sovereignty Plan to combat land grabbing, illegal mining, and logging, as well as hunting and fishing within Indigenous territories, environmental protection areas, and the entire Amazon biome. Furthermore, he enacted the fifth phase of the Action Plan for the Prevention and Control of Deforestation in the Legal Amazon. The original plan has been described as fundamental to the 83 percent drop in Amazonian deforestation from 2004 to 2012, but it was suspended during the Bolsonaro administration (2019-22). Further, President da Silva signed a decree reactivating the Bolsonaro-suspended Amazon Fund. The funds are to be spent on efforts to prevent, monitor, and combat deforestation, as well as to promote forest preservation and sustainable use[28] (see **Brazil case study**).
- In June 2023, **Indonesia's** environment ministry officials attributed the strong progress in reduced deforestation since 2017 to better control of fires and limiting new clearance permits on primary forests and peatlands.[29] However, there were attempts to weaken safeguards on forest protection through enactment of the Omnibus Law on Job Creation (2020). The Constitutional Court declared the law unconstitutional due to procedural issues and gave the government and the parliament a grace period of two years to regularize the law by revising or revoking it.[30] In March 2023, the Indonesian Parliament passed the Job Creation Law (Law No. 6 of 2023), which replaces the Omnibus Law. The Job Creation Law maintains most of the Omnibus Law's provisions and does little to accommodate the demands of civil society who highlighted the major risks the Omnibus Law poses to Indonesian forests (**Box 4.1**).

4.1.4 Boreal and temperate forest country laws and policies on forest management

Despite international commitments to forest, climate, and biodiversity protection, several boreal and temperate forest countries, including Canada, the United States, and Northern European countries, permit intensive forest management practices that lead to degradation. International discourse has focused on tropical forest protection, while only limited scrutiny has been given to industrial logging in some developed countries. Fortunately, policymakers are increasingly noting and addressing the impacts of forest degradation in some of the concerned countries, including through adopting stronger domestic forest policies.

BOX 4.1. INDONESIA'S LAW ON JOB CREATION AND IMPLICATIONS FOR FOREST PROTECTION

Indonesia's Law on Job Creation represents one of the biggest legislative changes in Indonesia's history. Sweeping amendments to 79 existing laws roll back already limited protections for Indigenous Peoples (IPs)' rights and further privilege the interests of plantation companies and extractive industries.[31] The Law:

- Increases the potential for criminalization of IPs' traditional practices;[32]
- Waters down or eliminates critical safeguards for Indigenous land rights, namely, effective participation in decision making on the issuance of business licenses and the conduct of environmental and social impact assessments;
- Grants amnesty to 3.3 million hectares of oil palm plantations established and operating illegally inside forest areas, circumventing previous laws prohibiting plantation operations inside the forest estate;[33]
- Overhauls Provincial Spatial Plans (Rencana Tata Ruang Wilayah) and allows state lands and forests to be re-zoned to accommodate corporate interests;[34]
- Deems infrastructure initiatives, and energy and mineral resource projects to be of national strategic importance, amenable to the State's power to expropriate lands and to authorize the clearance of forests despite the national government ban on forest conversion;[c]
- Permits energy companies to take over the government's role in land acquisition for National Strategic Projects;[35] and
- Removes requirements for local governments to preserve a minimum of 30 percent forest areas in their respective districts, creating the possibility for Protected Forest (Hutan Lindung) to be reclassified as Production Forest (Hutan Produksi) and thus available for logging licenses and conversion to agricultural plantations).[36]

Forest degradation driven by industrial logging

Intensive forest management is a key driver of forest degradation and biodiversity loss in boreal forests (see Chapter 2 on sustainable production & development). Industrial logging practices, especially in boreal forests, include clearcutting of primary and old-growth forests, despite these ecosystems being irreplaceable in human time scales (see **Chapter 1** on overarching forest goals and **Chapter 2** on sustainable production & development). Evidence demonstrates that even logging practices labeled as sustainable, in part bolstered by flawed or imperfect forest carbon accounting systems, contribute significantly to global emissions.[37]

Despite these impacts to forest ecosystems, industrial logging in primary and old-growth forests continues in many boreal and temperate countries as "sustainable forest management."[38] For example, in **Sweden**, nearly one-fourth of unprotected old-growth forests have been clear-cut from 2003-19.[39] In the **United States**, while national figures on clearcutting are not available, activists have stated that it is likely that hundreds of thousands of hectares are currently slated to be clearcut.[40] **Canada** has the third-highest rate of intact forest landscape loss in the world, behind only Russia and Brazil, and large-scale clear-cutting, including in primary and old-growth forests, is common practice.[41]

Strengthening policies on degradation and forestry

Notably in the EU and the United States, governments have recently taken strides to strengthen national policies to limit – to some extent – degradation and the deforestation of old-growth forests:

- Recent policy measures, such as the **EU's** Forest Strategy, published in 2021, highlight the need for the protection of primary and old-growth forests, as well as the need to transition away from clearcut logging. In March 2023, the European Commission published two sets of guidelines on the Forest Strategy, one on biodiversity-friendly afforestation, reforestation and tree planting, and another on defining, mapping, and strictly protecting all primary and old-growth forests.[42] The Commission

[c] The passage of the Omnibus Law provides space for infrastructure projects to be categorized as National Strategic Projects (NSP). See: Daftar Proyek Strategis Nasional Jokowi yang Baru. (2020, November 27). CNN Indonesia.; NSPs are protected for their economic importance ahead of the rights of Indigenous peoples and local communities. Between 2016 and 2019, there were 293 such conflicts connected to NSPs. See: Barahamin, A. (2022, May 11). 'Infrastructure-first' approach causes conflict in Indonesia. China Dialogue.

also adopted guidelines on “closer-to-nature” forest management. Moreover, the EU’s Regulation on deforestation-free products (EUDR) prohibits the trading of timber produced on land that has been deforested or degraded, whether in the EU or elsewhere (see **Section 2**, below). In July 2023, the European Parliament passed a proposal for a nature restoration law, which would put in place recovery measures that will cover at least 20 percent of the EU’s land and 20 percent of the EU’s sea areas by 2030, and all EU ecosystems in need of restoration by 2050. Under the new rules, member states would regularly submit national restoration plans to the Commission showing how they will deliver on the targets.[43] The legislation has not been finally adopted yet.

- **China** likewise revised its forestry law last year to strengthen the forest protection efforts, while its Forestry and Grassland Protection and Development Plan (2021-25) also deployed comprehensive protection of natural forests as one of its priorities. China has been implementing the Natural Forest Protection Program over two decades, and reports indicate this has led to reducing natural forest harvesting by a cumulative 332 million cubic meters.[44]
- In the **United States**, in 2021 President Joe Biden announced the goal of conserving 30 percent of US lands and waters by 2030. In April 2022, President Biden signed an Executive Order which expanded federal efforts to address forest conservation, including mandating the government map and monitor mature and old-growth forests on federal lands and develop a strategy to address threats to these forests. The United States Department of Agriculture (USDA) Forest Service issued the Forest Service’s Wildfire Crisis Strategy and Reforestation Strategy, which aims to build a framework to accelerate reforestation efforts, address current reforestation needs, prepare for future events, and comply with the REPLANT Act (2021).[45] Furthermore, the USDA issued the Memorandum on Climate Resilience and Carbon Stewardship, which outlines key actions for the Forest Service, including identifying forests at risk and assessing their current management practices, analyzing and addressing potential data gaps, and developing a decision support tool to improve carbon stewardship, wildlife habitat, watersheds, and outdoor recreation.

4.2. Demand-side measures and international engagement to address deforestation and forest degradation abroad

4.2.1. Adoption of demand-side measures

An increasing number of countries are developing demand-side measures to restrict the import of products linked to deforestation and forest degradation, with the EU this year becoming the first government organization to introduce such measures. However, effectiveness of these measures will depend on robust implementation and support for developing countries to comply.

Recent trade-related demand-side measures

Countries that import over two-thirds of illegal timber exports by volume[50 51] have enacted laws to ensure the legality of timber imports in their markets. (**Figure 4.2**). Notable recent developments include:

- The EUDR, which entered into force in June 2023 (**Box 4.2**), aims to prevent products linked to deforestation or forest degradation from being placed in or exported from the EU market. While much of

How do we assess progress?

Progress towards forest goals requires countries to address deforestation by implementing demand-side measures and regulations and addressing deforestation linked with international trade.

DEMAND-SIDE MEASURES AND REGULATIONS: Export-driven demand accounts for about 25 percent of agriculture-driven deforestation globally, and at least 35 percent of agriculture-driven deforestation in Asia and Latin America.[46] Demand-side measures to incentivize the protection, sustainable use, and management of forests within supply chains are an important part of efforts to address deforestation and forest degradation, especially when combined with other forms of international engagement (i.e., bilateral and multilateral cooperation and trade).[d] This chapter assesses laws and policies designed to address unsustainable demand for forest products and/or deforestation-risk commodities.

INTERNATIONAL TRADE: Over the past three decades, there has been an unparalleled effort to promote trade liberalization worldwide, resulting in the implementation of hundreds of regional trade agreements (RTAs). According to the World Trade Organization (WTO), there are 360 RTAs in force as of 1 August 2023 – as opposed to a mere 32 in 1993.[47] While trade liberalization has many benefits,[e] a recent study shows that from 2001 to 2012, tropical developing countries experienced a significant increase in deforestation rates in the three years following the entry into force of an RTA. This was due to substantial land conversion linked to increased international demand for agricultural commodities and higher values of agricultural land following the removal of tariffs.[48] Studies show that when RTAs are backed by effective environmental provisions aiming to protect forests and/or biodiversity, no changes in net annual deforestation can be observed following trade liberalization. This suggests that well thought-out RTAs can effectively mitigate the potential adverse effects of international trade on deforestation.[49] This chapter assesses how trade agreements have sought to include provisions/measures to prevent deforestation and promote sustainable trade practices in forest products.

