

## **A National Strategy To Curb Illegal Logging and Improve Law Enforcement in Indonesia**

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## **INTRODUCTION**

Over the last 2 years, a detailed assessment on illegal logging involving consultations with a wide range of stakeholders, was undertaken. This process has resulted in the identification of a number of prevention, detection and suppression strategies that multiple stakeholders can undertake to curb illegal logging and improve law enforcement in Indonesia. To conclude this process, a number of short-term actions that can be prioritized within the next two years have been identified. If adopted, these actions will need the backing of multiple stakeholders from government institutions (such as the Coordinating Ministry for Political, Legal and Security Affairs, Ministry of Forestry, Ministry of Industry and Trade, Ministry of Home Affairs, Supreme Court, APKASI and the Governors Association); and from donors, NGOs and academics.

The actions presented in this strategy are not absolute and have been listed here for the purposes of soliciting discussion, comment and criticism. Multiple stakeholders are being called upon to comment on this proposed program; and to commit to an improved version that includes comments solicited from a series of Focus Group Discussions held throughout 2005 and early 2006. If agreement and commitment can be obtained, it is hoped that multiple stakeholders will use this program to move forward with a comprehensive agenda that ultimately seeks to curb illegal logging, improve law enforcement and achieve more sustainable forest management in Indonesia.

## **PREPARATION**

### **Action 1: Establish an enabling framework to curb illegal logging**

#### **Rationale:**

Indonesia's new government has already expressed a strong desire to curb illegal logging and improve law enforcement. To facilitate this process, the President of Indonesia should issue a Presidential Instruction to curb illegal logging and appoint a Presidential Envoy on Illegal Logging. The Indonesian government and other stakeholders should also fast track and monitor the prosecution of at least three illegal logging figures; establish a forest crime case tracking monitoring system; improve communication and reconcile differences between multiple stakeholders, and raise awareness about illegal logging in Indonesia and internationally.

#### **Activities:**

1. Issue a Presidential Instruction to curb illegal logging  
The Presidential Instruction should express a high-level intent to curb illegal logging and improve law enforcement.
2. Appoint a Presidential Envoy on Illegal Logging.

The President of the Republic of Indonesia should appoint a Presidential Envoy on Illegal Logging<sup>1</sup>. The Presidential Envoy should be guaranteed daily access to the President if required, and widely recognized in Indonesian society as incorruptible. The Presidential Envoy should:

- a. Coordinate all related agencies to eradicate illegal logging;
  - b. Accelerate efforts to curb illegal logging;
  - c. Endorse and monitor the timely implementation of this '10 Step Program'
  - d. Periodically (at least every 3 months) report to the President of the Republic of Indonesia on progress with actions outlined in this '10 Step Program'.
3. Fast-track the prosecution of at least three major figures already known to be blatantly organizing and financing illegal logging activities on a large scale ('shock-therapy').

The President should take personal responsibility for detaining, pending administrative or criminal sanction, three major figures active in authorizing, felling, processing or transporting illegal timber. Individuals who might be targeted for action could include:

- a. Senior police or customs officials who order evidence of forest crimes to be destroyed before prosecution;
  - b. Regional timber mafia heads whose operations have been heavily publicized;
  - c. Owners of large forest products processing groups that are known to rely most heavily on timber of untraceable or disputed legal origin;
  - d. District heads who unlawfully issue land clearing permits inside National Parks;
  - e. Governors of Ministry of Forestry provincial heads who ignore orders from the Ministry of Forestry to freeze production of factories suspected of operating illegally or processing illegal timber;
  - f. Ministry of Forestry officials (P2SKSHH) who unlawfully issue transportation documents (SKSHH) for illegally harvested timber.
4. Immediately establish a forest crime case tracking monitoring system to monitor reported crimes, crime investigations and court proceedings.

The database should include names, arrest dates, indictment reports submitted by the police to the prosecutor, court dates etc).

5. Improve communication and reconcile differences between multiple stakeholders  
Particularly in relation to:
- a. Licensing authorities
  - b. Legal and illegal sources of timber
  - c. Forest and land tenure
  - d. Customary rights to forest and land resources

6. Raise awareness about illegal logging in Indonesian and internationally

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<sup>1</sup> Note that Presidential Instruction (Inpres) 4/05, has directed the Coordinating Minister for Political, Law and Security Affairs (Widodo Adi Sucipto) to: 1) coordinate efforts seeking to curb illegal logging in Indonesia; 2) accelerate efforts to curb illegal logging in forest areas; 3) report to the President of Indonesia on progress with illegal logging every 3 months, unless an urgent case arises.

Through a range of media (i.e. TV, radio, newspapers etc).

**Agencies that need to be coordinated by the Presidential Envoy to curb illegal logging:** Ministry of Forestry, Ministry of Finance, Ministry of Home Affairs, Ministry of Transportation, Ministry of Law and Human Rights, Ministry of Foreign Affairs, Ministry of Defense, Ministry of Trade, Ministry of Manpower and Transmigration, Ministry of Environment, Attorney General's Office, National Police, Indonesian Armed Forces (TNI), Customs and Excise, DPR, DPD, Corruption Eradication Commission, Governor's Association, Bupati's Association, Governors, Mayors (Bupati's), Supreme Court, BRIK, APKI National Woodworkers Union (FSP Kahuitindo), donors, NGOs and civil society organizations including, but not limited to, Aman, FWI, LEI, Telapak, WALHI, WWF Indonesia, EIA, Greenpeace, TNC, ICRAF and CIFOR.

## **Action 2: Identify legal sources of timber through consensus building and consultations**

### **Rationale:**

Legal and illegal sources of timber need to be defined before an effective strategy can be put in place to curb illegal logging in Indonesia. Currently, it is difficult to determine the extent of illegal logging in Indonesia and multiple stakeholders have not reached consensus on what constitutes legal sources of timber. Consequently, there are extremely variable estimates of illegal logging ranging from 0% of Indonesia's timber to 82%. In order to more clearly identify the extent of illegal logging in Indonesia, multiple stakeholders need to agree on legal and illegal sources of timber through consensus building and consultations.

