

FLEGT beyond T

Exploring the meaning of 'Governance' concepts for the FLEGT process

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Wageningen, August 2008



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Acronyms

AFLEG	Africa Forest Law Enforcement and Governance
CIDSE	International Cooperation for Development and Solidarity
COMIFAC	Central African Forest Commission
CSR	Corporate Social Responsibility
DBS	Direct Budget Support
FERN	Forests and the European Union Resource Network.
FGLG	Forest Governance Learning Group
FIN	Forest Integrity Network
FLEGT	Forest Law Enforcement, Governance and Trade
GTZ	German Agency for Technical Cooperation
IIED	International Institute for Environment and Development
IUCN	International Union for Conservation of Nature
NGO	Non Governmental Organization
NRM	Natural Resource Management
ODA	Official Development Assistance
ODI	Overseas Development Institute
SNV	Netherlands Development Organization
SWAps	Sector Wide Approach Programmes
TI	Transparency International
UNDP	United Nations Development Programme
VPA	Voluntary Partnership Agreements
VNH	Dutch Timber Trade Association
WGA	World Governance Assessment Project

Executive Summary

The FLEGT process is about the EU action plan on Forest Law Enforcement, Governance and Trade. This study focuses on the Governance aspects of FLEGT and was commissioned by the Ministry of Agriculture, Nature and Food Quality (LNV) of The Netherlands. There is a need to gain more insight into the definitions of 'governance' which apply to the forest sector. To this end, it is useful to analyse and catalogue the most important and widely used definitions in order to help create a common understanding among national and international stakeholders. The objective of the study is therefore: *To obtain more insight into the development and application of 'good governance' principles in the forest sector in timber producing countries, in relation to the FLEGT process and Sustainable Forest Management.*

In this document we will endeavor to answer the following questions:

- Which current ideas about 'governance', 'forest governance' and other 'governance'-related concepts may be relevant to the FLEGT process? What can we learn from other governance debates? What are the most important issues with possible relevance for FLEGT?
- How does the European Union deal with the concept of 'governance', both in its policies in general and in the FLEGT process in particular? How does this compare to prevalent thinking about the concept of 'governance'?
- What are possible orientations and directions for resolving problems and giving meaningful form to 'Governance within FLEGT' at international, national, intermediate and local levels?
- Based on answers to the above questions, can we make a provisional checklist for country analysis and 'governance action plans' within the FLEGT process?

The target groups for this publication include policymakers in The Netherlands, Dutch embassy staff abroad (both environmental staff and agricultural attachés) and policymakers abroad. It could also enable EU negotiators to effectively support participating countries in establishing 'good forest governance' in the long-term interests of both the participating country and the EU.

Chapter 2 deals with general concepts of 'governance' from a theoretical perspective. Governance is about the changing vision of the roles and responsibilities of the government: from the 'old' style of governance – with the government steering – to a new situation in which more actors are co-steering, and in which the government does not bear the sole responsibility for the governance situation: every actor has to play a role. Important aspects of this new situation are its multi-actor, multi-level (national, international, and local) and multi-meaning nature: different stakeholders may embrace different values, interests and world views.

Chapter 3 deals with 'Good Governance'. This concept is much more aspirational and value-laden. It is based on the principles of participation, fairness, decency, accountability, transparency and efficiency. In theory, these principles are universally applicable, as they underpin the Universal Declaration of Human Rights. In practice, the various international organizations may emphasize one or more of these principles, while implicitly supporting them all. A key issue in good governance is accountability. Besides vertical accountability (e.g. elections) and horizontal accountability (e.g. when governmental organizations report 'sideways' to other officials and agencies within the state itself), a crucial element is direct societal participation. It is known as 'co-governance for accountability' or 'social accountability', and takes the form of a range of initiatives for involving citizens in supervising government, such as participatory budgeting, administrative reforms acts, social audits, citizen report cards and community score cards.

Chapter 4 is about the concept of 'Good Enough Governance', which is valuable because it raises the issue of the unrealistically long and still-growing governance agenda. The concept explicitly acknowledges that governance has to do with norms and values which are culturally determined. In both Western and non-Western countries, the extent to which those values and norms are deeply embedded and accepted depends on the culture. Introducing new values and norms is a long term process and therefore priorities have to be set. Supporters of the 'good enough governance' model believe it is necessary to reduce the 'good governance' agenda, introduce a historical, country specific analysis, identify the critical issues for poverty reduction, assess priorities strategically and consider alternatives, without forgetting the public sector.

Chapter 5 deals with experiences with local governance related to natural resources. It outlines the principles contributing to successful local management, which are: (a) clearly defined boundaries, (b) rules adaptable to local conditions, (c) space for collective choice arrangements (d) effective monitoring: e.g. the existence of a third party for enforcement and punishment, (e) penalties that are appropriate to the seriousness of the violation, (f) effective conflict resolution mechanisms, (g) groups that have the right to organize themselves, and (h) arrangements in which local knowledge and local institutions prevail, but are shaped to accommodate larger and broader interests. At national level, space needs to be created so that local governance can develop according to the above principles. Likewise, for the FLEGT process, it is important to create such space at local level.

Various examples show that stakeholders at national and local level are very able to define the principles and indicators for monitoring governance. It is even possible to conduct some kind of quantitative monitoring of aspects of governance, thereby making it possible to compare the situation over time. Stakeholders often have very clear ideas on the aspects of governance that need priority. Within FLEGT too, local and national stakeholders could play a role in defining 'forest governance' and monitoring its advance at different levels.

Chapter 6 discusses Value Chain Governance. Value Chain Governance – more specifically Timber Chain Governance - and Forest Governance are closely interlinked. The government influences the structure and governance of value chains. One example of this is a timber licensing system under FLEGT. However, the effects of value chain governance can also have a negative impact on the governance of the forest. Profit and value creation in the chain, the creation or maintenance of employment in the sector, the capacity of the processing industry: all these processes, together or separately, may become so dominant that they undermine efforts to improve forest governance and forest management. It is therefore important for FLEGT to adopt a broad perspective on timber chain governance. .

Value Chain Governance takes into consideration certain aspects that are more or less ignored in other definitions of 'governance': (a) the governance of markets and market chains, (b) power of the different stakeholders in the chain, and (c) societal learning'. There is an interesting notion that Value Chain Governance should aim at the inclusion of smallholders in the market. There are certainly parallels here with the forestry sector, where farmers and communities also have difficulties in accessing the international timber market. But the issue is complicated as, for example, investments in the forest sector are high and marketing knowledge is not easily obtainable for smallholders. Another important issue is the need to optimize the enabling environment for markets. This can be done through a proper sector policy, innovation networks, a level playing field, and the management of risks and conflict.

Chapter 6 also deals with Corporate Social Responsibility, using the example of the Dutch timber traders. The Code of Conduct developed in this context refers to certification and Sustainable Forest Management. These are valuable issues at the management unit level but they do not directly address the issue of governance beyond the forest management units included in the market chain (although certification schemes do sometimes touch on the participation of local stakeholders, which is an aspect of governance). For the governance debate in FLEGT, it could be interesting to discuss and explore the possible role of timber traders in actively supporting forest governance. There is a lack of clarity on the relation of (private) certification schemes for Sustainable Forest Management and the promotion of forest governance within the FLEGT process. How could these two reinforce each other, leading to better forest governance?

Chapter 7 deals with forest governance. The definition of 'forest governance' is not purely scientific and objective, but depends on underlying world views or paradigms. In order to generate support from the widest possible range of stakeholders, it is desirable for FLEGT to have a definition and implementation plan for 'forest governance' that draws from several paradigms and so appeals to different groups of stakeholders.

The struggle against corruption is an important aspect of forest governance and it is important to note that there are tools to empower local groups to monitor corruption in the forest sector. However, corruption is often practiced by urban interest groups with contacts at the highest levels. In order to diminish corruption, pressure has to come from various sides.

The emphasis on the efficient management of financial flows is important for forest governance. The idea of connecting national and local 'forest governance' to existing international UN lead processes is valuable. As far as possible, FLEGT should be connected to ongoing efforts regarding, for example, national forest programmes.

Forest governance is frequently related to processes of public sector decentralization. A successful framework for decentralized forest governance would entail (a) appropriate and effective sharing of authority to make decisions and raise revenues (b) effective enforcement of accountability at all levels of government to assure citizens and civil society groups that government agencies are acting fairly, efficiently and effectively to carry out their various mandates, and (c) appropriate and effective linkages with other sectors that affect or are affected by what happens in the forestry sector, such as finance, the judiciary, agriculture, energy, transportation etc. For the success of both FLEGT and decentralization efforts it would be wise to seek as much synergy as possible between the two processes. An appropriate starting point may be to establish multi-stakeholder forums at local and regional level that can effectively function as organizations that guarantee accountability.

Chapter 8 deals with EU concepts relevant to 'governance'. For the EU and its member states internally, the following 'governance' principles are important: openness, participation, accountability, effectiveness and coherence. In the EU's development cooperation, the following set of key values is adhered to:

- efficient, open, transparent (non-corrupt) and accountable public institutions at all levels, including clear decision-making procedures;
- sound, efficient and effective management of human, natural, economic and financial resources for the purpose of equitable and sustainable development;
- a democratic society managed with respect for human rights and democratic principles;
- civil society participation in decision-making procedures;
- the existence of, respect for and enforcement of the rule of law and the ability to enforce rights and obligations through legal mechanisms.

Criticism by NGOs in the South is targeted not so much at the principles enshrined in the EU's concept of 'Governance' as at a perceived failure to apply those principles to the EU's own behavior as a donor: a lack of reciprocity.

In article 9 of the communication of The Council of the European Union (2003) regarding FLEGT, the following concrete aims of governance are mentioned:

- to strengthen land tenure and access rights;
- to strengthen the effective participation of all stakeholders;
- to increase transparency in association with forest exploitation operations, including through the introduction of independent monitoring;
- to reduce corruption;
- to engage the private sector of the timber producing countries in efforts to combat illegal logging;
- to address the financing of violent conflict.

A question asked in the introductory chapter was: how does EU thinking on 'governance' compare to the prevalent thinking about the concept? Our conclusion is: EU thinking is broadly in line with mainstream thinking on 'governance'. However, we believe that the EU thinking on 'governance' in general, and 'governance' within FLEGT in particular, can be enriched by considering and adopting other ideas, both theoretically and in practice .

Chapter 9 starts by highlighting the roles of both the government of the FLEGT partner country and the EU. In pursuing the improvement of Forest Governance within the framework of FLEGT, these roles are very important. In the FLEGT partner countries, a crucial issue seems to be the willingness of the government to really start improving 'governance' in the forest sector. The effectiveness of EU efforts to promote governance in the context of FLEGT will depend on how skilfully the EU can combine its roles as donor, as buyer of products and as partner that influences other donors' behavior.

In chapter 9, the main findings from chapter 2-7 are also summarized, leading to a Provisional Checklist of the hallmarks of Good Governance within FLEGT (see Annex IV). The list should be considered as a source of possible

issues to be raised if improving governance is the objective. It could also provide a starting point for identifying projects and actions. We believe all the issues are relevant for governance and forest governance within FLEGT, but at country level major stakeholders will have to decide which aspects need priority and can realistically be dealt with in the current situation. For the authors, key aspects of 'governance' in the FLEGT process are complexity, the energy generated by discussions on governance, participation, accountability, good enough governance (and the related idea of ownership), and the enabling environment for healthy timber value chain governance.

1. Introduction

1.1 Background

The FLEGT process was officially initiated by the EU in October 2003. FLEGT means: Forest Law Enforcement, Governance and Trade. The FLEGT action plan to combat illegal logging promotes both supply-side measures, by providing assistance to developing and former communist countries, and demand-side measures to curtail the trade of illegally logged timber to the EU. One of the aims of the supply-side measures was to improve governance. But this begs the question: what is 'governance' within the FLEGT context and how should it be promoted?

In the FLEGT Action Plan (2003) and Briefing Notes 1-7, the basic elements of the FLEGT process are explained but, although there is considerable emphasis on legality, a legality assurance system, Voluntary Partnership Agreement (VPA) and guidelines for independent monitoring, there is no clear definition of Governance. This study was therefore commissioned by the Ministry of Agriculture, Nature and Food Quality of The Netherlands, in order to obtain more insight into the definitions of 'governance' which apply to the forest sector by analysing and cataloguing the most important and widely used definitions. This will help to create a common understanding among national and international stakeholders. Target groups for this publication include policymakers in The Netherlands, Dutch embassy staff abroad (both environmental staff and agricultural attachés) and policymakers abroad. It can also help EU negotiators to support participating countries in establishing 'good forest governance' in the long-term interests of both the participating country and the EU.

At the heart of the FLEGT initiative lies the attempt to exclude illegally logged timber products from EU markets. Timber products which have been legally produced in VPA partner countries will be licensed, and only licensed products from these partner countries will be allowed access to the EU. The hope is that this study will provide insight into how well such licensing and chain of custody systems, as promoted by the EU, connect with national / local processes and with governance processes regarding sustainable forest management and legality. Such a connection enhances effectiveness and leads to mutual reinforcement of initiatives.

1.2 Objective of the study and methodology

The objective of the study is the following:

To obtain more insight into the development and application of 'good governance' principles in the forest sector in timber producing countries, in relation to the FLEGT process and Sustainable Forest Management.

Originally the focus was on the following research questions:

1. What are the current definitions of 'governance' and of '(sustainable) forest governance' in particular? Can they be accommodated into a framework which will categorize them? Can this framework facilitate the analysis of intervention strategies regarding good governance at all levels (micro/meso/macro)?
2. What aspects of governance do current main national processes for forest governance address in the major FLEGT countries (Malaysia, Indonesia, Ghana, and Cameroon)?
3. On which aspects of governance do the main donor interventions (FLEGT, AFLEG and others) focus in the forest sector in the selected countries and at what level / in what 'arena'?
4. How do national processes and interventions by donor programmes relate to establishing effective trade-related monitoring systems? How are the economic and marketing interests of the private sector influenced?

Answers to these questions were sought through analysing the available literature.

During the course of the study the following points became clear:

- Question 1: It was not feasible to include all the available definitions of governance in one framework. Moreover, we concluded that such a framework would not shed light on the guiding principles of 'governance' within the FLEGT process.

- Questions 2 and 3: We performed a literature study of the situation in the four above-mentioned countries, but found out that the available literature resources were unable to provide balanced answers to the above questions. The governance discussion is value-laden, which means that country-specific information on governance is not free from value judgments difficult to verify within the limitations of a desk study. The chapter on 'good enough governance' provides a basis for a country-specific perspective. An important feature of this perspective is that 'governance' and the 'governance agenda' are highly specific to context and country, depending as they do on the local political situation and cultural values.
- Question 4: As to the specific situation in the four countries, we could not find sufficiently detailed information on the relationship between effective trade-related monitoring systems and donor interventions. However, we were able to explore some governance-related concepts with close linkages to the private sector: Value Chain Governance and Corporate Social Responsibility.

It was therefore decided to exclude the country studies and to focus on conceptual and implementation aspects of the relationship between 'governance' and FLEGT. In this document we will endeavor to give answers to the following **questions:**

- Which current ideas about 'governance', 'forest governance' and other 'governance'-related concepts may be relevant to the FLEGT process? What can we learn from other governance debates? What are the most important issues with possible relevance for FLEGT?
- How does the European Union deal with the concept of 'governance', both in its policies in general and in the FLEGT process in particular? How does this compare to the prevalent thinking about the concept of 'governance'?
- What are the possible orientations and directions for resolving problems and giving meaningful form to 'Governance within FLEGT' at international, national, intermediate and local levels?
- Based on answers to the above questions, can we make a provisional checklist for country analysis and 'governance action plans' within the FLEGT process?

1.3 The Structure of this paper

Chapter 2 provides a general introduction to the concept of governance.

Chapter 3 focuses on the concept of 'good governance', which is more aspirational and value-laden. It also deals with 'accountability, one of the key principles of 'good governance'.

Chapter 4 deals with 'Good enough governance', which is in effect a critical response to prevalent concepts of governance and an appeal to prioritize and contextualize.

If governance is to be a successful concept within FLEGT, the local aspects of governance will need thorough consideration too. Chapter 5 therefore deals with local governance and local NRM governance.

The FLEGT process focuses on the timber supply chain. Chapter 6 deals with concepts of governance in value chains. Here we also enter into the realm of the companies that deal with the processing and marketing of timber products. So it is also worth looking into the concepts of corporate governance in general and of Corporate Social Responsibility in particular.

In chapter 7, we deal with various concepts of 'forest governance' and try to deduce valuable lessons for the FLEGT process.

Chapter 8 provides information on what the EU says about governance within the EU, in EU development policy and within the FLEGT process.

In chapter 9 we seek to develop ideas about what governance could mean within FLEGT. We introduce a preliminary checklist for analysing the forest governance situation in countries participating in the FLEGT process and prioritizing actions to improve forest governance.

2. Governance: an introduction

2.1 From government to governance

Changing vision on the role and responsibilities of the government

Görg (2007) describes the changing role of the government as the key to of the historical development of the concept of governance. Descriptions of governance processes tend to be broadly similar because their core meaning revolves around the altered role of the state and government. At the heart of governance lie new perspectives on government – its changing role in society and its changing capacity to pursue collective interests under severe external and internal constraints. Governance encompassed the following elements:

- administration and/or coordination between various actors, based on institutionalized systems of regulations,
 - which usually represent combinations of market, hierarchy and other systems of regulations, and
 - which generally overlap the borders of organizations or the borders between politics and society (and even the borders between other subsystems such as the economy of law).
- The description of governance processes refers to altered constellations of various actors as well as an altered role of political institutions, especially that of the state (Görg, 2007).

