

OVERVIEW OF FOREST LAW ENFORCEMENT IN EAST MALAYSIA

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Executive Summary

The preliminary findings from this paper: Forest Law Enforcement in East Malaysia, and its companion paper: Forest Law Enforcement in Peninsular Malaysia were presented and discussed at an international workshop on Illegal Logging in East Asia held in Jakarta, August 27/28, 2000. The workshop was attended by 100 forest practitioners from the East Asia region, with each participating country presenting an overview of the status of Forest Law Enforcement. WWF Malaysia took the lead responsibility in preparing the Country Paper on Forest Law Enforcement in Malaysia. This report comprises the East Malaysia portion the Malaysia Country Report.

Malaysia's national goal of ensuring sustainable management of its forests to maintain environmental quality, and a continued supply of quality hardwood logs for its forest industries, can only be achieved by aligning timber harvesting rates with forest growth rates and by renewing and protecting the remaining forests. This paper deals with one aspect of protecting the remaining forests - Forest Law Enforcement in East Malaysia.

Malaysia consists of three distinct geographic regions. Peninsular Malaysia is separated from the Borneo states of Sabah and Sarawak by a 1,000 kilometer expanse of the South China Sea. Each of Malaysia's 13 states has constitutional autonomy over matters pertaining to land and forests. This has resulted in differences in forest administration and legislation. Although many aspects of forest resource administration and utilization policies are similar in all three regions, forestry's importance varies between states. For example: in Peninsular Malaysia forestry is now a minor component of the economy, while in Sabah and Sarawak it still accounts for a large part of economic activity and government revenue.

The study showed that the dimensions of forestry offences in Sabah and Sarawak are relatively small compared to the magnitude of the legal timber trade. In each of the two states about 300 cases of forest law infractions are detected annually - an average of one case per day. The annual volume of illegal timber seized in each of the East Malaysian States ranges from twenty to fifty thousand cubic meters - compared to the annual log harvest (1998) of five million m³ in Sabah and eleven million cubic meters in Sarawak.

Forest law infractions consist of two main types.

1. Forest management offences, or breaches of forest licence agreements, by the licence holders (and/or their registered logging contractors), and
2. Illegal forestry activities by parties, which have no forest use rights in the area where the offence occurs.

Approximately 90% of forest law infractions are settled through payment of fines to the State Forest Departments. The penalties (fines, imprisonment, etc.) for various infractions of the Forest Enactment or related regulations and guidelines are stipulated in state government documents, and are periodically up-dated.

Cases, which are prosecuted in court, tend to be the more severe ones, which the Forest Department wishes to use as an example to deter similar activities in the future.

Current legislation specifies fines ranging in severity with the gravity of the offence. Cases prosecuted successfully in the law courts, generally result in more severe penalties (fines and prison sentences) than cases settled administratively by the Forest Department. For example, in Sabah illegal removal of forest produce from a forest reserve is punishable by mandatory imprisonment (one to twenty years) and a fine of up to RM 500,000 (\$125,000). These penalties are doubled for offences committed at night and for repeat offences.

The Forest Departments of East Malaysia have sufficient personnel, financial resources and the legislative framework is adequate to reduce illegal forestry activity to an acceptable level. However, a number of factors constrain their efforts to stop illegal logging.

- ◆ Regional log supply shortages as a result of over capacity in the wood processing sector, lead to high log prices, which in turn fuels demand for illegal logs. These logs are often sold at lower cost and on "soft" credit terms, due to the risks involved and the fact that government forest charges have not been paid.
- ◆ The "easy money" aspects of illegal logging attract organized crime and thug elements, who finance, protect and organize timber marketing for small-scale illegal loggers.
- ◆ Historically, judgements on illegal forestry cases have been lenient. Cases were often

dismissed on technicalities, or given a relatively minor penalty (fine). This has a demoralizing effect on the officers investigating and preparing cases.

- ◆ Many professional staff are engaged on a temporary basis. They suffer from a lack of job security. This negatively impacts their resolve and initiative, as well as increasing temptation to accept favors for ignoring the illegal forestry activities.

The agencies in charge of forest law enforcement in East Malaysia have suggested the following measures be adopted to further strengthen forest law enforcement.

- ◆ Concentrate on building strong cases against large, organized syndicates or networks of illegal loggers, ie. don't waste time and effort going after "small scale" illegal loggers.
- ◆ Expedite apprehension of illegal loggers using mobile strike forces to cut the time between detection and taking action on illegal activities. This increases seizures of timber and equipment and thus has a greater deterrent effect.
- ◆ Improve surveillance, monitoring and enforcement activities through the use of remote sensing satellite technology and geographic information services (GIS).
- ◆ Refine the log tracking system to facilitate detection and increase difficulty of falsifying documentation. Use of computer technology (bar coded tags, labels, implants, sensors)
- ◆ Increase role and participation of forest licence holders, contractors, local communities and other stakeholders in forest law enforcement activities. eg. Appoint community leaders as Forest Protection Officers to strengthen enforcement of forest ordinance.
- ◆ Ensure judges appreciate severity and consequences of illegal logging in order that their judgements (fines, imprisonment) are severe, and act as a sufficient deterrent.
- ◆ Improve benefits and incentives for forestry officers involved in law enforcement - particularly those on temporary postings.
 - ◆ increase number of permanent posts for forest law enforcement
 - ◆ improve insurance, pensions, medical coverage, etc. for temporary postings.
 - ◆ reward system - proceeds from sale of seized timber go to enforcement unit.
- ◆ Increasing the numbers persecuted and punished after detection.

Overview of Forest Law Enforcement in East Malaysia

PART 1 INTRODUCTION

Background

Malaysia's advantage in developing its forestry sector has been (and continues to be) the reliability and continuity of its raw material supply. Malaysia's remaining natural forests are among the most important in the world. Malaysia is the world's largest, supplier of tropical sawlogs¹, tropical sawn-wood and veneer and the second largest supplier (after Indonesia) of tropical plywood. (ITTO Annual Review and Assessment of the World Timber Situation, 1999)

However, annual forest depletion rates (due to unsustainable harvesting practices and land conversion) are high, compared to the area of undisturbed natural forest remaining. Although forest harvesting rates have recently begun to decline², clearing of forests for agriculture and urban-industrial development continues.

Malaysia is fully aware of the need for effective forest management, conservation and development, not only to ensure a sustainable timber (and other raw material) supplies, but also to maintain environmental stability, wildlife habitat and bio-diversity. Achieving sustainable forest management is a commercial and national economic necessity, as Malaysia must maintain its competitive position in export markets, which are increasingly demanding that forest products come from sustainably managed forests.

Concern over the sustainability of forest exploitation, has led the government of Malaysia to explore a number of policy, management, and institutional remedies to bring the sector into line with national interest. Of particular concern are unsustainable logging practices and the large area of forest lost each year to agriculture and other development projects. The national goal of ensuring a continued supply of quality hardwood logs can only be achieved by aligning timber harvesting rates with forest growth rates and by renewing and protecting the remaining forests.³ This paper focuses on forest protection - particularly forest law enforcement.

Purpose And Methodology

This paper was prepared for presentation at a workshop on Illegal Logging in East Asia held in Jakarta, August 27 – 28, 2000. It is aimed at providing the workshop participants with overview of Malaysia's forestry sector, with emphasis on the current status of forest law enforcement in the East Malaysian States of Sabah and Sarawak, which are located on the north coast of Borneo.

The study was undertaken during July and August 2000. In preparing this study the author reviewed current literature (see References) and conducted interviews with stakeholders in Sabah and Sarawak. (see *acknowledgements*).

Malaysia - One Country, Three Regions

Malaysia was formed when the 11 federated Malay states on the Malayan peninsula joined with the territories of Sabah and Sarawak, on Borneo's north coast, in 1963. Since then Malaysia's forest policy has been determined by 3 separate bodies:

- 1) Peninsular Malaysia Forest Department in Kuala Lumpur;
- 2) Forestry Department Sabah in Kota Kinabalu; and
- 3) Forest Department Sarawak in Kuching.

