

trade matters!

**Illegal logging and the
trade with Europe**





TRADE MATTERS!

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Introduction



Trade Matters!

Trade and foreign direct investment are important instruments in the fight against poverty and ecological degradation. It is an undisputed fact that trade and investment flows can play a positive role in reducing poverty and in halting loss of biodiversity. What is disputed, however, is how these flows should be regulated and organised. Finding ways to maximise the positive contribution of trade and investment flows for sustainable development is certainly one of the greatest challenges of this decade.

The following case study is part of a series produced by the IUCN National Committee of the Netherlands (IUCN NL) and Both ENDS to provide more insight into the relationships that exist between economic policy (such as trade and investment policies), the achievement of sustainable livelihoods in poor countries, and halting the loss of biodiversity. Each case describes a specific example, and offers

recommendations on how to move forward. The cases are intended to support the current discussions worldwide on how globalisation can benefit all life on earth.

Halting the import of illegally sourced timber into Europe

The Food and Agriculture Organisation (FAO) of the United Nations estimates that 12,5 million ha of forest (more than half the size of the United Kingdom) were destroyed yearly during the 1990s. At current rates of deforestation, Indonesia's lowland forests will not survive the next decade¹.

One of the causes of forest degradation and deforestation is illegal logging, a pervasive problem. The illegal nature of the activity makes it hard to obtain exact figures, but estimates indicate that more than half of all logging activities, in

particularly vulnerable regions - the Amazon Basin, Central Africa, Southeast Asia, the Russian Federation and some of the Baltic States - is illegal². The resulting global trade of illegally logged timber is worth over \$150 billion a year, according to OECD estimates.³

This case study tells the story of how the World Trade Organisation's rules hamper the ability of responsible individuals, organisations, and corporations to use sustainably harvested resources. These WTO rules have established an unfair market for sustainable products that deserve the mark of responsible business that cannot compete with unsustainable products that are usually cheaper or in the case of wood-products often illegal. It focuses on the case of illegal and destructive logging, and the ease with which this industry can find its markets, also in Europe. The effect of the WTO on the design of legislation that halts this practice is called the 'Chill Factor': The WTO rules freeze the ability of legislators to write new legislation, that will interfere with the ideological goal of the free flow of goods.

¹FAO / Illegal logging, Governance and Trade; 2005 Joint NGO conference

²S. Ozinga, EU Actions to Counter the Problem and Possible shortcomings, 2004

³OECD Environmental Outlook 2001



1 The (il)legal policy framework: The Chill Factor

This section describes the international policy environment that currently exists to reduce the trade flows of illegally logged wood. It will become obvious that the WTO makes it very difficult to develop policies that effectively remove markets (i.e. interfere in trade) for these illegal products. As such, the WTO 'chills' policy development, even when those policies support the implementation of other multilateral treaties and goals, such as the goal to halt the loss of biodiversity (Johannesburg World Summit on Sustainable Development).

Halting the loss of biodiversity

Halting the loss of biodiversity is a major priority for the global community and forms a core element of many Multilateral Environment Agreements. The United Nations Convention on Biological Diversity legally requires states to contribute to the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits gained from using genetic resources. This legally binding instrument is the most powerful tool in existence that supports the agenda of halting biodiversity loss.

Impeding the trade flows of natural resources has been accepted internationally as a way to protect nature. The Convention on Trade in Endangered Species (CITES) lists endangered flora and fauna and regulates (prohibits) their trade. It is an important tool in helping to limit the eradication of important natural species. There are several severely endangered tree species found on this list⁴.

At the 2002 Johannesburg World Summit on Sustainable Development⁵, halting illegal logging was put forth as a major priority to help stop the rapid loss of the world's forests⁶. Finally, in 2005, the United Nations published the Millennium Ecosystems Assessment⁷, which was key in showing that the world's natural forests are disappearing at an alarming rate and that all nations on this planet must act immediately to reverse the damage being done. Speed is of the essence.

⁴Such as Mahogany and Ramin.

