

Finding solutions to illegal logging: Civil society and the FLEGT Support Project

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The EC-Indonesia FLEGT Support Project is a European Community (EC) co-operation project aimed at tackling illegal logging and promoting the role of forests in Indonesia's sustainable development. The project has its roots in the international FLEG (Forest Law Enforcement and Governance) process which began in Asia in September 2001. In Europe, the FLEG process has been extended to include trade – hence FLEGT – given the region's critical role in importing timber from Indonesia and elsewhere.

1. History and outlook of the FLEGT Support Project

FLEG began in Asia with a series of meetings on forest law enforcement and governance, culminating in a ministerial FLEG conference in Bali, Indonesia. The resulting Ministerial Declaration, the Bali Declaration, recognised the role and responsibility that both Indonesia and the European Union (EU)¹ have in finding solutions to illegal logging and its associated trade. In response to this and other regional initiatives, the EU adopted, in May 2003, its FLEGT Action Plan, which aims to stop illegal timber imports into Europe.

The FLEGT Action Plan focuses on supporting governance reforms and capacity building in timber-producing countries, and on developing complementary actions in relation to consumption. Such actions include, for example, regulating the EU's procurement policies on timber and wood products. A major component of this initiative lies in developing co-operation agreements with timber-producing countries, with the intention that producers and consumers work together to prevent the production and trade of illegally produced timber.

The EC Forest Platform is a FERN initiative that aims to ensure that EC aid contributes effectively to the protection and sustainable use of forests and respect for forest peoples' rights. The Platform promotes active information sharing between the EU institutions and NGOs and the full participation of civil society in decision-making.



In practice then, implementing the FLEGT Action Plan is largely dependent on financing from EC co-operation projects, one of which is the €15 million EC-Indonesia FLEGT Support Project.² This project, financed under bilateral co-operation between the EC and Indonesia, was initially established in 2002. Following a number of missions and meetings since mid-2003, the EC-Indonesia FLEGT Support Project was finally agreed on 30 March 2005.

One of the main goals of the FLEGT Support Project is to promote the role of forests in the sustainable development of Indonesia. This will involve supporting and encouraging the Indonesian Government, the private sector (the logging industry) and civil society, in order to create appropriate conditions for curbing illegal logging and its associated trade.

The specific objectives of the project are:

- improved forest law enforcement;
- improved forest sector governance through enhanced accountability and transparency;
- reduced illegal trade in forest products and promotion of legal trade;
- assessment of current forestry systems and adoption of appropriate systems by third-party verification agencies;
- improved co-ordination of FLEGT activities and liaison among donors, other international organizations (eg ASEAN – the Association of Southeast Asian Nations) and the Indonesian Government.

Based on these key objectives, a number of activities aimed at achieving these have been developed (Box 1). Ranging from

Box 1: Key activities of the EC-Indonesia FLEGT Support Project

- assessing and, where necessary, revising laws relevant to the forestry sector and supporting NGOs to investigate, document and publicise illegal logging;
- defining the processes, roles and responsibilities of those institutions relevant to prosecuting cases;
- supporting ad hoc activities identified by the National and Provincial Steering Committee (see Box 2);
- improving awareness and understanding of good governance using multi-stakeholder principles at national, provincial and district levels;
- empowering and raising awareness (at village level) of the principles of good governance;
- establishing information centres at national and (in project areas) at provincial and district levels;
- supporting wood industry restructuring at national and provincial levels;
- establishing a provincial wood industry database documenting the locations, numbers and capacities of wood companies;
- supporting the Indonesian Ministry of Forestry to establish a system for monitoring and controlling future supply and demand;
- supporting companies engaging in timber certification processes;
- ensuring international co-ordination/support on trade issues with Asian and Pacific countries, the European Union and other importing countries;
- assessing current forestry systems and promoting the adoption of more appropriate silvicultural systems within concessions and third-party verification bodies;
- co-ordinating with donors on initiatives aimed at addressing forest governance;
- negotiating the EU-Indonesia Partnership Agreement;
- holding dialogs with regional institutions and other relevant bodies;
- facilitating policy dialogue between the Indonesian Government and the EC-Indonesia FLEGT Support Project;
- providing independent advice and studies on FLEGT and related issues to the Indonesian Ministry of Forestry and the Project Steering Committee.



assessing current forestry systems to supporting the restructuring of Indonesia's wood industry, effective execution of these activities will be critical to the project's success.

