Approaches to Controlling Illegal Forest Activities: Considerations from Southeast Asia

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The Asia Forest Network supports the role of communities in the protection and sustainable use of natural forest. AFN is comprised of a coalition of Asian planners, foresters, and scientists from government agencies, universities and non-government organizations. Solidarity of AFN members is based on a common commitment to exploring alternative management strategies for Asia’s natural forestlands. AFN’s research emphasis includes the ecology of natural regeneration, the economics of non-timber forest product systems, and the community organizations and institutional arrangements that support participatory management. Lessons stemming from this research are used to inform field implementation procedures, reorient training, and guide policy reform.

The insights shared in this report are drawn from experiences of the network, but the views are entirely those of the author.

Front Cover Photo: Subsistence Living in Unsustainable Uplands. This family scavenges for debris carried by the floods that ravages Eastern Luzon, Philippines in December 2004. Turning the wood debris into charcoal sold at P65 (1 Euro) per sack is providing the family instant but short-term livelihood. (Infanta, Quezon, Feb 2005)

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This paper discusses illegal forest activities from the perspective of tropical timber producing Southeast Asia increasingly aware of growing social and environmental interrelatedness. For any strategy to be effective in curbing illegal forest activities, it is inevitable that the local producer end of the problem is highlighted and with primacy. AFN focuses upon this regional context wherein the underlying causes of illegal forest activities are nested and nurtured and the authors have drawn on the experiences shared over the last ten years. The consumer end of the problem – as part of the picture of illegal forest activities – needs to be understood for the interplay of external consumer policies within the context of underlying causes. The policies being referred are those of the European Union communicated through the “Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT)”\(^1\). This paper is not meant to give an in-depth study of the policies or the problems but a reflection on what has been learned from working with local people and bureaucracies in Southeast Asia.

There are four main messages embedded in this paper:

First, the underlying poverty embedded in illegal forest activities needs to be recognized. Regardless of the scale of illegal logging happening within timber-producing developing countries, it can be ascertained that behind the scenes or in the forefront are the rural poor whose lives depend on forests and forest resources. These rural poor are “situated” within the scope of systemic illegality of different sources. Experience of working with policies and local communities reveals that in curbing illegal logging in Southeast Asia governments have to first address the needs of people subsisting within and dependent on the forest and related illegal activities.

Second is the necessity of a stronger community-based approach in curbing many of the illegal forest activities, in consideration of the above context. Community forest management (CFM) has earned a substantial position in forest sector dialogue throughout the region. Nonetheless, identification of striking results through CFM in the past decade of implementation is limited. The grounds for limited effects have been identified especially in the context of the Philippines where the government’s initiative in laying out enabling policies for devolved natural resource management has been the longest. Translating policy to implementation through exploring mechanisms that enhance effective governance and capacity building are the primary areas filling the gap between policy crafting and results on the ground.

Third, illegal logging always has a political opportunity attached to it as it is a highly charged accusation that inevitably calls into question the accountability of all branches of government. Information on illegal logging – and logging for that matter – can be misused socially and environmentally without necessarily responding to the concerns of primary importance. Though illegal logging must be stopped it should not be done so at the cost of an adequate response to other more critical problems of human risk in the face of what actually causes different human disasters.

Fourth, AFN offers recommendations to close the gaps seen in the current approaches of EU policies towards illegal forest activities and the realities of forests, forest communities and the forest sectors of Southeast Asia. The EU policy package includes the “FLEGT Action Plan” and the objective areas for funding under the “Programme on Tropical Forests and other Forests in Developing Countries.”\(^2\) The point of discussion unpacks the effectiveness of the EU approach in the light of regaining a balance between trade and aid approaches with respect to the current conditions in the region.

While there is value in this EU trade initiative and lessons are already being learned and action taken, it would also be of critical value that a reassessment, rewording and prioritizing of concerns and relations be communicated with appropriate mechanisms. Shifting towards trade at too early a stage can preempt sustainability and effectiveness of other approaches, as clarifying tenure, delivering basic services, realistic and transparent forest charges and getting greater emphasis on preparing and implementing verification/certification systems.
This section describes the different illegal activities happening in the forests of Southeast Asia and explains why the global language needs to shift from illegal logging to illegal forest activities. It also describes how illegal forest activities relate to poverty and other issues that marginalize people dependent on natural resources.

1.1 Broadening the Context of Illegality

Laws are the basis for determining the legality of a certain action or transaction. Logging is legal if it is done according to the law, but it may not be necessarily what is socially legitimate if it lacks recognition of de facto rights. De facto rights are based on the survival of citizens who are not clearly encompassed in a government’s primary responsibilities and actions but who need to be acknowledged for such a government to consider itself legally binding to its constituents. Conversely, forest activities of some communities may be de jure illegal but de facto these activities may be considered as socially legitimate. Many Southeast Asian forest policies that are in effect – technically and in practice – view the following circumstances as illegal because the people involved operate “without a license”:

- “squatting” or living in state forestlands that have been allocated for specific purposes (concession areas, natural parks, protected watersheds, civil and military reservations)
- “slash-and-burn farming” or clearing forests through the many forms of swidden cultivation as subsistence livelihood
- extraction from government-declared protected areas (watersheds, natural parks) for home consumption or for local sale
- extraction of officially-declared protected species for home consumption

Talking about “illegal logging” all the time does not adequately balance the sense of a government’s responsibility. By talking about illegality only in the context of logging, emphasis is given solely to loss of the timber resource and at times habitat, and the accompanying loss in national revenues, without recognizing other illegal activities occurring in state forestlands and the inequalities created. Emphasizing the illegality of resource extraction without recognizing both the inequalities that exist and the further pressures that “illegal” activities put on the local people gives more legitimacy to governments with weak social legitimacy. Illegality needs to encompass not only considerations of the laws but also the socio-cultural legitimacy of these laws.

The reverse also applies: though policy establishment makes the action legal, this policy may not necessarily be socially responsive. If the objective
is to sustain the forest resources of countries in Southeast Asia, this paper considers the following practices as unsustainable and illegitimate – even if these operate “with licenses”:

- Cutting by companies or forest management groups in areas outside of their legal rights;
- Government or semi government cutting, in forestlands where laws are not followed;
- Cutting or burning forests not for the logs but to make easier tenure access or land use classification changed to high-value agricultural production;
- Applying for forest concessions, not for the timber, but for the mineral resources underneath and carrying out such transactions without transparency;
- Shortcutting processes in development projects that otherwise ensure free and prior informed consent of local communities. These shortcuts violate not only policies where these are in place but also the social legitimacy of the project;
- Endorsing certified status to forest management units without relevant processes of assessment; namely, adequate social consultation, and contextually relevant local standards;
- Delineating upland areas as protected water sources by local governments without socially responding to the impacts of the policy on the people living within these watersheds;
- Not leaving adequate area for local activities by communities established due to previous forest use licenses;
- Cutting of non-wood forest products (e.g. rattan, licensed or unlicensed) when usurping local de facto rights;
- Cutting or clearing areas that are of local, cultural and spiritual significance;
-Demanding shifts in practices without providing adequate support to learn new approaches and connect to viable markets.

Thus, this paper has shifted from the language of curbing illegal logging to that of the broader perspective of curbing illegal and illegitimate forest activities.

1.1.1 Illegal Forest Activities and the Rural Poor

Illegal forest activities are occurring at different magnitudes, involving an extensive network of actors. From a global perspective, the tangle is between consumer and producer countries, and all along the way, having sectors that consort to shield trade and its covert practices.

Heavily logged forest (upland Mindanao, Philippines, 2003)

While the import of forest products generated through illegal forest activities jeopardizes control in importing countries, it also needs to be acknowledged that there is a tendency for this perspective to overshadow the on-going problems within producer countries. These local problems are of great social and or environmental impact and may be aggravated by the legal or moral arguments from the standpoint of justice and equity in a timber importing country. Every effort should be taken to ensure that any global action reinforces the necessary changes within a country environmentally and socially and not weaken the resolve to work on necessary local correctives in line with the global effort under the Millennium Development Goals of halving poverty by 2015.

Law enforcement is broadly considered as the first step in coming to terms with ‘illegal logging’, however, among all those involved, it is the rural poor that become one of the first and hardest to be hit with law enforcement. This is whether the operations are small-scale involving the local market or organized large-scale modus operandi to meet export demand.
In Southeast Asia, poverty is largely at the center of the continuity of illegal forest activities. Rural areas with limited or rich forest resources have relatively lower human development indices that represent between 40 to 80% of a country’s population.4 With these socio-economic realities it is important to understand the different levels of illegality, how the rural poor figure in the complexities of policy and practice, and the conditions invoking forest communities to engage in illegal activities.

1.1.2 Levels of Illegality

The first level of illegality in forest activities is defined by the nature of the actions to be small in scale and low in intensity, and connected by the motive to securing basic subsistence needs. These actions occur often in the midst of the lack of other options or skills to secure subsistence. Rural communities engage in “illegal” activities that modify land use through low-intensity farming, grazing and resource extraction using simple methods often based on traditional knowledge. The activities are focused on home and local consumption needs. Detailed research in various instances shows that these “problematic” actions are sustainable and non-controversial, being only “problematic” being only problematic when there is population pressure or illegal in the light of sweeping policies banning particular types of practices but not viewed in the context within which these practices occur (Box 1).

Especially in countries without frameworks or programs for community forest management, traditional practices of shifting cultivation and fuelwood gathering may be quickly termed illegal in forestlands allocated by government for other

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**Box 1. First Level of Illegality – Subsistence**

**In Viet Nam**

Between the late 1960s and early '90s, North Vietnam and then the unified country of Vietnam resettled around 5 million people from lowland provinces into the uplands. The programs were designed to increase cultivation and to exploit the natural resources in areas seen as underutilized. This dramatic shift in Vietnam’s forest management brought about a drastic decline in the country’s forest resources. In 1991, the Ministry of Forestry classified 10 out of 19 million hectares of designated forestland as barren.... State policy often placed local users of forest resources in direct conflict with state managers. By excluding local residents from access to forestland, the policy separated them from a resource that was a crucial source of cash and subsistence goods. ... The state, however, was often not able to enforce its legal restrictions. The people continued using the forests for subsistence and to generate income. Particularly in remote areas, where lack of infrastructure hampered state management, local people often managed the forests.


**In Indonesia**

Indigenous Moronene people were forcibly evicted from their homes within the Rawa Aopa Watumohai National Park in Sulawesi, Indonesia in October 1998 by local government officials, National Park staff and troops. Eighty-eight of the indigenous people’s houses were burned in the operation. This follows a similar incident in 1997 when 175 houses were burned and around 300 families forced to move. The Moronene claim the forested land is their ancestral territory. Those who were forced to move in 1997 were offered no alternative land or means of support, and remain living in the area.