⁵This agenda is the so-called "WEHAB-Agenda", which stands for (W)ater, (E)nergy, (H)ealth, (A)griculture and (B)iodiversity. The chapters of the Johannesburg Plan of Implementation follow this agenda structure. http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/WSSD_PlanImpl.pdf

⁶Paragraph 45 of the Johannesburg Plan of Implementation, *ibid*

⁷<http://www.millenniumassessment.org/en/index.aspx>

Illegal logging... is illegal

Many forest rich countries, like Indonesia and Cameroon, have national legislation prohibiting certain forms of logging, for instance logging premature trees and protected tree species, logging in protected areas (such as national parks) and on lands designated as community land. There are also laws that require specific treatment of workers and forest dwelling communities, and laws that govern the management of logging areas. Then there are regulations governing the payment of licensing fees, concession fees, taxes, etcetera. Logging can thus play an important role in securing national income through the fees and taxes paid.

Illegally logged timber is cut in a manner that does not comply with the laws of its host nation. It is important to note that there are basically two forms of illegal logging: logging within legitimate concessions in a way that's not in line with the laws, and logging in areas for which no concession was given – basically, theft.

The legal response needed

The best way to take measures to protect the world's forests is at a national level, where the forests are. However, in countries with weak governance and especially in remote rural areas (where most

forests are found) the rate at which effective measures are taken are often too slow compared to the rate at which the forests are being cut. The efforts at the local level to protect the forests therefore need to be complemented by removing the market for illegally cut wood. As such, many argue that Europe, a major market, should interfere in the trade-flow by prohibiting import.

Forest Law Enforcement, Governance and Trade (FLEGT)

In 2003, the EU adopted the Forest Law Enforcement, Governance, and Trade Action Programme⁸. The FLEGT Action Plan contains three areas of action. These are:

- 1 support for improved governance and capacity building in timber producing countries,
- 2 the development of Voluntary Partnership Agreements with timber producing countries to prevent illegally produced timber from entering the EU Market, and
- 3 efforts to be taken to reduce the EU's consumption of illegally harvested timber and discourage investments by EU institutions that may encourage illegal logging.⁹

Part of the second step of the Action Plan is a licensing system to identify legal products in partner countries and license

them for import to the EU (including capacity building for this system in the producer countries). New European legislation is required to give this new import requirement a legal basis, and the Commission published a proposal for a European regulation (July 2004¹⁰), which is currently being discussed by the member states. There is a concern that WTO rules might be incompatible with some of the measures set out in this plan.

The bulk of the FLEGT Action Plan is a voluntary action plan, aimed at measures that are not threatened by WTO rules, such as agreements between two states on their own trade flows, and non-discriminatory measures to influence consumption patterns as well as investment decisions by European timber producers¹¹. The negotiations with the producing nations (so-called Voluntary Partnership Agreements) will be slow, the results will be uncertain¹², and since only a part of the total illegally sourced timber will be stopped in this way, one wonders if this WTO-conforming approach will be effective in the end.

Recognizing this, the EU is contemplating potential additional 'legislative options',¹³ which may include a total ban on the import of illegally sourced timber

and timber products. This ban would have a much higher impact on illegal logging, but the WTO rules will greatly influence this 'ban discussion', with the central argument being that an import ban is not compliant with the WTO rules.

How the WTO rules interfere...

Europe can contribute to halting illegal logging with the speed necessary to stop further biodiversity loss before 2010 by curbing the flow of illegally (and preferably even unsustainably) logged wood products onto the market. Prohibiting the import of these products will meet with resistance, however. Discussions on the instruments necessary to stop illegal timber trade have been complicated, or muddled, by those critics of these rules through referring to the treaties of the World Trade Organisation (WTO).

Many people would agree that illegal timber should be banned simply because it's illegal. Yet the fact that the timber is illegally sourced is not sufficient enough a reason under the WTO rules to allow trade restrictions. The relevant General Agreement on Trade and Tariffs¹⁴ article: (GATT Article XX(d))¹⁵ cannot be invoked to justify a trade measure that seeks to uphold another country's law, but only allows the trade restrictions necessary to

protect the enforcement of a country's own laws. Moreover, what's illegal in one country is not automatically illegal in another. Since trade restrictions are to be applied uniformly (across all countries), products coming from other countries that don't have the same laws would then be discriminated against. The GATT could only be used if there was an agreed international standard of what amounts to 'illegal trade'.