### **Activities:**

1. Agree on current legal sources of timber (this includes sources such as HPH, HTI, IPK HTI, IPK Kebun, HPH Kecil, HkM etc) through consensus building and multi-stakeholder consultations;
2. Agree on licensing authorities to issue harvesting permits through consensus building and consultations;
3. Identify and legitimate other equitable and sustainable sources of timber (such as customary forests managed in a sustainable manner);
4. Determine sustainable annual allowable cuts for all legal sources of timber (Analysis carried out by the NRM-MFP Forest Futures Group has indicated that Indonesia is currently able to sustainably produce approximately 19 million m<sup>3</sup> of timber per year);
5. Proceed with the delineation, demarcation and gazettelement of the forest estate, HPH and HTI boundaries to legitimate and establish certainty for recognized legal sources.

### **Notes on legal sources of timber:**

Indonesian national forest law indicates that only timber harvested from the following sources for commercial purposes, is currently considered to be legal:

- Natural forest timber concessions (HPH) issued in production forest by the MoF).
- Industrial timber plantation concessions (HTI) issued by the MoF. HTI must be issued in production forest whether for pulpwood, sawn timber, transmigration and other purposes.

- Clear cutting permits (IPK HTI) issued by provincial authorities on behalf of national authorities, and only in nationally issued HTI allocated with production forest). Standing stock must be  $<20\text{m}^3$ .
- Clear cutting permits issued by provincial authorities on behalf of national authorities, and only in nationally-issued agricultural plantations (IPK Kebun).
- Community forestry permits issued by BPN outside the boundaries of the forest estate (Hutan Rakyat).
- Bupati permits gazetted and executed outside the boundaries of the *Kawasan Hutan*, either on behalf of industry and/or on behalf of traditional communities.
- Community forestry permits issued in production forest by the MoF (Hutan Kemasyarakatan or HkM).
- 5000 ha natural forest timber licenses valid for 25 years (HPH Kecil), issued by Bupati's between 27 January 99 and 8 June 2002).
- Special Forest Areas (Kawasan Dengan Tujuan Istimewa or KDTI) issued by MoF to Krui customary communities in Pesisir, Krui, Lampung Barat).
- Kopermas concessions legitimated by the Ministry of Forestry and/or issued between 27 January 99 and 8 June 2002).
- Legitimate imports.
- Legitimate auctions (Guidelines need to be developed to identify legitimate auctions. This is because auctions are commonly used to legalise illegal timber confiscated in enforcement operations).

#### **Notes on illegal sources of timber:**

Currently, national forest law indicates that timber harvested from the following sources for commercial purposes, is not yet considered to be legal :

- Conservation forests and Protected Forests (Hutan Konservasi and Hutan Lindung).
- Bupati permits issued inside the Kawasan Hutan (i.e. IPKTM, HPHH, IPPK) after 8 June 2002.
- Industrial plantation land clearing areas (IPK HTI) with standing stock  $>20\text{m}^3$ .
- Kopermas concessions issued in Papua after December 2004.

**Potential Principle Actors:** Ministry of Forestry, Ministry of Industry and Trade, Supreme Court, DPR, DPD, APKASI, GOI/UK MOU on Legality Standards, MFP, TNC, DFID, BRIK, APKI.

**Potential Supporting Actors:** WWF, Smartwood, TFF, TFT, SGS, LEI.

#### **DETECTION**

Detection of illegal logging activities is a key element of any strategy that attempts to curb illegal logging. Without accurate information about illegal logging activities, prevention strategies can not be strategically identified and suppression activities are rendered useless because insufficient information will not lead to effective prosecution of law breakers. Information gleaned from detection measures can also be used to make effective campaigns against illegal logging activities; and to design appropriate policies and strategies to prevent or suppress illegal logging.

### **Action 3: Collect and analyse information needed to detect harvesting, processing and transportation crimes**

#### **Rationale:**

In the short term, data and analysis are needed to identify some of the most sinister and damaging harvesting, processing and transportation crimes currently underway in Indonesia. Data collection should be undertaken in partnership with the Ministry of Forestry who should be responsible for 1) sanctioning data gathering; 2) determining the technical standards and administrative hierarchies that will ensure data accuracy; 3) stating that information gathered under such an undertaking will be considered 'official' and have the force of law, if used for judicial purposes; 4) allow data gathered to be available to the public, unless it is being used to build evidence of a crime.

Data collection and analysis should be undertaken to detect three major forest crimes: 1) harvesting crimes, processing crimes and transportation crimes. Details about the data and analysis needed to detect these three crimes are provided below (see 3.1, 3.2, 3.3).

#### **3.1 Collect and analyse information needed to detect harvesting crimes.**

#### **Rationale:**

One of the first elements to be prioritised is the detection of crimes in the forest. These crimes directly contribute to deforestation and forest degradation. Harvesting crimes can be identified through a variety of tools including satellite imagery and analysis of concession boundaries, concession permits and transportation documents (SKSHH). Overlays of administrative boundaries, coupled with image interpretation can also be used to determine if concessions are logging outside designated cutting blocks; are running roads into conservation or protected forest areas; or have redrawn concession boundaries in such a way that they penetrate into conservation areas or protected forests. Information can be checked and cross-referenced with data obtained from site visits or aerial inspections.

#### **Activities:**

A. Collect data to identify and map the locations of all legal timber harvesting operations and wood plantations.

1. Obtain geo-referenced maps of the boundaries of all forest management units in the nation, and all 2004 cutting blocks located within them, including:
  - a. For all active forest management units and felling permits issued or extended by district level forestry officers (i.e. IPKTM, HPHH, IPPK), obtain *Peta Bagian Kerja dan Rencana Pembukaan Lahan* or its equivalent. Map can be obtained from the *Dinas Kehutanan* for the district in which the unit is located.
  - b. For all 880 nationally-approved agricultural plantations:
    - (I) Map appended to approval for release from *Kawasan Hutan* of lands for the purpose of agricultural plantation activities. Map can be obtained from Department of Forestry, *Badan Planologi, Pusat Pengukuran Hutan*.