**In Thailand**

It was mid-day when they burned down Tungpaka village. Thirty armed men walked casually from house to house, torching the tinder-dry buildings. “They didn’t say anything. They just set the houses on fire while most of the people were in the fields” says a local member of the Lahu tribe, standing in the weeds that now grow where his family once stood. Thirteen houses, as well as crops, where destroyed in the unreported raid in March 29, 1999 on the village in Chiang Mai province, leaving 60 people homeless. Over 600 hilltribe people have been evicted from their villages in 1999 according to support groups, and thousands more are thought to be under threat.

The Thai authorities claim the mountain people are wrecking the ecological balance of the region. They are accused of using slash-and-burn agricultural practices, cutting down trees on public land to plant cash crops such as lychees and cabbages. Plodprasop Suraswasdi, director-general of the Royal Forest Department, says no one should underestimate the severity of the risk posed by the tribe people’s activities.

exclusive purposes. Such moves are suggestive of a lack of social legitimacy on the part of government policy, rather than where alternatives are developed for communities whose practices are shown to be unsustainable and then made illegal.

For such cases, condemning the actions as illegal does not help the local people caught therein. Unfortunately, given the historical, structural, and social legacy of the forest sector over hundreds of years, much of the association is still limited to an oversimplified finger-pointing at forest communities as the culprits of forest loss. The same legitimacy given to the political control of large areas of agricultural land and the growth of landless workers is all too lately addressed and seen as systemic in the widespread rural poverty in Asia. Community activities may often be illicit in the light of national laws and may be seen as presently unsustainable, but must not be judged as such without reckoning the instabilities introduced and by simply stopping the illicit activities without providing alternative options for those engaged.

The second level of illegality relates to local efforts to generate livelihood income (as opposed to subsistence under the first level). Activities of this level can vary in scale, from small-scale operations similar to those occurring at the first level, to ones larger and at times more environmentally destructive. Operations at this level are often non-traditional, and can be characterized as reactionary adaptations to changes in the external environments – namely, market forces, new policies and migration trends. Nevertheless, such operations at this level primarily involve local communities or people from neighboring areas. Sometimes, these communities already hold some form of resource right from government. In such cases they always have a trader interested in the resource that can overcome or bypass the difficulties with transportation and documentation. The usual case is that their illegal engagement is not deliberate but most often is systematically compelled by far-reaching organized structures of power (Box 2). Some examples are:

- harvesting through illegal methods;
- illegally logging outside of the designated areas;
- extraction in excess of agreed limits or beyond agreed species;
- illegally extracting protected species;
- non-issuance of permits to extract or transport logs and non-timber products for commercial transaction.

Against a background of compelling forces, local communities’ in search of lucrative opportunities can only engage in illicit activities through externally controlled conditions that encourage if not coerce such actions. Sometimes, these can be traced back to inefficient or corrupt bureaucratic administrative and judicial systems and the lack of political will to change roles and relations. Circuitous transactions call for unreasonable investments in time and expenses for communities to obtain legitimate permits for operation. These then become the perfect basis for some forest department staff to ask for “grease money”. The complicated permitting process is compounded by lack of means for local communities to access government offices. All the while there is constant pressure to secure a means of livelihood or respond to market delivery.

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**Box 2. Second Level of Illegality - Livelihood**

Outsiders had first begun introducing chainsaws into Menggamat Village in North Sumatra, Indonesia in 1992 but logging began on a wide scale in 1995, when a tauke (boss controlling logging operations) offered villagers a strategy of survival at a critical moment. Before 1995 villagers primarily worked their own gardens, but when the price of their major cash crop nilam (Pogostemon cablin) fell sharply they agreed to join the tauke’s logging teams. The tauke organized teams of 6-15 men from the village and brought in people from outside with skills in operating a chainsaw. Before the logging team goes to the forest, they take money from the tauke to pay for their family’s needs and for their own expenses in the forest. This money forms a debt that must be paid according to the amount of wood produced. In 1998, bearers carrying the timber down to the river were paid 3,000 rupiah per plank, and for carrying wood they earned at least 20,000 rupiah per day. The sub-district head of Kluet Utara at that time commented that the money a teenage logger could earn in a single day far exceeded a sub-district head’s daily income.

Logging teams concentrated their efforts in the forest upstream, in the areas classified as state forests for limited production. Villagers did not allow loggers to take wood from the village forest as this held their forest gardens and tree felling would damage crops or create landslides. As villagers said: “The hutan desa (village forest) is left because people have their kebun (forest gardens) here... they can log the hutan negara (state forest).”

commitments. As such, the legitimate path may not be so much a viable choice but a hindrance to legitimate and responsible community resource utilization because it is inaccessible and full of complexity.

The first and second levels of “illegalities” result from dependency on forests and can be identified in numerous studies on the lives of forest communities. The magnitude of the role of forests in rural living has been made evident in so many facets – economically, nutritionally, socially and culturally – thus making the issue of community access to forestlands and resources therein an issue of subsistence. Preventing communities from accessing forests cuts them off from familiar means of subsistence, and introduces greater poverty. In such a state of poverty and without marketable resources or social capacity to cope with imminent needs in a legitimate and sustainable manner, it is easy for local communities to be tempted or forced to join illegal and unsustainable but organized and lucrative means of securing income. The illegal but systematic and sustained extraction of a particular resource can be much more destructive than subsistence utilization of that resource amongst others.

The third level of illegality can be classified more as dynamic and organized crime involving multiple layers of players. The complexity is engrained in the scope of illegality that extends to the commercial, industrial, bureaucratic and political levels (Box 3).

- Newly established control over resources oftentimes cut-off small-time traditional access, forcing their incorporation into more

**Box 3. Third Level of Illegality – Big Time Organized Crime**

Superwood IPEP Ltd, a Malaysian company, operates in the provinces of Pursat and Kampong Speu. Superwood’s Managing Director is Thai-based Mr. Peak Seng Thang. The wife of the Khmer manager and organizer, Mr. Noeb Mea Lea, is said to be a friend of Hun Sen’s wife.

Superwood has an outstanding pre-1999 annual allowable cut of 30,000m³... In 1999, it requested four authorization seal stamps on 1,020.373 m³ of logs. The company started logging in early March, and harvested 393 logs, equal to 1,794.882 m³... These logs were stockpiled in Khsach Puok village waiting to be stamped for permission to be carried into its factory.

In early 1999, Superwood was hiring Division 8 soldiers (breakaway Khmer Rouge) to log as well as to control their rest area. Soldiers... are paid 60,000 Riel (US$15) a month. Logging workers are paid according to how much they fell; the current going price is 8,800 Riel (US$2.2) per m³. Many felled trees are undersize. Superwood was also reported to be cutting down trees in the Aural Wildlife Sanctuary, and collecting logs from local loggers (particularly Division 8 soldiers).... There are reports that Superwood hired local loggers and subsequently refused to pay their wages.

Furthermore, rather than refurbishing a dilapidated bridge, the company land filled a river near Kravanh so it could construct a road to transport logs. The latter blocked water access to communities downstream.

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destructive extraction;
- Inconsistent program plans driving unmanaged permit issuances;
- Delineating upland areas as protected areas and water sources without socially responding to the impacts of the policy on the people already living inside these lands;
- Entrepreneurial manipulation of decisions on behalf of the community as well as government by means of cash payments (legal and illegal);
- Undue compensation to communities for work and material value of goods extracted – often manipulative of future roles;
- Closing access of communities to concession forests through violent means;
- Resource prospecting and exploration i.e. applying for forest concessions not for the timber but for the mineral resources underneath;
- Shortcutting social processes that ensure “free and prior informed consent” of local communities to development projects.

For entrepreneurs to carry out their operations, local people's involvement (or at times people from neighboring areas) is often solicited. A community's initial engagement may lack awareness of the illegality of an operation or else may be deeply reluctant, but as the potential income becomes obvious, the community's acceptance of and dependence on such illegal activities increases. Community “acceptance” may also be due to directly violent physical action, the killing or kidnapping of people, their entrapment in armed conflict, the more widespread threat of violence given the presence of arms, or else the subtle threat of violence if things do not work according to how the “boss” plans. Complicated cases can emerge often putting in jeopardy the life of government officials (Box 4).

These three levels of illegal engagement in forest activities are not mutually exclusive in reality, but have been categorized here in the interest of unpacking and better understanding the variations of the nature of illegality involved. Most often, illegality at the second level does not go without the first, and the third level often involves the first and second levels. For all levels, the rural poor engage in illegal forest activities not out of choice, but more a case of them being “situated” within the scope of far-reaching illegality – used and “protected” by it.

Box 4. Danger for Government Officials

The Bongkatol Liberation Front (BLF) is a group composed mostly of Manobo and Higaonon tribesmen in northern Mindanao. In the 1980s, the military used them in an anti-insurgency drive at the height of the communist rebellion in the hinterlands of Agusan del Sur and Surigao. In the 1990s, the group signed a CBFM Agreement with DENR for an area within their ancestral domain claim.

In June 2004, BLF abducted Christopher Kuizon, a ranking DENR executive because “he was one of 13 corrupt DENR officials found guilty of prostituting and oppressing the ancestral lands through massive illegal logging, tree plantations and mining”. Amu Kalasag, the BLF spokesman, said that “his death sentence...was purely an enforcement of lumad revolutionary justice...these officials enriched themselves at the expense of impoverished indigenous communities”. Kalasag also said that BLF will release Kuizon if DENR will immediately enact livelihood and welfare programs for poor tribal people. The tribal council of elders said that they have resorted to the abduction because they “were not given attention by the government since the time of Marcos and up to the present”.

DENR and Mr. Kuizon’s relatives requested the police to put rescue operations on hold to settle the problem through peaceful negotiations. After five days, Kuizon was released and decided not to file charges. He said, “There is no use for me to file charges as it will only create more division and trouble. I think it is time that government workers must really interact with the different groups of people and not just sit in their airconditioned offices...My five days with the lumad (indigenous people), listening to their ordeals and sad plight, is a valuable lesson not only for myself but for the rest of the bureaucracy.”

However, other government sources claimed that BLF was being fed with wrong information and were allegedly being used by capitalists that financed the processing of their ancestral domain claims. The lumad demanded from Kuizon that they be granted permission to cut more naturally grown trees, because “while big logging companies were allowed to cut thousands of cubic meters, the tribal group was only allowed 500 meters under the CBFMA.” In this manner, neither the local needs are being met nor the forests being managed.

1.2 Conditions Invoking Illegal Forest Activities

Almost all illegal forest operations, both large and small in scale, occurring within a developing country have a direct or indirect causal relation with local community insecurity of land tenure and the lack of governance systems with political will to deal with it. Such a compounded context makes for endemic poverty that becomes so entrenched that genuine development efforts are usually not successful in overcoming the core problem unless faced directly.

A simplified description portrays a vicious unending cycle of illegal forest activities being driven by poverty, and further poverty being induced by illegal forest activities. However, with the multitudinous actors being treaded upon, and treading on others in this web of transactions, the interconnection between the underlying cause of poverty and illegal forest activities is often obscured. The effort to secure all logs through legal means may not only fail to reduce poverty but further obscure the socio-economic relations of poverty.