Some aspects of forest resource and utilization policies are common to all three regions. For example: all encourage forest-based utilization and have forest policies that emphasize wood production over the non-wood potential of the forest. All three regions have, in the past, derived significant revenue from taxes related to forest products -especially timber export taxes. In recent years the importance of forestry in the economy of peninsular Malaysia has declined. However, forestry still accounts for a large part of Sabah and Sarawak's government revenue.

Peninsular Malaysia

Peninsular Malaysia has less forest area and its

¹ Malaysia produces 80% of the tropical saw-logs traded internationally.

² Malaysia's annual timber harvest declined from 40 million m³ in the early 1990s, to 30 million m³ in the mid-1990s, to 20 million m³ in 1999. FAO estimates Malaysia's sustainable harvest to be 18 million m³. (State of World's Forests - 1997).

³ Observations on Malaysia's forestry sector based on Forestry Sector Review conducted by World Bank - 1993.

remaining forests are of generally poorer quality than those of the Borneo States - Sabah and Sarawak. Peninsular Malaysia's economy has diversified - particularly during the past three decades. Forest have been converted into extensive areas of rubber and oil palm plantations and large urban housing estates and industrial complexes have been developed to accommodate a flourishing export-oriented manufacturing sector.

Forestry now plays a relatively minor role in Peninsular Malaysia's economy. Forests are increasingly valued for their environmental services - to ensure water supply, prevent erosion and provide recreational opportunities for the 17 million people (80% of Malaysia's population) who live on the peninsula. The Permanent Forest Estate (PFE) is the main source of wood supply. Most forests outside the PFE have been cut-over or converted to other land uses. Plantation timber - Rubberwood, Acacia and Sentang - is used increasingly in place of natural forest timber.

Sarawak

The state of Sarawak in East Malaysia (on the Island of Borneo) has the by far the largest area of forest of the 13 Malaysian states, with 68 percent of its land area (8.3 million ha) forested. Approximately 4 million ha of this forest has been designated as Permanent (production) Forest Estate (PFE)⁴ to ensure sustained raw material supplies for the state's growing forest products industry. Sarawak's forests are dominated by mixed dipterocarp forests, which are the dominant vegetation in the hilly interior of the state. In addition, extensive peat swamp forests dominate the wide coastal plains and lower reaches of Sarawak's many rivers.

The Sarawak Forest Ordinance (1958, revised 1996) describes three types of forest land and the procedures for administering them.

- 1) Permanent Forest Estate (PFE) for commercial forest harvesting and for indigenous communities to hunt, fish and gather forest produce for their own use;
- 2) Totally Protected Area (TPA) National parks, nature reserves and wild life sanctuaries where collecting forest produce, hunting and fishing is prohibited; and
- 3) State Land Forest (SLF) - areas not reserved as forests under the Forest Ordinance.

A large portion of Sarawak government's revenue comes from the forestry sector,

which employs in excess of 80,000 people. Aside from oil and gas, there are few areas in which Sarawak has an obvious comparative advantage. The major disadvantages to development in the state include high labor costs, unskilled labor force, poor infrastructure and high transportation costs to international markets. From a macro-economic perspective, Sarawak has good reason to practice sustainable forest management, to improve its protected area system and to maintain its PFE, to ensure the long-term viability of its forest industries. It needs to preserve the viability of its timber industry in order to provide time to diversify its economy by developing alternative sources of livelihood - commercial agriculture, tourism, manufacturing, etc.

In recent years government has taken steps to ensure future timber supplies by reducing its annual timber harvest and by establishing forest plantations. Annual timber harvest in 1998 was 11 million m³/yr, compared to 16 to 17 million m³/yr during the period 1995 - 97. In spite of the reduced harvest levels, the state's natural forests continue to decline in extent and quality due to: expansion of oil palm⁵ and pulp plantations⁶, hydro-electric reservoirs, shifting cultivation, re-entry logging, and other activities related to the state's economic development.

To ensure sustainable log supplies and meet the growing demand for forest products, timber companies have been urged to consolidate their existing timber concessions into unified blocks and set aside 20% of the area for development of forest plantations. To date the state has granted 19 Licences for Planted Forest (LPF), covering an area of about 1.4 million ha. (12% of Sarawak's land area) (Sarawak Tribune July 6, 2000, Article on Expansion of Forest Plantations).

Sabah

Sabah was blessed with some of the world's richest rain forests. Over the last 20 years forestry contributed an average of \$1 billion per year in foreign exchange earnings through forest products exports. State revenue from forest concessions fees, logging taxes and forest products export taxes average \$300,000 million annually - more than half of State Government revenues. The sector provides direct employment to 65,000

⁴ This includes areas which have already been gazetted and areas proposed for inclusion in the PFE.

⁵ Large areas of forest have been cleared to achieve Sarawak's targeted 1 million ha of oil palm plantation by 2010.

⁶ Sarawak intends to becoming a major pulp and paper producer and has allocated 3 million ha for forest plantation.

Table 1: Approximate Forest Area of Malaysia

Region	Forest Area and % forest cover	Permanent Forest Estate Area as a percent of Forest Area
Peninsular Malaysia	5.5 million ha (41.8%)	4.5 million ha (80%)
Sabah	4.5 million ha (61.0%)	3.5 million ha (78%)
Sarawak	8.3 million ha (67.5%)	4.4 million ha (52%)
Total - Malaysia	18.3 million ha (55.5%)	12.4 million ha (67%)

Sources: Compiled from Forest Department Reports; H.C. Thang, 1995, *Sustainable Conservation, Management and Environmentally Sound Utilization of Tropical Rain Forest in Malaysia*, and FAO *State of the World's Forests 1997*

people.

Heavy logging, followed in many cases by conversion to agriculture, severely depleted Sabah's forests, which are no longer capable of contributing the large timber volumes of the 1970s and 1980s. During this period, annual log production exceeded 10 million m³. Sabah's timber harvest was 5.2 million m³ in 1998 and 3.4 million m³ in 1999. About half of this is from sustainable harvesting in permanent forest reserves and half is from unsustainable forest clearing for agriculture. The forest sector's share of government revenues has declined, from 60 – 70% in the 1970s and 1980s, to 30 – 40% in the late 1990s.

The state government of Sabah has introduced a scheme to involve private enterprise in rehabilitation and long-term management of the State's forests. Logged over forests covering 2.7 million ha has been allocated in 27 Forest Management Units. In exchange for cutting rights, the unit managers employ professional foresters to prepare forest management plans, implement low impact logging methods, and rehabilitate degraded forests. The Sabah Forest department assumes responsibility for monitoring and enforcing compliance with the conditions of the FMAs.

Forest Resources

Forest Area

Malaysia's forest area is about 18 million ha, or 55% of the country's land area. The extent of forest in each region varies considerably, from a low of 42% in the relatively densely populated Malay peninsula to 60% to 70% in the lightly populated Borneo states. As a result each area takes a different view of its forests and has different issues to cope with.

Forest Types

As shown in Table 1, slightly more than half of Malaysia's land area is covered by tropical rain forests. These forests support a wide range of flora and fauna. Malaysia's forests include several distinct zones: mangrove for-

ests occupy coastal areas and river estuaries, peat-swamp forests occupy lowland areas, inland from the coast; mixed dipterocarp forests cover extensive areas of the hilly interior, heath (*kerangas*) forests occupy areas of poor and shallow soils and montane forests occupy high elevation areas.

Commercial Timber Species

Malaysia's commercial tree species can be broadly grouped into Light, Medium and Heavy Hardwoods and Softwoods. Table 2 shows common commercial species in these 4 classifications.

