

SUMMARY
TIMBER TRADE ENFORCEMENT MEETING

**Increasing International Enforcement Cooperation
to Control Transboundary Trade
in Illegally Produced Logs and Timber**

United Nations Conference Centre
Bangkok, Thailand
18 - 19 October 2004

OVERVIEW

This meeting explored existing and emerging opportunities and options for increased enforcement measures to combat trade in illegal timber that flows from the East Asian region to the world's major consuming markets. Participants offered a broad range of enlightening presentations, experiences and recommendations regarding opportunities for enhanced and effective enforcement cooperation.

The meeting was structured to promote discussions, ideas and information sharing. Presentations and discussions were organized around the following topics:

- The regional timber trade context;
- Existing and potential enforcement models;
- Country experiences with combating the illegal timber trade;
- Emerging bilateral and international initiatives to improve enforcement; and
- Brainstorming regarding options and next steps.

At the conclusion of the meeting, the participants generated the following suggestions for improving timber trade enforcement.

- Participants should look at the option of an MOU or regional agreement to cooperate on enforcement and share enforcement-related information.
- Participants should look at the possibility of forming a group of country representatives within the region who will work together and with NGOs and trade associations, as appropriate, to improve information sharing and enforcement cooperation, potentially as part of the FLEG process.
- Contact points should be established within each country in the region and in consuming countries that can share enforcement information and assist with paperwork requirements. These people would be national focal points.
- Each country should prepare a document that details the requirements to certify that a shipment of wood is legal for the use of Customs officers.
- Each country should look at forestry and related laws and their implementation to identify loopholes and other areas where legislation, as well as interagency coordination, can be improved.

MEETING SUMMARY

Welcome and Introductions

Allan Thornton, President of the Environmental Investigation Agency (EIA), and Ken Markowitz of the International Network for Environmental Compliance and Enforcement (INECE) opened the meeting by welcoming participants and thanking them for attending.

Mr. Thornton explained that the purpose of the meeting was to have experts in policy and enforcement implementation engage in an informed discussion about illegal logging. The goal of the meeting was to improve international and regional cooperation in enforcement against illegal timber trade in order to preserve forests and biodiversity in the region.

Mr. Markowitz explained that he hoped that, consistent with the three goals of INECE, the meeting would result in: (1) the development of networks for enforcement cooperation among intergovernmental organizations, regional governments and NGOs, (2) the strengthening of capacity for enforcement in the region and (3) raised awareness to the importance of compliance and enforcement in combating illegal logging.

I. The Regional Context (Moderator, Tony Oposa)

EIA and Forest Trends provided participants with background on the regional context of the illegal timber trade by respectively explaining the trade in illegal timber from Indonesia and the timber import trends for China.

The presentation by EIA explored the illegal logging problem in Indonesia and described the features of the illegal timber trade including the major markets, the trade routes and a case study example of an illegal shipment. Recommendations were made for possible remedies including the development of a mechanism in the region for joint cooperation, the use of phytosanitary requirements to identify illegal shipments, the creation of a merbau task force and a designation of central contact points in each country that can exchange information about documentation requirements and illegal shipments.

The Forest Trends presentation provided an overview of the breadth of data that Forest Trends has put together for China's timber imports, including data sources, trends and supply and demand information.

Discussion and Recommendations

During the discussions that followed the presentations, participants asked questions and made suggestions about how to improve enforcement cooperation. In particular, the group discussed the Papua-China trade route, maritime trade documentation loopholes and discrepancies in trade data.

One of the enforcement challenges discussed was the absence of national laws in Malaysia to prosecute a Malaysian citizen engaged in illegal activities abroad. Additionally, participants discussed the relative ease with which Bills of Lading can be falsified to change the country of origin. It was noted that this is just one of the many loopholes and challenges that need to be addressed within the maritime trading system. It was also agreed that documentation problems are the likely cause of the discrepancies in China/Indonesia trade data noted in the Forest Trends and EIA presentations.

