

## Goal 10: Strengthen forest governance, transparency, and the rule of law, while also empowering communities and recognizing the rights of indigenous peoples, especially those pertaining to their lands and resources

Indicator 1.1
Indicator 2.1

### Key Messages

- New data from Global Witness shows a record number of killings of people who tried to defend their land or the environment against industries in 2016: 182. The United Nations Special Rapporteur on the Rights of Indigenous Peoples has been taking steps to highlight the issue, and is expected to release a special report next year.
- There has been encouraging progress on policy frameworks for forest governance in many timber-producing countries, particularly in the context of Voluntary Partnership Agreements established under the European Union's Forest Law Enforcement Governance and Trade (FLEGT) Action Plan.
- A number of consumer countries have strengthened legal frameworks and enforcement actions aimed at restricting imports of illegal timber products. Notable developments include the entry into force of the Clean Wood Act in Japan, the new legal framework to control illegal logging in South Korea, and the recently adopted Malaysian Import Legality Regulation.
- There have been a number of positive developments in providing financial resources for the recognition of tenure rights of indigenous peoples and local communities. Nonetheless, overall financing falls short, with only 10 percent of climate finance reaching the local level in 2016.

# Overview of Goal and Indicators

Goal 10 mandates advances in forest governance, transparency, and the rule of law, together with the empowerment of communities and indigenous peoples in relation to their land and resource rights.

Given the complex and multi-faceted nature of this goal, attempts to measure it are bound to be imperfect. In our 2015 and 2016 reports, we used three criteria and sets of indicators for which robust data are available and which cover many of the central elements of forest governance. This year we have refined the wording of the first two criteria, though the indicators remain the same. The criteria and indicators are listed in Table 1.

Table 1: Indicators to track Goal 10

CRITERIA	INDICATOR
1. Strengthening institutions and policies	1.1. Consumer and processor countries
2. Strengthening the rule of law	2.1 Number of killings related to a forest or land issue

## Findings

### Criterion 1: Strengthening institutions and policies

The past year has seen a number of notable developments with respect to the improvement of forest governance through the strengthening of institutions and policies. The following sections present some of the key developments in producer, consumer, and processor countries.

#### Development #1: Producer countries

The Forest Law Enforcement, Governance and Trade (FLEGT) agenda has been successfully integrated into the relevant work plan of the Association of South East Asian Nations, with the first negotiation sessions held in Thailand and Laos this year. At the country level, there have been important developments in Vietnam, which has recently reached an agreement on a joint Voluntary Partnership Agreement (VPA) implementation framework with the EU. Similarly, the VPA negotiation process is expected to be finalized by the end of this year in Honduras.

In Indonesia, the FLEGT licensing scheme officially began operation through the issuance of the first licenses at the end of last year. All exported timber products of types listed in the EU-Indonesia VPA which are accompanied by a license are automatically deemed to comply with the EU Timber Regulation. Despite only a few months having passed since the FLEGT licensing

came into operation, issues related to the extent of the VPA's scope and prohibitive costs for small and medium enterprises have already emerged, and there have been calls for further investigation.[1] On the other hand, the positive outcomes expected from the readiness assessment for licensing planned before the end of 2017 in Ghana indicate a reasonable likelihood that licensing will begin in 2018.

There was also modest progress in operationalizing Timber Legality Assurance Systems (TLAS) mandated by VPAs, with important developments in Vietnam, where the coverage of the national TLAS will be extended to both the export and domestic markets, and in the Republic of Congo, whose government has just rolled out a new TLAS software at the national level.[2]

### *Indicator 1.1: Consumer and processor countries*

The past year has seen a number of important developments with respect to the control of illegal timber imports, with several countries adopting new legal frameworks to stem flows of illegal wood, and countries with existing frameworks in place taking further steps to implement them.

A legal framework to control illegal logging was established in South Korea, with an act to revise the 2012 Forest Legislation passed in March 2017. Implementation is scheduled for early 2018.[3] Although official guidance is still under development, domestic importers of timber and timber products must comply with actual legality requirements and reporting obligations under the new legal framework, which also imposes penalties in the event of their breach. The clause also mandates the return or destruction of the product when the origin of the timber is unverified or untraceable.[4]