Similarly, levels of insurgency and counter insurgency are the scourge of many rural populations driving them into further compromise and insecurity if not evacuation and “hamleting”. Whether by law or by need, lowland migrants settling in state forestlands add to forest clearing and generally apply unsustainable methods of cultivation that may have been appropriate to their previous dwellings in the lowlands but not in the uplands. In the process, the pressure threatens the sustainability of the original occupants and the long term, broader security of ecological services (forest biodiversity, watershed functions and soil productivity) of the lowlands from where they may have been displaced.

While population growth threatens environmental and economic sustainability in many ways, it does not always account for the problem as much as it may certainly be the effect. Where the wealth of the lowlands does not result in equity nor in the earlier provision of basic services particularly health and education, people are left to fend for themselves and develop a support system in their old age. A high household number, assuming an adequate survival through childhood, assures families that household labor would be enough in later years to support parents and grandparents. Hence, it is not surprising to find a nucleus family of ten, where a death rate of three by the age of five as common.

1.2.1 Poverty and Tenure Insecurity

Throughout Southeast Asia, there is a growing population who are initially not dependent on forests but on agriculture, who from landlessness in the lowlands, are driven to migrate to uplands or distant areas to find land for cultivation (Figure 1). In the 1960s, the response of several governments to this problem was to implement transmigration policies as in Indonesia, sedentarization in Vietnam or the basic promise of a better life that was with “Mindanao, the Land of Promise” in the Philippines. Though the relocation may have been legal, without sufficient support thereafter, “illegal” or unsustainable land use practices often resulted. Often cultural incompatibility results because differences are not mediated. Through socioeconomic processes, migrant domination of the original people in the area sometimes results in cultural clashes. This was also true even in cases where migration patterns were self-initiated.
People in the uplands may have natural resources to depend on but the lack of secure tenure encourages illegal and unsustainable but fast and lucrative means of securing income. Without secure land tenure, upland communities, now largely composed of both indigenous forest dwellers and immigrants, feel less compelled to consider long-term productivity because they have no assurance of being able to stay and benefit from any investments in good soil or water management. In fact, lack of ownership (which to lowlanders translate to legal titles) tends to discourage some land uses, like agroforestry practices that are relatively benign to ecosystems but require long periods to reach peak productivity in return for the high labor input.

Measuring poverty in absolute terms may be previously deemed irrelevant for indigenous forest dwellers whose traditional values and living styles have not been dictated by monetary values. However, with commoditization seeping into virtually every corner of even the forests, wealth in monetary value is fast determining life in the uplands as well. Potential or short term access to medicine and education is costly and often ineffective as the distance and increasing costs absorb huge and unsustainable resources on the part of indigenous peoples. These contradictory conditions of the need for cash income yet being cut off from access to the market becomes the drive towards illegal and disadvantageous contract logging for systematized syndicates that feed larger companies. This may come in the form of extraction with no permits, extraction in excessive amounts, extraction of illegal species, or extraction through illegal methods.

Land insecurity and limited resource accessibility spell out lack of livelihood options. The marked relation between landlessness or insecure land tenure and poverty is underscored in developing countries with a dominant rural population. For lack of other options, the poor are driven to apply unsustainable
modes of shifting cultivation, to seek lucrative opportunities for illegal forest activities and to poach wood and non-wood forest products.

**1.2.2 Generations Focused on Timberland**

While centralized and non-transparent systems of political society contribute much to illegal forest activities especially in the past, this statement also has to be balanced with government efforts to open up tenurial opportunities for communities as evident in the Philippines with Mindanao and Indonesia with the Outer Islands. However, the present difficulty is that many communities that have now been given resource rights have historically been exposed to logging operations, often for two or more generations. Therefore, these communities are generally ‘skilled’ in communicating with traditional mechanisms that form the basis for illegal activities. Though many communities know that these practices are proven not economically sustainable nor environmentally sound, these connections with the lucrative market pose fast economic returns for them. Beyond reasons of establishing basic community subsistence, this poses a serious dilemma for forest law enforcement. Many officials themselves are very weak in their understanding of sustainability and in working with community processes that strengthen community management and responsibility.

The logging industry has contributed to logging camp communities developing the skills of timber extraction and links to provincial markets during many years of timber abundance (Box 5). Now that these communities are established by clearing areas of the abandoned concessions they are able to seek CBFM agreements by focusing on the remaining logs as a source of livelihood with little sense of protection. Meanwhile, the economic value of forests is still the primary consideration for management in that forestlands are still called “timberland”, further classified into timberland for watershed reserves, timberland for timber license agreements, timberland for community forest management agreements and so on. This economic emphasis on timber is compounded with the academic furtherance of the foresters’ technical and silvicultural orientation. In the country’s present context, this orientation only contributes to ineffective community management agreements. These ‘skills’ and earlier practices now have to be unlearned so that communities could participate with a transparency and level of development in capacities and livelihoods that can be sustained in the long run.

**1.2.3 Lack of Support Systems for Decentralized Management**

Over the past decade, several Southeast Asian countries have issued policies decentralizing increasingly larger areas for management of natural resources by local governments. The argument is that if administrative functions are devolved and decentralized to the district and sub-district level, then it is easier to establish downward accountability to local populations, thereby translating to mobilization of local knowledge, better matching of services to needs, greater equity in resource access, and economic efficiency in terms of reduced transaction costs.

While decentralization has great potential to have long term impact on land cover, the shifts are not occurring smoothly, coherently nor systemati-
Forestry science (Forstwissenschaft) was developed in Germany as a sub-discipline of “cameral science” - a study covering a wide range of state concerns including economics, finance, police, mining, agriculture and trade. With increasing industrialization, the state’s main interest in forests was represented by a single number - the revenue yield that might be extracted annually by cutting down trees.

Forest management in the 19th century consisted of simply dividing the forest into equal plots with the number of plots equal to the assumed growth cycle of the trees. For example, if the trees in a particular forest were assumed to take 120 years to grow before they could be cut, the forest would be divided into 120 plots and each year the trees in one plot would be felled. Mathematicians subsequently produced yield tables which allowed foresters to calculate the usable volume of timber from a standardized tree of a known species, age, and diameter.

The next logical step in the development of forestry science was to replace the “untidy, unpredictable and chaotic” forests with logical, predictable plantations which produced consistent, predictable and large quantities of timber for industrial use. The ultimate goal of the scientific forester was to know how much timber was in a plantation or forest without leaving the office – the data could be simply read from tables and maps. Heinrich Cotta who contributed to developing the principles of scientific forestry published several scientific works including “Systematic Guidelines for the Valuation of Woodlands” and “An Introduction to Silviculture”. To “replace” or “restore” a forest according to conventional silviculture practice, a natural forest must be “clear-cut” in the first place. According to the Thai Royal Forest Department, “it is well-known among Thai forestry academics that for a tree plantation to be a productive investment, the area must be completely cleared to allow no obstruction to the newly planted trees. A well-prepared area must be rid of all unwanted vegetation. All stumps must be uprooted if possible.” Thus, the diversified vegetation of a natural forest becomes “worthless weeds” according to the silviculture discipline.

It was only in the past decade that the scientific community started to review these conventions. The ITTO Guidelines for the Establishment and Sustainable Management of Planted Tropical Forests states that “eventual role of a planted forest in the general pattern of resource use depends on a mix of social, economic and environmental factors. Decisions on location, site, species, silviculture, management and objectives must therefore comply with local and national political, social, economic and environmental conditions.”

Unpacking Illegal Forest Activities

Part I

is still held at a higher level, often frustrating active and not self-serving action by local governments.

Local governments that are able to present concern for basic services along with forest protection give communities a better basis from which to respond to government efforts. Meanwhile, local governments are learning skills in development administration and multi-stakeholder collaboration. Some are building systems for land use planning though admittedly these are fraught with difficulties and wasted resources, including inadequate staff capacity and budget to sustain GIS stations that for long periods may just gather dust. Civil society, though generally weak at the district level, nationally in some countries holds line agencies accountable for developing a responsive and overarching policy framework and setting up programs to implement it. Decentralized government still needs the engagement of line agency monitoring, which is increasingly the important role of environmental agencies. Enforcement of government regulations and documentation of abuses still remains as the critical support of central administration but also comes at a cost that must be respected (Box 6).

1.2.4 Administration Shifts, Political Instability and Global Power Plays

 Elections — Thailand and Viet Nam in 2002, Cambodia in 2003, Philippines and Indonesia in 2004 — corruption charges and “military shuffles” account for continuous shifts in the region. These are times when illegal forest activities become rampant, especially in resource-rich districts, because proceeds from extraction are the politicians’ source of campaign funds. Crony governments give away logging concessions to relatives, friends and supporters without transparency, accountability, or consideration of local people. Changes in military leaders often result in shifting strategies that open up different mountainous forested areas. Increasingly, there is a greater number of non-government organizations in the North and South that investigate and document transactions while donor agencies help strengthen these independent monitoring initiatives notable in Philippines, Indonesia, Thailand, Myanmar Viet Nam, and Cambodia. This also helps ensure continuity in focus especially in countries that experience frequent changes in forest department leadership due to elections, coup de etat, or bureaucratic restructuring.

Other conditions that contribute to sustaining illegal forest activities within a producer country:

- A country’s foreign debt coupled with its level of dependence on forestry for foreign exchange revenue may not directly invoke illegal forest activities, but it does affect a nation’s drive to curb illegality.
- The national drive for economic growth and political security as priorities over social development affect a country’s strategy for responding to the forces behind illegal forest activities.

Lowland plantation schemes and their questionable effect on water in Agusan del Sur.
Approaches to Controlling Illegal Forest Activities: Considerations from Southeast Asia

Box 6. Environmental Heroes in the Line of Duty

Founded in 2001, the Environmental Heroes Award, “Bayani ng Kalikasan”, seeks to recognize deserving DENR personnel who exhibited exemplary performance as protectors of the environment, many of whom died in the line of duty.

Based on news articles from the DENR website, eight of the 15 DENR personnel given awards between 2002 and 2003 were direct casualties of illegal logging-related violence, with all cases occurring in the forested regions of Luzon and Mindanao. Some cases:

- Forest Rangers Saturnino Cuntapay, Silvestre Malanos, and Luciano Atabug Sr who were gunned down before dawn while waiting to apprehend timber poachers along a river in Cagayan Province in June 2000.
- Forest Guard Ricardo Zapatos was sentenced to life imprisonment for the death a town mayor from Agusan del Sur Province engaged in illegal logging in 1990. He was jailed for over two years and then released after the Supreme Court upheld his plea of self-defense in 2003.

Source: Articles from DENR News and Events, www.denr.gov.ph/sitemap, 22 Feb 2005

- National economic development agencies often pressure for productivity from forest land and for meeting national wood needs at the minimum.
- In Southeast Asia, these responses present a paradigm disconnection with existing country commitments to the UN Millennium Development Goals.

Conditions that aid or hinder illegal forest activities outside producer countries:

- Export market demand and global trade competition fuel illegal forest activities, but these can only happen in collusion with political backing and military machineries in producer countries.
- The nature of bilateral relations affects the level of cross-border control measures against transport of illegal forest products usually informally involving the military.
- Global strategies of superpowers driving political agendas of Southeast Asian countries dependent on them for overseas development assistance or direct foreign investments.