Forest Sector Organization And Administration

Forest land is state owned and is administered by individual State Forest Departments. Timber harvesting rights are allocated to private sector firms through a system of forest licences. These timber concessions, as they are referred to locally, are granted for periods of 5 to 20 years to individuals and state entities. Forest licences are generally operated by large timber contractors, who harvest, process and market the annual log allotments. Some contractors pay a fee to the forest licence holder based on timber volume harvested; others share log sales revenues with the licensee. There are a number of combinations and variations of these arrangements.

In the past Malaysia exported a large portion of its timber as logs. However, in response to incentives and legislation, most of the annual timber harvest is now processed in domestically. Only Sarawak still exports significant quantities of logs. Most states have state-owned timber corporations, which have acquired a number of former privately-held forest licences. These state owned forest licences operate under similar timber contractor arrangements, to those described above. Individual state forest departments are responsible for administering and managing forest lands. Most forest departments have a number of operating divisions which oversee various aspects of forestry and forest land administra-

Table 2: Common Commercial Timber Species of Malaysia*(Compiled from a Number of Publications on Malaysian Timber Species)*

Light Hardwoods	Medium Hardwoods
Alstonia (Pulai, Pelai)	Dipterocarpus (Keruing)
Dyera (Jelutong)	Dryobalanops (Kapur)
Anthocephalus (Laran, Limpoh, Selimpoh)	Hopea (Chengal, Merawan)
Gonystylus (Ramin)	Kompassia (Tapang, Mengaris, Tualang)
Mangifera (Asam)	Gluta (Rengas)
Octomeles (Binuang)	Azadirachta (Ranggu, Sentang)
Parashorea (White Meranti, Seraya)	Heritiera (Kembang, Mengkulang)
Shorea (Yellow / Red Meranti, Melapi)	Koodersiodendron (Ranggu)
Sindora (Sepitir)	Melanorrhoea (Rengas)
Heavy Hardwoods	Softwood
Eusioderoxylon (Belian)	Agathis (Bindang, Damar Minyak, Mengilan)
Dalium (KerANJI)	
Intsia (Merbau)	
Ebenaceae (Kayu Malam)	
Shorea (Selangan Batu)	
Vatica (Resak)	

tion. Typically Malaysian state forest departments are divided according to broad functions: forest management planning, operations, forest licence administration, royalty assessment, revenue collection, administration form one broad group; while research, development and personnel training form another group. Further division of responsibilities is based on the forest land classification: production forests, protected areas, research and community forests, etc.

Typically forest departments have a number of regional and divisional forest offices (DFOs), where all aspects of forestry and forest land are administered.

Forest protection and enforcement activities are generally the responsibility of a separate unit, under the forest management, operations and administration functional group. Typically most forest protection and enforcement staff are deployed at regional and divisional offices.

Importance Of Forestry In Malaysia's Economy

During the 1980s and 1990s, Malaysia's industrial sector grew rapidly. As a result, the primary resource sectors, such as forestry, mining and fisheries, have declined in economic importance. Forestry now accounts for 2% to 3% of GDP (down from 5% in the early 1990s). Although Malaysia's exports US\$ 5 billion per year of forest products, (up from US\$ 2 billion in 1985), forest products account for only 1.5% of Malaysia's export earnings, ranking fourth, behind: manufactured goods-80%+; oil palm products-6%; petroleum and natural gas-5.5%; and

Tourism-4%. Nationally, the forestry and forest products sectors employ about 300,000, or about 3% of Malaysia's workforce of 9 million. Direct government revenue from forest resources in the three regions is estimated at about US \$500,000 million, or 2% to 3 % of total government revenue.

Although forest revenues account for only a small portion of national government revenue, the two Borneo States depend heavily on forest revenues to fund their administration and development. For example: Forestry accounted for 70% of Sabah's revenue in the 1970s, 60% in the 1980s and slightly less than 50% in the 1990s. Sarawak is slightly less dependent on forestry due to rich petroleum and gas endowments.

Forest Policy And Legislation

Forest legislation in Malaysia (then Malaya) dates back to the 1920s and 1930s. As per Malaysia's Constitution, Article 94(1), Schedule 9, the distribution of power between the federal and state governments specifies legislative powers for forestry and land are the exclusive prerogative of State governments. Regulations on forests and land therefore have been developed by individual states in relation to their needs. Therefore any discussion of Malaysian forest policy or forest law must take into account differences between the three regions -Peninsular Malaysia, Sabah, Sarawak.

Development of a uniform Malaysian forest policy has been a goal of the federal government since the 1970s, when the federal government convened a National Forestry Council (NFC) com-

prising the Chief Ministers of the thirteen states and chaired by the Deputy Prime Minister. The NFC served as a forum for the federal and state governments on problems and issues relating to forestry policy, administration and management. In 1978, consensus on forest management and administration was reached and a National Forestry Policy (NFP) was adopted. It affirms State responsibility for forest management but stresses that forest law enforcement should be guided by the NFP. The NFP specifies that each state should maintain a minimum portion of its land as permanent forest reserves and that these forest reserves should be classified according to their purpose – protection, production, amenity, etc. Protection forests are forest areas above 1,000 meters in elevation and/or exceeding 18 degrees slope, which corresponds to the recommended limit for agriculture as defined by the National Land Council. Production forests comprise areas of less than 18 degrees slope, below 1,000 meters elevation, and areas not suitable for agriculture. Amenity forests are dedicated to recreation, eco-tourism and developing forestry public awareness.

Revisions and Amendments to National Forestry Policy and Act

In response, to increasing concern over continued decline in forest extent and quality, the NFP was revised in 1992 and the 1984 National Forestry Act was amended in 1993. The 1992 policy amendments emphasize conservation of biological diversity, involvement of local communities, and promotion of eco-tourism.

The 1993 amendments to the Forest Act also strengthen forest law enforcement. Penalties for forest encroachment and illegal logging were increased from a maximum of RM10,000 and 3 years imprisonment, to a maximum of RM 500,000 and 20 years imprisonment, with a mandatory imprisonment of at least one year. The amended act also provided for police and armed forces surveillance of forestry activity, especially illegal logging and timber theft. The amendments also included new regulations on replanting, enrichment planting, extraction methods and planning schedules for concessions. They also included conditions regarding restriction of exploitation rights, trade in non-timber forest produce; protection of aboriginal rights to use forest resources; urban expansion and national parks. Malaysia's forest policy is slowly beginning to recognize forests as multi-purpose resources - not exclusively as a source of timber. The 1993 National Forestry Act was endorsed by all state in Peninsular Malaysia. However Sabah and Sarawak (as provided for by Malaysia's Constitution) retained their own forest legislation as described in the following para-

graphs.

Sabah Forest Enactment (1968, and Forest Rules 1969, amended to 1995) - The Sabah Forest Enactment and Rules prescribe all aspects of forest administration, planning, management, development and regulation of the harvest of forest resources, forest revenue collection and development of forest-based industries. Part IV of the Enactment specifies penalties and procedures for dealing with forest offences. Unlike Sarawak (see below), where the Forest Department has jurisdiction over all forest land, Sabah's wildlife reserves, sanctuaries and national parks are managed by the Sabah Wildlife Department and Sabah Parks Department, respectively.

Sarawak Forest Ordinance (1954, amended to 1996) - The Ordinance describes the three types of forestland and procedures for establishing and managing them. The forest ordinance was amended in 1996, to strengthen forest law enforcement and to include provisions for planted forests. Part VI (Section 68 – 93A) of the enactment prescribes penalties and procedures for dealing with infractions of the forest ordinance. Penalties are related to the severity of the offence and the value of the forest products. They generally involve fines, (usually 10 times the value of the products involved) and imprisonment (2 to 5 years). Penalties for forest offences committed at night and for repeat offences are double the normal penalty for that offence.

Sarawak's **National Parks Ordinance (1956)** and **Wildlife Ordinance (1958)** complement the Sarawak Forest Ordinance and are also administered by the Sarawak Forest Department.

