



INTERPOL



**The World Bank**

# CHAINSAW PROJECT

An INTERPOL perspective  
on law enforcement  
in illegal logging



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## INTRODUCTION

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INTERPOL's Project CHAINSAW was initiated in July 2008 in consultation with the World Bank. The World Bank raised concern that the illegal logging issue has, to date, principally been considered from an environmental perspective and requested INTERPOL, the only International Criminal Police Organisation, to examine the problem from the perspective of international criminal justice. When it comes to breaching national and international laws, undertaking and developing illegal activities at transnational level, and jeopardizing public safety; illegal logging becomes a criminal issue and the individuals responsible for illegal logging become criminals subject to sanctions. The World Bank also underlined the limited knowledge of the criminal justice system and need for better understanding of international law enforcement mechanisms among forestry policy makers.

The CHAINSAW report is developed from a perspective of timber as a commodity, and illegal logging (more precisely illegal timber trafficking) as a succession of criminal activities undertaken at an international level by a network of organized criminals.

The report provides a better appreciation of law enforcement systems and a better understanding of the way police agencies cooperate, or in some cases fail to cooperate, at an international level. It discusses the role and functions of INTERPOL to a non law enforcement audience. This report is not exhaustive but aims to give a better idea of how legal texts, law enforcement agencies, and police cooperation all form a criminal justice system that could be more relevant and applicable to forest governance.

The CHAINSAW report is not an operational report; it does not contain nominal data such as the names of illegal timber traffickers, names of companies engaging in illegal activities, or the locations of those activities. It will define the structure of the phenomenon and its different components, and also identify the law enforcement mechanisms and tools available to counter illegal logging. The CHAINSAW report includes information obtained from a variety of sources including police information from INTERPOL National Central Bureaus (NCB's), data collected by national customs offices, research papers by environmental organisations, articles from criminology journals, and reports written by Non-governmental Organisations (NGO's). One of the difficulties met while drafting the report was locating accurate statistics. The authors found that when used to support a point of view, numerical data is often biased, if not conflicting. This has resulted, for this report, in available statistics being employed only for illustrative purposes, not demonstrative. Nonetheless it is hoped that the contents of this report will provide a useful additional framework for policy makers and those responsible for forest governance and will help galvanize interest and support for stronger efforts among traditional law enforcement authorities to address illegal logging and illegal timber trade.

## PART I: THE GLOBAL ILLEGAL LOGGING PROBLEM

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### **1.1 Illegal logging' as an international criminal activity**

Illegal logging represents the starting point of a complex process of interconnected organised criminal activities undertaken at an international level. Illegal logging can be defined as the breaking of national laws and international treaties regulating the harvesting, processing, transporting, and trading of timber.<sup>1</sup> The World Bank estimates the economic loss from illegal trade to be approximately 10 billion US dollars annually, and losses due to tax evasion and royalties on legally sanctioned logging to be approximately 5 billion US dollars<sup>2</sup>. Illegal logging is one, very significant, component of a complex array of problems that are leading to a worldwide crisis of forest loss and degradation. Poverty, competing demands for land, misguided policies and investment strategies are among the causes of deforestation and these have been studied and debated in many fora<sup>3</sup>. Only relatively recently has serious attention and open debate focused on crime as a significant contributor to forest deforestation but, perhaps surprisingly, professional criminal justice and law enforcement input to these discussions has been limited. This is particularly so with respect to international criminal justice mechanisms and agencies. Awareness within these circles of the growing interest and attention given to illegal logging is therefore low, and the contribution of specialized law enforcement authorities has therefore been limited.

This paper begins with a discussion of the main characteristics of illegal logging, focusing on the international timber networks, companies, military and para-military groups, or other organized structures and networks that undertake illegal logging at an industrial scale for profit.

