

FOREST LAW ENFORCEMENT IN PAPUA LESSON LEARNED FROM THE FIELD*

by
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I. Introduction

Papua, the easternmost island in the Indonesian archipelago, is home to one of the most biologically rich and diverse assemblage of ecosystems in the tropical forests of the Pacific region. Papua's biodiversity contributes to more than 50% of Indonesia's biodiversity. However, deforestation is quite high and only 74% of virgin forest is left in Papua (FWI-Baplan-CI, 2000). One of the threats is illegal logging and wildlife trade which destroy the home and biodiversity and disturb the ecosystem's balance.

Indonesian tropical forest destruction, especially in Papua, not only destroys ecological and economic resources, but also destroys the social, culture and moral resources. Illegal logging has spread into protected areas.

For an illustration of actual tropical forest destruction and illegal logging practices based, there are the following Ministry of Forestry (MoF) press releases:

1. Forest destruction almost 43 million ha from total forest in Indonesia, about 120.35 million ha with forest degradation and about 2.1 million ha/year (2000).
2. Illegal timber harvesting and illegal timber circulation reach about 50.7 million m³/year with financial disadvantage about Rp. 30.42 billion/year.
3. Timber smuggling from Papua, East Kalimantan, West Kalimantan, Central Kalimantan, South East Sulawesi, Riau, NAD, North Sulawesi and Jambi with destination to Malaysia, China, Vietnam and India reached about 10 million m³/year. Specifically from Papua, smuggling reached about 600,000 m³/month and if we calculate in financial disadvantage about Rp. 600 billion/month or Rp. 7.2 trillion./year. And the circulation in Pantura reach 500,000 m³/month.

Estimates for total illegal logging in Papua range from (600,000m³ per month from MoF) This illegal logging/illegal production comes from different sources as follows: overcutting in logging concessions, conversion of forests, and logging inside conservation and protection forest. No estimates exist for how much comes from which source.

II. Forest Law Enforcement

In an action to combat illegal logging, the MoF and the Ministry of Industry and Trade (MoIT) issued export ban of logs (No. 1132/KPTS-II/2001 and No. 292/MPP/Kep/10/2001) dated October, 8, 2001. But in the same year,

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the Government of Papua issued decree for export log. Recently, MoF and MoIT also issued an export ban for processing wood (sawn-timber) (Act No 350/Menhut-VI/2004 dan No 598/MPP/Kep/9/2004, dated September 24). The national media noticed that China and Malaysia import Indonesian logs and than export back to Indonesia in furniture products. Information form.

The official numbers for the export of Indonesian log and sawn-timber to China are less than illegal export. For example, in 2002 Indonesia exported only 336,000 m3 of sawn-timber. But, China reported that sawn-timber from Indonesia was about 1,22 million m3. Banning raw log exports from Indonesia just means more processing capacity.

On the other hand, information from Police of Republic Indonesia showed cases in 2002-2004 as follows :

- ** 2002 (1 headquarter, 26 provinces) : 442 cases, 218 cases investigated, 170 cases P.21, 12 cases SP3 (stopped)
- **2003 (1 headquarter, 27 provinces): 546 cases, 282 cases investigated, 268 cases P.21, 5 cases SP3 (stopped)
- **2004 (1 headquarter, 30 provinces) : 463 cases, 267 cases investigated, 174 cases P.21, 5 cases SP3 (stopped)

Commercial-scale illegal logging in Papua comes in various forms and is carried out by a variety of actors. The illegal activity of greatest concern occurs in areas where logging is not permitted (e.g., watershed protection forests, protected areas) and is linked to companies with licenses to log areas nearby. Those companies may carry out the logging themselves, subcontract to smaller local companies, or simply buy logs without obtaining appropriate papers to demonstrate legality. The issue of concession licenses is one of the main problems in forest law enforcement. Weak supervision of concession licenses encourages violation of existing law. The report investigates the enforcement of the following types of illegal logging, all of which are clearly defined as illegal under current Indonesian law:

Illegal Logging

1. Cutting in forests zoned as “conservation forest” (i.e., National Parks, Grand Forest Parks, Nature Tourist Park, Nature Reserves, Wildlife Reserves and various kinds of Game Reserves) is illegal according to the Conservation of Living Resources and their Ecosystems Act (Act 5/1990).
2. Cutting in production forest without concession rights and a license is illegal according to the Basic Forestry Act (Act 41/1999).
3. Loading and transporting logs or timber without a certificate that the logs or timber are legally sourced (Surat Keterangan Sahnya Hasil Hutan, SKSHH) is illegal according to the Basic Forestry Act (Act 41/1999).

