



Resource Extraction Monitoring

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Independent Monitoring in support of Forest Law Enforcement and Governance in Tanzania

Proposed Scheme and ToR

1	Background.....	3
2	What is Independent Forest Monitoring?	4
3	Justification for Independent Forest Monitoring	5
4	Methodology used during the scoping mission	7
5	Mission findings: key features of current forest law enforcement in Tanzania and recommendations for related Monitoring focus	7
5.1	Cooperation between government officials and Independent Monitor	7
5.2	Transparency and access to information.....	7
5.3	Use of Remote Sensing and GIS Tools	8
5.4	Deployment of government officers in the field.....	9
5.5	Monitoring the transportation of wood products	10
5.6	Monitoring exports	11
5.7	Monitoring natural forests	12
5.8	Monitoring firewood extraction.....	12
6	Issues surrounding the set-up of Independent Monitoring	13
6.1	Endorsement of the Independent Monitor's findings.....	13
6.2	Existing civil society adoption of Independent Monitoring approach.....	13
6.3	The press and Independent Monitoring	14
6.4	Alternatives to Independent Monitoring.....	14
6.4.1	The null hypothesis, no IM-FLEG.....	14
6.4.2	External forest monitoring	15
6.4.3	Training Programme to increase capacity within law enforcement services	16
6.5	Risks to Effective Implementation	16
6.5.1	Maintaining Institutional Relationships:.....	16
6.5.2	The legislative Regime:	17
6.5.3	The Administrative framework:	17
6.5.4	Poverty, forests and the local economy the implications of improved law enforcement	17
7	Proposed Independent Monitoring Scheme	18
7.1	Proposed Institutional setting	19
7.1.1	Government Partners	20
7.1.2	Ministry of Justice	21
7.1.3	Tanzanian Revenue Authority / Customs	21
7.1.4	Ministry of Home Affairs	22
7.1.5	Donor agencies	22
7.1.6	The private sector	22
7.1.7	Civil society	22
7.2	Proposed Indicators of IM-FLEG impact on FLEG in Tanzania	23
7.3	Exit Strategy	25
7.4	Time Frame.....	26
7.5	Human resources	26
7.6	Budget and funding mechanism	28
	Annex 1:.....	29
	Annex 2: Job Descriptions	41
	Annex 3: Translation of circular to DFOs re the Harvesting Ban	44

1 Background¹

1985 – 1995 was characterised by visibly increased deforestation in Tanzania. Increases in forest harvesting did not correspond to increased government forest-revenues or the sector's contribution to GDP. In fact, this period saw reductions in public sector investments into the sector, reflected in a freeze in training and recruiting new forestry staff and decaying forest infrastructure such as roads, equipment and nurseries. Economic policies at this time appeared to lead to an over exploitation of valuable timber tree species; increased, unregulated production of charcoal in areas accessible to urban markets; and widespread conversion of forests to agricultural land uses. Decentralisation policies also meant that forest officers were deployed to Districts, which accrued only limited benefits from forest resources. National oversight of harvested forest resources, and the subsequent royalties, was lost. Studies in the 1990's concluded that less than 15% of timber royalties were actually being collected while levels of charcoal revenues were even less.

Recognising the decline in forestry, the Ministry of Natural Resources and Tourism initiated a process that led to a new National Forest Policy of March 1998, with the goal of enhancing the contribution of the forest sector to Tanzania's development and management of natural resources for the benefit of present and future generations. Four policy areas were defined as (i) Forest Land Management; (ii) Forest-based industries; (iii) Ecosystem conservation and; (iv) Institutions and human resources.

A National Forest Programme (NFP, November 2001) followed, the objective being the operationalisation of the policy within 10-years from 2001 – 2010. NFP is based on programmes reflecting objectives of the policy. In June 2002 the Forest Act was enacted, legislation that for the first time recognises the legitimate rights and responsibilities of forest adjacent communities over forest resources and also provides for delegation of the Director's authority to forest officers at lower levels. The Forest Act became operational in July 2004. Prior to this, the Forest Ordinance was in force. Regulations under both sets of legislation require that harvest, transportation and export of reserved trees be authorised, licensed and royalties paid to government.

Following several reports in the media that began to appear in 2003, an inspection was made in July 2004 of 187 containers in Dar-es-Salaam port. Close to 2,500 cubic meters of illegal logs were discovered. Unpaid royalties were worth close to 200 Million shillings, for these logs that were in various preparatory stages for export. An additional 8,170 cubic meters of logs, worth around 445 Million shillings in unpaid royalties, were later located at different sites throughout south-eastern Regions of Tanzania.

A moratorium on the export of timber was immediately imposed and subsequently extended to March 2005. Four forest officers were suspended from FBD, others investigated in the Districts. FBD also initiated an inventory of forest resources within Districts containing prime forest areas and has begun to strengthen its surveillance capacity. The Minister hosted a meeting on 3rd March 2005, briefing development partners on developments in the sector and describing the ministry's efforts to regain regulatory control.

As a way of increasing the reliability of information and transparency of decision making in forestry in Tanzania, an independent forestry monitoring (IFM) exercise was proposed in the above mentioned meeting. IFM has been recognised as an important tool in tackling illegality. It has proved to be highly effective in revealing systemic failures in law enforcement and identifying where policies and laws are

¹ TdR for Independent Monitoring consultancy, Finnish Embassy. Tanzania

inconsistent or inadequate and therefore need reform. IFM works to strengthen systems and build capacity for better forest governance and is not simply about law enforcement; . The contribution of IFM to good governance has been recognised in major policy declarations and international initiatives to combat illegal logging, such as the G8 Action Programme on Forests, the US President's Initiative against Illegal Logging and the European Commission's Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT) and African Forest Law Enforcement and Governance process. Initiatives such as these acknowledge the governance challenges which affect the forest sector in many countries, and which impact negatively on livelihoods, government revenues, international trade and the environment.

IFM originally developed more or less spontaneously in response to local circumstances, subsequently becoming more deliberately structured. Experience in Cambodia and Cameroon, and in similar initiatives in other countries, has demonstrated how IFM works in practical terms, and provided many valuable lessons for the future. The monitoring is most effective if independent, objective and free from conflict of interest with players in the sector. Therefore the ideal is that IFM is endorsed and enjoys the full support of government, without being part of the government's own monitoring activities. It should be recognised that IFM will not in itself lead to improved management, but can instead act as a catalyst for discussions and agreements on how to improve management. There are normally four key provisions which are required from IFM: unrestricted access to relevant information, freedom to visit any part of the forests/forest estates, the right to publish objectively verified evidence, and shared ownership of the results.

Once the IFM concept was accepted in principle by FBD and Development Partners, a follow up meeting was held between selected FBD staff and development partner representatives, to determine how to further develop this concept.

Government was assured that IFM would not hinder or take away from efforts to strengthen FBD's capacity to better monitor the forestry sector but rather that IFM has the potential to improve the government's monitoring exercise e.g. by adding information to FBD's official data, and by validating or verifying FBD's monitoring system as it becomes operational. Key to the success of IFM is the public availability of the Monitor's findings.

It was further agreed that IFM has to be planned carefully and the existing international experience and lessons learned utilised for the purpose. It was thus proposed that a consultancy, building on previous experience of IFM, should be fielded to prepare a proposal, incl. Terms of Reference, for the actual IFM in Tanzania. This report is the result of that consultancy.

2 What is Independent Forest Monitoring?

The term Independent Forest Monitoring can be interpreted in a number of ways which can lead to confusion between different parties, e.g. organisations monitoring forest activities without any structural links to or agreement with government forest law enforcement services or monitoring within a framework agreement with the government to promote the adoption of the findings of the Monitor. For increased clarity in this report, we will use the term Independent Monitoring of Forest Law Enforcement and Governance (IM-FLEG) which encompasses the monitoring, by an organisation or consultancy, both of forest activities by the private sector and of law enforcement activities by government services. IM-FLEG is undertaken with structural links to the government. The purpose of IM-FLEG is to assist the governments, in this case Tanzania, in realizing its stated policy objectives for the forest sector. REM proposes that this be done by consolidating the gains made through the Government's own initiatives,

including the ban on the allocation of cutting permits and log exports. Recognition by the government that there is a fundamental system failure in the allocation of cutting permits under Part VI of the forest Act of 2002 and respect for other legal forest management procedures relating to the different classes of forest cover and in the monitoring and control of exports, provides a significant foundation for tackling the issues.

The Independent Monitor's function is to work closely with government services playing a role in the administration of forest related activities; to document the detailed functioning of the governments own monitoring and control systems; reporting its findings to interested parties in a transparent manner; to include specific recommendations on how to improve the systems themselves; but also to identify at which points the systems are breaking down.

The Monitor will also document the forest activities of the private sector both independently and together with government forest officers and the police, to increase the availability of information and bring support to the government's own efforts to suppress illegal activity in the forest sector.

The reports of the Independent Monitor should act as an information source to higher levels of government to allow the corrective action to be taken. The Monitor should assist the government in the redaction of a strategy of forest law enforcement and its implementation.

The approach proposed requires the close co-operation between the government concerned; the international donors with sufficient engagement and leverage; and an international organisation or consulting company with credibility among a broad range of stakeholders, especially civil society.

From a broader perspective, unsustainable and illegal logging is characteristic of the forest sector in many developing countries. The political economy of many of those countries forest sectors offers little opportunity to change this status quo. Corruption and poor governance provide a protective political framework for the illegal operators to continue their activities, while the legitimate players in the sector are unable to compete with the illegal products in the market place.

Independent Monitoring of forest law enforcement represents a model of intervention in the often stable but poorly performing ministries or governments. Poor governance in the forest sector in Tanzania is currently preventing the realisation of some other initiatives intended to support the implementation of the National Forest Policy. Certification for example is not likely to gain a significant market share in countries where corruption in the sector is not being tackled, given the comparative advantage that illegal operators have in gaining access to the forest resource and the market. These problems are known to exist in Tanzania. A continued policy dialogue is not likely to yield significant results where sector governance is weak, blocking progress on virtually all significant areas of forest policy development, and legislative reform and implementation. This includes social issues such as community participation in forest management, to the broader economic development that the Tanzanian National Forest Policy is envisaged to bring to the country.

3 Justification for Independent Forest Monitoring

The large number of press articles that have appeared in the national papers in Tanzania and specific and detailed reports of illegal forest sector activity have highlighted the fact that there is a serious problem with the state of forest management and regulation in Tanzania.

The scoping study team have investigated a number of situations in the field and worked together with forest law enforcement officials to inspect paperwork of transport vehicles and administrative systems at

various district offices in Tanzania.

It is clear that there have been various attempts to deal with the situation by the Government including the implementation of national harvesting restrictions and export bans during mid-2004. The current minister, Mr Anthony Diallo, has been credited with an effective clampdown on illegal activities and attempts to strengthen government regulatory function. This crackdown may have been effective to the point that many in the private sector are concerned at the levels of caution forest officers are expressing at fulfilling their duties. The Private Sector fear that sustained insecurity by forest officers in the execution of their work when the timber ban is lifted, may lead to administrative blockages at various level hampering due processes of harvest, transport or export and leading to a dysfunctional trade.

The response of forest officers is perhaps understandable given the pre-existing lack of transparency and information sharing both between and within government departments. Little concrete action has been taken in the intervening period that the harvesting restrictions and bans have been in place to guide the forest services concerning the implementation of their day-to-day tasks. There is some doubt therefore that the underlying problems resulting in the imposition of the bans have been tackled. If this position is correct, the restrictions should remain in place until there is a clear and workable mechanism for the allocation of cutting permits under Part VI of the 2002 forest Act as well as the allocation of rights to remove trees or timber from other classes of forests and an effective trade monitoring and control system has been developed as a matter of urgency. This may require rendering the existing system more operational, or some more fundamental reform. The Independent Monitoring project should bring detailed recommendations in these issues during its implementation. An Independent Monitoring project should help to identify where the weaknesses are in the existing control systems as well as problems with their implementation. .

At the political level, there has been a change in government in Tanzania with the election of Jakaya Kikwete, Tanzania's long-serving foreign minister, who won the presidential elections in December 2005. With this change in Government, a new policy direction on governance issues has been signalled but there are claims that there is still interference by former senior politicians in the function of Ministries, including in the Ministry of Natural Resources and Tourism. For example, an attempt at interference in the sacking of senior members of the Ministry staff has been made. This type of problem does however seem to be being resolved. Furthermore, government acknowledgment in November 2005 that rampant illegal pit sawing is a problem², was further testimony to their commitment to addressing the current problem of weak regulation of the sector .

