Integrated Law Enforcement Approach: Notes for Keynote Address, 29 June 2010 workshop

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Institutional weaknesses in investment and trade policy and regulation are major factors underlying continued unsustainable forest exploitation in many tropical developing countries. Contradictory or unclear policies, limited coordination across sectors, ineffective or inconsistent law enforcement, corruption and overall weakness in the rule of law prevent countries and communities from realizing potential socio-economic, developmental and environmental benefits from forests.

The structure of rights, processes for policy decision-making and implementation and day-to-day practices of key institutions significantly and ultimately affect the way forests are used, and how their benefits are shared. The 'rules of the game', systems of incentives and disincentives -- i.e., the very essence of governance -- need reforms to create conditions necessary for sustainable and equitable forest use, livelihood security and effective poverty alleviation.

Governance issues have gained added importance as the trade in forest products – and agricultural commodities and other products that affect forests – has become increasingly globalized. Similarly, the emerging global consensus to limit green-house gas emissions has underscored the urgency with which improvements in forest-related governance are needed.

Lessons from Indonesia's Reforestation Fund

Over the coming years countries with large expanses of tropical forests are expected to receive billions of dollars designed to reduce emissions from deforestation and degradation (REDD). But will they be wisely used? CIFOR research, funded by the World Bank and AusAid, looked at the lessons learned from Indonesia's experience with its Reforestation Fund. Financed by a levy on harvested timber, the fund has provided Indonesia with a multi-billion dollar pot of money to support reforestation. It was frequently misused during the Soeharto era.

Since the fall of Suharto in 1998, there have been significant reforms, and the fund is now subject to periodic audits. Yet problems remain, says Chris Barr, co-author of *Financial Governance and Indonesia's Reforestation Fund*. "Although the government has taken some impressive steps to improve financial management, the administration of the fund still suffers from a lack of transparency and accountability," he says. The report suggests that the Ministry of Forestry needs to improve its financial management; there needs to be greater transparency and accountability among key institutions involved in administering REDD funds; financial monitoring, reporting and verification need to be strengthened; and efforts should be made to ensure that REDD funds are not used as a subsidy for big business, in the way the Reforestation Fund frequently has been. The Ministry of Finance has been enthusiastic about the research, which helped its preparations for the climate-change summit in Copenhagen in December 2009.



Thus, major reforms in policies and practices are needed in order to promote more effective public regulation and accountable forest-related business behaviour, particularly as initiatives related to climate change adaptation and mitigation are implemented. Normative frameworks and mechanisms for overseeing forest finance and trade flows at the national and international levels also need to be developed or strengthened. Each of these requires better national and international policy coordination, concerted law enforcement, more effective risk assessment of forest-related investments, as well as improved information sharing, monitoring and joint action by key countries, agencies and actors.

There is a particular need to strengthen governance institutions and processes that will result in a more equitable distribution of forest benefits for the poor, marginalized groups and women. This requires strengthening the capacities of critical actors and stakeholders to participate in making and implementing forest-related decisions, and supporting the development of informed and equitable policies, inclusive practices and just and transparent institutions. It also requires credible analysis and tools with which to identify and assess options and practical tools and approaches with which to take appropriate action.

CIFOR's research to combat illegal logging using non-traditional instruments (like anti money laundering laws) has resulted in financial institutions in Indonesia adopting and implementing recommendations for anti money laundering programs and preventing terrorist financing with revenues from illegal logging and trade. CIFOR's research designed to "follow the money" to replace the orthodoxy of 'following the timber' responded to the urgent need to develop effective responses to the challenges of illegal logging and associated crimes.

Indonesia is leading the world in promoting the use of Anti Money Laundering (AML) laws to fight forestry crime. It allows law enforcement agencies to trace the proceeds of illegal logging crimes including those in banks accounts. With this approach, law enforcement officers will target the masterminds of illegal logging. The increasing recognition of the important role that Anti-Money Laundering (AML) laws in Indonesia create an opportunity to effectively combat illegal logging and related crimes by strengthening the role of financial institutions in enforcing this law. And today, CIFOR also introduces the latest draft of guidelines for law enforcement agencies which is designed to assist law enforcement agencies to "follow the money".

Financial institutions are key players in anti money laundering measures. They are required to monitor their customers and report any suspicious financial transactions of their customers to the Financial Intelligence Unit (FIU). Therefore, CIFOR's research sought to identify the strengths and weaknesses of current banking policies and practices regarding anti-money laundering to prevent proceeds of illegal logging and related crimes from being laundered. By focusing on timber and wood based companies, political exposed persons, and timber revenues, the research aimed to understand policy and practices applied by commercial banks in Indonesia when they are faced with customers and transactions related to the forestry sector.

CIFOR's research continues to explore the utility of tracking money generated through forest – related crime rather than the products of this crime (such as timber). The research indicates that commercial banks and other financial institutions can play an important role in combating illegal logging in Indonesia by integrating forest-specific information requirements and tracking

systems. Such requirements reinforce the Anti Money Laundering Law and a general requirement by the Central Bank of Indonesia (BI), according to which commercial banks should monitor their customers and report any suspicious financial transactions to the Indonesian Financial Intelligence Unit.

A recent BI Regulation No. 11/28/PBI/2009 on Anti Money Laundering and Terrorism Financing Prevention also requires that banks implement due diligence measures on their customers' transactions, especially high-risk customers such as Politically Exposed Persons (PEPs). Using these regulations as a starting point and studying the flow of money and information from companies in the forest sector, CIFOR research identified and recommended specific measures that commercial banks should introduce to replace and operationalize their generic due diligence policies.

Conclusion – The need of cooperation and commitment

The problem of illegal logging is complex. Combating illegal logging using follow the money approach is not an easy task. Following the money requires cooperation among various agencies and actors, both national and international. Therefore, there is urgent need to build solid cooperation among law enforcement agencies, forestry agencies, financial intelligence unit, financial institutions and other related actors.

By conducting this seminar, CIFOR hopes that these actors may elaborate an integrated strategy through knowledge and experience sharing and rich discussions in the sessions.