### **1.2 Main characteristics of illegal logging**

#### ***- Profit crime -***

The principal motivation behind illegal logging is profit. Timber is a commodity no different from narcotics, weapons, vehicles, or any other internationally traded goods that can generate profit. The illegal trade in timber is business-like in its structure, with both provider and buyer companies. It is driven by the economic principle of supply and demand: an increase in the demand for specific, often cheap wooden goods leads directly to an increase in the scale of illegal logging.

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<sup>1</sup> This report will not address the illegal logging issue in relation to securing basic subsistence and involving individuals living in poverty without access to adequate timber supplies from legal sources. Illegal logging may also be a component of the conversion of forest into cleared arable land for agricultural use. In this case, illegal logging is not principally driven by the opportunity to harvest and sell logs but by the potential economic benefits generated by the large scale agricultural use of cleared land for pasture, palm oil plantations, or other commercial purposes. The CHAINSAW report will not focus on this issue since it is more a matter for national law enforcement authorities as opposed to international criminal activity.

<sup>2</sup> Strengthening Forest Law Enforcement and Governance - Addressing a Systemic Constraint to Sustainable Development, Environment and Agriculture and Rural Development Departments / The World Bank, Washington, August 2006

<sup>3</sup> Building Confidence in REDD – Global Witness executive summary 2009. – Governance Risk and REDD – Rosalind Reeve/Global witness – presentation October 2009. – Reduced Emissions from deforestation and Forest Degradation, Lessons from a forest governance perspective – Chatham House Jade Saunders, Johannes Ebeling and Ruth Nussbaum, March 2008. - Briefing Paper, Forest Governance and REDD, Jade Saunders, Chatham House and Ruth Nussbaum, Pro Forest, January 2008.

***- Organised crime –***

Illegal logging encompasses a number of sophisticated forms of enterprise and fraudulent practices which encompass a wide range of unlawful activities and consequently requires a significant degree of organisation. The harvesting, shipping, processing, and trading of timber is more likely to be coordinated by a network of criminals, rather than one isolated individual.

**Definition of ‘organised transnational crime’ :**

***The UN convention against transnational organized crime defines a organised criminal group as a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences in order to obtain, directly or indirectly, a financial or other material benefit.***

***- Transnational crime -***

Illegal logging is a cross-border issue: Timber may be transported through several countries before reaching its final destination; logging companies may be based in different countries; and profits made may be invested in tax haven countries or re-circulated into other legal or illegal enterprises. The more countries that are involved, the harder it is to trace the origin of the wood and the easier it is to take advantage of the lack of harmonisation between different national legislations and international treaties.

**1.3 The scale of illegal logging?**

***- Estimate of the scale of global deforestation -***

The FAO states that deforestation is occurring at the rate of 13 million hectares of forest lost annually. The regions associated with the highest overall areas of deforestation are:

- South America with 4.3 million hectares per year;
- Africa follows with 4 million hectares per year;
- Brazil alone lost more than 3.1 million hectares in the period of 2000-2005;
- Indonesia sees its forest decreasing of 1.9 million hectares per year<sup>4</sup>.

Meanwhile, the world demand for industrial wood is expected to increase by up to 70% by 2020<sup>5</sup>.

***- Estimate of the extent of illegal logging -***

The scale of illegal logging is difficult to assess with accuracy. However, INTERPOL NCB Rome (Italy) estimates that an area of forest equivalent in size to the territory of Austria disappears worldwide every year as the result of illegal logging. They also estimate that the percentage of timber marketed worldwide of illegal origin stands at between 20% and 50% of all marketed timber products<sup>6</sup>.

