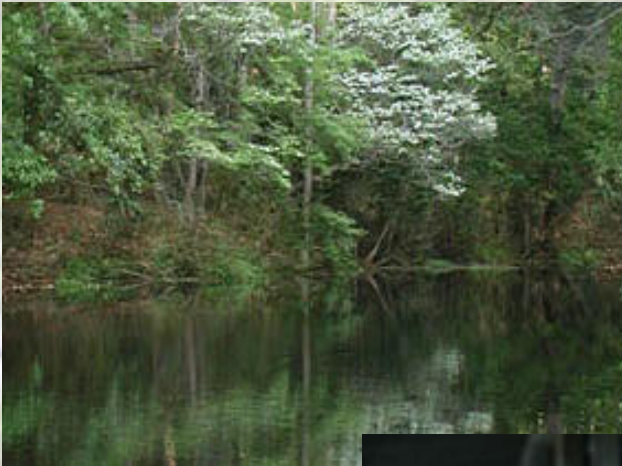




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Legal Forest Destruction



THE **WIDE GAP**
BETWEEN **LEGALITY**
AND **SUSTAINABILITY**



Layout report and editing cases

Ingrid Roerhorst

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Photos cover

Green Swamp in North Carolina the way much of it looked like 20 years ago, USA (© Gean Seay, 2000)

Penan people suffering under legal logging in Sarawak, Malaysia (© Greenpeace/Ngo, 2002)

Discarded or left logs in concession VC 11-06-18, Cameroon (© CED, 2004)

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1. PREFACE

Illegal logging is a global and complex problem that is not easy to tackle. It is therefore crucial that the right measures are taken. Legality is often presented as a necessary first step towards sustainability – recently in Europe the timber trade has introduced legality claims and national governments have included legal timber in their public procurement policies as a way of addressing illegal logging.

Dutch timber traders, for example, support the promotion of legal timber through voluntary trade mechanisms, and the Dutch government considers including legal timber in its public procurement policy. To address the problem of illegal logging, the European Commission recommends the development of Voluntary Partnership Agreements (VPAs) with timber producing countries which are aimed firstly at helping these signatory countries improve their governance and forest management and secondly, implementing a licensing system to ensure that they only export legal timber to Europe.

This report aims to provide more insight in the realities of legal logging. It presents cases of legal logging on every continent and in a variety of forest types, in which the negative social and ecological effects are profound. These negative effects result in "legal forest destruction", defined as *"harvesting of timber and/or other forest products in accordance with national legislation, but which is economically, socially and/or environmentally detrimental"*.

This report thereby provides strong signals to governments and timber traders that are taking measures to combat illegal logging, that legal logging is not always associated with sustainable forest management and that these proposed or taken measures can have serious negative effects on attempts to work towards sustainable forest management. Without strong safeguards, the political action undertaken by the EU may lead to the legalisation of forest destruction, increase unsustainable trade and consumption of biodiversity resources, and undermine the efforts to establish sustainable forest management.

We reject the idea that legality is the first step towards sustainability. Legality and sustainability must be combined. Compliance with the laws of timber producer countries should not be a first step or an end goal, but a pre-condition to accessing the EU market. Each company should be obliged under the EU law to demonstrate the legality of the timber products it buys and sells on the EU market and be made accountable for that. This should not require incentives or voluntary mechanisms.

The role of the EU is to ensure that sustainability goes hand-in-hand with legality. The external policy of the EU, including the VPAs, should therefore aim to promote and support the efforts of timber producer countries to get truly sustainable forest management in place. This action, combined with the adoption of domestic measures such as a licensing scheme and environmental procurement policy for timber products, should also aim to ensure legal and sustainable wood supply to the EU.

If the EU has one end goal, we believe it must be to promote an equitable and sustainable trade regime for timber and forest products, which will promote social equity and poverty alleviation, contribute to ecologically responsible forest management and end biodiversity loss.

Ten cases of legal forest destruction are presented in chapter 2 of this report, illustrating a wide gap between legality and sustainability. Chapter 3 draws conclusions from the ten cases and provides recommendations to governments and the Dutch timber industry.

1.1 Background

1.1.1 State of the world's forests

Tropical forests hold over 50 per cent of the world's terrestrial animal and plant species. Eighty to 90 per cent of the 1.2 billion people living in extreme poverty worldwide depend on forests for their livelihood.

Degradation of forests as a result of unsustainable and often illegal logging is a global problem, whereas deforestation (clearing forests for other land use) is mainly a problem in tropical countries (FAO, 2001; WWF, 2005). Tropical forests are being destroyed at an alarming rate. The reported loss of natural forests in the tropics during the 1990s was approximately 15.2 million hectares annually, of which a minimum of 90 per cent was converted to other land uses. For that decade this adds up to the deforestation of an area larger than the combined size of Italy, Spain, Portugal, Switzerland, France and the United Kingdom.

In recent years enormous areas of tropical forests have been converted to oil palm and soybean monocultures. In 2004 the rate of forest clearance in the Amazon was the second highest on record with an area of 2.6 million hectares (nearly the size of Belgium) cut down for soybean production. In Malaysia, oil palm plantations have increased from 240 000 hectares in 1967 to 3.3 million hectares in 1999. In Indonesia, oil palm companies clearing land for plantations start 80 per cent of forest fires.

Of all the trees felled worldwide, 48 per cent are used as raw material in the forest products industry, giving the companies involved a significant influence over forest landscapes and their management.

1.1.2 Sustainable forest management

Forest management has improved significantly in tens of millions of hectares of production forests all over the world, with independent certification bodies – such as FSC – monitoring progress. Even in fragile tropical rainforests, reduced impact logging systems combining social responsibility with selective harvesting (cutting down only a few trees per hectare every 25 or 30 years) are now in place. The driving force has been NGOs working with those western buyers (mostly companies) willing to take responsibility for their supply chain.

A number of mainstream timber importers have shown that with determination and a consistent policy it is possible to source and market large volumes of sustainable produced timber. Concessionaires in nearly all important timber producing countries have proven that certification is possible and that in many cases the benefits of becoming certified are much greater than the costs. Retailers have replaced many timber products by certified ones, and builders have come to realise that certified timber is now available for all uses.

Governments have witnessed how certification has led to improvements in forest management all over the world. They represent a lot of buying power and are increasingly willing to use it. The G8's joint timber and wood product imports amount to \$22 billion annually. If these billions would be used to ensure 3rd party certification, sustainable forest management would greatly benefit.

1.2 Shift towards legality in the European Union and the Netherlands

1.2.1 New EU regulation on forestry

On 13 October 2003, the EU opened the door for the European Commission to start drafting a regulation on forestry. Through this so-called FLEGT (Forest Law Enforcement, Governance and Trade) the EU aims to

control the import of illegally sourced timber from partner countries and develop measures to increase capacity of developing countries to control illegal logging.

FLEGT will be the legal basis for voluntary licensing schemes between the EU and producer countries, which will in turn be based on bilateral agreements. The draft Commission Regulation of May 2004 has been adopted in October 2005 in amended form by the Council under the UK Presidency. The official negotiations between the EU and a number of tropical timber exporting countries will come into effect in 2006. These negotiations will result in the establishment of Voluntary Partnership Agreements (VPAs). The Dutch government will take the lead in the negotiations between the EU and Malaysia. VPAs primarily aim for legality and not for sustainability. The effects of VPAs themselves to deal with illegal logging are criticised (joint NGO statement, 2005) and additional legislative options, such as an EU import ban on illegal timber, are not yet developed (WWF et al, 2005).

1.2.2 Public procurement policies

National governments of Western European timber importing countries increasingly use public procurement as a means to try and support sustainable forest management in timber producing countries. However, most procurement policies give preference to the use of timber from sustainable sources while allowing the use of legal timber, for example:

- Denmark published guidelines (2003) to ensure that the tropical timber public and semi-public institution's purchase is produced in a legal and sustainable manner. The Forest Stewardship Council (FSC) has been accepted as sustainable and the Malaysian Timber Certification Council (MTCC) as legal.
- UK departments are advised (2004) to accept the Canadian Standards Association (CSA) and FSC as providing assurance of sustainable sources. SFI, MTCC and PEFC are accepted as giving assurance of coming from legal timber sources. The Sustainable Forestry Initiative (SFI) is accepted as providing assurance of sustainability if timber is traded through a chain-of-custody (which SFI itself does not provide). The Programme for the Endorsement of Forest Certification schemes (PEFC) has also been accepted for a 6-month's trial period (until the end of 2005).
- Germany is discussing a proposal to introduce legislation outlawing import or marketing of wood sourced illegally in non-EU countries (FERN, 2005).
- France aims for 50 per cent sustainable produced timber in 2007 and 100 per cent in 2010. Legality is mentioned as a criterion.
- Belgium's Flemish government promotes the use of FSC, PEFC Belgium and other PEFC certificates if indigenous peoples rights are addressed and stakeholder dialogue available.

In the Netherlands, legality has recently become a more important issue in the public debate. The Dutch government is increasingly interested in using demonstrably legal timber for its own needs. It is currently setting up a national procurement policy aimed at the use of sustainable produced timber wherever possible, but at least demonstrably legal timber, using the FLEGT definition guidelines on legality.