Extraction and transport of privately planted Falcata.
COMMUNITY INVOLVEMENT IN FOREST MANAGEMENT AS AN APPROACH

In the context of the above where the rural poor are trapped within the scope of illegal forest activities, Asia Forest Network sees community involvement in forest management (CIFM) as critical in controlling illegal forest activities in the region and underlines community forest management (CFM) as the most socially just approach with the general scope of CIFM. Community forest management – as used in this paper – refers to a decentralized approach to natural resource management founded upon participatory, multiple levels of decision-making, and multiple forms of downward and upward accountability and horizontal coordination.\(^7\)

This section describes how mechanisms inherent in community forest management address conditions invoking illicit activities at the local level and by so doing contribute to curbing broader illegal forest activities. It also identifies further tasks that need to be addressed to enhance the effectiveness of CFM. While AFN presents the reasons for considering CFM as one that needs more urgent focus in Southeast Asia, it is important to state that CFM is not being singled out as the only solution that can be applied to all cases. Rather, it is transitional to other approaches that will become more critical in the long run.

2.1 CFM Contributions to Curbing Illegal Forest Activities

The magnitude of the role of the forest in rural living is evident in so many facets: economically, nutritionally, socially and culturally. Because of the forest’s imminence in subsistence, livelihood and culture, resource accessibility ensured through land use or tenurial rights is crucial to rural development and poverty issues. In addressing rural poverty and securing tenure for forest communities, a clearer vision of devolution of natural resource management to local communities is emerging throughout Southeast Asia. CFM contributes to curbing illegal forest activities through various mechanisms that are inherent in a community approach to forest management.

2.1.1 Sense of Ownership and Forest Protection

Tenurial rights can instill or strengthen a sense of ownership in communities, leading them to invest time and effort in protecting the natural resources in the area granted them. The temptation to get co-opted in illegal forest activities decreases
Approaches to Controlling Illegal Forest Activities: Considerations from Southeast Asia

with the knowledge that they can fully benefit from these resources in the future. In the Philippines, coastal CBFM communities who have experienced improvement in fish catch after they started *Bantay Kattunggan* (Mangrove Forest Watch) are continuing to patrol their area without external support. Upland communities and ancestral domain tenure holders who have come to realize the potentials of having rights over forestlands for 25 years are more serious in reviewing management plans so that they could be better implemented. In Indonesia, Javanese communities who transformed barren forestlands formerly managed by the Perhutani state forest corporation into agroforestry landscapes sought assistance in developing management plans even if the district policy supporting their rights is having problems getting approved at the central level. In Cambodia, fishing communities that have been granted legal access to former commercial fishing lots have formed committees through general village elections and developed by-laws that include protection of flood forests (Box 7).

**Box 7. Curbing Illegal Activities in the Flood Forests of Tonle Sap**

A “soft” law enforcement approach is used with violators, starting with warnings and small fines that grow steeper as the number of violations increases. Committee officers caught engaging in illegal activities are meted out even steeper penalties than outsiders because their accountability to the group is greater and the way they are dealt with serves as an example to the community. The patrol team also has the right to take immediate action by temporarily confiscating the illegal fishing gear. Through the cooperation of local government and fishers, a ceremonial burning of illegal fishing gear is done in the village to make a strong statement. This manner of dealing with illegal activities has been found to be effective, reducing illegal fishing in the area. It has enjoined community to cooperate by changing attitudes and educating the people, resulting in many cases of the voluntary surrender of illegal fishing gear. They see the value in doing this because they feel a sense of ownership over the resources in the fishing lot assigned to them, even if the national policy is still undergoing approval.


**2.1.2 Social Mechanisms Built Upon Community Capital**

In a CFM framework, communities have greater basis to organize, envision and plan as a group so that their shared vision could be implemented. Community capital is built with a greater level of organization, mechanisms for community assessment, articulation of needs, local area planning, management of conflicts, improved resource quality control and processing (Box 8). Though it is not yet apt to say that CFM can lift people out of absolute poverty, there is sufficient evidence to say that the CFM approach has the potential to reduce the incidence of poverty in forest communities. At the least, CFM provides communities with an option to get out of the poverty of ideas and move towards self-determination. Coupled with supportive engagement of the local watt, mosque or church, the integration and support of community efforts and actions can be greatly strengthened. With adequate support from government and other groups, community forest management presents a large potential to contribute to the UN Millennium Development Goals of halving extreme poverty by 2015. This is where the value of leadership on the
Community Involvement in Forest Management as an Approach

Part II

ground is so important and generally found in any success story. Women have often played a significant role in such local leadership and in building the community capacity to manage meager financial resources coming from a community-held vision of resource development.

2.1.3 Social Mechanisms Built Upon Local Government Partnerships

CFM is an approach that entails devolution of natural resource management to the locality and is founded upon participatory levels of decision-making, with multiple flows of downward and upward accountability and horizontal coordination. CFM is a general framework for devolving forest management that involves the transfer of authority from government to local communities — government monitors while community manages. CFM as an approach to sustainable forest management has gained substantial acknowledgement throughout the region.

Support to CFM as an approach complements decentralization policies within the region in the past decade. Decentralization has legitimized local (district) oversight of some forest areas in the Philippines and parts of Indonesia, and other countries are undergoing exploration of similar frameworks. The enactment of the Local Government Code of 1991 in the Philippines legally prepared the ground for decentralizing management from central agencies to local governments, focusing on certain areas for natural resource management. In Indonesia, in response to government’s passing of the Law on Regional

Box 8. The Journey of Mountain Fresh to the Market

The Kalahan Educational Foundation (KEF) is a small people’s organization in Northern Luzon, Philippines, that has obtained a Certificate of Ancestral Domain Claim. Pastor Delbert Rice who helps the Ikalahan community comprising KEF shares their experience in marketing jellies and jams made from wild fruits.

“We needed to improve livelihood without damaging the watershed. So we used wild fruit to produce excellent jellies, jams, marmalades and other products. Our city friends quickly bought the first products. We decided to increase production to make a profit. We thought it would be easy.”

An NGO helped them develop a brand name — Mountain Fresh — then the logo and labels. KEF banked on the NGO to market the products but unfortunately it went out of business before it could market Mountain Fresh. They tried to consign to local sari-sari (variety) stores but because they were not being bought, the stores returned the products after a few months, with labels and lids damaged by rats and rain. It was not until KEF met someone who assisted them in market research did it find out that people who buy jellies and jams do not shop in small variety stores but in supermarkets — but convincing big supermarkets to sell Mountain Fresh was more difficult. None of the members of KEF were fluent in English or Tagalog (the language in Manila where big supermarkets are located). It was only when they got funding to establish a marketing arm did marketing professionals came in and helped them. At first, the professionals tried to teach them how to sell but they realized that the community members were producers by nature, not merchants. Now the marketing group does the selling and KEF works to produce the best products. Once the marketing group was finally able to convince one supermarket chain to accept Mountain Fresh Products, it became easier to convince the other chains.

Governance, the Wonosobo District Legislative Assembly in Central Java, Indonesia passed a regulation that gives communities legal access to state forestlands. In Viet Nam, although no clear framework has been set for decentralization and devolution of resource management, provincial government is strong. Cao Bang Provincial government used a section of the 1991 Forest Protection and Development Law to acknowledge villages organizing to manage forestlands. These changes are only occurring where the level of decentralization has become an active tool of self management (Box 9) and accountability which may cause unease at higher levels particularly where government has a conflict of interests over access to resources. Examples are continuously emerging where charismatic figures in local government take a lead and those who create a space by being a gathering point of traditional concern and voice of the people.

2.1.4 Building Capacity for Market Access

Throughout Southeast Asia, the first steps in creating a market link often occur where communities are assisted by NGOs and individual groups in marketing basic crafts that women produce. Selling of grass products often using tiger grass (Chysanonaena maxima) and other non-timber resources including bamboo, abaca, rattan or vines result in a whole range of mats, paper, cloths, containers, brooms and baskets of all sizes and varieties. Such initial subsistence engagement may significantly grow depending upon the level of interest, skill, and connectivity in entering the market. Around these products adult skills in product development and marketing, accounting and financial management, storage and transportation are often best developed (Box 10).

2.2. Further Tasks and Issues of Implementation

There is still much to be done for community implementation to show a substantial impact regardless of limitations of policies or frameworks. This is to say that rights granted through legislation have yet to be translated to practical and meaningful systems of operation that meet local needs and exhibit environmental sustainability. For the following discussions on issues of implementation, the case of the Philippines is highlighted as it offers pioneer lessons for the region. These issues may very well be confronting other regional countries in the coming years, if not adequately and decisively addressed now.

The Philippines, where the government has taken an initiative in laying down the framework and implicitly the direction of CFM in Southeast Asia, has gone through several phases of policy review and program revision. Policy is now facing a new generation of issues related to program implementation where outcomes show a strong correlation with the quality of governance over financial management, institutional arrangements, overall mechanisms and systems for effective management. Where CFM policies and frameworks have been laid out, such issues of management for effective implementation are the next area of focus. Some of the most critical issues that block the path from policy enactment to implementation are institutional in nature. A profusion of institutions with:
unclear and overlapping mandates deriving from the unclear devolution process,
ineffective stakeholder participation processes and path or resolution,
inadequate mechanisms to ensure accountability for performance, and
lack of capacity to deliver allocated roles, are among the prominent issues.

2.2.1 Developing Institutional Arrangements

Devolution laws and policies in the Philippines have yet to be fully implemented. Firstly, there is the issue of matching budget. While many natural resource management functions have been devolved to local governments through the Local Government Code of 1991 and the consequent guidelines for the transfer and implementation of DENR functions devolved to local government units, budgetary reallocation remains largely insufficient. As a result, DENR is still the primary agency micro-managing the flows of local government funds. Regional allocation of funds are generally low, and spread thinly across too many programs, projects and project components, thus jeopardizing effectiveness and preventing DENR from fulfilling appropriately its coordinating mandate (Figure 2). The space for participation of provincial and community level DENR offices in annual budgeting and programming is limited. In most cases, targets and budgets are handed down by the central and regional offices after budget approval, without prior consultations with local agencies. On the other hand, local government

### Figure 2. The Reality of Forest Management in Agusan del Sur, Philippines

<table>
<thead>
<tr>
<th>Tenurial instrument</th>
<th># of issuances</th>
<th>Area (ha)</th>
<th>Responsible agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Timber License Agreement</td>
<td>2</td>
<td>136,399</td>
<td>DENR (Regional)</td>
</tr>
<tr>
<td>Industrial Forest Management Agreement</td>
<td>8</td>
<td>87,382</td>
<td>DENR (Provincial)</td>
</tr>
<tr>
<td>Industrial Tree Plantation Lease Agreement</td>
<td>3</td>
<td>65,930</td>
<td>DENR (Provincial)</td>
</tr>
<tr>
<td>Integrated Social Forestry</td>
<td>—</td>
<td>12,919</td>
<td>Municipality</td>
</tr>
<tr>
<td>CBFM Agreement</td>
<td>22</td>
<td>116,489</td>
<td>Municipality</td>
</tr>
<tr>
<td>Certificate of Ancestral Domain (CADC)</td>
<td>9</td>
<td>179,680</td>
<td>NCIP (Provincial)</td>
</tr>
<tr>
<td>Civil Reservation</td>
<td>3</td>
<td>12,084</td>
<td>DENR</td>
</tr>
<tr>
<td>Total Tenured Forestland Areas</td>
<td>47</td>
<td>610,883</td>
<td>—</td>
</tr>
</tbody>
</table>

Based on ESSC background data collected from Agusan del Sur in 2002

CBFM area: 21% Over 99% of provincial land tenured

4 agencies involved in granting forestland tenure (presumably using different baseline data)

### Controversial Realities

- Provincial and DENR forestland classification data indicate discrepancy of 70,000 ha;
- DENR promotes “timber plantation corridor” & “bio-diversity corridor” in overlapping areas;
- CADC and CBFMA tenured areas subject to timber plantation corridor;
- Unaligned policies between line agencies and local governments enforce economic marginalization of local communities;
- Local tree grower group leaders killed.