The group discussed potential remedies to these challenges including the need for a more concerted and cooperative effort between trading nations to address the documentation loopholes. It was noted that ITTO and Forest Trends are working together to address the data gaps and inconsistencies and it was suggested that NGOs could help fill in some of this information based on their knowledge of ways that illegal activities can skew the data. Participants also proposed establishing an electronic notification system similar to that which is used by the US and Malaysia in the textile trade.

II. Regional Enforcement Models (Moderator, Tony Oposa)

Three presentations were made to provide participants with more information about possible regional enforcement models that might be applied or adapted to address the illegal timber trade in East Asia.

The first presentation, based on a report by Duncan Brack of the Royal Institute of International Affairs, explored options for inter-governmental cooperation within the region. The paper/presentation suggested that East Asia Pacific FLEG be utilized as a starting point to establish a central secretariat and national focal points. A Lusaka Agreement model for enforcement cooperation was also suggested as part of the agreement in addition to the adoption of the FLEGT timber licensing system for timber tracking and trade control. The presentation also explored the possibility of creating a protocol to CITES or CBD as a timber trade enforcement tool.

The second presentation described the Lusaka Agreement Task Force including its obligations, structure, achievements and challenges. The third presentation provided participants with an overview of the World Customs Organization's Regional Intelligence Liaison Office (RILO) including its structure and resources and what RILO Asia-Pacific can do to assist with illegal timber trade enforcement.

Discussion and Recommendations

During the discussions that followed the presentations, participants generally supported establishing a regional body focused on combating trade in illegal timber.

The group also discussed aspects of the Lusaka Agreement that could be adopted in the East Asia region, including the harmonization of legislation and penalties, cross-border immunity for enforcement officers and inter-agency enforcement training.

Participants also noted that bilateral agreements are useful to build intergovernmental cooperation, that all tools available to improve enforcement and regional cooperation should be utilized and that attention should be paid to short- and long-term options.

III. Country Experiences (Moderator, Tony Oposa)

The Philippines, Indonesia, Malaysia and Papua New Guinea gave presentations describing their respective country's experience with illegal logging. These presentations covered the rate and extent of illegal logging, forestry plans and initiatives, law enforcement options and activities and recommendations for improved enforcement and regional cooperation.

The Philippines presentation highlighted its ENR-SECAL Program funded by the World Bank. This program included a Monitoring and Enforcement Component (MEC) designed to improve monitoring of logging operations and enforcement of forestry laws and regulations through the provision of equipment, training, and technical assistance to selected DENR regional and local offices. The creation of the Multi-Sectoral Forest Protection Committees (MFPC) at the

national, regional and provincial levels promoted alliances and cooperation in forest protection and forest law enforcement. Notably this MFPC included the National Bureau of Investigation, which played an important role in making key arrests.

The Indonesian presentations described the extent of the illegal logging problem in Indonesia. The Indonesian government has taken strategic steps to address the problem at the local and national level (log export bans, review of logging concessions, awareness campaigns and conservation policy) and at the international level (bilateral agreements with regional and international trade partners). The presentation also described the 2005 Action Plan to combat illegal logging and the illegal timber trade. Recommendations from the Action Plan include 'operationalizing' the regional FLEG task force, improving forest law enforcement and strengthening the role of local governments and communities. Cooperation between consuming and producing countries and an agreement for regional cooperation were concluded to be critical to improving the situation.

The presentations pertaining to Malaysia emphasized the activities that the government of Malaysia, through Sarawak Forestry, is taking to protect its timber assets and to crack down on cross border illegal trade with Indonesia.

The presentation from Papua New Guinea (PNG) highlighted the extent of the illegal logging problem and the role of the government plays in allowing illegal operations to continue. It was recommended that the Sarawak Forestry Corporation work with NGOs in Papua New Guinea because many of the companies operating in PNG are from Sarawak.