1.3 The Dutch timber market

In January 2004, members of the VVNH (the Netherlands' timber trade federation) reached agreement on a policy that included a code of conduct obliging the VVNH members to only deal in legal timber by 2005. However, recently the VVNH reviewed their policy and implicitly recognised that its members will not achieve full legality in 2005. Instead the new policy obliges members to know the origin of their timber imports by 2009, which is not necessarily the same as ensuring this timber is sourced from a legal source (Houtwereld,

2005). At the same time, VVNH members continue to present themselves as responsible traders not dealing in illegal timber from 2005 onwards.

Furthermore, the VVNH has launched a legality protocol developed by its own certification body called Keurhout (Centrum Hout, February 2005), which allows timber from approved certificates to carry the official Keurhout–legality claim. In September 2005, the Keurhout legal system has approved several MTCC certificates for forestry areas and chain of custody (CoC) in Peninsular Malaysia.

1.4 Negative impact on Dutch market because of focus on legality

The focus on legality by both Dutch timber companies and the government is already having a negative impact on the Dutch market. Within a few weeks in February and March 2005, a number of examples were found in which market parties (often governmental) no longer solely asked for sustainable but for legal timber, or where they did specifically request sustainable timber they ended up with legal Azobe (see box 1). In these cases legal timber directly competed with sustainable produced timber. Even buyers with a clear policy aiming at only sourcing certified sustainable produced timber ended up with legal timber.

Box 1: examples of legal timber demand

- A major developer on 14 February 2005 ordered *"FSC or (recognized) legality claim"* for a school in Almere;
- The February 2005 Houtblad (magazine for timber traders and developers) states *"In the specifications you can include 'Azobe ... with document of sustainability or at least demonstrable legality'";*
- In December 2004 specifications by a district water board read *"... FSC or Keurhout–certificate ... For Azobe a declaration by the trader is accepted as equal";*
- In February 2005 a municipality accepted Azobe with a SGS legality claim whereas the specifications were *"must be ... FSC ... the certificate must be handed over to the director beforehand"*.

2. CASE STUDIES

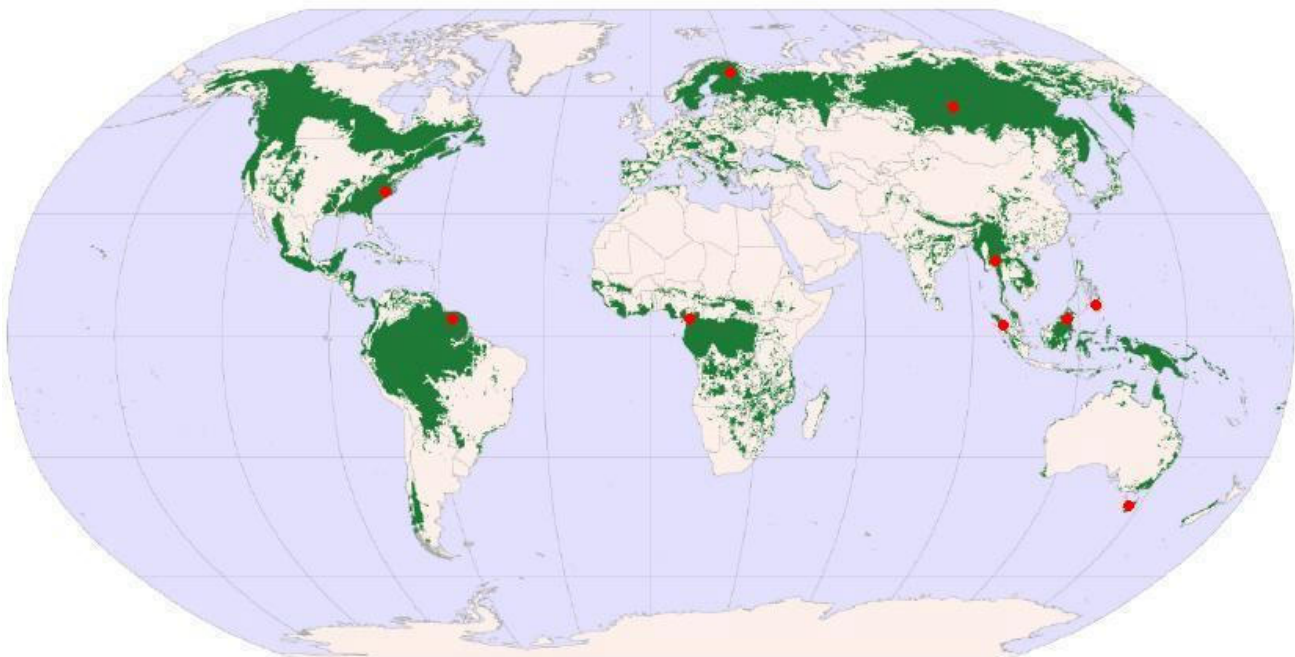
This chapter contains case studies of legal forest destruction from Australia, Burma, Cameroon, Finland, Indonesia, Malaysia, the Philippines, Russia, Suriname and the United States of America. These ten cases were collected in a short period of time, and are just a tip of the iceberg.

All cases are compiled and approved by local, national and/or international NGOs. Some cases were lucid and had been documented before, whereas others needed more research. Facts were checked and rechecked, at times even lawyers were called in. Sources used to compile the cases are listed at the back of this report.

Though there are a lot of emotions involved, especially among people directly involved in these cases, passionate pleas were avoided as much as possible. The facts speak for themselves.

More information about a specific case can be obtained from the contact(s) mentioned below that case.

Global distribution of remaining forests



- Forest cover in 2000
- Location described in this report

The map was produced by WWF using original data from UNEP-WCMC (www.unep-wcmc.org).
The red dots were added by the authors of this report.

2.1 AUSTRALIA

SUMMARY – For decades the Tasmanian forestry industry has operated in a climate of controversy. Despite significant subsidies, the picture has been one of declining jobs, spiralling low value woodchip exports and a persistent balance of payments deficit. Scientific and community concern about forest destruction and land clearing of native forests has continued to escalate. In December 2004 Tasmania's biggest exporter of woodchips went to court to claim \$6.3 million (AU) damages from a group of twenty people and organizations including The Wilderness Society and five of its employees, Green Party politicians and a number of individuals.

Tasmania



Tasmania has some of Australia's last tracts of pristine forest, unique for its flora and fauna. The tallest known standing hardwood, the swamp gum (*Eucalyptus regnans*) towers up to almost 100 meters. It is found in wet eucalypt forests. Another unique Tasmanian ecosystem is the ancient Gondwanan rainforest. Endemic, rare and endangered wildlife includes the Tasmanian Devil, the Tasmanian Wedge-tailed Eagle and the world's largest freshwater invertebrate the Tasmanian Giant Freshwater Crayfish.

Tasmania's logging industry exports more than twice the volume of native forest woodchips than all the other Australian states combined (around 5 million tonnes per annum). Tasmania has one of the highest rates of land clearing in the developed world, with at least 90 000 hectares of native forest having been converted to plantations in the last 7 years.

Ecological impact

A range of different silvicultural systems is used in Tasmania. The dominant practice is clear felling. Clear felling involves the complete clearing of logged areas. First, the loggers come and clear cut an area of all the trees that may have commercial value and others that might be in the way. The commercial logs are then trucked to the woodchip mills and sawmills. This process leaves large amounts of wood behind on the ground, small standing trees, shrubs and other vegetation. Rather than hauling out this wood and selling the remaining small trees, helicopters drop incendiary devices to light the 'slash' on fire. The fires associated with this practice are very large and so hot that they create a mushroom cloud, the type of cloud that is usually associated with an atomic explosion. The next step is to scatter the charred forest floor with eucalypt seeds from the air. In some cases carrots soaked in a chemical known as 1080 are used to poison native animals that might feed on the seedlings. All the animals that feed on the carrots (including wombats, possums, and wallabies) die. The practices associated with establishing plantations remove most of the native biodiversity from the site and involve the aerial application of chemicals. This poses significant risks and Tasmanians

have been directly exposed to some of these chemicals as a result of overspraying and chemical contamination of water supplies.

These practices produce very high levels of carbon dioxide and other greenhouse gases. A recent report that looked at commodity industry sectors across the whole of Australia identified the forest industry as having a very high impact on greenhouse gas emissions, 97 times the average for all industries.

Tasmania is the only state in Australia where old growth forests are being converted to short rotation tree crops.

Social and cultural impact

Logging old growth brings little wealth and few jobs to struggling, impoverished rural communities. According to Graham Green, of Timber Workers for Forests, in 1980 there were 205 registered sawmills employing 3 000 Tasmanians – by the end of 2003 there were fewer than 40 sawmills employing 1 350 people. A 2003 report in the Australian Financial Review revealed the Tasmanian industry in its entirety had shed more than 1 200 jobs since 1997. The logging industry has shifted its focus away from jobs-rich, high-value adding processes such as saw milling. Wood chipping now dominates the industry and, as a low-value, high-volume process based on destructive logging practices that are highly mechanised, it is responsible for the massive decline in employment across the timber industry.