2. Time, location and project partners

The FLEGT Support Project will be conducted over a 5 year period during which time the FLEGT partnership agreements will be developed. It will be taking place in those areas which are in a position to address both horizontal (between Government institutions and between legal regulations) and vertical (between the central, provincial and district governments) issues. At the national level, the project will be focused in Jakarta, where work will be carried out jointly with the Ministry of Forestry and with related departments and agencies involved in illegal logging. At regional level, the project will be active in the West Kalimantan and Jambi provinces, and will address both district-level and provincial issues. In the provincial capitals of West Kalimantan and Jambi -Pontianak and Jambi, respectively-, project activities will focus on administrative structures enabling illegal logging. Additional project sites will be Betung Kerihun National Park, and the districts of Kapuas Hulu and Sanggau in West Kalimantan. In Jambi, project sites will be Bukit Duabelas National Park, Bukit Tigapuluh National Park and Berbak National Park.

Project sites were chosen based on a number of practical and strategic considerations.³ West Kalimantan borders with Malaysia, where illegal logging is also rampant, and where the EC-funded Illegal Logging Response Centre (ILRC) is located.⁴ The ILRC project, which will run until 2006, is establishing a database on illegal logging cases that will provide a reference for the FLEGT Support Project. Meanwhile, Jambi province has demonstrated good initiatives in dealing with the over-capacity of the wood industry and expressed its willingness to be involved in the project. Tackling the over-capacity of the timber industry is key to the project's successful outcome, given that illegal logging is only a symptom of an industry that systematically relies on illegally and unsustainably logged timber to fulfil its raw material needs.⁵

The FLEGT Support Project will be implemented by several agencies (Box 2) and will be focused on cross-departmental co-operation and co-ordination, in particular among the Ministry of Forestry, the Ministry of Trade, the Ministry of Finance and the Ministry of Internal Affairs.

Box 2: Agencies managing project activities – at both national and regional levels

- **BAPPENAS** – the executing authority of the project;
- the **Ministry of Forestry** – charged with developing good co-ordination with provincial and district administrations;
- the **National Steering Committee** (NSC) (established by the Ministry of Forestry), and the **Provincial Steering Committee** (PSC) (established through a special Governor's decree) – with joint responsibility for providing guidance on policy and project direction, and co-ordinating with related agencies;
- the **Project Task Force** (PTF) – established by the Ministry of Forestry to co-ordinate the project. At the provincial level the Departments of Forestry will establish **Provincial Project Implementation Units** (PPIUs);
- the **Project Director** (PD) – appointed by the implementing agency (the Ministry of Forestry) and endorsed by both the executing authority (BAPPENAS) and the European Commission. The PD will chair the Project Task Force and act as Secretary to the National Steering Committee;
- the **Head of Provincial Implementation Units** – appointed by the respective provincial Departments of Forestry (Jambi and West Kalimantan) and endorsed by the executing authority and the European Commission;
- the **International Technical Assistance Team** (ITAT) – assisting in the implementation of the Project will work under the Terms of Reference agreed by the executing authority and the European Commission.

3. Understanding the relationships between stakeholders

In its aim to address both horizontal and vertical issues, the FLEGT Support Project can be regarded as quite ambitious. Horizontal problems relate to how different policies (such as land tenure, money laundering, corruption, etc.) and sectors (trade, agriculture, etc.) affect forestry. Vertical issues in Indonesia relate



to decentralization, and the roles of the central, provincial and district governments.

