

THE BALI DECLARATION TEN YEARS ON



“Major wood processors in East Asia continue to derive a significant proportion of raw material supply from illegal sources”



INTRODUCTION

In September 2001, Ministers from the East Asia Region attending the Forest Law Enforcement and Governance (FLEG) conference agreed the Bali Declaration to combat illegal logging. Since then, many FLEG-related initiatives have taken place in East Asia and the major consumers markets of Europe and the US which have led to progress in curbing illegal logging and trade in stolen timber. For example, in Indonesia it is estimated that illegal logging has fallen by 75 per cent in the past 10 years.¹

While the World Bank has estimated illegal logging costs producer countries \$15 billion a year, it is acknowledged that timber processing and importing countries have a vital role to play in tackling the problem.² With the US amending the Lacey Act in 2008 to include timber and wood products, and the European Union agreeing a new Timber Regulation which enters into force in March 2013, these major consumers have followed through on promises made in Bali to tackle demand for illicit cheap tropical timber.

Despite this progress there is still much to do. Major wood processors in East Asia, especially China and Vietnam, continue to derive a significant proportion of raw material supply from illegal

sources. Illegal logging rates remain unacceptably high in some producer countries in the region. Efforts are still needed to turn the well-intentioned words of the Bali Declaration into reality.

This briefing assesses the progress made in the past decade, and highlights areas where actions are still needed.

PRODUCER COUNTRIES

Indonesia

Ten years ago, Indonesia's forests were under attack by powerful timber bosses connected to international smuggling syndicates. The country's illegal logging stood at 80 per cent. A series of investigations by EIA and Telapak found that most of the illegally logged timber was being smuggled to neighbouring countries and onto international markets.

Investigations carried out by Indonesia's Secretary General in the Ministry of Forests identified major smuggling routes which reached destinations in Sarawak, Sabah, Singapore and China.³ During 2001-04, Indonesia introduced a series of export bans in an attempt to halt illegal logging. A ban on exports of round and squared logs was followed in 2004 by a ban on sawn timber. Yet these regulations were widely flouted, and countries in the region were still

receiving logs from Indonesia despite the Bali Declaration calling for prior notification of wood shipments.

But in 2005, after EIA and Telapak revealed that as much as 300,000 cubic meters of merbau logs were being smuggled from Indonesia's Papua Province to China every month in contravention of Indonesia's log export ban, the authorities finally responded. Operation Hutan Lestari was a major turning point in Indonesia's efforts to counter illegal logging and resulted in a quarter of a billion dollars worth of stolen timber being seized. The operation also led to more than 180 suspects being named, including corrupt officials and Malaysian nationals.⁴

This strong action had a rapid effect. Merbau prices in China doubled within six months as the flow of illegal logs from Indonesia was curbed. In November 2005, EIA investigators met with Chinese wood traders in Guangdong province and found the supply of Indonesian logs had reduced dramatically, with the change attributed to stricter enforcement in Indonesia. Many of the traders were switching to other countries, especially to Africa, to secure raw material supplies.

Indonesia's efforts were not replicated in China, despite the two countries having signed an agreement in 2003 to cooperate against illegal logging. When EIA and Telapak alerted the Chinese authorities to the arrival of a barge of illicit Indonesian merbau logs in 2005, no action was taken because no Chinese laws had been broken.⁵

Since Indonesia's crackdown, illegal logging in the country and the flow of illegal timber smuggled out have declined. The Government has also pursued new policies on its road to reform. Through the EU's Forest Law Enforcement, Governance and Trade (FLEGT) initiative, Indonesia is now committed to a Voluntary Partnership Agreement (VPA). The agreement is in place to help Indonesia exclude illegally sourced timber and products from EU markets; only licensed products from Indonesia will be allowed access to the EU.

The process by which Indonesia has driven its attempts for reform should be replicated in other countries engaged in VPAs. In developing this new system, a series of open consultations took place between Indonesian and European civil society, industry and the Government of Indonesia. This process of transparency has lent credibility and created a process of accountability and good forest governance.

Indonesia must still act further to realise its commitments. Information must be made available to all stakeholders in order for improved decision-making throughout its entire forestry sector. While enforcement during the past 10 years has improved, failure to prosecute the

main culprits means impunity persists (see box below). However productive Indonesia's efforts have been in addressing illegal logging, threats to forests remain in the form of unbridled expansion of plantations and mining. A recent report found that 40-61 per cent of all logging in Indonesia still involves illegalities.⁶ The Indonesian Government's own task force found that only 67 out of 352 palm oil plantation companies operating in Central Kalimantan Province had the required legal authorisation.⁷

The role of Indonesian civil society in the VPA process has lent credibility to decisions made and ensured a formal role in the independent monitoring of the harvesting of timber. Since the Bali meeting in 2001, Indonesian civil society has been at the forefront in finding solutions; taking great risks in exposing criminals and bringing information to the highest level, it has ensured that the crimes committed do not go unnoticed. Through the FLEGT process, civil society in Indonesia is now in a formal independent monitoring agreement with the Government. It is part of the system. As Asia's first country to sign a VPA, lessons learnt from Indonesia can go a long way towards assisting other countries in East Asia as they develop new systems. Full engagement with civil society will only enhance transparency and assist in ensuring all stakeholders are part of the reform process.