- (II) Map approving 2004 clear felling activities in agricultural plantations above, *Peta Rencana Pembukaan Lahan*. Map can be obtained from *Subdin Program, Dinas Kehutanan* in the province in which the plantation is located.
- c. For each of the 212 nationally approved industrial timber plantations:
- (I) Map appended to RKPH-HTI from Department of Forestry, Directorate General BPK, Directorate HTI.
- (II) Map approving clear felling activities, *Peta Rencana Pembukaan Lahan*. Map can be obtained from *Subdin Program, Dinas Kehutanan* in the province in which the HTI is located.
- d. For the estimated 350 currently active natural forest selective felling permits (HPH) collect:
- (I) Map appended to RKPH, from the Department of Forestry, Directorate General BPK, Directorate Bina Rencana Pemanfaatan Hutan Produksi.
- (II) Map appended to most recent RKL, from the *Subdin Program, Dinas Kehutanan* in the province in which the HPH is located.
- (III) Map appended to most recent RKT, from *Subdin Program, Dinas Kehutanan* in the province in which the HPH is located.
- e. For each of the Forest Management Units above, determine volume of natural forest timber permitted to be removed in 2004.
- f. From the national Department of Forestry, request the range of serial numbers of all SKSHH's distributed to each province. From each provincial Department of Forestry, request the range of serial numbers of all SKSHH's and *faktur* distributed to each district.
2. Obtain *Peta Penunjukan Kawasan Hutan dan Perairan Propinsi* for each of Indonesia's provinces containing the above named types of forest management units, showing boundaries of *Kawasan Konservasi, Hutan Lindung, and Hutan Produksi* within each province.
3. Obtain Modis satellite maps of the entire nation.
4. Obtain satellite images of fire hot spots.
5. Obtain satellite images of illegal logging hot spots in conservation and protection forest areas.

**B. Analyse data to identify harvesting activities outside prescribed legal areas**

1. Overlay boundaries of 3.1 (A1), 3.1 (A2) and 3.1 (A3)
  - a. Identify all active forest management units or land clearing permits that have been issued or extended by district level forestry officers, or nationally authorized agricultural plantations, located in any part of the *Kawasan Hutan*.  
If district governments fail to submit geo-referenced maps for all active forest management units and felling permits issued by district forestry officers, any district permits not accounted for will be assumed to be illegal.
  - b. Identify all forest management units or agricultural plantations that are gazetted inside or have run roads into conservation areas or protected forests.
  - c. Identify all HPH, HTI, and agricultural plantations whose boundaries have been drawn or redrawn in operational maps in such a way that they overlap with conservation areas and protection forests, as defined in the relevant *Peta Penunjukan Kawasan Hutan dan Perairan Propinsi*.
  - d. Identify all HTI that are felling forests with standing stock >20m<sup>3</sup>/ha.
2. Overlay boundaries of 3.1 (A4) onto 3.1 (B1) and identify all HTI and agricultural plantations with fire hot spots inside blocks that are designated for clearing according to current year production maps.

**Potential Principle Actors:** Dinas Kehutanan; Pusat Pengukuan Hutan, Badan Planologi, Ministry of Forestry, EUILRC; LAPLAN.

**Potential Supporting Actors:** FWI, WWF Indonesia, CIFOR, EUFLB, MFP, WRI, World Bank, EIA, Telapak.

**3.2: Collect and analyse information needed to detect processing crimes****Rationale:**

Mills are the key consumer of illegal timber in Indonesia. Mills may operate above licensed capacity, operate without an official processing license, source illegal timber for processing or fail to file detailed reports (RPBBI) about timber supplies to the Ministry of Forestry. Processing crimes can be identified through a variety of methods including log tracking, supply and demand analysis and via field investigations. Analysis of Raw Material Requirement Plans (RPBBI) can also help to identify mills that are sourcing illegal timber and/or operating beyond licensed capacity.

**Activities:****A. Collect data to identify mills processing illegal timber**

1. Collect:

- a. Lists of all primary processing mills maintained by each *Dinas Kehutanan Kabupaten*.
- b. RPBBI of all primary processing mills with processing capacity of less than 6,000 m<sup>3</sup>/year maintained by each *Dinas Kehutanan Propinsi*.
- c. RPBBI of all primary processing mills with processing capacity of greater than 6,000 m<sup>3</sup>/year, from the Directorate of Forest Products Processing and Marketing. Responsible parties for collecting: EU-FLB/MFP/NRM.
- d. Files of the approximately 4,800 exporting sawmills and plywood mills that have reportedly been submitted to BRIK. Responsible party for collecting these files: Reputable auditing firm with TORs approved by task force.

(2) For each primary processing mill above, collect information on:

- a. Name of factory
- b. Address of factory
- c. Shareholders of factory
- d. Licensing authority of factory
- e. Licensed capacity of factory
- f. Installed capacity of factory
- g. Volume of output of factory
- h. For each shipment of raw material received by the factory: (a) volume of shipment, (b) district of origin of shipment, (c) name of forest management unit of origin of shipment, (d) serial number of shipment, and (e) name of P2SKSHH who sanctioned the shipment.

## B. Analyse non-reporting mills and mills operating without proper authorization

### 1. Identify non-reporting mills

- a. Identify primary forest processing mills with licensed or installed capacities of less than 6,000m<sup>3</sup> that have failed to submit RPBBI to their provincial Department of Forestry offices.
- b. Identify primary forest processing mills with licensed or installed capacities of greater than 6,000m<sup>3</sup> that have failed to submit 2004 RPBBI to the Directorate of Forest Products Processing and Marketing.

### 2. Identify mills operating without proper authorization

- a. Identify primary forest processing mills with capacity of less than 6,000m<sup>3</sup> that are operating with the permission of any entity other than the provincial Departments of Forestry.

- b. Identify primary forest processing mills with licensed or installed capacities of greater than 6,000m<sup>3</sup> that are operating with the permission of any entity other than the Directorate of Forest Products Processing and Marketing.

3. Identify mills whose installed capacity or annual production exceeds legal limits

- a. Identify all mills whose installed capacity or annual production exceed licensed capacity by more than 30 percent.

4. Identify mills that consume raw material from sources that are legally disputed and/or unidentifiable.

- a. Classify each shipment of timber listed in Action 3.2.A (2h), according to whether it originated from:

(I) Nationally authorized HPH with provincially authorized RKT

(II) Nationally authorized HPHTI or agricultural plantations with provincially authorized RKT/IPK

(III) Nationally authorized HTI with provincially authorized RKT/IPK

(IV) Bupati authorized forest management unit or felling permit located *outside* the national forest estate (which can only be determined after mapping in Action 3.1 is completed).

(V) Legal auction

(VI) Timber imported from a nation whose exports are not currently banned under international law (for example, Liberia).

(VII) Hutan rakyat (timber felled on private land to which title is held).