Box: The WTO rules

- a) The WTO prohibits discrimination between 'own' products and products to be imported (article III, Gatt 1994).
- b) The WTO prohibits general quantitative import restrictions, except for tariffs, taxes, quotas, export licenses and other levies (article XI, Gatt 1994).
- c) The WTO prohibits discrimination against and between imported products on the basis of their production processes and asks for technical measures limiting trade to be the least trade restrictive (TBT Agreement Art. 2.1, 2.2, 2.4, 2.8)

⁸FLEGT Proposal for an EU Action Plan, 21 May 2003. Communication from the Commission to the Council and the European Parliament.

⁹European Commission, EU FLEGT Briefing note 1, Brussels, April 2004

¹⁰Proposal for a Council Regulation concerning the establishment of a voluntary FLEGT licensing scheme for imports of timber into the European Community (COM(2004)515 final, 20 July 2004), available at europa.eu.int/comm/development/body/theme/forest/initiative/docs/Doc1-FLEGT_regulation_en.pdf.

¹¹See European Commission, EU FLEGT Briefing note 3, which shows that the European Commission was aware of the WTO argument and designed the system to fit optimally within the WTO rules.

¹²FERN, WWF and Greenpeace, "EU Civil Society Initiative for a EU regulation concerning sustainable forest management and the trade in illegally harvested timber and related products", drafted by Van der Biesen Advocaten, 14 december 2004, p. 7.

¹³The European Commission is delaying the publication of an 'additional legislative options' study, partly due to the lack of cooperation by member states. One such additional legislative option is an import prohibition.

¹⁴The General Agreement on Tariffs and Trade (GATT) was first signed in 1947 and is the predecessor of the WTO. The agreement was designed to provide an international forum that encouraged free trade between member states by regulating and reducing tariffs on traded goods and by providing a common mechanism for resolving trade disputes. GATT membership now includes more than 110 countries. From 1995 multilateral trade negotiations are negotiated in the framework of the WTO.

¹⁵General Agreement on Tariffs and Trade, 1994, WTO Geneva.

Article XX of the 1994 General Agreement on Tariffs and Trade (GATT 1994) does however give an acceptable reason to deviate from the WTO rules. GATT 1994 art. XX.(g) provides space for allowing measures that contribute to the protection and sustainable use of natural resources, and the protection of plant life. Certainly, jurisprudence of the WTO supports this article. In the famous 'Shrimp-Turtle' case, the United States was able to continue prohibiting the import of shrimps caught using nets that aren't fitted with 'turtle-exclusion devices'. In short, the law could be upheld as the measure was clearly intended to protect an 'exhaustible natural resource' – the turtle¹⁶. In order to contribute to the protection of the world's biodiversity, which is a shared international goal (through the Convention on Biological Diversity), and the overwhelming evidence proving the rapid and irreparable loss of the forests, which form the habitat for this biodiversity, Art. XX (g) should be applied legitimately. Yet trade officials in the EU still resist these measures.

They base their argument on the Technical Barriers to Trade Agreement (TBT agreement) that asks for measures to restrict trade as little as possible (or only as necessary). They consider a prohibition on import as 'unnecessary' and argue that

this prohibition will not survive in a WTO dispute settlement mechanism. A broad import ban places the burden on other countries to 'prove' the legality of their export. Countries that have no 'illegal logging' (such as the US and Canada) might consider using the WTO to challenge the legislation as unnecessary, as it places an extra burden on their economies.¹⁷ However, placing import bans only on countries where illegal logging is known to take place is discriminatory and may provoke WTO proceedings.

It is therefore the primacy of free trade over the primacy of law enforcement and nature protection that is keeping the European Union from moving ahead on prohibiting the import of illegally logged wood. Even though the product sold is from an illegal source and is also threatening to destroy ecosystems and livelihoods at an unprecedented scale, governments have no right to intervene in that trade flow unilaterally. Trade officials argue that all the government could be allowed to do is to help the governments in the countries of origin with development aid to stop a trade flow worth \$150 billion annually and costing developing countries €10 - €15 billion annually in missed fees and taxes.¹⁸

¹⁶Report of the Appellate Body, 12 October 1998 in United States – Import Prohibition of Certain Shrimp and Shrimp products, WT/DS58/AB/R

¹⁷Duncan Brack, "EU Flegt Initiative: Assessment of 'Additional Measures' to Exclude Illegal Timber from EU Markets, Chatham House, London July 2005, p. 12