In the collaboration with Forestry Department and the Indonesian Navy through the “wanabahari operation” on 2001, eight ships were apprehended with the evidence of 26,564 m³ logs. The estimate of income for the country is about R. 63,6 billion. On 2002, five ships were arrested with the evidence of 2,500 m³ processing wood and 11,300 m³ logs. The estimated income for the country was about Rp. 447 billion. But in the field, the operation was not collaborated between Forestry Services and Papua Police. Illegal logging in Papua spread to almost all regencies. Base on a CI study in 8 regencies, several different types of illegal logging were demonstrated. Information on different types of clearly defined illegal logging was collected from various Regency offices over various periods of time, as summarized in Table 1.

Table 1: Summary of data collected by types of crimes and locations.

Types of Crimes	Regencies	Number of Cases
Illegal Logging		
Illegal loading/ transporting/ trading without SKSHH	Sorong	15
	Biak	4
	Manokwari	1
	Paniai	1
	Mimika	6
	Fakfak	1
	Jayapura	13
Logging inside conservation forest	Manokwari	1
Unlicensed logging (forest area unknown)	Jayapura	1
	Mimika	2
	Merauke	2
	Manokwari	2
Unlicensed logging inside HPH	Fakfak	1
	Manokwari	1
total		51

Information on illegal logging was initially obtained from the provincial forestry services. The provincial forestry services provided a status report on 33 cases and other sources provided details of another 18 cases, giving a total of 51 cases (81,577 m³, 16,840 pcs)

The provincial forestry services only reported detections that were handled by Forest Civil Investigator (FCI) and got as far as a *penyelidikan* (in three of the cases no information on the investigation or case status was provided and it was assumed these were in “*penyelidikan*”, status unknown). They did not report on cases that were detected, but were let off with a warning or were dropped because no suspects were found. The provincial forestry services should keep this information when the detections are made by their own forest rangers, but in other cases they are not given the necessary information. For instance, the navy did not report cases they may have detected but chose not to send to the provincial forestry services FCI (e.g., as might occur if the navy closed minor cases at sea by issuing a warning).

Papua forestry services provided information on whether (1) the case was dropped during “*penyelidikan*” (3 cases), (2) the case was dropped following an SP3 during “*penyelidikan*” (3 cases), (3) the “*penyelidikan*” was ongoing (4 cases), (4) the Regency government had stepped in and taken the case (1 case), (5) the police were in the process of revising the case following a P19 from the prosecutor (2 cases), (6) the prosecutor had issued a P21 but the case was not yet registered in the court (18 cases), (7) cases still in trial (1 case), (8) cases where a guilty verdict had been reached and sentence handed down, (9) the size of the penalty, (10) cases where a not guilty verdict was reached, and (11) no information on the status of the case (1 case).

Papua forestry services information was incomplete (33 out of 51 cases identified from all agencies) and much of the information from the forestry services also proved to be out of date. Crosschecking with the police, prosecutors and courts was done to gain an up-to-date status report. Of the four cases the forestry services reported still in “*penyelidikan*”, one was issued SP3 and dropped, one had gone through the court and been found guilty (but went to the Supreme Court on appeal and found not guilty, the case of MV Asean Primer that received attention in the national media), and no further information could be found on the other two (suggesting they were either still being investigated). No further information could be found on the two cases sent back to the police by the prosecutor. Of the 18 cases approved to be sent to court by the prosecutor, two had been through court and a verdict reached, but no information could be found on the verdict or the penalty. It is assumed the other 16 cases are still with the prosecutor. No further information was found for the case reported in trial.

Analysis demonstrated that ineffective enforcement in Papua can be largely attributed to the following:

- ❑ Overlapping and inconsistent laws governing logging
- ❑ Lack of coordination between agencies and between local, provincial, and central offices of single agencies
- ❑ Inadequate budgetary resources

- Insufficient numbers of trained forest investigators
- Lack of incentives for effective performance

In 2003, the Governor of Papua issued Governor Decree (SK) No. 50/2003 on Integrated Team to Combat Illegal Logging in Papua, consisting of about 22 institutions. The Papua Forestry Services is the team leader, but still this is an ineffective action. CII took the initiative to initiate several meetings with enforcement agencies (army, navy, police, fci-nature conservation agency & forestry services, prosecutor, judge) & NGO's in Papua to minimize forest crimes. Significant result were "Call to Action".

To follow up what we have begun, CII took the initiative to organize a meeting for the Papua Integrated Team to Combat Illegal Logging in July 2004. The meeting was supported by Papua Forestry Service and the Institute for Civil Strengthening (Jayapura based NGO). The significant results from the meeting were an action plan and a workplan for immediate action.