(VIII) All other sources, which for the purposes of all subsequent analysis will be considered legally disputed and/or unidentifiable, for example, district licensed forest management units or district issued land clearing permits located inside the *Kawasan Hutan*.

- b. For each mill determine the percentage of timber sourced in 2003 from legally disputed and/or unknown sources.

- c. Group each mill under the timber processing group to which it belongs (for example, the Sinar Mas, Raja Garuda Mas, Bob Hasan, Barito Pacific, Hasko and its parastatal affiliates, Korindo, KLI, Alas Kusuma and Djajanti groups, to name the largest nine in rough descending order of natural forest timber consumption).

- d. Rank all groups or stand-alone mills from those that consume the highest to the smallest percentage of legally disputed and/or unknown timber.

**Potential Principle Actors:** UPT BPK, Dinas Kehutanan Propinsi, MFP, Ministry of Industry, Ministry of Trade, Customs.

**Potential Supporting Actors:** World Bank, WRI, FWI, WWF Indonesia, CIFOR, BRIK, Telapak.

### **Target 3.3: Collect and analyse information needed to detect transportation crimes**

#### **Rationale:**

Very little timber circulates within Indonesia without the aid of illegally allocated transportation documents (SKSHH) and the misuse of these documents needs to be prioritised in order to distinguish legal timber from illegal timber. Transportation crimes can be identified through demand and supply analysis, log tracking systems and analysis of transportation documents (SKSHH) issued by Dinas Kehutanan Kabupaten officials (P2SKSHH).

#### **Activities within Indonesia:**

1. Identify shipments of timber from FMUs that have exceeded their production quotas.
  - a. Calculate total volume of timber supplied by each FMU to each mill based on information collected in Action 3.2 above.
  - b. Identify each FMU that has exceeded its production quota as outlined in Action 3.1 above.
  - c. Keep a register of the names of P2SKSHHs who approved these shipments, ranked in descending order according to the volume and number of unauthorized shipments approved by each.
2. Identify shipments of timber whose SKSHH or *Faktur* serial numbers do not conform with those assigned to the purported province or district of origin of the shipment.
  - a. Take each SKSHH and *Faktur* covering the shipments of timber identified in Action 3.2 above.
  - b. Identify those SKSHH and *Faktur* whose serial numbers do not match those assigned to the provinces and districts from which the timber shipment in question purportedly originated, as outlined in Action 3.1 above.

- c. Keep a register of the names of P2SKSHHs who approved all such shipments, ranked in descending order according to the volume and number of unauthorized shipments approved by each such shipment approved.
3. Identify customs violations by analysing data and information collected in Indonesia's Custom's Electronic Data Interchange System.
4. Identify illegal timber smuggling by carrying out regular patrols in Indonesian waters and increasing physical inspections of timber exports.

**Activities to be carried out in collaboration with consuming country authorities:**

1. Liaise with customs authorities in consuming countries to identify shipments of illegal timber originating from Indonesia
2. Identify illegal timber consignments originating from Indonesia by:
  - a. Collecting timber export statistics originating from Indonesia
  - b. Collecting statistics from consuming countries on timber imports originating from Indonesia
  - c. Comparing export and import statistics to identify trade discrepancies.

**Principle Actors:** Ministry of Forestry, Provincial forestry departments, Ministry of Industry and Trade, Department of Foreign Affairs, Customs, Police.

**Supporting Actors:** MFP, EUILRC.

**Notes:** Decisions will need to be made about where the archive is housed, who is responsible for collecting and archiving information etc.

**Action 4: Archive information on the harvesting, processing and transportation of timber**

**Rationale:**

While various organizations are making concerted efforts to collect data and information on forest crimes, there are no standardized reporting procedures in place. Information is scattered and not arranged in a systematic information system. In order to develop appropriate prevention and suppression measures, data and information on illegal logging needs to be kept in a permanent archive.

**Activities:**

1. Compile information gathered in Targets 3.1-3.3 in an orderly and updated fashion in a permanent archive.
2. Develop Standard Operating Procedures (SOP) to ensure systematic and coherent data collection, harmonization and analysis.

Work spaces, photocopying facilities and facilities for copying computerized files will also be available on site for use by law enforcement authorities and members of the public.

**Potential Principle Actors:** Ministry of Forestry, BRIK.

**Potential Supporting Actors:** MFP, FWI, EIA, Telapak, LSP.

### **Action 5: Disclose information on the harvesting, processing and transportation of timber**

#### **Rationale:**

To increase transparency and allow buyers and consumers to make informed decisions about the purchases they make information should be disbursed to the general public via independent, and internationally accessible, websites. Information that is being used for building evidence of a crime should not be released to the general public because this may compromise investigation efforts and jeopardize the safety of suspected criminals; or those that have reported a forest crime.

#### **Activities:**

1. Develop a comprehensive disclosure policy on forest sector information through a multi-stakeholder consultation process that divides forest sector information into three classification categories: 'publicly available', 'for official use only' and 'confidential'.
2. Post information determined to be suitable for public consumption in Action 4.2 (a) on independent websites, including, but not limited to, those hosted by the Ministry of Forestry, FWI and the RIIA.
3. Provide information determined to be suitable for public consumption in Action 4.2 (a) to all parties involved in multilateral (EU-FLEGT, FLEG Asia, AFP) and bilateral (China, Japan, Norway, UK) anti-illegal logging agreements to which Indonesia is party.
4. Actively distribute information determined to be suitable for public consumption to both the Indonesian and international public through campaigns and the media.

**Potential principle Actors:** Ministry of Forestry, Ministry of Industry and Trade.

**Potential Supporting Actors:** FWI, RIIA, EU-FLEGT, FLEG Asia, AFP, Governments of China, Japan, Norway, UK, LSP, Telapak, WALHI, WWF, TNC, WRI, WB, DFID's MFP.

### **PREVENTION**

Prevention measures should address some of the key causes of illegal logging. Prevention measures are primarily medium to long-term measures, which may not yield results for many

years. Still, these measures ultimately seek to minimize and prevent and illegal logging. The following measures identified in Actions 6-8, should be prioritized in the short-term.