Although in the past, cross-institutional co-operation has not proved successful in Indonesia⁶ the Indonesian Government is convinced that the FLEGT Support Project can help to improve collaborative work between institutions. However, considering how little co-ordination there is currently, it is clear that strong commitment from the Indonesian Government will be crucial in ensuring smooth project management and real cross-departmental co-operation and co-ordination. In particular, strong commitment is needed from the project's implementing agency – the Ministry of Forestry (Box 2).

A recent Telapak study⁷ on the effectiveness of forestry projects in Indonesia concluded that real solutions will require policy changes that must be supported by intensive co-ordination and communication between the related agencies. Within the context of the FLEGT Support Project, Telapak has observed that such co-ordination and communication are still very poor. A major challenge for the project, therefore, will be achieving this essential element of good governance.

According to official documents,⁸ the FLEGT Support Project envisages close co-operation with the Donor Forum on Forests (DFF)⁹ and its associated organisations. This will be crucial to ensuring that all donors are informed about the project and can build upon it. The project will also work closely with Illegal Logging Response Centre Project (see above), taking over its data collecting, disseminating and monitoring activities after its conclusion in March 2006.

In addition, the project will aim to facilitate other donors' activities on illegal logging issues, making available an information interface between the Indonesian Government, the private sector, NGOs and civil society. Finally, the project will also work closely with the Asia Forest Partnership (AFP),¹⁰ particularly on trade issues.

4. Engaging civil society

Transparency and full stakeholder participation are key to good governance and to ensuring the relevance of any proposals for improving forestry in Indonesia. The necessity to ensure adequate consultation is clearly underlined in the EC-Indonesia co-operation strategy¹¹ and forms a main component of the EC-Indonesia FLEGT Support Project. Unfortunately, the reality so far is very different.

To date, meetings to explain the objectives and the description of the FLEGT Support Project have been held in Jakarta, West Kalimantan and Jambi.¹² Serving both as social events and public consultation fora, these meetings provided a platform for the Ministry of Forestry, which took the opportunity to underline that the FLEGT Support Project was the most transparent project undertaken in terms of project design.¹³ However, Telapak's partners¹⁴ have noted that neither transparency nor the full involvement of civil society had been a hallmark of the preparation processes: civil society participation was at most vague during the planning and drafting stages, while accessing project documents – which provide the basis for allowing independent monitoring of the process – has proved very difficult.

In reality, the lack of civil society participation has been the setback in almost all co-operation processes – both bilateral and multi-lateral – with Indonesia. Civil society has often been excluded from processes, and in particular from those relating to the exploitation of natural resources. In most cases civil society has been a mere object – clearly denied the right to decide on project activities in its own territories. In some cases, local communities did not even know of a project operating in their own lands or customary territories – something which goes against all EC statements on co-operation. Indeed, official documentation specifically states that all EC activities must allow the right of indigenous communities to define their "self-development."¹⁵

Nevertheless, given the strong commitment to good governance of the FLEGT Support Project, many expect it may serve as catalyst to allow civil society to exercise their watchdog function in relation to policies, projects and processes. Monitoring activities can in turn be used as a learning process for dealing with broader forestry policy issues.

Civil society proposes strong action

Indonesian civil society has expressed four key points regarding the overall FLEGT process, most of which are directly related to specific activities that will be carried out within the framework of the EC-Indonesia FLEGT Support Project. These recommendations address, among other things, the need for transparency in the overall process, the full involvement of the different stakeholders – including local communities – throughout the process, and the condition that any forest law reform will guarantee customary, legal and tenure rights (Box 3).



Box 3: Indonesian civil society: position paper on FLEGT

Position 1. As the first step towards sustainable forest management (SFM), verification should comply with the following requirements:

1. relevant elements in Indonesian and international law concerning the rights of indigenous peoples, local communities, labour and environmental impact;
2. transparency, including:
 - (a) transparency in relation to relevant data and information
 - (b) stakeholders' participation – including a mechanism allowing spot check monitoring by civil society groups and indigenous peoples organisations
 - (c) recognition of legal pluralism and traditional rights and customs;
3. verification by a 3rd independent party, based on both paper and field verification;
4. understanding of complexity – particularly in Indonesia. Any verification system should be developed and implemented by all national stakeholders.