<sup>4</sup> State of the World's Forests 2007, Food and Agriculture Organization of the United Nations, Rome, 2007

<sup>5</sup> OECD Environmental Outlook 2001, Organization for Economic Cooperation and Development, Paris, 2001

<sup>6</sup> Section, Rome Report on Illegal Timber, NCB Rome / State Forestry Corps / General Inspectorate / Division 7° / CITES Central Service / Investigation, August 2008

#### 1.4 Indicative estimates of illegal logging in selected countries

Countries	Percentage of total production
<u>South-east Asia</u>	
Cambodia	90
Indonesia	70–80
Laos	45
Malaysia	up to 35
Myanmar	50
Papua New Guinea	70
Vietnam	20–40
<u>Latin America</u>	
Bolivia	80
Brazil	20–47
Colombia	42
Ecuador	70
Peru	80
<u>West Africa</u>	
Cameroon	50
Gabon	70
Ghana	60

*Sources: Savcor Indufor Oy (2004); Seneca Creek Associates and Wood Resources International (2004); FAO (2005); European Forest Institute (2005).*

#### **- Estimate of the financial loss due to illegal logging -**

Because of its illicit nature, the financial loss due to illegal logging is also difficult to assess with accuracy, indeed some of the statistics are in conflict with each other. Some estimates suggest that the Indonesian government is losing one to two billion US dollars per annum in unpaid taxes and charges<sup>7</sup>, others suggest that Indonesia loses \$125 million a year due to the activities of just 18 illegal logging syndicates.<sup>(8)</sup>

Global annual losses are also estimated to run into the billions - in 2001, the World Bank estimated a figure of \$10billion worth of losses in revenues and assets worldwide, while in Sabah, Malaysia large-scale timber smuggling is thought to cost the government untold millions. In 1997, illegal logging in Cambodia stood at over four million cubic meters annually, ten times the legal production, costing the government over \$180million in lost revenue. Russia loses \$1 billion a year and Africa vast and unknown sums<sup>8</sup>.

#### 1.5 Scope of illegal logging

Illegal logging is a global phenomenon. Timber theft occurs in both developed and developing countries and in all types of forest ecosystems, including natural forests, plantations, the tropics and temperate and boreal forests. The nature and scope of criminal activity in forestry varies widely across regions and forest types, but some special features and characteristics do seem to arise.

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<sup>7</sup> Illegal Logging Briefing Paper, Chatham House, London, July 2007

<sup>8</sup> EIA report. 12/09/2005 – Illegal logging. General Overview.



## **1.6 Regions affected by illegal logging and timber trafficking**

### ***- South-east Asia -***

Countries most affected: Cambodia, Indonesia, Malaysia, Papua New Guinea, and Vietnam.

In Southeast Asia, illegal logging is often perpetuated or facilitated by military groups and corrupt government officials. Both are able to exert a high level of control over access to natural resources and have a strong presence throughout the whole process of illegal logging and timber trafficking. They exert influence on granting of forest concessions, harvesting and transporting of the logs, and processing and timber trade. Opportunities for corruption multiply and initiatives of good governance and capacity building are annulled. The illegal activities of these groups include the use of local villagers as cheap forced labour, the levy of unofficial fees from trucks passing by check points, and the protection of their business through acts of violence or intimidation against local communities.

### ***- Central Africa -***

Countries most affected: Democratic Republic of Congo, Kenya, Liberia, Tanzania, and Uganda.

In central African countries, illegal logging has been characterised by the ‘conflict timber’ phenomenon where control of the timber to be exported to Asian or Western countries is a major cause of armed conflicts in some regions of Africa. Military groups secure their control over forest concessions and assure their business in timber trade in a way that encourages and continues armed conflict and threatens national or regional security. Illegal logging and timber trafficking guarantee a source of revenue for the warring parties to purchase arms, pay for soldiers, and increase their personal benefits. However, the situation in Kenya and Tanzania is somewhat different since illegal logging is instead driven by a high domestic demand for charcoal.

### ***- Latin America -***

Countries most affected: Bolivia, Brazil, Colombia, Honduras, and Peru.