### **Action 6: Develop a comprehensive wood processing industry rationalisation plan**

#### **Rationale:**

Consultations revealed that stakeholders consider over-capacity of Indonesia's wood processing industry to be the most pressing problem driving illegal logging in Indonesia today. These stakeholders asserted that illegal logging is largely fueled by a huge imbalance between wood processing industry requirements (which are far in excess of sustainable limits) and the licensed supply of timber. A planned approach to industrial restructuring has significant economic and political benefits. This is because the wood processing industry will ultimately be forced to down-size when raw materials become even more scarce; and because a more organized restructuring process should soften the impact and reduce the socio-economic consequences. Efforts should be made to retrain, or provide new jobs for, people put out of work. Land compensation plans should also be considered to offset employment and income losses.

#### **Activities:**

1. Develop a comprehensive plan that identifies the percentage that industry needs to be down-sized and mandates a reduction in consumption of roundwood by factories in order to bring Indonesian mill demand into balance with the nation's legal supply by 2008. Each mill or commonly owned group of mills could be required to reduce production across the board, or on a pro-rata basis according to the percentage it consumed of legally disputed or untraceable timber, as determined in Action 3.2B (4.b);
2. Declare a temporary moratorium on all new primary forest processing capacity, except in the case where old machines are decommissioned and replaced by newer ones with equal or smaller capacities;
3. Develop a Business Exit Assistance Plan, which provides financial assistance to mills required to down size, or close down in order to bring industry capacity in line with resource levels;
4. To supplement the national requirement that all closed mills provide dislocated workers with six months severance pay, develop a Worker Assistance Plan, providing redundancy payments, relocation assistance to move to new employment and training assistance to workers made redundant as a result of industry down-sizing or closure;
5. Develop a Land Compensation Plan, to offset employment and income losses arising from industry down-sizing, that provides renewable 35 year access to parcels of public lands, both in and outside the forest estate, if such lands are no longer valuable from a forestry perspective (defined as those with a standing stock of less than 10 cubic metres per hectare), for social forestry or agricultural purposes. Provide insecticide and fertilizer subsidies for recovery of those areas covered in *alang-alang*;
6. Develop initiatives to retrain, or provide new jobs for, people put out of work from industrial down-sizing. Some of these new jobs should ideally be created in the fields of reforestation, forest rehabilitation, agroforestry and community forestry;

7. Develop a plan that mandates an increase in productivity of existing pulpwood plantations, and increases areas of existing pulpwood planted per year by 2012. Develop a comparable plan for increases in productivity and areas of planting of lumber species (*kayu perkakas*) by 2012 as well;
8. Move forward with social forestry initiatives that encourage local people to sustainably manage forest resources.

**Potential Principle Actors:** Ministry of Forestry, Ministry of Industry and Trade, Ministry of Manpower.

**Potential Supporting Actors:** MFP, EU-FLB, World Bank, ICRAF, CIFOR, APKASI, Governor's Association.

**Notes:**

Analysis conducted by the NRM-Bappenas-MFP Forest Futures Working Group determined that it is feasible to reduce consumption of roundwood by factories by 20% by December 2005, by another 10% in December 2006 and a final 10% in December 2007, in order to bring Indonesian mill demand into balance with the nation's legal supply by 2008.

Analysis conducted by multi-stakeholder consortium of organizations, including the Ministry of Forestry, major research institutions, universities and donor-funded projects determined that it is feasible to increase pulp plantation establishment from 100,000 ha per year to 250,000 ha per year; increase sawn timber plantation rate from 60,000 ha/yr to approx 70,000 ha per year, and to increase the productivity of timber plantations from an average of 12-15 m<sup>3</sup>/ha to 60m<sup>3</sup>/ha by 2012.

**Action 7: Increase tenure security for local people and offer alternative income sources**

**Rationale:**

Local people have become increasingly engaged in illegal logging activities because they lack access to forest and land resources and have had limited opportunities to benefit from large-scale logging. Experience has shown that clear tenure rights, and active participation in forest management through social forestry schemes, encourage local people to protect forests from outside encroachment, to increase their local food and forest security and refrain from illegal logging.

**Activities:**

1. Assist customary people to map and legitimate their customary forests and lands;
2. Support and legitimate community based forestry schemes;
2. Develop social forestry schemes that provide viable income alternatives for local people;
3. Encourage co-management of protected and conservation forest areas;

**Action 8: Promote legal timber trade**

**Rationale:**

Indonesia's wood processing industry is fuelling both domestic and international demand for Indonesia's natural timber products because it is able to source natural timber illegally and to produce wood products at reduced costs. The availability of cheap timber products distorts markets and ultimately leads to an increase in final demand. Indonesia's domestic market consumes approximately 17 million m<sup>3</sup> of illegal round wood per year. The international market (primarily China, Japan, Singapore, Malaysia, South Korea and Taiwan) consume the equivalent of approximately 33 million m<sup>3</sup> of illegally harvested round wood per year.

### **Activities:**

1. Develop a better understanding of the domestic market in order to identify strategies to curb domestic consumption of illegal timber and to encourage domestic consumers to demand legally and preferably sustainably produced timber products;
2. Lobby for the sale or import of illegal timber to be declared 'illegal' in the legislation of consumer countries;
3. Develop and adopt a widely accepted and auditable definition of legal timber, which defines legal timber and establishes standards that timber producers would have to meet (such as evidence of independently verified chain of custody monitoring).
4. Develop and test cost effective wood tracking systems to distinguish legally produced logs and wood products from illegally produced logs and wood products;
5. Encourage the governments of consuming countries to adopt public procurement policies that limit the purchase of products to those from legal and sustainably managed sources;
6. Encourage companies using or trading in large volumes of wood and paper products to adopt procurement policies to purchase only legal, and preferably sustainably produced timber products;
7. Develop and implement a FLEGT Partnership Agreement between Indonesia and the European Union;
8. Develop and implement bi-lateral agreements with key timber trading countries to enhance law enforcement cooperation.
9. Develop multi-lateral agreements to control the trade in illegal timber, share information and ensure that all signature countries adopt the same definition of illegal logging;
10. Encourage Indonesian companies to produce sustainably harvested timber;
11. Recommend that endangered or threatened timber species be listed on CITES Appendix III.

**Potential Principle Actors:** Ministry of Forestry, Ministry of Industry and Trade, DFID, G8 Governments, WWF, TNC, TFF, TFT, Carrefour, Ikea, Kingfisher, Home Depot, Lowes, Smartwood, LEI, Ministry of Foreign Affairs, Customs.