¹⁸European Commission, FLEGT Briefing Note 2, Brussels, April 2004

2 The impact of (illegal) logging on biodiversity



Illegal logging takes place in many different forest ecosystems on earth. In the former Soviet Union, for example, the disappearance of strict government control has resulted in increased illegal logging in the old-growth taiga forests¹⁹. An estimated 50% of all logging activities in Brazil are being carried out illegally²⁰. Illegal logging can be very destructive for (the management of) forest ecosystems due to its inherently uncontrollable nature. Most illegal logging occurs in tropical regions where the majority of biodiversity hotspots²¹ are located. With each hectare of forest being cleared many species die or are chased out of their habitat.

¹⁹Factsheet: Illegal logging in the Boreal (2003), Taiga Rescue Network

²⁰<http://www.illegal-logging.info> (Brazil Factsheet)

²¹Biodiversity Hotspots, Conservation International, <http://www.biodiversityhotspots.org>

Consequences of illegal logging for biodiversity

Different actors are responsible for illegal logging. Local farmers often convert forest into farmland through slash and burn practices, whereas illegally operating timber companies only cut out the most valuable trees and destroy the other vegetation on their way. Illegal logging often leads to forest fragmentation because illegally built roads used for the transportation of the logs open up previously closed forest areas. Market access and trade connections through roads speed up the rate of illegal logging²². In some cases local officials are involved in these practices.

Because illegal logging does not embrace a comprehensive land use plan, it can be extremely destructive for biodiversity. The sequence of negative impacts on forest ecosystems is causal and can be self-amplifying, with the overall effect being that the forest ecosystem is degraded step by step. In addition illegal logging is increasingly taking place inside protected areas and is posing a serious threat to the entire concept of protected areas worldwide.

There is a long list of common impacts that illegal logging has on biodiversity²³. This list includes non-selective logging, which takes out all the mature trees that play an important role in the ecosystem (fruit and nuts for animals and humans, shelter and nests for animals and epiphytes, and the regenerative capacity of the tree species²⁴). In addition, logging opens up previously undisturbed and inaccessible forest areas by constructing roads, harbours and camps that will be used by other groups such as hunters and miners later on. An increase in poaching and trade in bush meat (the latter especially in tropical regions)²⁵ and an increase in the trade of live animals and plants (often endangered species) accompany logging operations, whilst possible entry of illegal mining often results in soil degradation and water pollution. An increase in the occurrence of diseases like malaria, HIV and Ebola, caused by increased contact between humans and animals, as well as the disappearance of natural habitats and hosts for parasites, viruses and bacteria²⁶ has often been observed.

Furthermore, illegal logging leads to a wide variety of soil degradation in the logged areas. During heavy rainfall the fertile topsoil is often swept away, while increased sediment load in the rivers decreases visibility for fish and other aquatic species – in some cases even reaching coastal areas where corals die of muddy water²⁷. On a local catchments scale, the clearance of forest cover results in higher river discharges²⁸, possible destructive floods downstream and an increased frequency of landslides, because of the absence of ground retaining roots.

Better accessibility of the forests encourages more logging activities and forest fragmentation rapidly decreases the chances of regeneration. Eventually, the remaining primary forest and secondary vegetation is burnt to create arable land. In some cases, multinational companies that arrive establish large scale plantations of palm oil, production timber or other commercial crops²⁹. In this small scale way, illegal logging, carried out by people who have no traditional dependence on the forest, can trigger forest conversion over large areas.

Negative impacts on biodiversity and humans continue even after the forest has disappeared. Depending on the region, another effect of deforestation can be a change in the local weather patterns,

especially in tropical regions, where deforestation can lead to a drier, hotter climate, making forest regeneration impossible³⁰. Streams that even contained water during dry periods now fail to supply water to downstream areas³¹, with consequences for both ecosystems and human beings. At the end of the deforestation phase the establishment of a plantation is often the final blow to biodiversity. In the tropics of Southeast Asia, palm oil plantations are expanding and rapidly replacing an ecosystem that was highly biodiverse with a monoculture of commercial crops that are treated with herbicides and pesticides. In other regions, production wood plantations are created where natural forests used to grow³².