III. Recommendations

A. Overarching Enforcement Strengthening Recommendations

1. Implementation of effective adaptive management by developing a comprehensive case tracking system (CTS) and monitoring and evaluation program.

The absence of a comprehensive case tracking system is a fundamental barrier to promoting transparency in the enforcement system, as well as monitoring and evaluating enforcement performance to identify key problem areas.

Two case tracking systems should be run, one by Papua Nature Conservation Agency (BKSDA) and the other by Forestry Services, reflecting the current responsibilities of each agency established by law to manage conservation forests and protection and production forests, as defined in Act 5/1990 and Act 41/1999 respectively. The CTS used by each agency should be the same to aid comparisons between the agencies, and ensure staff moving between agencies are familiar with the CTS. Both BKSDA and Forestry Services will need to form MoUs covering data sharing and management arrangements with the police, the regency prosecutor offices. Both BKSDA and Forestry Services should also seek MoUs with NGOs to share the information they obtain, and to provide independent verification of the accuracy of the information in the CTS.

Training in how to generate and analyze enforcement statistics from case information is need. Annual report of data from CTS can evaluate the program, progress activities of staff, case monitoring and data accuracy and

keep information up to date. In the CTS, graphics or tables can be generated for reports or annual statistics related to forestry and conservation.

2. Strengthen the role of members of the public and NGOs in enforcing forest laws

Lack of trust by NGOs and members of the public in the enforcement system undermines public involvement in the formal legal system. The resulting apathy among the public to report suspected illegal activity significantly reduces the ability of enforcement agencies to detect forest crimes. Public need transparent information/data for accountability. By building trust between NGOs and community then there will be the appearance of good control to the public and weak law enforcement can be minimized.

When members of the public report suspected illegal activity to forest rangers, the enforcement procedures should require the forest rangers to fill in an official report and give the complainant a note of acknowledgement that a report has been filed (that contains the number of the report, date, basic details of the suspected illegal activity). This helps to promote transparency and also to get data on number of complaints. A supporting mechanism is the NGO run illegal logging reporting line, where members of public can report suspected illegal activity, and reporting crisis center then reports case to forest rangers and police for investigation.

3 Improve Inter-Agency Cooperation

Coordination and communication between enforcement agencies in the recently is not effective because they do not have a good relationship. They are suspicious each other and work alone on combating illegal logging. Increasing of coordination and communication is absolutely needed to combat illegal logging at the local or national level. One of way to increase coordination and communication between institutions is through memorandum of understanding (MoU) that formulates a common agenda or workplan to combat illegal logging. Need serious action to develop this.

4. Create and Strengthen Positive Incentives for Enforcement Agents

Enforcement agencies have had success in catching illegal loggers but there is no reward or seldom are there rewards. Sometimes they are endangered in the field. Promotion should be based on performance against outcomes-based goals (make BKSDA, Dinas, Police etc a meritocracy) and Annual bonuses should be based on the number of cases brought forward, and proportion successful.

B. Training Recommendations for Enforcement Agency

In the consultation meeting on forest and conservation law enforcement held by CII, Nature Conservation Agency, and Papua Forestry Services got some training recommendations for capacity building for each enforcement agency from forest ranger/forest civil investigator, police, court and judge. The training recommendations are as follows :

1. Knowledge of Biodiversity and Ecosystem
2. Refresher course for Forest Civil Investigator in the taking of forest and conservation cases
3. Forest and conservation law enforcement
4. Database monitoring of forestry and conservation cases

C. Enforcement Policy and Procedural Reforms

The overlap of forest regulations between national and local caused chaos in forest management. Illegal loggers used the rift to get natural resources in Papua. From the results of tracking regulations, found about 150 acts related on forestry and 114 acts related on conservation. In case in Papua with Special Autonomy, they can make special act to handle illegal logging and wildlife trade cases. The result of that is there is a need for more attention and analysis in order that the act/regulations do not overlap with local and national acts/regulations. Special Autonomy gives the responsibility for local government to apply law enforcement to timber cutting, log carry out, and the trade.

IV. Conclusion

Illegal logging/illegal production comes from different sources as follows: overcutting in logging concessions, conversion of forests, and logging inside conservation and protection forest. Need several operational actions in "immediate" future with results that can use important momentum, in order that the Papua Integrated Team to Combat Illegal Logging really get full support and trust from the public. An "immediate actions" that can be taken is to make a plan to make sure some actions get political support and political will from the national and local government and support from related institutions and the community. The consumer countries and also donor countries should be doing more to help Indonesia and other producer countries improve compliance - e.g. money for enforcement strengthening, adaptive management and monitoring etc., but also preventative measures, co-management of PA's, support for alternative sustainable livelihoods etc. Illegal logging is a strategic issue that needs serious attention and contribution from all.