[d] While demand-side measures are important in addressing deforestation and forest protection, they can also lead to risk of leakage (where efforts to reduce deforestation in one area or under one policy result in unintended consequences that lead to increased deforestation in other areas) especially when they focus on specific areas or niche markets. Complementing demand-side measures with other initiatives (such as international cooperation and partnerships, trade agreements) can help prevent leakage. See: Walker, N., Patel, S., Davies, F., Milledge, S., & Hulse, J. (2013). Demand-side interventions to reduce deforestation and forest degradation. London, UK: International Institute for Environment and Development.

[e] The reduction of trade barriers has the potential to increase economic and social welfare in participating countries, notably by increasing competition between domestic and international industries and therefore lowering prices, improving product quality, and giving producers and consumers access to a wider market and a greater variety of products. International trade can also reduce prices for consumers and encourage innovation and technological progress, including through the international transfer of knowledge, practices, and technology. In the past thirty years, the development of RTAs worldwide therefore held significant promise for driving economic growth and enhancing productivity, especially in developing countries.

the focus around the EUDR has been on addressing deforestation in the tropics, it also marks the first time that demand-side measures have been adopted that explicitly apply to industrial logging practices in countries of the Global North by addressing the conversion of primary forests to planted forests. While this does not capture the full breadth of what constitutes logging-driven degradation (see **Chapter 2** on sustainable production & development), it marks a significant turning point in global forest policy.[52]

- **Switzerland** has adopted a new Timber Trade Ordinance (TTO), which entered into force inJanuary 2022. The ordinance prohibits the placing on the market of illegally harvested timber and timber products and requires operators to exercise due diligence when importing or exporting such products.[53] The ordinance is aligned with the EU Timber Regulation and covers the same product scope and risk assessment criteria.
- The **New Zealand** Parliament passed the Forests (Legal Harvest Assurance) Amendment Act 2023 in May 2023. The law aims to prevent the import and export of illegally harvested timber and timber products, and to promote sustainable forest management and trade.[54]
- **China** prohibited the purchase, process, or transport of illegal timber in 2019, and requires all timber operators and processors to keep a standing book or ledger for entry and exit of raw materials and timber products. Four years later, however, implementing regulations are still "under development" with little evidence of movement in the legislative process, and the country still imports the same volume of high-risk timber as it did a decade ago.[55]

Beyond timber, a number of jurisdictions are considering or recently enacted legal frameworks to address imports of forest-risk commodities. The most significant development in this regard is the enactment of the EUDR (see **Box 4.2**). Meanwhile in the **United States**, the FOREST Act, which was introduced into Congress in 2021 and would prohibit the importation of any product made wholly or in part of a covered commodity produced from illegally deforested land, remains under consideration.[56] In the **United Kingdom**, the Environment Act of 2021 makes it illegal for large companies to import forest risk commodities produced on land illegally occupied or used, though regulations needed for these obligations to come into effect are yet to be adopted.[57] These three jurisdictions—the EU, United States, and the United Kingdom—collectively account for 31 percent of imported deforestation driven by agricultural commodities.

BOX 4.2. OUTSTANDING QUESTIONS ON OPERATIONAL IMPLEMENTATION OF THE EU DEFORESTATION REGULATION

The European Union (EU)'s Regulation on deforestation-free products (EUDR) entered into force on 29 June 2023, marking the first time that a country or region stops products linked to deforestation or forest degradation from being placed on its market. The regulation is a significant advancement in demand-side policy. It requires companies to carry out risk assessment and eventually risk mitigation measures before placing a product on the EU market or exporting from it. The law will apply to companies from the end of December 2024 onwards.

Partnerships for governance strengthening: The EUDR requires companies to conduct due diligence along their supply chains to ensure that the commodities were not grown or raised on land that was deforested or degraded after 31 December 2020, and that they have been produced according to the producer country's laws. Producer countries' laws are understood as including legislation pertaining to land use rights; environmental protection; human rights protected under international law and the principle of free, prior and informed consent (FPIC), including as set out in the UN Declaration on the Rights of Indigenous Peoples. The European Commission is tasked with developing a comprehensive EU strategic framework for partnerships with producer countries and engaging in a coordinated approach with producer countries, or subnational entities, via the use of existing and future partnerships, such as structured dialogues, administrative arrangements, and existing agreements, as well as joint roadmaps. However, it is unclear how this "strategic framework" will look and whether it will include mechanisms to support strengthening rights and governance in producer countries.

Respect for IPs' and LCs' rights: Many civil society organizations called for the EUDR to ensure the protection of customary tenure rights in accordance with international law.[58] However, the final version of the EUDR only requires that companies comply with national laws. Since national legislation is often unclear or conflicts with customary law or international law, using it as the basis of regulation risks creating legal confusion for companies and competent authorities. Nonetheless, the regulation does define a country's national legislation as including human rights protected under international law and the principle of Free, Prior and Informed Consent. It remains unclear how such a definition would apply where national legislation is inconsistent with international human rights law or has yet to incorporate the rights protected by the United Nations Declaration on the Rights of Indigenous Peoples. The EUDR also requires risk assessment to take account of the presence of Indigenous Peoples (IPs) and the existence of their claims to land ownership, to ensure consultation and cooperation in good faith with communities and the existence of duly reasoned claims by IPs based on objective and verifiable information regarding the use or ownership of the area used for the purpose of producing a relevant commodity.

Legal remedies: In addition to providing for compliance mechanisms and penalties to be administered by competent national authorities, The EUDR provides that any person or company with a sufficient interest (as determined by the national Member State law) shall have access to administrative or judicial procedures to review the legality of the decisions, acts, or failure to act of the Competent Authorities under the EUDR. The EUDR does not, however, foresee access to legal remedies to achieve redress or compensation of people or communities who have been harmed. Substantive concerns can be submitted, anonymously if so required, to the Competent Authority who will need to respond to the concerns raised within 30 days.

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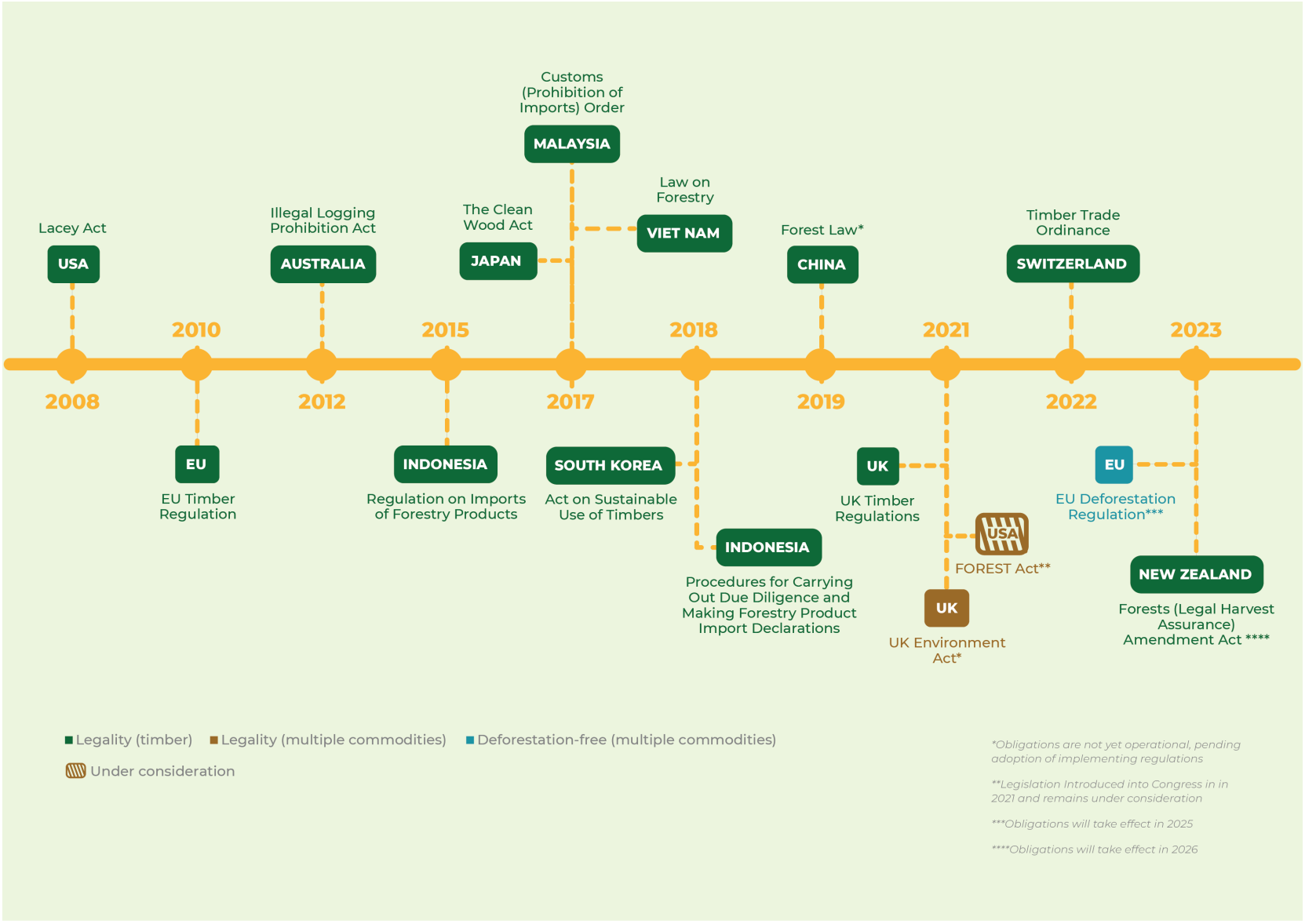
Figure 4.2 Increasingly diverse landscape of legislation aimed at regulating imports of forest-risk commodities



Source: Climate Focus elaboration

Opposition to demand-side measures

While civil society has broadly welcomed the EUDR and called for its full implementation,[59] there has been significant opposition by EU trading partners such as Indonesia, Brazil, and Canada:

- **Indonesia** stated that the policy is discriminatory and hinders trade, especially for the palm oil industry, which has made efforts towards improving sustainability.[60] However, Indonesian environmental organizations have stated that the government's opposition to the EUDR contradicts its commitment to protect the forests to mitigate climate change.[61]
- **Brazil** has labeled the EUDR "protectionist" and criticized it for punishing producers that have complied with national laws. Brazil's agriculture minister stated that while Brazil cannot interfere in a decision taken by the EU, operators in Brazil will continue to act in accordance with Brazilian legislation.[62] Many Brazilian civil society organizations did, however, support the regulation and even pushed for the EU to adopt stricter provisions.[63]
- **Canada** indicated to EU lawmakers that it supported standards that applied to the tropics, but, pointing to regeneration requirements as evidence of its sustainable practices and claiming there is no internationally agreed definition of degradation, stated there is no "one size fits all" approach and lobbied for measures that would limit the applicability of the regulation to boreal forests (see **Canada case study**).[64]
- The **Like-Minded Group** of Countries[f] requested that the EU consider producer countries' concerns in the implementation of the EUDR, calling for more engagement with producer countries in formulating clear and detailed implementing acts and guidelines. In a joint letter, they have stated the EUDR disregards local circumstances and capabilities, national legislations, certification mechanisms, local efforts to fight deforestation, and multilateral commitments of producer countries.[65]

Similarly, smallholder organizations in Indonesia and Malaysia have expressed concerns with the burden the EUDR places on Indigenous and local smallholders that engage in farming related to the targeted commodities and products.[66] However, some smallholders associations, such as the Serikat Petani Kelapa Sawit (SPKS - Palm Oil Farmers Union), said in a press release that the regulation "could be a great opportunity" to benefit from the EU market by providing deforestation-free products and have expressed that they already have some capacity to build the traceability required by the EUDR while expressing the need for significant EU support for compliance, specifically for capacity building and strengthening of institutions.[67]

The EU has responded to these concerns by assuring trading partners that it will undertake continuous dialogue with them regarding the implementation of the EUDR. As part of this approach, on June 29 2023, the European Commission, Indonesia, and Malaysia agreed to set up a Joint Task Force to strengthen the cooperation for the Implementation of EU's Deforestation Regulation.[68]

Beyond the EUDR, Canada has also opposed other legislation that would set baseline sourcing standards to prevent purchases in products tied to deforestation, forest degradation, and Indigenous rights.[69] This opposition has included coordination with logging industry representatives, most notably the Forest Products Association of Canada.[70] For example, Canada lobbied against the inclusion of boreal forests in the New York Tropical Deforestation-Free Procurement Act, and also lobbied against a similar bill in California.

Public procurement measures

Several countries are also strengthening public procurement measures to address commodity-driven deforestation linked to domestic demand. These measures aim to increase demand for legal and sustainable products and reforming domestic markets through providing support and capacity building for small and medium enterprises. A 2022 report by Chatham House found that 7 countries (out of 19 countries assessed) have public procurement laws relating to timber, and another 3 have procurement policies for the purchase of particular types of wood-based products.[71] As of

[f] The seventeen like-minded countries (LCM) are: Argentina, Brazil, Bolivia, Colombia, the Dominican Republic, Ecuador, Ghana, Guatemala, Honduras, Indonesia, Ivory Coast, Malaysia, Mexico, Nigeria, Paraguay, Peru, and Thailand.

2020, more than 30 countries had developed a procurement policy specific to timber, and many more had adopted green procurement strategies or policies that include requirements for timber products.[72] For example, the public procurement laws adopted in **Cameroon** in 2020 introduced the requirement for purchase of legal timber. **Ghana** and **Vietnam** are in the process of developing policies on the purchase of legal timber and sustainable public procurement, respectively.[73] **Colombia** is implementing a strategy to standardize and monitor public procurement through a single virtual platform, including public procurement of legally sourced wood.[74]

At the subnational level, the New York legislature passed the New York Tropical Deforestation-Free Procurement Act in 2023, requiring state contractors to ensure their purchases are not tied to tropical deforestation, primary forest degradation, or Indigenous rights violations. The bill is now awaiting the governor's signature. In 2022, Colorado's governor signed an executive order advising state agencies to avoid purchasing products tied to tropical or boreal deforestation, primary forest degradation, or Indigenous rights' violations.[75]

Corporate due diligence legislation

There is also an increasing trend toward adopting legislation on corporate due diligence. For instance, **France** adopted a due diligence law in 2017, known as the Duty of Vigilance law (Devoir de Vigilance). The law requires large companies to carry out human rights and environmental due diligence, both internally and of its subsidiaries, subcontractors, and suppliers. In early 2023, **Germany's** due diligence law came into effect. It obliges corporations to conduct due diligence to ensure human rights and environmental protection in their global supply chains. The EU is also debating a directive on mandatory corporate due diligence on human rights and environmental issues – the proposed Corporate Sustainability Due Diligence Directive. While the focus of these corporate due diligence laws is broader than deforestation, they are complementary to those focusing on restricting imports of forest-risk commodities and would still place some obligations that would support forest protection.

4.2.2. Addressing deforestation in trade agreements

There have been increased efforts over the last two decades to include deforestation-prevention and biodiversity protection provisions in trade agreements. However, the impacts of these provisions on forest protection is not always clear, and in some cases they are points of contention, as exemplified by ongoing negotiations between the EU and the Mercosur bloc.

Inclusion and efficacy of environmental provisions in Regional Trade Agreements

From 2000 to 2020, Regional Trade Agreements (RTAs) have increasingly included provisions aimed at preventing deforestation, promoting sustainable trade practices in forest products, and protecting biodiversity (**Figure 4.3**). As of 2020, 51 agreements contained measures to prevent deforestation or to protect biodiversity, with 78 percent signed after 2005.[76]

RTAs which include strong environmental and forest protection provisions have, nevertheless, not always proven to be effective in addressing deforestation. For example, the **United States-Peru** Trade Promotion Agreement (U.S.-Peru TPA) includes an **Annex** on Forest Sector Governance that requires Peru to increase enforcement efforts in national parks and Indigenous areas and to provide civil and criminal liability for a list of actions that undermine sustainable management of Peru's forest resources.[77] However, the TPA has led to no observable decreases in deforestation; in fact, there appears to have been increased logging and deforestation in densely forested areas.[78]

Similarly, the **Indonesia-European** Free Trade Association (EFTA–Indonesia CEPA) outlines commitments to uphold standards on environmental protection, promote the use of forest products certification schemes, and use timber legality assurance systems.[79] However, of all the EFTA countries, only Switzerland grants tariff preferences for palm oil imports that demonstrate compliance with the provisions through third-party certification.[80] In addition, most palm oil imported to the country is already certified, and the Swiss market accounts for no more than 0.03 percent of Indonesia's palm oil exports, so the RTA likely had a negligible impact on deforestation rates.

Ongoing negotiations on the EU-Mercosur free trade agreement

The above examples indicate that stronger forest protection provisions are likely to be needed to offset the impacts of RTAs on deforestation. However, negotiating these provisions is challenging, as highlighted by the European

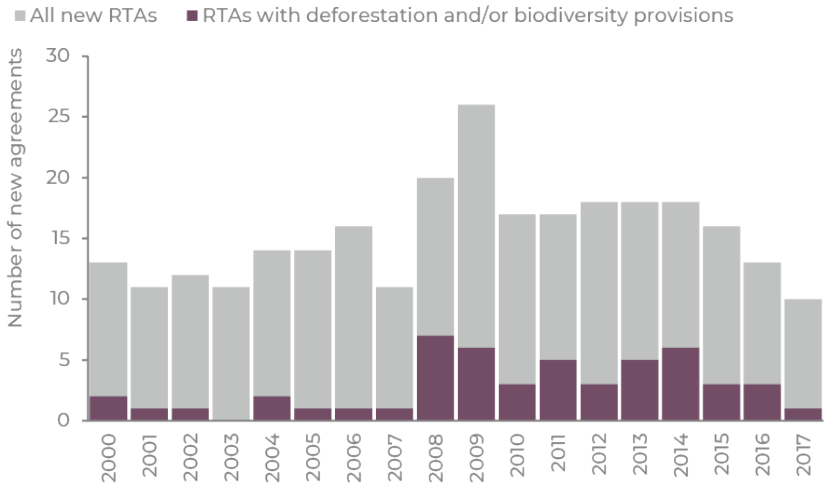
Union-Mercosur free trade agreement (the "EU-Mercosur RTA"), which was agreed on in 2019, but has not yet been ratified.

The agreement includes a "trade and sustainable development" chapter, which recalls the participating countries'[g] commitment to achieving the goals of the Paris Agreement. However, in its original iteration, this chapter did not include any binding or enforceable sustainability or traceability requirements – even for high-risk products such as beef.[81] Following opposition to the agreement due to fear that it will incentivize further deforestation in Mercosur countries,[82] in 2022 the European Commission made a new proposal to the Mercosur countries, aiming to improve enforceability of the trading partners' climate commitments; for example, by allowing the enforcement of trade sanctions in case of default. Mercosur countries have strongly criticized this proposal, and no final agreement has yet been reached between the two blocks as of August 2023.[83]

New China-Brazil cooperation

Even if the ongoing negotiations succeed in implementing stricter sustainability requirements as part of the EU-Mercosur RTA, international trade will remain a threat to the Amazon. This is especially relevant for Brazil, which exports a third of its agricultural exports to China – more than twice the amount it exports to the EU.[84] Increasing demand from China for beef, soybean, and other commodities has been driving deforestation rates in Brazil in recent years.[85] In April 2023, **China** and **Brazil** announced that they intend to cooperate more closely in the future to eliminate illegal logging and better regulate exports from Brazil.[86] Although it remains to be seen how China and Brazil will effectively collaborate and what the actual impact of this will be in the future, the joint announcement holds significant promise for forest conservation in the Amazon, and climate change mitigation efforts at large.

Figure 4.3. Number of new Regional Trade Agreements with deforestation or biodiversity provisions, 1990-2017



Source: Abman, R., Lundberg, C., Ruta, M. (2021).

[g] Argentina, Brazil, Paraguay, and Uruguay—Mercosur's founding countries—are full members. Bolivia, Chile, Colombia, Ecuador, Guyana, Peru, and Suriname are associate members.