Issues And Developments

Forest Management and Forest Industries Development

Sustainable forest management and development remain as the main emphasis for the Malaysian forestry sector, which faces three challenges:

- 1) reduce deforestation and forest degradation through more effective conservation measures and sustainable use of existing forest resources.
- 2) increase the forest resource base through reforestation and enhancing the productivity of existing forest land.
- 3) consolidate and revitalize forest industries to enhance wood product values and thus increase returns to forest management by maximizing the value of forest goods and services.

Long-term Wood Supply for Forest Industries

In 1999 Malaysia's log production was 22 million cubic meters (m³). This is down from 33 million m³ in 1995, and 40 million m³ in the early 1990s. Log production is expected to decline further in the near future as stocks of commercial trees are exhausted. The sustainable annual log supply from natural forests (18 million m³) and rubber and forest plantations (2 million m³) is estimated to be about 20 million m³ (FAO Country Report Malaysia (1997)).

The declining wood production has become totally out of balance with the raw material requirements of Malaysia's wood processing industry. The installed capacity of primary wood processing equipment is 40 million m³, including: over 1,000 sawmills, with an annual capacity of 24 million m³; 160 plywood and veneer mills, with an annual log-input capacity 13 million m³; and miscellaneous wood processing, with annual log capacity of 3 million m³.

The wood supply shortage is most serious in Sabah, where the State's industrial development policies in the 1980s and '90s encouraged expansion of domestic wood processing. Annual log input capacity of the 300 wood processing mills is 16 million m³. Sabah's annual timber harvest in 1999 was 3.4 million m³. The long-term sustainable production from the State's 2.7 million ha of commercial forest management units (FMUs) is estimated at 2.5 and 3 million m³.

The wood supply shortage described above has resulted in pressure to continue over-cutting to keep the mills operating. This has fueled a large (and growing) illegal logging trade, in order to generate additional wood supply, over and above the sanctioned harvest levels.

In recognition of this Government plans to restructure the forest industry. By the year 2020, three-quarters of existing saw and plywood mills are to be eliminated and the efficiency and productivity of the remaining mills is to be improved. Although these plans are laudable, there is little or no detail on how they will be implemented. Meanwhile the mills continue to operate and the gap between the legally available wood supply and industrial wood requirement of the wood processing industry widens.

Forest Products Trade

Only the state of Sarawak exports logs. Although log exports have declined in recent years (1996 - 7 million m³; 1997 - 6 million m³; 1998 - 5 million m³, log exports still represent a sizeable portion of Sarawak's annual log production - 45%

in 1998.

The National Timber Certification Council, Malaysia (NTCC, Malaysia) was established in 1999 to establish and administer an independent third party Malaysian timber certification program. NTCC proposes to conduct assessments of the sustainability of Malaysia's forest management units, including assessment of the adequacy of forest law enforcement, and to issue sustainable forest management certificates, as is done by forest certification bodies such as SGS Forestry and SmartWood program of the Rain Forest Alliance, which have been accredited by the Forest Stewardship Council (FSC).

Increasing forest products prices in Malaysia, during the past two years, has spawned a growing trans-border forest products trade, mainly in sawn-timber and rattan. These products are shipped from Sumatra to the West Coast of Peninsular Malaysia, and from Kalimantan to Malaysian Borneo (Sabah and Sarawak), where forest product prices are significantly higher. (*See Timber Imports from Kalimantan, Indonesia to the East Malaysian States of Sabah and Sarawak at back of report*)

Malaysia is attempting to control this trade by documenting the wood shipment and checking to see that forest products imports have the appropriate Indonesian authorization. For example: Sarawak requires that forest products shipments from Indonesia be accompanied by Indonesian custom's authority documents, indicating they have checked and approved for exported.

The higher prices in Malaysia, which have fostered this illegal trade, stem from Malaysia's stronger economy more liberal trade policies and higher standard of living. Although not much can be done to alleviate the fundamental economic differences between the two countries, forest products trade liberalization Indonesia may serve to domestic forest product prices in that country, thereby reducing incentives for wood shipments to Malaysia.

PART 2 FOREST LAW ENFORCEMENT

Sarawak Forest Department - Enforcement Division

Organization of Forest Law Enforcement

Illegal felling and illegal export of logs are of serious concern to the Forest Department Sarawak. For the past decade a separate Forest Enforcement Division has been responsible for prevention, detection and suppression of forest law infractions. The division consists of two units. One is responsible for forest protection and legal aspects and the other for field enforcement activities.

Staff Qualifications, Deployment and Training

The Sarawak Forest Department's Enforcement Division which oversees forest protection and law enforcement, has a staff of 184. Enforcement Division staff consists of an Assistant Director; 2 Senior Enforcement Officers, 20 – 25 Forest Officers, 25 – 30 Forest Rangers, and 120 – 130 Forest Guards. In total, the Enforcement Division accounts for 9% of total Forest Department staff.

There are about 30 enforcement staff at Forest Department Headquarters, 30 at Sibu Regional Office; 46 at Bintulu Regional Office, 56 at Miri Regional Office and 22 at Kuching Regional Office. Regional staff coordinate forest protection and law enforcement activities of the Forest Department's nine administrative divisions.

Forest officers assigned to the Enforcement Division receive training in forest protection and prevention. Those assigned to the investigation and prosecution branches also receive training in investigation techniques and procedures for preparing cases for legal prosecution.

Types of Forest Law Infractions and their Underlying Causes

In Sarawak, infractions of the Forest Ordinance generally fall under two main types.

1) Management Offences

Offences committed by Forest Licence Holders and Logging Contractors within their approved forest licence areas. Such offences are generally detected and acted upon by the Department's **Forest Planning, Management and Registrations Division**. These offences are generally punished by fines, which vary according to the severity of the offence.

Examples of Management Offences by Licencees and Logging Contractors

- ◆ Logging in coupes which have been closed;
- ◆ Logging in coupes without valid Permission to Enter Coupe (PEC);
- ◆ Harvesting of Undersized and Protected Trees by Licencees;
- ◆ Harvesting of species not covered by licence document (Eg. Belian Licence holder cutting Meranti trees, etc.)

Factors contributing to Management Offences

- ◆ Forest enforcement officers depend on Licencees for access to logging areas. Licencee's staff can ensure officers do not observe illegal activities.
- ◆ Harvesting small-sized trees and trees of protected species increases volume and thus reduces unit costs of fixed expenditures - roads, camps and other infrastructure;
- ◆ Anticipation that the area will be excised from the PFE for conversion to Oil Palm plantations (in which case felling of under-sized trees would then be sanctioned)
- ◆ Sarawak's log tracking system starts at forest landing not felled tree, thus enabling illegally harvested timber to be mixed in with timber from sanctioned logging operations, land clearing operations. It is difficult to verify log sources (logs can be substitute logs between felling blocks, or forest licences. For example, an operation which exceeds its annual quota may divert logs to one that is "under-quota".
- ◆ Fines are insufficient to deter illegal cutting. eg: a RM200 per tree (\$50) fine for felling trees illegally may be less than the tree's market value (eg. 2-3 m³ of high value meranti @ RM 500/ m³ = RM 1,000 to RM 1,500). It is often profitable to pay the fine because the value of the timber is higher than the fine. (ITTO, 1998)
- ◆ Low risk of detection. Illegal activities are often in remote locations. Forest Department officers are often only able to inspect activities at the main log pond.
- ◆ Illegal logs can be quickly converted to sawn-timber, which is mixed with timber from legal (documented) sources, thereby destroying the evidence.

◆ Difficulty in reconciling log input of wood processing mills with their product output. Data collection by government agencies depends on reporting by the mills. Recovery rates can be altered to disguise timber from illegal sources.

2) Illegal Forestry Activities

Offences committed by forest licence holders, logging contractors, etc. outside of their sanctioned operating areas, or by other parties who have no timber harvesting or forest use rights. Such illegal activities are dealt with by the Department's **Enforcement Division**. Depending on the type and severity of the offence, they are either fined by the Forest Department, or the case is filed for prosecution by the Attorney General's Department. If the prosecution is successful, the offender may be fined (generally heavier than fines imposed by Forest Department) and/or imprisoned.