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Box 10. Family-based Furniture Enterprises in Malaybalay

Along the Sayre highway of Malaybalay City in southern Philippines, passersby will notice around five households; noticeable not because of the architecture of their houses, but because of their wood furniture displays. Without any support from either government or non-government groups, this family-based enterprise sustains men, women and children of the household through the production of tables and chairs primarily made of *Gmelina arborea* as their livelihood. The production and marketing strategy is simple. The men purchase logs and process them as lumber using a thin-bladed chainsaw. With basic carpentry skills and tools such as planer, hammer and saw, the men assemble the lumber into tables and chairs. Women and children apply varnish and sell the products by the roadside. The table set costs around P500 and they are able to sell at least one set per day. During good days, they can sell as many as 5 sets. This is the family’s main source of income.

budget allocations for natural resource management are very low, averaging 1% to 2% of the total budget allocations across regions.¹⁰

### 2.2.2 Fostering Functional Stakeholder Participation Processes

Securing the multi-stakeholder participation process at all levels beginning at the planning stage is fundamental in moving towards decentralized management. The acknowledgement of this basic requisite appears to have been thorough at the policy-crafting level, as participatory processes are underscored in DENR guidelines and actions plans. Participatory processes are embedded in CBFM frameworks from the preparatory stage (i.e. Participatory Rapid Appraisal or PRA), planning, and implementation stages. People’s Organizations (POs) are ideally placed in the center of all activities, with strong assistance through primarily the community level DENR office, local governments and multiple assisting organizations.

Despite this clear stipulation, realities in the field soon reveal that such participation in many areas is realized only on a superficial level. Numerous cases can be cited wherein communities lack the sense of ownership (or worse, understanding) over the agreements and plans that they signed.¹¹ This reality is far from the “participatory approach” stipulated under the Guiding Principles¹² for the formulation of the 25-year community resource management frameworks – plans that communities are supposed to submit to secure DENR’s affirmation for their activities.

While there are CBFM areas that started from a purely community-initiated endeavor, many areas in the country are considered more as government-initiated involving both central and local government levels. This is partly due to the nature of program development, where the preparatory stage involves local government-DENR teams identifying potential CBFM sites, and then encourages residing communities to apply for a CBFM within or around their residential areas. Such government-initiated sites are largely coming from government interests in planning land and resources uses. However, these plans that DENR officers design may not fully account for or consider the social or economic relativity of actual resources.

Actual orientation of many DENR officials is still not that of being able to accompany the community; co-opting previous project sites into the program without clear understanding of the differences and seeking to close access to certain forest areas without recognition of community limitations and need support is common¹³. Where there is an inability to genuinely involve community at higher levels of participation during the planning stage, plans turn out inaccurate, unresponsive or irrelevant to community needs. In the absence of effective and close monitoring, CBFM sites are also often identified with recurring illegal forest activities. Not uncommon are cases where community members affiliate with the PO merely to benefit from the paid labor opportunities funded through DENR programs allocated for CBFM. Participation here becomes limited to the level of “hired involvement.”

The emerging lesson is that where such “salary” incentive programs are in place (in other words, where large foreign funds are driving the project), the sense of ownership and genuine participation is undermined.
2.2.3 Building Management Mechanisms and Capacities for Implementation

The myriad of problems that lie between policy enactment and effective implementation boils down to the issue of management. In many cases, project cycle management strategies for increased effectiveness and efficiency through participation appear to have failed in practice. Often, monitoring happens only for “compliance purposes”, or worse, monitoring mechanisms are not installed in the first place and community does not develop the mindfulness to have periodic reviews of their new initiatives. This results in the community losing a grasp of project management and in blindly following plans that are poorly designed. In some cases, people have forgotten that there is a plan that implementation activities have to follow or members may never have seen the plan. At such a point the project has been taken out of its context and the project management cycle is foregone – assumptions rule. The connectivity and relation between implementation, monitoring-impact, impact-planning, and planning-implementation are poor and therefore strategies fail to impact, particularly where there is great pressure for economic development of natural resources. The broader assumptions of the program where, for example, the protection of identified forest areas are not central but critical to the validity of the overall engagement may be the first elements forgotten.

There is urgent need in the Philippines to address issues of project implementation and program management among all levels of practitioners. Capacities need to be built in local government, line agencies and other public actors in light of management, but also among communities and facilitator NGOs. (Box 11)


A Certificate of Ancestral Domain Claim (CADC) is one of several tenure instruments that were originally included under the Community-based Forest Management Program of DENR, then later transferred to the National Commission on Indigenous Peoples. An indigenous community in Agusan del Sur was granted CADC No. 153 towards the end of the 1990s. ESSC, in its investigation with this community, identified several management issues.

1. When the CADC was drawn up, the community was not aware of the final document as prepared by DENR, neither the named nor other local datu (leaders) were in general consulted.
2. The greater areas of Maligaya, Cabantao and Marfil (3 out of 6 recognized barangays) are outside of the declared CADC area, yet the names of all 6 are included.
3. The National Commission on Indigenous Peoples questions the membership of one datu on the Tribal Council in terms of credible background and subsequent council membership.
4. Portions of the CADC to the south and to the north overlap with two private timber concessions (PICOP IFMA 35 & TLA 47) that are heavily disputed.
5. There are reported killings and violence hotspots in some areas within the CADC.
6. Members of the former Lost Command (private army) are known to be present in neighboring areas.
7. A mining application within the area was granted without prior consultation from the CADC tribal council.
8. There are four small scale mining operations and four quarry sites within the CADC area that may result in management issues in the future.
9. Illegal logging occurs in some areas of the CADC.
10. Illegal sawmill operations were identified in November 2003 near or within the CADC area.
11. Not only members but also leaders hold different interpretations of the CADC boundaries.
12. There is confusion as to the engagement of role of village government vis a vis CADC management both in terms of presence and role in meetings and with those holding positions as officials in both the barangay government and the people’s organization.
13. Rattan gatherers from San Luis cross over and harvest rattan within CADC area without any due process.

2.2.4 Designing Sustainable Strategies for Livelihood

Technologies that will adequately address poverty issues need to be initiated through community forest management programs. Conservation strategies must be considered a critical complement of resource use strategies but also has much greater potential of relating to cultural values. Technologies will also be beneficial to the sustainability of forest eco-systems, as well as non-land-based activities that can supplement income generation sufficiently need to be developed. Around the region, agroforestry techniques building on traditional land use practices are being documented.

Agroforestry systems and forest home gardens have proven to be particularly effective in meeting subsistence needs of indigenous communities in the past. However, weighed with poor soils and/or decreasing land availability while being lured by commoditization, they are now more compelled to shift their focus of livelihood from subsistence to income generation without needed planning and support mechanisms. The increasing desire to get basic formal education for the children is also a major reason to acquire cash by collecting, raising or cultivating, processing and selling forest products. Sadly, the fruits of advancement in technology particularly the use of fast-growing timber species have a meager contribution, if any, to improved living conditions of forest communities. Other means of livelihood activities are being explored with local NGOs but so far, very few and only under exceptional circumstances have successfully linked with a market on a sustainable basis. The more urgent needs in livelihood development include creation of new markets that communities can access, advancements in sustainable production technologies for non-wood forest products, marketing skills, culturally sensitive micro-credit systems, financial management among other enterprise management skills.

While developments in agroforestry within a community and even in broader area resource developments can go hand in hand, an adequate assessment and internalization of the overall impact on a community and culture must be given great consideration than what has so far been experienced in most areas. There needs to be greater attention to community cultural practice in relation to space and how indigenous peoples relate to the landscape beyond society's sense of their subsistence. The importance of having a livelihood does not outweigh the importance of belonging and sense of creative and cultural connectivity with the environment (Box 12).

**Box 12. The Dayak and their Cultural Connectivity with the Environment**

While a remarkable number of commercial tree species have been integrated into forests over the centuries, the Dayak of Indonesia have been cautious in maintaining diversity of species in their forests. Para-rubber was introduced into Dayak forests in the early 1900s. Rubber production from the many small Dayak plots made Indonesia one of the world’s leading producers of rubber. Yet, Dayak rubber-producing forests are very species diverse because they rely on forests for many subsistence products. A typical Dayak community uses 200 species of medicinal plants from forests. Rituals, related to the bounty or the scarcity of seasonal fruit yields, indicate the importance of the principles of reciprocity and exchange. The Dayak’s view the fruit and nut harvest is that they are indicative of the quality of the relationships among people and the relationship between people and nature.

The Dayak have been cautious in maintaining the balance between economic dependence on forest products and subsistence rice production – the balance between maintaining a forest ecosystem and transforming it into a plantation landscape. For the Dayak, rice has a soul that must be cared for and respected through proper swidden management. Major Dayak rituals are linked to rice cultivation. These beliefs support the resilience of the swidden system. In the 1930s for example, when rubber prices rose and fell erratically, one man’s dream about rice-eating rubber quickly spread across Kalimantan, warning people to protect the forest swidden system and to balance rubber with swidden.

In recent times, however, concessions cover Dayak forests and the ecological damage from concessions have become extensive. West Kalimantan has 9 million hectares of forest area of which 74% fell under logging concessions in 1968. Because these stresses are relatively recent, communities generally lack indigenous ways to recognize and address them.

PART III

ILLEGAL LOGGING AND DISASTERS

In several Asian cases, illegal logging has been blamed as the primary cause of landslides and flashflood disasters. Illegal logging is getting to be understood by urban society as the main culprit for loss of lives, property and infrastructure. Many environmental advocates have used these disasters as leverage to get governments to become serious about curbing illegal logging. The Thai government’s response to the disaster brought about by widespread flooding in 1989 was to issue a total log ban policy, increase the area of conservation forests, and tighten control over resource use of upland communities. While these actions are necessary in themselves, they do not prevent such disasters occurring in the future unless they also address social vulnerability in the flood lands, better land allocation, planning and preparedness for 50-year events that will return in a devastating manner if there is no focused action taken.