4.3 Effective and equitable implementation of laws to ensure detection, prosecution, and just enforcement of penalties on forest crimes

4.3.1 Just enforcement of forest laws

Better enforcement of forest laws has led to reduced deforestation in a number of tropical countries, notably Indonesia, Brazil, Cameroon, Côte d'Ivoire, and the Republic of the Congo. However, corruption and weak governance continue to facilitate high levels of illegality as well as human rights violations across a number of other countries.

Results of improved enforcement

Enforcement of forest laws has improved in some tropical countries, such as Brazil and Indonesia, leading to decreased deforestation. In Indonesia, effective implementation of existing laws and policies continues to drive decreasing deforestation. In June 2023, Indonesia's environment ministry officials pointed to control of fires and limiting new clearance permits on primary forests and peatlands has contributed to the fall in deforestation. However, civil society groups have questioned the government's claim that deforestation is decreasing, since the government's figures do not include land cleared for industrial tree plantations.

In **Brazil**, according to data by Brazil's National Institute of Space Research, deforestation in the Amazon rainforest decreased by 42 percent during the first seven months of President Lula da Silva's administration, compared to the same period in 2022.[87] This is a striking contrast to the sharp increases in deforestation that occurred under the previous administration, which dismantled environmental agencies, attempted to weaken conservation laws, and rolled back recognition of the rights of IPs. The 2023 deforestation rates mirror the major decreases in deforestation during President da Silva's first presidency (**Figure 4.4**). These trends provide strong evidence of the impact of political leadership on addressing deforestation and enforcing forest laws.

Under the new Amazon Security and Sovereignty Plan, the Brazilian government intends to work with the other Amazonian countries to strengthen border areas.[88] The plan includes measures such as: (i) the creation of the National Public Security Force's Environmental Operations Company; (ii) establishment of integrated river and terrestrial bases to strengthen public security services in the region; and (iii) modernization of barracks that belong to police forces operating within the states of Acre, Amapá, Amazonas, Maranhão, Mato Grosso, Pará, Rondônia, Roraima, and Tocantins to enable them to better carry out their operations.

How do we assess progress?

Implementation of laws is a key component of forest governance. Failure to implement or ensure compliance with forest laws can demotivate actors implementing sustainable practices, deny governments revenues, and undermine the rule of law. It is important to note that implementation can be complicated by factors such as corruption and the shadow economy. For instance, INTERPOL has estimated the global cost of corruption in the forestry sector to be in the order of USD 29 billion annually.[89]

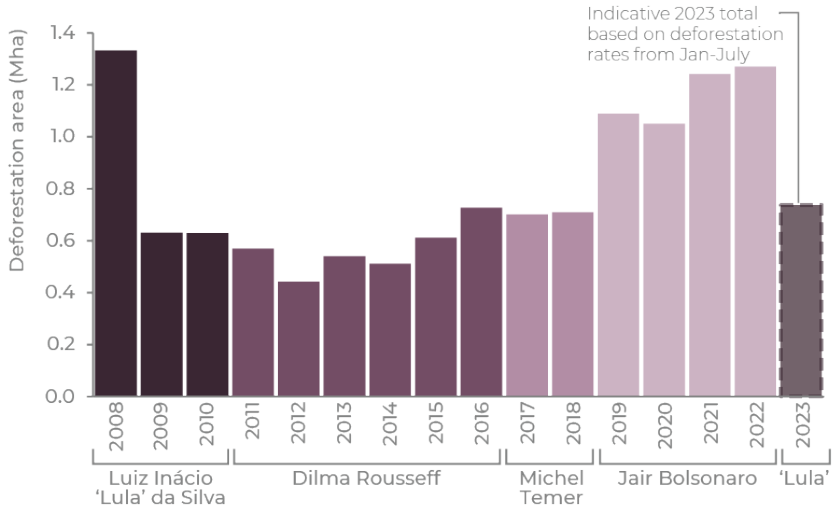
This section assesses the following:

JUST ENFORCEMENT OF FOREST LAWS: While law enforcement is key for protection of forests, it must be just and equitable so that the activities of those protecting forests and whose cultures and livelihoods are dependent on forests are not criminalized. This chapter assesses measures taken by countries to justly implement legal and policy frameworks around forests and enforce penalties on forest crimes and the implications of the enforcement on deforestation.

RISK OF ILLEGAL LOGGING: Countries with strong governance systems and rule of law tend to have better enforcement of regulations, clearer land tenure systems, and transparent decision-making policies – all of which contribute to reducing the occurrence of illegal deforestation. This chapter assesses efforts by countries to improve overall governance systems and the implication of the improved governance on tackling illegal forest activities.

COOPERATION TO FIGHT FOREST CRIMES: This chapter assesses how governments are cooperating at the international and regional levels to fight forest crime, particularly in detection and prosecution of forest crimes and capacity building of law enforcement agencies.

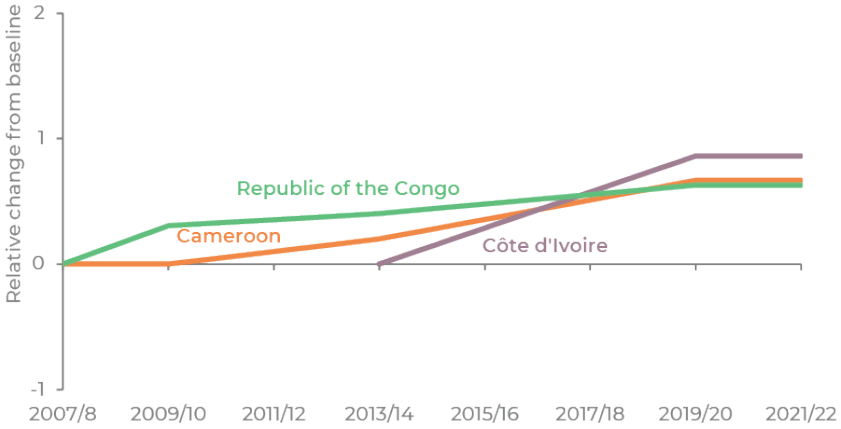
Figure 4.4. How deforestation in the Brazilian Amazon has evolved under different presidents, 2008-2023



Source: Climate Focus elaboration based on data obtained from Instituto Nacional de Pesquisas Espaciais (INPE). Amazônia Legal - PRODES (Desmatamento). PRODES completo em formato matricial - Geotiff (2000/2022), http://terrabrasilis.dpi.inpe.br/downloads/.[h]

Recent analysis also shows some progress in the enforcement of forest laws in **Cameroon, Côte d'Ivoire**, and **the Republic of the Congo** over the past decade (**Figure 4.5**)[90] Progress can be attributed to improvements in the legal frameworks clarifying the type of responses (administrative actions or judicial sanctions) to deal with non-compliance, and better application of enforcement actions in relation to forest production and environmental protection.[91] FLEGT VPAs have supported some improvements in the compliance and enforcement of forest legislation in the three countries. Despite some advances in law enforcement, much remains to be done in the three countries to clarify mandates and responses to non-compliance in the forest sector and consistently apply enforcement measures.

Figure 4.5. Improved then stalled in compliance, promotion, and enforcement Cameroon, Cote d'Ivoire and the Republic of the Congo in African



Note: The graph shows the magnitude of change in the Forest Governance Index score for each country within a given year compared to that country's initial baseline. It is important to note that this does not reflect the absolute Forest Governance score for each country and as such should not be interpreted as implying a comparison between the three countries, except in terms of how governance has evolved in each. A closer look at the data shows that governance improvements are notably reinforced when coupled with and accompanied by political processes.

Source: European Forest Institute (2023)

[h] This figure was inspired by a similar figure in Mendes, K. (2022) Despite 11% drop in 2022, Amazon deforestation rate has soared under Bolsonaro. *Mongabay*.

4.3.2. Risks of illegal logging and deforestation

Corruption and poor governance continue to lead to high risks of illegal deforestation in many tropical forest countries. Risks in the implementation of forest monitoring continue to limit the availability of quality data on the scale of illegal activities.

Corruption's connection to illegality

Corruption continues to be widespread in some forest countries, contributing to illegal deforestation and other forest crimes:

- A report by Forest Trends links the increasing deforestation in the tropics, including high levels of illegality in the **Andean Amazon**, to corruption and weak law enforcement.[92]
- In **Venezuela**, recent investigation by InSight Crime into illegal mining shows the country has had the fastest-growing deforestation rate in the Amazon. Alt also revealed that armed groups control, regulate, and, in some cases, directly run mining hotspots. Many of these armed groups are backed by elements of the government, who share in profits in return for impunity and integrating illegal mines into the state-controlled supply chain.[93]
- A 2021 investigation by the Environmental Investigation Agency shows how corruption has fueled trade of illegal timber from **Cameroon** to **Vietnam**.[94] According to the report, Vietnamese companies bribed Cameroonian authorities to mask the origin of illegal timber to seamlessly enter the Vietnamese supply chain.

In many cases, corruption and weak governance also create environments of violence against and criminalization of environmental defenders, IPs, and LCs (see Section 4.4.3 below).

Data from Forest Trends' Illegal Logging and Associated Trade (ILAT) Risk Score shows that there has been little change in the relative governance score or ranking given to countries from 2019-21.[i] Countries such as Myanmar, Democratic Republic of Congo, and Papua New Guinea were ranked as relatively high-risk of illegal logging in 2021, while Canada, the United States, Germany, Sweden, and Finland were ranked relatively low-risk (**Figure 4.6**). These rankings correlate with case studies conducted during 2019-21.[j]

National risk scores tend to evolve slowly, due to institutional and bureaucratic inertia and the gradual nature of factors that lead to positive change, such as building of political will, capacity, and consensus; developing legal processes; and reforming land tenure. From 2019 to 2021, governance indicators in the ILAT assessment saw very little change.