In Malaysia, a new Import Legality Regulation came into effect in July 2017 and applies to all importing companies, timber associations, and companies exporting to the EU. The regulation was adopted in the context of the TLAS under Malaysia's FLEGT-VPA. Although a definition of legality has not yet been included in the national legislation, no import licenses will be issued to importers who fail to document legality, thereby prohibiting imports when legality cannot be proved. However, the import regulation refers only to a very specific set of products, and applies only to Peninsular Malaysia (excluding the Borneo provinces of Sabah and Sarawak). [5]

According to the European Commission's scoreboard, as of March 2017, member states appear to have made good progress in implementing existing frameworks under the European Union Timber Regulation (EUTR). All 28 member states have already designated FLEGT Competent Authorities and have started to carry out checks on companies, while all with the exception of Slovakia have national legislation in place considering penalties in case of EUTR infringement.[6] Although not uniformly applicable across Europe, financial penalties from EUR 24 to EUR 30 million, and imprisonment sentences from 8 days to a maximum of 8 years, are now all possible penalties, depending on the seriousness of the respective violation.[7]

With the respect to enforcement activities carried out by consumer countries with legality assurance systems in place over the six-month period April 2016 to September 2016, the latest survey conducted by Forest Trends confirmed the positive performance compared with the previous assessment period. Enforcement officials from 13 EU Members States and Australia have reported 327 company site inspections, 169 Corrective Action Requirements, 71 injunctions, and four financial penalties.[8]

In the United States, enforcement efforts under the Lacey Act have meanwhile been strengthened through the establishment of the Automated Commercial Environment (ACE) system in November 2016, requiring importers of wood products entering the US through Foreign Trade Zones to file Lacey Act import declaration information. As such, the ACE now acts as single window for reporting imports and exports at the national level. January 2017 saw the first instance of timber seized under the Lacey Act being destroyed following inspections that showed that it had been harvested illegally in its country of origin.[9]

In contrast to these positive developments, the latest data from Eurostat reveals that the share of timber imported from fragile and conflict-affected countries by Member States increased by 14 percent to a total value of EUR 178 million in 2015. The top five EU importers (Portugal, Greece, Belgium, Italy and Spain) of timber sourced from conflict areas have remained unchanged over the last four years. The high-risk profile of timber imports from conflict-torn area is, moreover, confirmed by a recent Interpol-United Nations Environment Programme (UNEP) report, which states at least 40 percent of all intra-state conflicts have a funding link to natural sources, and forestry crimes including corporate crimes and illegal logging account for an estimated USD 51–152 billion annually.[10]

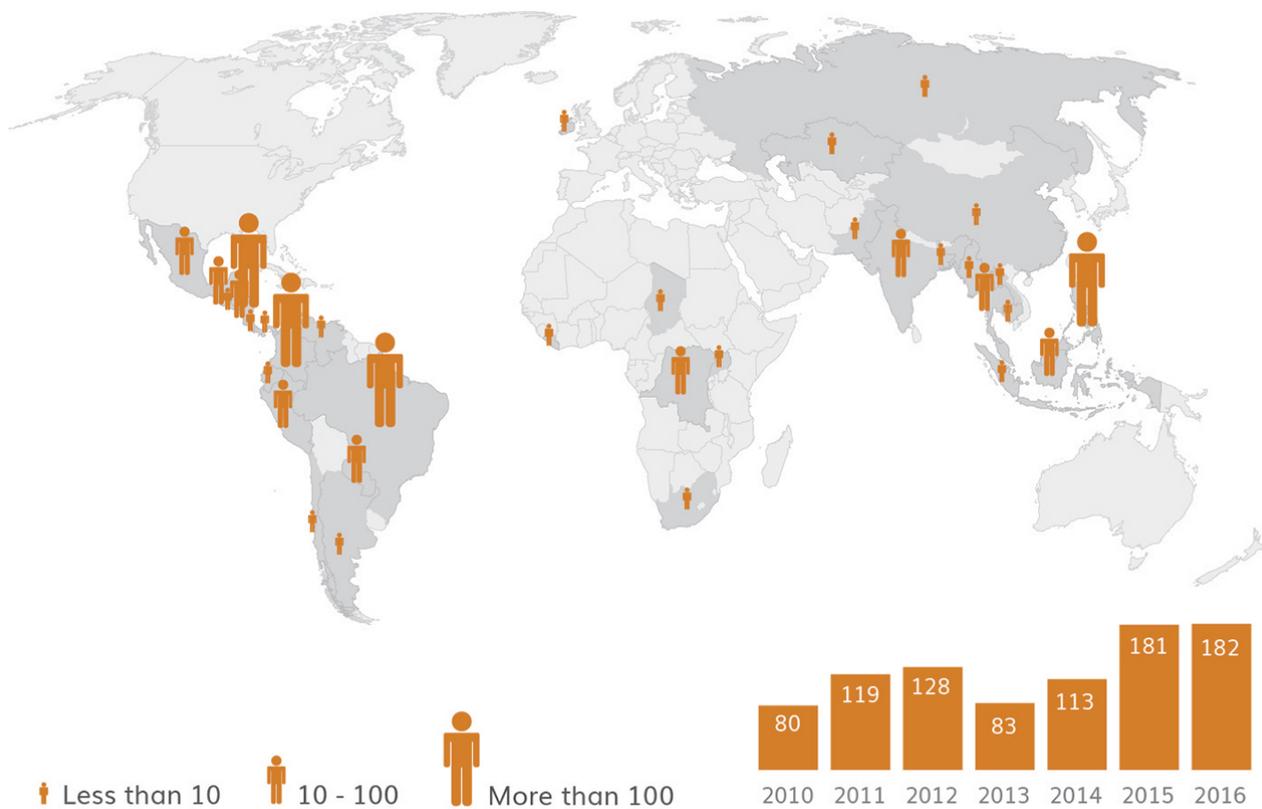
Finally, going beyond stemming imports of illegal wood, Norway took steps to implement a 2016 pledge to eliminate deforestation from its public procurement, with its parliament voting to ban the public procurement and use of biofuels based on palm oil. The parliamentary resolution instructs the government to adopt a regulation under the 2016 Procurement Law to Stem Deforestation, Protect Human Rights, which “imposes requirements that biofuel based on palm oil or by-products of palm oil shall not be used.”[11]