Discussion

Participants generally agreed that non-coordination and lack of political will are common threads in each country. There are, however, opportunities to learn by example from other countries' programs as well as from regional enforcement models like the Lusaka Agreement. *Each nation should also develop and implement a country-specific FLEGT strategy. In addition, it was recommended that success stories be documented and shared with other countries for information sharing purposes.*

IV. Emerging Initiatives (Moderator, Neria Andin)

Presentations were given on various emerging initiatives to address illegal logging including the EU FLEGT Action Plan, the US President's Initiative Against Illegal Logging, the work of timber trade associations (UK Timber Trade Federation and the International Tropical Trade Organization), the possible use of anti-money laundering laws presented by the World Bank, the benefits of illegal logging by the Centre for International Policy Research and the existing Indonesian MOUs.

Discussion

In discussing the FLEGT presentation, it was noted that the first partnerships would be signed next year at the earliest. It was also noted that Indonesia is in talks with the EU about a FLEGT pilot project. Indonesia hopes that this will be a first effort to strongly combat illegal logging.

During discussion of the UK Timber Trade Federation (TTF) presentation, participants addressed problems with BRIK information, including the fact that BRIK only has authority to check whether quotas in a particular industry are in accordance with proposed exports. UK traders are misconstruing the BRIK stamp as a stamp of legality. It was generally agreed that a transparent market should be set up with complete access to data. *Some participants also highlighted the need for a common auditing framework.*

The US presentation highlighted the United States' commitment to combat illegal logging and the illegal timber trade. Through the President's Initiative Against Illegal Logging, the US supports global and regional initiatives like the Forest Law Enforcement and Governance (FLEG) processes. Participants generally agreed that consuming countries like the United States should play a stronger role in curtailing the illegal timber trade.

After the ITTO presentation, participants discussed the need to harmonize trade data and resolve Bill of Lading problems. *To this end*, it was suggested that *customs and trading arrangements* be addressed at the *December ITTC* conference in Tokyo, Japan. It was also suggested that ITTO work with NGOs to fill in data gaps and/or act as an independent verification service for data.

Participants discussed the potential for anti-money laundering (AML) cases to be used to improve enforcement. It was generally agreed that it is probably not practical to use AML for routine commercial transactions in timber but for targeting timber barons and therefore also as a deterrent.

Following the CIFOR presentation, participants discussed the need to create more market incentives for legal production and disincentives for illegal production. It was noted that the use of bans through FLEGT might be one way to leverage the market.

Following the presentation on Indonesia's MOUs with various timber trading partners, it was generally agreed that these types of bilaterals are helpful, but that many of them still required concrete action and funding.

At the end of the session, there was consensus on the strong need for harmonizing and institutionalising existing national and regional forest law enforcement, governance and trade initiatives in order to effectively combat illegal logging.

V. Brain Storming Session – Moderator, Yvan Lafleur

During the afternoon of the second day, Yvan Lafleur led participants in a brainstorming session about what they could do to improve national and regional enforcement cooperation.

To start the brain storming session, Mr. Lafleur asked participants to suggest how cooperation could be improved between enforcement agencies and/or to identify areas where governments must take action. Participants came up with the following list:

- Exchange of Information
- Capacity Building
- Networking
- Legal basis for enforcement (laws/regulations/policy)
- Communication
- Rapid response capability
- Harmonization
- Forest management planning
- Strict enforcement
- State responsibility
- Integrity
- Regional cooperation

- Task force
- Documentation of success stories
- Creativity, innovation
- Awareness
- Urgency
- Adaptive management and monitoring
- Transparency
- National FLEG strategy (as opposed to regional)

Mr. Lafleur then asked the participants to discuss which of the items listed are within their individual control. Participants highlighted integrity, exchanging information and the documentation of success stories. It was also noted that some of the issues, such as transparency, corruption, state responsibility and regional cooperation, may not be in the direct control of the participants, but could be in some ways influenced by them. Mr. Lafleur further stressed that each individual has responsibilities for which he or she is accountable that relate to these issues, and that all participants should conduct their actions in ways that do not encourage these big issue problems.

Government participants also discussed which items fall under the remit of their organizations. It was agreed that harmonization is difficult without the participation and approval of other agencies and organizations.