**Potential Supporting Actors:** MFP, World Bank, FLEG, Greenpeace,

### **SUPPRESSION**

Suppression is an important component of any strategy that attempts to curb illegal logging because it can deter and dissuade people from engaging in illegal logging activities. Strengthening law enforcement may also improve overall governance and the rule of law,

strengthen forest and natural resource policy frameworks, improve forest resource management, and promote sustainable forest management.

### **Action 9: Build capacity to carry out law enforcement**

#### **Rationale:**

Multi-stakeholder consultations revealed that most illegal logging cases brought to trial are dismissed because corruption is prevalent, evidence has been lacking, cases have been poorly put together, insufficient evidence has been collected or the wrong type of evidence has been collected; or because judges prosecutors and the police lack knowledge about important forest laws and regulations. Suppression efforts also fail because investigators lack skills in detecting forest crimes through tools such as satellite imagery, GPS, log tracking and log species identification. Investigators also fail to follow chains of complicity to ensure that the principal actors of illegal logging activities are detected and suppressed rather than poor local people, who are contracted by *cukong*, buyers, government officials and other powerful actors to illegally fell trees. Training and capacity building are needed to rectify some of these problems before suppression efforts outlined in Action 10 are undertaken.

#### **Activities:**

1. Provide training and guidance to law enforcers on constructing chains of complicity to enable the identification of principal actors behind illegal logging activities;
2. Provide training to forest officers and police in at least 15 districts on a variety of detection tools and analysis including:
  - a. visually documenting illegal logging (i.e. making videos and taking photographs);
  - b. new tree and log tracking technologies (i.e. optical bar coding);
  - c. remote sensing and geographic information systems;
  - d. specialised skills needed to detect forest crimes including:
    - (I) how to link logs and wood products back to a specific location in the forest;
    - (II) satellite and aircraft surveillance techniques,
    - (III) collection of chain of custody evidence;
    - (IV) collection of forensic evidence on illegal logging,
    - (V) detecting illegal logs in timber shipments
    - (VI) determining forest license/contract specifications,
    - (VII) analysing documents of incorporation to navigate front and holding companies,
    - (VIII) using technical investigation equipment,
    - (IX) interviewing powerful individuals
    - (X) following chains of complicity to enable the identification of principal actors behind illegal logging activities.
3. Provide training to customs officials on how to detect illegal logs in timber shipments;
4. Provide training to at least 1,000 forest officers and the police on preparing illegal logging case dossiers for trial in at least 15 districts;
5. Provide training to judges and prosecutors in at least 15 districts on relevant forest laws and regulations (especially UU41/99 and PP34/02);
6. Build the capacity of banks and law enforcers to implement Indonesia's Money Laundering legislation;

7. Raise awareness about the importance and significance of forests among law enforcers;
8. Establish, support and provide training on relevant forest laws and regulations, court proceedings and judicial processes for at least 15 public monitoring bodies in 15 districts.
9. Create a new centralized national civil coast guard to assist in patrolling Indonesia's marine territory.
10. Improve awareness and training among regional customs agents in transshipping and importing countries.

**Notes:**

The fifteen districts include seven districts which contain the cities of Medan, Pekanbaru, Jambi, Surabaya, Pontianak, Banjarmasin and Samarinda (the largest plywood and sawn timber processing centres in Indonesia). The remaining eight districts will be one each from the provinces of Aceh, Riau, West Kalimantan, Central Kalimantan, East Kalimantan, Central Sulawesi, Maluku and Papua (the eight biggest timber producing provinces in Indonesia) with the districts selected being those identified in Action 3 as being the most active in terms of illegal logging.

**Potential Principle Actors:** Supreme Court, National Police, Ministry of Forestry, Attorney General's Department.

**Potential Supporting Actors:** MFP, EU, World Bank, ICRAF, CIFOR, TNC, SGS, AusAID.

**Action 10: Amend national laws and regulations to strengthen law enforcement efforts**

**Rationale:**

While Indonesia's legal framework provides a number of mechanisms for suppression of major forest criminals, there is room for improvement. Currently, for example, UU 41/99 does not provide provisions for the prosecution of forest management units that run roads into conservation areas or protected forests; nor does it provide provisions for the prosecution of forest management units that have drawn or redrawn their boundaries in operational maps to overlap with conservation areas and/or protected forests. Clear provisions for the prosecution of officials who flaunt forest laws to issue harvesting permits, transportation permits or processing permits have also been omitted. Corrupt forest officials can presently only be brought to justice via the provisions in the Criminal Code or the recently amended Law of Criminal Acts of Corruption. Criminal and administrative sanctions for serious crimes, such as those mentioned above need to be included in the Basic Forest Law (UU 41/99), or in a higher regulation such as a PERPU or a Parliamentary Act.

**Activities:**

1. Amend existing national forest legislation (i.e. UU41/99 & PP34/02) to:
  - a. Declare that any HPH, HTI or nationally approved agricultural plantations can have its permit revoked without any warning if it is found to have either:

- (I) run roads into conservation areas or protected forests;
  - (II) redrawn its boundaries in operational maps (obtained in Action 3.1A) to the point where they overlap conservation areas and protection forests.
  - b. Make it a criminal offence for district government officials (including Bupati's) to issue harvesting permits within the national forest estate, except in so far as these permits are determined to be legal in Step 2;
  - c. Declare any timber sourced from district permits, not proven to be located outside the forest estate and not accounted for via geo-referenced maps to prove it so, illegal;
  - d. Make it a criminal offence for district or any other government official below the provincial level (for example, mayors) to issue permits for saw, plywood, chip or pulp mills;
  - e. Make it a criminal offence for P2SKSHH officials to unlawfully allocate transportation permits (SKSHH);
  - f. Further elucidate the definition of "receiving, accommodating and processing raw materials originating from illegal sources in UU41/99 Article 97 (5)d to include the existence of one or more logs in a mill's log yard or log pond that:
    - lacks a serial number;
    - has a serial number that cannot be found in the SKSHH-DHH accompanying the shipment;
    - has the correct serial number, but
    - is of a species that does not match that written in the SKSHH-DHH;
    - is of a length that does not match that in the SKSHH-DHH, within a range of error of 10 cm.
    - is of a diameter that does not match that in the SKSHH-DHH, within a range of error of 5 cm.
  - g. Include provisions for complicity (*penyertaan*) in legislation on forest crimes to enable police and prosecutors to more effectively focus on the owners or operators of criminal enterprise, rather than the loggers;
  - h. Elucidate Article 50 of UU 41/99 in a single PP or SK to provide clear guidelines on legal violations stipulated in this Article.
  - i. Outlaw elite level timber corruption by stipulating that past or present heads of state—through their families, nominees, close political supporters and business associates—can not run or own timber concessions, timber plantations, agricultural plantations and timber mills in Indonesia.
  - j. Allowing the Indonesian government to confiscate the proceeds and assets derived from illegal logging activities from convicted forest criminals.
2. Remove restrictions on law enforcers by:
- a. Providing legal provisions for police and other law enforcers to cross administrative boundaries in order to pursue illegal logging cases;
  - b. Providing legal provisions for forest police (PolHut) and forest civil service investigators (PPNS) to conduct arrests and to file illegal logging cases with prosecutors;
  - c. Amending the customs law (UU 10/95 to extend customs officials authorities to inspect shipments of timber for export, if they reasonably suspect these shipments