Examples of Illegal Forestry Activities

- ◆ Logging by licencees or contractors in areas outside of their approved forest licence;
- ◆ Illegal felling and forest encroachment for agricultural cultivation;
- ◆ Illegal logging by unauthorized parties in forest reserve, state forest, protected area
- ◆ Blockades, sabotage and other forms of civil disobedience by native land rights claimants, designed to hinder operations of forest licencees or logging contractors.
- ◆ Transporting, processing, marketing of illegally harvested timber.

Factors contributing to, or facilitating Illegal Forestry Activities:

- ◆ Relatively low investment and high profits compared to other illegal activities such as smuggling of cigarettes, alcoholic beverages, etc. which requires investment in stock.
- ◆ Relatively weak enforcement, therefore low risk of being detected, apprehended.
- ◆ Easy money and illegality attracts thugs, who finance and protect illegal loggers.
- ◆ High demand for low cost logs in local mills, due to over-capacity.
- ◆ Profits on processing of Illegal timber are high because it is priced below market value. It may also be available on credit terms. Whereas legal logs are more costly because they have paid royalty charges and must be paid for in advance.

Penalties

Penalties for specific infractions are specified under Section VI of the Sarawak Forests Ordinance (1958, amended 1996) along with procedures for dealing with various infractions of forest law. Punishment is commensurate with the severity of the case and whether or not it is settled out of, or in, court. Fines are generally based on the quantity and value of timber involved. Eg. RM 200 (\$50) per stump for illegally felled trees. If the case is settled between the Forest Department and the offender, the fine is generally twice the value of timber involved plus the royalty applicable. If the case goes to court the penalties can be much more severe, eg. 10 times the value of the timber, plus a RM 50,000 fine, plus a jail sentence of up to 5 years.

Examples of penalties which apply to various types of forest law infractions are listed below.

- ◆ Unlawful trespassing in a Forest Reserve - fine of RM 50 (\$12).
- ◆ Obstructing a forest road - 2 years in prison and RM 6,000 (\$1,500) fine plus RM 50 (\$12) per day for every day the road remains blocked.
- ◆ Illegal felling in Forest Reserves and Protected Areas - fine of RM 200 (\$50) per stump. (Eg: unauthorized tree felling; felling under-size trees, felling protected species.
- ◆ If the case goes to court and the offender is found guilty, he may have to pay a fine to the Forest Department of 10 times the value of the forest produce, plus a RM50,000 fine to the court and up to 5 years imprisonment. Eg. Illegal timber export, or exceeding the prescribed annual production limit.
- ◆ False use of government licence marks - 2 years in prison & RM5,000 (\$1,250) fine.
- ◆ Unlawful possession of forest produce 5 years in prison & RM 50,000 (\$12,500) fine.
- ◆ If the forest produce has no government mark, an additional fine of 10 times its value.
- ◆ Compensation for damage caused by commission of an offence against the forest ordinance. Compensation - 10 times value or RM 2,000 (\$500) whichever is greater.
- ◆ All penalties are doubled if the offence occurs at night or for second conviction.
- ◆ The arresting forest officer can also remove persons from the forest who he believes committed forest offences and seize their vehicles and equipment and demolish buildings and other property used in committing the offence.

Reporting

Summary data on the number of forest law cases, fines collected, court cases prosecuted, volume and value of timber seized, etc. is reported in the Forest Department's annual report. Information on: current cases (names of individuals and companies, quantity and value of timber) etc. is published regularly in local newspapers.

Prevention

Prevention of illegal forestry activities is done through a combination of increasingly sophisticated log recording and tracking systems and through public information campaigns.

The Forest Department log tracking system has recently been computerized, facilitating detection of illegal activities. Experiments are underway to introduce bar-coding or electronic implants to improve log tracking and impede falsification of documentation.

Local media, collaborate with the Forest Dept.'s Public Relations Unit to report on campaigns against illegal logging, urging the public to report incidents of forest law infraction.

Recently a large number of village leaders have been deputized as wildlife protection officers, which has increased the Forest Department's presence in the field, providing a valuable additional point to disseminate public relations information, as well as a source of intelligence on illegal wildlife and forest activities.

Detection

Detection of forest law offences relies on information from a number of sources. Forest Licences cover most forest land in Sarawak, with the exception of Protected Areas, therefore licencees and their logging contractors are an important source of information. Forest Licence holders advise the Forest Department's Enforcement Division of illegal timber poaching on their lands. In addition to information provided by licencees and contractors, the Enforcement Division's personnel at regional forest offices also receive information on forest law infractions from other Forest Department officers working in the field. Eg. monitoring compliance with forest management plans and measuring and grading timber for assessment of royalty charges.

Additional information is gathered from a variety of anonymous sources including local residents and officers of other government departments. In 1993, the Forest Department implemented a scheme to award monetary incentives to those who successfully uncover contraband timber.

Permanent forest products checking stations are maintained on the lower portions of the main rivers along which logs are transported - Baram, Tatau and Kemana. These stations operate 24 hours per day, checking shipments to ensure they originate from legitimate sources and that they have transit permits and documents indicating royalty has been assessed, and paid.

Suppression

Field staff of a forest licence or timber contractor generally report forest law infractions to their company headquarters, which reports these incidents to the regional forest office. Once illegal forestry activity has been reported, the forest department officers investigate.

Depending on the severity of the infraction, they may enlist the assistance of police officers, in furthering the investigation, making arrests, seizing timber, seizing equipment (saws, tractors, trucks, etc.) and preparing court cases against the perpetrators.

One useful tactic in suppression has been to concentrate on the main perpetrators rather than spending a lot of time and effort on small offenders. Several large, illegal logging syndicates have been identified and put on continuing surveillance. In one case a repeat offender was put on "restricted residence" and prohibited to reside in or visit areas where he traditionally exerted influence on illegal logging.

Fines

According to Part VI of the forest ordinance, the statutory fine for theft or destruction of commercial timber is 10 times the value of the produce (as determined by the director). For example: a 10 m³ truck load of *meranti* (*Shorea spp.*), would be fined 10 times its market value - RM 400 per m³ (\$100/ m³) - or about RM 40,000 (\$10,000). Trucks and other equipment used in illegal logging operations are seized and held pending payment of fines. These would appear to be adequate penalties to deter illegal logging.

However, in reality fines are often not collected, because the perpetrators can not be apprehended. The average fine actually collected (total fines collected divided by total timber volume seized) in the four year period between 1995 and 1998 was equivalent to RM 100 (\$25) per m³. The total fines collected amounted to RM 9.3 million (\$2.5 million), while the market value of timber seized was RM 32 million (\$8 million), or triple the value of fines. This highlights one of the main problems in forest law enforcement. That is, the tendency for timber poachers to move their equipment out of the area and abandon the illegal logs once detected. The only so-

Table 3: Summary of Forest Offences and Penalties (1995 - 1998)

Parameter	1995	1996	1997	1998	1995-98	Average / %
Cases Detected (No.)	231	309	279	288	1,107	277
Timber Volume (m ³ rwe*)	15,000	25,000	33,000	20,000	93,000	23,000
Approximate Value (RM)**	RM 5 mil	RM 8 mil.	RM 12 mil.	RM 7 mil	RM 32 mil	RM 8,000
Average Volume/Case m ³	65 m ³	80 m ³	120 m ³	70 m ³		85 m ³
Average Value/Case (RM)	RM 22,000	RM 25,000	RM 43,000	RM 24,000		RM29,000
Cases Fined (Number)	217	298	253	262	1,030	257
Total Fines (RM)	RM1.3 mil.	RM 2 mil.	RM 4 mil.	RM 2 mil.	RM 9.3mil	RM2.3 mil
Average Fine/case (RM)	RM 6,000	RM 7,000	RM 15,000	RM 7,000	RM35,000	RM 8,750
Average Fine / m ³ (RM)	RM 87	RM 80	RM 120	RM 100	RM 378	RM 116
Cases Prosecuted	14	11	26	26	77	19
Pending Trial / Adjourned	8	2	16	13	39	51%
Acquitted / Withdrawn	4	7	3	2	16	21%
Convicted (Fined/Jailed)	2	2	7	11	22	28%

Source: Forest Department Sarawak, Annual Reports 1995-1998. * Round-wood equivalent ** Based on avg. log value

lution to this problem is quick, decisive and confidential follow-up action on all cases detected. The shortfall in collection of potential fines has two negative impacts on enforcement. First the deterrent effect fines is lost and second, less funds are available.

