



GOAL ASSESSMENT

PROGRESS ON THE NEW YORK DECLARATION ON FORESTS

Goal 10 assessment

Strengthening governance and empowering communities

November 2020

The New York Declaration on Forests (NYDF) is a voluntary and non-binding international declaration aimed at halting global deforestation by 2030 with more than 200 endorsers: national and sub-national governments, multi-national companies, groups representing Indigenous and local communities, and non-governmental organizations. Published annually, the NYDF Progress Assessment evaluates the global status of forests as well as overall efforts made toward achieving the NYDF goals.

This update presents progress as of 2020 toward achieving Goal 10:

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.

Key messages

- Progress in forest governance continues to be slow. Weak legal frameworks and institutions continue to pose significant challenges to forest protection in tropical forest countries.
- Improvements in halting corruption and improving enforcement have also been limited. Illegalities continue to drive deforestation, especially where commercial agriculture is causing forest conversion.
- While policies continue to be adopted to safeguard the participation of non-state actors in decision-making as well as their access to information, it is unclear how effectively they are being implemented.

- While the recognition of the rights of Indigenous peoples and other local communities to their lands and resources has improved internationally, a significant share of community lands remains unrecognized by national laws.

Overview of goal and indicators

Goal 10 of the New York Declaration on Forests (NYDF) recognizes the link between governance and deforestation. It commits endorsers to support transparency, the rule of law, and the empowerment of communities and Indigenous peoples to their land and resources. In this assessment we understand forest governance to entail:

- The institutions, laws, policies, and processes that govern the ownership, management, use, protection, and conversion of forests
- How these institutions, laws, policies, and processes operate in practice, including their degree of transparency
- The strength of the rule of law in forest-related matters, including the implementation and enforcement of the law and access to justice for those wronged by forest-related decisions
- The governance of international trade in forest products and non-forest products linked to deforestation and forest degradation
- The rights and empowerment of Indigenous peoples and local communities

Assessing progress

This update assesses progress based on the framework used in the 2018 and 2019 assessment reports on Goal 10. This framework expanded on previous assessments of Goal 10 and contains three criteria and eight indicators related to the rule of law, forest-related crime, transparency, participation, and access to justice, as well as empowerment of Indigenous communities (Table 1).

Table 1. Criteria and indicators to track Goal 10

Criteria	Indicators
1. Governance, the rule of law, and forest-related crime	1.1 Legal and policy frameworks governing forests 1.2 Illegality in and around forests 1.3 Demand-side measures and international cooperation
2. Transparency, participation, and access to justice	2.1 Transparency and access to information 2.2. Participation in decision-making 2.3 Access to justice
3. Empowering and ensuring the rights of Indigenous peoples and local communities	3.1. Rights of Indigenous peoples and local communities 3.2. Empowerment of communities

Findings

Criterion 1: Governance, the rule of law, and forest-related crime

Forest governance plays an important role in efforts to reduce deforestation and increase reforestation. Strong and just laws, effective law enforcement, high levels of transparency and political will are among the governance elements that can have a positive impact on forest stewardship. While some countries have made improvements in their efforts to improve their forest frameworks and reduce illegal activities this year, progress remains slow.

Indicator 1.1: Legal and policy frameworks governing forests

A Special Report on climate change and land by the Intergovernmental Panel on Climate Change (IPCC Special Report) released in 2019 reaffirms earlier conclusions of our Goal 10 assessment reports on how well-designed policies, institutions, and governance frameworks contribute toward land-related mitigation. The report highlights several challenges effective forest governance continues to face, such as insecure land tenure and limited access to resources and knowledge. Large-scale studies mentioned in last year's report, such as the UN Environmental Rule of Law report and the Chatham House and Climate Focus legality assessment, also show that countries continue to face major inconsistencies within their environmental and forest legislation and a lack of political will to effectively address deforestation.^{a,b}

In its recommendations, the IPCC notes that a mix of policies can support sustainable land management more effectively than a single policy approach. Also, policies that aim to reduce food loss and waste, influence dietary choices and enhance low emission trajectories, can reduce land degradation, desertification, and poverty. Securing land tenure and factoring environmental costs, co-benefits, and trade-offs into policy-making can contribute to better sustainable land management practices and overcome implementation barriers.¹

These findings are also reflected in a recently-published study that reviewed 28 studies on the correlation between forest governance measures and deforestation trends. The authors found that governance plays an important role in reducing deforestation; and that, in particular, land-use planning and land enforcement are among the main governance elements that have a positive impact on efforts to reduce deforestation. They also found that a regulated framework is necessary for governance measures to be effective.²

Laws and policies continue to hinder forest protection despite some national and regional efforts to improve forest and land-use policy

^a Chatham House: Forest Governance and Legality, <https://forestgovernance.chathamhouse.org/>.