Key industries depend as much on the island's natural image as they do on the products they sell. There is growing concern in all these industries at the relentless damage being done to Tasmania's name by images of smouldering forest coupes. Tourism now employs 36 000 Tasmanians and in recent years tourism employment has grown at over 15 per cent per annum. However tourist operators become ever more embarrassed at explaining away endless clear fells, processions of log trucks and the strange vistas of single-species plantations. Scenic flight pilots take



Woodchips on wharf at Burnie, Tasmania (© Mike Thomas)

routes that avoid the scenes of devastation that run up to the very boundaries of World Heritage Areas. Boat builders and furniture makers find it more difficult to get the timber they need. Tasmania's unique leatherwood honey industry faces great problems as the last stands of accessible leatherwood trees are destroyed. Organic farms suffer because of the wide spread use of poisons.

Supplementary Tasmanian Regional Forest Agreement

On 13 May 2005 the Prime Minister of Australia and the Premier of Tasmania signed a supplementary to Tasmanian Regional Forest Agreement (RFA). The Supplementary Agreement now forms part of the Tasmanian RFA (1997). It was developed to implement a joint commitment of the Australian and Tasmanian

Governments to enhance protection of Tasmania's forest environment and promote job growth in the Tasmanian forest industry.

However, the Australian Government seems to have abandoned its goal to end the use of 1080 poison on native wildlife. And although environmental organizations celebrated the forest protection that is going to happen in the northwest of Tasmania (the Tarkine Wilderness) and parts of the Styx Valley, the broader picture is that this new agreement won't stop old growth logging. It may in fact accelerate destruction as new roads are built into previously inaccessible areas.



Wedge-tailed eagle (en.wikipedia.org)

In the Blue Tier in the northeast of Tasmania, for instance, local community conservation campaigners and The Wilderness Society have long campaigned for the protection of Crystal Hill. Significant environmental and historical values have been identified and tourism opportunities have been developed. The Blue Tier received a total of 774 hectares of new formal reserve in the recent Supplementary RFA, well short of community expectations and conservation needs. Closer examination reveals that these new reserves were unlikely to be logged anyway, being too steep, visible from a tourist lookout and undesirable to the industry. Other areas in northern Tasmania like the Great Western

Tiers and Ben Lomond received even less protection. Further risks to rare and threatened species are posed through continued logging in the northeast. A recent study (Melbourne University and Forestry Tasmania, 2004) concluded that the endangered wedge-tailed eagle has a significantly greater risk of extinction in this region should planned logging and plantation conversion operations proceed.

The new agreement seeks to end broad-scale land clearing by 2015. At a capacity of 95 per cent of 1997 levels this still leaves about 70 000 hectares more clearing, even if the decision is properly implemented.

Logging company files claim

By far the biggest exporter of woodchips sourced from old growth forests in Tasmania is Gunns Ltd, an AFS (Australian Forestry Standard) certified company. While Gunns makes its profits primarily in Tasmania, mainland institutions own the great majority of Gunns' shares. Individuals on the island hold less than 10 per cent of Gunns shares.

The logging industry is effectively exempt from numerous Acts and legislated controls that apply to the rest of society. Importantly, the Federal Government's Environmental Protection and Biodiversity Conservation Act (1999) and State based land use and threatened species laws are overridden by industry friendly agreements and codes of practice. 'Commercial in confidence' protects the financial dealings of monopoly operators such as Gunns and makes it difficult to uncover the true costs of logging operations. It helps protect the precise financial relationship between government and industry – how much, for example, do loggers actually pay for timber cut from state forest, trees owned by the people of Tasmania.

At a time of intense public debate in Australia, Gunns has shifted the forum to private court action. On December 14, 2004, Gunns filed an unprecedented 216 page, \$6.3 million (AU) claim against 17 individuals and 3 conservation organizations. Gunns claimed that their actions had cost the company over a million dollars – with the rest of the \$6.3 million claim being for aggravated and exemplary damages – that is, as punishment for the defendants' actions. The allegations cover a variety of actions including lobbying corporate shareholders, speaking to newspapers, picketing in the forests themselves and allegedly being responsible for Gunns not receiving a major Australian environmental award. The most costly allegation: environmentalists conspired to pressure Japanese buyers out of doing business with Gunns.

In civil court the corporation has far more resources than its opponents. Unlike criminal cases where a defendant has a legal right to representation, parties have few such rights during a civil matter. Even if the ruling goes in their favour, the defendants may still end up having to pay 20–40 per cent of their legal fees, which will run to millions of dollars. If Gunns succeeds in either tying up the environment movement in court for years, or worse, in making out some of its major claims, it will have far reaching ramifications for the environment and all those who campaign to protect it.

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2.2 BURMA

SUMMARY – In 1962 the junta seized power in Burma and since then there have been constant armed conflicts between ethnic minorities and the junta. Burma's natural resources, particularly teak forests, are exploited in order to finance the various parties in these conflicts. The rainforests in Karen State are being logged at devastating rates by the Burmese military government, ethnic opposition groups and foreign investors. Legal logging operations of the various governments and their beneficiaries are not only causing serious ecological problems. The Karen people's cultural identity, indigenous knowledge, traditional beliefs and values are disappearing as well.

Bilin Township, Doo The Htoo District, Karen State



Burma is a biologically and culturally diverse country. It is located within the greenbelt of the Equator and is home to some of the world's most lush and diverse rainforests. Burma has a complex political and military situation, with a junta known for human rights abuses (including land rights and forced labour connected to forestry). Logging is financing all parties and has become a major conflict resource.

Burma first opened to foreign investments in 1989 and logging dramatically increased, especially in the resource-rich ethnic minority states along the Thai and Chinese borders. The Burmese military regime, the State Peace and Development Council (SPDC), ethnic minority groups and foreign investors from neighbouring countries such as China and Thailand all contribute to this increase. This corrupted, but within Burma legal, logging is depriving the local Burmese and ethnic populations of the resources essential for sustaining their livelihoods.

Karen State

Over 30 per cent of the population of Burma is made up of ethnic minorities who live by traditional means and are dependant on Burma's rainforests. The people in Doo The Htoo District in Karen State (southeast Burma) are such an ethnic minority. They rely on the rainforests and the land to practise rotational cultivation and flatland paddy agriculture. In traditional Karen structures indigenous knowledge and culture are directly linked to the environment, and resources are used in a responsible way.

Doo The Htoo District has tropical wet evergreen and mixed deciduous forests. Officially the forests in Karen State are divided in two categories:

- reserved forest areas that were set up by the British during colonial rule and remain under government control;
- unreserved forest areas that are meant to be community forests belonging to the villagers.

In most places in reality other parties are logging the community forests.

Doo The Htoo District has 10 reserve forest areas managed by the Karen National Union. These reserved forest areas however exist only in name. In Bilin Township, Doo The Htoo District, there are 3 reserved forest areas totalling about 2 125 hectares. Only 20 per cent of these 3 reserved areas is actually still forested.

The government has been heavily logging the forests of Doo The Htoo District since the early 1970s. In Bilin Township, military advanced and secured areas for logging in 1992 by building roads and bringing in large trucks and machinery. These military-backed logging operations are the main cause for the forest destruction in the 3 reserve areas.



Timber industry financing the civil war (© KESAN)

Because of conflicts with the local Karen National Union (KNU), the government changed its strategy in 1996 to maintain control of the logging using local intermediaries. A so-called 'log extraction group' made up of Karen businessmen was formed in order to carry out the logging and to negotiate with the KNU. The government-controlled Myanmar Timber Enterprise (MTE) provided loans to the Karen businessmen under the condition that all timber would be sold to the MTE. Not only is the logging group allowed to exploit the 3 reserved forest areas, but the KNU has also allowed them to exploit over 8 000 hectares of unreserved forest in Bilin Township (2002).

The granting of logging permissions in and outside the reserved forest areas is causing conflicts between the KNU and the local villagers of Bilin Township. *"We have no trees for building our house because of the logging, while the KNU does not allow us to cut one tree. But they allow the log extraction group to do logging."* Villagers now have to illegally log trees in areas originally set up as their own reserves.



Forest fires set by SPDC to gain control (© KESAN)

Social, cultural and ecological impact

The Karen people practice rotational farming that relies on good forestland to produce high agricultural yields. The land that has been used is traditionally left for at least seven years to fallow and regenerate before it is cleared and used again. With encroachment of land for logging, villagers are forced to use the same land without allowing a proper regeneration period thus exhausting the soil. Since 1996, villagers have noticed major changes in climatic conditions (excessive flooding and droughts) that further decrease yields.

The Karen people also depend on irrigated flatland agriculture and rely on the nutrient rich water from local streams. With forests disappearing and streams running dry they now depend on rainwater. Availability

however is less predictable and rainwater lacks nutrients necessary for decent rice yields. Many of the paddy fields have been abandoned because they have dried up and do not produce crops.