At the operational level, however, there has been little change on the ground either through the local government administration district forest offices or at the MNRT, Forests and Beekeeping Division. Even with the increased political will that may come with a change in government as mentioned above, there remains a need to operationalise the services through detailed work on the ground with a dedicated team of experts in forest law enforcement that can identify the weaknesses in the control systems and their implementation. This combination of external monitoring, in conjunction with the internal monitoring systems that are being proposed through other elements of the Tanzania Forest Conservation and the National Forest Program (NFP) should deliver the institutional changes required from the Ministry and instil respect to forest law in the private sector.

Partnerships with NGOs and the press should encourage and build capacity in the NGO sector to continue these activities in the future. (See also Alternative approaches, Section 6.4)

² Ministry Of Natural Resources and Tourism. Evaluation of sawmills and other primary wood industries in Tanzania report presented at the stakeholders meeting at tourism institute, – Dar-es-Salaam, Tanzania 17/11/2005

4 Methodology used during the scoping mission

The assignment was carried out in Tanzania between 21 May - 9 June 2006. REM's team worked with a reference group, consisting of FBD and Development Partners, and consulted with representatives of Civil Society and the Private Sector involved in the forest sector.

Issues discussed during meetings included forest legislation, constraints faced by various government officials in forest law enforcement implementation, past and current types of illegality in forest activities, governance, access to information, key issues of focus in the forest sector for an Independent Monitor, issues raised by the private sector regarding legislation and forest law enforcement.


The team travelled to two regions of Tanzania in order to meet various stakeholders, including forest officers, Local Government Authorities and others. These included a mission to the Pugug Forest in the Kisarawe District, North of Dar es Salaam and another in the Kilwa district.

5 Mission findings: key features of current forest law enforcement in Tanzania and recommendations for related Monitoring focus

This section describes the current situation concerning key features of forest and forest law enforcement activities and includes recommendations on how Independent Monitoring can tackle issues raised.

The principal topics of concern presented here include examples that were uncovered during the field investigations in relation to forest activities by the private sector and to the surveillance of forest activities by the government. The Monitor should focus on these areas by providing and supporting increased documentation of illegalities whilst identifying current shortfalls in forest law enforcement enabling their reoccurrence.


5.1 Cooperation between government officials and Independent Monitor

 The District Forest Officers contacted and the representatives of the Forest Surveillance Unit were professional and cooperative in the execution of the mission. This positive element, if sustained, can make a significant difference to the speed of achievement of concrete results from an Independent Monitoring action. Cooperation was also good within the MNRT, although contradictory information was received concerning legislation. This may indicate communication problems across various departments, but may also indicate restricted diffusion of some information related to the law and its enforcement.

▶ Preliminary finding show positive signs in terms of potential cooperation between government officials and a Monitor. It is expected that levels of cooperation will not be homogeneous across Government departments and individuals.

▶▶ Good will, where found, should however be capitalised on by the Monitor for improved results, through joint missions and information exchange.

5.2 Transparency and access to information

 There is no culture with the government services of transparency and it is clear that reports, administrative orders and other official information do not circulate. This can be a problem in any large organisation, but from our work in the field, it is particularly evident in the Forest and Beekeeping


Division of the MNRT and the district forest Offices of the local government.

A prime example of this is the text of the harvesting restrictions and the export ban, which was not readily available to those working in the Ministry. An administrative order (see annex 3) was presented to the team at one of the District Forest Offices, but this was the only office where this order was available, and the only time that the DFOs or other parts of the administration were able to produce this type of documentation. It is appreciated that on a short-term study, it is not possible to establish in-depth working relationships with the institutions concerned and this may have affected the level of co-operation received. However, this fundamental lack of transparency in the workings of the administration to the outside world, but also between departments will have to be tackled if the government forest services are to be rendered more operational. The availability of some documents itself is not evident within the Ministry, resulting in contradiction in understanding, and different implementation of the law, at different levels.

▶ One of the striking elements of law enforcement is the absence of consistent approach and information from the higher levels of government to the District Forest Officers and vice versa.

▶▶ The Independent Monitor will systematically gather information from various departments to clarify legislation and obtain documentation. It will support the diffusion of this documentation through its reports and communications at various government levels. The Monitor's request and responses obtained will help identify where there is lack of transparency, or where genuine problems of archiving and documentation exist, leading to recommendations to address them.

5.3 Use of Remote Sensing and GIS Tools

 Remote sensing in the form of satellite image data in the Tanzania context appears to have only limited application in support of law enforcement or Independent Monitoring. The time lags between the production of reliable data (e.g. excluding cloud cover and of a sufficiently high quality, with complete data analysis) and the activity being monitored are too long to be useful. The use of aerial photography can be more productive in rapidly delivering information about activities on the ground, including ongoing cutting operations, stockpiles of logs and other activities but only as long as the images are turned around rapidly and provided to those agencies that can act upon the information received. The administrative possibility to rapidly deploy agents to the field would also be a pre-requisite to benefit from this sort of reconnaissance.

▶ What would support both the Independent Monitor and the FBD and DFOs in the undertaking of their work is a complete and up to date GIS data set (polygons) of the forest types, classifications and the licenses/permissions that have been allocated. There are significant governance issues surrounding the management of mapping data and to be able to verify that licences have been allocated in accordance with procedure it is first necessary to obtain a reliable record of all licences that have been issued, including the procedure applied, the volume and geographical location where the timber was to have been cut. Links with other planned or ongoing programmes concerning the mapping of forest resources and their exploitation should be considered.


If license information were only to be maintained at the district level by the allocating authority, the data could be lost or altered without the possibility of external verification. Hence license data should be captured together with other license information in the submission of the monthly reports of the DFOs. Validated datasets could be distributed and used by central government (FSU) and DFO forest officers to verify the legality of field operations using the appropriate modern technology.

A further use of the centralised data set could be the identification of potential conflicts with catchment forests and FBD level input made to license information. This process could be ongoing in parallel with the consultations at the District and Regional level.

With the increasing coverage of Participatory Forest Management (PFM) in the country, the geographical areas of forest need to be clearly identifiable as the procedures for the allocation of permissions to remove trees and timber vary. Without this information field officers are not able to draw concrete and reliable conclusions regarding activities they see in the forest.

- ▶▶ The Monitor should build a GIS data set for its own use with data it can access, and in parallel, promote the set-up and maintenance of such data sets within the FBD and DFOs through recommendations and discussions with the steering committee.
- ▶▶ The Monitor should gather information to clarify procedures for the allocation of permits, highlight existing gaps and shortages and provide recommendations to address them through its analysis reports

5.4 Deployment of government officers in the field

 The short time frame of the missions and the absence of specific intelligence about ongoing activities influenced the findings of the missions that were undertaken. This situation gives a good representation of the logistical problems that will occur in the implementation of a long-term action and inform the strategy to be adopted in the achievement of the Monitor's tasks.

For the second mission, the original plan was to travel to the Morogoro region and undertake some investigations there together with the Forest Surveillance Unit. This plan was changed at the request of the REM team after discussions with a number of individuals and organisations, and the FSU provided a member of staff to travel with the REM team in its own vehicle. Based on the information available at the time of the mission, the team decided to travel south to the Kilwa district and investigate the sawmills and logging activity in the area. The participation in the second mission of the FSU was undermined by the lack of administrative flexibility in the allocation of resources, particularly the vehicle and driver support, following the changed destination and duration of the mission.

Administrative bureaucracy restrictions on the effective deployment of FSU resources will seriously limit their abilities to impact on the situation once the logging and export ban are lifted, as response to allegations of forest infractions needs to be fast to prevent the dissipation of evidence. The FSU did however provide a member of their team who travelled with the REM in the mission's vehicle.

- ▶ Delays in the deployment of staff and resources are not conducive to the realisation of the goals of the FSU. This mismatch between the resources and procedures with the task allocated is indicative of the absence of a central strategy of law enforcement in the sector.
- ▶ Other field resources, such as detailed map data, either in paper or electronic (GIS) format, GPS units or the resources to interpret GPS data, records of allocated permits are not readily available for either outside inspection or use in the field by officers.
- ▶▶ The Monitor should provide input in a central strategy of law enforcement in the sector and recommendations through its communications and reports to improve effective deployment of government officers in the field but also to enable it to gather information at short notice for the preparation of its own monitoring missions.
- ▶▶ The Monitor should gather GPS and GIS data and facilitate its timely circulation. It should establish a mission preparation routine including research of relevant documentation within various departments, which should progressively lead to faster response. It should also promote the timely diffusion of data by

the government itself within multi-stakeholder steering committees.

5.5 Monitoring the transportation of wood products

✍ To increase the data available and improve the collection of revenue from the forest sector, a national network of checkpoints was installed. Unfortunately the system of checkpoints in Tanzania is essentially dysfunctional. Due to the absence of effective roadblocks, the absence of uniforms and the possibilities for corruption, a considerable percentage of trucks carrying timber either do not stop at the checkpoints or when they do, fees are not formally collected. The checkpoints currently function largely as an informal tax or bribe collection point. Trucks are said to frequently pass without paperwork and few records of transactions are kept.

At the national level, one estimate of the revenue loss to the government has been calculated is 900 million TZS over a two-month period from July-August 2004.

During the scoping study(2 June 2006) a lorry was stopped en route from Mtwara to Dar es Salaam, carrying sawn timber. The lorry showed a transport permit that said the timber had been imported from Mozambique. The driver of the vehicle was unable, however, to produce any other documentation other than this permit that would support this position. After discussions with the Forest Surveillance Unit officer at the time, it was not clear what documents the truck was supposed to be carrying.

On 4 June 2006, a lorry loaded with poles was found at Kibiti. It was considered suspicious that the lorry was parked approximately 1 km before a checkpoint northbound on the road to Dar es Salaam rather than the checkpoint itself. The team were informed by two men waiting with the lorry that it had broken down and they were waiting for the driver to return from the town of Mbagala town along the road. The two men indicated that the lorry had started its journey in Kiwanga area, implying that it had passed 4 checkpoints.

The driver of the vehicle was found at the local police station in Kibiti where the team were informed that he had been arrested for dangerous driving. The version of events supplied by the police officer in question, comments made by the driver himself and the two men waiting with the lorry did not correspond. The impression of the team was that the lorry was waiting for an arrangement to be concluded or paperwork to be provided before it continued its journey past the checkpoint 1 km away from which it was parked and that other parties were involved in facilitating the progress of the lorry to Dar es Salaam. At no time was the driver or the other two men waiting with the lorry able to present a transit pass or any other documentation to justify that the cargo was legal, despite apparently having passed through 4 checkpoints to reach its current location.

Based on interviews with police officers and DFOs it is evident that in the execution of their duties the DFOs receive little cooperation from the police and there are weak lines of communication. It is clear from the text of the law and regulations that where forest produce is being carried with the required paperwork, the vehicle as well as the produce itself can be seized. This act is simply not applied and where DFOs request the support of the police their support is often not forthcoming. In fact the court in some districts has instructed the DFOs not to seize vehicles.

- ▶ Private sector operations are bypassing the checkpoint system. This analysis is supported by thorough studies undertaken on check points
- ▶ There is a need for clarification of the law with regards to transport of timber
- ▶ There is poor communication between the police and DFOs which may lead to evasion of sanctions. Where cases are handed to the police and people are detained for committing offences, the resulting

actions that are taken by the police and the courts are not relayed to the DFO concerned.

- ▶▶ The Monitor should report on individual cases of infractions through spot-checks and at check-points using external intelligence where possible, and support the legal follow-up of these cases. DFOs will be associated to these missions where possible and the reasons for lack of previous detection of infractions will be analysed where they have been ongoing. Check-points should be a priority area of focus for the Monitor
- ▶▶ The Monitor should clarify what the existing legislation is with regards to some aspects of transport through work sessions with concerned individuals in the government, and bring gaps or shortages to the fore through reports to support improvements
- ▶▶ The Monitor should undertake research and analysis on cases where responsibilities between the DFOs and the police have overlapped. It can draw conclusions and specific recommendations where repeated problems have been identified.