Laos

There are many laws in Laos which regulate logging and the timber trade but they are rarely enforced. The situation on the ground is chaotic, reflecting forest governance failures and corruption. A series of revised laws in 2008 has

GETTING AWAY WITH IT

Despite improved enforcement, Indonesia had failed to prosecute the main players involved in illegal logging.

Of the 186 suspects identified in Operation Hutan Lestari, only eight have been convicted. Of 205 illegal logging cases between 2005-08, just 10 resulted in a jail sentence of two years or more; of the suspects, only 49 were bosses, financiers or corrupt officials, with most being lowly chainsaw operators or truck drivers.⁸

Serial offenders repeatedly exposed by EIA and Telapak have also evaded prosecution. The illegal activities of Surabaya-based merbau smuggler Ricky Gunawan were first revealed in 2007. Since then, he has used increasingly sophisticated techniques to circumvent Indonesia's log and sawn timber export ban and, despite having at least one consignment intercepted by customs, has never been prosecuted. In 1999, EIA and Telapak named Abdul Rasyid as the chief culprit behind illegal logging in Tanjung Puting National Park, and the following year he was named by the Ministry of Forestry as one of the main illegal logging bosses in the country, yet he was never investigated nor prosecuted. He now controls palm oil plantations covering 60,000 hectares and worth one billion dollars.⁹

"Issues of forest governance in Sarawak in particular can only be resolved with all interested parties at the table"

attempted to deal with logging and the trade of timber following a log export ban in 2001.¹⁰ Yet field work carried out by EIA in 2011 found that key regulations such as the log export ban are widely flouted and that enforcement is weak.¹¹

As long as powerful interest groups are allowed to act outside the law, Laos will lose the natural resource relied on by millions of rural and indigenous people. Laos's failure to enforce the log export ban means there is less timber available for its own domestic industry; the Lao wood processing industry has complained that the lack of raw materials has affected the profits of domestic furniture factories, causing export orders to be cancelled.¹²

However, in recognition of the problem Laos has created the Department of Forest Inspection (DOFI) with specific responsibilities for law enforcement and governance. In March 2011, officers from DOFI seized 33 tractor trailers of illegally harvested timber and wood products worth \$250,000.¹³ Three months later, in June, the Prime Minister of Laos issued a ban on the exploitation, trading and export of endangered wood, including rosewood, urging strict punishment for illegal loggers and timber traffickers.¹⁴ Following the ban, DOFI officers seized a quantity of rosewood being transported in trucks heading north to Vietnam. Unauthorised documents were issued by officials in Attapeu, contravening Article 14 of the forest law. Three further investigations by DOFI officers found illegal wood products in various factories with no written authorisation.¹⁵

BELOW:
Log truck in Sarawak, Malaysia, in 2005.



While these efforts are a positive sign, Laos cannot protect its forests on its own. The demand for raw material from neighbouring countries is a major contributor to illegal logging and wood smuggling, which is having a severe impact on some of the last remaining intact forests in the Mekong region.

Malaysia

At the time of the Bali meeting, Malaysia was receiving large quantities of illicit timber from Indonesia; round logs from Sumatra to Peninsula Malaysia, and rough sawn timber from West Kalimantan to Sarawak.

In 2002, after EIA and Telapak exposed the flow of logs from Indonesia, the Malaysian Government amended its regulations to prohibit imports of Indonesian logs. This ban was extended a year later to include square logs or flitches. This action remains the only example of a country in East Asia enacting a reciprocal law to reflect that of a neighbouring country (in this case Indonesia's log export ban). In addition, the Sarawak authorities began requesting that importers provide copies of Indonesian wood transport permits in a bid to ensure the legality of wood crossing the border.

By 2006, a major decline of shipments of round logs from Indonesia to Peninsula Malaysia resulted in field reports from the provinces of Sumatra that illegal logging was reduced as a direct result of the laws. Further, increased prices for certain timber products for export from Malaysia were attributed to Malaysia's new regulation. While Malaysia did not support the Bali Declaration, its implementation of a reciprocal law as an aid to enforcement provides a lesson for other countries in East Asia.