^b Climate Focus and Chatham House released its assessment in 2018-2019 on forest governance issues in nine tropical countries: Brazil, Cameroon, Democratic Republic of the Congo, Ghana, Indonesia, Lao People's Democratic Republic, Malaysia, Papua New Guinea, and Republic of Congo. This study found that while all nine countries studied had made progress in strengthening their laws and policies tackling illegal deforestation, most had major inconsistencies within their forest legislation and a lack of political will to effectively address deforestation. More on this can be found on the newly released Chatham House [website](#) that monitors forest governance and legality in 19 countries to assess the effectiveness of government and private sector efforts to tackle illegal logging and trade.

Since our last Goal 10 assessment, some countries have adopted policies or made changes to existing ones that aim to improve forest management and/or reduce deforestation. The Parliament of the Republic of Congo passed a new forest law to promote sustainable forest management. While welcomed by civil society in the country, the law has not been signed by the president nor been made public yet.³ Following their announcement in 2019, Ghana and Cote d'Ivoire released joint action plans to curb deforestation in the cocoa sector. Some of the planned measures include prohibiting and preventing cocoa activities in protected areas, improving social security of farmers, strengthening supply-chain mapping, and ensuring transparency.⁴⁵

In Indonesia, the Forest and Peatland Moratorium, first introduced in 2011 as a temporary measure to suspend new concession licenses in primary forests and peatlands, was made permanent in August 2019.⁶ Moreover, a 2020 Center for International Forestry (CIFOR) report found that the implementation of Voluntary Partnership Agreements (VPAs) in Ghana, Cameroon and Indonesia has contributed to a decrease in illegal logging rates, greater inclusion of Indigenous peoples in decision making, and more coherent legal frameworks. Sanctions in these countries for forest crimes have also become stronger and more likely to be enforced than before VPA implementation.⁷

In Latin America, following the devastating forest fires in the Amazonian basin in 2019, seven Amazonian countries (Bolivia, Brazil, Colombia, Ecuador, Guyana, Peru, Suriname) signed a pact (Pacto de Leticia) in September 2019 to better coordinate the protection of rainforests in the region.⁸ A few months later, an action plan with concrete steps of action was published. Highlights include:

- Strengthen collaboration on protection and reforestation efforts by exchanging experiences and strategies on sustainable forest management, and creating regional cooperation mechanisms;
- Create a natural disaster network (Red Amazónica de Cooperación) for rapid and coordinated responses between the emergency centres of each country;
- Improve monitoring capacity through the use of satellites, information sharing, and rapid-response systems;
- Better recognize the role of women and Indigenous communities in the conservation of forests and improve their capacity to manage forestry risks.⁹

While the action plan promises a better regional response to forest fires, no coordinated efforts based on the pact have been recorded since its signing. As of September 2020, the planned natural disaster network has not yet been established and the action plan has also not been revised. However, a meeting in August 2020 between most of the presidents of the region was conducted to reaffirm the commitments made in the pact. Moreover, the Inter-American Development Bank, which was also present in the meeting, pledged to create an investment fund to support the financing of the action plan.¹⁰

Overall, however, global progress in strengthening forest governance remains slow. Several countries have weakened their forest governance frameworks by amending, revising or adopting new policies that reduce forest protection. In Bolivia, Supreme Decree 3973, adopted in July 2019, has opened up millions of hectares for agricultural expansion in previously protected areas in the Beni and Santa Cruz provinces. The decree, which has been criticised by civil society and Indigenous groups, also authorizes the use of “controlled burns” for clearing forests. In Beni alone, 4.5 million hectares of previously protected private and community forest land are now available for clearing. In addition, a Land Use Plan (PLUS) for the Beni area that releases between nine to ten million hectares of additional land for agricultural production was ratified by the end of 2019.¹¹

In the neighbouring country of Peru, legislation¹² has been passed in the Ucayali department that removes environmental and social safeguards for 3.5 million hectares of permanent production forests, and allows the clearing of over 100 thousand hectares of rainforest for agribusiness and ecotourism.¹³ Recently, the director of the National Forest Service (SEFOR) was fired shortly after opposing an amendment by the Ministry of Agriculture that would allow for the conversion of protected forest into productive land more easily. The Government denies his discharge was related to his opposition to the amendment.¹⁴

