

Indonesia Civil Society (ICS) Groups¹

Briefing Paper on Forest Law Enforcement

ICS Delegates

Rino Subagyo (ICEL), Bernhard Willem Pattinasarany (IWGFF),
Poltak Ike Wibowo (TAPAL), La Ode M. Kadhafi (SWAMI), Ridzki R. Sigit (TELAPAK)

A. Background

Initiatives to combat forest crime in Indonesia are not as simple as often imagined. Illegal logging and associated trade should not be seen as an ordinary crime. It is run by well organized syndicates that operate across borders and are backed by powerful financiers.

In Indonesia most of those behind illegal operations in the forest remain untouchable, while those that operate in the field are jailed, proving that the current enforcement operations are not effective. There are currently some actions initiated by the Government of Indonesia which seek to enhance the effectiveness of the law by using the anti-money laundering act as well as the anti-corruption act. However, the handling of specific cases shows that corruption within law enforcement and misinterpretation of regulations continue, that the current situation is not being sufficiently addressed, and that there has not yet been an adequate response from the Indonesian authorities.

Indonesian Civil Society (ICS) propose a criteria for high risk customers in the forest sector that would be able to assist in the monitoring of forest crime by using a comprehensive approach that includes the anti-corruption and anti-money laundering act.

B. Enforcement in Indonesia

The Government of Indonesia has brought forward some measures to curb illegal logging and illegal trade, including the preparation of a draft new regulation and revision of relevant laws.

1. Policies

a. Forestry Act²

Plans to revise the Forestry Act are already on schedule.

b. Actions for Combating Illegal Logging Act

A draft proposal³ has been submitted to Parliament that includes action for combating illegal logging.

c. Presidential Instruction on Combating Illegal Logging⁴

The president issued an instruction on March 18, 2005 to 18 institutions under the control of the Co-ordinating Minister of Politics, Law and Security. The instruction ordered these institutions, including the Attorney General, the National Chief of Police, and the National Military Commander to establish an illegal logging eradication/operation team of multi-sectoral agencies. These instructions were also sent to Provincial Governors and District Heads. Further, all relevant local government regulations that conflicted with higher laws were ordered revoked.

¹ The Indonesian CSGs involved in consultation processes amongst Indonesian Civil Society Groups (CSG) through a series of workshops, meetings and seminars starting 2004 are: Pase-Bandaaceh, YLL-Medan, Hakiki-Riau, AMA-Riau, Jikalahari-Riau, Ulayat-Bengkulu, AMA-Bengkulu, YKR-Jambi (Sumatera); Titian/KAIL-Kalbar, Padi-Kaltim, LPMA-Kalsel (Kalimantan); Jurnal Celebes-Sulsel, Swami-Sultra, Yascita-Sultra, JAUH-Sulawesi (Sulawesi); Silvagama-Jogjakarta, AruPA-Jogjakarta (Java); Manbesaki (Papua); and national CSGs such as LEI, FWI, WALHI, AMAN, ICW, ICEL, IWGFF, CAPP, TAPAL, GreenLaw and Telapak.

² Act Number 41/1999.

³ The first draft which was being provided by the government was adopted from the previous draft of 'Perpu' prepared by the Ministry of Forestry.

⁴ President Instruction Number 4/2005.

d. Anti-Money Laundering Act⁵

A revision of the Anti-Money Laundering Law ensures that forest and environmental crimes are now included.

e. Anti-Corruption Act⁶

The fact that illegal logging cases are now included under this law is seen as a positive step forward.

f. Regulation on Forest Management and Administration⁷

A revision of articles will now include a new forest management standard that includes regulations on the administration of timber which take into account communities reliant on forests for their livelihood, including both those dwelling within the forest and those in surrounding areas.

2. Action

a. Enforcement Operation

Three special enforcement operations against illegal logging and associated trade, entitled Wanalaga, Wanabahari and Operasi Hutan Lestari have now been conducted several times. The most recent was 'Operasi Hutan Lestari II' which took place in Papua during the period of March-June 2005. This succeeded⁸ in the confiscation of a significant amount of timber and heavy equipment as well as the arrests of a number of suspects including foreign actors. However, the trials of the accused were far from satisfactory. In 12 cases suspects were freed and those still under procedure are still in the hands of the police and Prosecutor's office.

Anti-Money Laundering

There are currently 14 cases being handled by the Indonesian Financial Intelligence Unit (FIU) in the forest sector, and one prosecution is currently in court under the Anti-Money Laundering Act.

Results

For law enforcement to be successful in Indonesia, some issues need to be heeded:

- a. There are a lot of government institutions involved in law enforcement that are engaged in the tackling of forest crime, yet successful results are limited.
- b. Corruption within enforcement is high and in some cases officials are directly involved in forest crime. As a result morale is low for those who are not corrupt.
- c. There is a lack of understanding of relevant laws, including the Anti-Money Laundering Act and Anti-Corruption Act.
- d. There are too many cases where those accused of the crime are released, or where the penalties imposed on those found guilty are extremely low. Almost all masterminds behind forest crime and the illegal trade remain untouchable.
- e. There are many cases where civil society, including local communities engaged in monitoring forest crime, have experienced violence at the hands the timber mafia and corrupt officials.

⁵ Act Number 25/2003.

⁶ Act Number 19/2001.

⁷ Government Law Number 34/2002.

⁸ A number of 370.244m3 illegal logs and 19.728m3 illegal woods confiscated, as well as seizing heavy transportation equipment such as trucks and excavators, where as 107 people were arrested and filed into 190 cases.

Recommendations

Initiatives to combat illegal logging and associated trade require serious attention, with an effective and strategic approach, and real action from all concerned parties. Indonesian civil society agrees the following recommendations:

1. The Government of Indonesia must implement a comprehensive strategy to curb forest crime, including a thorough review of all relevant regulations related to good governance.
2. The Government of Indonesia must make use of the regulations within the Anti-Money Laundering Act and the Anti-Corruption Act to prosecute the masterminds behind forest crime.
3. The Government of Indonesia must accelerate the process of setting up a witness protection act in order to give protection to ICS and local communities involved in monitoring forest crime.
4. The Government of Indonesia and the European Union must use anti-Money Laundering Laws in their respective countries within a Voluntary Partnership Agreement (VPA) that will assist in the prevention of corruption within the financial sector.

[eod]