Yet while Malaysia changed its regulations to reflect Indonesia's log export ban, it has failed to do the same for the latter's sawn timber export ban. EIA/Telapak investigations in 2005 found sawn timber from Indonesia crossing into Peninsula Malaysia and Sarawak.

In 2006, Malaysia was the first country in East Asia to launch VPA negotiations with the EU, yet a final agreement has yet to be reached. The definition of legality among the separate states is controversial and, with full stakeholder consultations at a standstill, the Government needs to begin a process of dialogue. Issues of forest governance in Sarawak in particular can only be resolved with all interested parties at the table. This must include stakeholders and rights holders, including social NGOs and local community representatives.



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PROCESSING COUNTRIES

Vietnam

In August 2003, Indonesia sent a request to the Vietnamese authorities to intercept a barge carrying bengkirai (yellow balau) logs. The illicit cargo was worth at least half a million dollars and was en route to Haiphong port in northern Vietnam. The timber had been shipped contrary to Indonesia's log export ban and the vessel was using fake port clearance documents from Sarawak.¹⁶ After being temporarily detained, the cargo of logs was released to the importer on the grounds that no Vietnamese law had been broken. This case demonstrated the need for cooperation mechanisms between countries in East Asia, and also revealed Vietnam's reliance on raw material imports to feed its burgeoning wood processing industry, regardless of the laws of the source country.

Investigations conducted by EIA in 2011 revealed the continued smuggling of logs from Laos into neighbouring Vietnam in contravention of the former's log export ban. Some of this illicit timber was tracked to factories in Vietnam manufacturing furniture and flooring for export. In 2010, Vietnam earned \$3.4 billion from exporting wood products, and it is estimated that by the end of 2011 that figure will have risen to \$4 billion.¹⁷ Export markets are the key driver of growth in Vietnam's timber industry, especially Europe, the US and Japan, with growing sales to China and the Middle East, especially for products made with expensive hardwood species.¹⁸

Vietnam has been engaged in VPA discussions with the EU for several years. It has ambitiously set a target of being fully compliant and aiming to grant FLEGT licenses to Vietnamese businesses by 2012.¹⁹ While Vietnam's commitment is positive, there are further steps it can take. Respecting its neighbour's laws by banning the import of logs from Laos would send a signal that it is serious about excluding illicit timber from its wood processing sector.

China

As a producer, importer and consumer, China's annual increase in timber consumption is estimated at 5.1 million cubic metres.²⁰ Such huge demand is an important factor in explaining global timber flows, both legal and illegal. The emergence of China as a prominent wood processing hub and exporter during the past decade or so is having a critical impact on forest governance in countries supplying it with raw timber, both from within East Asia and beyond.

In 1988, China imposed a logging ban in response to domestic deforestation but with huge demand for raw materials to feed its growing wood processing industry, China's efforts to protect its own forests have come at the expense of other countries. In 2010, China imported 34 million cubic metres of logs, a 22 per cent increase on the previous year, and 15 million cubic metres of sawn timber, a 49 per cent increase.²¹ A spate of reports during the past decade have shown illicit timber entering China's wood processing sector.²² Source countries include Russia, Indonesia, Laos, Burma, Mozambique and Madagascar.



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TOP:

Log trucks crossing from Laos into Vietnam, 2008.

ABOVE:

Indonesian Merbau on sale in Yuzhu market, China, in 2005.

Log raft in Bangkok, Thailand, 2011.



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“The Thai Government could enlist the support of the international community... by using the Convention on International Trade in Endangered Species (CITES)”

China’s response to date has revolved around developing a system to verify the legality of its imports and exports of timber and timber products, led by the State Forest Administration. While an internal verification system with third party independent monitoring would be useful, the effort will not succeed unless China’s approach includes other relevant ministries.

The challenge is shown by the case of traders engaged in the supply of teak, rosewood and other hardwoods from the forests of Burma. After 20 years of chaos in Burma’s forests, the timber merchants of Kunming in south-western China predict that at the current rate of logging, their supply from Burma will last at most another 10 years. Chinese traders enter Burma and negotiate their own supply, with no controls either on the Burmese or Chinese sides of the border. There are many powerful interests within Burma taking a cut of the logs felled and traded to China. It is not difficult to see that an internal verification system in China implemented by the SFA will not be enough. Effective enforcement cannot be carried out by a single agency, but must involve key players such as customs and police, a lesson learnt since Bali in other countries such as Indonesia. With the US Lacey Act in force and the European Union Timber Regulation to be enacted in 2013, China has a lot of work to do to reassure buyers in these markets that the wood products it is exporting are made solely from legally sourced timber, and can be proven to be so.

Thailand

When Thailand agreed to the Bali Declaration in 2001, it already had in place a domestic logging ban dating back to 1989. While this may have gone some way to protecting Thailand’s forests, it also drove the demand for raw materials from neighbouring countries to feed its processing industry.