## Criterion 2: Strengthening the rule of law

### **Indicator 2.1: Number of killings connected to a forest or land issue**

Intense global competition for land-based products, together with critical changes in climate conditions, have led to a significant increase in the number of killings of people who defended their land or the environment against industries over the last seven years, during which an average of 125 have been recorded annually. 2016 saw the previous year's record number of killings topped, with 182 such murders. This represents a continuation of the upward trend in activist killings observed since 2010, when they numbered 80 (Figure 1).

**Figure 1: Killings and enforced disappearances of environmental defenders (2010-16)**



Source: Compiled by Climate Focus based on data provided by Global Witness.

Global Witness data[12] show that the main sectors connected with the murders of land and environmental defenders in 2016 were the mining and extractive industries sector (33 killings identified), followed by logging (23), agribusiness (23), poaching (18), and hydroelectric dams (7).[13] Murders of environmental defenders related to logging activities rose from 15 in 2015. Killings were perpetrated in 18 countries throughout 2016, compared to 16 in 2015, but the phenomenon is still geographically polarized, with almost 70 percent of total killings documented in Latin America. Nonetheless, the increase of land dispute-related deaths

recently registered in Asia has shown no sign of abatement. Unlike the previous year, not all killings took place in tropical forest countries,[14] and while 40 percent of victims were indigenous peoples, park rangers and forest guards have become more frequent targets, with at least 20 being murdered in 2016.

## Support for strengthening forest governance and the recognition of land rights

In our 2015 assessment, we presented a qualitative overview of international financial resources made available for strengthening forest governance and the recognition of land rights. The past year saw some notable developments in these areas.

- The International Land and Forest Tenure Facility was formally established in 2017, and has a budget of USD35 million and between 2014-18 USD15 million will be channeled to projects in six pilot countries: Panama, Liberia, Mali, Cameroon, Indonesia, and Peru.[15] The Norwegian government just announced a new USD20 million commitment to support the initiative.[16]
- The Forest Investment Program's Dedicated Grant Mechanism for Indigenous Peoples and Local Communities started operations in late 2015 and as of the time of its 2016 Annual Report had been capitalized with USD 80 million and had already allocated all of this funding to projects across Africa, Asia, and Latin America. Moreover, five country projects, worth a total of USD 21.5 million, had already been approved.[17]
- The Forest Carbon Partnership Facility's Capacity Building Program for Forest-Dependent Indigenous Peoples and Southern Civil Society Organizations saw additional financing approved in 2017. The program now has more than USD 11.5 million in funding approved.

Despite these positive developments, it is clear that insufficient finance is flowing to indigenous peoples and local communities. Land titling programs also need additional technical assistance and support.