5.6 Monitoring exports

At the ports in Dar es Salaam, there is an obvious lack of support for the individuals that are charged with the task of verifying container contents and keeping records for revenue collection. It is unreasonable to expect one person with a hardback notebook to keep records of exports from the ports; in the case of the port area visited this is Zamcargo. This is a serious weakness in the system. What further undermines it is the rudimentary nature of the data collection and the absence of data analysis by outside agencies.

Representatives of the private sector have stated that the services provided at the port for the verification of volumes and provision of the relevant certificates are so poor that they have provided staff themselves to support the work being undertaken within a useful timeframe that will not undermine the quality or delivery times of their products.

Other points of export that require more attention are the small ‘informal’ ports or natural harbours in the Kilwa district where it was reported that 2-4 Dhows leave for Zanzibar every week carrying up to 650 pieces of sawn timber each. Information received also indicates that exports are being made outside of the authorised procedure at the port of Ndundutawa, Matapatapa, Kilwa Kivinje, Pande, Lushungi and Mtunda. These issues should be investigated as a matter of priority. This can be done through the carrying out of unannounced inspections at these locations to verify the legality of activities at the time. The government agents leading the mission can then sanction any activity that is not in conformity with established procedure.


There are a number of instances where illegal transport or trade in illegally produced timber are known to take place on a systematic basis. What is currently lacking in the administration is an overarching forest law enforcement strategy to tackle these issues. A task to be undertaken early in any follow-up action would be to engage the government in a dialogue, including all relevant parts of the administration for which the strategy will have implications, that would lead to the adoption of such a strategy.

- ▶ Resources allocated to forest law enforcement to monitor exports are insufficient to be effective
 - ▶ Informal ports are enabling exports outside of the authorised procedure
 - ▶ The lack of an overarching forest law enforcement strategy prevents effective action from the government to tackle non-authorised exports
- ▶▶ The Monitor can make specific recommendations to the government for a more effective deployment of its resources
 - ▶▶ The Monitor should undertake spot-checks in the areas concerned through joint and independent

missions to document illegalities as well as existing shortages in forest law enforcement, and promote actions by government officials

▶▶ The Monitor should promote the development of an overarching forest law enforcement strategy and provide concrete recommendations to make it effective

5.7 Monitoring natural forests

 The allocation of forest resources via cutting permits under Part VI of the 2002 Forest Act as well as through the procedures applicable to the different classes of forest in Tanzania is, in theory, based on field inspections and inventory to verify the existence and location of the timber being applied for. The details of the procedure for the allocation of these permissions was clarified and corrected in the Forest (Charcoal Preparation, Transportation and Selling) Regulations, 2006, including for charcoal. In these regulations there is reference to the 'harvesting plan of the district', in accordance with which the permits should be allocated. It is not clear to REM that district harvesting plans exist, which makes the justification for the allocation of cutting permits to harvest trees/timber difficult if the committee responsible for this task is expected to undertake it in respect of the detailed procedures.

There were no cutting permits being allocated at the time of the mission as a result of the national ban on the allocation of cutting and export permits in natural forests.

From the research undertaken, it is clear that there is no centralized forest resource planning system in Tanzania. This situation is not surprising given the absence of a recent forest inventory as a basis on which to grant forest access to either communities or the private sector for commercial exploitation.

The Land Act and the Village Land Act of 1999 have significant impact on the rights of villages to exploit the forest in their vicinity and the procedures that should be followed for the classification of land. Land classification information and information concerning the boundaries of different types of land affect the rules that are to be observed regarding forest exploitation. Forest Officers and other charged with the responsibility of forest related law enforcement therefore need access to information on the differently classified geographical areas of forest to carry out their duties. This information is not easily accessible, if at all. Forest areas available in GIS format are not freely available within the government and subject to the control of a few individuals that are not situated within the MNRT or the Regional District Forest Offices.

The Forest Act of 2002, Part II, para. 4 identifies 4 main classes and 10 subclasses of forest, many of which have different procedures for management, the district forest officers and support teams are clearly not in a position to oversee the implementation of management plans covering the areas within their jurisdiction in the absence of technical support including the mapping of forest resources and forest classification.

▶ There is no link between local actions and whether or not these are achieving national policy objectives with regards to natural forests management.

▶▶ The key is to ensure that local policy is implemented and to report this centrally. The monitor would check whether local actions within the decentralised network are being implemented and if these collectively are leading to the national forest policy objectives. Natural forests should thus be included in the Monitor's ToRs and be one of its priority areas of focus.

5.8 Monitoring firewood extraction

- ✍ ▶ Firewood extraction is not considered a priority in terms of the short and medium term impact on forest resources.
- ▶▶ For poverty, livelihood and logistical reasons the Independent Monitor should not examine the issue of firewood extraction for **domestic** use.

6 Issues surrounding the set-up of Independent Monitoring

6.1 Endorsement of the Independent Monitor's findings

The Independent Monitor may face many stressful situations inherent to its work, including the threat of being sued by individuals or companies and held liable for damages because of the information it uncovers and ultimately publishes in its reports. Whilst working to the highest professional standards should provide some guarantee from real or 'harassment' suits, further protection mechanisms for an independent monitor should be built into the project structure and implementation mechanisms. One such mechanism could be provided through the adoption of the reports of the Independent Monitor by the government of Tanzania after submission to and discussion by a reading committee (see section 7.1.1). The reports would therefore maintain their independence and credibility but benefit from being official publications. A possible publication mechanism for the reports would be for them to be published on a section of the FBDs' own website, that is managed by the Independent Monitor. The procedure of the Reading Committee and the analysis of the findings of the Independent Monitor provide a mechanism for the government not only to give consideration to the text of the report but also to ensure that the objectivity of the report's findings are assessed and verified by a wider stakeholder group.

6.2 Existing civil society adoption of Independent Monitoring approach

There does not appear to be any national NGOs that are in a position to take on the role of an Independent Monitor from day one either with the technical or institutional capacity. Outside of these considerations, the view has been expressed by a number of actors in the sector that a national NGO could not carry the necessary political weight to see through the task with which it would be charged. Given the level of political involvement in the sector the primary risk being intimidation of the staff and other members of the team's family. Situations have been described where Tanzanians have already received threats as a result of their opposition to illegal logging. The position presented here is a real concern in the present circumstances in Tanzania. Should the situation change and the political space for the work of local NGOs increase, there is no reason why independent monitoring of the forest sector in Tanzania could not be carried out entirely by local organisations, given the appropriate human and technical resources to fulfil the function.

The problem of intimidation is not an exclusively local one however. Expatriate staff of international organisations have also received threats in the past and the selected organisation should have the experience in dealing with these situations and providing the appropriate security procedures and structures to ensure safety of other staff as well as effective action implementation. Whilst international staff are also vulnerable to threats, the action framework, use of international media and potential repercussions following attempts at intimidation is expected to provide additional leverage to diffuse the risk.

One of the functions of the Independent Monitor action would be to bring together capacity that does exist outside of the private sector and the government, under the guidance of international expertise and

create a team that could be located within a National NGO to continue the work at the close of the action. Within this time the government and private sector will have been accustomed to external scrutiny and public communication of a result of that scrutiny. Evaluation of this part of the exit strategy would have to be undertaken at the midpoint of the implementation of the action and corrections made as appropriate.

Another issue to consider is the choice of the international NGO or consultancy firm to become Independent Monitor: international NGOs that are already established in Tanzania are classically compromised in that many run large in country programmes which may be put at risk if they were to take on an individual action with the potential to challenge established political elites or power structures. Were the action to uncover high-level involvement in potentially illegal activities the situation might arise where the organisation has to choose between effective implementation of the Independent Monitoring Action and potential threats to its other long-term objectives. For this reason, the organisation or consultancy firm selected to be Independent Monitor should have minimum or no other involvement in Tanzania.

6.3 The press and Independent Monitoring

Coverage over the last couple of years has revealed there is also considerable tolerance for discussion of the issues in comparison with other countries in the region and a free press is a considerable asset when tackling issues of corruption and illegality in the forest sector. A number of journalists have shown considerable strength in documenting and reporting current weaknesses in the system. The approach has been extremely successful in raising the issues that are now firmly on the table. Having been identified however, the problems of governance and illegality now require the proposal of detailed and technical mechanisms to tackle these issues. The current strength of the press in Tanzania will be an asset to Independent Monitoring through bringing information and as a tool to diffuse information on forest infractions once reports have been approved by the reading committee..

6.4 Alternatives to Independent Monitoring

6.4.1 The null hypothesis, no IM-FLEG

There are a number of factors that suggest the need for Independent Monitoring of forest law enforcement and governance is premature. These include:

- 1) The state of flux at present within the institutions of the FBD in particular with the pending implementation of the Tanzanian Forest Service (TFS) and
- 2) The envisaged creation of the FBD/TFS's own National Monitoring System and Database within the National Forest Programme³ which will increase transparency and data availability within the FBD itself and allow the restructure planning unit that remains within the government to effectively monitor the performance of the TFS.
- 3) The proposed redesign of the revenue collection system for FBD⁴ that will be another significant step in increasing the functionality of systems within the Ministry.

Given the nascent stage of these monitoring systems development there may be a case for suggesting that these systems should be installed and operational before concluding that Independent Monitoring action is required. It may be an opportunity, given the apparently concerted political will with the new government and the new Minister, for Tanzania to demonstrate that commitment. An Independent

³ Design and Establishment of a National System and Database within the National Forest Programme, Funded by Danida and currently being implemented by COWI Tanzania

⁴ Audit of the Performance and Redesign of the Revenue Collection System for Forestry and Beekeeping Division. Under the Tanzania Forest Conservation and Management Project (TFCMP) currently ongoing and being carried out by Savcor Indufor Oy, Finlandin Cooperation with Ernst & Young Advisory Services Ltd, Tanzania.

Monitor, that may be perceived as an unwelcome imposition at a time in the Ministry when staff are unsure of their positions due to political shake-ups and suspicion of corruption or bad practice is widespread.

The problems that have been publicised in the forest sector have come about for a number of complex reasons, including the convergence of forces outside the control of Tanzania itself, such as international market pressures but also institutional failures nationally and locally. The programmes mentioned above are serious attempts to address some of these institutional failures, and there are others that are not detailed here. These technical programmes however have to take into account the reality of the political economy of the forest sector within which they operate. Creating the systems and putting them in place will not necessarily make them work in practice.

- ▶ Whilst leaving more time to the government to implement its new systems may provide a better context for the Independent Monitor to start its operations, it must be noted that Independent Monitoring is specifically designed to tackle these issues and support improvements in governance and forest law enforcement. This means that although the context may not be ideal, a decision not to use a tool to improve it, namely Independent Monitoring, may lead to the status-quo being maintained.
- ▶ The proposal for an Independent Monitor should act as a support, not in the design of the systems which is well underway, but in their effective implementation.

6.4.2 External forest monitoring

Another alternative to IM-FLEG may be external monitoring, undertaken by international NGOs, consultancy firms or national NGOs supported by capacity building programs. External monitoring provides information on forest activities by the private sector. However, consideration would have to be given to the links between the civil society monitoring and the established forest law enforcement agencies. If there is no link or formal mechanism for the transmission of this information other than the press, the situation can become hostile and no effective or sustainable action is taken before the press moves onto a different issue and the momentum is lost.

One advantage of external monitoring by civil society is the rapid deployment in the field to detect infractions and speed of publication of other findings, there being no publication protocols. Much information is available on external monitoring type approaches and is a method of working employed by a range of international organisations such as Greenpeace, Friend of the Earth, Transparency International and others. The main disadvantage of external monitoring is the lack of formal links with the government and the international donor community to review monitoring findings, which promote actions to systematically tackle infractions detected and means to improve government enforcement. External monitoring on its own may not lead to sufficient changes within forest law enforcement services at an operational level (DFO and below) to make a significant difference in tackling illegal forest activities. It is however a very useful tool in complement to IM-FLEG. Findings from external monitors can increase information on forest illegalities that feed into the IM-FLEG structure and thus use the IM-FLEG link with government structures and donors, formalised through the establishment of an MoU, to initiate action based on this information at the national level.

- ▶ External monitoring may be preferable to IM-FLEG if good will within the government is deemed insufficient by stakeholders for IM-FLEG to provide added-value to external monitoring. In other words, if it is expected that no action will be taken by the government on the basis of IM-FLEG findings and recommendations.
- ▶ External monitoring may be considered as an exit strategy for IM-FLEG:
 - Following mid-term action assessment in case stakeholders conclude that the Independent Monitor's

findings and recommendations are generally not acted upon by the government.