Summary of Forest Offences

As shown in Table 3, the Sarawak Forest Department's Enforcement Division documented 1,107 incidences of forest offences involving 93,000 m³ between 1995 and 1998. There were an average of 277 infractions per year, involving 23,000 m³ (log equivalent), with a average annual value of RM 8 million (\$2 million). The average case involved 85 m³ (log equivalent) of timber with a value of about RM 29,000 (\$7,000).

The vast majority of forestry offenses (93%) were settled through payment of a fine. About 7% of the cases detected led to prosecutions. These are the more serious infractions of forest law. Court cases are prepared for trial by the forest department and police and then passed on to the State Attorney General's Department for prosecution. Of the cases prosecuted between 1995 and 1998, 21% were acquitted, 26% were found guilty and fined or jailed, and 53% remain unresolved (pending, appealed, suspended, etc.).

Of the 38 cases filed for prosecution in 1999, 5 pleaded guilty, 2 were convicted, 2 were stricken due because the warrant for their arrest could not be served, and the other cases are in various stages of preparation or prosecution.

Two factors determine whether a case is settled through payment of a fine, or referred to the court for prosecution. These are: seriousness of the case (volume of timber involved, nature of the

infraction, etc.); and the deterrent effect that a successful prosecution could have in geographic areas where illegal logging is rampant.

Trends in Sarawak's Illegal Timber Trade

During Asia's 1997-98 financial crisis demand and price of timber declined. This resulted in a decline in illegal forestry activity. In 1999-2000, timber prices recovered as shown in Table 4. Accompanying these price increases, there was an increase in the incidence of forest law infractions. During the first quarter of 2000, 8,055 logs (23,000 m³) were confiscated, compared to 7,600 logs (16,700 m³) during the whole year of 1999. The level of prosecution also increased, with 14 cases tried and 11 cases pending trial during the first quarter of 2000, compared to an average of 19 cases tried annually between 1996 and 1998.

The average annual volume of illegal timber detected (23,000 m³/yr) is small (0.15%) compared to the 15 million m³ average annual volume of legal timber harvested (1996-98). As shown in Table 5, Sarawak exported an average of \$2 billion worth of forest products annually, during the period. Comparing this to the annual value of illegal wood confiscated (\$2 million), it would appear that illegal logging is relatively insignificant - equivalent to 0.1% of the legal forest products trade. Two alternative conclusions that can be drawn from the above results:

- 1) illegal logging in Sarawak is a relatively minor problem;
- 2) the quantity of illegal timber detected, documented and confiscated represents only a portion of the total illegal timber trade.

Table 4 - Average Export Price of Logs (Rm/m³) By Species (1996 - 2000)

Species	1996	1997	1998	2000 (to May)
Meranti	361	386	346	550
Kapur	359	398	354	560
Keruing	354	410	425	590
Selangan Batu	386	386	463	660
Nyatoh	274	304	276	490
Mersawa	340	407	482	530
Mixed Light Hardwood	254	228	227	300
Sepetir	228	275	290	266
Average Log Price (RM/m ³)	RM 310	RM 348	RM 354	RM 478
Average Log Price (RM/m ³)	RM 310	RM 348	RM 354	RM 478

Source: Statistics of Timber and Timber Products Industry - Sarawak Timber Industry Development Corp.(1999)

There is insufficient data available to determine conclusively which of these conclusions more valid. The fact that illegal logging continues to be a problem is an indication that significant volumes of illegally harvested timber are still able to avoid detection and seizure.

Strengthening Forest Protection and Enforcement

In 1992 the Preventive and Protection Branch of the Sarawak Forest Department was strengthened through formation of a Forest Enforcement Division, which is responsible for collection of intelligence, detection and investigation of infractions of the Sarawak Forest Ordinance. The unit

also works closely with the police to apprehend perpetrators of forest law infractions, as well to confiscate their equipment and timber.

The Enforcement Division (as it is now called) was initially staffed by regular Forest Department officers. However, in recent years the unit was strengthened by the addition of ex-police officers, including some from the Criminal Investigation Division (CID). There are several reasons for this:

- ◆ Firstly, ex-police officers are more experienced in criminal investigation procedures.
- ◆ Secondly, through their police and judiciary contacts they can facilitate cooperation of

Table 5: Sarawak Forest Products Export Earnings 1996-98 (RM 000)

Forest Products	1996	1997	1998
Logs	2, 295,723	2,305,627	1,739,351
Sawntimber	1,128,856	963,823	835,573
Plywood	2,082,685	2,125,797	1,994,878
Veneer	414,347	515,743	414,348
Dowels	18,356	20,954	30,659
Mouldings	17,305	23,158	34,742
Laminated Board	48,217	59,730	89,197
Woodchips	G na	9,461	12,322
MDF	NA	69,608	85,322
Particle Board	NA	33,930	21,447
Block board	6,692	8,215	14,452
Parquet Flooring	NA	5,558	13,768
Other Wood Products*	NA	28,725	29,724
Total - Wood Products	6,019,378	6,170,329	5,315,783
Total US \$ Equivalent	\$ 2.4 Billion	\$ 2 Billion	\$ 1.4 Billion
Total - All Exports	18,429,881	21,089,900	20,126,900
Wood % of Exports	33%	29%	26%

Source: Statistics of Timber and Timber Products Sarawak 1999, Sarawak Timber Industry Development Corporation

Note: 1996 RM 2.5 = \$1; 1997 RM3 = \$1; & 1998 RM 3.8 = \$1 *Includes: Poles, piles, sleepers, pallets, windows, doors, charcoal, sawdust, wood waste, etc.

these agencies in investigating, preparing and prosecuting forest law cases.

- ◆ Thirdly, ex-police officers are more effective in dealing with the ruthless tactics of organized crime groups which often fund and protect illegal loggers⁷.

Prosecution of forest law cases, formerly handled by Forest Department lawyers, has been transferred to the State Attorney General's department, where lawyers and judges, with experience in forest law, are now responsible for trying such cases. This has served to reduce attempts, by offenders and their associates, to influence the outcome of illegal forestry cases.

Since 1993, the Forest Department has initiated a system of rewards to teams of police and Forest Department Officers who successfully apprehend illegal loggers and seize their timber and equipment. Under the reward system half of the proceeds from the sale of illegal timber and equipment are given to the team of officers who worked on the case. This has proven to be a strong incentive for increasing initiative of forest law enforcement officers.

In order to prevent re-acquisition of seized logs and equipment by illegal loggers at auction sales, the timber and equipment is often moved to another district, where the auction sale is conducted. If it cannot be relocated, then the timber and equipment can be rendered unusable.

Recently the Forest Department has been authorized to utilize helicopters from the Sarawak Timber Industry Development Corporation (STIDC) to conduct forest law enforcement work.

Sabah Forest Department - Enforcement Unit

Organization and Staffing of Enforcement Unit

The Sabah Forestry Department has a total staff of approximately 1,600, of which approximately 130 are professionals and semi-professionals. Approximately 1,300 staff have permanent positions, while 300 work on temporary contracts. Forty percent of the professional staff are permanent employees, while 60% are on temporary contracts. Forest law enforcement is carried out as part of ongoing forest management and protection activities of the forest department.