The villagers are being forced to abandon traditional agricultural practises and many become daily labourers for the logging companies, work in gold mining, or are employed in commercial mono-plantations. The contracts are usually short-term and once the work is finished the farmers do not have land to go back to nor the seeds and resources needed for planting. They can not return to traditional farming and must try to find income by other means. This usually entails illegal logging or cutting bamboo forests. As a direct result of legal logging, the heart of their livelihoods, the practise of rotational or flatland agriculture, is lost.

Logging is also a serious threat to local biodiversity in Karen State. There is a major decrease in wildlife both in and outside the reserve forest areas. Large animals such as the tiger (*Panthera tigris*) and the world's most endangered species of rhinoceros (the Sumatran rhino, *Dicerorhinus sumatrensis*) disappeared. Many other less visible and charismatic species must have suffered the same fate or will do so in the nearby future.

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2.3 CAMEROON

SUMMARY – The exploitation of VC 11-06-18 in the Southwest Province of Cameroon, which is allocated to the national timber company CAFECO, is causing destruction to the environment while impoverishing forest dependant communities. Logs are wasted, farms destroyed and forests fragmented. These destructive effects of logging are inherent to the legal VC-system in which a logging company does not require a management plan and has no long-term responsibility for the forest.

VC 11-06-18 in Manyu Division, Southwest Province



A Vente de Coupe (VC) is a logging permit for an area of 2 500 hectares in a non-permanent forest estate over a maximum period of three years. These logging operations are allocated at an auction to the highest bidder. In September 2003 VC 11-06-18 was allocated to CAFECO, a national timber company. Logging operations started around October 2004 and will be continuing in the fiscal year 2005-2006. The area of this VC is (was) rich in Azobe (*Lophira alata*). It is surrounded by the villages Dipemda, Koba, Ibemi and Mosanja. Inhabitants of these villages are highly dependent on the forest and its resources in sustaining their livelihood.

Researchers of the Centre pour l'Environnement et le Développement (CED) conducted field investigations in early March 2005. They found logging operations in VC 11-06-18 to be ecologically and socially very disruptive and clearly unsustainable.

Ecological impact

VC 11-06-18 can be renewed twice, each for a period of one year. Unlike other logging permits in Cameroon, there is no requirement for a forest management plan under the VC-system. This makes the VC-system a mining-like type of operation in which the logging company feels – and has – no long-term responsibility for the area. Nor does the company feel a need to build up a good relation with neighbouring communities. The very nature of this – however legal – system implies inherent unsustainable logging.

Logging in VC's, thus logging without need for a proper management plan, is bound to be environmentally unsustainable. This type of logging comes down to 'reap and leave', with absolutely no regard for the future ecology of the forest.

In this case trees are cut down and abandoned on site. CED's researchers found about 18 logs lying down in the forest. Some of these trees are felled on steep slopes, making it risky and difficult to be removed.

Generally, about 18–20 per cent of the felled trees are wasted. This practice, without being necessarily illegal, contributes to the depletion of the forest and consequently to the disturbance of ecosystem functions. Absence or poor planning of forest operations generally causes this kind of destruction and waste.



Discarded or left logs in concession VC 11-06-18 (© CED, 2004)

Furthermore huge, unplanned forest roads and temporary timber yards (*parc à bois*) are built in the forest, causing further destruction and fragmentation of the forest. Logging roads built on slopes and the use of heavy bulldozers also increase soil erosion and pollution of water sources, making the water unsuitable for consumption by local peoples.

Social and cultural impact

In a VC there is no legal requirement to plan roads. As a result local people's farms have been destroyed during CAFECO's logging operations in VC 11–06–18. Fifteen farmers from Koba village reported the

destruction of their farm and notably cocoa stems during road construction. In this part of the country, cocoa production is the main cash crop for local communities.

A number of socially and culturally useful tree species such as Djabe or Moabi (*Baillonella toxisperma*), Djanssang (*Ricinodendron heudelotii*) and Bush Mango (*Irvingia gabonensis*) have been destroyed by the logging company. These trees are used by villagers for food and medicine. Local people have the right to include requests in the conditions of the contract, but were unaware of this. Local communities are offended by logged and abandoned useful tree species.

Logging operations in VC 11–06–18 clearly do not foster social sustainability, as provided by Cameroonian forest law. Instead they contribute to the impoverishment of local communities, to the destruction of their livelihood and to the ecological degradation of the rainforests.

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Road track passing through the farm of local owner (© CED, 2004)

2.4 FINLAND

SUMMARY – Old-growth forests in the north of Finland are fundamental to the livelihoods of many indigenous Sami and other Finnish people who herd reindeer in these forests. These livelihoods are severely impacted by industrial logging. Metsähallitus, the government's own logging outfit, clear cuts and logs in habitats of threatened and vulnerable species, in areas of cultural value and in areas that are critical for reindeer herding. These operations are PEFC-certified. Despite published evidence of the fact that Finland's current protected forest areas are insufficient to maintain the biological diversity they support (public evidence from several sources such as Finnish Environment Institute, University of Helsinki, Finnish Ministry of Environment and Metsähallitus; see for more information Greenpeace International, May 2003), the Finnish government has designated only half of this old-growth forest for protection. The other half of these last remnants of ancient boreal forest in northern Europe is likely to be logged in the coming years.

Northern Lapland



While the threat to the world's ancient tropical forests is well known, this problem is by no means limited to tropical regions. Indeed, the threat to the last remnants of ancient boreal forests in Europe is just as pressing (Greenpeace International, May 2003). Finland's forests are among the most intensively managed in the world. Over 50 million m³ of wood is harvested every year from the country's 20 million hectares of commercial forests. The Finnish forest management model has resulted in the rapid conversion of natural forests into industrial forests that lack many key features of boreal forest ecosystems. Since early in the 20th century the Finnish state has strongly promoted intensive forestry with the aim of maximising the flow of timber to the Finnish forest sector.

Several pieces of legislation regulate Finnish forestry. One of the most important is the Forest Act, which focuses on the harvesting, management, economic sustainability and regeneration of commercial forests. Under the Forest Act biodiversity protection in commercial forests is regulated in only seven specifically defined rare habitats, the so-called Habitats of Special Importance. Many of the most important habitats of threatened species, such as old-growth forests, are not even mentioned in this legislation and can be legally harvested without restriction (Greenpeace Finland, Finnish Association for Nature Conservation & Finnish Nature League, September 2004).

While much of Finland's productive forest (around 62 per cent) is in the hands of private landowners, the vast majority of its valuable old-growth forests is owned by the state and logged by the state-owned logger Metsähallitus. These old-growth forests – forests that are in or close to their natural state – are located largely in the north and east of

the country. Old-growth forests in the north of Finland are also fundamental to the livelihoods of many indigenous Sami and other Finnish people who herd reindeer in these forests. Sami people have special constitutional rights and laws particularly dealing with land rights, such as the Reindeer Herding Act. Despite these rights, the livelihoods of the Sami reindeer herders are severely impacted by industrial logging (Greenpeace International, May 2003).

Metsähallitus' PEFC-endorsed logging practices include clear cutting, logging in habitats of threatened and vulnerable species and logging in areas of cultural value, including areas which are critical for traditional Sami reindeer herding. A whole body of scientific evidence clearly points to the need for greater protection of



Clear cuts in state owned forests in Finland
(© Cajander/Greenpeace, 2002)

Finland's old-growth forest in the north and east of the country, and of other High Conservation Value Forests (HCVFs) in the south. Metsähallitus and the Finnish Government however simply deny that there is a problem, despite evidence from the Finnish Environment Institute, the University of Helsinki, the Finnish Ministry of Environment and even Metsähallitus itself (Greenpeace International, May 2003): *"In spite of protection programmes and Landscape Ecological Planning, the total amount of old-growth forest species habitat will decrease in the future and reach a point below the estimated critical thresholds..."*. (The Näljänkä LEP, Metsähallitus, Feb 7th 2000)

Reindeer herding

Reindeer herding is a central part of the culture of the Sami, the indigenous people of northernmost Europe, who live in the northern parts of Norway, Sweden, Finland and in the Kola Peninsula in Russia. Old-growth forests with ground and arboreal lichens are natural pastures for reindeer, those rich in arboreal lichens forming crucial winter pastures when the snow cover is thick and hard.

High Conservation Value Forests, vital for traditional free grazing of reindeer in northern Lapland, have been mapped jointly by Greenpeace, the Finnish Association for Nature Conservation (FANC) and Sami reindeer herding co-operatives. As recent as February 2005 Metsähallitus was logging in these mapped forests. While the reindeer herders were expecting to negotiate with Metsähallitus about further protection of these forest areas Metsähallitus started logging in one of the reindeer herding areas and opened a road into another area. The Ministry for Agriculture and Forestry has publicly stated that it will leave the forest conflict in Upper Lapland to be solved by Metsähallitus, a state-owned profit making enterprise.



Sami with reindeer (© Snellman/Greenpeace)

Due to public pressure in the last couple of months in Finland and abroad, Metsähallitus had started a series of meetings with the Sami herding co-operatives to explore formal negotiations. Unfortunately these meetings were ended mid June 2005 by Metsähallitus without having reached an agreement. The moratorium,

which was in place during the meetings, is withdrawn and logging started early August in some tiny old growth forests with high importance for the Sami reindeer herder. The state declared to set aside from logging some 30 000 hectares for two to three years. One can assume that after three years also this last remaining old growth in northern Europe will be logged to feed the daily demand for pulp and paper throughout Europe.