Van der Zouwen *et al.* (in Kuindersma *et al.*, 2006) start from a comparable concept of governance, but they emphasize the network aspect and decision making outside formal state frameworks. The promotion of 'governance' is part of a general trend in public management which can be described as the development from 'government' to 'governance'. 'Government' here indicates a situation in which the central government is at the helm, while governance is a way of implementing policies through cooperation, whereby the representatives of the government, market and civil society participate in mixed public and private networks. Part of this trend is that decision making about policy increasingly takes place not within the formal frameworks of the nation state but in interaction between government, civil society and private sector.

Governance and neo-liberalism

Jabeen (2007) relates the development of the concept of 'governance' to the shift in political thinking towards neo-liberalism. She observes that, traditionally, the term 'governance' was understood as synonymous with government. However, in recent years, the term governance has acquired a wider meaning. Under the new mode of governance, government is just one of the actors in the process of governance, alongside civil society and the private sector. This new mode of governance is an outcome of a paradigmatic shift in political thinking on the role of the state in society, primarily influenced by neo-liberalism. Under the emerging neo-liberal state, the government has to steer, support, and guide as opposed to commanding and controlling, directing the provision of public services, and acting as the sole institution of governance. The shift from government to governance started during the 1980s in the capitalist and industrially advanced countries, and according to Jabeen it later swept the developing world. In the developing world, the shift from government to governance is the consequence of efforts in recent decades to make public administration more effective, starting with public administration reforms in the nineteen eighties, and followed by the introduction of the New Public Management concepts, the outsourcing of public services and the liberalization of entire market sectors, as well as decentralization processes that aim at making public service more demand-oriented.

2.2 Some conceptual definitions of Governance

Van der Zouwen *et al.* (in Kuindersma *et al.*, 2006) defined governance as follows:

Governance is a way of execution of policies which is focused on cooperation, whereby the representatives of the government, market and civil society participate in mixed public and private networks. Apart from referring to a new

form of steering the government, the term also indicates an increasing interaction between government, market and civil society.

In order to establish the presence of 'governance' and the different political interests in a certain policy area, the following indicators can be used (Boonstra *et al.* in Kuindersma *et al.*, 2006):

- Multi-actor: policy development and execution are a co-production of different governments, market parties, civil society organizations and or civilians.
- Multi-level: policy development and execution are a co-production of different policy levels.
- Multi-meaning: policy development and execution reflect different problem definitions, directions for resolutions, objectives and visions.

When policy development and execution can be described as multi-actor, multi-level and multi-meaning, then we can speak of 'governance'. In practice, what we often find is a mix.

Governance is the whole of public as well as private interactions that are initiated to solve societal problems and to create societal opportunities. It includes the formulation and application of principles guiding those interactions and care for institutions that enable them'. This description of governance is given by Kooiman in Bavinck *et al.* (2005). Like Jabeen (2007) and Görg (2007), Kooiman is aware that today's societal problems and opportunities require a multi-stakeholder approach that goes beyond the government's sole responsibility for governance. He also distinguishes between three orders of governance. The first order of governance is about actors solving problems and undertaking day-to-day management. The second order of governance comprises the maintenance and design of institutions necessary to solve problems and create institutions. This involved developing the capacity to undertake first order governance by providing the guiding rules or methods. In the third order of governance, or meta-governance, the main normative principles and values that governance entails are articulated. These principles guide the behaviour involved in first- and second-order governing.

The importance of this description is that governance performance should be evaluated in terms of three criteria: effectiveness, for the first order of governance; the legitimacy of the system – the institutions in place - in the eyes of the beholders; and the question of moral responsibility: who decides on the governance system, and on what values and norms is the decision based?

However, scientists have come up with many other definitions. The New Gov, a project on new modes of governance, published a glossary on the internet with the following definitions of governance¹:

- **Governance:** Innovative practices of networks or horizontal forms of interaction, in which actors, political and non-political, arrive at mutually acceptable decisions by deliberating and negotiating with each other.
- **Governance (2):** Continuous political process of setting explicit goals for society and intervening in it in order to achieve these goals.
- **Governance (3):** A broad understanding of governance refers to structures of social order, namely (a) hierarchies, (b) markets and (c) communities/clans, associations and networks. While hierarchies coordinate social action by using command and control mechanisms, markets are spontaneous orders that emerge from the self-coordination of autonomous actors. Communities/clans, associations and networks function by non-hierarchical coordination based on the exchange of resources and/or trust.
A narrow definition of governance limits itself to non-hierarchical coordination between public and private actors on the one hand, and among private actors only on the other, in the setting and implementation of collectively binding norms and rules for the provision of public goods and services. This narrow definition of governance can also be understood as conceptualization of the notion of 'new' modes of governance (3)
- **Governance as institutional configuration:** Renate Mayntz conceives of governance as a system of rules which shapes the actions of social actors. Different modes of governance are situated on a spectrum that is delineated by the two opposing ideal types of 'market' and 'hierarchy'. Between these two types, a further set of modes of governance can be identified, like 'community', 'associations' and 'networks'.
- **Governance as process of policy making:** Beate Kohler-Koch relates governance to the process of policy-making. 'In essence, 'governance' is about the ways and means in which the divergent preferences of citizens are translated into effective policy choices, about how the many societal interests are transformed into unitary

¹ Source: http://www.eu-newgov.org/public/Glossary_g.asp , accessed on 20-09-2007.

action and the compliance of social actors is achieved.' In the European Union, 'network governance' is assumed to be the predominant type of governance as distinguished from 'statism', 'pluralism' and 'corporatism'. The crucial criterion to distinguish different types of governance is thus the relationship between public and private actors in the process of policy-making. This places the concept in the context of terms like interest intermediation or public-private relations.

- **Governance as public policy:** Adrienne Héritier defines governance as a 'mode of political steering'. Hence, governance primarily refers to the policy dimension. From this perspective, modes of governance are characterized by the steering instruments employed by public actors to achieve particular policy goals. Among these instruments are command and control, incentive and supply, information, deliberation and persuasion, as well as all forms of social influence and control.
- **Governance system:** governance was first described as a system in business literature. O'Donovan (2003) defines a corporate governance system as '*an internal system encompassing policies, processes and people, which serves the needs of shareholders and other stakeholders, by directing and controlling management activities*'. The systemic approach is useful for analytic purposes, in that it makes it possible to view governance from the point of view of its stakeholders, its internal and external mechanisms and processes, and its goals and principles. Interestingly, the notion of corporate governance also stems from a reaction to excesses in centralized management and the perception of a need to involve shareholders in determining strategic goals and controlling management.

2.3 Conclusion

We conclude that the term 'governance' was originally understood as synonymous with government (or the way the government was ruling). A core issue in new interpretations of 'governance' is the altered role of the state, in view of the new roles of the private sector and civil society organizations. Governance is about the changing vision of the roles and responsibilities of the government: from the 'old' style of governance – with the government steering – to a new situation with more actors co-steering. Important aspects of this new situation are its multi-actor, multi-level (national, international, and local) and multi-meaning nature: different stakeholders may embrace different values, interests and world views.

The development of the concept of 'governance' is also a reaction to the limited effectiveness of the government – taking into consideration different societal powers, power structures and a changing and increasingly complex societal context. There is increased awareness that the government is not solely responsible for the public domain or the functioning of the country, but that this is a responsibility of society as a whole. Another issue is that the prevailing vision on the role of the private sector and civil society has changed. And finally, there is a broader vision on how a modern state should function and be steered.

At the conceptual level, it is noticeable that governance aims at steering – at improving societal situations. It therefore needs to deal with complexity and is based upon soft systems thinking that implies multi-stakeholder processes and social learning aimed at making improvements at the level of all the orders of governance, including discussions about effectiveness, norms and values.

3. From Governance to Good Governance and Accountability

3.1 Introduction

An important governance-related concept is that of 'good governance', which is often used as an umbrella term for the quality of central governing institutions, covering the absence of corruption, effectiveness, transparency, impersonality, and adherence to the principles of rule of law. There is often a relation between 'good governance' and goals such as poverty alleviation, equity and environmental management. (Von Raggamby and Hahn, 2007)

Another definition of good governance is: good governance is aspirational, concerned with the distribution of power and authority in a society in ways that best serve the widest cross-section of people (Ribot in Mayers *et al.*, 2005).

Although all the approaches build on the same ideological and theoretical basis, Jabeen (2007) distinguishes several key differences between approaches:

- A normative (e.g. Human Development Report, World Bank) versus a descriptive nature (e.g. UNDP).
- The importance of the process versus the outcome as the yardstick
- A focus on rules versus the implementation of rules
- Perspectives on micro versus macro, or partial versus holistic

Good governance is aspirational: it wants to change the governance system in a certain direction. It is therefore value-laden, while 'governance' would be used in an objective description of government-society relations. However, in practice this distinction is difficult to make because the concepts of 'governance' are value-laden, whether the values are openly expressed, or hidden behind terms like accountability, fairness etc. Besides, the many definitions of governance presented by international organizations discuss issues like absence of corruption etc. We therefore decided to include several definitions of 'governance' by international institutions in this chapter on 'good governance'. And because it is a key aspect of good governance, we have also devoted one section to the concept of accountability.

Within the World Governance Assessment Project (WGA), executed by ODI, a framework for governance issues was elaborated, which will be described in the next paragraph.

For more information on the concepts of good governance as developed by the World Bank, the UNDP, the Human Development Programme and DFID, see Annex I.

3.2 World Governance Assessment

A project which has emerged as an expression of the UNDP's view of governance is the World Governance Assessment Project (WGA), executed by ODI. Under this project, 'governance refers to the formation and stewardship of the formal and informal rules that regulate the public realm, the arena in which government as well as economic and societal actors interact to make decisions'. Drawing on the system perspective on politics, Hyden and Court identified six dimensions of governance with six corresponding institutional arenas (see Box 1). Each principle can then be applied to each governance arena to give a core set of issues.

Box 1. WGA Arenas and principles of Governance

The six main *arenas* of governance are:

- I. Civil Society, where citizens raise and become aware of political issues;
- II. Political Society, where societal interests are aggregated;
- III. Government, executive stewardship of the system as a whole;
- IV. Bureaucracy, where policies are implemented;
- V. Economic Society, refers to state-market relations; and
- VI. Judiciary, where disputes are settled.

Six core *principles* are supposed to be widely accepted by researchers and governance stakeholders in developing and transitional societies around the world:

- Participation: the degree of involvement by affected stakeholders.
- Fairness: the degree to which rules apply equally to everyone in society.
- Decency: the degree to which the formation and stewardship of the rules is undertaken without humiliating or harming people.
- Accountability: the extent to which political actors are responsible to society for what they say or do.
- Transparency: the degree of clarity and openness with which decisions are made.
- Efficiency: the extent to which limited human and financial resources are applied without unnecessary waste, delay or corruption.

Source: ODI, 2006

It should be stressed that the six principles have been derived from the Universal Declaration of Human Rights (1948), ratified or signed by most states. The WGA thus works with 'values' that are (at least officially) widely accepted and supported (Goran Hyden, personal Communication, 7 Dec 2007). The six arenas and six principles can be expressed in a table or matrix:

Table 1. Matrix of arenas and principles (source: ODI, 2006),

Arenas/principles	Participation	Fairness	Decency	Accountability	Transparency	Efficiency
Civil Society						
Political Society						
Government						
Bureaucracy						
Economic Society						
Judiciary						

3.3 Accountability

Ackermann (2004) argues that the central idea of 'co-governance' is that the active involvement of civil society and the strengthening of the state apparatus are not mutually exclusive or even contradictory initiatives. If institutions are properly designed, a virtuous cycle that reinforces both state and society is possible. The opening up of the core activities of the state to societal participation is one of the most effective ways to improve accountability and governance. The principle element that assures good government is the accountability of public officials. This involves both answerability, or 'the obligation of public officials to inform about and to explain what they are doing', and enforcement, or 'the capacity of accounting agencies to impose sanctions on power holders who have violated their public duties'.

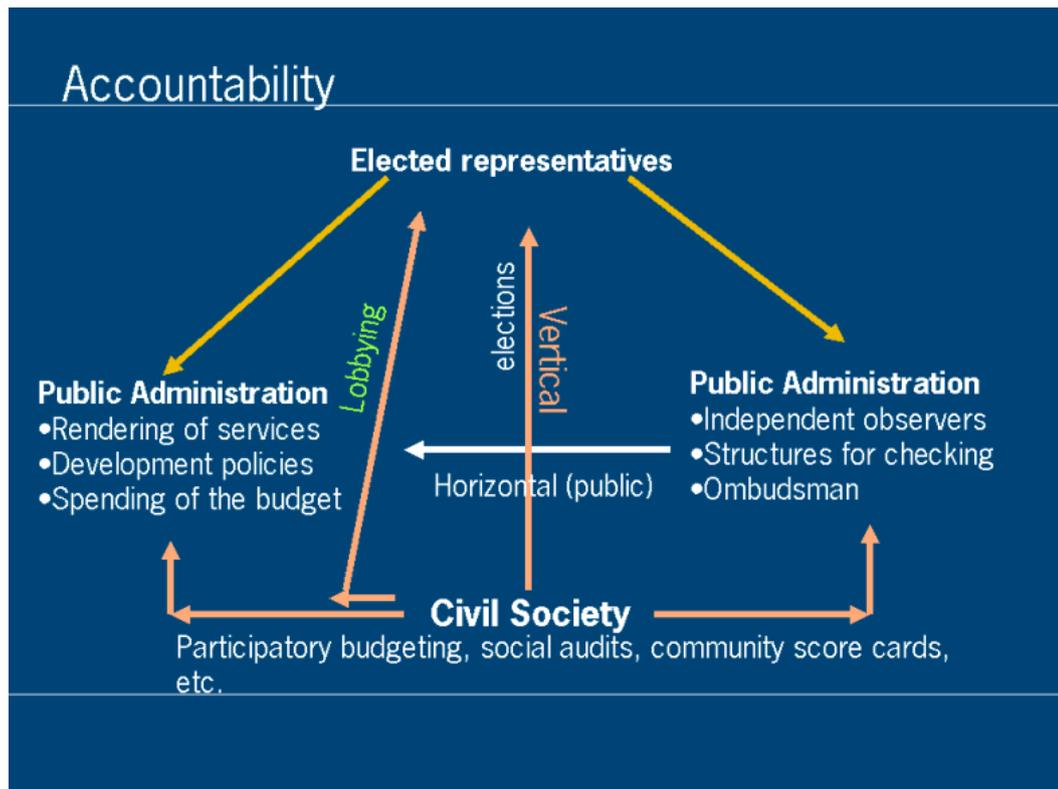


Figure 1. Visualization of three types of accountability (idea by D.Klaver after Ackermann, 2004)

The only way to guarantee good government is by institutionalizing powerful accountability mechanisms that hold every public official responsible for his/her actions as a public servant. There are three types of accountability (see Figure 1 and box 2).

Box 2. Types of accountability

Vertical accountability: The celebration of free and fair elections is one of the most powerful pro-accountability mechanisms in existence. However, there are three problems: (a) elections only hold elected officials accountable, (b) elections take place only every few years and force an incredible diversity of opinions and evaluations together in one ballot, and (c) most politicians are elected by only a small portion of the population.

Horizontal accountability: As a result, 'vertical accountability' mechanisms such as elections have been complemented by 'horizontal accountability' mechanisms that require public officials and agencies to report 'sideways' to other officials and agencies within the state itself. Examples of horizontal accountability mechanisms include human rights ombudsmen, corruption control agencies, legislative investigative commissions and administrative courts. Difficulties with these institutions include: (a) the impossibility of monitoring the enormous number of government actions (and inaction), (b) the political independency of such institutions, (c) contextual difficulties like lack of adequate funding, limited enforcement capacity, the absence of second order accountability (i. e. holding accounting agencies accountable) (d) overall weakness of the rule of law needed to enforce agency sanctions.

Direct societal participation: There is a third way to hold government accountable. State-society synergy is one of the best ways to strengthen government accountability. For example, involvement of citizens in the planning and implementation of projects can greatly improve their effectiveness and reduce corruption.

Source: Ackermann, 2004, see for visualization figure 1

In another publication, Ackermann (2005) calls the third type of accountability 'Social Accountability'. The Social Accountability approach towards building accountability relies on civic engagement, in which ordinary citizens and/or civil society organizations participate directly or indirectly in order to exact accountability. Initiatives such as participatory budgeting, administrative reforms acts, social audits, citizen report cards, and community score cards, all involve citizens in the oversight of government, and can therefore be considered social accountability initiatives. While designing an intervention around social accountability, it is useful to think about six parameters:

- a. Incentive Structure - punishment or reward based approach;
- b. Accountability for what – rule following or performance orientation;
- c. Level of institutionalization – ranging from independent external initiatives, to one where the governments have institutionalized participation of outside groups;
- d. Depth of involvement – is the engagement with government consultative in nature or does it involve closer interaction from the planning stages;
- e. Inclusiveness of participation – ranging from including only the 'well behaved' groups to having extensive consultations with a variety of actors, including marginalized groups; and
- f. Branches of government – whether the target of efforts is executive, legislative or judiciary.

The role of civil society is crucial, and depends on the specific situation. Several of the roles of civil society are identified in Box 3.