The Sabah Forestry Department has recently

restructured its forest law enforcement units and strengthened its capability to respond to illegal forestry activity. The enforcement unit oversees prevention, detection and preliminary investigation, while the legal division prepares and prosecutes cases involving offences against forest law. Enforcement operations are the responsibility of a Senior Assistant Director (Enforcement) who reports directly to the Director of Forestry at Forestry Department headquarters in Sandakan. Field enforcement is carried out by enforcement units located at each of five regional forestry offices. Regional enforcement officers supervise the activities of forest officers, guards, rangers, and support staff at more than 20 district forest offices located throughout the state. The legal division consists of a lawyers on secondment to the Forestry Department from the Sabah State Attorney General's Department.

Staff Training

Forest officers assigned to the Enforcement Unit receive training in forest protection and prevention. They also receive training in investigation techniques and procedures for seizing and securing evidence, and for preparing cases for legal prosecution.

Types of Forest Law Infractions

In Sabah there are three main types of forest law infractions.

- ◆ **Infractions against the Forest Enactment** by forest licence holders, logging contractors outside of their sanctioned operating areas and by other parties who do not have timber harvesting or forest use rights.
- ◆ **Breaches of Forest Licence Conditions** by Forest Licence Holders and Logging Contractors, within their approved forest licence areas.

All illegal activities are dealt with by the Forest Department's Enforcement Unit and are punished by fines, imprisonment or a combination of the two. Penalties for specific infractions are specified in the forest enactment as well as in individual forest licences.

Penalties

Part IV of Sabah Forest Enactment 1968 specifies penalties and procedures for forest offences. In addition, each forest licence includes a separate schedule of penalties that apply to "Breaches of Licence Conditions".

⁷ These elements wage ruthless intimidation campaigns against forest enforcement officers — terrorizing the them and their families. Newspaper articles document cases of personal injury and property damage involving stoning, arson and attacks with acid, samuai swords etc. directed at officers who attempt to enforce forest law.

Punishment is commensurate with the severity of the case and the volume of timber involved, duration of the infraction, etc. eg. RM 500 per log; 3 times log export royalty; RM 1000 per detection; or RM 1000 per day during which the infraction continues.

Fines range from as little as RM 100 (\$25-\$50) per log, for felling on steep slopes or removing timber without a property mark or removal pass. Abandoning logs and failing to have timber check-scaled are punishable a fine equal to 2 to 3 times export royalty rate. Serious breaches such as failing to submit a logging progress map, cutting in areas where permission has not been granted are punishable by fines of RM 5,000 (\$1250) per month.

Stiffer fines apply to offences against the Forest Enactment 1968 and other laws (up to RM500,000.00 and prison sentences of up to 20 years. Cancel For example: illegal logging and removing of forest produce from a forest reserve is punishable by a mandatory imprisonment for a term of not less than one year but not exceeding 20 years and a fine not exceeding RM 500,000.00.

Reporting

Regional forest department offices receive reports of illegal forestry activities from regional and district staff and from the public and these are reported to Forest Department Headquarters daily. Reports show details of each infraction detected and the status of investigation. Weekly summaries are prepared by the head of the enforcement unit and forwarded to the director.

Summary data on the number of cases detected, fines collected, court cases prosecuted, volume and value of timber seized, is reported in Forest Department annual reports. The press publishes frequent information on cases of forest law infractions.

Prevention

Prevention of illegal forestry activities is done through a combination of:

- ◆ forest department's log recording and tracking system facilitates detection of illegal forestry activities as well as ensuring efficient and complete revenue collection;
- ◆ inspections of wood processing operations including log-input versus product output;
- ◆ rules and regulations which make illegal activity more difficult and detection easier (example: prohibition of timber transport at night);
- ◆ assistance from police, media other agen-

cies including the Anti-corruption Agency;

- ◆ public information campaigns in local media including articles on illegal forestry activities, urging the public to report forest law infractions and providing names and telephone numbers of Forest Department officers. The public is urged to report non-cooperative officers.

Detection

Detection of forest law offences relies on a wide variety of information sources. These include: forest department staff, forest licence holders and their logging contractors, anti-corruption agency and the general public. The majority of the 300 cases of forest law infractions are detected annually come from forest department officers who are continually in the field, monitoring compliance with forest management plans, measuring and grading timber for assessment of royalty charges. The second major source of information comes from local residents and officers of other government departments, including the marine police, and anti-corruption agency. Monetary rewards are offered to those who provide information leading to successful detection and suppression of illegal activity.

Suppression

Field staff of a forest licence or timber contractor generally report forest law infractions to their company headquarters, which reports these incidents to the regional forest office. Once illegal forestry activity has been reported, Forestry Department officers must investigate within 24 hours. Depending on the severity of the infraction, they may enlist the assistance of police officers, in making arrests and in seizing timber and equipment (saws, tractors, trucks, etc.) used in the illegal activity. Following arrest and seizure, the forest officers (sometimes with assistance from the police) prepare the investigation paper for further court action against the perpetrators. Court cases are prepared for trial by the department. Prosecution is by lawyers on seconded to the Forestry Department by the State Attorney General's Department.

Summary of Forest Offences and Penalties

Of the 47 cases prosecuted, 39 have been completed and the remaining 8 cases are pending. As shown in Table 6, 400 forest law offences were reported and investigated by Sabah Forestry Department's Enforcement Division in 1999 and first half of 2000. The majority, of the cases (78% of cases reported) involved fines, warnings, etc. About 12% of the cases detected (47 out of 400) were of a more serious nature and led to prosecutions.

Table 6: Summary of Forest Offences and Penalties (1999 - 2000)

Parameter	1999	2000 (1st half)
Cases Reported & Investigated (No.)	302	98
Timber Volume Seized & Auctioned (m ³ rwe*)	32,000	24,000
Auction Sales Revenue (RM)	RM 5.2 mil	RM 1.3 mil.
Average Volume/Case m ³	106 m ³	245 m ³
Average Value (fine & auction sales)/Case (RM)	RM 17,880	RM 13,265
Cases Settled by Forest Department	264	89
Total Fines (RM)	RM 0.5 million	Data Not Complete
Cases Prosecuted	38	9

Source: Sabah Forestry Department, Internal Reports on Forestry Law Enforcement. *rwe = roundwood equivalent.

During 1999 and 2000 (1st half) investigation of forestry offences led to seizure of 20,000 logs and flitches (56,000 m³). RM 560,000 (\$150,000) in fines were collected and auction sales of seized wood and equipment generated revenues of RM 6.5 million (\$1.7 million). The average case involved 140 m³ of timber and fines or seizures of RM 17,500 (\$460).

Fines versus Seizure of Timber and Equipment

The aggregate value of fines collected in 1999 and the first half of 2000 was RM 560,000. (\$147,000). Based on the volume of timber seized during this period, (56,000 m³) this represents only RM 10 (\$2.60) per m³. The market value of the timber seized is RM 300 (\$75) per m³. The value of fines collected is insignificant compared to the timber values involved. The reason for the inadequacy of the fines is that fines are only collected on a relatively small amount of the timber seized. In most cases the parties responsible cannot be identified and apprehended. Therefore fines do not act as a deterrent to stop illegal logging.

The Forestry Department has found a more effective deterrent is to seize the timber and equipment used in the illegal activities and apply for a court order to dispose of the goods (by auction sale) before they deteriorate or are recovered by the poachers. Where auction sale is not practical, due to remote location, etc., and there is a danger that the perpetrators may recover the seized goods, timber is can be rendered unusable and equipment immobilized, at the discretion of the field officer in charge of the case.

Trends in Sabah's Illegal Timber Trade in Sabah

There are mixed signals on whether illegal forestry activity is increasing or decreasing. Gen-

erally, one would expect illegal logging to increase when there are timber supply shortages and log prices are increasing. Sabah's log supply declined from 5.2 m³ in 1998 to 3.4 million m³ in 1999. This decline in log supply was accompanied by increased log prices.