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2.5 INDONESIA

SUMMARY – The Tesso Nilo forest is located in Sumatra in the Province of Riau. It is one of the few remaining natural lowland peat swamp forests in Sumatra and provides a crucial link between three protected areas. Tesso Nilo has an unmatched number of vascular plants and it appears to be the most important area for Asian elephants left in Riau. Despite its incredible natural wealth, Tesso Nilo has been logged at a massive scale both legally and illegally, largely to supply major pulp and paper producers. Since the mid-1980s, 64 per cent of the Tesso Nilo's forest block has been converted into vast industrial plantations for pulp and palm oil.

Tesso Nilo, Riau Province, Sumatra



Tesso Nilo is a lowland rainforest, but the Tesso Nilo landscape also covers peat swamp forest. These provide vital services such as recharging groundwater supplies, regulating water flow, preventing floods and blocking saline water intrusion into coastal areas.

The Centre for Biodiversity Management has surveyed

over 1 800 plots in tropical forests around the world. No other forest had as many vascular plants as Tesso Nilo. Indonesia's Institute of Sciences LIPI surveyed forests throughout Sumatra; again Tesso Nilo had by far the highest plant diversity index.

The global centre of peat swamp forests lies in the Indo-Malayan realm. Only relatively small pockets remain outside Indonesia. Within Indonesia the largest tracts of relatively intact peat swamp forest remain in Sumatra and Central Kalimantan. Four large tracts remain in Riau, totalling 2.2 million hectares. Only 10.8 per cent of that area is currently protected. A review of three of these tracts from 2002 Landsat satellite images shows rampant intrusion, legal and possibly illegal clearing and felling.

Who's driving the process?

Third party fibre suppliers for pulp giants APP (Asia Pulp and Paper) and APRIL (Asia Pacific Resources International Holding Limited) were clear cutting inside the Tesso Nilo forest and were clearing High



Timber on its way to pulpmill in Riau (©Wolfgang Richert, 2005)

Conservation Value Forests (HCVFs) in Riau to supply APP's Indah Kiat and APRIL's RAPP pulp mill. These mills were set up without securing a sustainable supply of pulp and instead depend on large-scale logging of natural forests. These operations continued until 2004 (further verification is needed for 2005). Recently though, APP has conducted a HCVF analysis in three forest units of its concessions, and APRIL in two units. APP and APRIL's Riau mills produce almost 4 million tons of pulp per year. The company's data show that each mill may need to cut 75 000 hectares of natural forest per year to produce that pulp until their acacia plantation is ready to supply all fibre to the mills. APP claims that they will be 100 per cent dependent on acacia in 2007 and APRIL aims for 2009.

Despite its failure to repay billions of dollars in debt, APP recently expanded its operations in China, Indochina, Russia and Southeast Asia. A 13 October 2004 WWF-press release concludes: *"it seems that APP has again opened a mill without first securing a sustainable pulp supply"*.

Links with western Europe

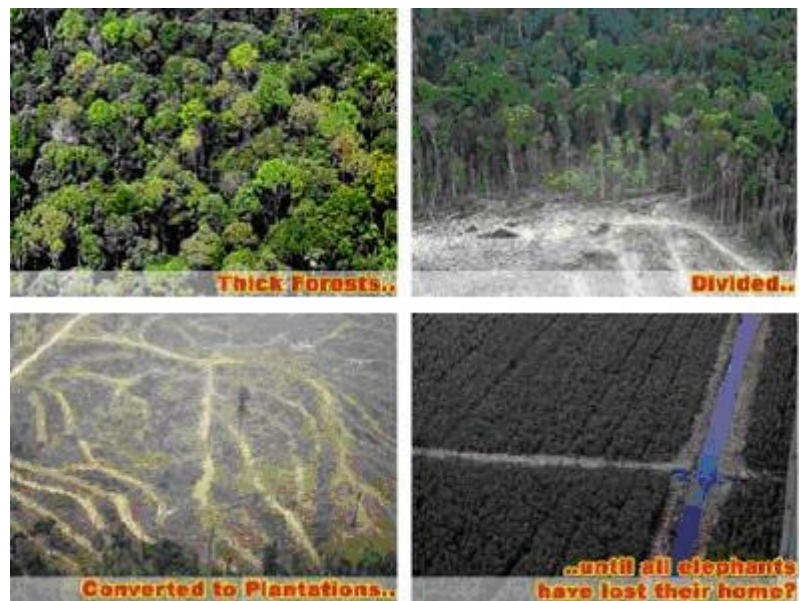
Financial institutions such as UK's Barclays Bank and the German Deutsche Bank, as well as export credit agencies from around the world, have made loans to help underwrite massive pulp mills near Tesso Nilo and to fund the replacement of natural forest with plantations. Both to feed the mills and to produce palm oil.

Since the mid-1980s, 64 per cent, or 315 000 hectares, of the Tesso Nilo forest has been converted into vast industrial plantations. The raw materials produced on these plantations end up worldwide as photocopying paper, cartons, margarine and sweets in offices and households.

The Department of Forestry often designated areas as national forest estate and industrial timber plantation without consultation with local communities. This makes the developments – despite the fact that most could be considered legal – irresponsible from both a conservation as well as social point of view.

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(© WWF Indonesia, 2003)

2.6 MALAYSIA

SUMMARY – On 18 October 2004 the Malaysian logging company Samling Plywood (Baramas) Sdn. Bhd. received a Malaysian Timber Certification Council (MTCC) Forest Management Certificate for their Sela'an Linau Forest Management Unit (FMU). The local Penan people have tried to stop the logging in their area since the 1980s. Over the years, most of the Penan people's blockades have been terminated with force, resulting in many injured people and even deaths. A legal complaint against Samling regarding the rights to the Sela'an Linau forest area, filed in 1998, is still pending at Miri High Court. Despite the fact that the MTCC ignored the Penan people's lawsuit, the MTCC certificate is accepted by the government's of Denmark and the United Kingdom as a guarantee for legality.

Sela'an Linau Forest Management Unit, Sarawak



The Sela'an Linau FMU is located in the Ulu Baram region of Sarawak. It covers an area of 55 949 hectares, with about 72 per cent Mixed Hill Dipterocarp Forest and the remaining area consisting of Kerangas Forest and Montane Forest. It is one of Sarawak's last remaining contiguous areas of primary rainforest.

Penan people have fought intrusion by loggers since the 1980s. In July 1989 they drew up the 'Declaration of the People of the Springs' asking the Sarawak State government to withdraw logging licenses affecting their territories.

In 1986 a first logging road was blocked and since then many followed. On 24 February 1993 about 1000 Penan people from 20 settlements participated in a major long-term blockade. Seven months later riot police, soldiers, and forestry department officials using tear gas, trucks, bulldozers and chainsaws put a forceful end to this peaceful protest. The Penan people reported over 200 injured people and 3 deaths.

Samling and the MTCC

Most of the affected Penan communities have now mapped their territories to support their claims for Native Customary Rights. On 8 May 1998, a number of these communities filed a case against Samling as well as the government of Sarawak (Suit No: 22 - 46 - 98 [MR]). This case is still unresolved and pending at the Miri High Court.

Despite this legal dispute MTCC awarded Samling with Sarawak's first Forest Management Certificate (18 October 2004). A 4 January 2005 press release by MTCC states: *"The Sela'an Linau Forest Management Unit (FMU) has become the first FMU in Sarawak, and the ninth in Malaysia, to be certified under the MTCC timber*

certification scheme. It is also the first FMU that is managed by a private company. The certification of the Sela'an Linau FMU therefore represents another important milestone for the MTCC certification scheme. The Certificate for Forest Management provides the assurance that the FMU has complied with the requirements of the MC&I (2001) and that the timber is harvested legally."

Approximately 80 per cent of the certified concession conflicts with traditional Penan territory. The Penan people settled under British influence in the middle of the 20th century, but still depend on the forest for hunting and gathering. The lives and cultures of an estimated 2000 Penan and a number of Dayak people from the Kelabit and Kenyah tribes are affected by the Sela'an Linau FMU.



Tight crops of previously logged but beautiful forests in the early morning fog in Sarawak (© Greenpeace/Ngo, 2002)

The Penan people were not consulted by MTCC and in a letter dated 25 January 2005 they strongly reject this certification and demand Samling to "stop destroying our forests". They continue: "We have been living here in peace until the timber companies came to disturb our life and encroach into our forest. Many of us have suffered due to the Samling logging operations: our rivers are polluted, our sacred sites damaged and our animals chased away by people who deprive us of our livelihood and culture. (...) We can not accept that Samling is now awarded with a certificate to continue offending our native customary rights."

On 15 April 2005 the Penan lodged a formal appeal against the decision to grant the MTCC certificate to Samling and requested that the certificate be suspended pending the resolution of their appeal. So far the Penan have had no response to this appeal.