It is important to note that although illegal logging is a problem, these practices can also occur in legal forestry operations (that are not sustainable).



²²Approaches to controlling illegal forest activities: Considerations from Southeast Asia (Asia Forest Network)

²³http://www.panda.org/about_wwf/what_we_do/forests/problems/illegal_logging.cfm

²⁴Reduced Impact Logging in the Tropical Rain Forest of Guyana: Ecological, Economic and Silvicultural Consequences, P van der Hout, Tropenbos (1999)

²⁵The Bushmeat Trade, Parliamentary Office of Science and Technology, UK, (February 2005, nr 236)

²⁶Logging May Help Spread Disease http://forests.org/archived_site/today/recent/2000/jhstonlo.htm

²⁷Environmental impacts of logging (Forest Monitor) <http://www.forestsmonitor.org/reports/highstakes/part3b.htm>

²⁸Floods and Forests (FAO and Forests, 2005)

²⁹Greasy Palms, AidEnvironment, Eric Wakker

³⁰NASA Data Shows Deforestation Affects Climate In The Amazon (NASA) http://www.nasa.gov/home/hqnews/2004/jun/HQ_04183_deforestation.html

³¹Climate impact of tropical lowland deforestation on nearby montane cloud forests. Science, 294, 584-587, Lawton, R. O., U. S. Nair, R. A. Pielke, Sr., and R. M. Welch, 2001

³²Greasy Palms, AidEnvironment, Eric Wakker

Indonesia is the largest Asian exporter of tropical hardwood to the European Union, although the largest share of Indonesian exports go to Asian countries. The annual average rate of deforestation in Indonesia is high, of which the overwhelming majority is caused by illegal logging. The tropical forests of Indonesia include two biodiversity hotspots. The Wallacea and Sundaland harbour a megadiversity of species. Around 10% of the world's known species are found there, including 400 species of the giant dipterocarp trees, elephants, and swallowtail butterflies, many endemic bird species and coral reefs. The survival of some unique large mammals is severely threatened by forest fragmentation. The Sumatran tiger (*Panthera tigris sumatrae*), Javan rhino (*Rhinoceros sondaicus*) and orang-utan (*P. Pygmaeus*) are listed as endangered on the IUCN Red List³³.

The average annual deforestation rate between 1990 and 2000 was 1.2%, representing 1,3 million hectares³⁴. The numbers for forest and biodiversity losses are alarming. More than 70% of the Indonesian frontier forest has been destroyed already³⁵. *Indonesia suffers from the largest annual loss of forest cover. Ministry of Forestry officials estimate that more than 43 million hectares have been degraded, with an average annual deforestation rate of 2,8 million hectares from 1998-2000.* (Kaban H. Minister of Forestry, 2005)³⁶.

Illegal logging occurs almost everywhere on the Indonesian Archipelago: Illegal logging occurs in concession areas, unallocated forest areas, expired concessions, state forestry concessions, areas of forest slated for conversion, and in conservation areas, including national parks and protected forests³⁷. Small-scale Sumatran farmers enter protected forest areas to grow coffee³⁸. In Kalimantan, peat forest is illegally logged and burnt to be converted to palm oil plantations³⁹, causing considerable emissions of the greenhouse gas CO₂. Corruption of local officials facilitates the export of illegally logged Merbau from Papua to Malaysia and China, destroying the last substantial remaining Asian Pacific rainforest⁴⁰. Indonesia's lowland tropical forests, the richest in 'timber resources and biodiversity, are most at risk. They have been almost entirely cleared in Sulawesi and are predicted to disappear in Sumatra by 2005 and in Kalimantan by 2010, if current trends continue⁴¹.

³³IUCN Redlist <http://www.redlist.org>

³⁴State of the World's Forests, FAO, 2003, http://www.fao.org/documents/show_cdr.asp?url_file=/DOCREP/005/Y7581E/y7581e00.htm

³⁵Global Forest Watch <http://www.globalforestwatch.org/english/indonesia/forests.htm>

³⁶(Kaban, H. 2005. Minister of Forestry. Speech to the Consultative Group on Indonesia. January 19, 2005, Jakarta)

³⁷Environmental Resources Management Ltd (ERM), Feasibility study for the European Commission "Feasibility of and Best Options for Systems for the Identification, Verification, Licensing/Certification and Tracking of Legality of Timber and Related Products for Imports into the EU London 2003, p. 52.