- Following an improvement in governance by the end of the IM-FLEG action to support information on illegalities available to the government to initiate official investigations and legal cases.
- ▶ The Independent Monitor should, throughout the action and through its regular contacts with civil society, encourage external monitoring undertaken by international and national organisations in parallel to IM-FLEG to increase information available on forest illegalities.

6.4.3 Training Programme to increase capacity within law enforcement services

IM-FLEG experience in previous countries show that poor data management and lack of strategic design in forest law enforcement are among key reasons for weak law enforcement. Various training programmes can be identified in support of the government action including electronic databases to centralize data on volumes and origin of timber products transported, legal cases to enable their tracking etc. This information, in electronic format, should enable analysis that would currently be extremely time-consuming to obtain or update. Other training could include investigative techniques and legal training. A consultancy or program could be designed in order to make use of existing forest law enforcement and design an overarching forest law enforcement strategy, which currently does not exist in Tanzania, thus undermining law enforcement results.

- ▶ Specific training needs could be identified by IM-FLEG and either answered by ad-hoc training by the Monitor through joint work, or through formal training to be carried out outside of the IM-FLEG action
- ▶ Training programmes could be envisaged if IM-FLEG is not agreed as the best way forward in the current Tanzanian context

6.5 Risks to Effective Implementation

A number of the risks below are beyond the control of the Independent Monitor but should be included in progress reports and in the action reports, where these risks affect implementation or realisation of the action's objectives.

6.5.1 Maintaining Institutional Relationships:

There is considerable potential for political and other organisations that may attempt to influence the operations of the Independent Monitor of Forest Law enforcement and governance in Tanzania.

At local level, elected councillors play a big role in deciding matters related to the resources that lie in their control and may have an impact on IM-FLEG operation through exercising control over local administrative resources.

Lack of political will at different administrative levels of the government from national level to regional to district level and fragile cooperation between the different law enforcement bodies such as police and courts may affect the Monitor. Records within police and courts need to be made available to the Monitor and non-cooperation of these organisations could stop information flow. This situation should be countered by associating the Independent Monitoring action with the Vice Presidents Office, via an MoU, which is technically and administratively above the Prime Ministers Office and itself in charge of the full range of ministries in Tanzania. This high level of support for the action, from the Vice Presidents Office, should send the appropriate political signal to all Ministries and regional administrative bodies required for effective implementation.

There is considerable political risk associated with natural resource governance during elections where political parties and political elites require access to cash resources to promote their chances of obtaining government positions and patronage takes place to ensure the maintenance of positions. This is difficult to counter as the highest levels of government can be involved. The Independent Monitor should be aware of the potential risk and report on changes in law enforcement activity early. The institutional framework of the Independent Monitor, Reading Committees and Steering Committees should however diffuse and mitigate this risk. Strong support from participants to these committees should be given to the Independent Monitor. The diversity of participants should ensure that at all stages, support is received towards the action's objectives.

6.5.2 The legislative Regime:

A lack of clarity or a common understanding of the laws and the system of sanctions, changes in legislation and regulations will have to be considered during implementation of the action. An up-to-date database of forest laws and regulations should be maintained. This database should be verified with the FBD legal services and copies made available to other stakeholders where documents are not available through the ministry. To ensure a common working base, the ministry will be encouraged to maintain the latest legal information available on its website. Recommendations will be made by the Monitor on a regular basis, through its reports, to highlight gaps, shortages and grey areas and suggest means to tackle them where applicable.

6.5.3 The Administrative framework:

Both central and local government structures throughout Tanzania are experiencing ongoing restructuring. This exercise has led to low recruitment and retrenchment in the public sector. In the Lindi Region, Liwale District, the largest district in terms of absolute area and forest cover is supervised by only one forest officer. They are responsible for not only undertaking the normal duties such as supervising forestry in the district, but may be required to perform other initiatives under the MNRT and other forest related issues. In this context any restructuring may lead to the loss of information recruitment.

Lack of multi-sectoral cooperation in forest policy implementation and weak effectiveness at community level can create and contribute to conflicting decision making and hence limit the results of IM-FLEG. To mitigate against this requires clear and consistent policy guidance from the central government to the different organs of government implicated in forest policy implementation. Communication mechanisms should be examined and created or modified where they are not already up to the task. Detailed recommendations to tackle this issue should be made early in the implementation of the action.

6.5.4 Poverty, forests and the local economy the implications of improved law enforcement

The high level of on-going illegal forestry activities is a warning of people's heavy dependency upon forests as considerable source of cash income for poor households. More effective law enforcement may lead to restricting cash income for some poorer sectors of society in Tanzania. Both the government and the Independent Monitor should prepare a strategy to reply to this eventuality.

Increasing pressure to enforce forest laws will not succeed if the parallel actions are not taken to support the required outcomes, these parallel actions will be identified in detail in the analysis reports of the Monitor. A mechanism within government to pick up the recommendations of the Independent Monitor,

evaluate and act upon them should be put in place where these are passed on by the reading and steering committees.

Application of the law can have negative consequences for the poor in society and the structure and different types of production operations in the forest sector should be considered from the perspective of the impact increased law enforcement will have on the very poorest involved in the industry. The industry structure for the production of sawn timber, for example, may also vary from one part of the country to another. This will require different strategies to tackle illegal production in different parts of the country.

For example, North of the Rufiji River, organised gangs of workers from outside of the region are implicated in pit sawing activity. Where this is the case, communities are not gaining employment or benefiting from the trade that is taking place even if this is illegal. There are therefore next to zero net gains but considerable losses in terms of forest degradation to the communities affected.

South of the Rufiji River, communities are more implicated in illegal logging and therefore have more of an interest in perpetuating the activities. In the absence of a functional legal framework within which the timber sector operates, the members of the communities involved are realising only a fraction of the revenue that should be returned from the sector. Also the activity, illegal and not in accordance with the district forest plan, is unsustainable and short term cash gains, small as they for the individual, may be offset by long term degradation of the resource and the attendant negative impacts. The communities as a whole are only realizing a very small percentage of the value of the resource they are current selling, or essentially giving away. The local government also loses revenue through tax evasion that undermines the installation of a functioning infrastructure to support other areas of development, including health and education. In this case they will be harder to recruit in the fight against these activities.

It has been estimated that at the local level the population receive only about 1/100 of the export value of the timber they harvest.⁵ This position was supported in discussion with villagers in Nyamwage who had indicated that they had received only 300 TZS per plank of timber cut and removed from the forest. The Kisarawe District Executive Director, Lewis Kalinjuna, told the visiting councillors that his district expects to earn between 50 to 60 per cent of its total annual revenue income from forest products including charcoal, timber, poles, logs and firewood.⁶ Other reports have highlighted that only 4% of the revenue due to the government is being collected⁷.

Concerning impacts on the poor and increased forest law enforcement, it is REM's experience that in a drive for increased forest law enforcement there may be a tendency to arrest/sanction or otherwise punish those targets that are the easiest to catch, this can include the poorest in society who do not have political protection or the means to bribe their way out a given situation. This approach allows a government to appear as though something is being done, making claims of the numbers of arrests in the press while not tackling the players in the sector that are having the most significant negative impact on the forest resource and its potential sustainable use. It is therefore a real issue that needs to be, firstly acknowledged, and then considered in the development of a national forest law enforcement strategy that identifies the priority targets for improved law enforcement and governance.

7 Proposed Independent Monitoring Scheme

⁵ Presentation to the Forestry and Beekeeping Division, 23rd September 2005, Traffic East/Southern Africa

⁶ Mufindi councillors decry wanton forest harvesting. 2004-07-26, By Amri Lugungulo, PST, Kisarawe.

⁷ Presentation to the Forestry and Beekeeping Division, 23rd September 2005, Traffic East/Southern Africa

7.1 Proposed Institutional setting

Considering the current government institutional arrangement for forests, which involve all levels of national and local government, and also the press coverage of the illegality and bad practice that plague the sector and implicate the highest levels of government, the following institutional arrangements are proposed.

A Memorandum of Understanding (MoU) should be signed between the Vice President's Office, the selected Monitoring Organisation and the concerned international donors. The MoU should:

- 1) Express the commitment on the part of the Government to support the effective implementation of the action through respect for the action's Terms of Reference, and to take all actions necessary to effect reform in the forest and related sectors which effect its correct functioning.
- 2) Engage the selected Monitoring Organisation to supply the services specified in the Terms of Reference to an internationally acceptable standard and form a direct agreement of partnership between the Monitor and the Government of Tanzania.
- 3) Engage members of the Donor community to provide financial support to the government of Tanzania to finance the implementation of the action and continue to support the government in the reform of the forest sector through supporting parallel activities that are identified, and agreed as being necessary by all parties.

As the funds for the project will not be sourced from the government or from loans or other funding routes that implicate the government, there is no need for a formally binding contract between the government and the selected Monitor. There is however a need to capture, in a formal way, the commitment of the government to collaborate in effective implementation of the action and to respond to the recommendations which result from it.

An MoU is suggested as it represents a concrete expression of the political will on the part of the government to collaborate fully in the implementation of the action. The existence of an MOU signed at the suggested level will send the appropriate signal to the rest of the government and the private sector that cooperation in the implementation of the Action is expected. The ToRs of the project should be annexed to the MoU.

The Vice Presidents office (VPO) has been identified as the point of contact within the government for a number of reasons, including that the VPO is in charge of all matters relating to the environment. Given the high political levels of involvement in the sector, effective implementation may require such a high level of political support. The VPO is technically and administratively above the office of the Prime Ministers office (PMO). The PMO might be an alternative contact point for the Monitor to the Government and would bring the advantage of being the lowest point in the government that is capable of bringing together all of the government institutions responsible for forests, including the Regional and Local Government structures and the central Ministries such as MNRT and the Directorates responsible for forests. REM is of the opinion however that the oversight role charged to the Monitor, together with the political sensitivity of the issues to be addressed requires that the MOU be signed with the VPO and that the reports of the Monitor are submitted to the VPO's office and action committees. This arrangement should provide the project with the status it will require to ensure efficient functioning and collaboration with all parts of the administration including the day-to-day implementation which will operate at much lower levels of government.

The proposed arrangement will also facilitate the work of the Monitor in collaboration with the forest

officers and other authorities on the Islands of Zanzibar as well as mainland Tanzania.

There are a small but growing number of organisations interested in the implementation of the IM-FLEG approach each of which may propose a different methodology for implementing an action of the type proposed. To ensure that the most appropriate methodology is employed, it is suggested that an Independent Monitor be chosen through a tendering process based on a shortlist of organisations with experience in the areas concerned. The tender should follow the procedures of the identified funding agency.

7.1.1 Government Partners

The main Government partner in implementation identified in the MoU will be the Ministry of Natural Resources and Tourism (MNRT). In particular, the services of the Forest and Beekeeping Division (FBD). If an Independent Monitor is to be installed in the near future, then the MoU with the Vice President's Office should contain wording to the effect that when the new executive service of the TFS becomes operational, it should take the role of partner with the Monitor where the departments within FBD are attached to it. That is, the MoU should anticipate the institutional developments and the implementation of the action should, in essence, be proofed against this anticipated institutional change.

The MoU should also specify collaboration with the Prime Minister's office and Regional Administrations and Local Government and other ministries involved in the administration of forests, forest revenue, legality issues and others.

The MoU should in particular call on the government to identify counterparts within the Tanzanian Revenue Authority (TRA) and the Ministry of Justice, the Ministry of Home Affairs and other Ministries as required to achieve the overall goals of the action.

Details for the points of collaboration between the Monitor and current FBD staff in the field are presented in the Mandate of the ToRs in annex 1.

For review of results of field investigations, a 'Reading Committee', situated within the MNRT should provide a forum to examine, review and agree on the findings of the Independent Monitor's field mission reports and their subsequent publication. The MoU should require the establishment of this committee and nominate members of it as suggested below.

To increase transparency among partners and maintain credibility of the reports the Reading Committee members should include representatives of the FBD (and TFS), including the officers participating in the investigation or otherwise implicated (for example the DFOs), including the Legal Unit within the Ministry, the Independent Monitor, and concerned donors. The Prevention of Corruption Bureau should also be nominated as a member of the Committee. A representative of MNRT should chair the meeting. Once adopted, the Monitor's field investigation reports will be published on a website.

