

SUMMARY OF WORKSHOP 3F: ILLEGAL LOGGING: REGIONAL STRATEGIES FOR ENFORCEMENT COOPERATION

Facilitators: Antonio Benjamin, Law for a Green Planet Institute, Brazil
Yvan Lafleur, Environment Canada

Rapporteur: Anita Sundari Akella, Consultant, United States

GOALS

- Identify a set of common issues that will allow the international and national institutions working on deforestation issues to work together on logging sector enforcement in the context of the International Network for Environmental Compliance and Enforcement (INECE).
- Come up with a concrete proposal that will allow INECE to move into this new direction, in the 'green' sector.

1 INTRODUCTION

The facilitators opened the discussion by asking the participants to draw on their countries' experiences to define illegal logging. The facilitators then progressed the workshop by opening discussion of what the international issues are and how they should be prioritized. They then raised the question of whether the international community should be targeting a particular type of illegal logging. Finally, the discussion group talked about the proper role for INECE and the international community.

2 DISCUSSION SUMMARY

Mr. Antonio Benjamin opened the workshop by acknowledging the various definitions of illegal logging and asked the participants to give a definition based on what goes on in their respective countries.

Dr. Ladislav Miko explained that in the Czech Republic, no clearcutting of areas greater than one hectare is allowable by law, and landowners are required to leave seventy percent of the trees on their land standing. However, it is not always the owner that cuts, and often criminals come in and extract timber. Sometimes the problem is a different one – for instance, in the

Caucasus, poor people were breaking the law by cutting timber for fuelwood, so that they could avoid freezing. Dr. Miko expressed the difficulty in enforcing the law in such situations.

Dr. Miko added that the Czech Ministry of the Environment has developed a system for evaluating ecological damages in the forest, based on 12 years of research. The specific system is particular to Czech forests and will not be applicable in other sites; however, the system's fundamentals can serve as a basis for those wishing to calculate damage to forests in other countries.

Picking up on Dr. Miko's observation about poor people and logging, Ms. Sheila Abed responded that in much of Latin America, illegal logging is linked to poverty issues. Deforestation happens because of land use change, often slash and burn agriculture by squatters who sometimes work with traders to sell valuable wood before clearing. However, these types of deforestation are difficult to fight because they are closely linked to social and political issues.

Ms. Brenda Brito further explained that in Brazil, there are "legal reserve" requirements – for instance, in Amazonia,

landowners are required to retain eighty percent of their land as forest. In other parts of the country, it is twenty percent. However, this law is neither complied with regularly nor enforced effectively.

Mr. Tony Oposa added that in the Philippines, no logging beyond the allowable cut is allowed, but it happens. There is also conversion of forestland to other uses by poor people. Often, selective logging opens roads that small farmers and the landless use to enter the forest, which they then convert.

Ms. Rosalind Reeve illuminated some of the transnational issues with logging regulation. In Kenya, people were allowed to cultivate among the trees in protected areas – until it was discovered that they were growing all kinds of things (including marijuana). The government then clamped down. They began requiring a permit for any cutting on private lands or for any transport of timber. The result has been that the timber coming into Kenya now is largely harvested illegally from the Congo. The Congo has a good law, but it is not implemented – in the Eastern Congo, for instance, there is no enforcement at all.

Mr. Ofir Drori explained that in Cameroon, illegal logging mainly takes the form of companies not staying within the rules of their concessions – they break regulations regarding diameter, species, and quantities. These companies control the law enforcement agencies and so there is a lot of corruption. The government is also reluctant to be too strict with the rules because they do not want the companies to leave the country and do business elsewhere instead. There is some small-holder illegal logging once the big companies have left, but this is not the major problem.