- to contain illegal timber (Note that authority under Article 4 of UU 10/95 already exists but is used in limited circumstances);
- d. Allowing video tapes and photographic images and GPS readings to be submitted as evidence.
3. Speed up and improve judicial processes by:
    - a. Providing legal provisions to establish a special task force to investigate, arrest and take to trial forest criminals;
    - b. Amending procedural laws to allow for in absentia trials so that prosecutors can go ahead with a trial if the accused has fled the country;
    - c. Limiting efforts by law enforcers to derail or kill legal cases by:
      - (I) Placing time limits on repeated requests for information from the Prosecutors office to the police;
      - (II) Providing clear legal sanctions against investigators who fail to pursue an investigation through to prosecution; or against a prosecutor who fails to submit a case to trial, even when the case files at each of these levels has been declared complete;
      - (III) Defining who or what organizations would have the right to complain if an investigation is not completed or a prosecution is not pursued within specified time limits for responses to their complaints.

**Potential Principle Actors:** Supreme Court, Ministry of Forestry, Ministry of Industry and Trade, President of Indonesia, Ministry of Home Affairs, Department of the Attorney General, DPR, DPD.

**Potential Supporting Actors:** MFP, EU-FLB, World Bank, Transparency International, Indonesian Corruption Watch, ICEL.

**Notes:**

Legislative changes stipulating criminal sanctions can be made by amending Articles 50 & 78 of UU 41/99. Legislative changes stipulating administrative sanctions can be made by amending Chapter IX of PP34/02. Otherwise, legislative changes can be made in a PERPU (Special Law), issued in case of emergency and signed by the President, which can avoid the lengthy process of law making which involves the House of Representatives.

**Action 11: Prosecute major forest harvesting, processing and transportation crimes**

**Rationale:**

Indonesia's Basic Forest Law (UU 41/99) and this laws implementing regulation (PP34/02) provide a number of mechanisms to suppress actors involved in major harvesting and processing crimes. Criminal sanctions (including imprisonment up to 10 years and fines up to Rp 5 billion) and administrative sanctions are provided in Article 78 of UU 41/99 (which refer to prohibitions and restrictions listed in Article 50 of UU 41/99). Additional administrative sanctions are provided in Chapter IX (Articles 86-98) of PP 34/02 to sanction holders of forest utilization permits and forest product primary industry business permits. Some of the

sanctions listed in UU 41/99 and PP34/02 provide clear opportunities to prosecute major actors engaged in harvesting and processing crimes. However, substantial improvements (such as those mentioned in Action 9) need to be made to allow effective prosecution of other major crimes.

## Activities:

### A. Harvesting Crimes

1. **Prosecute and close all forest management units issued or extended by district level forestry officers, or nationally authorized agricultural plantations, which are physically located within any part of the *Kawasan Hutan*. Submit the names of all Bupatis who signed off on such units to the President of Indonesia.**

Article 50 (e) of UU 41/99 states that no one is allowed to cut trees or harvest or collect any forest products within the forest area without holding any rights or license issued by authorized officials. This violation is subject to 10 years imprisonment and a fine of Rp 5 billion (Article 78 (5)). Article 93 (12e & 16) of PP 34/02 also state that a permit holder can have its permit revoked without warning if it is sentenced to imprisonment pursuant to Article 78 of UU 41/99.

2. Prosecute and close all forest management units that have run roads into conservation areas or protected forests.

Action 9.10 (a) needs to be put into effect before this can occur.

Laws 41/99 and PP 34/02 don't explicitly provide criminal or administrative sanctions for this offence. Article 89 (a) of PP34/02 only states that a HPH can have its utilization business permit, and forest product utilization business permit temporarily terminated if it fails to manage its working area boundaries (guidelines states this is self explanatory). If this is the case, the permit shall be temporarily suspended for 1 year and it shall be revoked if the company does not fulfill its obligations within 1 year from the date of the temporary suspension, following three notices given in writing at an interval of 30 working days (Article 90).

Article 91 b.IV of PP 34/02. states that a HPH can be subjected to a fine (15 times the PSDH) if wood is felled from outside the permitted felling block.

3. Prosecute and close all HPH or HTI if the boundaries have been drawn or redrawn in operational maps to overlap with conservation areas and/or protection forests. For all maps drawn or redrawn in such a way, submit simultaneously to the National Corruption Commission and the Inspector General of the Department of Forestry the names of Department of Forestry officials who signed and sanctioned such maps.

Action 9.10 (b) needs to be put into effect before this can occur.

Laws 41/99 and PP 34/02 don't explicitly provide criminal or administrative sanctions for this offence. Article 89 (a) of PP34/02 only states that a HPH can have its utilization

business permit, and forest product utilization business permit temporarily terminated if it fails to manage its working area boundaries (guidelines states this is self explanatory). If this is the case, the permit shall be temporarily suspended for 1 year and it shall be revoked if the company does not fulfill its obligations within 1 year from the date of the temporary suspension, following three notices given in writing at an interval of 30 working days (Article 90).

**4. Prosecute all HTI and agricultural plantations with fire hot spots on blocks designated for clearing this year according to production maps. Close and auction the units.**

Article 50 (3d) of UU 41/99 states that no one is allowed to burn forest. The maximum penalty for this offence is 15 years jail and a Rp 5 billion fine.