To facilitate the internalisation of the recommendations of the Monitor, the inception phase of the action should initiate the establishment of a Steering Committee, which should meet at least every 6 months, to review monitoring observations and recommendations made by the Monitor and the response to those recommendations by the Government. The Steering Committee should implicate the Vice President's Office, The Prevention of Corruption Bureau, concerned donors, the selected Ministries involved, the Independent Monitor and civil society representation.

Before each Steering Committee, a debriefing note summarising key positive points and problems identified will be prepared by the Monitor to participants in preparation of the Steering Committee. The analysis will be thematic to facilitate the focus of debates with the concerned participants. The debriefing note will include an update by the Monitor on indicators of progress in forest law enforcement and detection of infractions by the government. These debriefing notes will not include reporting on the administrative aspects of the action, but deal with political and other issues related to the achievement of the overall objectives.

The Steering Committee will review the changes in these indicators each time it is convened. A further function of the Steering Committee will be that of conflict resolution and mediating relationships over substantive issues between the Independent Monitor and the main implementing partner, MNRT, or other Ministry or government department, should they arise.

All administrative reporting relating to funding and contract compliance is dealt with under section 7.1.5.

7.1.2 Ministry of Justice

Discussions were held with representatives of the Ministry of Justice. Specific arrangements will be required to associate with the Ministry of Justice. It has been noted that legal knowledge and capacity within FBD is extremely limited and insufficient to tackle the follow-up of cases brought to Court. There is room for improvement. Ad-hoc support can be provided by the Monitor on a case by case basis and through its contact at various levels with forest officers, however, further considerations should be given to reinforce capacity. It has been noted, for example, that coercive measures such as confiscation of trucks carrying timber, was not currently promoted. This can however act as a means to trace those responsible for organising illegal transport in a more effective manner than the mere seizing of timber. Forest officers noted that many culprits did not claim the seized timber and could therefore not be identified or prosecuted.

Aside of this issue, insufficient legal knowledge of forest officers means that when called as witness in Court, they may not be sufficiently aware of procedures to support the concerned cases, faced with a strong defence team. There should be legal representation of the government and a lawyer present at each Court (District and Primary) case. Legal training could be provided to some forest officials to increase capacity.

7.1.3 Tanzanian Revenue Authority / Customs

As mentioned, it is recommended that an Independent Monitor does not include the whole range of revenue collection activities as part of its mandate. What the Monitor can do is to verify the existence of revenue receipts at relevant points in the production, transport and market chains where these are required. This can have an effect on the proportion of revenue collected by increasing efficiency of the system that is currently in place. Reporting of instances where non-payment of taxes due is uncovered should be part of the reporting process of the Monitor. This could be done on a case report or thematic report basis. Where a thematic analysis is carried out conclusions could be drawn on the basis of the primary data available.

The role of the Monitor should stop at this point however and the clarification of the receipts from the forest sector by the TRA should be the subject of the regular audit procedures within the Ministry responsible. Duplication of this function would not seem valuable.

Monitoring the budget of the Ministry is seen as the function of the task of the internal audit team of the Ministry dedicated to this task. It is assumed that the Ministry is also subject to external audits.

7.1.4 Ministry of Home Affairs

The principal partners within the Ministry of Home affairs will be the Police Force. There should be collaboration with the police concerning forest related legal cases, to access the police force and procedures at different levels, particularly the local levels.

7.1.5 Donor agencies

The Donor Agencies, as well as being signatories to the MoU and participating in Reading and Steering Committee meetings, have the role of funder to fulfil. Financing of the action should be completely independent of government and funds. The reasons include that the integrity of the monitoring action could be compromised if revelations concerning members of the government and suspected illegal activities may have influence over the flow of funds to the action. Thus providing a potential point of leverage to influence the reports of the action. These potential points of leverage should be eliminated as far as possible through an appropriate action framework, a part of which is the independent funding arrangement.

Where possible the action should be given broad base of support from the donor agencies rather than being associated with one particular funding agency or country embassy. This reduces the possibilities of political isolation of the Independent Monitor and sends an important signal to the host country about the importance that the donor group attaches to effective implementation.

To ensure contract compliance the Monitor would report directly to the funding agency in accordance with the rules of the relevant funder(s). This administrative reporting for contractual compliance purposes will be directly between the Monitor and the funding agency(s) and will not implicate either the reading or steering committees, which are focused on the realisation of progress by the government in achieving good forest governance.

7.1.6 The private sector

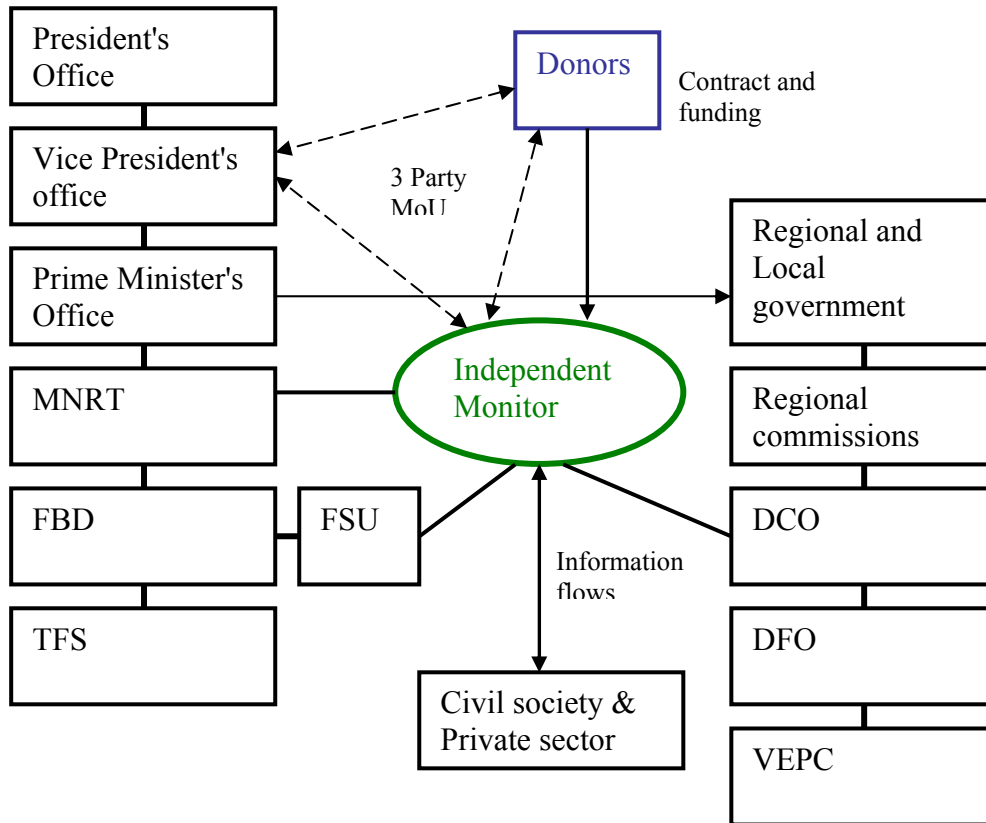
Despite being the target of many of the implementation activities of the action, the private sector does not have a role to play in its institutional structure. Points of interaction with the private sector are detailed in the proposed action ToRs. There should be a constant contact with the representatives of the private sector, not just through ongoing investigations but also through receipt of information concerning the activities of government services highlighting the problems faced in following regulations. The better private sector operators may also benefit from increased law enforcement and therefore share information on illegally operating competitors, and about administrative blockages which may fuel fraud or illegality.

7.1.7 Civil society

Fixed links are not envisaged with civil society in the proposed action structure but there should be close and ongoing contact with representatives of villages through field investigations. There should also be an open door policy of the Independent Monitor to receive individuals and representatives of non-governmental organisations, including the private sector in order to receive information about either illegal forest sector activities or bad practice on the part of government agents.

The previewed action structure also envisages collaboration on a certain number of small projects that will be identified as necessary to support achievement of the action goals.

Overall Proposed Tanzania IM-FLEG Structure



7.2 Proposed Indicators of IM-FLEG impact on FLEG in Tanzania

No.	Indicator
1	Number of joint field investigations realized
2	Percentage of joint investigative missions observed where infractions found.
3	Percentage of observed infractions leading to administrative or judicial sanctions by district
4	Number of vehicles reported seized by district
5	Percentage of legal cases brought concluded successfully by district
6	Level of sanctions sought by government
7	Level of sanction imposed by the court
8	Percentage of sanctions imposed in the given period
9	Percentage of monthly DFO reports received by FBD
10	Number of independent investigative missions realized

11	Percentage of Monitor's reports adopted by government
12	Percentage of the Monitor's reports published

Details of the functioning of the indicators and the reasons for their selection is as follows:

- 1) In principal all missions should be conjoint. Whether joint field investigations are taking place or not is a key indicator of the successful collaboration between the Independent Monitor and the government law enforcement services. The baseline for the assessment of success in this respect is a comparison of the number of joint missions that have taken place in comparison with the number of missions previewed in the original action proposal.
- 2) This indicator sets the baseline for indicator 3 but also provides information to interested parties as to the functioning of law enforcement. In the early stages of the implementation of the action, the number is expected to increase as the efficiency of law enforcement increases. Towards the end of the action it is expected that the percentage of infractions decrease as greater respect for the legislation is realised.
- 3) Expressed as a percentage, the indicator will provide an indication of the 'drop-out rate' of cases that are detected but that fail to make it to the court or other sanctions processes.
- 4) Tackling the transport bottleneck in the timber trade is crucial in denying illegally produced products market access. This indicator should focus the attention of law enforcement and police officers on the fact that there are possibilities to seize significant capital items of equipment such as lorries used for the transport of illegally produced products as provided for under Article 93.c of the Forest Act, 2002.
- 5) Following on from indicator number 3, this figure will provide a clear indication of the strengths or weaknesses of the legal services in their prosecution of forest related cases in which the Monitor has been party. The Monitor's analyses can also feed into the indicator surveying the total number of forest cases that were brought allowing conclusions to be drawn on where the courts system needs strengthening or guidance from government when dealing with such cases.
- 6) Cases can be won but the sanctions that are imposed have to be meaningful. If the forest services are performing well but the sanctions sought by the prosecution have to be a deterrent to those found guilty and to those who witness the procedure and may be considering similar illegal activity.
- 7) This indicator will provide information on the functioning of the judiciary, the next step in the legal chain of prosecution, and enable an assessment of the sanctions sought and the sanctions imposed by the judges in the cases examined.
- 8) If the fines or other sentences have been paid is a final step in the sanctions process, verification of percentage of fines paid, and sentences served are crucial to the whole process from the field investigation to the final judgement at court. Information for this indicator may be difficult to retrieve and will require co-operation from a number of different government departments.
- 9) Provision and analysis of the number and quality of monthly DFO reports, which are required under administrative procedures to be provided through the Regional and local Government administration, will enable the Monitor and the central government to assess the functionality of the resources and send a significant signal to the DFOs that their reports are expected and will be examined. Ensuring information is available on which to base further policy decisions.
- 10) The number of independent investigation missions realised should be contrasted with the total number of previewed missions in the original action proposal, where neither joint investigative missions nor independent missions are taking place there is a serious problem with implementation. Reasons for the failure should be sought and remedial action taken.
- 11) The percentage of report adopted by the government is an indication of the scale of the

disagreement between the Monitor and the government services. It may signify a number of reasons including that there is significant opposition within government to tackle the issue of illegal logging and associated trade, or mainly a consensual need for further investigations. It should be highlighted that where disagreements remain following discussions in the Reading Committee, the Monitor's report should be adopted, but a box including the Reading Committee's comments with the view expressed by its members is added. This is essential to guarantee the independence of the Monitor's Reports, whilst enabling the Government to express its views.

- 12) The percentage of report published in the period is a significant indicator of the willingness of the government to disseminate the findings of the Monitor. It is also an indicator that the Monitor is able to undertake a sufficient number of field investigations to draw an analysis of the sector and law enforcement.

7.3 Exit Strategy

The exit strategy for the action has a number of elements that are embedded in the ongoing implementation of the action.