Improved monitoring on illegal deforestation is essential for strengthening enforcement, but collecting such data is extremely challenging (**Box 4.3**). That said, while strategic planning, consistent monitoring, and adaptive management can support effective and sustainable change over time, the most rapid changes in forest governance indicators tend to occur after a political regime change, where political will at most senior levels invigorates action (or in reverse, when a new administration rolls back efforts to reform or strengthen forest governance). Brazil provides the most notable recent example of illegal deforestation reduction under a new president (see **Section 4.3.1**).

[i] Forest Trends' Illegal Logging and Associated Trade (ILAT) Risk Score attempts to aggregate 12 existing robust indices of national-level political, governance, economic and corruption indices to provide an average relative governance and corruption ranking for countries globally, which are augmented with Preferred by Nature's Timber Risk Score (available for 12 countries). Detailed methodology is detailed at.

[j] It is important to note that it is possible to source illegal wood from a well-governed, "lower-risk" country and it is also possible to source legal wood from a "higher-risk" country. As such, risk scores can only give an indication of the likely level of illegal logging in a country and ultimately speaks to the risk that corruption and poor governance undermines rule of law in the forest sector, helping to raise flags for the need to conduct more extensive due diligence processes.

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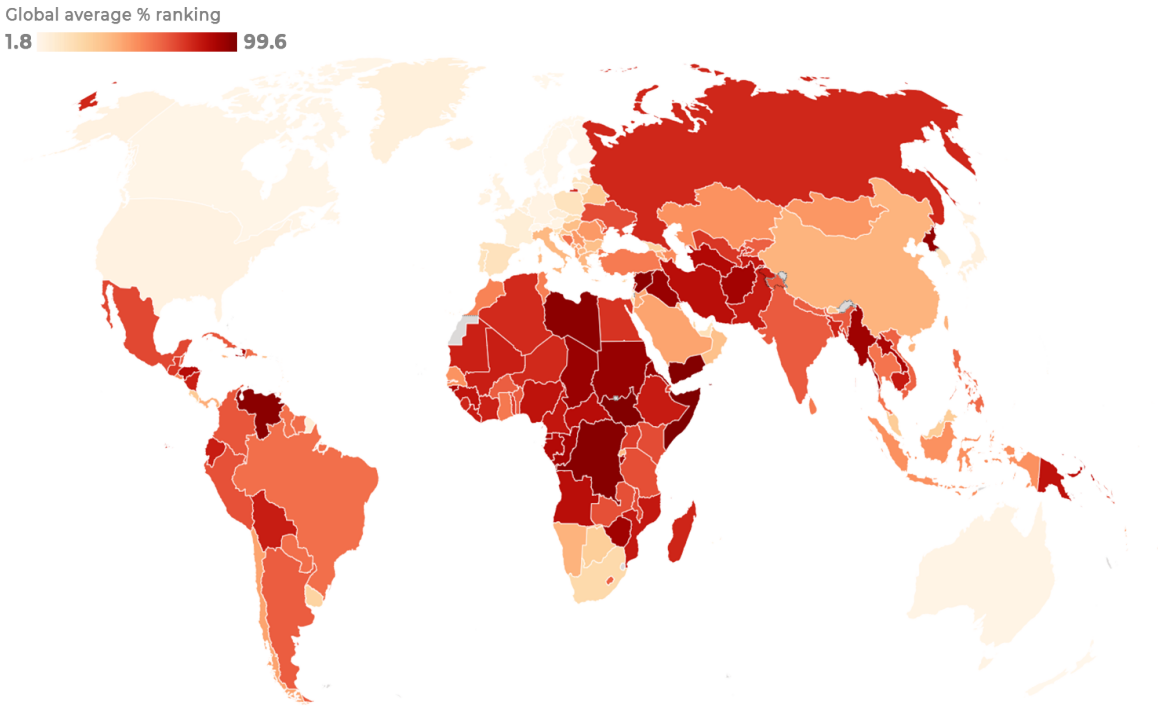
BOX 4.3. IMPROVING DATA COLLECTION AND MONITORING FOR FOREST GOVERNANCE

Monitoring and gathering data on illegal deforestation and the enforcement of laws and policies in forested areas pose significant challenges. Forests cover vast and remote regions, making it logistically challenging to monitor and validate data obtained from satellite and AI technologies. The clandestine nature of illegal deforestation makes monitoring even more daunting, with witnesses often reluctant to report due to fear, distrust of law enforcement, or personal involvement. Additionally, assessing the impacts of governance initiatives, typically influenced by numerous factors such as market forces and land use changes, is hampered by resource constraints, data fragmentation, and a lack of transparency across various agencies, research institutions, and NGOs.

While valuable case studies do exist, they often represent snapshots in time rather than continuous real-time monitoring. These studies tend to focus on a limited number of high-profile countries, leaving significant gaps in information for vast forested areas globally. NGO and industry case studies, while informative, can be subject to criticism for potential bias or oversimplification. Relying on local data or extrapolating from case studies has clear limitations.

Given these challenges, experience has shown that the most effective approach is to develop monitoring systems that enhance local-level implementation by providing real-time feedback, accountability, and early issue identification.[95] These systems should also generate reliable, aggregated data for national-level analysis. To achieve this, dual-purpose systems should prioritize transparency at all levels of forest management, standardize data collection, and establish capacity-building mechanisms. Fostering collaboration and data sharing among multiple stakeholders involved in data collection, reporting, and analysis is essential for comprehensive and effective forest governance.

Figure 4.6. High risks of illegal logging across much of Africa, Asia, and Latin America



Note: This map shows relative risks of illegal logging and associated trade across countries. Data is from Forest Trends *Global Illegal Logging and Associated Trade (ILAT)* Risk Data Tool, which aggregates 12 existing robust indices of national-level political, governance, economic and corruption indices compiled by the World Bank, UN agencies, independent surveys and other primary data, to provide an average relative governance and corruption ranking for countries globally, and augment these with, Preferred by Nature's Timber Risk Score (available for 12 countries).

Source: Climate Focus elaboration based on data from Forest Trends *Global Illegal Logging and Associated Trade (ILAT)* Risk Data Tools)

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4.3.3. International cooperation on fighting forest crime

There are increasing efforts to enhance international cooperation on fighting forest crime. However, these initiatives are new and it remains too early to assess how effective they will be.

Across the globe, countries are joining forces in an effort to combat forest crimes such as illegal logging, illegal land clearing, and laundering of illegally harvested wood:

- In August 2023, the governments of Norway, the United States, and Gabon, together with the UN Office for Drugs and Crime and a range of NGOs and IPs' organizations, adopted the Vancouver Statement on Nature Crime and formed the Nature Crime Alliance.[96] The Alliance aims to provide a new, multi-sector approach to fighting criminal forms of logging, mining, wildlife trade, land conversion, and fishing. Members commit to working together to raise political will, mobilize financial commitments, and strengthen operational capacities to fight nature crime.[97]
- Also in August 2023, eight Amazonian countries adopted the Belém Declaration, in which they pledged to tackle illegal activities that are driving the large majority of deforestation in the Amazon.[98] The Declaration establishes, among other things, the Amazon Alliance to Combat Deforestation, which is intended to promote regional cooperation in combating illegal deforestation and strengthening the implementation of forest legislation. The areas of cooperation will include exchange of technologies, experiences, and information regarding the prevention, monitoring, and control of deforestation, as well as building the capacities of forest managers and rangers.

4.4. Recognizing, respecting, and protecting the rights of Indigenous Peoples and Local Communities

4.4.1. Legal recognition of IPs' and LCs' lands

There has been some progress made in the legal recognition of IPs' and LCs' land, including in key tropical forest regions. However, progress remains slow, and globally at least 1.375 billion hectares of lands which IPs, and LCs have customary or historic claims to have not yet been legally recognized by national governments.

IP and LC tenure security

A recent report by the Rights and Resources Initiative (RRI) shows an increase in the area of land Indigenous People, Afro-descendent Peoples, and Local Communities (IPs, APs and LCs) have legal rights to in at least 39 of the 73 countries studied (**Figure 4.7**).[99] As of 2020, 800 million hectares (7.2%) of global land area is designated for IPs, APs, and LC communities and 1.264 billion hectares (11.4%) is owned by them. This reflects an increase of 103 million hectares since 2015, when communities had designation rights to 785.7 million hectares (7.1%) of the global land area and owned 1.176 billion hectares (10.6%).

- The report notes that although **Asia** appears at first glance to have the highest area of IP and LC ownership of any region, at 476.2 million hectares, the vast majority of this is land in **China**, covered by the country's pasture contract system and collectively owned forestland. Across the rest of Asia, only 0.8 percent of land is owned by IPs and LCs.[100]

How do we assess progress?

LEGAL RECOGNITION OF IPs' AND LCs' LANDS: IPs and LCs manage at least half of the planet's land and are proven, effective forest stewards.[101] It is necessary to strengthen tenure security of IPs' and LCs' lands through the legal recognition of their rights to land and resources, and to protect their lands against encroachment from outsiders. This chapter assesses whether governments have adopted and implemented laws that recognize a broad set of IPs' and LCs' rights, limit public interest exceptions, and provide access to mechanisms to enforce those rights. Particularly, this chapter focuses on:

STRENGTHENING AND PROTECTING IPs' AND LCs' RIGHTS: Tenure security, consistent and equitable laws and policies, government support for communities, and protection of IPs' and LCs' rights are equally important to safeguard people and forests. Other measures for empowering IPs and LCs include providing finance to support their communities and livelihoods, and strengthening their capacity to monitor and respond to illegalities on their lands. This chapter assesses the adoption and implementation of measures to secure IPs' and LCs' rights, including the guarantee of FPIC for the development of policies that affect them and commercial and conservation or restoration projects on their land.[k]

THREATS TO ENVIRONMENTAL DEFENDERS: Violence against environmental and Indigenous rights defenders often follows confrontation with powerful political-business alliances, which are frequently in collusion with military, paramilitary and police forces, non-state armed actors, and criminal groups. This chapter assesses the prevalence of violence against environmental rights defenders globally. It also assesses how governments are using the law to criminalize protests and justify arrests, as well as how companies are using Strategic Lawsuits Against Public Participation (SLAPPs) against environmental rights defenders.