³⁸Community-based fire management, land tenure and conflict: insights from Sumatra, Indonesia - Suyanto, S; Applegate, G; Tacconi, L/Center for International Forestry Research (CIFOR), 2001.

³⁹Greasy Palms, AidEnvironment, Eric Wakker.

⁴⁰World's Biggest Timber Smuggling Racket Exposed Between Indonesia and China Environmental Investigation Agency (EIA) and Telapak).

⁴¹Global Forest Watch <http://www.globalforestwatch.org/english/indonesia/forests.htm>

3 The social and economic consequence of illegal logging



⁴²World Bank, 2002

⁴³WWF: www.panda.org

Besides the enormous damage to forests, illegal logging negatively affects local communities and the economies of countries that produce timber and forest products. The World Bank estimates that the loss of revenue to governments is \$5 billion annually, with a further \$10 billion lost to the economies of producing countries⁴².

The European Union (EU) is the world's largest importer of timber and wood products. The EU imports close to 200 million m³ of wood from different parts of the world, including countries with a known high rate of illegal logging. Figure 1 shows these imports in more detail⁴³.

Figure 1 shows that the majority of Europe's wood imports originate in Russia and Eastern Europe. It is estimated that 50% of the Russian timber production stems from illegal logging, leading to large cleared areas. Russia loses approximately \$1 billion a year from illegal logging and trade through the evasion of royalties, taxes and other forest charges. Many people in Russia, including tens of thousands of indigenous people, depend on forests for their livelihoods. Despite active timber trade, logging villages continue to live in poverty⁴⁴. Nonetheless, the short-term benefits for those directly involved in illegal logging operations are often more lucrative than any other economic activity.

Another important country for Europe's timber imports is Indonesia. Indonesia's tropical forests are of global importance and rank third behind Brazil and the Democratic Republic of Congo in size. As elsewhere, the benefits of Indonesia's forests extend far beyond forest products. The country is 'mega-diverse' biologically, and millions of people use forest plants and herbs for their medicinal properties and nutritional value, amongst other vital services provided such as resources for shelter, food, and water. An estimated 60 million Indonesians live in forest dependent communities (both indigenous and local people).



Figure 1

The trading data is converted to m³ roundwood equivalents (RWE) and includes pulp, paper, printed products and cellulose, plus all timber products (roundwood, sawnwood, veneer, and plywood boards, semi-finished and finished products, and furniture), representing direct imports. (Source: http://www.panda.org/about_wwf/what_we_do/forests/problems/illegal_logging/index.cfm)

⁴⁴WWF, 2003



Lost revenues in Indonesia

Indonesia's forestry sector has been booming since the early 1980s, starting with the rapid expansion of the plywood sector, stimulated by low internal timber prices, resulting from a ban on log exports. The production of plywood rose from 0,6 million m³ in 1979 to 4,6 million m³ in 1985, then doubled to 10 million m³ in 1993, most of it for export. Rapid expansion of the pulp and paper industry followed in the late 1980s and 1990s.

The boom in Indonesia's forest industry has contributed to economic development, but also to worsening environmental conditions. The industry's expansion has come largely at the expense of the country's natural forests. It's clear that the Indonesian forestry sector is suffering from serious sustainability problems. The sustainable supply of timber from plantations and concessions is far from adequate. Demand for timber is estimated to be around 76-80 million cubic metres, and the Indonesian timber industry has the capacity to produce around 60 million cubic meters. If one compares this with the amounts that are cut in legal concessions and plantations, only 5-7 million m³, the remainder must come from illegal logging. No revenue tax is paid over this remaining part, however. This means that aside from the ecological damage illegal logging creates, it also causes a huge loss of potential revenue for the Indonesian government.

"Demand for timber is far exceeding the amounts that can be produced sustainably" Prasetyo (CIFOR) says, "...resulting in illegal logging that costs the provincial government of East Kalimantan over \$100 million a year in lost business tax revenue alone".

EU Sustainability Impact Assessment of Proposed WTO Negotiations

Telepak and EIA at the 2005 Joint NGO Conference on Illegal logging, Governance and Trade

Prasetyo/ Obidzinski, 2004, Center for International Forestry Research (CIFOR).