A recent case in point is the November 2004 disaster in Eastern Luzon, Philippines where local government and local communities believe that illegal logging is THE problem – because media has told them – not from any analysis of data or their own circumstances. They are now following the line that illegal logging is the problem and if illegal logging is stopped, these disasters will not occur again. This perception is continuously heard and simply equated with the problem to the point that there is little occasion to ask other questions and integrate many other facts which are left aside as aberrant. These disasters have created greater awareness in urban society of the environmental and economic impacts of illegal logging and obtained the attention of politicians. Yet, the media and political oversimplification of the problem and the ensuing knee-jerk response may have a different result that fails to address the long term problem of such events especially for the poor, therefore putting them at greater risk.

The widespread notion is that illegal logging is the problem in relation to this disaster that caused over 1,500 deaths and destroyed over PhP 6 billion of agriculture, fisheries, property and infrastructure. Newspapers and TV reported on the issue daily and for several months so much so that it imitates a national soap opera of political families with the usual public scenes, and even witch hunts, but little substance. Daily accounts were given on the seizure of illegal logs to feature the seriousness of government in cracking down of illegal loggers, and afterwards on the ineffectiveness of the new DENR Secretary for announcing inadequately-researched accusations, then culminating in a Senate hearing whereby two political families face each other in the battle for dignity.

Behind the scenes is the serious disarray of local government planning and the incapacity to make decisions with national support. Local officials first thought the floods were due to the breakage of a dam that never even existed. After that, they firmly believed it was due to illegal logging, knowing that upland
farmers were cutting for subsistence needs and that influential traders had ways out for logs to move along the Pacific coast. This line of discussion has seriously taken from the need to relocate whole communities or towns that are affected by the formation of alluvial fans or are positioned on low-lying areas, sand banks and coastal sediment. If the problem is attributed to logging, then there is no need for a review or strengthening of policies for government to acquire land for relocation and for development of major flood infrastructure.

Illegal logging should be prevented and much of the legal logging where it is not responsibly managed needs to be stopped, and every effort should be used to curtail such activities. However, every event should not be used to strengthen such an approach and legitimize giving focus to illegal logging when it diverts attention for critical action affecting the security of thousands of people. The biggest problem with blaming illegal logging for climatic events such as the November disaster in Quezon is that there is limited relocation of people. The majority of these people will remain vulnerable in the event of such rains occurring within the next fifty or so years as the critical problem of substantial land acquisition at reasonable prices is not possible by local government; the necessary policies affect land ownership remains as an unresolved political issue in these situations.

The following sections discuss facts from several disasters in the Philippines, differentiate between contributory and critical causes of disasters, describe where logging fits in the picture, and aligns responses given these facts. This section builds the case for taking extra care in supporting any national thrust against illegal logging so as not to miss the point of impact against such disasters in the future.

3.1 Responses to Disaster in Ormoc, Leyte

The flood waters in 1991 in Ormoc, Leyte, an island in the Visayas, killed over 7,922 people. The main victims were urban squatters living on the sediment banks in the river and those in the path of the waters which jumped the turn in the river bank and flowed down the main streets. The disaster was not simply attributable only to logging, land clearance and expansion of sugar of decades earlier, nor was it due to a freak climatic event beyond human response. Everything of the decades past had fed into the path of the disaster compounding the event beyond all imagination. Ormoc was the historical nightmare come real – the wake-up call of years of social and environmental deprivation that had integrated across the landscape showing how watersheds could be conclusively mismanaged. As logging was blamed for the disaster, other more critical factors that caused the disaster in Ormoc were not given proper attention. Until now, these lessons have not yet been internalized by Philippine society:

» People should not return to live on river beds. Isla Verde was a grass island formed where two tributaries met. The village on Isla Verde was wiped out during the Ormoc flashfloods yet people came back to live there again during the weeks after. Slowly, a level of rehabilitation occurred but was small scale. Only with the Japanese project for flood mitigation six years later (1997 to 2001) was there a serious rehabilitation. People living on Isla Verde were given greater protection and others were relocated, but not all. As a result, today people are living upstream in what could be called “Ormoc 2” in similar circumstances to those of the pre-1991 flood.
**Infrastructure should not over-restrict river flow:** At the end of Isla Verde, a right hand turn in the river was cemented with steep sides. The flow was too great and the water jumped the afronting steep land and flooded down the high street. The Japanese flood mitigation rehabilitated over 6 kilometers of banks removing restrictive points and building a related series of bridges, silt dams, sluices and culverts. Philippine society does not know such action was grievously needed and that foreign assistance and skills had to come to the rescue.

**Plantations should not be allowed in flood paths.** The coconut plantations along the flood path that were wiped away and became debris adding to the volume of the flow, restricting critical flow points, wiping out Isla Verde and forming a ramp at the turning in the river for water to flow down the main street. The reforestation that was planned as a reaction to the loss of forest in the upper catchment for hundreds of hectares would not necessarily make a difference, but sounded good at the time. However, again there was a lack of political will. Only 30 hectares or so has been planted by the local government as most of the area is private land.

**Land identification for relocation should have political will & effective policy.** Having forests would not have prevented disaster, but lives would be saved if primarily the poor people were relocated to higher ground and knew to evacuate. The political will is still lacking as there is an increasing number of families settling along the flood plain above the newly channeled river and there is only a towering flow gauge to remind people of the height of potential waters. Cities and towns do not have functional planning zones as it would require them to have the political will to make land available for squatters. It would be easier for them to blame “sins of the past” than be politically compromised in the next election.

**3.2 Forest Loss and Impact on Landslides in Eastern Luzon**

While some may say that fewer lives would have been lost if there was forest, this is a different argument from saying that the loss of forest caused the flood and inferring that if there was forest, lives would not have been lost.

Heavy rains from a series of four typhoons on November 2004 in Eastern Luzon caused a massive flood that changed the flood channels of many rivers and swept clean the banks of any forest and habitation.
It has been forgotten that the great flood of 1929 in Infanta, Quezon did tremendous damage even with a much lower population and near total forest cover on the slopes. However, it is said by the old people in the community that even then traditional landownership did not yield to the need for greater human security. Infanta, the oldest municipality of the area (of which General Nakar was part) used to be known as Binanongan Ampon which literally means ‘where what was adopted rose’ – the soil as it emerged on the coast from the river mouth was cared for by the people, as it is understood in their oral tradition. The early agricultural community knew that this land spit was the product of natural erosion long before logging. In the municipal area of General Nakar, primary forest lost in the area over a span of eleven years (1991 to 2002) was 3% and secondary forest lost was 1%. While it can be said that this loss contributed to the greater extent of landslides and so the flooding in General Nakar, it cannot be viewed as the primary cause given the climate, geology and geomorphology, not to mention landownership and settlement patterns. Logs were washed down the river and several log collection points were identified after the event, but most evident are the thousands of coconut trees and natural forest trees large and small with branches and roots.

There are some who acknowledge that illegal logging may not be the primary reason for the recent disaster in Eastern Luzon, but want to use the disaster as a good reason to stop illegal logging. Like in Ormoc, the use of illegal logging as the focus of the response has again diverted the consciousness of society from seeing more appropriate actions that prevent climatic or geologic events from becoming disasters. In such cases, stopping illegal logging is the right goal, but it is the wrong means to prevent future loss of lives in the area. A national program to stop illegal logging will not prevent the next disaster. Stopping illegal logging is not the response needed for disaster prevention.

### 3.3 Critical Role of Erosion, Sedimentation and Debris

An upland study in the Philippines showed that 50% of the rainfall events are erosive of bare soil.18 Floods erode soil and carry away all in the flood path delivered by landslides & those growing along the channel sides & flood plain – trees, debris, logs, soil, rocks and settlements. Sediment and debris carried away by floods get deposited in flood zones as alluvial fans, sand banks and in river mouths creating deltas. Sediment deposits create unstable areas.

Landslides deliver major material into rivers. Logging leaves forest areas exposed, with vegetation more vulnerable as potential debris, and create greater potential for landslides, there being less hold on the soil. Evidence from Thailand and Philippines shows that forest debris and plantation species – not really sawn logs – contributed to flood materials and compounded the destruction of infrastructure along rivers during the flashfloods. In Thailand, a study concluded that the conversion of moist-evergreen forests to rubber plantations in steep mountain areas induced severe landslides and major floods in the south when it experienced abnormal rainfall.19 But then, in major flood events, even primary forest cannot hold out. Due to the height and strength of the flood waters, vegetation – for the
length of the river and for tens of meters up the bank side – is ripped out contributing to the debris a large volume of trees. In the Philippines, uprooted coconut plantations along floodplains clogged the rivers and destroyed the riverside houses along with natural riparian vegetation. For some, it may be merely splitting hairs to say that logs are cut at both ends while debris is dead or uprooted live material. Though both may come from logging activities, debris is generated from many other sources. Nevertheless, the realization of where the material has come from and what then needs to be done would be very different depending upon the interpretation of what is seen.

Deforestation results in erosion, sedimentation and debris (ESD), contributing such material during storm events to the general runoff that results in flooding. It exacerbates forest fires, poor land & riverbank management. Beyond immediate livelihood, this general deforestation of open access areas provides little benefit for locals, other than the driftwood that riverbank communities use for firewood and charcoal and the sand and gravel extraction that is a source of tax revenue for local governments in the Philippines. Outside of the loss of biodiversity and need for conservation, ESD is why government implements programs to halt deforestation and why NGOs call for advocacy & action.

It must be kept in mind however, that these responses will not avert climatic & geological events which radically change the fluvial geomorphology of the local landscape and settlement pattern. While actions against illegal and irresponsible logging are important and something must be done, it does not justify creating a primary causal link between deforestation and disaster flooding. Otherwise, the disaster is but used to address another problem and the actions that need to be prioritized could be forgotten.

3.4 The relation between climatic events and forests

Three levels of climatic impact are apparent in the region and need to be understood for their impact and appropriate response.

3.4.1 Global Climate Change

Deforestation does add to atmospheric carbon and increase in soil temperature, but it will not significantly affect rainfall amounts in an archipelago like the Philippines where climate is determined by the surrounding ocean.

Sequestering carbon as an immediate action, through plantations & reforestation is the primary response, as the emphasis is to create new ‘forest’. Any forestry activity is sought that locks up carbon and improves processing and recycling of wood to prevent its return to the environment as carbon.
3.4.2 Late or Early Rains

In the Philippines during El Niño and the Southern Oscillation (ENSO), the wet season is delayed if not lost with the following year resulting in an extended rainy season. ENSO increases stress on ecological services, livelihood & biodiversity. Less water is available in the form needed, when needed. These effects are exacerbated by deforestation which increases surface water flow (as against subsurface flow), decreases aquifer infiltration, and increases microclimate temperature.