On 27 April 2005, JOANGOHutan, Malaysian Nature Society and WWF Malaysia urged the MTCC to among others: "resolve the contradiction between recognition and protection of customary rights ... and the extinguishing of rights when PFEs/MFUs are created".

Despite the significant problems connected with the Samling certificate, the United Kingdom and the Denmark government still accept the MTCC label as a satisfactory guarantee for legality. As a result markets in western Europe are even starting to accept MTCC-timber as sustainable.



Penan people suffering under legal logging in Sarawak (© Greenpeace/Ngo, 2002)

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2.7 PHILIPPINES

SUMMARY – Only 20 per cent of the country's original forest cover remains, making the Philippines the country in Southeast Asia with the thinnest forest cover. But even here deforestation continues, in sometimes unexpected ways. The Téduray and Lambangian are losing their remaining ancestral forests as a result of a peace accord between the national government and forces of the Moro National Liberation Front (MNLF).

IFMA 005, Upi, Maguindanao (Autonomous Region of Muslim Mindanao)



The Téduray and Lambangian, neighbouring peoples in southwest Mindanao, have long been hunters and gatherers and practitioners of shifting cultivation. Much of their ancestral land, which according to their own estimate originally measured 250 000 to 300 000 hectares, was deforested throughout the 1950s and 1960s. The deforestation, combined with erosion of their traditional social systems, has seriously undermined their food security. Adding to their problems is the fact that the area has been ravaged for decades by conflicts between the national government and Muslim separatist groups. An increasing number of young Téduray and Lambangian leave their ancestral land to find work in the city.

In 1996 the Téduray and Lambangian, determined to keep control over their own fate, applied for a communal land title or CADC (Certificate of Ancestral Domain Claim) for an area of 57 850 hectares. To increase their chances, the Téduray and Lambangian excluded from the claim what they called 'the problematic areas' of their ancestral domain. These are the areas where too much of the forest has been cut and too much land privatised. Six years later, in November 2002, logging equipment was brought right into the area they had a pending CADC for though, and trees were felled near the village of Rifao.

It turned out that the government, through its Department of Environment and Natural Resources (DENR), had granted a 5 500 hectares logging concession (IFMA 005) as early as 1998. The concession, under the Integrated Forest Management Agreement, was issued to MCLC (Maguindanaon Coastal Logging Concession). The 1996 Ancestral Domain Claim (ADC) of the Téduray and Lambangian – notably submitted to the same government agency – has simply been ignored. Nor has there been a Free and Prior Informed Consent of the communities before issuing the logging concession.

The logging lead to a series of complaints and protests. DENR admitted that the area was indeed located within the boundaries of the ADC and even put up a concrete landmark in Rifao with the inscription 'T&L ADC nerve centre'. Then a period started with many reassuring words and negotiations. The logging operations

were interrupted from time to time, but were not stopped altogether. Agreements, like a Memorandum of Agreement signed by all parties (including a sub department of DENR itself) were not complied with. Demands for compensation, modest though they were compared to the commercial value of the logs, were not met.

Victims of peace



Patrol of two battalions stationed in Upi after the start of the logging operation (© Gerard van Dorp, 2004)

In October 2003 the Téduray and Lambangian discovered a bitter truth. The Office of the Presidential Advisor on the Peace Process (OPAPP) released information, that in 1996 the concession had been at stake during peace negotiations between the government of the Philippines and armed forces of the MNLF. In fact, the commander of the Muslim separatist group, Faizal 'Randy' Karon, was given a post as a Secretary of DENR in exchange for dropping his arms. Randy Karon is a major shareholder of MCLC, and is thus both supplier and beneficiary of the concession. The Téduray and Lambangian are victims of peace.

Despite these events that shocked the communities, representatives of the Téduray and Lambangian persist in their strategy of non-violent lobby and negotiations. Internal conflicts have grown though, and in May 2003 villagers of Rifao burnt down 5 howler trucks, 1 bulldozer and 1 pay loader. The government of the Philippines reacted by bringing more military into the area. On 29 January 2004 'Task Force Tugis', consisting of 150 military, occupied the newly built centre of governance of the Téduray and Lambangian. Armed encounters resulted in mass evacuations from Rifao, and in December 2004 a Téduray leader who strongly opposed the logging operation was murdered. With the military present it is very difficult to find out what is going on in the crisis area. A fact-finding mission conducted in November 2004, composed of NGO- and government representatives, was able to find out that the logging continues. An estimated 3 500 hectares have been logged so far, and as the operations are not contiguous and no specific boundaries are followed, it is likely that the final area cleared will be larger than the 5 500 hectares allocated in IFMA 005.

Currently (June 2005) peace negotiations take place between the government and a faction of MNLF that refused to accept the earlier accord, the MILF (Moro Islamic Liberation Front). The Téduray and Lambangian fear that these will result in a similar 'solution', further increasing the price they have to pay for the peace of others.

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Attaching steel cables to control the direction of the falling tree (© Lumad Development Center /Romeo Saliga, 2004)

2.8 RUSSIA

SUMMARY – In Russia, some destructive logging is absolutely legal. It can even be obligatory. Many companies to some extent violate forest regulations. They do so, ironically, by not logging certain areas despite the fact that this is a prerequisite in their permit. Logging these areas is simply too expensive. Hence, not following regulations is economically and environmentally preferable to operating legally.

Kodinskiy Leskhoz, Krasnoyarsk Kray, Siberia

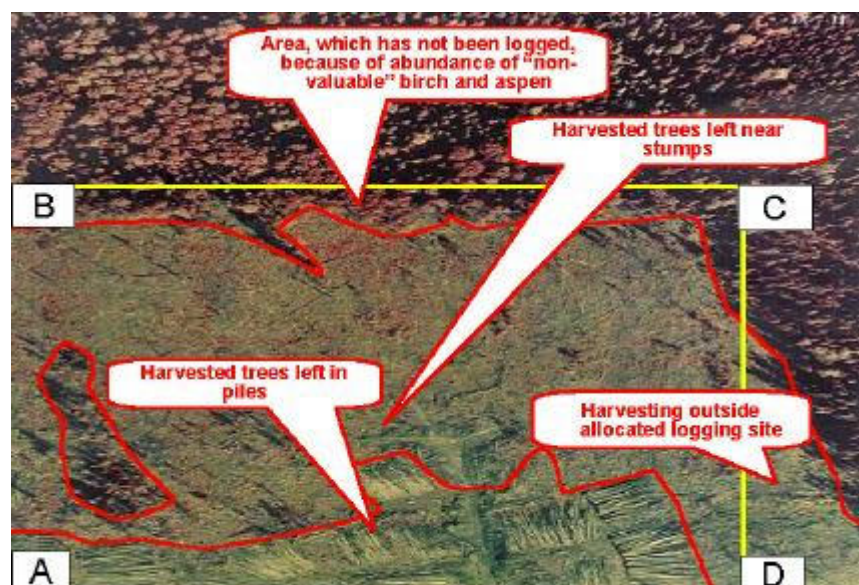


This case is taken from a presentation shown by the representatives of the Forestry Agency of the Russian Federation to president Putin in 2005. The presentation aimed to illustrate how the forest authorities combat illegal logging in the country.

The picture below is an aerial photograph of Kodinskiy Leskhoz (state forest

management unit) in Krasnoyarsk Kray, Siberia. The yellow contours show the border of the logging site and serious violations are highlighted.

Concession agreements in this region precisely specify where to log, how much to log (per group of timber species) and how to log. The company pays a concession lease based on the Annual Allowable Cut (AAC) and not on the actual volume cut and sold. The AAC is calculated by state forest inventory enterprises. These enterprises are part of the Ministry of Natural Resources. The Federal Forestry Agency under the same ministry approves the AAC. The company has no say in this.



(© Federal Forestry Agency, Ministry of Natural Resources of the Russian Federation)

Illegal but environmentally beneficial

Often companies decide to leave swampy forests untouched because their productivity is too low (with a growing stock from 40 to 100 m³ per hectare). Logging swampy forests in the summer can even be dangerous as heavy machinery and trucks may sink. Logging the available low quality pulpwood would be a waste of money anyway, since the nearest big processing plant is located 500 kilometres away from Kodinskiy Leskhoz. On top of that, logging swamp forests can decrease the productivity of the entire site by causing serious water logging of the soil.

Forests dominated by deciduous trees (white birch and aspen) are also frequently left in tact, contrary to what is stipulated in the concession agreement. The local demand for aspen and white birch is simply too low.

Despite the fact that old deciduous trees, trees with defects (e.g. caverns) and standing deadwood play a crucial role in the ecosystem, not cutting them is considered a violation of logging rules.

As mentioned, lease payments are not lowered when less timber is cut. In fact, frequently companies are fined for not logging those area's specifically stipulated in the permit. Sometimes companies prefer paying a fine over logging, as logging would be even more expensive. Other companies do log but leave all low-quality timber lying near stumps or in piles at the site. That way their fine is lower than if they had not logged at all. If companies continue to log much less than specified in the concession agreement, this is seen as ineffective use of forests resources and can lead to their permit being revoked.