In spite of these trends, the number of cases reported of illegal forestry activity declined. (98 reported infractions in the first half of 2000 compared to 302 reports of illegal activity in 1999).

Prosecutions also declined. (38 cases, involving 150 persons, in 1999; compared to only 9 cases, involving 17 persons, in the during the first half of 2000.)

Although the number of cases detected and prosecuted is declining, the volume of illegal timber seized increased. During the first half of 2000, there were 11,175 logs and flitches (32,000 m³) seized. In the whole year of 1999, 12,200 logs and flitches (39,000 m³) were seized.

During recent years, the volume of illegal timber detected annually ranged from 30,000 to 50,000 m³ per year⁸. This is about 1% of the total annual timber harvest of 3 to 5 million m³. In value terms, Sabah produces RM 1 billion (\$270 million) worth of timber annually. Illegal timber seized annually is valued at RM 10 million (\$3 million), or about 1% of the legal forest products trade. The fact that illegal logging continues, and that the volume of wood seized is on the increase, is an indication that significant volumes of illegally harvested timber are avoiding detection and seizure.

Strengthening Forest Enforcement Unit

The Sabah Forestry Department's Enforcement Unit has been strengthened since early 2000 with new requirements for daily reporting of illegal forestry activity and posting of forestry officers at

⁸ 32,000 m³ in 1999 and 24,000 m³ during the first half of 2000

major wood processing mills to reconcile product output with incoming timber supply shipments.

Linkages with other government agencies, such as Malaysia's Anti-corruption agency, police and State Attorney General's Department are also being strengthened. In addition, field inspections have been increased to ensure that forestry officers are carrying out their responsibilities according to prescribed procedures.

Constraints to Forest Law Enforcement

According to the Sabah Forest Department's Enforcement Division, personnel, financial resources and the legislative framework are sufficient to reduce illegal forestry activity to accept-

able levels. However a number of factors constrain efforts to stop illegal logging.

- ◆ A large portion of the professional staff (60%) are hired on temporary basis and therefore suffer from a lack of job security, which negatively impacts their resolve and initiative, as well as increasing temptation to accept favors for ignoring illegal activities.
- ◆ Large over-capacity in wood processing sector results in constant shortfall in log supply, which drives a thriving market for illegal logs.
- ◆ In the past judgements on illegal forestry cases were often lenient. This demoralized officers investigating and preparing cases. However recently penalties have been more severe.

PART 3 CONCLUSIONS AND RECOMMENDATIONS

The overview of forest law enforcement in East Malaysia illustrated that the level of illegal logging in the two states is small (in the order of 1% or less) compared to the legal wood products trade.

The study highlights a number of measures being implemented to strengthen efforts to combat illegal logging in the two East Malaysian states. These measures have led to recent increases in apprehensions, seizures and prosecutions. However, many of the underlying causes of illegal logging remain.

The following are suggested improvements, from the agencies in charge of forest law enforcement, to further strengthen forest law enforcement.

- ◆ Concentrate on strong cases against large, organized syndicates or networks of illegal loggers, ie. not to waste time and effort going after “small scale” illegal loggers.
 - ◆ Expedite apprehension of illegal loggers using mobile strike forces to cut the time between detection and taking action on illegal activities. This will increase seizures of timber and equipment and thus have a greater deterrent effect.
 - ◆ Improve surveillance, monitoring and enforcement activities through the use of remote sensing satellite technology and geographic information services (GIS).
 - ◆ Refine existing computerized log tracking system to include log tracking from the stump or felling block, rather than log pond. Use bar coded tags or implant technology
- currently used to detect retail shop lifting to increase the difficulty of falsifying documentation.
- ◆ Increase the role and participation of forest licence holders, contractors, local communities and other stakeholders in Forest Law Enforcement activities. A programme similar to that adopted to strengthen enforcement of the Wildlife Ordinance could be considered. Ie. appointing community leaders as wildlife protection officers.
 - ◆ Ensure that judges understand the severity and consequences of illegal forestry activities in order that their judgements (fines, imprisonment) are severe, and act as a sufficient deterrent.
 - ◆ Improve benefits and incentives for forestry officers involved in law enforcement - particularly those on temporary postings.
 - ◆ increase number of permanent posts for forest law enforcement
 - ◆ improve insurance, pensions, medical coverage, etc. for those on temporary postings.
 - ◆ refine and strengthen the (performance-based) system of rewards (portion of proceeds from sales of seized timber and equipment going to enforcement team members.
- Increase the penalties (fines, imprisonment, etc.) for forestry law infractions. Attempt to standardize penalties with other states (as per National Forest Act).

Transborder Timber Trade (Kalimantan, Sabah and Sarawak)

1) Estimated Timber Trade Kalimantan to Sarawak

Three Timber Import Depots of Harwood Timber Sdn. Bhd.* receive and transship about 50,000 m³ month (about 500,000 m³/ annum) of rough sawn cants, as shown below:

Sematan Depot (Sea transit) - 20,000 – 30,000 m ³ per month	250,000 m ³ /annum
Tebedu Depot (Land transit) - 10,000 – 20,000 m ³ per month	150,000 m ³ /annum
Lubok Antu Depot (Land) 5,000 – 10,000 m ³ per month	100,000 m ³ /annum
Total - Documented Timber Imports	+/- 500,000 m ³ /annum
Estimated - Un-documented Timber Imports	+/- 250,000 – 500,000 m ³ /annum
Total Timber Imported from Kalimantan to Sarawak	0.75 – 1 million m ³ /annum

* A subsidiary of Sarawak Timber Industry Development Corporation (STIDC)

2) Estimated Timber Trade Kalimantan to Sabah 0.75 – 1 million m³/annum (see below)

Source: Harwood Timber Sdn. Bhd., Jalan Satok, Kuching, Sarawak, East Malaysia

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British Broadcasting Corporation (BBC) News Services Article on Trans-border Wood Theft between Indonesia & Malaysia

Indonesian Official On Evidence Of Illegal Logging By Malaysians

Samarinda: Aerial and satellite imagery of the East Kalimantan forests showed roads leading into Malaysia being used by logging business operators. "Evidence of timber looting - such as aerial photos, logging tracks and heavy equipment - is clearly there, yet so far nothing is being done about this activity, which is causing losses to the country," according to Risman Situmeang, secretary of the East Kalimantan Indonesian Reformist Timber Association, as quoted by Antara news agency, in Samarinda on Saturday. "Theft of forest timber in the East Kalimantan-Malaysia border areas Has been going on for a long time. It shows how weak the security situation is in those areas," he said. In a visit to the border area, a regional assembly (DPRD) delegation found a network of tracks made to support timber extraction... After receiving a contribution of 5bn rupiah from the Indonesian Plywood

Association (Apkindo) to help eliminate illegal timber felling and removal, Forestry Department Secretary-General Suropto told reporters in Jakarta last Wednesday (21st June) that officials

had arrested two spies from Malaysia, who were conducting surveillance in the area of timber smuggling. Suropto said the spies, caught in East Kalimantan, had stated that the illegal timber removal involving Malaysians had been going on for six months and was under the protection of the Malaysian armed forces (ATM).

He estimated the quantity of smuggled timber from East Kalimantan at 80,000 – 100,000 cu.m per month, 150,000 cu.m. per month from West Kalimantan and 70,000 cu.m. per month from Riau. Data for Sorong was not available. During Operation Tarakan last May, Kostrad Army Strategic Reserve Command troops in Sabah-East Kalimantan (Nunukan District) found heavy equipment, ammunition, a tent camp, a diesel fuel tank,

piles of logs to be smuggled out, and a camp mess bearing the Malaysian army insignia.

Suropto was therefore determined to form a joint Indonesian-Malaysian fact-finding team to investigate the theft of timber in the border area. He said that the Malaysian ambassador to Indonesia, Dato Rastam Mohd Isa, had reacted positively to the proposal.

Source: BBC News Service, June 2000

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