However, countries such as the **Philippines**, **India**, and **Indonesia** have made small but significant progress. For example, from 2015 to 2020, over 800,000 hectares of Ancestral Domains were titled in the Philippines and the land owned by Scheduled Tribes and Other Traditional Forest Dwellers in India increased from 100,000 hectares to over 2.4 million hectares.

- **Latin America** has historically had the highest proportion of forest area that is recognized as owned by or designated for IIPs, APs, and LCs

[k] The right of IPs to give or withhold their free, prior, and informed consent (FPIC) for decisions affecting them is enshrined in international law, including in the UN Declaration on the Rights of Indigenous People. While non-Indigenous LCs do not enjoy the same rights under international law, many organizations, including the United Nations, consider applying FPIC to other communities as best practice. See, for example, https://www.fao.org/3/i6190e/i6190e.pdf.

(36.25%), but communities in many countries faced significant threats to their tenure security during the 2015-2020 period.

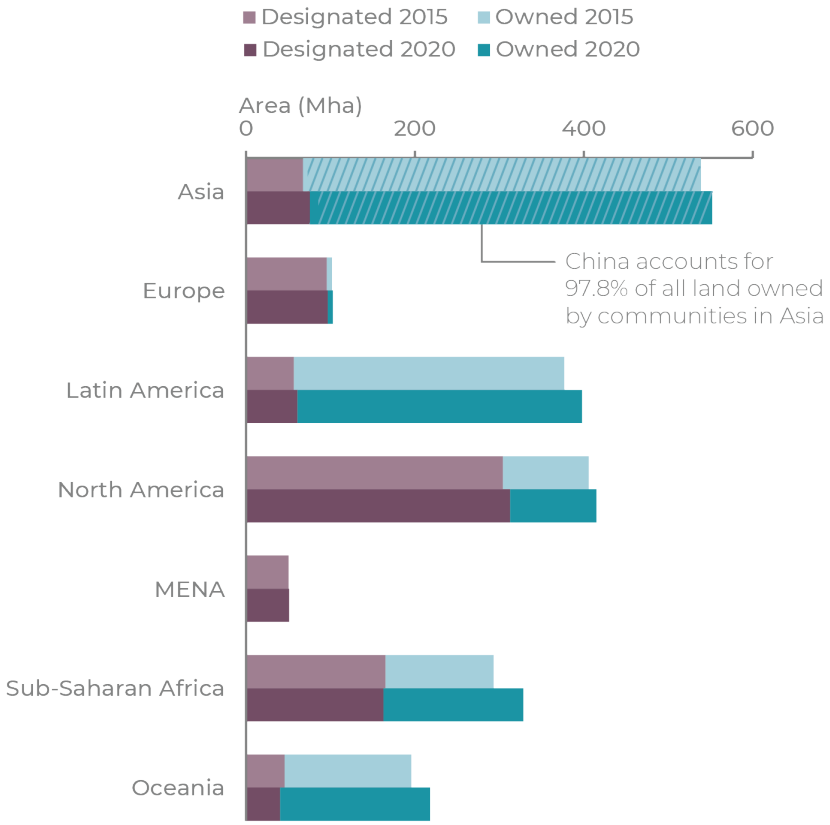
- On the other hand, **Middle Eastern** and **North African** countries have yet to establish legal frameworks for the recognition of community-based land ownership.
- **Sub-Saharan Africa** witnessed the most notable acceleration of legal recognition of IPs' and LCs' community land rights from 2015 to 2020, mainly from legal recognition from **Kenya** and **Liberia**.[102]
- Across countries in the **Global North**, progress in recognizing IPs' and LCs' land rights was mixed; **Canada** and the **United States** saw incremental gains, including a commitment from Canada's federal government of USD 592 million in funding for Indigenous-led conservation projects over the next seven years,[103] and in the United States, a court-ordered Land Buy-Back Program for Tribal Nations. None of the three Nordic countries in the study (**Finland**, **Norway**, **Sweden**) recognized any additional areas for IPs. Meanwhile, the total area owned by or designated for IPs in **Australia** increased by 22 million hectares, the second largest absolute increase of any country in the study.

Despite these improvements, large areas of IPs', APs', and LCs' lands still lack legal recognition. Across 49 countries where estimates were available, RRI found that IPs, APs, and LCs have customary or historic claims to at least 1.375 billion hectares of lands that have not yet been legally recognized by national governments.

There are also several ongoing and implemented reforms and measures in tropical forest countries to legally secure land owned by IPs, APs, and LCs.

- In October 2022, **Colombia**'s government adopted an ambitious agrarian reform and intends to provide formal titles to 10 million hectares of land to IPs, APs, LCs, and peasant families. The government has already announced the titling of 680,000 hectares, including ten new Indigenous Reserves covering nearly 300,000 hectares.[104]

Figure 4.7. Limited progress in legal recognition of the land tenure rights of Indigenous People, Afro-descendent Peoples, and Local Communities, 2015-2020



Source: Forest Declaration Assessment elaboration based on data from Rights and Resources Initiative. (2023). *Who Owns the World's Land?: Global State of Indigenous, Afro-descendant, and Local Community Land Rights Recognition from 2015–2020*.

- **Brazil**'s government has demarcated six new Indigenous territories covering over 612,000 hectares. The demarcation includes processes such as analyzing the demand of the Indigenous population, the delimitation of the physical territory, and the registration of the Indigenous land in a notary's office.[105]

- In **Peru**'s Loreto and Madre de Dios regions, evidence suggests that the government has been granting titles to Indigenous communities, but many communities still lack titles, and overlapping claims abound. Communities do not have rights to subsoil resources, such as oil and minerals, and can use forest resources but cannot own them.[106]
- In **Indonesia**'s Maluku region, much of the forest is managed by communities under a customary system, while in the Lampung province of Sumatra, the expansion of commercial plantations led to a tenure reform under which communities manage state forest areas. However, overlapping claims are a source of conflict in both places.[107]

Tenure security for other populations

Tenure insecurity also remains a critical global concern beyond IP and LC lands. In a 2018 Prindex survey covering both urban and rural populations in 33 countries,[108] 29 percent of respondents indicated they do not perceive home rights as secure. Notably, 38 percent do not possess legal documentation confirming their formal tenure, and 10 percent have faced eviction. This complex landscape is shaped by factors such as eviction's pronounced impact on renters and rural populations, alongside variables like rights awareness, education, and trust in local governance.

It is worth noting that efforts to enhance tenure security often focus on strengthening legal rights, yet formalization alone does not improve tenure security. Certain factors such as incomplete primary education and a history of eviction undermine the effectiveness of the formalization process. Additionally, the survey highlights that lower-income individuals and women generally feel less secure about their land, underscoring that variations across groups should be considered separately when assessing tenure security and designing interventions.

4.4.2. Respecting and protecting IPs' and LCs' rights

Within the past year, there have been significant positive developments in protecting IPs' and LCs' rights in a number of countries, most notably in Brazil. However, in other countries there have also been attempts to weaken IPs' and LCs' rights. In many countries, even where there are existing legal frameworks for the protection of IPs' rights, implementation remains weak.

Advancements in rights protection

Within the past year, there have been significant positive developments towards protecting IPs' and LCs' rights in the DRC, Australia, and Brazil.

- In November 2022, the **DRC** enacted a law on the Promotion and Protection of the Rights of the Indigenous Pygmy Peoples.[109] This law formally acknowledges the defined rights of the Pygmy people, and ensures their right to free, prior and informed consent in matters involving land use by governmental bodies and industries.
- At the end of 2023, Australia will hold a referendum on Indigenous recognition that proposes a constitutionally recognised advisory body representing Indigenous people, a positive development in the fight for recognition of Indigenous rights in the country.[110]
- Since coming into office in early 2023, Brazil's President Lula da Silva has issued several measures to protect the rights of IPs and reversed "anti-Indigenous-Peoples' rights" measures from the Bolsonaro administration, including annulling a Bolsonaro-era decree that encouraged mining on Indigenous lands and protected areas,[111] although the Senate has sought to reverse this.[l] President da Silva also created the Ministry of Indigenous Peoples in 2022, led by an Indigenous leader,

[l] At the time of writing (October 9, 2023), the Senate had passed Bill 2903/2023, which would open Indigenous lands to mining. Indigenous groups are calling on President Lula to veto the bill. Fasolo, C. & Soares, M. (2023, October 5). Civil society wants a full veto on the Temporal Framework Bill. *Instituto Socioambiental.*

Sônia Guajajara. The responsibilities of the Ministry include managing the entity responsible for protecting Indigenous lands (known as FUNAI), and developing and implementing policies for the protection of Indigenous lands and rights.

Other proposed legislation to protect Indigenous rights have been unsuccessful. In September 2022, Chileans voted on a proposed new constitution, which ultimately failed to pass. The proposed constitution would have established some of the most comprehensive Indigenous rights globally, including establishing the rights of over two million Indigenous peoples in Chile to self-govern their territories and establish independent legal systems.[112]

Weak recognition and rollbacks

However, there have also been attempts to weaken IPs' and LCs' rights in some countries. In Brazil, the Congress has worked against the current president to weaken the powers of the newly-created Ministry of Indigenous Peoples in June 2023 by, for instance, preventing the Ministry from legalizing the boundaries of new Indigenous territories, as well as to adopt a bill that would weaken Indigenous rights.[113] Measures to strip protections of IPs were also being discussed in Peru, through a bill intended to be introduced to Congress in 2022 (PL 3518/2022). The bill was, however, rejected by congressional commissions before it could reach Congress.[114]

In many countries, even where there are existing legal frameworks for the protection of IPs' rights, the implementation has been weak. To cite just a few examples:

- In the **Philippines**, despite the existence of the Indigenous Peoples' Rights Act of 1997, there have been weak protections on the ground for IPs. For instance, IPs continue to be displaced from their lands and the right to FPIC is continuously violated and undermined.[115] The process of obtaining and having secure title to lands, known as Certificates of Ancestral Domain Titles, is expensive, complicated, and does not guarantee tenure security.
- In March 2023, two United Nations bodies[116] found that the government of **Panama** had violated the rights of IPs, especially in the context of a project to build the country's Fourth Electrical Transmission Line. The Panamanian government failed to ensure IPs' territorial rights, the right to FPIC, as well as the right to maintain their traditional ways of life, livelihoods, and culture.[117]
- In a handful of **Indonesian** states, logging, plantation, and mining companies are continuing to operate or engage in conflicts with IPs and LCs after their operating permits were targeted for revocation by the government. Little information is available on how the permit revocations are carried out.[118]

4.4.3. Violence against and criminalization of environmental defenders

Environmental defenders – many of them Indigenous – continue to face violence, harassment, and criminalization for seeking to protect their lands and forests from outside incursions. 194 killings of environmental defenders were recorded in 2022, making them the most targeted of all categories of human rights defenders last year.