## Data Developments

### Data development #1: Development of indicators on tenure security under the Sustainable Development Goals

Another important development for tracking global progress on tenure security issues is SDG Indicator 1.4.2, which measures the “proportion of total adult population with secure tenure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure”. While this SDG indicator does not specifically focus on the rights of indigenous peoples and local communities, it is nonetheless relevant since it is expected to significantly enhance global tenure data as a whole.

Tasked with developing a standard methodology for gathering data on land tenure security and enabling the indicator to be incorporated in the formal SDG monitoring process, UN Habitat and the World Bank have already begun work to this end. Sources for data collection will include country databases and websites, satellite images, remote sensing, joint surveys with national agency and international entities, and country questionnaires. Survey data will be collected every year for developed countries and every three to five years for developing countries, while administrative data collection will occur on an annual basis.[18]

## Data development #2: Assessment of the recognition of women's rights in national laws and regulations governing community-based forest tenure

In 2017, the Rights and Resources Initiative published its report *Power and Potential: A Comparative Analysis of National Laws and Regulations Concerning Women's Rights to Community Forests*.<sup>[19]</sup> The study examines the extent to which women's rights are recognized by national laws and regulations governing community-based forest tenure in 30 low- and middle-income countries (LMICs) in Africa, Asia, and Latin America, encompassing 78 percent of forests in LMICs worldwide. This included assessing the recognition of women's rights across eight different areas, from constitutional equal protection down to specific rights categories such as inheritance, leadership, and dispute resolution.

This research is the first to comprehensively assess women's rights in community-based tenure regimes across a large number of tropical forest countries and will complement existing research on the extent of recognition of IPLC forest tenure rights in practice. The first round of research found that adequate gender-sensitive provisions exist for only 3 percent of community-based tenure regimes in regard to women's voting rights, 5 percent in regard to leadership, 10 percent to inheritance, 18 percent to dispute resolution, and 29 percent to membership. These results indicate that there is a long way to go in ensuring gender equality in community-based tenure. The results are expected to be updated every three to five years, and can therefore potentially be fed into future annual New York Declaration on Forest assessments.

Authors: Darragh Conway and Manfredi Trapolino (Climate Focus)