In Cameroon, the Ministry of Forestry and Wildlife (MINFOF) recently granted two industrial logging concessions of 150,000 hectares in the Ebo Forest, an area of pristine forest that, since 2006, the Government had planned to convert into a National Park.¹⁵ Similarly, the Ministry of Environment of the Democratic Republic of the Congo (DRC) granted nine logging concessions covering an area of approximately 2 million hectares of forest in early 2020. Both Cameroonian and Congolese civil society, as well as international non-governmental organizations (NGOs) have since contested these decisions. In the case of the DRC, organizations are arguing that the nine concessions were granted in violation of certain regulatory provisions.¹⁶

Box 1. Weakening of Brazilian forest policy framework

A recent study suggests that deregulation and the weakening of enforcement efforts, as well as road infrastructure development in Brazil can increase speculative behaviour: as the “price” to convert forests illegally decreases and actors believe illegal behaviour will go unpunished, they may be more inclined to secure land claims by illegal deforestation, expecting to benefit from appreciating land markets later.¹⁷

As noted in last year’s assessment, the forest policy framework in Brazil has been weakened considerably since 2018. A bill proposed in May 2020^c meant to formalize farmers’ land rights may also be providing amnesty to those that have squatted land (up to 2,500 hectares) within government-controlled reserves between 2011 and 2019. This includes farmers who illegally deforested public land during the 2019 Amazon fires.¹⁸ Imazon, the Amazon Institute of People and the Environment, estimates that, if the bill is passed it could incentivize a new cycle of deforestation as land grabbers expect to be granted amnesty in the future again. They estimate that up to 1.6 million hectares of land could be cleared by 2027 if the bill is passed.¹⁹

Brazil’s Federal Public Ministry (MPF), 137 organizations and all former living environment ministers have spoken against these provisions of the bill.²⁰ Moreover, the bill was proposed under a special “urgent” procedure, which expedites the legislative process and limits the possibility for public debate. A similar state bill that legalizes illegal occupations of state forests by private landowners was passed in June 2019 by the legislative assembly of Pará.²¹ In addition, the government has made it easier for land grabbers to appropriate Indigenous land, as explained in Criterion 3.

Anti-environmental rhetoric employed by some government officials may also be driving illegal acts. Based on the remarks made by government officials and widely shared on social media, some experts suggest that those at the deforestation frontier may expect illegality to go unpunished.²² The statements made by officials include an intention to weaken environmental licensing, strip the federal environmental agency (IBAMA) of its licensing authority, defund environmental agencies, and open up protected forest areas and Indigenous lands to agriculture and mining.

^c This law (projeto de Lei 2633) was proposed after a previous provisory measure (Medida Provisoria 910/2019 – known as the ‘decree of land grabbing’ in Brazil) was never voted in the plenary and expired after the initial validity period of 120 days expired.

Most recently, in April 2020, the environment minister was recorded suggesting that the COVID-19 pandemic could be used as a distraction while the Government “changes all the rules and simplifies standards” in the forest sector. While the minister has stated that this is a misrepresentation of what he meant, several politicians and organizations have interpreted his statement to mean he wished to use media attention on the pandemic to distract the public from further forest deregulation.²³ A recent study found that 195 executive acts on environmental matters that do not require the approval of Congress were published between March and May 2020. In comparison, 16 acts were published during the same timeframe in 2019. The study found that many of the acts contribute to the deregulation of the forest sector.²⁴

Infrastructure development and the extension of highways are likely to contribute to the expansion of deforestation frontiers as forest conversion becomes possible in previously inaccessible areas. The Rio Branco project announced in 2019 aims to expand commercial use of untapped resources and land in the Amazonian region.²⁵ The planned extension of the BR-163 highway by 1,000 kilometers over the forest area Calha Norte, for instance, is expected to deforest swaths of protected area and may encroach onto Indigenous land.²⁶ See the [2020 NYDF Focus Report on Goals 3 and 4](#) for a detailed assessment.