Of the 13.7 million cubic meters Asia exports to the EU (figure 1), Indonesia accounts for almost half. However, an estimated 70-90% of all Indonesian timber is extracted, traded or exported illegally, including CITES listed species (such as Ramin and Gaharu). Indonesian timber is often exported to other countries for processing and then enters the 'legal' international market with no mention of its origin. One of the more straightforward negative economic effects of these illegal practices is a large loss in tax revenues for the Indonesian government. East Kalimantan, for example, has suffered estimated losses in business tax revenues up to \$100 million a year (see box *Lost revenues in Indonesia*).

The unequal distribution of benefits and the deprivation of state revenues are just two of the many social and economic consequences of illegal logging and deforestation. Others include loss of income from non timber forest products (NTFP's), water services, social costs of natural disasters and job losses from forest destruction. Most of these consequences have devastating long-term impacts. By destroying forests, all potential future revenue and future employment that could be derived from their sustainable management is lost. An estimated 300 million

people, mostly forest dwelling people, are directly dependent on forest for their livelihood (World Bank Forest Policy). Economically, the loss of biodiversity is eroding the potential base for future human development⁴⁵.

Illegal logging implies corruption and poor law enforcement, which often results in an atmosphere of lawlessness and an erosion of the rule of law. Local people and civil society groups become targets of intimidation and violence, and indigenous rights are violated, resulting in the loss of cultural identity and a further marginalisation and impoverishment of vulnerable communities. Typically, companies use transmigrant labour in their logging concessions and plantations, and skilled labour imported from urban areas in the pulp plants. Horizontal conflicts arise within communities, where some people have become dependent on their low paid jobs at the pulp plant, while their neighbours are demanding fair compensation for land or property taken or damaged by pollution⁴⁶.

Violation of public trust and a non-transparent industry also negatively affects the competitiveness of the industry, where small companies and individuals may be marginalised and companies lose profit⁴⁷. Furthermore, when forestry sectors are not operating sustainably, they cause not only ecological damage, but a loss of job security and livelihood, further increasing poverty.

Illegal logging has a specific impact on vulnerable groups and is particularly felt by women. The disruption, and even destruction, of homesteads and home gardens, degradation of land rights, rape and prostitution that occurs as a consequence of the influx of migrant labour, along with worsening health conditions and malnutrition (during the economic crisis in Indonesia the rural population was hit hard as they could not depend on the forests for their subsistence) are among the long list of impacts related to deforestation and illegal wood trade that affect women.

These social and economic costs will only be amplified by any measures stimulating rather than regulating trade in illegally logged timber.

⁴⁵ Underlying causes of Forest Degradation, UN Report

⁴⁶ F.Carr Inside Indonesia 2001

⁴⁷ Center for International Forestry Research, National and International Policies to Control Illegal Forest Activities (2003)



The Bakola Pygmies

The Campo region in the southwest of Cameroon is renowned for its immense biodiversity. Communities in the region have been managing their forests sustainably, without outside interference, for generations. Aside from recently being selected as the site for a biodiversity conservation project (GEF), it also became host to one of the biggest logging companies in Cameroon, La Forestière de Campo.

The Campo region is populated by a group of Bakola Pygmies, amongst other groups. The Bakola hunt, fish and collect forest products such as wild yams, honey, wild berries, palm oil, nuts and seeds. Their traditional medicine is essentially based on trees and herbs. For safety reasons, trees are used as an encampment when they spend the night in the forest. They collect and burn the bark of the bologna tree, as its smell keeps wild animals away. Many forest products are also used for making tools, for instance wooden mortar and pestle. Tree bark is used as grinding stone, while elephant kneecaps are used as millstones. Firewood, still the main source of energy in the area, is collected in the form of dead branches and tree trunks.

Occasionally, there is fierce competition between villagers (including the Bakola) and logging companies for certain commercial species that are used locally. Several cases have been recorded where trees set aside by families to be used for building projects have been cut by logging companies. Often no financial compensation is offered by the company, under the pretext that people lack legal title to the land and that the trees were inside the company's logging concession. There are also frequent conflicts over the moabi tree, the bark of which is used for medicinal purposes, while its fruit provides oil for local consumption. Unfortunately, the moabi tree is also one of the most commercially valuable timber species, and is logged for the export market.