In conclusion it can be said that destructive logging practices are not only legal, they can even be obligatory.

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2.9 SURINAME

SUMMARY – Until recently, Surinam's extensive rainforests were considered to be good prospects for long-term sustainable management (Colchester, 1985). In the past 15 years, however, the government has parcelled out vast areas as logging concessions, mostly in areas traditionally owned by indigenous and tribal peoples. These logging operations, all legal under Surinamese law, have had a severe impact on indigenous and tribal peoples' rights and well-being and have not contributed to alleviating Surinam's economic problems (Kambel, 2002). The Saramaka maroon people, the focus of this case study, have challenged legal logging operations conducted by three Chinese companies on their lands in the Inter-American Commission on Human Rights because of the negative environmental, social and human rights impact.

Upper Surinam River, Sipilawini District



Suriname is a small, former Dutch colony located on the northeast coast of South America. Some 90 per cent of Suriname is covered by various kinds of tropical rainforests. These forests are also the ancestral home of around 20 000 indigenous people and some 60 000 maroons or tribal people. Maroons are the descendants of African slaves who fought themselves free from slavery in the 18th century, signed treaties with the Dutch colonial authorities, and established communities along the middle reaches of the countries' major rivers. Until recently, selective logging took place almost exclusively in an area of 2.4 million hectares called 'the forestry belt'. Only 11 000 hectares of primary forest was logged each year and there was little pressure to expand logging outside of this area.

In 1992, however, the government began negotiations to grant concessions to approximately 40 per cent of the country to three Asian logging companies (World

Resources Institute, 1995). In the same year, with support from the UN Food and Agriculture Organization, Suriname also adopted a new Forestry Law to replace the previous law enacted in the 1940s. After intense international pressure, the concessions for the Asian companies were rejected and in 1996 a new government declared that it would not grant concessions in excess of the legal limit of 150 000 hectares. Nonetheless, it then proceeded to grant vast areas to companies, sometimes using multiple names in order to get around the 150 000 hectares limit, all of which encompassed traditional indigenous and tribal lands. While the Forest Act requires that traditional occupation and use be considered when concessions are granted, indigenous and tribal peoples do not otherwise have legal guarantees protecting their rights to own and peacefully enjoy their traditional lands and resources (Kambel & MacKay, 1999). There is also no requirement that they be consulted about or agree to concessions prior to issuance by the state.

The Upper Surinam River

The Saramaka people are one of the largest maroon tribes in Suriname. There are 63 Saramaka villages located along the Upper Surinam River comprising some 20 000 individuals. Suriname presently maintains that the Saramaka have no rights to their lands and resources, all of which are legally owned by the state and can be exploited at any time. It has issued numerous logging and mining concessions in Saramaka territory. The Saramaka first became aware that part of their territory had been granted to a logging company when the employees of a Chinese company calling itself NV Tacoba arrived in 1997. A Chinese company calling itself Jin Lin Wood Industries also surfaced in the area in 2000. This company has relations with Ji Sheng, another Chinese company operating in Saramaka territory. Armed, active duty Surinamese military personnel guarded these concessions, which were granted without even notifying the Saramaka.

According to eyewitnesses, logging has caused widespread environmental damage and substantially restricted the Saramaka's ability to use their forest resources. One Saramaka village leader told the press: *"The soldiers told me: "Leave the Chinese, go hunting here. But don't let the Chinese see you." Well, I went there: there was destruction everywhere; the forest was destroyed. ... The Chinese cut hundreds of trees, dragged them to a place and piled them up there. They abandoned them in the forest because they did not need them anymore. For us, people from the interior, it is terrible to see cedar trees cut down that are so important for us. And all this destruction made the animals flee away also"* (Associated Press, 2002).



Truck taking timber from Saramaka territory in the concession held by Tacoba (© P. Poole, 2000)

Saramaka reports of environmental degradation, destruction of sacred sites and violations of subsistence rights have been confirmed by independent observers. On 20 May 2001, for instance, the Philadelphia Inquirer observed that: *"This was all too clear [environmental degradation] walking through the Jin Lin concession. The company had ploughed large, muddy roads about 45 feet wide into the forest, churned up huge piles of earth, and created fetid pools of green and brown water. Upended and broken trees were everywhere and what were once plots of sweet potatoes, peanuts, ginger, cassava, palm and banana crops – planted in the forest by Maroon villagers – were muddy pits"*.

The Inter-American Commission on Human Rights

After pursuing the remedies provided by the Forest Act, all of which proved ineffective, in October 2000 the Saramaka submitted a complaint to the Inter-American Commission on Human Rights. The complaint seeks redress against Suriname for its acts and omissions that violate the Saramaka people's rights to (among others) property, cultural integrity, judicial remedies, due process of the law and the right to participate in decisions affecting them.

In August 2002, the Inter-American Commission issued interim precautionary measures requesting that Suriname *"take appropriate measures to suspend all concessions ... on lands used and occupied by the 12 Saramaka clans..."*. Precautionary measures are only issued in extreme and urgent cases that pose an

immediate and irreparable threat of harm. While Suriname claims to have complied with the precautionary measures, logging is continuing in Saramaka territory to this day.

A final decision finding Suriname in violation of the Saramaka's internationally guaranteed rights is expected in July 2005. Should Suriname fail to comply with the Commission's recommendations it is also expected that the case will be transmitted to the Inter-American Court of Human Rights for a legally binding decision.

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2.10 UNITED STATES OF AMERICA

SUMMARY – The temperate forests of the southern USA are among the most biologically rich forests in North America. These forests are under assault by companies that subscribe to the American Forest and Paper Association's 'Sustainable Forestry Initiative' (SFI). Over the last 10 years, SFI member companies such as International Paper have expanded paper production in the region causing an acceleration of the conversion of diverse, native forests such as those in the Green Swamp in North Carolina to single-species tree plantations.

Green Swamp, eastern North Carolina



The Green Swamp is part of the Middle Atlantic Coastal Forest Ecoregion. The World Wildlife Fund (WWF) has identified this area as one of the top ten ecoregions in the USA and Canada in the number of species of reptiles, birds, and tree species. The ecoregion is also listed

by WWF as endangered due to the conversion of wetland areas to other uses. Industrial forestry is directly responsible for 53 per cent of the wetlands loss in the coastal plain of North Carolina.

The Green Swamp was once a vast tract of 140 000 hectares of forests of juniper, oak, long leaf pine and cypress trees. Flora and fauna included orchids, lily pads, and roses as well as panthers, alligators, and water moccasins.

The forest began disappearing at the turn of the century when logging interests discovered its wealth. The ancient long leaf pines and cypress, clear cut and replaced by ramrod straight rows of fast growing genetically modified pines, are no longer home to the ivory bill or red-cockaded woodpeckers. A million years worth of tea stained water disappeared as the swamps lifeblood drained to the sea through a network of canals. Orchids, roses and carnivorous plants were crushed by mechanized land clearing.

Aggressive aerial and ground spraying of toxic herbicides has also taken its toll. The chirp of crickets is replaced by the grinding hum of chip mills. Nuts, berries, and tender green foliage are often killed or contaminated by herbicide spraying, creating an increase in disease and starvation among wildlife. Animal sightings (deer, fox and raccoon) have become rare, usually occurring near the few remaining stands of mixed hardwoods.

Sustainable Forestry Initiative

On 14 October 1994 members of the American Forest & Paper Association (AF&PA) agreed to adhere to a set of forestry principles, presently known as the Sustainable Forestry Initiative (SFI). According to AF&PA SFI is *"a comprehensive forestry management program that is a marriage of environmental responsibility and sound business practices"*. SFI states that the goal of member companies is *"to practice sustainable forestry to meet the needs of the present without compromising the ability of future generations to meet their own needs by practicing a land stewardship ethic which integrates the reforestation, managing, growing, nurturing, and harvesting of trees for useful products with the conservation of soil, air and water quality, wildlife and fish habitat, and aesthetics."*



Green Swamp the way much of it looked like 20 years ago
(© Gean M. Seay, 2000)

International Paper

As a member of SFI, International Paper – the largest pulp and paper company in the world – claims to support sustainable forestry. International Paper manages thousands of hectares of industrial tree plantations in the Green Swamp on land that was converted from diverse, natural forested wetlands previously owned by Federal Paper Board and Reigel Paper. In the past decade International Paper's intensive management of these industrial tree plantations (ditching, draining, clear cutting and herbicide spraying) has significantly degraded the habitat of many species of plants and animals indigenous to this area.

An East Carolina University study (Riggs et al, 2000) ordered by the General Assembly found that the destruction of the swamp is now causing the Waccamaw River to flood during wet periods and run shallow during dry weather. Silt deposition from ditches draining what used to be the wetlands now limits boating and is threatening the diverse wildlife of the Waccamaw River.