Moreover, India withdrew a proposed amendment to its Forest Act in 2019, following criticism from civil society groups.²⁷ These groups argued the proposed amendments did little to improve forest management, gave forest officials permission to use violence against Indigenous people and forest dwellers, and gave the government more discretion to convert protected forests into “production forests” (meant for commercial use).²⁸ In parallel, a revision of the Indian National Forest Policy 1988 has been in the works since 2019, but drafts have been criticized in the past and any progress since 2019 has not been made public.²⁹

In Indonesia, a new presidential regulation meant to reform the accountability, transparency, and enforcement of the Indonesian Sustainable Palm Oil (ISPO) certification scheme was adopted in March 2020.³⁰ However, civil society groups have found that the new regulation fails to address these objectives and actually weakens the standard, threatening forest and human rights.³¹ Moreover, the Indonesian trade ministry removed a requirement for companies to verify their timber comes from legal and sustainably managed sources from the country’s timber verification system (SVLK). The minister justified this decision as necessary to boost timber exports amid the economic crisis caused by the COVID-19 pandemic.³² However, following criticism by trade experts, private sector actors who feared the change in policy would harm their businesses, and civil society, the trade ministry adopted a regulation revoking its earlier decision.³³

In Europe, the European Commission is taking steps to protect a forest area in Romania that is currently threatened by illegal logging.³⁴ The Commission opened infringement proceedings against the Romanian government for its improper implementation of the EU Timber Regulation (EUTR) in 2019.³⁵

Indicator 1.2: Illegality in and around forests

Half of all tropical deforestation in recent decades was due to the illegal conversion of forests for commercial agriculture, in particular for the “big four” commodities: palm oil, soy, pulp/timber, and cattle/beef. While global data on illegal deforestation for the past three years is yet to become available, a significant number of cases of illegality in and around forests have been recorded this year.

Several forest crimes have allegedly been perpetrated by companies and farmers since our last report. For instance, two slaughterhouses purchased thousands of cattle from Brazilian farmers that had been fined a combined USD 7.4 million between January 2018 and July 2019. Some of the forest crimes they committed include clearing protected land illegally in the state of Para, burning forests without permission, falsifying documents and polluting.³⁶ Another example suggests that 50 percent of the 9,000 shipments made to Europe of Mexican avocados between 2017 and 2019 may be linked to criminal activity. Criminal groups in regions such as Michoacán are deeply involved in the avocado supply chain and are allegedly involved in large-scale illegal clearing of forests.³⁷

Progress in halting corruption and improving enforcement has also been limited. A 2019 report by Human Rights Watch resulting from two years of investigation found that illegal deforestation in Brazil is driven largely by criminal networks that coordinate the large-scale extraction, processing, and sale of timber.³⁸ Several tactics are employed to evade enforcement of forest laws. For instance, loggers cut the most valuable timber in an area they plan to clear, only opening small clearings undetectable to satellite surveillance. These criminal networks are typically led by ranchers who hire local men to work in the forest under poor conditions, as well as armed men to protect their operations. Members in these networks often hold political office, such as mayor and state representative.

In Indonesia, two senior officials of the governmental body that usually issues concession permits (Papua Province's Investment Coordination Board – BKPM) confirmed that seven oil palm concessions in the Tanah Merah project were forged. The Tanah Merah projects covers an area of 280,000 hectares of mostly primary forest in Papua's Boven Digoel province. So far, 8,300 hectares have been cleared on the basis of the falsified documents. Forest officials have not reported the case to law enforcement; instead an agreement has been met with the developers to reapply for their permits as they continue their operations.³⁹ Also in Indonesia, a district court found four Indonesian companies guilty of transporting timber with falsified documents. The company directors were each sentenced to one-year imprisonment and fined EUR 32,000. In relation to these crimes, the Directorate of Forest Protection seized 21 containers of illegal timber.⁴⁰

Indicator 1.3: Demand-side measures and international cooperation

Jurisdictions have taken steps to strengthen demand-side measures to tackle illegal deforestation, although they are still in development

China's National People's Congress Standing Committee revised the country's Forest Law for the first time in 20 years in December 2019. The revised law, which comes into force in July 2020, bans the illegal trade of timber.⁴¹ Timber operating and processing enterprises are prohibited from purchasing, processing, and transporting timber they know was "piratically or indiscriminately felled". While most organizations conclude these words refer to illegal logging, it is possible the prohibition implies a larger scope. However, the interpretation will only be clear once the Government formulates regulations and policies to implement the amendment to the law.⁴²

This development is especially relevant as a new study by Global Witness shows that 80 percent of China's tropical timber imports come from countries with weak governance and high illegal deforestation rates.^d A recently released web-based tool created by EIA shows that 157 thousand tons (equivalent to USD 94 million) of illegal rosewood have been