Mr. Antonio Benjamin responded that in Brazil, the problem differs according to where you are. In the developed south, deforestation and illegal logging are minor issues, and development (along the coast, in the Atlantic Forest, and in agricultural areas) is the main problem. In the north, logging is not as much of an issue as expansion of the agricultural frontier – driv-

en by large, wealthy agro-business. Peasants are sometimes used by them to do their dirty work, but are not the main actors. If you address the big actors in this region, it could have considerable impact on the ground even if it does not stop expansion altogether. The issue is complicated because this is a region of low development, and a lot of export income comes from the soy that is being grown here. Mr. Benjamin asked how it is possible to battle this kind of deforestation.

Mr. Benjamin further noted that many compliance and enforcement issues have to do with the legal framework itself. The precautionary principle is important – if appropriate uses of the resource are prescribed in the law, it is much easier to do compliance and enforcement. For instance, Brazil's legal reserve system is established in the law and if it were complied with, eighty percent of the Amazon and twenty percent of the remainder of the country would be conserved. This is not the case, but if there is political will, it should be possible to enforce this law.

The facilitators summarized that overall, based on what everyone had said, the problem of illegal logging is widespread and caused by a number of contributing factors that legislation and enforcement will have to tackle. With this in mind, the facilitators urged participants to focus on the goal of developing concrete proposals that INECE can work on in the illegal logging realm, with a focus on enforcement.

Dr. Ladislav Miko suggested that the workshop participants should decide what the priorities within INECE relevant to this topic should be, since many issues should be handled nationally. He then suggested focusing on (a) what the international issues are and (b) how to prioritize them.

Mr. Peter Poeschel added that the working group should keep in mind what the capacities and sphere of impact of INECE are. For instance, they may be highly effective at making economic arguments that can show the links between illegal logging and demand in consumer countries. It is important to make efforts on both the consumer and producer side. Enforcement

officials need tools, and those tools should be provided.

Mr. Antonio Benjamin observed that these ideas point to building support for a project proposal on illegal logging.

Mr. Yvan Lafleur suggested that the group should consider which aspects of illegal logging they can hope to influence. He summarized by identifying the following types of illegal logging in the conversation:

- (1) Social – Mr. Lafleur questioned whether INECE could really address logging that has to do with social issues.
- (2) Technical – loggers are not respecting the details of cutting (diameter at breast height, etc.) in their concessions.
- (3) Commercial – companies are not respecting the law, either because they do not care or because there is no enforcement. Mr. Lafleur identified this type of illegal logging as having the most impact at the international level.
- (4) Criminal.

The facilitators posed the question of whether the group wanted to target its activities to any particular type of illegal logging.

Mr. Ofir Drori thought that the group should restrict itself to things that are (a) under the law (i.e. not social) and (b) international. The most logical target is the large companies, because their behavior has implications beyond their borders. One idea could be to build a network that can share information that could be helpful in criminal proceedings

Ms. Brenda Brito explained that the problem in Brazil is a bit different, as the majority of Brazil's illegal timber is consumed domestically, making it a domestic issue. Ms. Brito thought it would be useful for INECE to hold a regional meeting to discuss how to:

- (a) identify major organizations/stakeholders involved in illegal logging,
- (b) identify existing legal mechanisms in regional countries and test other innovative ones that might work (i.e., using negotiated compliance agreements in

this sector rather than strictly focusing on command and control),

- (c) provide technical assistance to companies and loggers who might log legally if they knew how and understood what the rules were, and
- (d) provide capacity building and training for local agencies working on enforcement.

Ms. Rosalind Reeve suggested that the group should concentrate on what is beyond the law, what is international, and what INECE is good at (for instance, which tenets of brown-side enforcement can be translated for the green side?).

Mr. Peter Pueschel elaborated that information exchange on trade routes is important and questioned whether capacity support for enforcement agencies will be harder where there are large multinationals involved. He added that there is a need for national enforcement capacity building to help look at (a) organized criminal sector illegal logging activity (including linking to work being done by Interpol) and (b) companies that are just taking advantage of weak enforcement.

Mr. Antonio Benjamin supported the framework suggested by Brenda Brito and advocated for thinking about a global meeting of experts on forest sector enforcement – something that will help legitimize this message by discussing it with a broader audience. He also suggested working with The World Conservation Union's (IUCN's) Commission on Environmental Law.