After the logging ban, Thai wood traders targeted neighbouring Burma for supplies of valuable hardwoods, especially teak. This relationship persists today, with Thai businesses still deeply involved in logging and wood trading in Burma. The Thai timber processing sector also sources raw material from neighbouring Laos, usually sawn timber. In 2008, EIA published details of a Thai businessman trading rosewood from Laos and making large payments to Lao officials to secure logging rights.²³

Within Thailand, illegal logging of precious rosewood species is rife, especially in the north-east of the country. This is being driven by high demand in China for rosewood, especially for expensive reproduction furniture. In the first nine months of 2011, the Thai authorities seized 4,850 logs of Siamese rosewood, worth about \$3 million, in 560 separate cases, compared with 2,700 logs seized in 2010.²⁴ The Thai Government could enlist the support of the international community in tackling the illegal logging of rosewood by using the Convention on International Trade in Endangered Species (CITES).

CONSUMER MARKETS

Since the Bali Declaration, two major consuming markets – the US and EU – have acknowledged their roles in driving illegal logging and undermining good forest governance. Both have agreed new regulations to prohibit the import of wood products derived from illegally logged timber.

In May 2008, the US amended its Lacey Act to include plants outside the country, in effect creating a mechanism under which companies and individuals trading in illegally logged timber in the US can be prosecuted, with sanctions varying from confiscation to imprisonment.

The EU's Timber Regulation, finally agreed in October 2010, will require timber importers who first place timber and wood products onto the European market to use a due diligence system. The regulation prohibits the import of wood products made from illegally logged timber. The regulations comes into force in 2013.

These demand side measures are a crucial element of the international regulatory structure needed to tackle illegal logging, and send a clear message to producer and processing countries in East Asia that the EU and US are committed to excluding illicit timber from their markets. One major consumer in the region – Japan – has yet to make such a commitment.

USING CITES TO TACKLE ILLEGAL LOGGING

CITES is the international agreement regulating trade in endangered species of flora and fauna. It can be used effectively to combat illegal logging of threatened tree species which are traded internationally.

For instance, in 2000, widespread illegal logging of valuable ramin trees was taking place in Indonesia, often driving logging into remote swamp forests in Kalimantan and Sumatra. In 2001, Indonesia took the unilateral step of listing ramin on Appendix III of CITES, a move which compelled other member countries of CITES to seize all shipments of ramin from Indonesia. In 2004, ramin was listed on Appendix II of CITES after unanimous agreement. As a result of these measures, the market for ramin has declined along with illicit trade in the species.

Despite this clear example of the successful use of CITES to tackle illegal logging of a threatened tree species, the CITES mechanism is still underused. It could be effectively deployed in the case of Siam rosewood (*Dalbergia cochinchinensis*). The species is listed as vulnerable and regulations exist to control logging and trade of the species in all its range states, principally Thailand, Laos, Cambodia and Vietnam.

Yet these bans alone have proven inadequate to coping with increasing demand for the wood, particularly from China. Spurred by prices of more than \$50,000 per cubic metre for raw materials, illegal logging of the species has increased and smuggling of the timber between range states, facilitated by rampant corruption, has continued largely unabated. The listing of Siam rosewood on CITES Appendix II with a zero-quota would strengthen and compliment existing national legislations in all range states and assist in tackling cross-border smuggling.

RECOMMENDATIONS

Importing countries:

- publish full timber and wood product import statistics, including details of volumes, values, origins, ports of import and species;
- improve internal co-ordination between relevant agencies such as police, forestry, customs and port authorities;
- provide training to enforcement officials in timber trade patterns, wood identification, log markings and paperwork and existing legal bases for halting suspect shipments;
- enact reciprocal bans to reflect timber trade controls in source countries;

- follow the EU and US by prohibiting the import of illegally logged timber.

Exporting countries:

- consider a Voluntary Partnership Agreement with the EU to ensure exports to Europe will be accepted after the timber regulation comes into force in March 2013;
- improve surveillance at main timber exporting ports;
- use CITES listings to tackle international trade in threatened tree species.

East Asia regional countries:

- establish a central point of contact in each country, including out-of-hours contact details;
- use contact points to routinely verify the authenticity of timber shipping documents;
- set up systems of prior notification of legal timber shipments between exporting and importing states;
- ensure full stakeholder participation takes place in the decision-making process.

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ENVIRONMENTAL INVESTIGATION AGENCY (EIA)

62/63 Upper Street
London N1 0NY, UK
Tel: +44 (0) 20 7354 7960
Fax: +44 (0) 20 7354 7961
email: ukinfo@eia-international.org

www.eia-international.org



EIA US

www.eia-global.org