^d The ten countries the Global Witness report assessed were: Papua New Guinea, Solomon Islands, Equatorial Guinea, Cameroon, Gabon, Mozambique, Indonesia, Nigeria, Malaysia, Republic of Congo.

imported into China from Ghana since March 2019, when a law was adopted prohibiting the harvest, transport, and export of the species. While export numbers remain high, a significant drop in imports has been observed since March-May 2019.^e

The EU committed to adopting mandatory rules requiring importers of forest-risk commodities to undertake environmental and human rights due diligence in May 2020. While the details are still unclear, this regulation is expected to take inspiration from the French due diligence law and likely to also integrate elements of the EU Timber Regulation.⁴³ Moreover, as part of the European Green Deal published in December 2019, the EU is pushing for a new EU Forest Strategy that promotes better EU regulations to combat imported deforestation.

In the US, federal legislation to make it illegal for companies to import products linked to illegal deforestation is expected to be introduced by several members of Congress in 2021.⁴⁴ Moreover, the US–Mexico–Canada Trade Agreement (USMCA), ratified in March 2020 contains commitments to combat the illegal harvesting of natural resources.

A 2019 study by Forest Trends shows that enforcement of the EUTR is evolving. Enforcement officials are issuing more financial penalties compared to previous years.⁴⁵ Forthcoming data by the European Commission reveals that almost 40,000 Forest Law Enforcement, Governance and Trade (FLEGT) licenses were received by member states in 2019, of which only 0.24 percent were not approved.⁴⁶ Two years prior, the percentage of faulty licenses was around 2 percent.⁴⁷ Several steps, such as the piloting of e-licenses, regulatory clarifications, and the standardization of processes, are contributing to the continued improvement of the FLEGT licensing process.

However, as highlighted in recent analysis by Chatham House, demand-side measures will not be effective on their own. A suite of measures is needed, to shift consumer behavior on the one hand, and to support producers to adopt more sustainable practices.⁴⁸

Private sector commitments

Forest Trend's Supply Change Initiative found that as of May 2020, out of 895 companies it analyzed in the palm oil, soy, timber, and cattle supply chains, 499 – so 56 percent – have made commitments to address commodity-driven deforestation ([see Goal 2 assessment](#) for details). Out of these, almost three-fourths (368 of 499) have made specific commitments to purchase sustainably certified commodities. While this is a positive finding, there continue to be mixed results on the role of certification in protecting forests.⁴⁹ For instance, a recent study finds that, while the Roundtable on Sustainable Palm Oil (RSPO) certification system contributed to a reduction in deforestation within Indonesia's forest areas between 2009 and 2016, a spillover effect led to increased deforestation in areas zoned for agricultural use during the same timeframe. Comparing these effects, the study finds that the aggregate avoided deforestation was negligible. Stronger regulated frameworks that cover entire sectors and anticipate conservation spillovers are necessary to ensure commodity-driven deforestation is reduced.⁵⁰

^e Rosewood Revealed, <https://www.rosewoodrevealed.org>.

Criterion 2: Transparency, participation, and access to justice

Overall, not much has changed on transparency, participation, and access to justice since our last assessment. Concerning all indicators, parties to the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters (Escazú Agreement) held their first meeting in October 2019.⁵¹ The Escazú Agreement aims to guarantee the right of access to information and justice in environmental matters, as well as public participation in decision-making, in Latin American and the Caribbean.⁵² However, concrete steps for its implementation remain unclear and further meetings or resolutions have not been published.

Indicator 2.1: Transparency and access to information

In the past few years, we have found that, while many countries have adopted laws that give citizens the right to access forest-related information, few countries released data proactively or developed systems that made information available to the broader public. This year, limited new data was found for this indicator.

The European Environmental Agency and the European Commission launched a new Forest Information System to become Europe's knowledge hub to monitor the state, health, and sustainability of Europe's many forests.^f

CIFOR's 2020 report on VPA implementation in Ghana, Cameroon, and Indonesia shows that VPAs have contributed positively to transparency and government accountability.⁵³ Since VPAs were implemented in these countries, more information has become available on request and some information is more regularly published that is relevant to civil society, artisanal farmers, and SMEs. This is especially true in Ghana, where the Timber Transparency Portal was launched in 2018. This tool contains key information of the Legality Assurance System (GhLAS) of the country, and also functions as a due diligence tool for the private sector.