Firstly, there is an assumption that throughout implementation of the action, there will be a continual passing of skills and working approach from the Monitor to the FSU and other Ministry/TFS staff and the DFOs that the Monitor has regular contact with. The approach and working methods of the monitor are intended to provide an example of good working practice that should be continued after completion of the action.

Secondly, the recommendations of the Monitor should be geared to creating stronger and functioning systems within government, rather than passing reports at the Reading Committee, publishing them and there being no action taken on the basis of the conclusions drawn and recommendations made. The Steering Committee should ensure that this is not the case.

There should be wide distribution of the outputs of the action within the Ministry to support the adoption of a culture of information sharing and increased transparency.

The donor community should create a reserve of funds to support identified activities that will need to be undertaken to build capacity in civil society, the private sector and the government. For example setting-up a forest sector focused newsletter funded and published independently from the government and mainstream press. The newsletter could be sold or distributed free and contain details of the information that is available from the Ministry, from the Independent Monitor while it is in operation. Published information could include denunciations, legal cases, prosecutions with the objective of raising public awareness on forest laws and changes in regulations and policy. The government could also use the newsletter for bringing attention to issues it would like to raise, making official notices etc.

During implementation of the action by the appointed Independent Monitor, capacity building programmes with local organisations should be considered as part of an exit strategy for international assistance. A 'shadow' monitoring could establish within a national organisation that could be trained in the working methods and use of appropriate tools such as GIS technologies, other data analysis tools and procedures and reporting practices. For a clear separation of roles, it is suggested that there is a clear separation between capacity building and training and the organisation that fulfils the function of the Independent Monitor.

7.4 Time Frame

The various bans on the export of logs in recent years and the administrative halt in the allocation of permits to cut timber have had a considerable effect on the sector and the levels of cutting. These measures are temporary however, and are not contributing to the resolution of the underlying problems that have led to the current position. The IM-FLEG approach is a tool to tackle these problems and should therefore be implemented as soon as possible before the lifting of the export ban and the resumption of the allocation of cutting permits to reinstate the timber sector and get it operating on a more sustainable footing. For this reason it is recommended that implementation begin as soon as possible to address what is an urgent problem.

Given the current state of Institutional Change within the FBD and its ongoing programmes, there does not appear to be an identifiable target date that can be fixed in the near future with any certainty that would be preferable to begin the action. There has been a planned handover of functions from the existing FBD to the Tanzanian Forest Service. This process has been delayed for a number of years and the potential for change in the near future is unclear. Action implementation should therefore be aware of and responsive to the institutional changes that are planned and/or ongoing. In particular, the Monitor should relate to the ongoing development of the FBD's own monitoring systems that are currently being designed under a consultancy with the government of Tanzania and LTS/COWI.

The proposed duration for an Independent Monitor to be in place is three years from the start date of the action. A 3-month inception phase is proposed to install the proposed team, purchase and install the necessary equipment and set-up an independent functioning office. During this inception phase, the Monitor should establish the details of the working operations, establishing relationships with counterparts and test operational systems. The action should be fully operational for the following 31 months. There will be a 2-month closing period of the action where no new investigations will be undertaken and final report preparation and closing administration will be done.

If the political will exists at the higher levels of government a three-year programme should provide sufficient time for a change in working practices of staff at lower levels in the ministry, but on whose collaboration reform has to be built. This will also provide sufficient time during implementation to identify the most significant problems within the functioning of the central and decentralised forest related services. The new approach of the ministry, and regional government administrations, including the sanctioning of staff for corrupt practice or non-performance, may take time to evolve into standard practice. Staff may also take time to realise that there has been a change in the way that the higher levels of government are operating. The private sector will also respond in a gradual manner to the change in approach to field inspections and become habituated to the following of established procedures.

Three years for the reform of a sector is an optimistic timetable, however with an effective exit strategy, including the replacement of the international action by increased capacity in civil society during this period, reform should continue and be an ongoing process, but upon the foundations which have been established during this three year period. A mid-term evaluation of implementation and progress made should be undertaken to ensure that the action is realising its objectives. Relevant action adjustments should be made where problems or successes are identified.

7.5 Human resources

The IM-FLEG approach requires the bringing together of a range of different skills. This includes an understanding of the legal, administrative and judicial frameworks that the sector operates within, as well

as a field knowledge of operations of the private sector. IM-FLEG is fundamentally a systems analysis approach to examine the actions of the government and the private sector, particularly how the legislation and procedures are applied to achieve the forest policy objectives. The proposed activities are all undertaken in the context of the national political economy of forests in Tanzania. The influences that this can bring to bear on a team charged with the responsibility of undertaking this important task are significant. It is with a focus on the independence of the Monitor and to provide insulation from the sometimes-strong political forces that can operate in the sector that two international leads are proposed for the action. The two international leads also act as a cross-check on each other where local staff may feel unable to challenge a single action leader.

With this in mind, it has been identified as being necessary to have a visible international lead for the project that can be considered independent of government and appreciate the perspectives of the private sector, the policy objectives of the government of Tanzania and international donor and policy context. The international nature of the project leaders should provide sufficient profile to the entire team to provide an outer perimeter of visible political support, both national and international, to ensure successful action implementation. The international team leaders should be the public face of the project while receiving the support and detailed local knowledge from key staff that know the field and technical aspects of the work to be undertaken. It is for this combination of reasons that the human resources identified as being necessary for the action are as follows:

Two international staff

1 environment/forest specialist: Team leader, Full time. The team leader should be acceptable to civil society and have experience of dealing with both Governments at least to the Ministerial level and have a solid knowledge of the forest sector in the African context. The team leader should have no ongoing connections with the private sector or other interests in the forest industry.

1 legal expert: Deputy team leader should have a sound practical working knowledge of legal systems in the region and a record of independence. This person should be acceptable to civil society and have worked on governance issues or the forest sector. The legal expert should be independent of the forest sector.

Eight National staff

2 foresters: Drafting field mission and other reports and providing technical input to the leaders of the action as required. Carrying out research and liaising with FBD and other government officers on a daily basis. Providing GIS support for the production and analysis of field data.

2 lawyers: Drafting legal conclusions of field and other reports, carrying out research and liaising with government and court officials as directed by the main legal expert. Making input to thematic legal issues.

1 Administrator: To provide accounting and administrative support to ensure compliance with contractual and national administrative obligations.

1 Secretary: General support to all members of staff, managed by the Administrator

2 Drivers: Experienced driving staff to support logistics in the field and provide general support in Dar es Salaam.

National Consultants (see budget 80 days)

To provide specialist support to the implementation of the action in dealing with the press, establishing ad hoc partnerships with NGOs when undertaking field mission and mission follow up that would otherwise draw on the resources of those NGOs. This should also provide a contingency cover should staff fall ill additional staff are required to undertake urgent work during staff vacation time.

International Consultants (See budget days 60)

To provide training where necessary to local staff in specialist areas such as GIS to ensure the ongoing functioning of the action. External evaluation of the action should also be undertaken at the mid term and conclusion of the action. Ongoing adoption of the recommendations of the action by the government and the overall functioning of the action should be included in the evaluation. Progress towards the achievement of the exit strategy should be included in the assessment.

Concerning office space, it is recommended that the team be housed very close to the current Clock Tower or Ivory room locations of the FBD for logistical reasons but not inside of either of these buildings. This proposal serves a number of functions, including data and personnel security, accessibility to informants from both the private sector and civil society and maintenance of the independent position of the Monitor.

7.6 Budget and funding mechanism

It is envisaged that any Independent Monitoring action will be financed independently from the government budget, and that the monitor will be free to choose its own staff, but in accordance with the procurement procedures of the funding agency/mechanism. No MNRT or other government staff will be directly attached to the action but the MoU mentioned above will engage the government, particularly the MNRT and the regional and local government administrations involved with forests, to collaborate with the Independent Monitoring team to implement the action based on an agreed terms of reference.

Funding should be sufficient and flexible enough to ensure that the Monitor is capable of rapid deployment to the field, using its own resources and staff to any part of the country. Funds should not be passed from the action to the government directly either to support ongoing collaboration or deployment in the field.

See spread sheet attached.

Annex 1:

Proposed Terms of Reference for Independent Monitoring of Forest Law Enforcement and Governance in Tanzania

1 Context

About 38% of the Tanzania's 886,000 square kilometre total land area is covered by forests and woodlands that provide for wildlife habitat, unique natural ecosystems and biological diversity and water catchments amounting to 1.6 million hectares. These forests are however faced with deforestation at a rate of between 130,000 and 500,000 ha per annum, which results from heavy pressure from agricultural expansion, livestock grazing, wild fires, over-exploitation and unsustainable utilization of wood resources and other human activities mainly in the general lands.⁸

The 1998 National Forest Policy in Tanzania is achieved through the implementation of activities in the National Forest Programme: The objectives of the programme are:

- (i) Sustainable supply of forest products and services ensured to meet the needs at the local and national levels; (ii) enhanced national capacity to manage and develop the forest sector in a collaborative manner; (iii) enabling legal and regulatory framework for the sector in place and (iv) increased economic contribution, employment and foreign exchange earnings through sustainable forest-based industry development and trade of forest products.⁹

The principal legislation governing the forest of Tanzania are The Forest Act (2002), also known as the Forest Act No. 14 OF 2002, and the supporting Regulations made under section 106 (1) of the Forest Act 2002, namely, the Forest Regulations 2003. It should be noted that the Forest Regulations are under review and will be amended on an ongoing basis to improve their performance and functionality.

Other policies that have a significant bearing on the Forest Policy are the Environmental Policy and the Land Policy. The implementing legislation for these policies that should be considered are: the Environmental Management Act 2004, the Land Act of 1999 and the Village Land Act of 1999.

The legislative framework for forests in Tanzania is changing given an ongoing review. Implementation of the action and the baseline against which Independent Monitoring is carried out should consider these and other ongoing programmes.

⁸ MNRT, FBD National Forest Programme 2001 – 2010, November 2001. Page xi

⁹ MNRT, FBD National Forest Programme 2001 – 2010, November 2001. Page xi

2 IM-FLEG Objectives

General objective

The general objective of IM-FLEG in Tanzania is to support increased governance within the government in the forest sector and improvement in forest law enforcement

Specific objectives

- Tackling corruption within the administration, by making specific recommendations with regard to procedures and their application.

- Making more information available on forest sector activities through the regular publication of reports detailing the operations of:

- I) The private sector and its operators respect for the forest related national laws and regulations and,
- II) The activities of government officials at all levels in relation to established procedure and laws relating to forest administration.

- Support the clarification of legislation and increase the accountability of administrative procedures

3 Expected IM-FLEG results

Forest Law Enforcement

- Forest law enforcement mechanisms and procedures are analysed by the Monitor, their conformity with regulations assessed and implementation improved following the Monitor's recommendations
- The number of court cases against illegal forest operators has increased due to: an increase in information on illegal forest activities (see below); the Monitor's recommendations; and input received (see section 8)
- The follow-up of court cases and recovery of taxes has improved following field reports and the implementation of the Monitor's recommendations

Information on illegal forest activities

- Information on illegal activities known to various organisations or press is harnessed by the Monitor and consolidated by its independent investigations¹⁰
- Information available to the government and other stakeholders on illegal forest activities by the private sector has increased following the Monitor's independent and joint field investigations
- The diffusion of information on information related to forest exploitation has improved
- Information on permits and district forest plans is compiled and made available for public consultation to support the detection of infractions.

¹⁰ Investigation means the documentation of illegalities including GPS data, photographs, video, testimonies, etc. Investigations by the Monitor do not include any regalian function (seizing equipment, etc.)

- Lost opportunities for revenue capture from forest sector activity related to cases of illegal forest activities are identified in the Monitor's reports

Sustainability of the action

- The gains realised by the action are sustainable and continue after its completion.

4 Outputs

This section deals with the types of outputs that the action will generate. The working mechanisms concerning timing of their review and publication are presented below in section 5.6

4.1 Technical outputs

4.1.1 Field investigation reports

Following each investigation, the Monitor should produce a field investigation report including the details of the investigation's itinerary, infractions observed, an analysis of applicable legislation, recommendations for the follow-up of infractions, an analysis of the respect of procedures by government officials and supporting documentation, photographs, videos and GIS data.

Field investigation reports may be thematic or not, according to the needs identified during the action.