Between Logging and Conservation, traditional management practices in the Cameroon rainforest (CED).
In: Forests for the Future (Wolvekamp ed. 1999)

Recommendations and conclusion



Illegal logging is a major problem in the world's forests, particularly in poor countries. It causes severe problems for biodiversity, the climate, and greatly diminishes the capacity for ecosystems to provide food, water, shelter and medicine. In short, illegal logging causes humans and nature to suffer.

Moreover, illegal logging sustains corruption, with all its negative effects, such as intimidation and physical violence. Indigenous peoples see their livelihoods disappear and women suffer especially, as their gardens and homes disappear and they are subject to violence from (mostly migrant) workers.

Countries also suffer from illegal logging as they miss much needed revenues for

their state treasuries that can be used in government activities that help further the goals of sustainable development.

The problems caused by illegal logging are recognised internationally as the need to save the world's forests is becoming more and more urgent. However as long as markets exist for illegally sourced timber, the problem is unlikely to go away, especially in zones with weak governance. In addition a number of studies show that the disastrous situation in Indonesia's forests is driven mainly by international markets and well-organised timber supply networks. This pattern is also seen in other tropical areas including Latin America and Africa.

Europe is a major market for illegally sourced timber. That must end. The European Union has started a process to contribute to removing Europe as 'safe haven' for illegal timber., but critics argue that these measures do not go far enough. Indeed, the approach chosen through FLEGT might show results too late. Other legislative options, such as banning imports of illegally sourced timber are being considered.

It is important to note that any action aimed at limiting the effects of unsustainable logging will have little or no impact if not combined with local, national and international measures.

The present case argues that the legislative response to the illegal logging crisis is being hampered by the internationally

agreed rules that form the legal backbone of the World Trade Organisation. The ambiguous formulation of these rules, particularly GATT 1994 and the TBT agreement, result in paralysing, somewhat ideologically motivated discussions on whether proposed measures conform to WTO rules. Jurisprudence in the WTO shows that the WTO is likely to be lenient on unilateral measures, yet uncertainty and lack of political will blocks the EU from action. At the same time, lack of progress in the WTO, has shifted attention of the industrial countries to regional trade negotiations, which are proceeding at an increasing speed. The exact impact on forests is unclear, but it is expected not to differ from the analysis of the WTO regulations.

If the EU is serious about Sustainable Development, it must:

1 Work in the WTO to change the rules governing the exceptions to the prohibitions on limiting trade to explicitly allow for trade impeding measures that are needed to implement internationally agreed Multilateral Environmental Agreements, and internationally agreed Environmental objectives.

2 Work to prove the case for halting the import of illegally logged timber, and act accordingly in establishing an import prohibition for all illegally sourced timber.

3 Work with timber-producing countries to establish strong forest management systems, able to eradicate corruption as well as contributing to eradicating poverty. Support the timber exporting countries to strengthen governance and domestic law enforcement, to curb illegal logging, as well as contributing to eradicating poverty.

4 Support the timber exporting countries to strengthen governance and domestic law enforcement, to curb illegal logging.

5 International trade can support the halting of loss of biodiversity, but can also endanger biodiversity either through excessive pressure on a living resource or by inducing a change in the use of ecosystems. Trade agreements at the multilateral WTO-level or the regional level must therefore be preceded and accompanied by studies of their environmental, economic and social impacts and must be compatible with the CBD.

By such commitment and undertakings the EU is true to the 'European Consensus on Development' which reads: '(art. 35)...The EU shall take into account of the objectives of development cooperation in all policies that it implements which are likely to affect developing countries. (art. 38)... We will assist developing countries in implementing the Multilateral Environmental Agreements and promote pro-poor environment-related initiatives⁴⁸'.

⁴⁸ Joint statement by the Council and the representatives of the governments of the Member States meeting within the council, the European Parliament and the Commission (2006/C 46/01. Official Journal of the EU, 24-2-2006)

Credite

This case was written by **Pieter van der Gaag** (IUCN NL). It depended greatly on the expertise of **Henk Simons, Stefan Verwer, Mark van der Wal** (IUCN NL), **Burghard Ilge, Paul Wolvekamp** (Both ENDS) and **Saskia Ozinga** (FERN).

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