In Indonesia, the implementation of OneMap has progressed since our last report. The OneMap Policy Geoportal, aimed at resolving conflicts and clarifying land holdings among stakeholders, has integrated 84 of 85 thematic maps into one base map. OneMap now plans to integrate the remaining administrative boundary map by December 2020, as well as continue to develop harmonization guidelines and issuing recommendations for land conflict resolution. This process has revealed that around 77.3 million hectares (40 percent) of the land surface of Indonesia is the subject of overlapping maps.⁵⁴

Indicator 2.2: Participation in decision-making

Last year's assessment found that a majority of countries include participation of non-governmental stakeholders in environmental decision-making. The 2020 IPCC Special Report finds that governance in land-use is enhanced when local stakeholders (particularly Indigenous peoples, local communities, women, and the poor) are involved in decision-making.⁵⁵ This is particularly the case in the selection, evaluation, implementation, and monitoring of policy instruments for land-based mitigation. A recent study reflects the IPCC's findings, but also finds that participation must take place within a regulated framework in order to be effective.⁵⁶

^f Forest Information System for Europe, <https://forest.eea.europa.eu/>.

Some national cases show progress in enhanced participation this year. For instance, the Peruvian instrument that regulates the Framework Law for Climate Change, approved in early 2020, included processes that broadened the participatory spaces for Indigenous peoples. The development of the regulation required a consultative process that included the participation of seven national organizations representing Indigenous peoples. They presented a collaborative work plan with ten proposals.⁵⁷ Some of these were integrated in the law, such as the implementation of the Indigenous Amazonian REDD+ (RIA), while others were not, such as the creation of a climate fund for Indigenous organizations.⁵⁸

However, progress in broadening participation continues to be mixed. In Brazil, the government adopted a new decree that may reduce participation of non-governmental stakeholders, state governors and environmental agencies in forest enforcement efforts. While the new National Council of the Amazon, which coordinates and monitors the implementation of public policies in the Amazon region, enjoys the participation of the Ministry of Environment and military officials, it is unclear to what extent the forest enforcement institutions of IBAMA and FUNAI are involved. It appears that state governors of the Amazon region and other stakeholders such as Indigenous communities and civil society are also no longer part of the National Council.⁵⁹ Moreover, it was announced in May 2020 that armed forces will be deployed in the Amazon until environmental agencies like IBAMA increase their staff.⁶⁰ However, non-governmental stakeholders and local governors are not involved in the coordination or oversight of the military deployment and a “roadmap” on how the military plans to leave the Amazon in 2022 has not been made public.

Moreover, the use of strategic lawsuits against public participation (SLAPPs) continue to be used in order to entangle people who wish to protest or participate in decision-making into expensive and time-consuming court battles.

Indicator 2.3: Access to justice

Access to justice has improved in the past decades, due particularly to an overall broadening of the criteria for standing (i.e. the right to take a case before a court or administrative body). However, the right to access judicial and administrative remedies are often too costly and slow to provide effective legal protection.

Last year, the Aarhus Convention Compliance Committee found that many of its Parties have not remedied the legal or administrative limitations that restrict a proper access to justice in their jurisdictions.⁶¹ In the United Kingdom, excessive costs of judicial procedures continue to harm individuals' ability to access courts. In Austria, NGOs continue to have limited standing to challenge national environmental laws, even though recent amendments have improved standing in water protection, air pollution, and waste management issues.

Most importantly, the committee found that the European Union continues to violate the Aarhus Convention by not allowing members of the public (including NGOs) to challenge public interest decisions of EU institutions before the European courts.⁶² Following the committee's findings, the Commission carried out a study and concluded the EU Aarhus Regulation needed to be revised as it was not fully compatible with the Aarhus Convention's provisions on access to justice. In March 2020, the European Commission published a roadmap proposing amendments to the Regulation to allow legal standing for members of the public. The Commission is expected to submit its proposal to the Council and

Parliament by September 2020. If the amendments are adopted, this could represent an important milestone in access to justice in the EU.

Criterion 3: Empowering and ensuring the rights of Indigenous peoples and local communities

As established in last year's Goal 10 assessment, progress in recognizing the rights of Indigenous peoples and local communities (IPLCs) has been mixed. While data on progress since 2017 is not yet available, some evidence this year indicates progress continues to be mixed.