5. Apply the concept of complicity to prosecute the principal actors identified in Action 3.1 (B) and elsewhere to be organising illegal logging within conservation forests.

The concept of complicity (*penyertaan*) is mentioned in Articles 55 & 56 of Indonesia's Criminal Law. Provisions requiring police and prosecutors to follow the chain of complicity should also be made in forest legislation (see Action 9.8)

6. Prosecute and close all FMUs that have exceeded annual production quotas

Action 9.11 needs to be put into effect before this can occur.

This implies that a HPH has illegally used a forest area. Article 50 (3a) of UU 41/99 states that no one is allowed to cultivate and/or use and/or occupy illegally a forest area. This offence is subject to 10 years imprisonment and Rp 5 billion fine (Article 78). Article 93 (12e & 16) of PP 34/02 states that a permit holder can have its permit revoked without warning if it is sentenced to imprisonment pursuant to Article 78 of UU 41/99.

B. Transportation crimes

7. For all shipments out of units that contained timber felled in excess of quotas (as ascertained in Target 3A1(e), submit simultaneously to the National Corruption Commission and the Inspector General of the Department of Forestry lists of the P2SKSHHs who sanctioned the shipments. Prosecute the unit for over-harvesting and prosecute the P2SKSHH officials for unlawful allocation of transportation permits (SKSHH).

Currently, there is nothing in UU41/99 or PP34/02 either of these crimes is a punishable offence. Actions 9.11 & 9.12 would first need to be put into effect for this to occur.

8. For all shipments of timber whose SKSHH or *faktur* serial numbers do not conform with those assigned to the purported province or district of origin of the shipment (as

ascertained in Action 3.1.A.1(f), submit simultaneously to the National Corruption Commission and the Inspector General of the Department of Forestry the list of all P2SKSHHs who sanctioned such shipments. Prosecute the unit for over-harvesting and prosecute the P2SKSHH officials for unlawful allocation of transportation permits (SKSHH).

Currently, there is nothing in UU41/99 or PP34/02 either of these crimes is a punishable offence. Actions 9.12 & 9.13 would first need to be put into effect for this to occur.

### C. Processing crimes

#### **9. Freeze production of all primary forest processing mills with licensed or installed capacities of less than 6,000m<sup>3</sup> that have failed to submit RPBBI to their provincial Department of Forestry offices.**

Article 95 (1a) of PP 34/02 states that a mill can have its industrial business permit temporarily terminated if it does not submit RPBBI report by the specified deadline(1 May). The temporary termination of an industrial business permit shall remain effective until the permit holder can fulfill his obligations. The procedures for imposing administrative sanctions are stipulated in SK Kep Men No. 6887/Kpts-II/2002).

#### **10. Freeze production of all primary forest processing mills with licensed or installed capacities of greater than 6,000m<sup>3</sup> that have failed to submit RPBBI to the Directorate of Forest Products Processing and Marketing.**

Article 95 (1a) of PP34/02 states that a mill can have its industrial business permit temporarily terminated if it does not submit RPBBI report by the specified deadline. The temporary termination of an industrial business permit shall remain effective until the permit holder can fulfill his obligations. The procedures for imposing administrative sanctions are stipulated in SK Kep Men No. 6887/Kpts-II/2002).

#### **11. Prosecute and close all primary forest processing mills with capacity of less than 6,000m<sup>3</sup> that are operating with the permission of any entity other than the provincial Departments of Forestry and Departments of Trade and Industry.**

Action 9.6 needs to be put into effect before this can occur.

UU41/99 or PP34/02 do not provide criminal or administrative sanctions for this offence.

#### **12. Prosecute and close all primary forest processing mills with licensed or installed capacities of greater than 6,000m<sup>3</sup> that are operating with the permission of any entity other than the national Departments of Forestry or Trade and Industry.**

Action 9.6 needs to be put into effect before this can occur.

UU41/99 or PP34/02 do not provide criminal or administrative sanctions for this offence.

**13. Prosecute and close all mills whose installed capacity or annual production in 2003 exceeded licensed capacity by more than 130 percent.**

Article 97 (5a) of PP 34/02 states that an industrial business permit can be revoked if the permit holder expands industry capacity without permission. The permit can only be revoked after the permit holder has received three notices in writing each at an interval of 30 days.

14. Pending conviction in a court of law, freeze production in any sawmill or plywood mill found by *LPI Industri* to have one or more logs in their log yards or log ponds that either:

(a) lacks a serial number;

(b) has a serial number that does not match exactly those written in the SKSHH-DHH accompanying the shipment of which the log was purportedly a part;

(c) has the correct serial number, but

(I) is of a species that does not match that written in the SKSHH-DHH;

(II) is of a length that does not match that specified in the SKSHH-DHH, within a range of error of 10 cm;

(III) is of a diameter that does not match that specified in the SKSHH-DHH, within a range of error of 5 cm.

LPI Industri are examining the nation's seven hundred largest industrial timber facilities over a one year period, though it is not known when the beginning or ending of that period is, nor the extent to which they are rigorously sampling logyards and logponds.

Action 9.9 needs to be put into effect before this can occur.

Alternatively, PP 34/02 Article 97 (5d) states that a mill can have its permit revoked if it receives, accommodates or processes forest product raw materials originating from illegal sources of raw materials. However, PP 34/02 Article 97 (7) goes on to state that the permit can only be revoked after the mill is found guilty of sourcing illegal timber in a court decision having permanent legal force. The court would have to make a decision based on UU41/99 Articles 50 and 78, which state that no one is allowed to: Receive, buy or sell, receive as an exchange, receive as entrusted goods, keep or possess any forest products which were allegedly harvested from a forest area through an illegal way. This offence is subject to 10 years imprisonment and Rp 5 billion fine.

**Potential Principle Actors:** Forestry police, National Police, Ministry of Forestry, Ministry of Industry and Trade, Ministry of Home Affairs, Supreme Court, Attorney General's Department, National Corruption Commission.

**Potential Supporting Actors:** EIA/Telapak, World Bank, WWF Indonesia, EU-FLB, ILRC, MFP, AusAid.

**Notes:** If legislative amendments can not be made to allow for prosecution of all of the crimes listed in Target 10, priority should be given to those highlighted in bold text as the law already provides clear provisions for the prosecution of these crimes.