Mr. Lafleur led participants in a discussion about the definition of illegality. It was noted that it would be helpful for participants and others to agree upon a common definition of 'illegal' and to harmonize these definitions both within each country and for cross-border trade. During this discussion it was also noted that it would be helpful if each country could look for legislative gaps that affect enforcement. It was also noted that a central clearinghouse for enforcement information and contacts is needed to enable enforcement officers and governments to react more quickly.

Mr. Lafleur then asked participants to list barriers to enforcement. The following list was generated:

- Lack of database, lack of knowledge of contact points;
- Institutional restrictions;
- Corruption (e.g. in Indonesia it is impossible to enforce laws because of widespread corruption on all levels);
- Limited capacity;
- Lack of transparency;
- Lack of incentives to communicate (need a real interest in getting the job done);
- Lack of professionalism and/or sense of responsibility; and
- Lack of a sense of urgency/slow reaction.

It was agreed that it is sometimes helpful to ensure that ministers, another high profile person or another agency receives public credit *when* an issue is *successfully* resolved.

Participants were then asked to identify which of these items cannot be resolved. The following list was generated:

- Institutional restrictions;

- Corruption;
- Lack of political will; and

Participants then discussed the Lusaka Agreement and ways that, as a region, enforcement can be improved. Participants discussed the idea of a working group or task force or some sort of forum for communication exchange. It was noted that in the case of Lusaka and in North America, the enforcement group initially contained a small number of participants.

Mr. Lafleur summarized the overall conclusions from the discussions:

- (1) There is a need to push for action now and that an enforcement group can work with NGOs to facilitate exchange of information;
- (2) Enforcement officers should know in advance whom they are allowed to receive information from and who to contact in different situations; and
- (3) There is an opportunity in East Asia for enforcement people in the region to share their expertise in different areas to benefit their colleagues across borders.

Mr. Lafleur then asked participants to discuss the role of NGOs in improving enforcement. Participants listed the following benefits that NGOs can provide:

- Partnership
- Media outreach
- Intelligence
- Community relations
- Transparency
- Integrity
- Capacity building
- Watchdog services
- Different perspective than that of the government
- Pioneers
- Campaign supporter
- Enforcers
- Litigators and legal crafters
- Pressure
- Voice for local peoples

It was generally agreed that governments should work with NGOs because NGOs can do some things that civil servants cannot do.

Participants then discussed the advantages of working with companies. Companies can:

- Act as informants;
- Promote transparency;
- Develop a Code of Conduct;
- Create efficiencies by working with NGOs; and
- Provide deputized private people (as law enforcers)

Participants discussed the new perception that industry is now more receptive to NGOs and more committed to being transparent. It was generally agreed that opening lines of communication

with industry and trade associations is important. Information sharing (e.g. trade data and satellite imagery) is one way that NGOs and trade associations can work together in the future.

Discussion then turned to the value of MOUs for cooperation to combat illegal logging. It was generally agreed that MOUs are useful because they force people to think about their organization and they also encourage information sharing. It was also generally agreed that MOUs are a good tool for governments, NGOs and others. It was agreed that it is important to formalize political will into a political agreement. MOUs can also help generate awareness of the problem.

At the end of the brain storming session, Mr. Lafleur summarized the discussions from the session and turned them into recommendations for the participants to take home with them. These recommendations are listed as follows:

Timber Trade Enforcement Meeting Brainstorming Session Recommendations

- Participants should look at the option of an MOU or a regional agreement to share enforcement-related information and recommend to their management the action to take.
- Participants should look at the possibility of forming a group of country representatives within the region who will work together and with NGOs and trade associations, as appropriate, to improve information sharing and enforcement cooperation, potentially as part of the FLEG process.
- Participants should promote the identification of a contact point within their agency and in other agencies in consuming countries that can share enforcement information and assist with paperwork requirements. These people would be organizational/national focal points.
- Participants should promote for their country the option of an internal/inter-agency MOU for the sharing of enforcement-related information.
- Participants should promote the development of a document for the use by Customs officers that details the requirements to certify that a shipment of wood is legal.
- Participants should encourage their organization to look at forest laws and other related legislation and perform a gap analysis that identifies loopholes and other areas where legislation can be improved.