Indicator 3.1: Rights of Indigenous peoples and local communities

We highlighted last year how IPLCs play an important role in carbon storage and that land under the ownership of IPLCs is less likely to be deforested. These findings are reflected in another recent article that shows that 36 percent (or 11.6 million square kilometers) of the world's remaining intact forest landscapes are on Indigenous land.⁶³

The importance of IPLCs continues to be recognized internationally

The Local Communities and Indigenous Peoples Platform (LCIPP) under the umbrella of the United Nations Framework Convention on Climate Change (UNFCCC) had its first meeting in 2019, where a two-year work plan was agreed on for 2020-22.⁶⁴ Some of the key milestones include organizing an annual meeting and regional gatherings to enhance the participation of Indigenous communities and the dissemination of their knowledge on matters relating to climate mitigation. Moreover, training workshops are planned to build capacity among IPLCs to engage in discussions and policymaking at the UNFCCC level. Recommendations are also being developed for the Subsidiary Body for Scientific and Technological Advice (SBSTA) 54 on how IPLCs can engage and provide input across the UNFCCC process.⁶⁵

Moreover, a landmark resolution was adopted by the UN Human Rights Council in 2019 that seeks to protect environmental defenders, including women, as well IPLCs.⁶⁶ Specifically, it recognizes the role and right of human rights defenders in protecting the environment and calls on states to create a safe environment for defenders, provide effective remedies for human rights violations, combat impunity and corruption, and promote public participation, transparency, and accountability. The resolution also recognizes the importance of including Indigenous people in decision-making processes in matters that affect them, and the obtention of their free, prior and informed consent (FPIC).⁶⁷

Another international development that may generate interest in securing Indigenous land rights was the inclusion of IPLCs in the zero draft of the Post-2020 Global Biodiversity Framework of the Convention on Biological Diversity. It recognizes the role of IPLCs in biodiversity conservation and acknowledges that the participation of IPLCs is necessary for the implementation of its framework. It goes on to state that the equitable participation and rights over relevant resources should be ensued by 2030, promoting the participation of IPLCs in decision-making related to conservation and sustainable use of biodiversity.⁶⁸

⁹ The study looked at data from 50 countries that contain 90 percent of the world's intact forest areas.

The Inter-American Court of Human Rights (IACHR) in April 2020 held Argentina responsible for violating the human rights of Indigenous communities in the province of Salta. The Court found that the Government failed to implement measures to stop illegal logging and other harmful activities that altered their way of life and damaged their cultural identity. In its first judgement on the right to a healthy environment, the Court ordered the Government to remove the settlers and cattle from the communities' land within six years, as well as to issue them an official land deed.⁶⁹

At national level, progress is overshadowed by persistent tenure insecurity in many countries

A new report published by the Rights and Resources Initiative in September 2020 estimates the extent of lands and territories to which IPLCs have customarily held rights that have yet to be legally acknowledged by governments. The analysis of 42 countries covering nearly half of the world's landmass (excluding Antarctica) found that the land of IPLCs covers at least 49 percent (3,115.1 million hectares) of the total land area of these countries. However, only around half (1666.7 million hectares) of these lands have been legally recognized.⁷⁰ These findings are in line with earlier studies that highlight the significant remaining gaps in legally recognizing the land rights of IPLCs.

Some positive developments have taken place in a number of countries. For instance, the Australian government has pledged to hold a referendum on recognizing Indigenous peoples in the country's constitution before 2023. While the three-year timeframe has been criticized by some and it is unclear what the recognition would entail specifically, such formal recognition would represent an important milestone for the country's aboriginal people.⁷¹ In Peru, a National Indigenous Platform to Address Climate Change is currently being developed by the Ministry of Environment. The platform will enable a space for Indigenous organizations to discuss mitigation measures with the Government, as well as evaluate and monitor the implementation of climate mitigation policies.⁷²

In the DRC, following the adoption of a national community forestry strategy, 65 community forest concessions covering an estimated 1.2 million hectares were granted between 2018 and 2020.⁷³ In the Central African Republic, the first official community forest in the country, covering almost 15,000 hectares, was granted in April 2019.⁷⁴ Applications for two additional community forestry concessions are pending validation and approval by the forestry ministry.⁷⁵ In Liberia, following the adoption of the Land Rights Act in 2018, six communities have been granted customary land ownership rights for an area that totals 55,000 hectares.⁷⁶ Moreover, the Peruvian president made a pledge to grant titles to all communities in the country by 2021.⁷⁷ As of January 2020, around 40 percent of communities – or 887 out of 2268 – have a formal title to land and are included in the public land registry. In 2019, 66 communities were granted land titles.⁷⁸