The automatic response is reforestation with alien fast-growing species, sometimes including the planting of fruit trees to augment local livelihood and to reduce cutting the reforestation species that are otherwise good for pulp. The best response however is to assist the regeneration of natural forest, but this has been poorly explored. Limited studies on assisted natural regeneration have been done by FAO, ITTO & AFN in collaboration with DENR.

3.4.3 Exceptional Rainfall Event

A climate event is an “exceptional rainfall event”, usually where two or more consecutive typhoons occur in an area within one week, bringing 30% to 60% of the rain that would normally fall over a span of one year. This event has the capacity to liquefy & destabilize soil deeper than 10 meters (maximum forest root depth).

The Philippines need to accept that “50/100-year” events will reshape the landscape and as such it needs to calculate where these events may impact and why. Within an average occurrence of around fifty years based on historical typhoon data, one generation in an area will experience this event of massive flooding, sediment, debris & destruction. Governments need to recognize that flood zones are nutrient-rich & very tempting for farming communities to claim and squatters to settle on. As such, greater political will and strategic interventions are needed in preventing settlement and economic investments in high-risk areas, but even more in securing settlements for the landless poor & enacting accompanying disaster prevention policies.

3.4.4 Climate Impacts and Corresponding Forest Actions

Different problems need different responses. Geological and climatic events have different primary sets of causes and need different responses. While we are emotionally committed to saving Philippine forests, our response to each event need to be different (Table 1):

<table>
<thead>
<tr>
<th>Climate</th>
<th>Primary problem related to deforestation</th>
<th>Action Needed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Global Climate Change</td>
<td>Forest fires, carbon release, temperature increase</td>
<td>Plantations large scale growth/ absorption of carbon</td>
</tr>
<tr>
<td>Late/ Early Seasonal Rains</td>
<td>Water availability</td>
<td>Stabilization of natural cover control, long term reforestation (not for cutting) &amp; natural regeneration</td>
</tr>
<tr>
<td>Exceptional Rainfall Events</td>
<td>Massive flooding</td>
<td>Reallocation of lands for secure settlements, zoning and implementation, flood mitigation infrastructure and better land management.</td>
</tr>
</tbody>
</table>
3.4.5 Transition Needed

Government and society has to reckon with fundamental changes in attitude and action. Society and government are held if not legally then morally responsible for the impact of the recent disaster. Ironically, DENR has been powerless to act because of a total lack of preparedness to deal with disasters as such, and the lack of influence with other government departments as to their social and environmental accountabilities. Changes in environmental management cannot be made overnight given decades of marginalizing the landless either to the uplands with no connectivity to markets or basic services, or to the disaster-prone urban flood zones and hillsides where squatters were concentrated. Several other considerations in society also merge with these concerns including population growth.

Changes have to be made firmly and strategically with a whole new generation of programs that seal the past constitutional and policy changes with a new path of social incorporation. This has to be done in such a way that remaining oligarchies – having far outgrown in today’s economic and political growth any humane paternalism that may have operated in the past – would no longer have a strangle hold on the poor but respond to empowering processes of decentralization and local governance. Government data are generally out of date and inaccurate for doing analysis to critically drive land management in relation to disasters; they are inadequate even for the purposes of national extrapolations. The awareness and capacity for critical integration in governance as a whole is missing – especially at the local government scale. Along with local government, direct participation of the people on the land has also to be taken as fundamental in sustaining any lasting change.

Illegal logging is an issue for biodiversity conservation, ecological services, sustainable livelihood and disaster management but to very different degrees. A whole new approach to disaster management in relation to the environment and society has to be established. These lessons may apply to many other countries that have experienced environmental disasters.
**PART IV**

**THE EU INITIATIVES AND CONSIDERATIONS POSED**

Part IV of this paper is primarily in response to the European Union’s approaches to address illegal forest issues. EU approaches have been extracted from the conveyances made through the Forest Law Enforcement, Governance and Trade (FLEGT) Proposal for an EU Action Plan (May 2003), EU and Asia: A Strategic Framework for Enhanced Partnership (September 2001) and the European Commission Guidelines for Program on Tropical Forests and other Forests in Developing Countries (October 2003), hereinafter referred to as the Guidelines.

The intention of Part IV is to reflect back to the European Commission an understanding of EU approaches, coming from an Asian perspective as laid out in the first three sections of this document. Some comments are then posed based on this understanding. Finally, a summary of the points for consideration is offered as EC proceeds to fine-tune its approaches over the coming years.

4.1 Balancing Between Aid and Trade Approaches

These recent policies of the European Union communicate the sense that EU has the means to work with a variety of approaches most appropriate for developing countries and for EU member states. Development co-operation through bilateral aid is identified as one avenue where the EU, through the European Commission, could work with developing countries in curbing illegal forest activities. With EU member states meanwhile, the new and priority approach is one that is trade-focused, that is to curb illegal activities through enforcing the rule of law while encouraging corporate social responsibility and increased transparency in trade transactions. Further, it is understood that the EC approach to tropical and other forests in developing countries is founded not only within the scope of tackling illegal forest activities, but is grounded in the concepts of sustainable forest management. Such a sense of sustainability takes into consideration the vital perspectives that link poverty and illegal activities. Points considered include:

- Illegal activities have a considerable negative impact on the rural poor and their livelihoods;
- Illegal forest activities are often the result of inadequate governance and policy reforms;
- Legality does not ensure sustainability, nor are all forest policies in the developing countries based on the premise of sustainable forest management; and
- Capacity building among the public, civil society and private sector is highlighted as a crucial approach in the fight against corruption and enhancing accountability.
From these perspectives, and from an Asian field-based understanding, there is apprehension as to the approach that EU takes on illegal logging, especially of forest law enforcement where laws are enforced most consistently only on disempowered sectors. The trade-focused FLEGT Action Plan would hit the “small fish” – forest-dependent communities who do not hold “licenses” to occupy and use the forests (as described under the first level of illegal activities in Part I). Such communities are much harder hit than the big-time organized operations that have political or military backing (as described under the third level of illegal activities in Part I). This may then undermine the relation established in the Guidelines between poverty, resource rights, and illegal forest activities, and may overlook other critical approaches for curbing illegality. This could happen regardless of whether proposed FLEGT Actions take place in the developing timber producing countries or in EU countries.

A case to prove this point has emerged in 2004. In Indonesia where EU pressure to curb illegal activities is among the strongest, the Ministry of Forestry has responded in May 2004 with a new policy, the Legality Standards for Timber Products from Indonesia, so that timber and foreign exchange can flow “legitimately”. One can say that Indonesia’s response is in line with FLEGT’s “law enforcement challenge”. This was followed by a draft regulation announced by Forestry Minister Prakosa in March 2004 setting out a system of penalties for felling, transporting, storing, possessing and distributing illegal logs. The penalties include the death penalty or life imprisonment for financing illegal logging, 5-15 jail terms plus large fines for ordering or carrying out illegal logging; and 5-7 years plus fines for officials who ignore cases of illegal logging. This can be taken as a major step in Indonesia’s fulfillment of its commitment to the FLEGT East Asia Ministerial Declaration in Bali. However, without providing local communities a level playing field through legal rights to access forests, implementers of this policy that are corrupt have a stronger basis to extort bribes (Box 13) or worse, make false charges warranting a jail sentence.

**Box 13. Forced Land Clearing in Wonosobo**

On 25 October 2004, a timber trader claimed to be backed by Perhutani forced farmers in Bogoran Village to clearcut a 6-hectare block in state forestlands and to give him 30% of the revenue. Farmers planted this barren block in 1999 with Albizzia, now valued at 20 million rupiah (€ 1,800 or USD 2,300). The farmers had to relent to the timber trader’s demands.

Sopingi, a timber trader well-known in the area to have police and military connections, engineered the incident by bringing 11 armed men from a nearby village to Bogoran on 22 October and claiming that Perhutani sent him and his men to order the land clearing so that Perhutani can take back the land and start a new round of planting. He said that if farmers will not do the clearing themselves, he will order his men to clear the land and take all the proceeds.

Sukoco, a recognized leader of forest farmers in Bogoran, clarified the situation with an officer of Perhutani’s forest management unit, who responded that his office did not give orders to Sopingi’s group. Farmers met and agreed that they will stand for their right by gathering at the state forest block the next morning to prevent the clearing. Sukoco then informed the local NGOs, the village head, and the police of the incident and the farmers’ plans. ARuPA, an NGO assisting them in resource management planning, in turn asked district government’s help in mediating the brewing conflict.

The next morning, 23 October, Bogoran farmers and Sopingi’s men faced each other in the forest and exchanged heated remarks. To ease the situation, local government representatives at the scene called both parties to meet at the district hall with other groups present. While Perhutani officers denied that it ordered Sopingi, they admitted that the state forest block in question has been targeted for planting this year. The meeting became unruly, and ended with Sukoco being beaten up by one of Sopingi’s men. The local government suspended the meeting and called a smaller session to manage the conflict. At this meeting, Perhutani and Sopingi insisted on drawing up an agreement for land clearing. Without an approved CBFM District Regulation, local government was not able to stand behind Bogoran farmers and conceded to the land clearing. With government’s sympathy, most of the Bogoran farmers understood and accepted the situation and that night agreed to clear the block and devised a sharing arrangement. The farmer who tended the block will get 90% of the proceeds, while the remaining will be distributed among the village government, the youth organization and the Block Sijambu forest farmer group. Local government attended this village meeting. However, this sharing arrangement did not materialize as Sopingi insisted on his 30% share by threatening farmers with arms.

Another apprehension emerges with the shift in EU strategy for associating with Southeast Asia - from an aid (development co-operation) association to a trade partner (economic co-operation) relationship – implying EU’s commitment to establishing increasingly sustainable base for forestry trade relations with Southeast Asia. This shift could prove beneficial for both sides, but only if the shift is timely and practicable. A premature trade-focused strategy – without adequate consideration of the socio-cultural implications of the politics of forest law enforcement in Asia – could undermine other global commitments of EU, in particular the Millennium Development Goals for Poverty Reduction. Moreover, it can discourage sustained sound investment and sound bi-regional relations.

4.2 The Effectiveness of Verification Systems So Far

Legality verification and certification is a main action point in the EU FLEGT Action Plan. Forest certification and other sustainable forest management verification systems as a scheme to combat illegal forest activities in the world’s tropical forests have substantially evolved since the consumer campaigns in the 1980s, Montreal Process of 1994 and the establishment of actual certification processes by organizations such as the Forest Stewardship Council (FSC). Over this period, various systems have developed around the world emerging as a proliferation of certification and verification schemes. Though schemes have taken off in many developing countries, dialogue on regional or internationally operational schemes has been dominated by the developed countries in North America and Europe, where much of the world’s consumer markets for tropical timber are concentrated, with increasing involvement of Latin American countries and parts of Africa (Figure 3). In Asia-Pacific, New Zealand, Australia and Japan lead the discourse while being picked up in Southeast Asia primarily by the major exporting markets of Indonesia and Malaysia.