Violence against environmental defenders

Environmental defenders – many of them Indigenous – continue to face violence, harassment, and criminalization for seeking to protect their lands and forests from outside incursions. In 2022, IPs' and environmental rights defenders were the most targeted of all categories of human rights defenders (**Figure 4.8**), per data from Frontline Defenders (which records threats reported by human rights defenders included in the organization's protection programs) and data from the Human Rights Defenders Memorial (which records verified killings of defenders).[m]

[m] The HRD Memorial is a joint, global initiative by a network of human rights organizations including: ACI-Participa (Honduras); Amnesty International; Comité Cerezo (Mexico); FIDH; Front Line Defenders; Global Witness; Human Rights Defenders' Alert – India; Karapatan (the Philippines); OMCT; El Programa Somos Defensores (Colombia); Red TDT (Mexico); and UDEFEGUA (Guatemala). For more information see: HRD Memorial, https://hrdmemorial.org/.

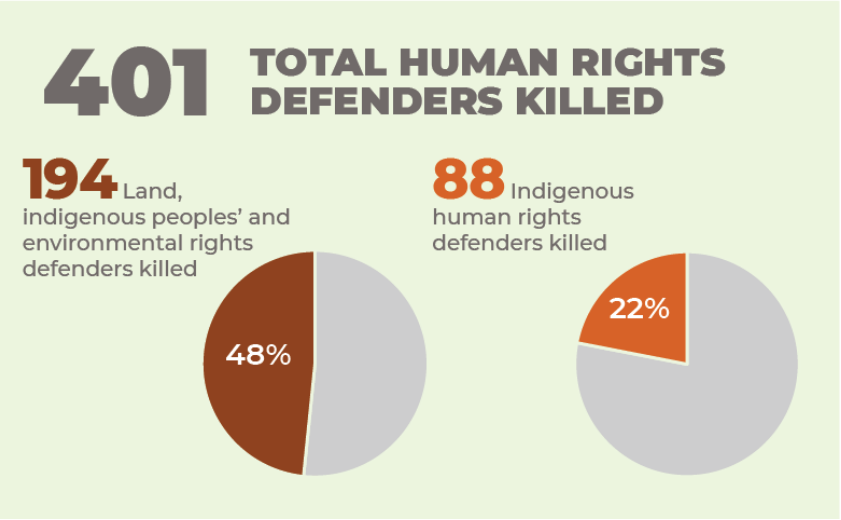
In 2022, 194 environmental, land, and Indigenous rights defenders across 15 countries were killed, accounting for 48 percent of all recorded killings of human rights defenders last year. 22 percent of all human rights defenders whose murders were recorded in 2022 were Indigenous people. 88 Indigenous defenders recorded as being killed across Brazil, Colombia, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Peru, Philippines, and Venezuela. **Colombia** was the deadliest country for environmental and Indigenous rights defenders, with 88 murdered over the course of 2022.[119]

This data aligns with the 2023 Global Witness report on threats against land and environmental defenders, which found that Colombia had the highest murders of environmental and land defenders.[120] More than a third (36%) of the defenders that Global Witness recorded as murdered were IPs, while 7 percent were Afro-descendants and more than a fifth (22%) were small-scale farmers.[121]

Frontline Defenders also recorded 174 cases of other violations against IPs' and environmental rights defenders. Arrest and detention, and legal action were the most prominent forms of violations, followed by physical attacks and death threats (see **Figure 4.8**).[122]

Furthermore, a recent study also shows that violence against women defenders is concentrated among mining, agribusiness and industrial conflicts, predominantly in Latin America, Asia and Africa. The Philippines has the highest rates of women environmental defenders murdered, with 19 of 81 cases reported in the Environmental Justice Atlas taking place there, followed by Colombia, Brazil, Mexico, and Honduras. Additionally, women environmental defenders experience high rates of violence regardless of countries' governance accountability and gender equality, per the same study.[123]

Figure 4.8. Environmental, land, and Indigenous Peoples' right defenders the most targeted category of human rights defenders in 2022



Note: The number of threats presented here reflect threats reported as part of Front Line Defenders' urgent actions and approved grant applications. In some cases, multiple threats may be reported as part of a single grant application, which reflects the reality of many human rights defenders facing multiple threats. In the case of both killings and other threats, Environmental, land, and Indigenous Peoples' right defenders were more targeted than any other category of defenders in 2022.

Source: Climate Focus elaboration based on data from Human Rights Defenders Memorial. (2023). HRD Memorial; and Front Line Defenders. (2023). *Global Analysis 2022*

Leveraging the courts to silence opposition

Companies have leveraged Strategic Lawsuits Against Public Participation (SLAPPs) against environmental and Indigenous rights defenders. For instance, in 2022, the company BUK d.o.o in Bosnia and Herzegovina launched three defamation lawsuits targeting women human rights defenders following their public campaign against the environmental impact of the company's hydro-power plants on the Kasindolska river.[124]

4.5. Transparency, public participation, and access to justice

4.5.1. Transparency, access to information, and participation in forest decision making

There have been positive steps toward enhancing transparency and participation in forest-related decision making in several tropical forest countries. However, progress has largely been driven by processes like FLEGT VPAs or REDD+, and momentum of implementation has recently waned following a reduction in political push from these processes or projects.

Improved transparency and accountability systems in some countries

Transparency and accountability systems across several tropical countries have improved over the past decade, with better availability of and access to forest-related data and legal texts. EFI's Forest Governance Index reveals a clear trend within **Cameroon, Côte d'Ivoire, and the Republic of the Congo** of increasing transparency, access to forest-related information, and the participation of stakeholders in forest-related decision making as well as monitoring legality and identifying irregularities in timber trade and regulations in the past decade (**Figure 4.9**).[125] This trend is underpinned by legislation that allows citizens greater access to forest-related information and by information increasingly being made publicly available. This progress on transparency often takes place within the context of forest policy processes such as FLEGT VPAs and REDD+ and in countries in which these processes are carried out, such as **Ghana and Indonesia**.

The Republic of Congo, for instance, adopted the Forest Code 2020. The country's Forest Code was developed with extensive civil society engagement and introduces the requirement for participation of civil society and IPs and LCs. The policy also legally recognizes the role of civil society's independent forest monitoring.[126]

How do we assess progress?

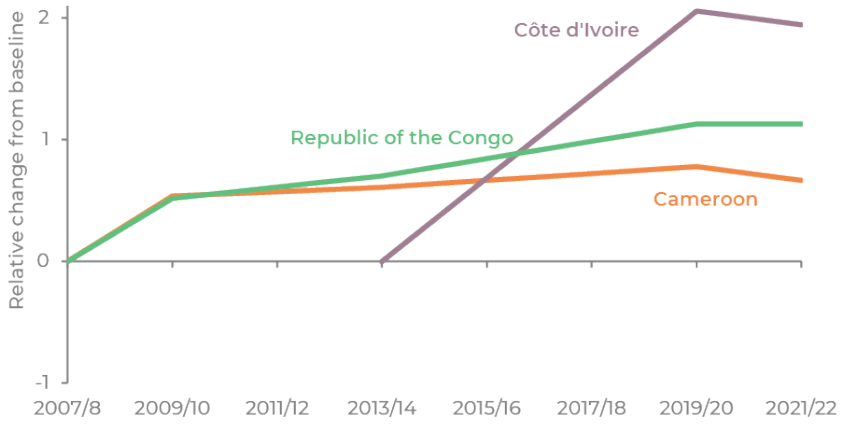
TRANSPARENCY, ACCESS TO INFORMATION AND PARTICIPATION: IPs and LCs living in forest areas play a critical role in stewarding and managing forests sustainably. It is therefore critical to include forest-dependent communities, civil society, and the general public in decision-making about forests and forest lands, including shaping and implementing laws and policies. We assess measures taken by countries to enhance public access to forest-related information and implement participatory forest-decision-making which ensures Free, Prior and Informed Consent (FPIC).

ACCESS TO JUSTICE AND THE ROLE OF JUDICIAL SYSTEMS: Access to justice is a key component for the proper implementation of laws. Access to justice gives citizens, IPs, LCs, and civil society a crucial mechanism to challenge government decisions, as well as ensure their rights are respected. We assess whether governments are addressing access to justice in the context of forest issues: ensuring citizens have judicial and quasi-judicial systems available to them, have legal standing to access those systems, and do not face unreasonable legal or financial barriers to accessing the systems.

Despite these advancements, EFI's assessments show that the extent and frequency of dialogue with stakeholders can vary greatly throughout the policy process. Moreover, the use of more accessible forest-related information to influence decisions in the forest sector declined in Cameroon, Côte d'Ivoire, and the Republic of the Congo between 2020 and 2022.

Broadly speaking, EFI's analysis of forest governance data indicates that advancements have been made towards enhancing legal frameworks and establishing mechanisms to effectively execute legal responsibilities, though sustaining gains requires ongoing efforts. Progress is often driven by political will supported by processes like FLEGT VPAs or REDD+, along with targeted support projects. Nevertheless, the momentum of implementation often wanes following a reduction in political push from these processes or projects.