4.1.2 Analysis reports

Bi-annual analysis reports will be produced by the Monitor. They will summarise key issues related to forest sector activities and forest law enforcement, including: trends of infractions with illustrations, issues faced by the private sector, application of forest law enforcement procedures by government services, progress identified and problems found, analysis of forest law enforcement systems and recommendations. The government will have a timeframe to provide comments, after which the report will be adopted.

4.1.3 Briefing notes to the Steering Committee

The Monitor will produce briefing notes before Steering Committee meetings summarising main issues concerning progress made in forest law enforcement, problems found, as well as cooperation received or difficulties encountered in the implementation of the action (access to information, collaboration with stakeholders, etc). Where there is serious disagreement by either party concerning the content of a field investigation report or an analysis report, the **Steering Committee** would act as a conflict resolution and mediation forum.

A review of the overall progress in tackling weak governance and illegality in the sector will be included in the briefing notes which will be circulated not less than one week before the scheduled date of the meeting.

Administrative issues relating to the contract of the Monitor will not be addressed in these notes.

4.1.4 Data management outputs

- Tables including information on forest infractions detected and their follow-up will be produced by the Monitor.

- GIS database including data gathered by the Monitor

4.2 Website

The Monitor will support the creation of web pages hosted within the government's website and the Monitor's website, including the Monitor's reports

4.3 Press releases

Press releases will be made summarising issues and findings raised in reports published and information about the Monitor's objectives and mandate

4.4 Administrative reports

Project management, administrative and financial reports will be produced in accordance with the project funders' requirements.

5 The Independent Monitor's Mandate and activities

The Independent Monitor will focus on activities related to forest exploitation. The monitor will not be responsible for tackling issues related to wildlife and the trade in protected or endangered species, or the management, production and trade in honey. If information becomes available to the Independent Monitor during the course of implementation of the action, this information should be passed to government departments and organisations working on these issues.

5.1 Access to information

Collaboration with governmental agencies and the creation of an effective working relationship with individuals is essential. The exchange of information is a crucial factor in the functioning not only of Independent Monitoring systems but also of the government itself.

Free access to all information pertinent to forests and the achievement of the overall goals of the action should be provided to the Monitor by the government. Information should be provided without the need for agreement from the direct superior, but on presentation of a written request and copy of the MoU and action ToRs.

The Independent Monitor should work with those responsible for developing and implementing National Monitoring System and Database within the National Forest Programme to make this system operational.

5.2 Field investigations

Carrying out effective field investigations is dependent on access to information from within the administration. Cooperation with the Ministry should be established in researching the existing forest resources and the various valid permissions that exist to exploit them.

The Independent Monitor will have the right to associate with the any forest officer but should work closely with the Forest Surveillance Units of FBD in the first instance. The Monitor should accompany forest officers in the course of carrying out their duties and make observations, including during their administration or field investigations, but should not take over on any of

the regalian law enforcement functions. Technical support may be provided in the documentation of findings, these documentary materials should be handed to the officers concerned and copies kept by the Monitor for their own records. Where such field missions are undertaken the Monitor will produce a field investigation report and document the investigation process as carried out by the government agents, comment on their respect for procedure, investigation findings and conclusions, and actions taken. Comparisons made will be in relation to established law and administrative procedure relating to forests at the time of the investigation.

The Monitor should be provided with sufficient notification of the deployment of Forest Officers from the divisional Forest Surveillance Units in order that the Monitor can join the investigation should it so wish.

The Independent Monitor will have the right to undertake field investigations with or without the presence of any representative of the government. Where such independent investigations are carried out, i.e. without a government officer, the information documented by the Monitor will be transmitted to the government in the form of a field investigation report. Independent investigations will be used to document illegal forest activities and rapidly report findings to government officials, however, no regalian function will be filled by the Monitor. Regalian functions include notifying companies of an infraction, confiscation of equipment, convocation to official hearing, requests to district courts to open a case etc. The Monitor will inform the office of the director of forests before undertaking an independent investigation to provide the government with an opportunity to make the investigation official should it wish to accompany the Monitor. In this case the forest officers will do so in their full official capacity.

Where field investigations are undertaken by forest officers without the Independent Monitor, the Monitor will have access to the records, correspondence and reports in the possession of the concerned Forest Officers after the investigation.

Forest inspection will be undertaken using GPS and GIS tools, photographic, video documentation, interviews and other methods that are useful in investigating forest exploitation activity.

5.2.1 Forest inspections:

Plantations: Inspection of forest plantation should be a priority in the first year of the action given the economic importance of this resource and the ongoing exploitation activities.

Natural forest: Given the dispersed nature of the forest resources in Tanzania and the small nature of the team of the Monitor should deploy its resources strategically monitoring transport bottlenecks and processing facilities and markets as well as undertaking field investigations based on information received about specific illegal activities.

5.2.2 Transport checkpoints:

The Independent Monitor should work with FBD/TFS staff at the checkpoints around the country to verify the records that are kept and crosscheck the information with other data sources. This may include inspection of vehicle papers outside of the normal checkpoint facilities. During this joint work, the Monitor will not undertake any regalian function but will observe the checks. The Monitor may provide recommendations to the government where appropriate and help gather information and improve their effectiveness.

5.2.3 Export inspections:

Verification missions of TRA and FBD inspections of containers for export should be undertaken by the Independent Monitor. These missions should be undertaken in the presence of customs and FBD officials on an ad-hoc basis so as to act as an audit mechanism on the containers that may have been sealed anywhere in the country but that are ready for export. Procedures for these missions should be established with the relevant authorities. The possibility for these verification missions to be realised should be communicated to all officers responsible for the closure and assessment of the contents of containers carrying forest products. During this work, the Monitor will not undertake any regalian function.

5.2.4 Sawmill inspections:

The Independent Monitor should accompany forest law enforcement services to carry out inventories and other facility inspections to verify that the timber held within the sawmill yards is of a legal origin. Other administrative procedures should also be verified. The Monitor will observe and support the documentation if illegalities and other checks, but will not undertake any regalian function.

5.3 Checking administrative procedures.

The Process of land classification: Checking applications documentation and processing of the applications. Including access to the applications documentation at all stages.

Permit/License/Certificate Application and processing: Checking applications documentation and processing of the applications at all levels including the village level and central Ministerial level. The Monitor may make an assessment of the validity of cutting permits including the administrative processes in their allocation and their form. Where procedure is unclear regarding the need for a permit there will be clarification with the relevant government services and analysis of the procedure detailed against existing regulations and perceived best practice. This aspect will be covered in all types of forest and plantations.

Port Inspections: Access to the port and inspections records within both the FBD and the TRA regarding the physical inspection and sealing of containers and for the collection of export revenue. The Independent Monitor should have access to the records to support the audit approach that can be taken to port inspections (see field investigations).

Revenue Collection: Verifying revenue collection and the payment of fees at all points in the forest exploitation chain. This starts from the registration as an operator in the sector through to the payment of export taxes where forest products are being exploited. This is essential to support the achievement of the objectives of the forest sector, where it is included in the MKUKUTA/PSRP for Tanzania.

FSU and DFO operations records and data: Including logbooks for work undertaken and any data resulting from their work.

Court cases: Following the procedures of different courts (district and other) where forest related cases are tried. Gathering information on judgements and respect for the procedure by both the courts themselves and the police services if they are implicated. Comment should be made on the judgements of individual forest related cases but also in the tracking and administration systems of the courts themselves. At no time should the actions of the

Independent Monitor prejudice the outcome of any ongoing legal case.

5.4 Working with Civil Society, NGOs and the Press

The Monitor should commit to communicate first and foremost to the reading committee members, to give the stakeholders a chance to address the observations and recommendations.

The Independent Monitor will also be free to work with local and international NGOs and the press on issues associated with the achievement of the overall action goals. This includes association on small projects of research into the activities of the private sector and other matters identified and agreed in accordance with the associated Memorandum of Understanding and the action's funding contract.

All reports based on information received by the Independent Monitor from the government or produced through its own research will pass through the publications/reporting process detailed below before publication.

5.5 Working with the Private Sector

A functioning private sector is crucial to the achievement of the stated forest policy. The PSI component of the Tanzania Forest Conservation and Management Project is undertaking a range of activities designed to support the operationalisation of the private sector. The Independent Monitor should cooperate with the PSI component and directly with representatives of the private sector in order to support the achievement of these policy objectives. An important task of the Monitor, together with the government and the donor community, is to present to the private sector the objectives of Independent Monitoring, how it functions and what the anticipated results are. In the longer term, this should lead to better forest management planning and a more sustainable industry.

The private sector forest industry is sometimes portrayed by civil society, NGOs as a homogenous group of actors that act as an obstacle on the road to sustainable forest management. The private sector is not uniform however and those companies that wish to operate in accordance with the law should be supported through the implementation of the Independent Monitoring action.

The Governance issues faced by the private sector in obtaining licenses and permissions in a timely manner, including for felling, transport, and export is not always easy. This can be due to a lack of resources and trained personnel in the MNRT and District Forest Offices. Other reasons such as petty corruption and the lack of clarity over the procedures to be followed and the lines of responsibility are others. The appointed Monitor should examine these issues with its analysis reports which will include issues of concern to the private sector.

The Independent Monitor, through independent and joint missions with the government central or district level forest law enforcement services, will document illegal activities by the private sector. It is important to note that the Monitor, whilst carrying out these investigations independently, may gather information on illegal activities (GPS data, pictures, testimonies, documents, etc.), however it will not undertake any forest law enforcement activity e.g. formal notification to companies that an infraction has been observed, convocation for official hearings

with the administration etc, These actions can only be undertaken by sworn government agents during their own investigations, including those joint investigations where the Monitor is present. Information gathered by the Monitor will be provided to government officials for their own use and records.

In all case the objective of the Monitor should be to observe and report on respect for the regulations and procedures both by the private sector and Government officials with whom they deal in the execution of their operations.

5.6 Working Mechanisms for increasing transparency and publication

In the first instance the Independent Monitor should work with the Government and Donors to raise awareness of the action, its function and workings, through the press, publication of articles and promotion of the web and paper based outputs listed in Section 4 and which include field investigation reports and analysis reports.

5.6.1 Reading Committee

Concerning the action's outputs, the monitor should submit its field investigation reports and analysis reports to a **Reading Committee**. The reading committee should be situated within the MNRT should provide a forum to examine, review the findings of the Monitor's reports and approve their subsequent publication. To increase transparency among partners and maintain credibility of the reports the Reading Committee members should include representatives of the FBD (and TFS), including the officers participating in the investigation or otherwise implicated (for example the DFOs), including the Legal Unit within the Ministry, the Independent Monitor, and concerned donors. The Prevention of Corruption Bureau should also be nominated as a member of the Committee. A representative of MNRT should chair the meeting. Once adopted the field mission reports will be published.

Field investigation reports should be submitted to the members of the Reading Committee for consideration within three weeks of the field investigation having taken place. Where the results of the investigation require additional information, this follow-up research should be considered to be part of the investigation.

Analysis reports should be produced half yearly. The content of the analysis report should be thematic in its approach and document in detail selected major failings in forest governance and provide conclusions and recommendations for remedial action targeted at different stakeholders. The government would have a timeframe to provide comments, after which the report will be considered to have been approved by the government and be published. Content of analysis reports should be discussed in detail at Reading Committees and actions in response to the issues raised be devised and agreed as far as possible. These actions should be documented in the minutes of the Reading Committee.

5.6.2 Steering Committee

Steering committees should take place at least twice a year and provide oversight to the actions of various state and non-state actors in the forest sector. The agenda for the meeting will be informed by the debriefing notes to the Steering Committee mentioned in section 4.1.3.

The conclusions and recommendations of the meeting should be the object of minutes to be approved by the participants. The final minutes of the meeting should be distributed to all participants not more than two weeks after the date of the meeting.

To ensure that the issues raised at the Steering Committee are given due consideration, it is recommended participants include representatives of the VPO, PMO, concerned Ministries, Donors, the Monitor and civil society.

As a signatory to the MoU, the Vice President's Office should receive copies of all field investigation reports and analysis reports from the Independent Monitor.

5.6.3 Information transfer notes

The Monitor should inform, in writing, relevant government departments of specific information concerning potentially illegal activities. The content of these letters will be summarised in the Monitor's analysis reports together with a summary of actions taken by the government in response. Records of all such notes should be kept and referred to where appropriate in the analysis reports. Information transfer notes should be copied to all project partners to increase transparency and support action by the government in the short term.

5.6.4 Radio/press

The Independent Monitor should be able to give interviews and provide objective summaries of any published material resulting from the implementation of the action, including radio and communications with the press.

6 Deontology

The Monitor should respect the confidentiality of all information received during the action, and not communicate or diffuse any document outside regulations in force or the publications procedure for reports and other action outputs.

The Monitor should be neutral and objective in carrying it duties.

It should communicate with all stakeholders involved in the forest sector, not just government bodies and Donors. The Monitor should also communicate with non-government stakeholders for information and feedback on forest infractions and communicate the function and objective of the Monitor. It should also engage in a regular dialogue with the private sector and other stakeholders in the forest sector, for similar purposes but also to obtain clarification and receive information on problems experienced in administrative systems, other constraints, and allegations of illegalities.

7 Logistics

The Monitor will maintain its own office and information technology infrastructure for the duration of the contract. The office should be accessible or close to MNRT but independent from it to facilitate information exchange between the Monitor and non-government actors including civil society and the private sector.

The Monitor will provide its own transport and own documentary equipment for use during field investigations and in carrying out its own administration.

The government agents undertaking field investigations will be responsible for their own costs including the provision of vehicles, fuel and other field equipment. The effective and timely deployment of forest officers to realise effective implementation of the action will have financial implications for departments concerned. These costs are to be met from the budgets at the disposal of the relevant government departments.

8 Inputs required

Supporting administrative arrangements.

- **Establishment of a Reading Committee**

Reading committees will take place not less than every three months to review the Monitor's investigation reports and compare them with the government's own reports and findings. The committees should also review the Monitor's analysis reports. The committees should include representatives of the MNRT, FBD, TFS (preferably the officers that participated in the investigations or other associated work), DFOs, Donors, the prevention of corruption bureau and the Monitor.

The reading should be convened by the government and held at least every three months during the functioning of the project. The government should produce minutes of the meeting, including the conclusions and actions to be taken by different government departments/agencies

- **Establishment of a Steering Committees**

The steering Committee will have to be prepared and brought together by the Government at least twice a year. The staff time for meeting participants and costs of the venue will have to be met by each respective institutions budget. The meeting should be hosted by the MNRT.

Other administrative inputs that will be required from the Government of Tanzania to support the effective implementation of the action:

MNRT, FBD, TFS, DFOs

- Provide in useful time copies of documents or information related to forest law enforcement investigations
- Provide the Monitor with free access to information on permits, transport data, and action on court cases without need for prior authorisation
- Involve the Monitor in planning sessions for forest law enforcement investigations
- Provide the Monitor with information on all steps of administrative and judiciary procedures and their application in the follow-up of forest related infractions
- Inform the Monitor of official hearings in forest related cases to enable the Monitor to observe them
- Grant systematic access to information relating for forest administration.
- Cooperate with the Monitor in the implementation of the action's activities
- Provide input on the Monitor's investigation and analysis reports during the action

committee meetings

VPO, PMO, Regional administrations, local government, Tanzanian Revenue Authority, Ministry of Justice, Prevention of Corruption Bureau, Ministry of Home Affairs and other Ministries

- Support to the action's objectives
- Collaboration with the Monitor in sharing information
- Active participation of some of these organisations in the action's Steering Committee and Reading Committee meetings and follow-up of recommendations

Civil society

- Provide specific information known to national and international NGOs related to issues of forest law enforcement or governance, confidentially or not and with supporting documentation where possible.
- Provide information on broader issues such as community ownership, use of wood products by populations etc, to support the Monitor in focusing its activities
- Inform the Monitor about their programme activities or findings that may affect or support IM-FLEG activities and findings
- Provide feedback on the Monitor's findings and engage in regular dialogue with the Monitor
- Active participation to the action's Steering Committee meetings

Donor agencies

- Participate in the action's Steering Committee and Reading committee meetings and provide an ongoing broad base of support to the action
- Follow-up the implementation of the Monitor's recommendations by reading its report and supporting their implementation by the Government either through discussion and or funding identified and agreed for ancillary activities
- Participate, as a group or separately according to issues at stake, in regular exchanges with the Monitor to exchange information including regarding ongoing programmes that may affect or support IM-FLEG activities and findings

Financial and Human resources

The donor community will provide the financial resources required to realise the activities detailed above. In order to safeguard its independence, the Monitor should not be dependent on financing from the government for either personnel or logistical means.

In order to realise the activities the Monitor will provide a team of suitably qualified personnel as detailed below:

- Two international staff with forestry and legal expertise to act as project leader and deputy.
- Eight National staff including qualified foresters, lawyers, administrative and logistical support staff.
- National and international consultants To provide specialist support to the implementation of the action, training where necessary to local staff in specialist areas, external evaluation and other functions

Concerning office space, it is recommended that the team be housed very close to the current Clock Tower or Ivory room locations of the FBD for logistical reasons but not inside of either of these buildings. This proposal serves a number of functions, including data and personnel security, accessibility to informants from both the private sector and civil society and maintenance of the independent position of the Monitor.

Annex 2: Job Descriptions

Job Description: Team Leader

Position: Team leader. Full-time post. Basic office hours applicable in Tanzania plus additional hours required to reasonably achieve the activities detailed below.

Supervises: 1 Deputy Team Leader (legal expert), 2 local forest technicians, 1 administrator, 1 secretary, 2 drivers. The team leader will report to the person identified in the winning organisations bid and in accordance with the Action financing contract.

Experience:

The Team leader should be acceptable to civil society and have 10 years forest sector experience in policy, private sector or NGOs. The Team leader should have experience of dealing with both governments at least to the ministerial level and have a solid knowledge of the forest sector in the African context, including field work. The team leader should have no ongoing connections with the private sector or other interests in the forest industry. Experience of policy monitoring and/or law enforcement issues will be an advantage.

Summary Description

The Team leader will be implementing a program of activities aimed at the proactive independent observation, in Tanzania, of the application of forest law enforcement procedures by government services; the activities of government forest control and the follow-up of findings of field and administrative investigations. The Team leader will provide interviews with the press and undertake media work where necessary to promote good governance and transparency in the forest sector in Tanzania.

Activities

Liaising with the action partners including the MNRT at ministerial and other levels, as well as the action funders and other national and international organisations/agencies

Identification of strategic issues relating to lack of governance, transparency and illegal logging in Tanzania

Recommendations for the improvement of current practices.

Verifying the follow-up by the Ministry of documented cases of illegal logging

Ensure progress on publication of documented cases

Ensure progress on the development of a functional strategy of control preventing lack of action

Check compliance of the activities with Terms of Reference of the Action at all stages

Check compliance of action activities with contractual requirements

Planning of long term action activities together with other team members and partners of the action to identify of issues to tackle in its terms of reference.

Gathering data on cutting and other permits, maps and other necessary documents in the Ministry to prepare field investigations

Produce final field investigation reports and analysis reports in English.

Any other duties that reasonably arise in the course of action implementation.

Ensure professional delivery of action outputs.

Manage the staff of the action, including the Legal Expert and Local Forestry staff.

Field activities

Supervise the preparation of and participate in field investigations.

Undertake joint field investigations

Collection of information pertaining to policies and actions by government agencies, provincial officials, concessionaires, local communities and other individuals concerned.

Support in logistic and strategy decision making in the field.

Job Description: Legal Expert

Position: Legal Expert (Deputy Team Leader). Full-time post. Basic office hours applicable in Tanzania plus additional hours required to reasonably achieve the activities detailed below.
Supervises: 2 legal experts in cooperation with Team leader

Experience: the Legal expert should have a sound practical working knowledge of legal systems in the region and a record of independence. The expert should have 5 years or more of practicing law or have qualifications to PhD level. This person should be acceptable to civil society and have worked on governance issues in the forest or other sectors. The legal expert should be independent of the forest sector.

Summary Description:

The Legal Expert will be implementing a program of activities aimed at the proactive Independent Monitoring, in Tanzania, of the application of forest control procedures by government services; the activities of government forest control and the follow-up of actions, particularly the actions taken against administrative fraud or bad practice and those accused of illegal acts relating to forests and forest produce. The Legal expert will also be responsible for other practices to promote improved governance and transparency in the government and private forest sector operators in Tanzania. Objectivity in implementation and reporting style is a requirement for the post.

Activities

Liaising with partners of the action including the MNRT at ministerial and other levels, the Ministry of Justice, the Prevention of Corruption bureau, as well as the action funders and other national and international organisations/agencies

To formulate recommendations for the improvement of current practices.

To verify the follow-up by the Ministry of documented cases of illegal logging and on administrative sanctions taken against staff and others for bad practice

Check compliance activities with Terms of Reference of the Action at all stages

Check compliance of activities with contractual requirements

Gathering data on valid titles, maps and other necessary documents in the Ministry to prepare field investigations

Produce field investigation reports, especially, but not exclusively providing legal analysis of field and other investigations and analysis reports in English

Gathering and analysing information concerning the sanctions imposed on illegal operators in the sector and the policy pursued in this respect by the government

Attending court case hearings concerning forest issues.

Any other duties that reasonably arise in the course of the implementation of the action and that are consistent with the TORs of the action.

Field activities.

To act as the Team Leader in their absence.

Supervise the preparation of and participate in field investigations.

Undertake joint field investigations with Ministry officials and independent investigations

Collect information pertaining to policies and actions by government agencies, provincial officials, concessionaires, local communities and other individuals concerned.

Support in logistic and strategy decision making in the field.

Annex 3: Translation of circular to DFOs re the Harvesting Ban

UNITED REPUBLIC OF TANZANIA
PRIME MINISTER'S OFFICE
REGIONAL ADMINISTRATION AND LOCAL GOVERNMENTS

Regional Commissioners Office Kibaha
P.O.Box 20080
Kibaha

Coastal Region
Tele. Number RECCOM COAST
Telephone 023 240 22 87/ 023 240 2500
Fax 023 24 02 260
When responding please use

Ref. Number CRC/F. 30/1/Vol. 111/53

03/02/2006

District Executives
Kibaha Council District Executive- Kibaha
Coastal Region

RE: Ban on Forest Products harvesting from Natural Forests

As shown above

Recall, the government banned forest product harvesting in all natural forest around the country effectively from 01/10/2004. The ban was followed by tree inventory in 11 district including Rufiji District, Coastal Region. An estimate of tree inventory was conducted on the remaining districts. Aim of this exercise was to understand the status of the trees, in order to allow district authorities to design and develop sustainable tree harvesting plans.

In order to ensure implementation and sustainable harvesting plans are followed, the government issued directives on tree harvesting and instructed each district to form tree-harvesting committees that will receive, discuss and decide harvesting request from customers. Such committees were formed and constituted District secretaries as chairperson, district forest officers as secretary, district water officer as a representative of the village in which the forest is located and district natural resource officer as delegates.

Following such directives, the government banned harvesting in the natural forest effectively from August 2005. In addition, it is clear that laws and regulation regarding harvesting plan are not followed in many areas, leading into illegal harvesting without license, transporting forest produce without documentation or using forged documents leading into government revenue loss and degradation of the environment in general.

Therefore, based on such circumstances, I have been instructed by the government as indicated in letter Ref. CJA 165/595/01 dated 24/01/2006 from the Permanent Secretary, Ministry of Natural Resource and Tourism that the harvesting of natural forest products is

banned, in order to allow the government to evaluate and develop feasible and applicable harvesting plans. This also includes:

Suspending issuing license for harvesting

Suspending all harvesting licenses that has already been issued

Recall of "hammers" to the Director of Forest and Beekeeping Division.

Recall receipt books (ERVs), Transit Pass and FD licence No. 1 (License to fell) to Director of Forest and Beekeeping Division.

Suspend all district harvesting committees

Following instruction given (a) to (e) all district forest officers should handle all the documents and equipment as specified, to the Regional natural resource adviser in writing before 10/02/06. In addition, harvesting using Council's hammers (HW 5) has been suspended.

Rigorous legal measures will be taken against anyone seen to possess/transport forest products harvested illegally. These measures will include both the vehicle involved and the owner.

Other orders and procedures will be communicated to you following further instruction from the Government.

Thank you for your co-operation

J.K. Kukwali

For Regional Administration Secretary

Coastal Region

CC. District Commissioners

Coastal Region

District Forest Officers

Coastal Region: Please handle all documents as required to the officer designated.