- [1] EU FLEGT Facility. (2017). Annual report. EU FLEGT Facility: Highlights and insights from 2016. Retrieved from <http://www.euflegt.efi.int/publications/eu-flegt-facility-highlights-and-insights-from-2016>
- [2] A TLAS is a system meant to identify, monitor and license legally produced timber at the national level. Central to every VPA, it is primarily used to ensure that only legal timber and timber products are exported to the EU. It incorporates five core components, such as legality definition, control of the supply chain (traceability), verification, issuance of licenses (FLEGT licenses), and independent monitoring. Since legality assurance systems already exist in many countries, depending on their degree of functionality and credibility, a Partner Country may be asked to either implement changes or introduce a new system. The FLEGT licensing system, on the other hand, certifies that specific timber and timber products comply with the requirements of the European Union Timber Regulation. Once a VPA country starts issuing FLEGT licenses, all timber and timber products exported to the EU market and listed in the respective VPA must be accompanied by a FLEGT license, which operates as mandatory legal requirement. The interdependence between the two systems lies in the fact that only when the country's timber legality assurance system is robust, credible and fully operational, the issuance of FLEGT licenses begins.
- [3] United Nations Environment Programme. World Conservation Monitoring Centre. (2017). Briefing note on the implementation of the EU Timber Regulations October 2016 – March 2017. Retrieved from [www.unep-wcmc.org/system/comfy/cms/files/files/000/000/905/original/EUTR\\_Briefing\\_note\\_Dec16-March17.pdf](http://www.unep-wcmc.org/system/comfy/cms/files/files/000/000/905/original/EUTR_Briefing_note_Dec16-March17.pdf)
- [4] EU FLEGT Facility. (2017). Demand side measures in key markets. Retrieved from [http://illegallogging-deforestation-conference.eu/wp-content/uploads/2017/07/FLEGT\\_PART\\_DEMAND\\_SIDE\\_MEASURES\\_BO\\_GROUP.pdf](http://illegallogging-deforestation-conference.eu/wp-content/uploads/2017/07/FLEGT_PART_DEMAND_SIDE_MEASURES_BO_GROUP.pdf)
- [5] Norman, M., & Saunders, J. (2017). Regulating the trade in illegal timber: Asian approaches compared – state of play June 2017. Retrieved from Forest Trends Website: [www.forest-trends.org/documents/files/doc\\_5634.pdf](http://www.forest-trends.org/documents/files/doc_5634.pdf)
- [6] ClientEarth. (2016, March). EUTR news – March 2016 to March 2017. Retrieved from [www.documents.clientearth.org/wp-content/uploads/library/2017-03-20-eutr-news-from-march-2016-to-march-2017-ce-en.pdf](http://www.documents.clientearth.org/wp-content/uploads/library/2017-03-20-eutr-news-from-march-2016-to-march-2017-ce-en.pdf)
- [7] United Nations Environment Program – World Conservation Monitoring Centre. (2017). Briefing note on the implementation of the EU Timber Regulations October 2016 – March 2017. Retrieved from [https://www.unep-wcmc.org/system/comfy/cms/files/files/000/000/905/original/EUTR\\_Briefing\\_note\\_Dec16-March17.pdf](https://www.unep-wcmc.org/system/comfy/cms/files/files/000/000/905/original/EUTR_Briefing_note_Dec16-March17.pdf)
- [8] Forest Trends. (2016). Timber Regulation Enforcement Exchange, Newsletter Fall 2016. Retrieved from [www.forest-trends.org/documents/files/doc\\_5494.pdf](http://www.forest-trends.org/documents/files/doc_5494.pdf)
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- [9] US Department of Justice. (2017). Justice Department Reaches Agreement to Ensure Destruction of Timber Believed to Have Been Harvested in Violation of Peruvian Law Action is First for Foreign Timber Seized under the Lacey Act [Press Release]. Retrieved from <https://www.justice.gov/opa/pr/justice-department-reaches-agreement-ensure-destruction-timber-believed-have-been-harvested>
- [10] United Nations Environment Programme & International Police Organization. (2016). The rise of environmental crimes. A threat to natural resources, peace, development and security. Nairobi, Kenya: United Nations Environment Programme.
- [11] Rainforest Foundation Norway. (2017). Norway bans palm oil-based biofuel in its public procurement [News story]. Retrieved from: [www.regnskog.no/en/news/norway-bans-palm-oil-based-biofuel-in-its-public-procurement](http://www.regnskog.no/en/news/norway-bans-palm-oil-based-biofuel-in-its-public-procurement)
- [12] Global Witness. (2017). Defenders of the earth. Global killings of land and environmental defenders in 2016. London, UK: Global Witness.
- [13] In 4 other cases, it was not possible to identify the specific sector.
- [14] Countries where killings linked to land and natural resource disputes took place, despite the lack of tropical forest areas, are: Ireland, South Africa, and Chile.
- [15] Openaid. (2017). The Tenure Facility (RRI-ILFTF) 2014-2017 – The Tenure Facility (RRI) 2014-2017. Retrieved from <https://openaid.se/activity/SE-0-SE-6-6105011801-GGG-31220/#>
- [16] Norwegian Ministry of Climate and Environment. (2017). Norway fulfills support pledge [News story]. Retrieved from <https://www.regjeringen.no/en/aktuelt/local-communities/id2573457/>

[17] DGM Global. (2016). Dedicated Grant Mechanism for Indigenous Peoples and Local Communities: Annual Report 2016. Retrieved from [https://static1.squarespace.com/static/550abd2ce4b0c5557aa4f772/t/588f503a3a0411d31b548828/1485787204551/DGM+Annual+Report\\_ENG\\_WEB.pdf](https://static1.squarespace.com/static/550abd2ce4b0c5557aa4f772/t/588f503a3a0411d31b548828/1485787204551/DGM+Annual+Report_ENG_WEB.pdf)

[18] United Nations Statistical Division. (2016). Work plans for Tier III indicators. Retrieved from <https://unstats.un.org/sdgs/files/meetings/iaeg-sdgs-meeting-04/Tier%20III%20Work%20Plans%2011.11.2016.pdf>

[19] Rights and Resources Initiative. (2017). Power and Potential: A Comparative Analysis of National Laws and Regulations Concerning Women's Rights to Community Forests. Retrieved from [http://rightsandresources.org/wp-content/uploads/2017/07/Power-and-Potential-A-Comparative-Analysis-of-National-Laws-and-Regulations-Concerning-Womens-Rights-to-Community-Forests\\_May-2017\\_RRI-1.pdf](http://rightsandresources.org/wp-content/uploads/2017/07/Power-and-Potential-A-Comparative-Analysis-of-National-Laws-and-Regulations-Concerning-Womens-Rights-to-Community-Forests_May-2017_RRI-1.pdf)