Dr. Ladislav Miko further suggested that if there is to be such a workshop, the topic to be discussed must be very clear and that it would be helpful to prioritize the places where there is a link between illegal logging and primary habitat/biodiversity. He explained that if they could bring key people in forest sector enforcement together and get them speaking the same language, it would be an advance.

Mr. Yvan Lafleur suggested a series of regional meetings that lead up to an international meeting, because of lan-

guage and culture barriers. However, Ms. Rosalind Reeve disagreed, suggesting instead an international meeting that would then spawn regional meetings. She also suggested including nongovernmental organizations (NGOs) active in this area (Global Witness, Environmental Investigation Agency, Chatham House) in such a meeting.

Mr. Peter Pueschel advocated for focusing on understanding who the international companies doing illegal logging are and identifying the international trade routes used by these companies and their partners on the ground. He further stated that this international meeting should have a limited number of participants.

Mr. Matthew Cooper suggested that INECE, because of its access to experts, can give advice about how to generate and share information. It can also access NGOs who do not have access to information – through appropriate messaging and sound advice.

Mr. Yvan Lafleur stated that local input would be required and that it is hard to create guidelines or messages that are global.

Ms. Anita Akella suggested incorporating conservation NGOs who are de facto “working on enforcement” as part of their conservation work on the ground. However, Mr. Peter Pueschel disagreed, stating that inclusion of such NGOs creates the potential for the discussion to become too broad, not focused on enforcement. Mr. Ofir Drori offered a solution that only NGOs working explicitly on enforcement be invited, because otherwise you get message drift and end up broadening the topic at hand beyond “real” enforcement.

Dr. Ladislav Miko interjected that foresters have meetings on these topics too, and should be kept in close contact to avoid duplication. He suggested sending an INECE emissary to European meetings of foresters and contacting them to find out what has already been done, what needs to be done, and how INECE can contribute.

Mr. Antonio Benjamin elaborated on the need for NGOs at the workshop by

stating that the workshop envisioned is an enforcement stakeholders meeting to prepare something for the enforcers themselves. Therefore, the network does have to listen to what NGOs who do policy work and know that enforcement is important have to say. The majority of the participants should be people who work directly with enforcement – but we should also invite a few from the large NGOs. However, he agreed that it is important to make it clear that this is not a policy meeting, and not a science meeting – that rather, it is a meeting to decide what the next concrete steps will be in designing strategies for forest sector law enforcement.

Mr. Tony Oposa suggested a plan of having a team of 2-3 people of legal renown coming to a country, developing a good sense of what the enforcement challenge in that country is, and paying visits to national officials to create awareness of the gap between what the law says and what is happening in reality. The method could exert subtle, pressure on the political leadership to change the environmental problems.

Ms. Rosalind Reeve added that the network should include NGOs like Greenpeace who can hit the headlines and impact public awareness.

Ms. Brenda Brito recommended that each member of this group could list people and organizations from different countries that they think should participate in this meeting. Mr. Antonio Benjamin countered that membership selection should be done by INECE and the INECE Executive Planning Committee, with people sending suggestions of criteria (e.g., how to pick the countries that the participants come from: based on the size of the country or focusing on representatives of megadiversity countries).

Mr. Yvan Lafleur said that companies must also be involved. Ms. Rosalind Reeve replied that companies did not need to be involved at such an early stage. In the African context, bringing the companies in will be like inviting the fox into the henhouse and will not work.

3 FACILITATORS' RECOMMENDATIONS FOR INECE

INECE should review and analyze other activities related to the coordination of enforcement activities and enforcement training regarding the issue of illegal logging. INECE should develop a strategy based on this analysis to join in these activities or develop additional activities while avoiding duplication with the on-going ones.

The facilitators also recommend that INECE develop a proposal for capacity building programs for inspectors, public prosecutors, and judges in megadiversity countries that face widespread illegal logging. In addition, INECE should develop a proposal for a comparative global study in key countries of legislative models designed to fight illegal logging.