Figure 4.9. Gains in transparency have recently stalled or been reversed in Cameroon, Cote d'Ivoire and the Republic of the Congo



Note: The graph shows the magnitude of change in the Forest Governance Index score for each country within a given year compared to that country's initial baseline. It is important to note that this does not reflect the absolute Forest Governance score for each country and as such should not be interpreted as implying a comparison between the three countries, except in terms of how governance has evolved in each. A closer look at the data shows that governance improvements are notably reinforced when coupled with and accompanied by political processes.

Source: European Forest Institute (2023)

There has also been positive progress in other tropical forest countries to improve transparency and participation.

- In Brazil, the President issued a decree in 2023 focusing on increasing transparency and resuming social participation in decision-making processes of the National Council on the Environment and the Deliberative Council of the National Environmental Fund (FNMA).
- Amazon countries also established the Amazon Indigenous Peoples Mechanism, which aims to strengthen and promote dialogues between Amazon governments and Indigenous peoples regarding matters relevant to Indigenous peoples.[127]
- In Ecuador, citizens recently voted on a referendum on whether to leave a large oil reserve found within the Yasuní National Park in the ground. With over 55 percent of the votes, the people of Ecuador voted in favor of banning all new oil wells and phasing out existing concessions in the Yasuní park, Ecuador's largest park, and home to the Tagaeri and Taromenane people who live in voluntary isolation.[128] Additionally, the inhabitants of the Metropolitan District of Quito voted in favor of stopping the advancement of mining exploitation in the Chocó Andino – a territory of 287,000 hectares also declared a natural reserve by UNESCO.[129]

Developments on the Escazú Agreement

Other developments like the Escazú Agreement[130] have the potential to greatly enhance public access to forest-related information and participation. As of 2023, 15 Latin American and Caribbean countries have ratified the Agreement, with Belize and Grenada ratifying the agreement in early 2023.[n] Positive news also comes from Colombia, where the Agreement was approved only 63 days into the administration of the Government of Gustavo Petro.[131] Similarly, during the COP2 on the Escazú Agreement, Chile presented its Roadmap for the implementation of the Agreement, whose main component is the development of a Participatory Implementation Plan for Escazú (PIPE).[132] This plan will evaluate, with significant participation of the civil society, the gaps, opportunities, and priority measures for the full and effective incorporation of the Escazú Agreement at the national level. In Argentina, the Ministry of Environment and Sustainable Development has announced the start of the public consultation for the implementation of the Escazú Agreement.[133] In a disappointing development, in Costa Rica after four years without progress, lawmakers voted to remove the Agreement from the country's legislative agenda.[134]

[n] The Agreement has been signed by 24 countries but only 15 have ratified. The following countries have ratified: Antigua and Barbuda, Argentina, Belize, Bolivia, Chile, Ecuador, Guyana, Grenada, Mexico, Nicaragua, Panama, Saint Vincent and the Grenadines, Saint Kitts and Nevis, Saint Lucia, and Uruguay.

Declining overall democracy levels

A recent study by the V-Dem Institute shows that advances in global levels of democracy have reduced over the last 35 years. By 2022, 72 percent of the world's population was living in autocracies as compared to 46 percent in 2012. It is also worth noting that in 20 percent of the countries in this study (40 countries), governments are increasing their control over civil society organizations. Furthermore, freedom of expression has declined in 18 percent of the countries (34 countries).[135]

Mixed progress in North America

Despite often having higher levels of overall governance, stakeholder participation and transparency in forest decision making are often lacking in developed countries. For example, in **Canada**, reports suggest that there has been limited and selective stakeholder engagement in the country's process of developing a national definition of "forest degradation."[136] Canada's Environment Commissioner also found in 2023 that Canada is not transparently reporting emissions from the logging sector in its National Inventory Report.[137] And while the country highlights its low rates of deforestation, it does not report on degradation, including the impacts of logging and other industries on forest quality, which is a more relevant metric in the context of the country's extensive forestry operations.[138]

In contrast, the **United States** released its first inventory of mature and old-growth forests on federal lands in April 2023, marking meaningful progress toward transparency on the status of and threats to these high-integrity forest areas. The U.S. Government will continue updating this inventory and is now conducting an analysis of threats to these forests.[139]

4.5.2. Access to justice and the role of judicial systems

There has been a sharp increase in public interest litigation seeking to protect forests and IP and LC rights, some of which have led to positive outcomes in the protection of forests and Indigenous land rights. In addition, Cameroon and Côte d'Ivoire have established oversight bodies to monitor government bodies responsible for forests, but they are often not transparent in sharing their findings.

Court cases to defend forests and rights

The judicial system has an important role to play in protecting forests and improving access to justice for IPs and LCs, and courts are increasingly utilized to address deforestation. The total number of climate change court cases has more than doubled since 2017 and is growing worldwide, according to a 2023 UNEP report.[140] While most of these cases have been brought in the US, climate litigation is taking root all over the world; approximately 17 percent of cases are reported in developing countries, including Small Island Developing States. Many of these cases are aimed at forest protection. In particular, **Brazil** has seen a significant number of forest-related climate cases (**Box 4.4**).[141]

Several other countries have recently seen forest- and rights-related lawsuits brought before courts:

- In 2023, communities in the Intag Valley of **Ecuador** won an important legal victory after a court ruled to halt copper mining in one of the world's most biodiverse forests.[142]
- In **Indonesia**, in West Papua, Indigenous defenders have filed a lawsuit over palm oil company forestland grab by a Malaysian-owned palm oil company. The lawsuit calls for the revocation of a permit issued by the Papua provincial government to PT Indo Asiana Lestari (PT IAL) covering traditional Indigenous land.[143]
- Three First Nations in Ontario, **Canada** also filed a lawsuit in fall 2022 against the province alleging ongoing degradation of their territories has violated their treaty rights.[144]

There are also several victories for activists defending targeted of companies seeking to silence them through strategic legal action against public participation (SLAPP) suits:

- In September 2023, the Jakarta Administrative Court upheld a decree by the government to uphold Indigenous land rights by rejecting a lawsuit that had been filed by two oil companies. The two oil companies, PT Kartika Cipta Pratama and PT Megakarya Jaya Raya, sought to overturn a decree by the Minister for Environment and Forestry which required the companies to refrain

from further clearing of forested land for oil palm plantations.[145] According to Greenpeace, the decision could potentially save 65,415 hectares of Indonesia's pristine rainforest.

- In a further positive development, in Germany, the Korindo group has agreed to end a long-running lawsuit that intended to silence a civil society campaign to protect rainforest in Indonesia's Papua province.[146]

BOX 4.4. FOREST-RELATED CLIMATE CASES CURRENTLY PENDING BEFORE COURTS IN BRAZIL

In PSB et al. v. Brazil (on Deforestation and Human Rights) (2022) seven political parties in Brazil brought an action against the federal Government for failing to implement the national deforestation policy, thereby contributing to climate change. The claims were based on fundamental constitutional rights, including the right to a healthy environment, the rights of Indigenous Peoples, and the rights of present and future generations.

In The Planet v. Bolsonaro (2021), a communication was filed to the Office of the Prosecutor of the International Criminal Court (ICC) in 2021 requesting an investigation into former Brazilian President Jair Bolsonaro for his role in crimes against humanity resulting from ongoing deforestation and related activities in the Amazon rainforest.

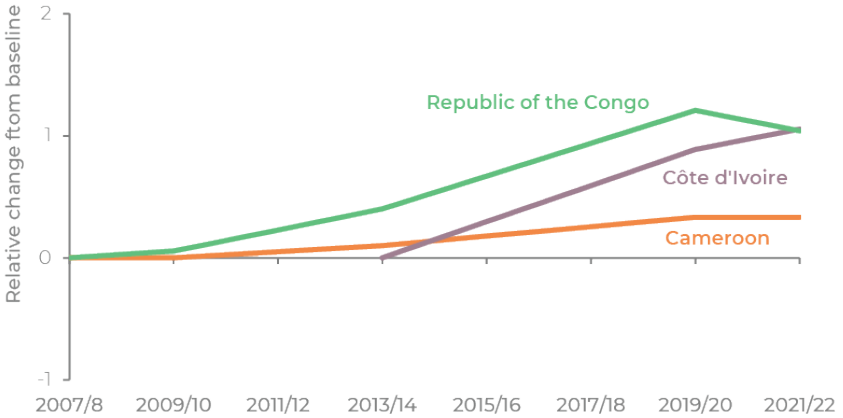
In Institute of Amazonian Studies v. Brazil (2022), as of April 2023, the plaintiffs are seeking recognition of a fundamental right to a stable climate for present and future generations under the Brazilian Constitution as well as an order to compel the federal Government to comply with the national climate law. The plaintiffs have alleged that the federal Government has failed to adhere to its action plans to, among others, prevent deforestation and mitigate climate change.

Access to justice and accountability

The forest governance assessments conducted by EFI in Cameroon, Côte d'Ivoire, and the Republic of the Congo show a growing acknowledgement and enhanced effectiveness of civil society's engagement in monitoring to detect irregularities in the legality of forest use and management. For example: **Côte d'Ivoire**'s 2019 Forest Code formally recognizes the role of independent forest monitoring carried out by civil society. Similarly, in **Cameroon**, independent monitors have progressively expanded their geographical coverage; having more information available has allowed them to undertake more work.

EFI's data also sheds light on existing challenges regarding accountability within the forest governance frameworks of these countries (**Figure 4.10**). While each of the three countries has established a public entity entrusted with the oversight of government bodies responsible for the management and control of forests, the insights encapsulated within its reports remain inaccessible to the general public. Furthermore, while legal provisions exist for the establishment of complaints mechanisms – an integral component in upholding accountability and addressing grievances – these mechanisms either have not been set up or lack accompanying data on their utilization by citizens and their effectiveness in resolving complaints.

Figure 4.10 Improvements in accountability systems continue in Cote d'Ivoire but have stalled or been reversed in the Republic of the Congo



Note: The graph shows the magnitude of change in the Forest Governance Index score for each country within a given year compared to that country's initial baseline. It is important to note that this does not reflect the absolute Forest Governance score for each country and as such should not be interpreted as implying a comparison between the three countries, except in terms of how governance has evolved in each. A closer look at the data shows that governance improvements are notably reinforced when coupled with and accompanied by political processes.

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