Green Swamp today: ditched, drained and herbicide sprayed
headwaters of Livingston Creek (© Gean M. Seay, 2001)

It is estimated that between 1997 and 2000 alone, approximately half a million pounds of herbicides – a variety of some 22 different brands and mixes – have been sprayed over the Coastal Plains of North Carolina including the Green Swamp. When inspectors with North Carolina's Division of Water Quality (DWQ) investigated International Paper's use of chemicals in the Green Swamp in 2000 they found that, *"Based on this field work it appears that these herbicides are being widely used across this area without regard to the presence of ditches or permanently flooded wetlands. Based on these field observations, the DWQ believes that the spirit and the letter of EPA labels are not being followed and that these herbicides are being applied to surface water."*

In response, the North Carolina Pesticide Board met to determine what EPA meant by 'water' and subsequently defined it to be that water which was more than 0.3 meters deep and which had been on site for more than 30 days. Using these guidelines, a 1997 flood that claimed 54 lives in the state would not have qualified as water.

Converted wetlands no longer suitable for tree growing are sold off for development such as residential subdivisions, industrial sites, and regional landfills or dumps. In 2000 International Paper sold land in the heart of the Green Swamp to buyers fronting for Waste Management, Inc. to be used as a regional landfill – land sited on the edge of water ultimately feeding into the Waccamaw River.

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3. CONCLUSIONS AND RECOMMENDATIONS

3.1 Conclusions

The ten cases presented in this report highlight a major concern associated with the general trend of legal logging support within European governments and the timber industry, namely that legal logging is by no means the same as sustainable logging. In fact, there is often a wide gap between legality and sustainability. The ten cases presented in this report illustrate how forests are legally destroyed on all continents for the benefit of timber and paper trade. Legal forest destruction takes place in both developing and developed countries and is found in boreal, temperate as well as in tropical forests.

Ideally, legal forest management should ensure equity, transparency and sustainability. In reality it does not. The cases in chapter 2 clearly show that for the forests and the people concerned there may not be much difference between good laws which are poorly implemented (illegal destruction) and poor laws which are well implemented (legal destruction).

More specifically, the following conclusions can be drawn from the ten cases:

- **Forests are degraded**

Governments often allow logging in, or even clear cutting of, High Conservation Value Forests¹. Forests that have managed to supply the paper trade may suffer most, as shown in § 2.1 (Australia), § 2.5 (Indonesia) and § 2.10 (USA). This can be explained by the fact that paper production needs large volumes of timber, whereas quality is much less important. Hence, valuable natural forests are often replaced by exotic mono species tree stands with a very low biological diversity. Such tree stands typically have many associated problems, including the use of poison and the disturbance of local climate and soil hydrology.

- **The opportunities and freedom of people are restricted, either by governments or by companies**

In Suriname (§ 2.9), Malaysia (§ 2.6) and the Philippines (§ 2.7), forest dwelling people have lost their traditional territories to logging companies. In the USA (§ 2.10) local people were suddenly denied access to the Green Swamp. In Russia (§ 2.8) ironically the loggers have lost the right to log in an economically viable way.

- **Protests against legal forest destruction have encountered strong reactions**

In Australia (§ 2.1), Tasmania's biggest exporter of woodchips went to court to claim high damages from a group of twenty people and organisations, politicians and a number of individuals. In Malaysia (§ 2.6) and the Philippines (§ 2.7) military action against protesters has even resulted in injuries and deaths. Often, victims of legal forest destruction have few legal opportunities to defend themselves.

- **Destruction is even found in certified forests**

Four out of ten cases presented in chapter 2 actually concern forests that are certified under AFS, PEFC, MTCC or SFI. The cases describe large-scale conversions of natural forests to single species tree stands under both PEFC (§ 2.1, AFS is PEFC endorsed) and SFI (§ 2.10). In one of the cases the

legality of the logging is even questionable, although the concession has been certified under MTCC (§ 2.6).

The ten cases presented in chapter 2 clearly show a wide gap between legality and sustainability. From these cases we can learn that although recent initiatives by the European governments to combat illegal logging are important, these initiatives might "legalise and certify" current bad practise.

Supporting legality claims from governments and the industry does not result in sustainable forest management and does not put a halt to the further degradation of the world's forests. On the contrary, it can harm initiatives taken to promote sustainable forest management e.g. forest certification according to the Principles and Criteria of the Forest Stewardship Council (FSC) or community forestry. Government and industry measurement to combat illegal logging should aim for sustainable forest management.

3.2 Recommendations

3.2.1 Recommendations to governments

Ensure that national and EU policies focusing on illegal timber harvesting, including public procurement and policies that support legality certificates, do not out-compete sustainable forest management. Legality should be a pre-condition for doing business in Europe and should not require incentives.

This includes:

- Adopt without further delay a comprehensive legislative proposal that will prohibit the import of all illegally sourced timber and forest products (Van den Biesen Advocaten, 2004). This legislation should also, promote socially and ecologically responsible forest management worldwide, and guarantee sustainable wood supply to the EU.
- For the VPAs:
 - Ensure that the voluntary partnership agreements will incorporate partnership principles committing the two parties to a time bound programme for action to tackle the weaknesses in forest-sector governance and improve forestry related laws, that will lead to socially and ecologically responsible forest management.
 - Establish a credible chain of custody and licensing scheme that will ensure both the legality and sustainability of timber products exported to the EU; ensure that all forest products and all exports will be immediately covered by the licensing scheme.
 - Establish institutional mechanisms to ensure meaningful participation of parliamentarians, non-governmental organisations (NGOs) and indigenous people's organisations in the Voluntary Partnership Agreement (VPA) negotiations and implementation.
 - Clear safeguards are needed to prevent the endorsement of ineffective licensing systems and illegitimate and unsustainable practices, particularly with regards to forest certification schemes as a number of these schemes have been heavily criticised for being corrupted and ineffective for the verification of legality (Fern, 2004; Greenpeace, 2005)
- For the procurement policy:
 - Adopt a 'truly green' procurement policy, with 100 per cent of its purchased timber from sustainable managed forestry operations, which are certified at least to the standards demanded by the Forest

Stewardship Council. Do not procure forest products from certification schemes that do not guarantee legality and sustainability (Fern, 2004; Greenpeace, 2005; The Wilderness Society, 2005; FERN et al, 2005).

3.2.2 Recommendations to the Dutch industry

Logging companies

- Move beyond legal logging to sustainable logging practices in concessions in the short run with concrete and measurable deadlines and targets to ensure sustainable forest management.

Timber traders

- Use your influence in the market to demand sustainable harvested timber in the short run with concrete and measurable deadlines and targets.
- Do not use legality claims in the market as such claims will result in confusion among consumers of sustainable timber and timber products and will out-compete sustainable produced forest products.
- Develop a code of conduct that can be upheld.

Paper traders

- Play a productive and key role in promoting sustainable management of forests by taking direct responsibility for the sustainable management of forests for the use for paper production in the short run and set concrete and measurable deadlines and targets.

ABBREVIATIONS

AAC	Annual Allowable Cut
ADC	Ancestral Domain Claim
AF&PA	American Forest & Paper Association
AFS	Australian Forestry Standard
APP	Asia Pulp and Paper
APRIL	Asia Pacific Resources International Holding Limited
BRL	Beoordelingsrichtlijn voor certificering van de productie en handelsketen van duurzaam geproduceerd hout (national (Dutch) assessment guideline for certification of sustainable wood production and the chain of custody)
CADC	Certificate of Ancestral Domain Claim
CED	Centre pour l'Environnement et le Développement
CPET	Central Point of Expertise on Timber
CSA	Canadian Standards Association
DENR	Department of Environment and Natural Resources
DWQ	Division of Water Quality
EPA	Environmental Protection Agency
FANC	Finnish Association for Nature Conservation
FAO	Food and Agriculture Organization (of the United Nations)
FERN	Forests and the European Union Resource Network
FLEGT	Forest Law Enforcement, Governance and Trade
FMU	Forest Management Unit
FSC	Forest Stewardship Council
GFTN	Global Forest and Trade Network
HCVF	High Conservation Value Forests
IFMA	Integrated Forest Management Agreement
KESAN	Karen Environmental and Social Action Network
KNU	Karen National Union
LIPI	Lembaga Ilmu Pengetahuan Indonesia (Indonesian Institute of Sciences)
MC&I	Malaysian Criteria and Indicators for Forest Management Certification
MCLC	Maguindanaon Coastal Logging Concession
MILF	Moro Islamic Liberation Front
MNLF	Moro National Liberation Front
MTCC	Malaysian Timber Certification Council
MTE	Myanmar Timber Enterprise
NGO	Non-governmental organization
OPAPP	Office of the Presidential Advisor on the Peace Process
PEFC	Programme for the Endorsement of Forest Certification schemes
RFA	Tasmanian Regional Forest Agreement
SFI	Sustainable Forestry Initiative
SPDC	State Peace and Development Council
TFT	Tropical Forest Trust
TP	Toetsingsprotocol (verification protocol (part of the BRL))
UNEP	United Nations Environment Programme
VC	Vente de Coupe
VPA	Voluntary Partnership Agreement
VVNH	Vereniging van Nederlandse Houthandelaren (The Dutch Timber Federation)

WCMC	World Conservation Monitoring Centre
WTO	World Trade Organization
WWF	World Wide Fund for Nature / World Wildlife Fund

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