Box 3. Possible roles of civil society

- Counter power: actions of interpellation, watchdog function, denunciation (criticize and demand).
- Rendering of services: implementation of state projects, accompany initiatives of the public sector.
- Provision of education, raising awareness and developing capacities of citizens.
- Influencing politics, defense of interests: dialogue, lobbying and advocacy.
- Social mobilization around development activities (with or without the government).
- Negotiation: with the government or with the private sector.

Source: input from participants in the International Course on Rural Decentralization & Local Governance 2004-2007, Wageningen International.

3.4 Conclusions

Important principles of 'good governance' are participation, fairness, decency, accountability, transparency and efficiency. They are considered to be universally applicable, being based on the Universal Declaration of Human Rights. The various international organizations may emphasize one or more of these principles, but their concepts do not challenge these principles.

Accountability is a key issue in good governance. Besides vertical accountability (mainly through elections) and horizontal accountability (in which governmental organizations report 'sideways' to other officials and agencies within the state itself), direct societal participation is crucial. Within the framework of FLEGT it is important that, in the various countries, civil society and other stakeholders (like the EU) have a clear idea which role or roles they need to play. Important questions to be answered are: Which of these roles are the most suitable for contributing to the governance objectives of FLEGT? How can the EU connect with existing arrangements and reinforce them for the benefit of FLEGT?

4. Good Enough Governance

4.1 The Concept of Good Enough Governance

In reaction to broad and demanding concepts and definitions of (good) governance, Marilee Grindle (2004) formulated the following criticism:

'The good governance agenda is unrealistically long and growing longer over time. Among the multitude of governance reforms that 'must be done' to encourage development and reduce poverty, there is little guidance about what's essential and what's not, what should come first and what should follow, what can be achieved in the short term and what can only be achieved over the longer term, what is feasible and what is not. If more attention is paid to sorting out these questions, 'good enough governance' may become a more realistic goal for many countries faced with the goal of reducing poverty. Working toward good enough governance means accepting a more nuanced understanding of the evolution of institutions and government capabilities; being explicit about trade-offs and priorities in a world in which all good things cannot be pursued at once; learning about what's working rather than focusing solely on governance gaps; taking the role of government in poverty alleviation seriously; and grounding action in the contextual realities of each country.'

Grindle defined Good Enough Governance 'as a condition of minimally acceptable level of government performance and civil society engagement that does not significantly hinder economic and political development and that permits poverty reduction initiatives to go forward' (Grindle, 2004). As a way forward, she proposes the following:

- Reformulate the objective, reduce the agenda
- Introduce historical analysis and country case studies which can serve as a basis for reducing the list of things to be done, as well as suggest sequences for putting governance reforms in place².
- Make the connection with poverty reduction. Sort out which aspects of governance are critical to the conditions of the poor.
- Learn from what is working (well enough). Concentrate on aspects of governance that are working instead of fixating on the long list of things that are wrong. Try to deduce lessons from things that are working reasonable well.
- Assess priorities strategically. Priorities will differ by country and even by political administrations within countries. Defining priorities will undoubtedly generate conflicts, but it is essential to define a hierarchy of activities.
- Think of alternatives, but remember the public sector. Governments may be uninterested and/or unable to promote good governance. There may be alternative ways to ensure basic services and the capacities of communities to protect themselves and survive. At the same time, many such alternatives provide only short-term solutions. Ultimately, good enough governance has to involve governments and ensure the regular provision of basic public goods such as order, security and legitimate authority.

Grindle (2005) also provides an illustration of a hierarchy of governance priorities for different types of states: from the lowest rank of collapsed states to the highest rank of institutionalized competitive states. For collapsed states priorities would be e.g. (a) personal safety ensured, (b) basic conflict resolution systems in place and functioning and (c) widespread agreement on basic rules of the game of political succession. For the second highest rank, the institutionalized non-competitive states, priorities would be: (a) government able to ensure basic services to most of the population; b) government able to ensure equality/fairness in justice and access to services; (c) open government decision making/implementation processes; (d) government responsive to input from organized groups, citizen participation.

Grindle's ideas inspire Jabeen (2007) who tries to apply and elaborate the concept in the South Asian situation. She justifies the introduction of 'good enough governance' by explaining why governance does not work in many developing countries:

² See for an example of such a historical analysis for the forestry sector in Nepal: Schoubroeck and Sah, in prep.

'The concept of governance assumes democratic and bureaucratic norms and values such as rule of law, individualism, rationality, impersonality, equality, merit, justice, and participation. Western and developed countries have long history of using democracy and bureaucracy to ensure responsiveness and efficiency of their governments. Political and administrative institutions guided by democratic and bureaucratic norms have evolved in these countries through a natural course of history set by the French revolution and a scientific revolution. A shift from feudalism to capitalism, religion to science, agrarian to industrial society, aristocracy to democracy, traditional authority to legal and rational authority was part of an overall social transformation in these societies. Thus, political, administrative, economic, and social realms of public affairs remained aligned with each other in these countries. Bureaucratic norms transcended all organizations in the society including government and business and industry. Bureaucracy, despite its built-in capacity for dominance, has not hindered the development of other institutions as it happened in post-colonial societies. Government bureaucracies were consistently subjected to political control through democratically elected governing bodies, which was possible because of congruence between formal and informal institutions, espoused values and values in action, and consistency in bureaucratic norms and cultural norms.'

By contrast, cultural values in many developing countries are completely different to those of government institutions. Jabeen takes the situation in South Asia as an example (she herself is from Pakistan), and characterizes the cultural context as one of authoritarianism, elitism, familism, paternalism, sectarianism, extremism and feudalism. Neither government nor business or civil society is immune from these cultural influences. Therefore, values embodied in the notion of good governance stand in conflict with the cultural values of South Asia, a fact which poses a great challenge for a smooth and undisruptive transition from government to governance in that region. She pleads for indigenization of the concept of governance, which does not mean rejecting the concept, but rather developing a strategy and viable action plan for good governance suitable to the institutional context of the countries involved.

4.2 Conclusion: contextualize and prioritize

The concept of '*good enough* governance' is valuable because it raises the issue of the governance agenda being unrealistically long and still growing. We believe that it is important to take the following aspects of 'good enough governance' into consideration:

- It is necessary to reduce the agenda, introduce a historical, country-specific analysis, sort out aspects critical for poverty reduction, assess priorities strategically and identify alternatives, without forgetting the public sector.
- 'Good enough governance' acknowledges explicitly that governance has to do with norms and values which are culturally determined. These norms and values are not always sufficiently present to form a basis for 'good governance'. Jabeen's view on this is very sweeping; in our view there may also be many situations where such norms and values are at least partially present. However, the issue is certainly a real one. Changing these values in a country is a long term process and therefore priorities have to be set.

5. Local Governance

5.1 Introduction

Governance is an issue at local level too, and local governance is also relevant to the FLEGT process. It is at the local level that the timber is extracted from the forest and local groups and communities are affected by it. Harvesting takes place in a timber concession or in another area, generally under the jurisdiction of a local government. At local level, we can recognize two different organizations:

1. The local administration as part of the government
2. The community governed by its own institutions (rules, regulations, organizations either formal or informal).

'Local government' is very heterogeneous in size, in distance citizen-government, in capacity and implementing strength.

In section 5.2 we will deal with decentralization and local governance in general. While seeking to improve the performance of the public sector, many countries have initiated decentralization processes since the beginning of the ninety-nineties. These have consequences for the stakeholders involved in governance, the institutions in place that impact upon governance performance.

In 5.3 we will deal with local NRM governance. Much information on local NRM governance can be found under the headings of, for example, social forestry, community forestry, adaptive management, joint forest management and co-management. There is neither space nor need to deal with these concepts here, and we will restrict ourselves to highlighting the principles Ostrom (1990) formulated for successful local NRM governance.

5.2 Decentralization and local governance

Decentralization is often presented as the panacea for solving many of the problems of central governments in developing countries, such as lack of accountability, low levels of service delivery, overspending and corruption. But to what extent are local governments more accountable, less corrupt, more efficient and more effective than central government? (Van Geene, 2007).

Decentralization can be defined as any act in which a central government formally cedes powers to actors and institutions at lower levels in a political-administrative and territorial hierarchy (Ribot, 2002). Most authors distinguish between three aspects of decentralization: administrative, fiscal and political decentralization.

Van Geene, 2007 concludes that the results of decentralization are very mixed. Ideally, people who draw up local development plans would also be accountable to local communities (through elected officials). In practice, however, plans are often made by technocrats, accountable to line ministries and pursuing their own interests. The question also remains as to whether the political system is working, with all communities exercising their democratic rights, or whether the political system is dominated by the elite.

Corruption can be diminished by decentralization through more responsible governance in general and through better local accountability mechanisms. However, the opposite may also be true in the absence of the capacity to be accountable and to hold the local administration accountable. Especially in places where patronage networks dominate society, decentralization will only enhance opportunities for corruption. Nevertheless, there are also success stories which show that decentralization can be an excellent tool for pro-poor service delivery.

According to van Geene, the following conditions influence the effectiveness of decentralization:

- *Background:* Setting of decentralization (income levels, density), social institutions (values, patronage, organizations), capacity of local actors, political power and structure (checks and balances, administrative functions).

- *Process*: Willingness and ability to reform, transparency and participation, elite capture, coherence with other policy reforms
- *Objectives*: Decentralization by design or default, quality of the design and objectives.

In order to improve local government performance, much emphasis is placed on monitoring and evaluation, on improving social accountability arrangements and on capacity building among local governments and civil society organizations.

The decentralization process has increased the numbers of actors to be included in governance processes, as well as the levels of governance (see the definition of Van der Zouwen). It has also made the first order of governance more complex, creating a need for new institutions to be designed and maintained (second order of governance), as well as new values and norms regarding who should be doing what and what is right and wrong in terms of decentralization and local governance (third order of governance).

There is a movement at the local level to monitor and evaluate the quality of local governments and municipalities. The idea is that in this way improvement in governance can be promoted or even enforced. One way to do this is to measure the satisfaction of citizens through score cards. For example, in Ecuador local stakeholders are very well able to define for themselves the most important aspects of governance for their specific situation. In two districts of Ecuador, the 'Barometer of Good Governance' was developed using participatory processes which involved approximately 80 representatives of social organizations and the representatives of the local government (Proaño *et al.*, 2006).

5.3 Local Governance in NRM

Elinor Ostrom distills some design principles from NRM case study analysis. She does not claim that these design principles are either necessary or sufficient, but that experience of robust institutions (formal and informal agreements) suggests that they increase the probability of success. These principles are still widely acknowledged and used (Anderies *et al.*, 2003):

1. *Clearly Defined Boundaries*
The boundaries of the resource system (e.g., irrigation system or fishery) and the individuals or households with rights to harvest resource units are clearly defined.
2. *Proportional Equivalence between Benefits and Costs*
Rules specifying the amount of resource products allocated to a user are related to local conditions and to rules requiring labor, materials, and/or money inputs.
3. *Collective Choice Arrangements*
Most individuals affected by harvesting and protection rules are included in the group who can modify these rules.
4. *Monitoring*
Monitors, who actively audit bio-physical conditions and user behaviour, are at least partially accountable to the users and/or are the users themselves.
5. *Graduated Sanctions*
Users who violate rules-in-use are likely to receive graduated sanctions (depending on the seriousness and context of the offense) from other users, from officials accountable to these users, or from both.
6. *Conflict Resolution Mechanisms*
Users and their officials have rapid access to low-cost, local arenas to resolve conflict among users or between users and officials.
7. *Minimal Recognition of Rights to Organize*
The rights of users to devise their own institutions are not challenged by external governmental authorities, and users have long-term tenure rights to the resource.

For resources that are parts of larger systems:

1. *Nested Enterprises*

Appropriation, provision, monitoring, enforcement, conflict resolution, and governance activities are organized in multiple layers of nested enterprises.

5.4 Conclusion: a need to create space for Local Governance

We have to take into consideration that in many countries decentralization policies have only been partially formulated and implemented. Often there is not enough 'enabling environment' for 'local governance' to prosper. For example, line ministries can block a transfer of responsibilities and funds. So local governance is very much determined by national processes and should be considered in that context.

In the NRM sector at local level, a number of principles contribute to successful management. These are the existence of:

- Clearly defined boundaries;
- Rules adaptable to local conditions;
- Space for collective choice arrangements;
- Monitoring, particularly by a third party, for enforcement and punishment;
- Sanctions escalating with the severity of the violation;
- Conflict resolution mechanisms;
- The right to organize groups;
- Arrangements where local knowledge and local institutions prevail, but shaped to accommodate larger and broader interests.

At national level, space should be created so that local governance can develop according to the above principles. But establishing a national legal framework for decentralized governance is only the beginning of 'good local governance'. Local institutions still need to be developed, and experiences need to be fed back to the national level to make it possible to refine the legal and institutional support from the national to the local level.

The example of local governance from Ecuador shows that the principles the local stakeholders consider to be important are nothing exceptional within current thinking on 'governance'. The most interesting feature of the example is that at local levels stakeholders are very able to define principles and indicators for monitoring. It is even possible to carry out a form of quantitative monitoring of aspects of governance, thereby making it possible to compare the situation over time.

6. Global Value Chain Governance and Corporate Social Responsibility

6.1 Introduction

The FLEGT initiative focuses on the timber trade. Legality issues can be monitored through the timber chain of custody. A chain of custody guarantees that the product can be traced back to its origin through every phase of the market chain, from the forest where the timber is harvested to the consumer citizen or organization in an EU member state. Economists and marketing experts have described governance in the chain as directly related to the design of the chain and to its functioning. Like monitoring (through the chain of custody), such aspects of governance in the chain are relevant for FLEGT. Moreover, the timber trading and processing companies are an important stakeholder in the FLEGT process. Their relationship with 'governance' will be dealt with in the paragraph on 'Corporate Social Responsibility'.

6.2 Global Value Chain Governance

When answering the question 'what is chain governance?', Humphrey and Schmitz (2000) start with an example. Leading UK supermarkets exercise control over their fresh vegetable supply chains. Not only do they specify the type of products they wish to buy (including varieties, processing and packaging), but they also prescribe processes such as the quality systems that need to be in place. These requirements are enforced through a system of auditing and inspection and, ultimately, through the decision to keep or discard a supplier.

According to Humphrey and Schmitz (2000), at any point in the chain, the production process is defined by a set of parameters. The four key parameters which define what is to be done are:

2. What is to be produced?
3. How is it to be produced? This involves the definition of production processes, which can include elements such as the technology to be used, quality systems, labour standards and environmental standards.
4. When it is to be produced?
5. How much is to be produced?

To these four basic parameters one might add a fifth parameter, price. Although prices are usually treated as a variable determined in the market, major customers (particularly those competing more on price than, for example, product quality) frequently insist that their suppliers design products and processes in order to meet a particular target price.

In global value chains in which developing country producers typically operate, buyers play an important role in setting and enforcing these parameters. They set these parameters because of the (perceived) risk of producer failure. Product and process parameters are also set by government agencies and international organizations concerned with quality standards or labour and environmental standards. To the extent that external parameter setting and enforcement develop and gain credibility, the need for governance by buyers within the chain will decline. (Humphrey and Schmitz, 2000).

Gereffi *et al.* (2005) distinguish five types of governance pattern in global value chains, based on forms of mutual dependency between market actors: (1) markets, in which the cost of switching partners is low (lowest dependency for spot markets); (2) modular value chains, according to specificity of investments to produce for a market; (3) relational value chain, according to socially regulated dependencies, such as trust, reputation or ethnic ties; (4) captive chain layout, with many small suppliers versus one large buyer; and (5) hierarchy, with a level of vertical integration.

Dupui (2006) observes that 'market' in the above definition does not necessarily mean just buyers and sellers; it also means a network of other actors that affect the exchange of commodities along the value chain, including government (both as regulators and as rural development policymakers), NGOs, business and citizens lobbying groups, and consumers, whether organized or not. Also, 'governance' according to their definition involves both structure (the rules) and process (the ways in which these rules are determined through relationships and social coordination). Therefore, in Dupui's own overview of alternative market governance, she includes a consideration of both the rules and the social interactions necessary for the creation of those rules.

For Coote (personal communication), market governance has much to do with power, dominance, authority and control by a market party. Coote is very much interested in how smallholders can get access to international markets³. Here market access is considered a route out of poverty: We need to understand how smallholders can participate. Research is necessary, as well as policy guidance and action.

Vellema (personal communication) mentions several important elements of the enabling environment within value chain governance:

- Industrial policy: Sector specific policy, alignment of various interests within the sector and specialization and system competition;
- Innovation networks: upgrading of the production, knowledge systems, societal learning;
- Regulation of the interdependencies: level playing field, distribution of (economic) values, risk management, conflict management.

For clarification, we elaborate the term 'Societal learning'⁴. Societal Learning is 'facilitated social change based on collective learning processes, democratic participation and empowerment'. It refers to the way different groups in society, whether community-based, business or government, can work together to improve the environment, the economy and the community. Societal learning recognizes that neither top-down centralist government decision making nor a completely free market approach — every individual out for themselves — can solve the problems faced by societies. The world is complex and changing rapidly so we need approaches to problem-solving and institutions that are flexible, adaptive and creative. We often don't know the answers to problems and we need to learn our way forward.

The various aspects of value chain governance are summarized in the table below.

Table 2. Examples of legislative, judicial and executive Value Chain Governance Source: Kaplinsky en Morris (2001).

	Exercised by parties internal to chain	Exercised by parties external to chain
Legislative governance	Setting standards for suppliers in relation to on-time deliveries, frequency of deliveries and quality	Environmental standards Child labour standards
Judicial governance	Monitoring the performance of suppliers in meeting these standards	Monitoring of labour standards by NGOs Specialized firms monitoring conformance to ISO standards
Executive governance	Supply chain management assisting suppliers to meet these standards. Producer associations assisting members to meet these standards.	Specialized service providers. Government industrial policy and support

³ See: www.regoverningmarkets.org

⁴ Taken from <http://portals.wi.wur.nl/misp/>

6.3 Corporate Social Responsibility

At first sight, it would seem logical to use the term 'corporate governance' here, but that term is largely all used to describe internal processes within companies. This is illustrated by the definition given on Wikipedia (accessed 30 January 2008):

'Corporate governance is the set of processes, customs, policies, laws and institutions affecting the way a corporation is directed, administered or controlled. Corporate governance also includes the relationships among the many players involved (the stakeholders) and the goals for which the corporation is governed. The principal players are the shareholders, management and the board of directors. Other stakeholders include employees, suppliers, customers, banks and other lenders, regulators, the environment and the community at large'

This definition makes some reference to other stakeholders and the community at large, but there is much more scope for possible applications for FLEGT in the term 'Corporate Social Responsibility'. Corporate Social Responsibility of companies may influence the governance of market chains, because other values may come into play, which may lead to another type of value creation in the chain.

As an introduction, we cite a paragraph from an article in the Economist of January 20th 2005:

'Over the past ten years or so, corporate social responsibility (CSR) has blossomed as an idea, if not as a coherent practical programme. CSR commands the attention of executives everywhere—if their public statements are to be believed—and especially that of the managers of multinational companies headquartered in Europe or the United States. Today corporate social responsibility, if it is nothing else, is the tribute that capitalism everywhere pays to virtue.'

It would be a challenge to find a recent annual report of any big international company that justifies the firm's existence merely in terms of profit, rather than 'service to the community'. Such reports often talk proudly of efforts to improve society and safeguard the environment—by restricting emissions of greenhouse gases from the staff kitchen, say, or recycling office stationery—before turning hesitantly to less important matters, such as profits. Big firms nowadays are called upon to be good corporate citizens, and they all want to show that they are.'

Marrewijk (2002) shows that in academic literature, various authors have referred to a hierarchy of three answers to the question to whom an organization has a responsibility.

- According to the *shareholder approach*, sometimes regarded as the classical view on CSR, 'the social responsibility of business is to increase its profits'. The shareholder, in pursuit of profit maximization, is the focal point of the company and socially responsible activities don't belong to the domain of organizations but are a major task of governments. This approach can also be interpreted as meaning that business enterprises are concerned with CSR only to the extent that it contributes to the aim of business, which is the creation of long-term value for its owners.
- The *stakeholder approach* indicates that organizations are not only accountable to its shareholders but should also balance a multiplicity of stakeholders' interests that can affect or are affected by the achievement of an organization's objectives.
- According to the *societal approach*, regarded as the broader view on CSR (and not necessarily the contemporary view), companies are responsible to society as a whole, of which they are an integral part.

Linnanen and Panapanaan (in Marrewijk, 2002) consider Corporate Sustainability (CS) as the ultimate goal; that is, meeting the needs of the present without compromising the ability of future generations to meet their own needs. In relation to CS, CSR is considered an intermediate stage where companies try to balance the Triple Bottom Line (People - planet – profit).

The move towards Corporate Social Responsibility is visible in the timber trade sector too. An example is the Dutch Timber Trade Association, which has adopted a Policy Plan for its organization and a Code of Conduct for its members (VWNH, 2006). The Policy Plan has two objectives for 2009:

1. In 2009, there is certainty about the origin of 100% of the timber traded by members of the VWNH.
2. In 2009, 75% of the timber imported and traded by VWNH members has demonstrably been produced in a sustainable way.

The VNH members have signed a Code of Conduct and have a statutory obligation to comply with it (see box 4). They are allowed to use the brand 'Erkende Houthandel' [=recognized timber trader]. There is a sanction system if members do not comply with one or more rules. There is also a system for dealing with complaints from third parties.

Box 4. Code of Conduct Dutch timber traders

The Code of Conduct entails the following:

1. Members only bring timber to the Dutch market that complies with legislation and rules in force (both nationally and internationally agreed).
2. Members preferably trade timber from demonstrably sustainable sources.
3. Members constructively engage in developments which lead to more certified timber on the Dutch market.
4. Members search for new areas of origin with sustainable forest management.
5. Members have a transparent, constructive and open attitude towards issues like origin, way of harvesting, development of the forest area, biodiversity and other actual themes.
6. Members engage in maintaining the high level of labor conditions in the Netherlands.
7. Members endorse the importance of solid communication and promotion of timber and provide if necessary the information.

Source: WNH, 2006

6.4 Conclusions

Our observations as to *value chain governance* are:

Value chain governance takes into consideration certain issues that are more or less ignored in other definitions of 'governance':

- In most definitions of 'governance' aspects of governance in market chains are not taken into consideration. The structure of the chain defines price mechanisms as well as power and social relations (setting standards, trust); its operation interacts with the local environment and sets conditions for production / resource management.
- In most definitions, 'power' is only mentioned implicitly (one could argue that 'accountability' is a way to control - or even share - power). Again, the *Global Value Chain governance* is the exception.
- 'Societal learning' and 'interactions' are missing in most definitions of governance. Societal learning is learning by the different stakeholders in a process aiming to reorganize their sector. While actively cooperating, they learn from each other and together they know much more than any party would learn separately. The result of the interactions can be more effective and efficient than any solution 'imposed' by one party.
- In the definition of value chain governance, certain market parties (supermarkets, big companies) sometimes play the dominant role – which is not negative in itself. In most other definitions, the government (at different levels) generally plays a dominant role, while the role of other stakeholders gradually becomes more important.
- It is an interesting notion that value chain governance should aim at the inclusion of smallholders in the market. There are certainly parallels with the forestry sector, where farmers and communities also have difficulty accessing the international timber market.

Governance of markets is not just Adam Smith's invisible hand of the market doing its work; the visible hands of big companies or supermarkets do coordinate activities (Vellema, personal communication).

Another important idea is that the enabling environment for markets should be optimized (through sector policy, innovation networks, the creation of a level playing field, and the management of risks and conflict).

Timber chain governance and *forest governance* are closely interlinked:

1. Almost all concepts of governance cover the interaction between government, civil society and private sector. The government influences the structure and governance of chains, which becomes clear when we look at

Kaplinski and Morris's framework of governance in the market chain. The subdivision they make between legislative, judicial and executive governance could also be applied to our discussion on forest governance. A timber licensing system under FLEGT could be categorized under 'judicial': monitoring whether market parties in the chain comply with the rules.

2. Governance from the value chain can have a negative impact on the governance of the forest. Profit and value creation in the chain, creation or maintenance of employment in the sector, (over)capacity in the processing industry: together or separately, these factors may become so dominant that they undermine efforts in the forest to improve governance and forest management.

We have dealt with 'Corporate Social Responsibility' and have set aside the term 'Corporate Governance' for the purposes of this study. However, there is a clear linkage between these concepts: It is hard to imagine that corporations will comply with principles in the public space or the market chain, if they do not maintain the same principles in their internal management – i.e. their Corporate Governance.

The example of Corporate Social Responsibility among Dutch timber traders is interesting. There are other examples in the EU, but it could be important to promote comparable initiatives in other EU member states. The Code of Conduct makes reference to certification and Sustainable Forest Management. These are valuable issues at the management unit level but they do not directly address the issue of governance (although sometimes certification schemes do touch on some aspects of governance, e.g. participation of local stakeholders). It could be interesting to discuss and explore the possible role of timber traders in actively supporting forest governance.

7. Forest Governance

In this chapter we try to identify the most important issues to be taken into account when looking at forest governance in the light of the non-sector-specific governance issues raised in previous chapters. We then look at forests in general and the forest sector in particular, from the economic, social and ecological perspectives. We will look at different concepts of forest governance and see whether certain elements are relevant for FLEGT and have the potential to be used within a FLEGT governance approach.

7.1 What the previous chapters tell us about defining forest governance

Governance became an important term over the past decade, in which it was increasingly agreed that previous efforts to improve government (e.g. public administration reform, New Public Management, liberalization, outsourcing and decentralization) and public sector performance in solving societal problems have not been adequate. There was also increasing recognition of the role of the private sector and civil society organizations in solving societal problems or creating societal opportunities. As a consequence, the term 'governance' was introduced, implicitly suggesting that government is one of the actors but not the only actor in charge of governing society.

It is increasingly being accepted that governance is about giving direction to efforts to solve societal problems or create societal opportunities, that it requires interaction between different actors at different levels, and that different perceptions and views must be taken into account in order to develop strategies to solve the problems. The definitions given of governance also highlight three orders: The first looking in particular at policy formulation, implementation and evaluation processes; the second looking at the design and the maintenance of the institutions and arrangements necessary to realize the policy objectives; and the third looking at norms and values and discussing such questions as: Who should be steering development efforts and what does good governance mean?

On the basis of the above, we conclude that governance is a complex process, requiring soft systems thinking in order to identify ways of improving governance practice. With this in mind, forest governance needs to be defined and analysed in terms of:

- The domain and scope of the system (the resource or aspect of society involved and the universe of stakeholders);
- The aims or outcomes of the system and how well they are defined and perceived by all actors.
- The actors involved (public and private sector, civil society), levels considered (local, intermediate, national, global) and their degree of embedment and influence within the system and its outcomes;
- The institutions involved (informal institutions and formal institutions such as regulations and their enforcement mechanisms, decision-making processes and arrangements);
- The normative aspects and values – paradigms that shape the three above-mentioned issues, such as principles and attributes of the system (see good governance).

The literature on good governance gives an overview of current thinking about what 'good' governance is, and its key principles of participation, fairness / social justice, decency, accountability, transparency and efficiency. These good governance principles coincide with the third order of governance, which specifically addresses issues as who has the authority to set the norms for good governance.

For change agents working in the field of governance, discussion about good governance principles with the actors involved in development processes provides a good starting point for shaping governance according to the stakeholders involved. The same goes for the principle of accountability, a rights-based approach which is increasingly being used in development-oriented interventions to empower citizens in development-related issues.

For Forest Governance, it is therefore relevant to define the principles, values and norms of good forest governance and to adjust social accountability methodologies to cater for improved forest governance.

The chapter on Good Enough Governance also provides some guidelines as to where to start with working towards good governance, acknowledging that good governance is all-encompassing and cannot be achieved all at once. Some suggest starting by setting a strategic agenda and reducing it as much as possible, and then looking at the governance issues that need to be addressed within this 'subsystem'. Others start by defining governance priorities in relation to the current performance of the state.

The decentralization processes and the current emphasis on value chain governance and corporate social responsibility can all be considered as subsystems that should be examined when trying to define and improve forest governance. The main issues to be taken into account are the consequences of decentralization in terms of introducing new actors and new decision making arrangements and institutions into forest governance, and the importance of markets and economics in the forest sector. Power and societal learning are more explicitly dealt with in value chain governance.

7.2 The World Bank

Besides having a general definition of governance and indicators for assessing it, the World Bank has also defined 'forest governance'.

Governance is the process by which public officials and public institutions acquire and execute their authority to provide public goods and services. Forest sector governance, then, refers to the modus operandi by which officials and institutions (both formal and informal) acquire and exercise authority in the management of the resources of the sector to sustain and improve the welfare and quality of life for those dependent on the sector.

Good forest governance is characterized by predictable, open, and informed policy making based on transparent processes, a bureaucracy imbued with a professional ethos, an executive arm of government accountable for its actions, and a strong civil society (including the private sector) participating in public affairs, and all behaving under the rule of law. Thus, key features of good governance include adherence to the rule of law, transparency and low levels of corruption, voice of all stakeholders and accountability of all officials, low regulatory burden, and political stability.

Within this definition of forest governance, the struggle against corruption is important. In 2005 the World Bank published a report on tools for civil society action to reduce forest corruption (Rosenbaum, 2005). The forest sector badly needs functioning integrity systems. Corruption promotes illegal logging and trade, and illegal logging is a multi-billion-dollar-per-year problem for the world. Beyond the lost revenues, illegal logging is hardly ever sustainable. No one has ever quantified the environmental and social harm it causes worldwide. Transparency International (TI) is the world's leading organization in the fight against corruption. The Forest Integrity Network (FIN) is a TI initiative that aims to address corruption issues in the forest sector.

Corruption is a chronic threat in all societies and is only controlled through national integrity systems. These are built on a foundation of social values and public awareness, and they rely on the various pillars of society providing mutual accountability for corrupt behaviour. The pillars include non-governmental actors such as the media and civil society, and governmental actors such as the legislature, ombudsmen, and watchdog agencies. How might civil society groups apply examples from other sectors to the forest sector? The publication mentions more than two dozen tools that groups might apply.

Our conclusions are the following:

- The World Bank's definition of 'forest governance' is rather broad, but in its implementation the struggle against corruption seems to be quite dominant.
- Corruption is definitely an important aspect of forest governance and it is noteworthy that there are tools to empower local groups to monitor corruption in the forest sector.

7.3 Forest Governance Learning Group (FGLG)

The Forest Governance Learning Group (FGLG, 2006a), an initiative under the leadership of IIED, can be considered as an example of a platform for societal learning. The FGLG has its own definition of forest governance. After giving short working definitions of governance and good governance in general, Myers *et al.* (2006) state the FGLG's working definition of forest governance as: 'The decisions and actions that remove the barriers and install the policy and institutional systems which spread local forestry success'.

The FGLG has defined four outputs of their project which we consider to be part of their understanding of forest governance.

- Output 1: Poverty reduction strategy, national forest programme and decentralization programme enable improved forest governance
- Output 2: Illegal and corrupt forestry practices that degrade livelihoods are reduced through the adoption and spread of practical approaches to improve forest governance
- Output 3: Forest enterprise initiatives and private sector associations comply with the law and spread practical approaches to improve forest governance
- Output 4: Ownership, access rights, policy and management frameworks are improved to support local control and benefit sharing.

In the latest update of September 2007, short country reports from each country present overviews of the issues faced in the forest sector each country.

In 2006, the participating countries prepared a work plan indicating priority areas for improving governance and stating the problems to be addressed:

Cameroon. Development agencies like the World Bank, GTZ, SNV, IUCN and national NGOs are represented in the learning group. The problem statement of the learning group includes the following issues:

- Fiscal system: Weak capacity to realize the potential for a decentralized fiscal system
- Information flow: weak information flow among stakeholders
- Accountability of royalties: Poor accountability and equity in management of annual forest royalties
- Communal management of forest royalties: The absence of communal and local development plans for management of annual forest royalties
- Contribution to improvement of local livelihood: Insufficient local returns from timber and non-timber forest by-products, thus not realizing their potential to alleviate poverty and improve livelihoods.

Ghana. The overarching theme for the group in Ghana is 'social justice in forestry' (FGLG, 2006b). More specifically this means:

- Fair access to resources
- Fair distribution of rents
- Participatory resource management

Indonesia. The group considers governance to be more than legislation, e.g. aspects like looking at how the interplay of actors (power), processes and contexts lead to real outcomes for forests and people. In the working plan (FGLG, 2006c), suggestions for themes are given but apparently no themes have been selected yet. According to the latest update (FGLG, 2007) there is a national group and a district group.

Our observations are:

- Here 'forest governance' is very much contextualized to the specific country situation. This is in accordance with ideas on 'good enough governance'.
- There may be a danger of a national learning group becoming a forum for discussing all forestry-related issues, and it is important to keep the focus on the concept of governance (e.g. multi-actor, multi-level and multi-meaning) and ways of implementing it.

7.4 The pyramid planning tool for good forest governance

Partly in relation to their work with the above mentioned IIED project 'Forest Governance Learning Group', Mayers *et al.* (2005) have developed a planning tool for good forest governance. They start from the idea that paradigms of governance are fundamentally about values, structures and other contextual matters. It is axiomatic that decisions on forests are influenced by the values of those who make them. But these values can vary widely, and explain fundamentally different policies. Where there is multi-stakeholder involvement, (sometimes newly-emerging) sets of universal values tend to be more prevalent: these include human rights, and values that have recently evolved through environmental and development-related debates (e.g. the precautionary principle, the polluter-pays principle, intra- and inter-generational equity). The structure of government will also affect how 'vertical' and 'horizontal' issues are balanced. For example, federal systems tend to operate differently from centralized systems. Finally, other aspects of, for example, history, ecological endowment, and economic conditions will also influence governance. In practice, values, structure and other contextual matters tend to work together to create prevailing paradigms of governance.

Table 3. Basic governance typology Source: Mayers *et al.*, 2005.

Prevailing governance paradigm	Main discourse – key entry points for governance debate/change
1. Command and control	<ul style="list-style-type: none"> • Role, powers and accountability of authorities • Legislation development • Extension and enforcement
2. Privatization to corporate or civil society interests	<ul style="list-style-type: none"> • Deregulation • Standards and certification • Market reforms, royalties and rents • Ombudsmen • Monitoring
3. Nationalization of enterprises and services	<ul style="list-style-type: none"> • Major institutional and legal changes • User rights • Compensation mechanisms
4. Devolution of power to local authorities and/or civil society groups	<ul style="list-style-type: none"> • Empowerment • Costs/ transition problems of divestment • Capacity development
5. Other approaches to decentralization	<ul style="list-style-type: none"> • Empowerment • Rights assurance • Capacity development • Negotiation
6. Cross-sectoral consensus and partnerships	<ul style="list-style-type: none"> • Participation/representation mechanisms and resources • Availability of information • Capacities of civil society groups

These paradigms tend to define their own governance processes, their own arenas of conflict or negotiation, and their relative emphasis on instruments of implementation. This means they also tend to have particular entry points for discussing governance, and for changing governance, as Table 2 suggests. For example:

- Currently, the prevalent paradigm of privatization and economic liberalization (evident in most countries at present) is mainly applied to the issues of standards and certification. These are topical and timely entry points for discussion of governance (certification debates are highlighting much of what is right and wrong with

institutional roles), and also for improving governance (as we are seeing in the various kinds of privatization and partnership processes that build in certification).

- In countries where decentralization is occurring, the important issues are frequently role building, and associated empowerment, rights assurance and capacity development. As such, negotiation and capacity-building processes are proving to be the more effective entry points for discussing and improving governance.

Both of these examples are also highly political. Governance changes can rarely be made through forest sector actors alone, but will generally have to involve the macro-political arena. Certain elements of good governance are common to many governance contexts or 'paradigms'. To be useful, a diagnostic and planning tool must accommodate a range of contexts (or 'paradigms') of forest governance. But it should not be defined by the complete set, or it will be unwieldy. In their document, therefore, Mayers *et al.* propose critical elements of good forest governance that can be recognized as relevant for many contexts, and that can be interpreted and developed in more detail for specific circumstances.

The 'pyramid' of good forest governance has five layers:

5. Verification of Sustainable Forest Management. Audit, certification or participatory review undertaken.
4. Extension. Promotion of SFM to consumers and stakeholders undertaken
3. Instruments. Coherent set of 'carrots and sticks' for implementation in place
2. Policies. Forest policies, standards for SFM and legislation in place
1. Roles. Stakeholder roles and institutions in forestry and land use negotiated and developed

Under these layers is the foundation, made up of:

- Property/ tenure rights and constitutional guarantees
- Market and investment conditions
- Mechanisms for engagement with extra-sectoral influences
- Recognition of lead forest institutions (in government, civil society & private sector)

The pyramid describes those good governance elements which are significantly under the control of forest stakeholders. The pyramid's 'foundations' are less directly controlled by forest stakeholders – but it is crucial that forest stakeholders understand the constraints and opportunities emanating from beyond the forest sector to enable them to argue their case and influence those with the power to improve the foundations. For Brazil, a pilot study has been executed, but the authors do not pretend that the result of their work is a definitive statement on Brazilian forest governance.

Our observations are as follows:

- Is this tool perhaps too all-encompassing? This criticism is comparable with the one expressed under the heading of 'good enough governance': Where is the priority? What is the perspective for concrete action? However, there are several very interesting aspects of this tool, mentioned below.
- The governance typology is interesting, as is the idea behind it that different paradigms on governance result in quite different types of action to promote good governance.
- A second valuable notion is that certain elements of good forest governance fit into many of the underlying paradigms. This leads us to conclude that for the long term sustainability of implementation programmes, it would be wise to define 'forest governance' in a way that includes more paradigms (world views).
- The pyramid is constructed so that each aspect is necessary in order to sustain the aspects above it. It is therefore remarkable that aspect 5, 'Verification of Sustainable Forest Management. Audit, certification or participatory review undertaken' is placed at the top of the pyramid, while in reality certification often takes place when the underlying conditions have only partially been met. This brings us to the – as far as we can see – as yet unanswered question: *What is the relation of (private) certification schemes for Sustainable Forest Management and the promotion of forest governance within the FLEGT process? How could these two reinforce each other, leading to better forest governance?*

7.5 Forest governance in decentralized systems

Gregersen *et al.* (2004) studied forest governance in 11 federal states, with special reference to decentralization. In this publication we could not find a definition of 'forest governance'; rather, the focus is on decentralization as a means of implementing 'forest governance'. The authors present a framework for decentralized forest governance. A successful framework for decentralized forest governance would entail the following:

1. Appropriate and effective sharing of authority to make decisions and raise revenues and sharing of responsibilities for forest related activities among levels of government according to their individual abilities and needs. Key questions include:
 - Is there adequate technical and political capacity at each level?
 - Do existing laws clearly harmonize different national, regional and local objectives and functions?
 - Is there effective two-way communication between different government levels?
 - What are the tenure issues? For example: private sector versus indigenous groups and also land controlled by different levels of government and different agencies.
 - What responsibilities are best carried out centrally, at sub-national level and at local level so as to harmonize fiscal responsibilities and management responsibilities?
 - Is there adequate and clear ability to tax and charge at local levels without double taxation?
 - Are clear mechanisms in place to link forest revenues to budgets and expenditures at the different levels of government?
 - Are there incentives to tax and charge at local levels (often missing due to local pressures on government)?
 - Are there transfers from central government (in lieu payments, transfers in kind, etc.)?
2. Effective enforcement of accountability at all levels of government to assure citizens and civil society groups that government agencies are acting fairly, efficiently and effectively in terms of carrying out their various mandates. Issues of concern include:
 - Is local political competition allowed and encouraged at higher levels?
 - Is there transparency in government decisions and actions at all levels?
 - Is there adequate public participation in decision making?
 - Are there good accountability links between different levels of government and do different levels of government support the accountability needs of other levels?
 - Are there effective public checks and balances on power use and misuse, e.g. through courts?
 - Is there adequate public information to ensure clear 'rules of the game', and transparency for all stakeholders?
3. Appropriate and effective linkages with other sectors that affect or are affected by what happens in the forestry sector, such as finance, the judiciary, agriculture, energy, transportation etc.
 - Are power sharing among sectors and conflict resolution options effective at all levels of government?
 - Are there effective relationships with the private sector and regulation of private activity?
 - Are there effective mechanisms to govern and support intra-governmental linkages and authority sharing?

For each of the categories Gregersen *et al.* give *some key insights* as to the use of different policy options:

Sharing authority:

- Parallel decentralization, i.e. harmony between political, fiscal and administrative decentralization;
- Strong central government guidance and overall authority;
- It is not merely a matter of devolution of authority and rights from central to lower levels of government. Specifically, the power of local elites should be taken into account.

Sharing responsibilities:

- Clear rules of the game as to e.g. allocation of responsibilities and authority;
- Appropriate responsibilities for each level of government;
- Balance between authority and responsibility.

Ensuring adequate financing arrangements and revenue sharing:

- Financial resources transfers and accountability: A close watch must be kept on resource transfers to make sure that they are effectively and efficiently administered and used, e.g. money earmarked for forestry should be used for that purpose;
- Revenue independence: Local governments need to have a degree of independence in raising and capturing financial resources, rather than depending entirely on allocations from the national government;
- Local government incentives: Local governments should seek to capture revenues in sectors that currently do not produce government revenues but that generate substantial private financial gains. Local governments can also influence public involvement by targeting financial contributions, such as conservation, that may be considered desirable.

Enforcement of accountability

- Ill-defined authority and responsibility feeds poor governance. Without clear rules of the game, decentralization may lead to an increase in corruption.
- Tensions among groups at various levels can help to ensure accountability, whether they exist between different state entities at various levels, or between society watchdogs and the administration.
- Transparency: Local governance is likely to be more effective if there are systems of decision making, reporting and auditing that are transparent and easily understood by all.

Catalysing the contributions of civil society and private sector and creating effective cross-sectoral linkages:

- Interactions between government and civil society/private sector: Tensions here are higher than between the different levels of government, so efforts to lower tensions should be directed accordingly (which is often not the case).
- Linkages between decentralized structures of government: Effective links are needed not just between different sectors within a state or district, but also between different neighbouring districts (e.g. on watershed issues).
- Decentralization and stratified societies: Cultural changes are a key ingredient in effective decentralization and unless such changes occur, there will probably be a strong tendency to erect bureaucratic barriers to protect the status quo. Recognizing the legitimate rights of various cultural groups is an important aspect of a decentralization process.
- Catalysing the private sector: The private sector responds to market and policy signals that affect its ability to make a profit, grow and be secure. Appropriate signals can stimulate socially and ecologically desirable actions. The key is, however, to introduce a level playing field: some stability in land use, tenure and forest area available for management and sustained yield timber harvesting.

Our observations are:

- The above presents a very useful list of aspects and considerations to be taken into account when introducing efforts to improve governance. The list makes 'governance' very real and it provides many entry points for concrete action. The conclusions are based on experiences in 11 countries, among which are two with direct links to the FLEGT process: Malaysia and Indonesia.
- In almost all forest administrations there are different levels: national, sub-national and local. Likewise, there are central governments, provincial or departmental governments and municipalities or local governments. So we believe that the above observations by Gregersen *et al.* are also valuable and useful for countries that do not officially have a federal structure.

7.6 Forest Governance for Central Africa

The COMIFAC (Central African Forest Commission) is the subregional institution directed by the forest ministers of the ten participating countries in Central Africa. The COMIFAC coordinates all activities related to sustainable forest management, forest biodiversity and illegal logging. The COMIFAC Permanent Secretary is supported by the French Cooperation, GTZ (both institutions provide financial and technical support) and by the World Bank (financial support).

In November 2006 the COMIFAC held a workshop to institutionalize an AFLEG/FLEGT task force. The COMIFAC task force FLEGT/AFLEG brings together representatives from the COMIFAC focal points in 10 countries, stakeholders from private sector, donors, civil societies etc. In July 2007 COMIFAC, Wageningen International and GTZ organized a workshop for capacity building among the regional members of the task force (representatives of donors were not participating). During the workshop the participants were informed about regional initiatives like FLEG where leaders of Central African regions have expressed their opinion on how forest should be managed. Also, several definitions of governance were presented, as defined by institutions like the World Bank and ODI, including the principles of the national forest programmes. Then the approximately 20 participants were asked to define for themselves 'forest governance' for the Central African region. The results were as follows (taken from the unpublished synthesis report of the first day of the workshop).

Principal elements of Governance:

- Responsibility
- Transparency
- Participation
- Equity
- Respect and the promotion of the general interest
- Accountability
- Credibility
- Justice and sanctions
- Communication and information.

Elements of governance in the forest sector:

- Communication and information
- Dispersal and application of texts in force
- Participation
- Decentralization of forest administration
- Respect of rights, customs and traditions of indigenous populations
- Equitable repartition of revenues
- Struggle against corruption
- Engagement and responsibility at all levels
- Valorization of national and subregional expertise
- Improvement of the forest monitoring and control system
- Equity (fairness)

Most important elements for reinforcing governance under FLEGT and AFLEG:

- Obligation to render account
- Application of forest laws and regulations
- Sharing of costs and benefits
- Involvement of different actors and making them responsible
- Decentralization of decision making
- Improvement of the forest monitoring and control systems.

Our observations are as follows:

- The list of values attached to good governance does not differ much from definitions given in this publication under 'governance'.
- The list 'Most important elements for reinforcing governance under FLEGT and AFLEG' could be a priority list for implementing governance activities under FLEGT in the Central African region.

7.7 National forest programmes

National forest programmes (NFPs) are a globally adopted framework for forest policy, planning and implementation at the country level. They cover a wide range of implementation approaches to sustainable forest management, aiming to achieve the conservation and sustainable use of forest biodiversity and an equitable sharing of forest resources, in accordance with a country's specific priorities, needs and context (DFID & DGIS, 2002, Savenije 2000, see also <http://www.fao.org/forestry/site/nfp/en/>).

The NFP principles are commonly agreed by all countries involved in the international forest dialogue. The principles are (FAO, 2006):

National sovereignty and country leadership:

- National ownership
- Firm commitment
- Strong political will to manage forests sustainably

Consistency within and integration beyond the forest sector:

- Integration with the country's sustainable development strategies
- Inter-sectoral approaches
- Consistency with the country's legal frameworks
- Recognition and respect for customary and traditional rights
- Secure land tenure arrangements

Participation and Partnership:

- Involvement of all interested parties
- Decentralization and empowerment
- Coordination and conflict resolution.

Our observations are:

- The NFP process is a typical example of environmental governance. The concept of NFP was developed at the international level in international forums, where, according to Görg (2007), the whole idea of 'environmental governance' originated. Now attempts are being made to realize the concept at the national level in many countries. This process has already been going on for quite a long time.
- The idea of connecting national and local 'forest governance' to international UN lead processes seems valuable.

7.8 Sector Wide Approach programmes in the forest sector

Mustalahti and White (2007) provide the following information on SWAps.

Sector-Wide Approach programmes (SWAps) and Direct Budget Support (DBS, targeted or general) are considered to be two aid modalities that might achieve more coordinated and effective support for national development frameworks than previous aid modalities. While SWAps gather donors and the partner government together to plan and manage sector funding, DBS directly supports the recipient government's budget and plans. SWAps include, ideally, the following features: (a) a programme-aid approach, meaning that funding is not organized via bilateral projects run by individual donors, but is collective funding of an overall programme, implemented by the partner government in the form of programme components, (b) an attempt, through a dialogue based on 'partnership', to harmonize the policies and procedures of aid provision, (c) a long-term 'evolutionary' process with protracted negotiation and continual monitoring by stakeholders, and (d) the recipient is in the proverbial 'driver's seat'. It is important to recognize that SWAps are not simply mechanisms for allocating donor funds, but rather approaches for strengthening overall sectoral management, irrespective of whether or not Official Development Assistance (ODA) is provided.

There are two critical factors in effective implementation of SWApS in the forestry sector:

- efficiency in financial flow and management, and
- national ownership in the forestry sector development.

The paper argues that SWApS in forestry might be less successful than those in other sectors because of the dominance of market forces in the forestry sector, and that they might not be the most effective way to deliver aid because of the dependence on the quality of institutional capacity in the recipient countries and donor countries.

SWApS and direct budget support (DBS) may take several years to begin producing concrete results in rural development and poverty reduction.

Our observations are:

- The aspect of strengthening overall sector management has an especially strong relation with governance. The emphasis on efficiency in management of financial flows is an interesting feature.
- The effectiveness of SWApS – not only in the forest sector - is now widely discussed. The Evaluation Department of the Netherlands Ministry of Foreign Affairs is now preparing a study on the issue.

7.9 Other concepts linked to forest governance

CIFOR defines forest governance as follows:

'Forest Governance pertains to how decisions related to forests and forest-dependent people are made, who are responsible, how they wield their power, and how they are held accountable. It encompasses decision-making processes and institutions at local, national, regional and global level'.

Linked to Forest Governance are concepts such as 'environmental governance' and 'landscape governance'. In these concepts, values like 'maintenance of landscape beauty' and 'conservation of biodiversity' play a dominant role. In environmental governance in particular, the link with international processes is important. An interesting feature of landscape governance is that it looks beyond political administrative boundaries and links societal and natural factors. See Annex II for more information on this.

7.10 Conclusions on forest governance

The literature consulted on non-sector-specific governance (chapter 2-6) tells us that it is increasingly being accepted that governance is about giving direction to efforts to solve societal problems or create societal opportunities, that it requires interaction between different actors at different levels and that different perceptions and views must be taken into account in order to develop strategies to solve the problems. The definitions given of governance also highlight three orders:

- The first looking in particular at policy formulation, implementation and evaluation processes;
- The second looking at the design and the maintenance of the institutions and arrangements necessary to realize the policy objectives;
- The third looking at norms and values and discussing such questions as: Who should be steering development efforts and what does good governance mean?

On the basis of the above, we conclude that governance is a complex process, requiring soft systems thinking in order to identify ways of improving governance practice. With this in mind, forest governance needs to be defined and analysed in terms of:

- The domain and scope of the system (the resource or aspect of society involved and the universe of stakeholders);
- The aims or outcomes of the system and how well they are defined and perceived by all actors.
- The actors involved (public and private sector, civil society), levels considered (local, intermediate, national, global) and their degree of embedment and influence within the system and its outcomes;
- The institutions involved (informal institutions and formal institutions such as regulations and their enforcement mechanisms, decision-making processes and arrangements);

- The normative aspects and values – paradigms that shape the three above-mentioned issues, such as principles and attributes of the system (see good governance).

When defining and analysing Forest Governance we also need to recognize this complexity and address all these elements. In relation to discussions of forest governance, we conclude the following:

- Corruption is definitely an important aspect of forest governance. It is one of the normative aspects of current forest governance systems that need improvement (World Bank, Forest Governance learning Group). It is important to note that there are tools to empower local groups to monitor corruption in the forest sector.
- The pyramid planning tool for good forest governance teaches us that an important aspect of forest governance is the fact that the different definitions may be based on different paradigms or world views. In order to generate support from the widest possible range of stakeholders, it is advisable for FLEGT to have a definition and implementation plan for 'forest governance' that draws from several paradigms and so appeals to different groups of stakeholders.
- There is lack of clarity on the relation between private certification schemes for Sustainable Forest Management and the promotion of forest governance within the FLEGT process. How could these two reinforce each other, leading to better forest governance?
- It is quite possible to have local stakeholders in a country discuss issues regarding 'forest governance'. Stakeholders often have a very clear idea of which aspects of governance need priority. There may be a danger of a national group becoming just a forum where all forestry issues are discussed, and it is important to keep the focus on the concept of governance (e.g. multi-actor, multi-level and multi-meaning) and its implementation.
- Forest governance is frequently promoted through processes of public sector decentralization. A successful framework for decentralized forest governance would entail the following:
 - Appropriate and effective sharing of authority to make decisions and raise revenues, and sharing of responsibilities for forest-related activities among levels of government according to their individual abilities and needs.
 - Effective enforcement of accountability at all levels of government to assure citizens and civil society groups that government agencies are acting fairly, efficiently and effectively to carry out their various mandates.
 - Appropriate and effective linkages with other sectors that affect or are affected by what happens in the forestry sector, such as finance, the judiciary, agriculture, energy, transportation etc.
 For these three aspects, a list of issues for evaluating the situation is available (Gregerson *et al.*, 2004).
- The idea of connecting national and local 'forest governance' to existing international UN-led processes is valuable.
- The emphasis on efficient management of financial flows is an important feature for forest governance.

8. Governance according to the EU and within FLEGT

In the previous chapters we dealt with broad concepts of governance and forest governance developed outside the European Union and FLEGT process. In this chapter, we will take a look at relevant issues for the FLEGT process, which are (a) how the EU defines governance for itself, (b) how the EU defines governance within development cooperation in particular, and (c) what the EU has to say about governance within the framework of FLEGT papers. The chapter will also deal with criticism of the EU concept of 'governance' by an NGO consortium.

8.1 European governance (EU)

In 2001, the European Commission published a white paper on European governance (Commission of the European Communities, 2001), especially applicable at the level of the European Union, a voluntary union of sovereign nations which have delegated some state responsibilities to a higher, European level.

Five principles underpin good governance and the changes proposed in the White Paper: openness, participation, accountability, effectiveness and coherence. Each of this principle is important for establishing more democratic governance. They underpin democracy and the rule of law in the Member States, but they apply to all levels of government – global, European, national, regional and local. They are particularly important for enabling the Union to respond to the challenges highlighted in the preceding chapter.

- **Openness.** The Institutions should work in a more open manner. Together with the Member States, they should actively communicate about what the EU does and the decisions it takes. They should use language that is accessible and clear for the general public, and will thus help to boost confidence in complex institutions.
- **Participation.** The quality, relevance and effectiveness of EU policies depend on ensuring wide participation throughout the policy chain – from conception to implementation. Improved participation is likely to increase confidence in the end result and in the Institutions which deliver policies. Participation crucially depends on central governments following an inclusive approach when developing and implementing EU policies.
- **Accountability.** Roles in the legislative and executive processes need to be clearer. Each of the EU Institutions must explain and take responsibility for what it does in Europe. But there is also a need for greater clarity and responsibility from Member States and all those involved in developing and implementing EU policy at all levels.
- **Effectiveness.** Policies must be effective and timely, delivering what is needed on the basis of clear objectives, an evaluation of future impact and, where available, of past experience. Effectiveness also depends on implementing EU policies in a proportionate manner and on taking decisions at the most appropriate level.
- **Coherence.** Policies and action must be coherent and easily understood. The need for coherence in the Union is increasing: the range of tasks has grown; enlargement will increase diversity; challenges such as climate and demographic change cross the boundaries of the sectoral policies on which the Union has been built; regional and local authorities are increasingly involved in EU policies. Coherence requires political leadership and that the Institutions take responsibility for ensuring a consistent approach within a complex system.

Each principle is important in itself, but none of them can be achieved in isolation. Policies can no longer be effective unless they are prepared, implemented and enforced in a more inclusive way.

The application of these five principles reinforces those of proportionality and subsidiarity. From the conception of policy to its implementation, the choice of the level at which action is taken (from EU to local) and the selection of the instruments used must be in proportion to the objectives pursued. This means that before launching an initiative, it is essential to check systematically (a) if public action is really necessary, (b) if the European level is the most appropriate one, and (c) if the measures chosen are proportionate to those objectives.

The Union's agenda extends to foreign policy and defense, migration and the fight against crime. It will no longer be judged solely by its ability to remove barriers to trade or to create an internal market; its legitimacy today depends on involvement and participation. This means that the linear model of dispensing policies from above must be replaced by a virtuous circle, based on feedback, networks and involvement, from policy creation to implementation at all levels.

This paper primarily discusses the case of the European Union as an umbrella organization for its member states and the relation between the citizens of the member states and the European Union. It proposes better involvement by stakeholders and more openness, better policies, regulations and delivery, and refocused institutions.

8.2 Governance in the EU Development Policy

8.2.1 Description: Governance in the EU Development Policy

The FLEGT initiative was initiated and is managed by the European Union. So it is of special interest to see whether the EU Development Policy offers definitions of '(good) governance' and policies for implementing it.

In 2005, the European Council prepared an EU Statement on European Union Development Policy: 'The European Consensus'. Rather than a clear definition, what find in this document are some policy intentions regarding 'governance' within the development context.

'The Community will actively promote a participatory in-country dialogue on governance, in areas such as anti-corruption, public sector reform, access to justice and reform of the judicial system. This is essential to building country-driven reform programmes in a context of accountability and an institutional environment that upholds human rights, democratic principles and the rule of law.'

In an evaluation on good governance (European Commission, 2006) the following working definition of governance is provided:

"Governance" refers to the structure, functioning and performance of public authorities/institutions at all levels. Governance is about the way public functions are carried out (including public service delivery), public resources (human, natural, economic and financial) are managed and public regulatory powers are exercised (including enforcement) in the management of a country's affairs'.

'Good governance' is considered as 'a process and an aspiration' towards governance systems adhering to a set of key values:

- efficient, open, transparent (non-corrupt) and accountable public institutions at all levels, including clear decision-making procedures;
- sound, efficient and effective management of human, natural, economic and financial resources for the purpose of equitable and sustainable development;
- a democratic society managed with respect for human rights and democratic principles;
- civil society participation in decision-making procedures;
- the existence of, respect for and enforcement of the rule of law and the ability to enforce rights and obligations through legal mechanism.

A consortium of NGOs from the south under CIDSE has criticized the EU approach on Governance in relation to development cooperation (see following section).

8.2.2 Some criticism of EU Governance in the Development Policy

CIDSE (2006) published a paper on governance, based on a survey of 56 of CIDSE's partner organizations in 24 southern countries. This paper was a reaction to the EU approach to governance and development cooperation (and was not directed at influencing FLEGT discussions). The criticisms included the following (CIDSE, 2006):

- A gap between EU rhetoric and reality was noted: the rhetoric speaks of partnership and ownership, while the reality is often one of unequal power relations, donor pressure and use of conditionality.

- Donors set conditions in a non-transparent way, without involving, or often even knowing much about, civil society in the southern countries.
- In the assessment of governance, performance issues of self-interest for the EU and its member states have been included.
- There is too much emphasis on economic governance and a private sector- and market-friendly environment.
- There is 'double speak' and hidden agendas.
- There is a lack of reciprocity: Governance norms and standards should apply to donors themselves.

In the paper, the consortium comes up with its own interpretation of the term 'governance' and identifies several key principles that should also be expressed in concrete and effective implementation. The priority areas named are:

- Accountability of states to their citizens
- Political and social rights, rule of law
- Financial management and the fight against corruption
- Gender: empowering of women is essential to the development of countries.
- A tailor-made approach, especially in fragile states: including capacity building for stakeholders.

For the CIDSE principles for governance, see Annex III.

We conclude that in the CIDSE publication, NGOs criticize the EU - and donors in general - for not adhering to their own standards on governance. In the NGOs' view, 'governance' applies to donor behaviour too: this is part of reciprocity. Their criticism is not directed at the content of the EU's definition of 'governance', so much as at its application.

8.3 The FLEGT initiative

The FLEGT process was initiated by the EU. FLEGT means: Forest Law Enforcement, Governance and Trade. The FLEGT Action Plan was adopted by the European Commission in May 2003 as part of the EU's response to the call for action at the World Summit on Sustainable Development. European Council Conclusions were adopted in October 2003 and the European Parliament passed a motion of support in January 2004. The FLEGT Action Plan describes a package of measures, including:

- supporting improved governance and capacity building in timber producing countries
- encouraging the private sector to adopt purchasing policies to exclude illegal timber from their supply chains
- promoting public procurement policies in EU member states
- encouraging measures to avoid investment in activities that encourage illegal logging
- supporting governments who want to ensure that illegally harvested timber from their territory is not admitted to the EU market.

In its communication regarding the FLEGT proposal for an action plan (2003), the Council of the European Union does not provide a governance definition but mentions several aspects of forest governance in articles 8 and 9: Article 8 *stresses the importance of strengthened governance in the forest sector, and the positive impact this has on reducing poverty;*

Article 9 *urges the Community and Member States to enter into political dialogue with key target countries to instigate forest sector governance reforms, and more specifically to:*

- *strengthen land tenure and access rights, especially for marginalized, rural communities and indigenous peoples (1);*
- *strengthen effective participation of all stakeholders, notably of non-state actors and indigenous peoples (1), in policy-making and implementation;*
- *increase transparency in association with forest exploitation operations, including through the introduction of independent monitoring;*
- *reduce corruption in association with the award of forest exploitations concessions, and the harvesting and trade in timber;*
- *engage the private sector of the timber producing countries in the efforts to combat illegal logging;*
- *address other issues related to illegal logging as identified, such as the financing of violent conflict.*

We can conclude that the European Council considers the above mentioned issues as part of forest sector governance. But this list is inclusive, not exclusive: as the term 'more specifically' indicates, other aspects could also fit into the framework of 'forest sector governance'. NGOs like FERN, Greenpeace and Global Witness refer to this statement when discussing FLEGT governance issues.

In the FLEGT Briefing notes 1-7, the basic elements of the FLEGT process are explained and elaborated but there is no definition of Governance. Much emphasis is on legality, a Legality Assurance System, Voluntary Partnership Agreement (VPA) and guidelines for Independent Monitoring. In describing the scope of the Action Plan, the EU acknowledges the distinct difference between legality and sustainability. The wider objective is to encourage sustainable forest management, and the EU considers that better law enforcement will lead to more sustainable forest management. Better forest governance is associated with legislation and the legal framework.

8.4 Conclusion: EU concepts of good governance

Internally for the EU and its member states, the following principles are important:

- openness,
- participation,
- accountability,
- effectiveness and
- coherence.

A similar set of values is propagated in the EU's development cooperation: accountability, effectiveness; democracy with respect for human rights, civil society participation in decision-making procedures and respect for rules of law.

Criticism by NGOs in the South is targeted not so much at the principles enshrined in the EU's concept of 'Governance' as at a perceived failure to apply those principles to the EU's own behaviour as a donor: a lack of reciprocity.

In article 9 of the communication of The Council of the European Union (2003) regarding FLEGT, the following concrete aims of governance are mentioned:

- to strengthen land tenure and access rights;
- to strengthen effective participation of all stakeholders;
- to increase transparency in association with forest exploitation operations, including through the introduction of independent monitoring;
- to reduce corruption;
- to engage the private sector of the timber producing countries in the efforts to combat illegal logging;
- to address the financing of violent conflict.

Some of these elements can be related to the foundations of the good forest governance pyramid: land tenure market and private sector investments. They also refer to aspects of societal security mentioned by Grindle in his discussion of the hierarchy of government priorities for good enough governance. The EU communication also mentions some of the pyramid layers as defined by Mayers *et al.*: proper institutions and independent monitoring.

One of the research questions for this document is: how does EU thinking about governance compare with the prevalent thinking? Our conclusion is: EU thinking is broadly in line with mainstream thinking on 'governance'. However, we believe that the EU thinking on 'governance' in general, and 'governance' within FLEGT in particular, can be enriched by considering and adopting other ideas, both theoretically and in practice. This will be elaborated in the following chapter.

9. Possible governance elements for FLEGT

9.1 Introduction

In chapter 8 we focused on the research question:

How does the European Union deal with the concept of 'governance', both in its policies in general and in the FLEGT process in particular?

The answer to this question is summarized in section 8.4.

In chapters 2-7 we focused on the question:

Which current ideas about 'governance', 'forest governance' and other governance-related concepts may be relevant to the FLEGT process?

In the following sections, we will use the findings from chapters 2-7 to relate current governance debates to the EU FLEGT processes by means of the following questions:

- *What can we learn from other governance debates? What are the most important issues with possible relevance for FLEGT?*
- *Which orientations and directions have the potential to resolve problems and give a clearer meaning to 'Governance within FLEGT' at international, national, intermediate and local levels?*

Firstly, though, we will make some general remarks on the role of the government in the FLEGT partner countries and the EU. We will also elaborate a preliminary checklist for analysing the forest governance situation in countries participating in the FLEGT process, and for prioritizing actions regarding the improvement of 'governance' within the framework of FLEGT.

9.2 The role of the government of the FLEGT partner country and of the EU

In pursuing the improvement of Forest governance within the framework of FLEGT, the roles of both the government of the FLEGT partner country and the EU are crucial.

Government commitment (willingness): This aspect is an issue of prime importance, dealt with in, for example, a recently published comprehensive book with many case studies on illegal logging (Tacconi, 2007). Government objectives determine whether forest agencies are supported. If the lack of support is intentional, external attempts at strengthening those agencies will not lead to tangible outcomes. So capacity-building projects to stop illegal logging will not lead to substantial change, unless the recipient government is committed to the overall objective of reducing illegal logging. Tacconi is skeptical about this, and gives the example of the lack of direct participation in the FLEG processes, particularly in Eastern Asia (FLEG is another effort to promote Forest Law Enforcement, initiated by the G8). Despite long lists of policy reform issues drawn up at the related ministerial meetings (and approved by acclamation, but *not signed, not ratified*), there has been very limited action, if any, on those reforms. However, success is still possible. The key issue to be understood is whether and how commitment to policy reform may be generated and followed through from an initial situation in which government commitment is lacking. Social movements can be expected to have a role in influencing government commitment to reform. There is a need to understand, therefore, how logging in general and illegal logging in particular affect rural communities and are perceived by them. Also, in general discussions about 'Voice and Accountability', the presence or absence of political will is identified as a major factor for success or failure, recognizing however, that this political will is still 'unpacked', i.e. not deeply understood and analysed (O'Neil, Foresti & Hudson, 2007)

The role of the EU: The issue of improved governance in the forest sector is very complex and challenging. However, the FLEGT process is not without potential to solve at least some of the problems. We can identify three distinct roles of the EU and EU members:

- One role may be that of donor supporting Good Governance and trade chain development initiatives.
- The EU is a powerful player and can wield a certain influence in the donor community and influence the policies of the World Bank and the IMF.
- Another role is that of buyer of timber and timber products.

The EU becomes more and more influential in setting standards for products worldwide (Kris and Schouten, 2007). If the EU succeeds in banning illegally produced timber, it will have a wider impact.

Above all, a skilful combination of these roles and coordination between EU organizations and the relevant member states could be a very strong force in combating illegal logging. The EU certainly has power. However, what is also at stake here is the accountability of donors - towards the stakeholders in the society in which they invest their donor money.

We believe that it is important for the FLEGT process to take into consideration the above observations on the partner country and the EU, and to seek practical ways of addressing them in the different country situations.

9.3 Issues in other governance concepts relevant for FLEGT

A systematic review of chapters 2-7 yields the following observations regarding the FLEGT 'governance' process:

Governance is about the changing vision of the roles and responsibilities of the government: from the 'old' style of governance – the government is steering – to a new situation in which several actors are co-steering. The government does not bear sole responsibility for the governance situation; every actor has to play a role. Important aspects of this new situation are its multi-actor, multi-level (national, international, and local) and multi-meaning nature: different stakeholders may embrace different values, interests and world views.

Important principles of '**Good Governance**' are participation, fairness, decency, accountability, transparency and efficiency. They are supposed to be universally applicable, based as they are on the Universal Declaration of Human Rights. The various international organizations may emphasize one or more of these principles, but their ideas do not challenge these principles.

Accountability is a key issue in good governance. Besides vertical accountability (mainly through elections) and horizontal accountability (in which governmental organizations report 'sideways' to other officials and agencies within the state itself), another crucial element is direct societal participation. It is known as 'co-governance for accountability' or 'social accountability' and takes the form of a range of initiatives for involving citizens in overseeing government, such as participatory budgeting, administrative reforms acts, social audits, citizen report cards and community score cards. Within the framework of FLEGT, it is important that, in the various countries, civil society and other stakeholders (like the EU) have a clear idea of the role or roles civil society needs to play.

The concept of '**good enough governance**' is valuable because it raises the issue of the governance agenda being unrealistically long and still growing. We believe it is important to take the following aspects into consideration:

- The concept acknowledges explicitly that governance has to do with norms and values which are culturally determined. Values like participation, fairness, decency, accountability, transparency and efficiency are not automatically deeply embedded and accepted within non-Western cultures. Changing these values in a country is a long-term process and therefore priorities have to be set.
- It is necessary to reduce the 'good governance' agenda, introduce a historical, country-specific analysis, sort out aspects critical for poverty reduction, assess priorities strategically and identify alternatives, without forgetting the public sector.
- Good Enough Governance focuses on the question: what processes are necessary to reach good governance? The concept is based on the idea that 'good governance' results from a historical process. This means building on institutional strengths rather than weaknesses. A careful choice must be made of strategic issues for Good

Forest Governance within the mandate of FLEGT. Consequently, an interesting role of FLEGT could be not to demand good forest governance, but to demand *improved* forest governance. This implies that we are dealing with an institution-building process that should begin, but that never ends.

- As stated above, one of the principles of 'Good Enough Governance' is 'Learn from what is working (well enough)'. Concentrate on aspects of governance that are working instead of fixating on the long list of things that are wrong. Try to deduce lessons from things that are more or less working. Issues to consider are:
 - Timber is now traded through trade chains that are controlled by government control systems. The way forward could be to improve these control systems, and to make them accountable to local and regional stakeholders, rather than to create new and parallel systems.
 - It might also be useful to develop processes that enable stakeholders to learn from each other.

Experiences with **local natural resources governance** show that the following principles contribute to successful management:

- There should be clearly defined boundaries.
- Rules should be adaptable to local conditions.
- There should be space for collective choice arrangements.
- Monitoring is needed, with a third party for enforcement and punishment.
- The severity of the punishment should match the seriousness of the violation.
- There should be conflict resolution mechanisms.
- Groups should have the right to organize themselves.
- Arrangements should be in place in which local knowledge and local institutions prevail, but shaped to accommodate larger and broader interests.

At national level, space should be created for local governance to develop according to the above principles. Likewise, it is important for the FLEGT process to create such space at local level.

Various examples show that stakeholders at national and local level are very well able to define principles and indicators for **monitoring of governance**. It is even possible to conduct some kind of quantitative monitoring of governance aspects, making it possible to compare the situation over time. Stakeholders often have a very clear idea of which aspects of governance need priority. Within FLEGT too, local and national stakeholders could play a role in defining 'forest governance' and monitoring its advance at various levels.

Timber chain governance (a form of **value chain governance**) and forest governance are narrowly interlinked. Almost all concepts of governance deal with the interaction between government, civil society and the private sector. The government influences the structure and governance of chains. An example of this is a timber licensing system under FLEGT. However, governance in the value chain can also have a negative impact on the governance of the forest. Profit and value creation in the chain, the creation or maintenance of employment in the sector, (over)capacity in the processing industry: together or separately, these factors may become so dominant that they undermine efforts to improve forest governance and forest management. So it may well be important for FLEGT to consider timber chain governance from a broad perspective. Value chain governance takes into consideration certain aspects that are more or less ignored in other definitions of 'governance', with their tendency to focus on the public sector. Market governance refers to the structure of transactions and the rules 'governing' those transactions, paying explicit attention to power imbalances and value creation in the market chain. The creation of a level playing field in the value chain is of particular interest to smallholders. For market chains to be a tool for achieving sustainable forest management, the public sector can optimize the enabling environment through appropriate sector policies and risk management. Creating a level playing field may also contribute to equity in value distribution along the chain.

The example of **Corporate Social Responsibility** in the Dutch timber trade is interesting. The Code of Conduct developed in this context refers to certification and Sustainable Forest Management. These are valuable issues at the management unit level but they do not directly address the issue of governance (although sometimes certification schemes do touch on aspects of governance, e.g. participation of local stakeholders). It could be interesting to discuss and explore the possible role of timber traders in actively supporting forest governance.

We draw the following more general conclusions in relation to **'forest governance'**:

- Corruption is definitely an important aspect of forest governance and it is important to note that there are tools for empowering local groups to monitor corruption in the forest sector. However, corruption is often practiced by urban interest groups with contacts at the highest levels. In order to reduce corruption, therefore, pressure must come from various sides.
- In order to generate support from the widest possible range of stakeholders, it is advisable for FLEGT to have a definition and implementation plan for 'forest governance' that draws from several paradigms and so appeals to different groups of stakeholders.
- There is a lack of clarity on the relation between private certification schemes for Sustainable Forest Management and the promotion of forest governance within the FLEGT process. How could these two reinforce each other, leading to better forest governance?
- The emphasis on the efficient management of financial flows is important for forest governance.
- The idea of connecting national and local 'forest governance' to existing international UN-led processes is valuable. As far as possible, FLEGT should be connected to ongoing efforts regarding, for example, national forest programmes.

Forest governance is definitely related to **decentralization**. A successful framework for decentralized forest governance would entail the following:

- Appropriate and effective sharing of authority to make decisions and raise revenues, and sharing of responsibilities for forest-related activities among levels of government, according to their individual abilities and needs.
- Effective enforcement of accountability at all levels of government to assure citizens and civil society groups that government agencies are acting fairly, efficiently and effectively to carry out their various mandates.
- Appropriate and effective linkages with other sectors that affect or are affected by what happens in the forestry sector, such as finance, the judiciary, agriculture, energy, transportation etc.

For the success of both FLEGT and decentralization efforts, it would be wise to aim for as much synergy as possible between the two processes. An appropriate starting point may be to establish multi-stakeholder forums at local and regional level. Such forums can effectively function as organizations that guarantee accountability.

There is an array of **other – often internationally initiated – projects and programmes** (various timber certification schemes, National Forest Programmes) that take care of aspects of forest governance. FLEGT could aim to avoid undermining such Good Forest Governance initiatives, engaging in active dialogue with such initiatives in order to optimize cooperation and create synergy.

9.4 Towards a Checklist for Governance aspects of FLEGT

Based on the findings of this report, we have elaborated a Provisional Checklist of aspects of Good Governance within FLEGT (see Annex IV). The list should be considered as a source of possible issues to be raised if improving governance is the objective. It could form a starting point for identifying projects and actions. We believe that all the issues are relevant to governance and forest governance within FLEGT, but at country level major stakeholders will have to decide which aspects need priority and can realistically be addressed in the current situation. The checklist is meant to be inspirational rather than prescriptive, and to be adapted to the specific needs, objectives and contexts jointly identified and agreed by the parties involved.

In saying this, we adopt the advice of those who formulated the Good Enough Governance concept: *'assess priorities strategically'*. There are ethical and political questions to be considered here, for example:

- Should we not integrate all important aspects of Good Governance in the FLEGT process?
- Or, to put it the other way round: should we just work with the EU definitions of 'governance' and leave out elements of 'governance' concepts developed elsewhere?
- An ethical point of discussion within the Voluntary Partnership Agreements (VPAs) could be: should the EU start discussions/negotiations with countries high on the corruption index developed by Transparency International?

Could the EU have a VPA with fragile states? And if so, will the EU also work within the FLEGT framework on a stable political climate in such countries?

At the end of the chapter on the EU concepts of governance (chapter 8), we concluded that in essence, there is nothing wrong with the EU thinking on 'governance', which has a sound basis. However, we believe that the EU thinking on 'governance' in general and 'governance' within FLEGT can be enriched by considering and taking up other ideas, both theoretically and in practice. We hope that this document provides food for thought as a basis for this.

9.5 Discussion and possible steps forward

We have tried to give an overview of concepts of governance that we consider relevant for the FLEGT process. Up to this point, we have not yet given our own opinion on what is important in governance for the FLEGT process. We consider the provisional checklist presented in Annex IV as a major outcome of our study. But we have not had a chance to test the usefulness of the checklist in practice, so we do not know, for example, whether using the checklist in a workshop with major stakeholders in a country will lead to fruitful discussions and a better common understanding of what governance should mean within the context of the FLEGT process.

However, our emphasis on a participatory process to define governance for FLEGT in a specific country situation may create the impression that we believe that anything goes, and nobody is accountable to anybody for their interpretation of 'governance'. There are two pitfalls: either extend the meaning of 'governance' so much that it becomes unmanageable, or limit its meaning so much - or make it so relative - that it no longer means anything. With this in mind, we will summarize the issues that we consider most important for 'forest governance':

1. A very important aspect of 'governance' is its **complexity**. It is multi-actor, multi-level (national, international, and local) and multi-meaning: different stakeholders may embrace different values, interests and world views. Governance is also about the timber value chain and the behaviour of actors in timber-consuming countries like the EU. It is far more complex than, for example, tracking and tracing of logs and timber, bar codes and advanced systems for monitoring deforestation.
2. Governance is about values and politics. There is also a 'Human Rights' dimension. In our experience, discussions about 'governance' create a lot of **energy**. Energy has two main aspects. The first is that it may lead to an explosion (read: conflicts in discussions). Conflicts are not necessarily bad, but if uncontrolled, they are not likely to be very productive. So, in discussions about 'governance', proper facilitation and conflict management are needed in order to prevent escalation of conflicts (see Yasmi, 2007). A second aspect of energy is that it may move things forward and that it may create light. It is this second aspect that we have observed both in our enthusiastic discussions on governance with the COMIFAC task force (A)FLEG(T) in Central Africa (see section 7.5) and with the steering committee of this study.
3. For us, the most important principle within 'governance' is **participation**. It is with this value that it becomes possible to convene powerful and less powerful stakeholders to discuss concepts and issues regarding forest governance and FLEGT.
4. Another important principle within 'governance' is **accountability, which raises the question of how** governments can be held accountable towards their citizens. An important question for us is how this can be concretized in the forest sector (or the rural development sector if applicable) and how a connection could be made to FLEGT processes, e.g. the Legality Assurance Systems. Financial flows are an important point for attention here (both taxes and the sharing of the revenues).
5. A very enlightening idea for us was the concept of '**good enough governance**'. It brings the discussion of 'governance' from the realms of idealism - and sometimes the imposition of values - back to earth: a historical analysis should be made and **priorities** set by national stakeholders, because it will not be possible to achieve everything at once. It also brings into view concrete **ownership**: stakeholders in the country will have to decide on these priorities and the values to be stressed within their concept of 'governance'. After all, 'governance' should be an endogenous process, not something imposed from outside. Outsiders (like the EU with its FLEGT process) can help and support processes, but the motivation has to come from stakeholders within.

6. For an improved governance of the **timber value chain**, more attention is needed for the creation of an **enabling environment** in which the timber market can function, and the creation of space for ‘societal learning’ by the stakeholders together and for innovation.

Possible **further steps** for action to work on ‘governance’ within FLEGT include:

- Start a **discussion** on ‘governance within the FLEGT process’ and define priorities on ‘governance’ in workshops in FLEGT partner countries. Discussions are probably needed at several levels and with several actors (e.g. NGOs, local communities and timber importing companies). The provisional checklist (Annex IV) may provide guidance on which aspects of ‘governance’ could be discussed.
- Organize workshops and seminars for stakeholders within countries in the European Union where ‘governance within FLEGT’ is being discussed. An interesting question here is how **NGOs and the private sector in EU countries** could (or should) contribute to better governance in the forest sector of FLEGT partner countries and so reinforce FLEGT activities undertaken by the EU and member states.
- There is a need to explore the concept of ‘**accountability**’ and the way it can be concretely implemented in the forest sector with the involvement of Civil Society. How can ideas developed for the forest sector (see e.g. section 7.4) be combined with efforts within the FLEGT process to ensure the legality of timber production?
- Over the past 15 years, both private companies and NGOs have devoted considerable time to the introduction of **timber certification**. But the FLEGT process and timber certification seem to constitute two different processes, with little connection between them. A question that needs more attention is: how could the FLEGT process and timber certification reinforce each other?
- We identified **government commitment** or political willingness as an issue of prime importance. The key issue to be understood is whether and how commitment to policy reform can be generated and followed through, starting from a situation in which government commitment is lacking. The issue is not yet well understood, but social movements can be expected to play a role in influencing government commitment to reform. Among other things, there is a need to understand how logging in general and illegal logging in particular affect rural communities and are perceived by them.

We have stated that improved governance has to come from within a country. However, the FLEGT process is not without potential to facilitate the process of solving at least some of the problems. We can identify three distinct roles for the EU and EU members: (a) as a donor supporting Good Governance and trade chain development initiatives, (b) as a powerful player that can wield a certain influence in the donor community and can influence the policies of the World Bank and the IMF, (c) as a buyer of timber and timber products. Above all, a **skilful combination** of these roles and coordination between the organizations in the EU and the relevant member states could be a very strong force in combating illegal logging.

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Annex I.

Some definitions of Good Governance by international organizations

The World Bank

The World Bank⁵ defines governance as the traditions and institutions by which authority in a country is exercised for the common good. This includes (i) the process by which those in authority are selected, monitored and replaced, (ii) the capacity of the government to effectively manage its resources and implement sound policies, and (iii) the respect of citizens and the state for the institutions that govern economic and social interactions among them.

The **World Bank** (2006) acknowledges that good governance has many dimensions:

1. Political Accountability
 - Political competition, broad-based political parties
 - Transparency & regulation of party financing
 - Disclosure of parliamentary votes
2. Checks & Balances
 - Independent, effective judiciary
 - Legislative oversight (PACs, PECs)
 - Independent oversight institutions (SAI)
 - Global initiatives: UN, OECD Convention, antimony laundering
3. Decentralization and Local Participation
 - Decentralization with accountability
 - Community-driven Development (CDD)
 - Oversight by parent-teacher associations & user groups
 - Beneficiary participation in projects
4. Civil Society & Media
 - Freedom of press, FOI
 - Civil society watchdogs
 - Report cards, client surveys
5. Private Sector Interface
 - Streamlined regulation
 - Public-private dialogue
 - Extractive Industry Transparency
 - Corporate governance
 - Collective business associations
6. Effective Public Sector Management
 - Ethical leadership: asset declaration, conflict of interest rules
 - Cross-cutting public management systems: meritocracy, public finance, procurement
 - Service delivery and regulatory agencies in sectors

Effective Public Sector management is at the core of the World Bank definition of good governance.

The World Bank has its own methodology for assessing the quality of governance, popularly known as Worldwide Governance Indicators (WGI). The six indicators used in the latest governance assessment are: (1) voice and accountability, (2) political stability, (3) government effectiveness, (4) regulatory quality (5) rule of law, and (6) control of corruption. These six dimensions cover the political, economic and, institutional aspects of governance. These

⁵ <http://web.worldbank.org/WBSITE/EXTERNAL/WBI/EXTWBIGOVANTCOR/0,,contentMDK:20678937~pagePK:64168445~piPK:64168309~theSitePK:1740530,00.html> accessed 05-09-2007

indicators are normative and are strongly associated with democracy and economic development (Kaufmann and Kraay, 2007 in Jabeen, 2007). According to ODI (2006), the World Bank interpretation has its limitations because the mandate of the World Bank prevents it from dealing adequately with political issues.

The UNDP

The UNDP (1997) defined governance 'as the exercise of economic, political, and administrative authority to manage a country's affairs at all levels'. It comprises mechanisms, processes and institutions, through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations, and mediate their differences. This definition clearly identifies three governance arenas: political, economic, and administrative. Unlike the World Bank, the UNDP focused on all three aspects of governance in its programs for developing countries (Jabeen, 2007).

The following understanding of good governance was developed by Kauzya (1997) during consultative workshops with stakeholders for the design of programmes for strengthening good governance in Uganda, Rwanda, Tanzania, and Liberia. It incorporates the UNDP's definition of governance too:

'The word governance has its origin in the Greek language and it refers to steering. Steering, for example a ship, is not just a matter of keeping the ship afloat and in forward, backward, or sideways motion. It is also knowing the direction and ensuring that the ship is constantly on course in that direction. Above all, for everyone in the ship and those waiting for its arrival, a captain can claim good seamanship only when the ship gets to where it is expected. As an act of steering a people's development, Governance is a multifaceted compound situation of institutions, systems, structures, processes, procedures, practices, relationships, and leadership behaviour in the exercise of social, political, economic, and managerial / administrative authority in the running of public or private affairs. Good governance is the exercise of this authority with the participation, interest, and livelihood of the governed as the driving force.'

The participants of these African workshops also defined elements of good governance:

- **Constitutionalism** (guaranteeing separation of powers, checks and balances, and power sharing as well as a generalized societal attitude where both the governors and the governed refer to the constitution as the guiding law especially in the resolution of conflicting public decisions. Constitutionalism refers to the structural and procedural provisions as well as to the behavioural attitude)
- **Rule of law** (where every activity, every conflict and every exercise of power respects the provisions of accepted laws)
- **Justice** (an effective system of justice which is just, fair, and accessible to all including the poor)
- **Security of person and property:** (this should include security in all its aspects e.g. food security, job security, social security etc. to avoid the creation of a cosmetic peace which can erupt into violence at any time)
- **Electoral and participatory democracy** (where the population participates in deciding on their leaders through their vote power but also participates through their voice in deciding how and with what policies they are led, and in determining the direction and quality of their development)
- **Respect for Human Rights and basic freedoms** (of the press, expression, worship, conscience etc.)
- **Transparency, accountability, ethics and integrity** in the conduct of public and private corporate affairs: (accountability from a political, managerial, legal, and moral point of view)
- **Equity** (both intra- and inter-generation)
- **Informed citizenry:** (through an effective free media, education, and access to information)
- Effective and efficient delivery of **Public Services:** (These need not be delivered directly by state agents. Other stakeholders from the private and Civil Society sectors may participate in the delivery).
- At least the minimum of **decent standard of living** for all: (This should be the guiding objective of any act of governance).

We can conclude that the UNDP's view on Governance apparently leaves space for regional interpretation and elaboration by stakeholders. The result of this particular effort by stakeholders seems rather 'western'; one would expect a comparable list of elements as a result of such a workshop in, for example, a Western European country.

Drawing on the UNDP's view of governance, two new definitions of governance have been developed: one by the Human Development Centre in Pakistan and the other by Hyden and Court, 2000, under the World Governance Assessment Project at the United Nations University, Tokyo.

Human Development Reports

In its Human Development Reports, the UNDP's Human Development Centre (HDC) defined good governance from the standpoint of human development and it reformulated the concept of governance as humane governance encompassing three governance arenas: political, economic, and civic.

While political governance includes politics and administration, economic governance refers to a widening of economic opportunities, and civic governance refers to the involvement of people in governance through civil society. According to this definition, good humane governance is one which promotes human development. Humane governance is measured by the Human Governance Index, a composite measure of political, economic, and civic governance.

DFID

In 2006, DFID published a white paper dedicated to the theme: 'making governance work for the poor'. Here we find the following definition:

Good governance is not just about government. It is also about political parties, parliament, the judiciary, the media, and civil society. It is about how citizens, leaders and public institutions relate to each other in order to make change happen. Elections and democracy are an important part of the equation, but equally important is the way government goes about the business of governing. Good governance requires three things:

- *State capability – the extent to which leaders and governments are able to get things done.*
- *Responsiveness – whether public policies and institutions respond to the needs of citizens and uphold their rights.*
- *Accountability – the ability of citizens, civil society and the private sector to scrutinize public institutions and governments and hold them to account.*

This includes, ultimately, the opportunity to change leaders by democratic means.

All three characteristics are needed to make states more effective, to tackle poverty and to improve people's lives. For example, there is no guarantee that a more capable health ministry will automatically focus on the diseases killing the poorest people unless it is responsive and accountable. The UK will now make it a priority to help developing country partners improve governance on all three fronts.

Capability means having the ability to perform certain functions....

- Providing political stability and security.
- Setting good rules and regulations.
- Creating the conditions for investment and trade, and promoting growth in jobs and incomes.
- Managing public finances and putting government policies into practice effectively.
- Making sure government departments and services meet people's needs.
- Keeping borders secure and helping people move safely and legally.

Responsiveness means taking account of citizens' aspirations and needs...

- Providing ways for people to say what they think and need.
- Implementing policies that meet the needs of the poor.
- Using public finances to benefit the poor – for example to encourage growth and provide services.

- Providing public goods and services in ways that reduce discrimination and allow all citizens – including women, disabled people and ethnic minorities – to benefit.

Accountability means being answerable for what is done...

- Offering citizens opportunities to check the laws and decisions made by government, parliaments or assemblies.
- Encouraging a free media and freedom of faith and association.
- Respecting human rights and making sure the 'rule of law', is upheld, for example by an independent judiciary.
- Providing regular opportunities to change leaders in peaceful ways.

In 2007, DFID published a practice guide on how to make a country governance analysis, based on the three-front approach (state capability, responsiveness and accountability). For the three fronts, criteria have been formulated together with suggested international data sources (both multilateral agencies and NGOs):

- Criteria for **state capability**: Political stability and personal security; economic and social policy management capability; government effectiveness and service delivery; revenue mobilization and public finance management; conditions for investment, trade and private sector development.
- Criteria for **accountability**: political freedom and rights; transparency and media; political participation and checks; rule of law and access to justice; civil society.
- Criteria for **responsiveness**: human rights and civil liberties; pro-poor policy; inequality, discrimination and gender equality; regulatory quality; corruption and integrity.

DFID believes that governance should also be supported *internationally*. Where governments do not or cannot regulate, international standards help. Examples of such standards mentioned in the white paper are:

- OECD guidelines for Multinational Enterprises
- The fight against illegal trade in natural resources like diamonds or timber.
- Rules for export credit agencies (e.g. anti-bribery procedures)
- Policies on arms, so that they do not fuel conflicts (legally binding Arms Trade Treaty).
- The United Nations Convention Against Corruption (UNCAC)
- The Extractive Industries Transparency Initiative

In its paper, DFID also dedicates chapters to the following issues: promoting peace and security, reducing poverty through economic growth, investing in people and managing climate change. Although these issues are not mentioned in DFID's definition of governance, according to DFID they are closely linked to the governance issue.

Annex II.

Environmental governance and landscape governance

Görg (2007) states that, particularly for international transboundary issues, 'environmental governance' became paradigmatic in the search for new forms of regulation for collective problems. It was in the 1990's that the term 'environmental governance' became mainstreamed for this realignment of political measures in the broadest sense. Multi-level decision making is particular pressing for environmental governance. Woudhouse (in Mayers *et al.*, 2005) defines governance in environmental management as 'the structures and processes of power and authority, cooperation and conflict, that govern decision making and dispute resolution concerning resource allocation and use, through the interaction of organizations and social institutions (government and non-governmental, formal and informal)'.

In environmental governance, there is another challenge: the question of how to deal with the biophysical conditions of particular places (Görg, 2007). The term 'landscape governance' has been introduced to cover the interconnections between socially constructed spaces (the politics of scale) and the 'natural' conditions of places. The concept of societal relationships with nature is applied to the term 'landscape' as a bridging concept between the social and the natural sciences. Landscapes are socially and/or culturally shaped entities. There is a plurality of landscape comprehensions as well as a multiplicity and dichotomy of interests regarding landscapes. Landscape governance is neither exclusively nor primarily involved in the maintenance of 'untouched', 'natural' landscapes, nor is it necessarily aimed at the maintenance of the specific uniqueness of cultural landscapes. Its basic definition includes changes and transformations caused by natural disturbances or by human action.

What seems to make the landscape concept useful as a link between governance processes in multi-level politics and natural-spatial conditions is its hybrid character, and its view of societal and natural factors as intrinsically linked. Cultural, aesthetic, economic and social dimensions are as much involved as ecological functioning or a-biotic conditions. So 'landscape governance' differs from 'regional governance' in the sense that the latter deals primarily with a political and administrative entity. Landscape governance may imply the shaping of new landscapes, e.g. in abandoned open cast mines in East Germany (see Görg, 2007).

We observe the following:

- In environmental governance, the link with international processes is especially important.
- An interesting feature of landscape governance is that it looks beyond political administrative boundaries and links societal and natural factors.

Annex III.

CIDSE Civil Society Perspectives on Governance

The key principles are:

- **Ownership role of national institutions and mechanisms:**
 - Interventions by donors like the EU should be based on national consensus on development objectives, and local analysis of priorities and responses.
 - National parliaments should be key actors.
- **Participation:**
 - Ownership of policy reform, based on a broad national consensus.
 - Donors need to step back and allow for participation.
 - Donors can help to open spaces for participation by civil society and other stakeholders without imposing such processes as conditionality.
- **Dialogue** (in contrast to conditionalities):
 - Donors' actions, including conditionality, should not displace the legitimate forces working for accountability – the parliament, the citizens and the oversight institutions.
 - Donors should agree standards or benchmarks with governments, on the basis of national development plans that have been developed through appropriate participatory processes.

CIDSE also defines governance priorities:

- Donors should prioritize 'the **accountability** of the State to their citizens' as one of their first reform agenda items.
- **Political and social rights / political and democratic governance / rule of law.** An agreement between development partners should include core human rights standards as the bottom line. This also implies respect for international public law, especially international treaties on Human Rights. CIDSE stressed the importance of key democratic principles such as free elections, a multi-party system and equitable access to decision making.
- **Financial management and the fight against corruption.** Some fiduciary conditionalities are generally accepted, such as transparent and accountable public expenditure management systems. However, accountability should primarily be oriented towards citizens, rather than donors. Externally-driven anti-corruption strategies will fail. They are often based on setting up new, independent institutions, instead of reviving and renewing national institutions which have worked before. Donors should provide Civil Society with opportunities to build its own capacity to engage in anti-corruption work.
- **Gender.** The empowering of women is essential to the development of southern countries. Donor aid efforts should contribute effectively to the empowerment of women and the full participation of women in decision-making processes.
- **Fragile states.** Donors should consistently seek to build capacity among local stakeholders so that they can hold their government to account. Responses to governance problems in fragile states, including human rights issues, should be tailored to the specific situation of the country.

Annex IV.

Provisional Checklist of aspects of (Good) Governance within FLEGT

Note: 'Assess priorities, strategically' (Marilee S. Grindle)

Description of issue <i>(Practical examples or questions in italics introduced by the authors)</i>	Issue is taken from
<ul style="list-style-type: none"> • Actors are co-steering. • Multi-actor, multi-level (national, international, and local) and multi-meaning: different stakeholders may embrace different values, interests and world views. <p><i>Take into consideration actors at local, regional, and national level and actors in the consumer countries in the EU.</i></p>	Governance definitions
<ul style="list-style-type: none"> • Efficient, open, transparent (non-corrupt) and accountable public institutions at all levels, including clear decision-making procedures; • Sound, efficient and effective management of human, natural, economic and financial resources for the purpose of equitable and sustainable development; • A democratic society managed with respect for human rights and democratic principles; • The existence of, respect for and enforcement of the rule of law and the ability to enforce rights and obligations through legal mechanisms. • Civil society participation in decision-making procedures. 	'Governance' taken from EU policy on development cooperation
<ul style="list-style-type: none"> • Strengthen land tenure and access rights; • Strengthen effective participation of all stakeholders; <ul style="list-style-type: none"> ○ <i>Shared vision and strategy: (a) Have local stakeholders been involved in defining 'timber chain governance' and forest governance? (b) Is there a shared vision about the ideal situation for governance in the forest sector in the country?</i> ○ <i>Is there a communication strategy in relation to FLEGT and does it take into consideration the most important stakeholder groups?</i> • Increase transparency in association with forest exploitation operations, including through the introduction of independent monitoring; • Reduced corruption <i>There are tools to empower local groups to monitor corruption in the forest sector. However, corruption is often practiced by urban interest groups with contacts at the highest levels. In order to diminish corruption, pressure has to come from various sides.</i> • Engage the private sector of the timber producing countries in the efforts to combat illegal logging; • Address the financing of violent conflict. 	Article 9 of the communication of The Council of the European Union regarding FLEGT
Core principles of 'governance' are: <ul style="list-style-type: none"> • Participation, • Fairness, • Decency, • Accountability, • Transparency 	WGA concept of Good Governance, based on the Universal Declaration of Human Rights

Description of issue <i>(Practical examples or questions in italics introduced by the authors)</i>	Issue is taken from
<ul style="list-style-type: none"> • Efficiency <p>These principles are to be applied in six 'arenas': Civil Society, Political Society, Government, Bureaucracy, Economic Society and the Judiciary.</p>	
<p>Apart from vertical accountability (mainly through elections) and horizontal accountability (in which governmental organizations report 'sideways' to other officials and agencies within the state itself), direct societal participation is crucial. It is known as 'co-governance for accountability' or 'social accountability', and covers for example: participatory budgeting, administrative reforms acts, social audits, citizen report cards, community score cards.</p> <ul style="list-style-type: none"> • While designing an intervention around social accountability, it is useful to consider six parameters: <ul style="list-style-type: none"> • Incentive Structure – is it a punishment- or a reward-based approach? • Accountability for what – a rule-following or a performance orientation? • Level of institutionalization – where is it on a scale ranging from independent external initiatives to those in which the governments have institutionalized the participation of outside groups? • Depth of involvement – is the engagement with government consultative in nature or does it involve closer interaction from the planning stages? • Inclusiveness of participation – Are only the 'well behaved' groups included or are there extensive consultations with a variety of actors, including marginalized groups? • Branches of government – is the target of efforts executive, legislative or judiciary? • <i>Roles of civil society could be:</i> <ul style="list-style-type: none"> • <i>Counter power</i> • <i>Rendering of services</i> • <i>Providing education, raising awareness</i> • <i>Influencing politics</i> • <i>Social mobilization around development activities</i> • <i>Negotiation.</i> <p><i>Which of these roles are best suited to helping to achieve FLEGT's governance objectives in the specific country situation? How can the EU connect up with existing arrangements in which civil society participates, and reinforce them for the benefit of FLEGT?</i></p>	<p>Co-governance for accountability, or social accountability</p>
<ul style="list-style-type: none"> • Introduce a historical, country specific analysis <i>e.g.</i> <ul style="list-style-type: none"> • <i>History of the country and the forest sector in particular;</i> • <i>Who are and were the major stakeholders in the sector;</i> • <i>Do they represent the main interests of society at large?</i> • <i>How does the institutional history affect the present situation?</i> • <i>Have changes in laws been accompanied by necessary institutional change?</i> • <i>What are the major forest rules and regulations in the country and what is their relation with the judiciary system? Where are institutional hindrances for forest law enforcement, from the perspective of both civil society and the private sector?</i> • <i>What is the role of donors and the EU, and their accountability towards the stakeholders?</i> 	<p>Good Enough Governance</p>

Description of issue <i>(Practical examples or questions in italics introduced by the authors)</i>	Issue is taken from
<ul style="list-style-type: none"> • Reduce the 'good governance' agenda. Values like participation, fairness, decency, accountability, transparency and efficiency are not automatically deeply embedded and accepted within non-Western cultures. Changing these values costs time, so priorities have to be set. • Identify aspects critical for poverty reduction e.g. <ul style="list-style-type: none"> • <i>Are there any efforts to promote access of smallholders and communities to the international timber market?</i> • <i>Combating illegality could mean taking away the livelihood of small-scale timber harvesters. What decent solutions are available?</i> • <i>Which other aspects are critical for the fate of vulnerable groups?</i> • Assess priorities, strategically. To be applied to the whole list! • 'Learn from what is working (well enough)'. <i>Concentrate on aspects of governance that are working instead of fixating on the long list of things that are wrong. Try to deduce lessons.</i> <ul style="list-style-type: none"> ○ <i>An option may be to improve existing control systems, to make them accountable to local and regional stakeholders, and perhaps to avoid creating new and parallel systems.</i> ○ <i>It might also be useful to develop processes so that stakeholders learn from each other (societal learning)</i> • Consider alternatives, without forgetting the public sector. 	
<p>At national level, space should be created so that local NRM governance can develop according to the following principles:</p> <ul style="list-style-type: none"> • Clearly defined boundaries. • Rules that are adapted to local conditions. • Space for collective choice arrangements. • Monitoring : there should be a third party for enforcement and punishment, while monitoring of governance can be performed by stakeholders at various levels. • Punishment that fits the seriousness of the violation. • Conflict resolution mechanisms. • The right for groups to organize themselves. • Arrangements in which local knowledge and local institutions prevail, but shaped to accommodate larger and broader interests. 	Local Natural Resources Governance
<ul style="list-style-type: none"> • The government influences the structure and governance of value chains. <ul style="list-style-type: none"> ○ <i>An example is a timber licensing system under FLEGT, but there are other options too.</i> ○ <i>Have priorities as to timber chain governance been assessed strategically? Are there efforts to improve the enabling environment in which the timber market has to function?</i> • However, governance from the value chain can also have a negative impact on the governance of the forest. <i>Profit and value creation in the chain, the creation or maintenance of employment in the sector, (over)capacity in the processing industry: together or separately, these processes may become so dominant that they undermine efforts to improve forest governance and forest management.</i> • Create space for 'societal learning'. <ul style="list-style-type: none"> ○ <i>Are there processes in place to enable stakeholders to interact and learn from each other (both horizontally and vertically in the timber chain)?</i> 	Value Chain Governance

Description of issue <i>(Practical examples or questions in italics introduced by the authors)</i>	Issue is taken from
<ul style="list-style-type: none"> • <i>Make government-private sector communication more transparent, e.g. consider the introduction of the 'one-stop shop', or front office to decrease bureaucracy when the private sector applies for permits.</i> 	
<ul style="list-style-type: none"> • It could be interesting to discuss and explore the possible role of timber traders in actively supporting forest governance. 	Corporate Social Responsibility
<ul style="list-style-type: none"> • FLEGT's definition and implementation plan for 'forest governance' should draw from several paradigms and so appeal to different groups of stakeholders. • Greater efficiency in the management of financial flows is needed. • As far as possible, FLEGT should be linked with ongoing efforts regarding e.g. national forest programmes and certification for Sustainable Forest Management. • <i>What is the connection between private certification schemes for Sustainable Forest Management and the promotion of forest governance within the FLEGT process? How could these two reinforce each other, leading to better forest governance?</i> 	Forest Governance
<ul style="list-style-type: none"> • Appropriate and effective sharing of authority to make decisions and raise revenues, and sharing of responsibilities for forest-related activities among levels of government, according to their individual abilities and needs. • Effective enforcement of accountability at all levels of government to assure citizens and civil society groups that government agencies are acting fairly, efficiently and effectively to carry out their various mandates. <ul style="list-style-type: none"> ○ <i>How has accountability been enforced and how do stakeholder groups from society intervene here: (a) Are there participatory systems in place to monitor timber chain governance? (b) Are there participatory systems in place at the different levels of government? (c) Are local groups involved in monitoring possible corruption in actual timber trade and forest management?</i> ○ <i>Are there entry points and activities to improve governance of financial flows - payment of taxes and distribution of the revenues - and power sharing in the timber value chain? Are local governments and related audit systems connected to the timber chain?</i> ○ <i>How are donors made accountable while working on 'Good Forest Governance' in FLEGT countries?</i> • Appropriate and effective linkages with other sectors that affect or are affected by what happens in the forestry sector, such as finance, the judiciary, the General Auditor, agriculture, energy, transportation, trade etc. 	Decentralized Forest Governance
<ul style="list-style-type: none"> • Look for synergy between FLEGT and ongoing processes of decentralization. <i>A starting point may be to establish multi-stakeholder forums at local and regional level that can effectively function as organizations that guarantee accountability.</i> • Look for synergy with other – often internationally initiated – projects and programmes (various timber certification schemes, National Forest Programmes) that take care of aspects of forest governance. 	Decentralized Forest Governance, national forest programmes
<ul style="list-style-type: none"> • Look for different ways to increase the government's willingness to improve forest governance. 	'Illegal logging' discussion
<ul style="list-style-type: none"> • <i>To optimize impact, the EU could skilfully combine the different roles and tools it has in stock in order to promote forest governance within the FLEGT process.</i> 	Our own assessment



**agriculture, nature
and food quality**

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