Position 2. Financing/investment in forest-related industries can help to promote change by:

1. supporting investment in those forest-related companies, including pulp and paper, which are covered under FLEGT;
2. demanding that the market and European countries assist in downsizing industrial capacity in wood processing industries in Indonesia;
3. demanding that the market pushes pulp and paper industries to accept only timber supplied by legal HTI (industrial timber plantation);
4. requiring the implementation of due diligence relating to social and environmental factors before any further investment is agreed in Indonesia. This is particularly important in the case of plywood and pulp and paper industries.

Position 3. Equity in, and guarantee of, communities' customary, legal and tenure rights will require:

1. demanding the adoption and implementation of regulations guaranteeing the unconditional support of both legal pluralism and customary rights and laws – including indigenous peoples' right to manage their natural resources and ancestral domain.

Position 4. Law enforcement and legal arrangements will require:

1. demanding that the Government reforms national regulations and policies on both forestry and spatial planning, and involves the full participation of stakeholders – including Civi Society and Indigenous Peoples organisations – in the process;
2. demanding that the law be enforced strictly and transparently (implying enhanced enforcers' capacity) against illegal logging bosses, and against large companies using illegal wood;
3. demanding that the government use forest delineation/gazetting as a 'legality' indicator. All timber produced from forest areas where the ownership is in dispute should be declared illegal. This strategic measure will help lead to the 'resolution' and the 'transformation' of tenure conflicts in Indonesia.

END NOTES

01. The EU is currently composed of 25 member countries (Member States), and governed by its various institutions that together carry out activities on behalf of these countries. Where matters do not concern foreign and security policy or justice and home affairs – for example as in the case of development co-operation – the institutional structure discussing and implementing activities is called the European Community (EC). Five main institutions deal with EC co-operation, namely: (1) the European Parliament, which evaluates and adopts EC legislation and budgets; (2) the Council, which shares with the European Parliament the role of policy-maker; (3) the European Commission, which is responsible for the EC's day-to-day work; (4) the Court of Justice, which monitors compliance with existing legislation; and (5) the Court of Auditors, which ensures that the management of the EU's budget complies with existing legislation.
02. Official title: EC-Indonesia FLEGT Support Project No. AIDCO/2004/16830.
03. Workshop FLEGT III held by Telapak on 16-17 June 2004 at Cemara Hotel, Jakarta.
04. Information on the ILRC (Illegal Logging Response Center) can be found at www.eu-ilrc.or.id
05. Christopher Barr (2001) *Overcapacity in Indonesia's Pulp and Paper Industry: Pressures on forests and financial risk*. CIFOR
06. According to Telapak's experience.
07. Telapak and FERN (2004) *Aid Trace in the forest*. The report analyses the EU's Development Fund Scheme for the forestry sector in Indonesia, and presents a case study of the EC South Central Kalimantan Production Forest Project.
08. Proposal of EC-Indonesia FLEGT Support Project No. AIDCO/2004/16830.
09. The Donor Forum on Forests (DFF) was created in March 2000 as an informal body of the Consultative Group on Indonesia (CGI). The CGI is a group of donors that provides funds for Indonesia to accomplish its development. It does not include research institutions such as CIFOR and ICRAF or allow the participation of civil society groups.
10. The AFP was launched at the World Summit on Sustainable Development in Johannesburg, in 2002. Partners to the AFP include government, intergovernmental organizations and members of the civil society.
11. European Commission (2002) *Country Strategy Paper 2002-2006 Indonesia*; European Commission (2004) *National Indicative Programme 2005-2006 Indonesia*
12. September 2003, workshop held at Jambi and October 2004, workshop held at West Kalimantan. Both was been organized by Delegation EC.
13. The statement was told in the informal meeting at their office.
14. YKR and KAIL are organization that help Telapak for monitoring in the field.
15. Development Council Resolution of 30.11.1998 and General Affairs Council Resolution of 18.11.2002.

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