However, in many countries, the implementation of legislation supposed to protect communities has stalled. A watershed 2017 ruling by the African Court on Human and People's Rights that recognized a community's right to its ancestral land in Kenya has not been implemented. The mandate of a taskforce that was supposed to implement the decision ended in January 2020 without a roadmap for future steps.⁷⁹ Moreover, in July 2019, a community of 60,000 hunter-gatherers in Kenya was forcefully evicted from the Mau Forest by the Kenyan government. According to IWGIA, proper vetting to differentiate between illegal settlers and those with credible land claims was not conducted.⁸⁰ Similar cases of forest dwellers being evicted were also recorded in neighboring Tanzania and Uganda in 2019.⁸¹ In Suriname, the government has not implemented a 2015 Inter-American

Court of Human Rights decision which recognized the collective ownership of the traditional lands and resources of two traditional communities.⁸²

Most evidence suggests that IPLCs continue to experience a lack of protection by governments, insecure tenure, and violence.⁸³ A 2020 analysis conducted by the World Resource Institute (WRI) finds that 45 million hectares – or more than 20 percent of Indigenous lands in the Amazon basin (Bolivia, Brazil, Colombia, Ecuador, Peru and Venezuela) – overlap with mining concessions and illegal mining activities. Most of the illegal mining identified takes place in Peru and Bolivia, while the largest number of illegal mining sites are found in Brazil and Venezuela. In Peru, for instance, 260 Indigenous lands are known to overlap with illegal mining operations. In many cases, multiple overlapping mining concessions are held by different mining companies on Indigenous lands.⁸⁴

Brazil's Indigenous agency, FUNAI, published a normative instruction that makes it easier for land grabbers to appropriate Indigenous land by allowing them to certify that no Indigenous claims exist wherever those claims have not yet been formally recognized.⁸⁵ This could affect 237 Indigenous areas (approximately 9.8 million hectares) still awaiting formal recognition due to complex and time-consuming registration processes.⁸⁶ In response to this, 49 federal prosecutors have signed a recommendation against the normative instruction on the basis that it violates constitutional provisions protecting land claimed by Indigenous people (whether or not formally recognized) from being squatted.⁸⁷ In May 2020, the Federal Public Ministry in Mato Grosso made an official request to the legislative assembly of the state for the annulment of the instruction.⁸⁸

Human Rights Watch found that criminal networks involved in illegal deforestation are also often involved in perpetrating violence against IPLCs in Brazil, with violence having increased in the past number of years. A lack of prosecution and punishment has also been a chronic issue in tropical forest regions in the country: of the 300 killings registered by the Pastoral Land Commission since 2009, only 14 ultimately went to trial.⁸⁹

Violence perpetuated against environmental defenders also continues to increase across the world – according to new data published by Global Witness at least 212 forest and land defenders were killed in 2019. This is the highest rate of killings on record, and 27 percent higher than the previous year, when 167 forest and land defenders were murdered.⁹⁰ The annual report notes that over half of all reported killings took place in Colombia and the Philippines. In Colombia, one of the factors contributing to the rise in violence against defenders has been connected to the challenges that arose in the aftermath of the 2016 Peace Agreement. While the agreement brought an end to the war with the FARC guerrillas, shifts in local power dynamics and repositioning of criminal gangs in areas previously controlled by the guerrillas have, together with a failure by the government to adequately implement key parts the agreement, and widespread impunity for killings, been connected to the spike in killings, as well as a rise in deforestation.⁹¹

Indicator 3.2: Empowerment of communities

New aggregate data on the empowerment of IPLCS was not found this year. However, anecdotal examples indicate that some progress has been achieved in empowering communities. The USD 8 billion Climate Investment Funds continues to provide grants to Indigenous people and local communities. A recent review found that these grants empower communities to implement projects aimed at managing their forest and land.⁹²

In Peru, the government has extended the National Forest Conservation Program (PNCB) until 2030.⁹³ This is a conditional payment scheme for titled Indigenous communities with

administrative capacities that provides an annual direct transfer of about USD 3.80 for each hectare of forest enrolled in the program and sustainably managed by the community. Its budget increased by 50 percent between 2010-16. However, only 6 percent of communities in the country benefit from this program.⁹⁴

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The NYDF Progress Assessment is a continual and collaborative process achieved collectively by partner organizations and researchers. Since 2015, the NYDF Assessment Partners have annually published updates on progress toward each of the ten goals of the NYDF. Working groups for individual goals form the basis for developing and revising goal-specific assessment frameworks. They also generate key data and analytics on findings, attempting to narrow knowledge gaps. All assessment findings undergo a rigorous peer review process conducted by experts across the globe.

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