Timber-producing Southeast Asia has yet to reach a consensus on whether they see verification systems such as forest certification as a practicable and effective way to go about curbing illegal activities. Verification systems for controlling of illegal forest activities in the region is currently hotly debated amongst engaged entities, but many interlocutors working from the field stay aloof, as most of them recognize gaps between these dialogues and the present state of forest management. Gaps are present in the dimensions of costs, technological applicability – as there is substantial reliance on automated technologies for tracking systems – capacity on various levels, and political frameworks that define illegality.

4.3 Fast-Track Market Forces versus Forest Certification Integrity

The primary push for forest certification comes from the demand side of the market, which is encouraging but also threatening. For most independent forest certification schemes, the principle of voluntary engagement is an essential factor that maintains the validity and integrity of the mechanism. Therefore, that business initiatives are spurring the trend is increasingly creditable in that it gives hope that a sustainable mechanism could potentially unfold.
At the same time, because such private initiatives of trade are driven by underlying economic sustainability goals, there is zealous pressure for quick development and generation of ‘certified material’, often to the detriment of processes that ensure genuine community feedback so that social accountability principles are met. Numerous “brokers” are involved between the forest gate and the end-markets – as is characteristic of the timber industry – in effect obscuring the forest scene from consumers. In some of cases where Javanese logging companies were assessed under the FSC certification scheme, the hidden hand of a pressuring industry has framed and forcibly fast-tracked the certification process. The outcomes of these certification processes have been controversial, and ended being repealed (Box 14).

The principal controversy in establishing verification systems among the forest-rich countries of Southeast Asia lies in the impetus for certification from numerous middlemen who seek to supply the market, but there is a failure to take careful consideration of field and village realities that are not ready to entertain market demand.

Most of the currently operating international forest certification schemes require a process of establishing a set of criteria by which to evaluate forest management practices, using a standard that is practical given the unique ecological, social and political nature of forests in the locality. This process implies the need to validate approaches and address issues often entailing multiple layers of conflicting interests between national trade and economic policies and social justice. Certifications under the FSC scheme in the region have so far been conducted without such localized criteria, working with a generic guideline standard made applicable to forestlands worldwide, but lacking adequate country-specific conditions thus dodging issues that principally need to be addressed by a wide range of stakeholders as a nation. Furthermore, the process is often established with the larger systems first and giving these larger systems a determining say in how things work overall. It is also going to be very difficult to have criteria and indicators that are manageable by communities without employing foresters as the only people who can process the forms. This again ties communities into a system that perpetuates some of the problems of old.

### 4.4 Asia’s Readiness for Forest Certification Systems

From the documentation of failed accounts of certification schemes, potentials and limits of certification schemes need to be reassessed for these schemes to maintain integrity against illegal forest activities. If a credible process for crafting a set of localized criteria for certification develops, this will most likely include issues plaguing the forestry sector. Much will be said about present problems on resource use rights and indigenous
The EU Initiatives and Considerations Posed

### Box 14. Perhutani Certification and De-Certification

Perum Perhutani, the sole state forest corporation managing 2 million hectares of forestlands in Java, Indonesia, is the main provider of teak to the Europe and US by way of furniture exports. Perhutani obtains 30% of its income from export markets and most consistent buyers are UK, Spain, Germany, Turkey, Netherlands, Sweden, Denmark, Belgium, Greece, Japan, US, Hong Kong and Singapore. Over the past decade, Perhutani has sought to get their products certified as sustainable.

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>Perhutani acquired certification from Smartwood for all its forest management districts</td>
</tr>
<tr>
<td>1993</td>
<td>FSC established</td>
</tr>
<tr>
<td>1996</td>
<td>Smartwood accredited as an FSC certifying body; Perhutani automatically adopted the FSC logo through its old Smartwood certification.</td>
</tr>
<tr>
<td>1997</td>
<td>FSC suspended Perhutani’s Smartwood certification due to complaints from many international observers concerned with illegalities, corruption, and violence associated with Perhutani operations in Java. Also, the initial assessment in 1990 was insufficient in relation to FSC procedures and non-compliance to requirements set out in 1996.</td>
</tr>
<tr>
<td>1998</td>
<td>Perhutani sought to apply for re-certification due to mounting campaigns against uncertified tropical timber in Europe.</td>
</tr>
</tbody>
</table>

- FSC insisted that Perhutani could only be re-certified on a per district basis, despite controversy of ‘partial estate’ certification wherein partially certified companies can use the FSC name and logo with in conjunction with the company name for promotional purposes.
- Indonesian teak retailers at the SPOGA international trade show displayed statements from Smartwood that they would be selling certified teak as soon as it became available.
- FSC certification was awarded to three Perhutani districts (Cepu, Mantingan, Kebonharjo) officially producing 63,000m3 per year.
- Smartwood Executive Director announced the finalization of Perhutani’s certification and added that Smartwood is beginning a second phase of assessment “which will add another 200,000 hectares of teak plantations to the certification” – preempting the actual certification decision.

Mar 2000 – Three more Perhutani districts were certified (Kendal, Madiun, Lawu).

Sept 2000 – Mattingan certification suspended because illegal logging was higher than annual allowable cut. Other districts were issued time-sensitive Corrective Action Requests.

Nov 2000 – Armed police, Perhutani staff, and hired thugs rounded up and forcibly evicted 47 farmers from land claimed by Perhutani in Banten Province, despite the farmers showing proof of land ownership and tax payments. Nine of the farmers were detained on the grounds of timber theft and forest destruction under the 1999 Forestry Law.

2001 – Smartwood suspended FSC certification for the remaining four Perhutani districts, except pine-producing Lawu (Oct). Smartwood Executive Director stated in a paper after the suspension: “The Rainforest Alliance’s Smartwood Program may lose at least 35 chain-of-custody certification contracts as a result of this suspension…this represents an immediate and significant loss of income to Smartwood…and a significant financial loss for broader efforts in Southeast Asia.”

Oct 2002 – A villager died after being arrested and beaten by a Perhutani district official in Cepu for buying timber from a village within Perhutani land. The Blora District Association of Village Heads issued a strong statement against the incident.


people’s rights and approaches in evaluating the legitimacy of overlapping and controversial domain claims. Other than such concerns, locating valid and practicable processes of certification need to be agreed upon; namely processes of identifying stakeholders and conducting open and comprehensive consultations fairly and with transparency, and systems of monitoring small-scale farmers’ groups once they have been certified. Needless to mention, certification bodies will need to be fully cognizant with local issues including hot spots for corruption and illegal forest activities while maintaining the integrity of certification and not succumbing to market pressure (Box 15).

Forest certification may be applicable to a variety of settings, forest types and management schemes. Such include concessions on natural forest, concessions including large-scale plantations supplying timber or pulp and paper companies, forests managed by power and mining companies and forests formally managed by communities. Each of the management schemes have different loopholes that serve illegal activities and need to...
Box 15. Native Customary Laws, User Rights and the Malaysian Timber Certification Council (MTCC)

MTCC has certified a total of 4 million hectares in Malaysia and in all cases, the governments of the respective states being the official owners of the certified forests, reported that the "Malaysia Criteria and Indicators (M C&I) require adherence to national and regional laws. However, issues of legality are not necessarily adequately addressed. This is particularly true in the case of disputes with the local community over land rights. Native customary laws (adat) are very much part of the legal system in the pluralistic social context of Malaysia. But, user rights are being challenged by the MTCC forest management certification scheme. This is due to the fact that forestlands were often untitled under native customary rights, although clearly demarcated among local people through usage and shared knowledge. By not recognizing native customary law, the MTCC scheme aggravates the injustice to indigenous communities and challenges the legal rights of indigenous citizens as enshrined by the national constitution."


be carefully approached. The applicability of forest certification to forests managed by communities or local community-based groups for Southeast Asia stands somewhere between uncertain and unfitting, as cases of certification granted to communally managing entities are significantly limited – numbering one single case in the Philippines under the FSC certification scheme.31 Fair trade certification for non-timber forest products, on the other hand, holds better potential for local communities to get a better hold of the market. Some corporate operations in the Philippines and Malaysia are buying certified products in order to meet international markets but on the whole Asia still buys the cheapest, even if not the most sustainable.

4.5 Summary Points for Consideration

In addressing the problem of illegal forest activities within the larger context of halting deforestation and promoting sustainable forest management, a transitional approach with immediate and long-term goals and strategies can be adopted. At this point in time, certain areas and approaches call for urgent response. Where recognition of community participation in forest management and local communities' access to land has not been realized, this needs to happen not just for isolated cases while a preference for larger operations moves ahead and further delays justice to communities.

It has been proven painfully clear that the issuances of policies and laws are hardly enough to bring about the intended changes on the land embedded in such policies and laws. Implementation of policies calls for laying out programs and frameworks that enhance capacity for governance and management; open space for dialogue between different levels of stakeholders, such as through exchange-visits among different levels of actors from different backgrounds; and explore mechanisms of participation. Other times, priority areas include capacity enhancement for livelihood development.

Trade-based approaches also need to fall in line, as timeliness is crucial. In many countries in Southeast Asia, conditions are not yet ripe for trade-based verification schemes to move toward the intended objectives of combating illegal forest activities. To maintain verification/certification as a viable mechanism, it must be engaged with prudence and not succumb to the pressure from the market or overlook an ill prepared social context. Even so, it is essential to keep the trade and industry sector engaged in the discourse of combating illegal forest activities. However, for effective implementation, the launching of verification systems will take much more time than the industry sector presently envisions.
This calls for an approach that will keep the industry sector in the loop of the discourse, without damaging the integrity issue. Engaging the forest industry in the discourse without putting forest certification as the only means possible, and to take a more varied and transitional approach with certification/verification as the long-term intervention mode may be more astute. An approach for the industry is to use its strategic position to look into the multiple layers of brokers involved between the forest gate and their dispatch yards, where much of the illegal activities are allegedly taking place, and to devise routes that are transparent. Doing so will also pave the way for a smooth launching of chain of custody certification, once the supply side countries are at the stage of implementation. A number of end-markets have already displayed interest in directly engaging with community-trade initiatives and familiarizing themselves with the supplying forest communities. Devising together a means of securing transparency and accountability as a condition for transaction can be effective. It should also be highlighted that on a smaller scale, non-wood forest products play a major role in trade as it modestly supplements the livelihoods of forest dwellers, and are the communities’ greatest potential for market accessibility. Collaboration between such communities, NGOs and the industry to come up with schemes that would be both realistic for industry and sustainable for communities and forests is heeded.

Not surprisingly, much difficulty has been experienced in designing and implementing sector reforms, new frameworks and mechanisms that meet diverse needs of stakeholders. This is due to many factors including historical legacies of dictatorial regimes, international interference, provincial violence, disintegrated communities, co-existence of diverse farming cultures, the emerging and growing urban class and so on. However, in the field, community based practices of forest management have been in place for generations. The communities are there, increasingly driven to poverty as forests resources are being depleted. For effective impact in reversing the trend of illegal forest activities, consumer countries too need to look beyond their scope of actions, to where the root cause of the problem lies.
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Overview and Updates on FSC can be found in:

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Some examples cited in:

