

**FOREST LAW ENFORCEMENT,
GOVERNANCE AND TRADE IN ASIA –
AN UPDATE**

by

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1. INTRODUCTION

- Globally, the World Bank estimated that illegal logging in public lands alone in the developing countries causes loss in assets and revenue in excess of US\$ 10 billion annually.
- Philippines in the 1980s had lost as much as US\$ 18 million annually due to illegal logging, while Indonesia had estimated in 2002 that forgone revenues related to illegal logging were US\$ 3 billion a year.
- A study conducted in 2004 had estimated that illegal timber harvesting in Indonesia and Malaysia were as high as 60% and 5% of their production respectively.
- The same study had also estimated that 35% of imports of timber into China were of illegal origin, while 40% of imports of hardwood plywood in Japan and as much as 70% of Malaysia's log imports might be of illegal origin.

2. ACTIONS TAKEN TO ADDRESS FLEGT

Regional Initiatives

East Asia Forest Law Enforcement and Governance (EA FLEG)

- The EA FLEG process has:
 - (i) increased public awareness on the impacts and causes of illegal logging and its associated trade in illegal forest products;
 - (ii) created a political platform where different actors can use to mobilize and provide the much needed resources to enhance FLEG implementation;
 - (iii) facilitated the exchange of experiences and best practices on FLEG, as well as a network for information sharing among different actors, e.g. the Customs and Forest Law Enforcement Workshop held in the Philippines in November 2005; and
 - (iv) influenced other regional processes to include various aspects of FLEG in their programs of work, e.g. the agenda and work program of the ASEAN Senior Officials on Forestry (ASOF).

- However, there is still insufficient action taken by the EA FLEG process to:
 - (i) actively involved agencies with broad multi-sectoral oversight or criminal justice responsibilities;
 - (ii) develop regional enforcement mechanisms and integrate the decisions of the Bali Ministerial Declaration into the work program of regional institutions and organizations;
 - (iii) develop an effective as well as extensive mechanism for the exchange of technical practices and the building of networks, including the transfer of environmentally sound technology; and
 - (iv) instill ownership at the country level and actively encourage governments of key countries in the region uncommitted to join the process.
- Although the EA FLEG process has established a Regional Task Force and Advisory Group in 2002, it has yet to hold a second Ministerial Meeting due to the lack of concrete progress in implementing shared programs at the regional level.

- In fact, not all countries in Asia are members of the EA FLEG process, e.g. Brunei Darussalam, Malaysia, Myanmar and Singapore which are members of ASEAN.
- The next phase of the EA FLEG process should focus in implementing the three agreed thematic areas, as follows:
 - (i) regional customs collaboration to control trade in illegal timber;
 - (ii) forest sector transparency; and
 - (iii) country diagnostics and experience-sharing.

EU Forest Law Enforcement, Governance and Trade (FLEGT)

- In September this year, Malaysia has raised the need for EU to clarify the linkages between FLEGT-licensed timber products and those certified under the Malaysian Timber Certification Council (MTCC) schemes, the Forest Stewardship Council (FSC) and the Programme for the Endorsement of Forest Certification (PEFC), as well as the elaboration of the role of an Independent Market Monitor.

- Nevertheless, Malaysia wishes to conclude and sign the voluntary partnership agreement (VPA) later this year, while Indonesia, in realistic terms, in early 2009 as the Timber Legality Assurance System (TLAS) has yet to be tested.
- In July 2008, the Delegation of the EC to Vietnam held a bilateral meeting with the International Cooperation Department of the Ministry of Agriculture and Rural Development of Vietnam (ICD-MARD) to discuss FLEGT related issues, followed by a Technical Working Group Meeting in late November, so as to enable Vietnam to enter into a joint arrangement under the FLEGT licensing scheme.
- Notwithstanding this, if the VPAs are to work effectively, they would need to:
 - (i) cover all producer countries that have significant trade with the EU, especially those with weak forest law enforcement and governance;
 - (ii) extend the list of products as quickly as possible as otherwise it would still allow illegal timber products from VPA partner countries' products to enter the EU market, although there are proposals to extend the list of product categories from the current four products of raw timber, sawnwood, plywood and veneer; and

- (iii) provide an assurance that EU importers will not purchase illegal timber products from non-VPA countries while waiting for the due diligence management system that obliges traders to minimize the risk of trading illegally harvested timber products to be operational and its effectiveness proven.
- Currently, an EU Asia FLEGT Support Programme has been developed for the region to strengthen regional FLEGT cooperation, with emphasis on the ASEAN Member States, China and India, which is envisaged to start in 2009 with a budget of 6 million € for the next 48 months. More specifically, its activities will cover:
 - (i) collection of relevant information on FLEGT and dissemination of findings and results at both national and regional levels;
 - (ii) strengthening national FLEGT relevant institutions; and
 - (iii) sharing of experiences at transnational level, including regional customs cooperation through capacity building.

Asia Forest Partnership (AFP)

- A number of countries, such as Cambodia, China, Indonesia, Japan, Republic of Korea, Malaysia, the Philippines, Thailand and Vietnam are partners of the AFP, with Japan and Indonesia being the leading partners.
- During the first phase from 2002-2007, the Partnership, among others, had:
 - (i) developed minimum standards of legality, timber tracking and chain-of-custody systems;
 - (ii) harmonized existing initiatives to combat illegal logging in the region, including the work of the EA FLEG, the Pan-ASEAN Timber Certification Initiative and ITTO;
 - (iii) created a framework for cooperation among customs and other relevant agencies in the Asia-Pacific region;

- (iv) analyzed trends in forest tenure and ownership, including institutional arrangements;
 - (v) studied forest governance and decentralization;
 - (vi) conducted information exchange on illegal logging and trade statistics; and
 - (vii) undertaken research and awareness building.
- During the second phase from 2008-2015, the Partnership, among others, will be involved in a number of key themes relevant to FLEGT as agreed at its Seventh Meeting held in November 2007, such as:
 - (i) combating illegal logging and its associated trade in illegal timber and timber products;
 - (ii) reducing forest loss and degradation, as well as enhancing forest cover; and
 - (iii) improving forest-related governance.

Association of Southeast Asian Nations (ASEAN)

- The Ninth Meeting of the ASEAN Senior Officials on Forestry (ASOF) agreed to include the EA FLEG process in its regular agenda and work program, while at its Tenth Meeting in July 2007, ASOF further agreed to implement three thematic areas, as follows:
 - (i) regional customs cooperation to control the trade of illegal timber products;
 - (ii) transparency in the forest sector; and
 - (iii) sharing of country experiences.
- Furthermore, the Eleventh Meeting of ASOF in August 2008 had adopted a “Work Plan for Strengthening Forest Law Enforcement and Governance (FLEG) in ASEAN, 2008-2015”.
- Presently, with the support from the ASEAN-German Regional Forest Programme (ReFOP), an “ASEAN Regional Knowledge Network on Forest Law Enforcement and Governance (FLEG)” was established in October 2008 to:

- (i) support the implementation of the Work Plan for Strengthening FLEG in ASEAN;
- (ii) respond and address emerging issues on FLEG as identified in the work programs of ASOF and the ASEAN Ministers on Agriculture and Forestry, as well as from international and regional FLEG processes;
- (iii) create and support a regional pool of experts in ASEAN to undertake targeted policy analysis and research on FLEG issues from the perspective of ASEAN Member States;
- (iv) provide a platform for contribution from non-official ASEAN stakeholders and research community to enhance FLEG processes in the ASEAN region;
- (v) contribute to ASEAN-wide lessons learning and sharing of good practices and experiences on FLEG implementation; and
- (vi) provide effective networking and partnership with other institutions, agencies, instruments and processes working on FLEG issues at the regional and global levels.

- In April 2008, the Pan-ASEAN Timber Certification Initiative had also adopted six elements for defining legality of timber in ASEAN, namely:
 - (i) compliance with all relevant forest laws and regulations;
 - (ii) payment of all statutory charges;
 - (iii) CITES compliance;
 - (iv) implementation of a system that allows for the tracking of logs to the forest of origin;
 - (v) the timber must be harvested by parties who have the legal rights to carry out the logging at the designated forest area based on an approved cut; and
 - (vi) the party which harvests the timber shall comply with the laws governing social and environmental aspects, i.e. workers' safety and health, as well as environmental impact assessment.

- Currently, criteria and indicators are being developed for the agreed six elements on legality with support from ReFOP, as well as an ASEAN Guideline on the Chain-of-Custody Certification for legal and sustainable timber by the Nature Conservancy (TNC).
- The Programme Office of the United Nations Office on Drugs and Crime (UNODC) in Jakarta is currently discussing with the ASEAN Secretariat of having a joint UNODC-ASEAN project to counter illegal logging and the illicit trade in forest products in Southeast Asia, as well as in harmonizing policies and regulatory frameworks across the region.

National Initiatives

- Since April 2006, Japan through the “Law for Promoting Green Purchasing” has introduced a government policy favoring wood and wood products that have been harvested in a legal and sustainable manner, and has issued a “Guideline for Verification on Legality and Sustainability of Wood and Wood Products”.
- A number of countries in the region have also developed timber certification schemes, such as the “Malaysian Criteria and Indicators for Forest Management Certification” and the “Requirements for Chain-of-Custody Certification”; the various certification schemes of the Indonesia Ecolabelling Institute (LEI) for natural and planted forests, as well as community-base forest management; and the “China Certification Standards” of 2007; or have their forests certified under the FSC scheme, such as in Lao PDR and Thailand.

- A few producer countries in Asia have signed bilateral agreements with consumer countries to improve collaboration to reduce illegal logging and control the trade of illegal timber and timber products, for example, the signing of Memorandums of Understanding between Indonesia and the governments of UK, China, Japan, and USA.
- Some countries have also taken unilateral action to ban import of illegally harvested timber and timber products, such as Malaysia in imposing a ban on the import of Indonesian roundlogs in June 2002, which was further strengthened in June 2003 to include roughly squared logs of cross-section measuring more than 60 sq. inches.
- Numerous countries in the region are working with the World Bank on new initiatives, such as an Analysis of Multi-Sector Forest Protection Committee Experience in the Philippines; Forest Crime Baseline Reassessment in Cambodia; Forest Law Enforcement Strategy Support to the Lao PDR Department of Forest Inspection; and Timber Theft Prevention Planning in Indonesia.

- Indonesia is also discussing two projects with the UNODC, namely, in countering:
 - (i) forest crimes by strengthening the country's law enforcement capacity; and
 - (ii) the forest crimes and corruption linkage in Indonesia by strengthening Indonesia's anti-corruption agencies and law officials to investigate, prosecute and adjudicate corruption cases linked to forest crimes.

Civil Society and Private Sector Initiatives

- Many private companies have taken action to exclude illegal timber products from their supply chains as a response to government policy and regulations, pressure from consumer and NGOs and as part of their corporate social responsibility (CSR).
- Examples of civil society and private sector initiatives in the region include:

- (i) the World Wide Fund for Nature (WWF) Global Forest Trade Network in establishing buyers groups in 20 countries, e.g. the WWF-Indonesia Producers Forest and Trade Network; and
- (ii) the Tropical Forest Trust (TFT) in linking directly buyers and producers for certified sustainably produced timber products or moving towards sustainability, e.g. in Malaysia, Indonesia, Lao PDR and Vietnam.

3. CONCLUSIONS

- Steps be taken to examine in-depth the existing forest and forest-related forest laws so as to remove contradictions, inconsistencies and overlapping jurisdiction between them.
- The need to enhance and strengthen interagency coordination at both national and forest management unit levels through the establishment of interagency task forces and working groups.

- Regional cooperation mechanisms be established to enhance FLEGT processes and implementation in the region, especially in addressing cross-border forest crimes and the laundering of proceeds from illegal timber operations.
- Countries in the region should also link forest law enforcement and governance with broader planning frameworks, such as through national forest programmes (nfps) or other integrated programmes relevant to forests, so as to avoid overlaps and duplication of efforts in trying to combat illegal activities in the forest sector.
- A supportive legal and regulatory framework together with favorable social and economic conditions, and a strong political will would ensure better law compliance and good governance in the forest sector in the region.

THANK YOU