In Latin American countries, illegal logging has two main characteristics. On the one hand, illegal logging can be carried out as selective logging of the most valuable trees in indigenous lands or national parks. In this case, most of the perpetrators are likely to be organized groups sometimes having high level political connections and operating on a fairly large scale. On the other hand, illegal logging is a response to a socio-economic issue. Driven by poverty, local populations colonise forest lands for settlement and harvest timber in unauthorized areas to meet their basic needs, the supply in charcoal for instance. Similarly, due to a shortage of land, farmers convert forest lands into cleared lands in order to set up agricultural activities and try to make a profit from the land’s commercial use.

### ***- Importer countries -***

Countries most concerned: China, European countries, the US, and Japan.

China transformed the global timber trade dynamics when illegal logging was eradicated in the country. With increasing purchase power, the country became the main importer of illegally harvested logs that feed a growing demand in wooden goods. China is also a hub of illegal timber trafficking where logs imported from its Asian neighbours and African countries are being processed into finished manufactured products. The wooden products are then exported to European countries, the US, and Japan; countries that may not necessarily be aware of the potential illegality of the timber and where limited legislation is in place to counter this kind of import.

### **1.7 Forest crime: A breach of national forestry laws**

Illegal logging is the first link in a chain of crimes. The breach of national forestry law occurs in the country of origin of the timber. The fraudulent practises include:

- obtaining a concession by illegal means such as bribes or threats;
- providing concessions on a corrupt basis;
- harvesting protected timber species or timber from protected areas;
- logging without licenses or in non-authorized concession areas;
- harvesting trees below legal diameter or in a larger volume than authorized;
- cutting similar but different timber species than the one permitted.

### **1.8 Transport of timber: A breach of national customs laws**

Once cut, the logs are then transported and processed into finished manufactured products in a second country. At border controls, the violations of national customs laws include:

- the violation of import legislation: quota laws, bio-security laws, competition laws (tariffs).
- the use of forged certificates or false statements.
- The corruption of border authorities.

### **1.9 Importing illegally harvested timber: A breach of general criminal laws**

While illegal timber trafficking is difficult to prove, criminals involved in the traffic can be charged and convicted for other crimes punishable under criminal laws such as:

- conspiracy;
- smuggling;
- issuing false statements;
- money laundering (see below).

### **1.10 Breaches of international agreement or specific laws**

The Illegal logging issue is being tackled at an international level. Many countries have adopted international conventions or have adopted new laws to curb timber trafficking, for example:

- UN Convention on organised crime;
- CITES;
- US Lacey Act amendment;
- EU Voluntary Partnership Agreement (VPA) on Forest Law Enforcement Governance and Trade (FLEGT).
- UN Convention against Corruption
- UN Convention against organised transnational crime
- OECD Convention on Bribery of Foreign Public Officials in International Business Transactions.
- African Union Convention on preventing and Combating Corruption (Bribery, illicit money laundering, illicit enrichment, concealment of property)
- Organisation of American States Convention against Corruption.

Many of these conventions specifically refer to INTERPOL's role in transmission of information.

### **1.11 Structure of illegal logging**

Illegal logging is not an isolated crime; rather it is a mosaic of interdependent criminal activities. It therefore requires a coordinated interdependent law enforcement response.

The chart below represents a simplified example of the structure of timber trafficking, more components, be they countries or entities, are often involved and the process may not be headed by one unique entity hence the structure appears to be more businesslike in its makeup.. At least three companies may be involved: the timber seller that provides the raw material, the linking company supplying the connection between the provider and the buyer and often processing the timber, and the buyer company importing the wooden products. Operating in different countries, the traffickers take advantage of the inconsistencies in the different legislations or the lack of law enforcement coordination at an international level. On the other hand, however, each participant can independently undertake a specific task without knowing whether or not it constitutes an illegal activity. Similarly, more countries are usually involved: Illegal logging occurs in one country, the timber is shipped to another, processed in a third country then, to conceal its illegal nature, and the shipment will transit through more seaports before finally reaching the final destination country. Having arrived in its final destination, the timber has been 'laundered', masking its illegality.

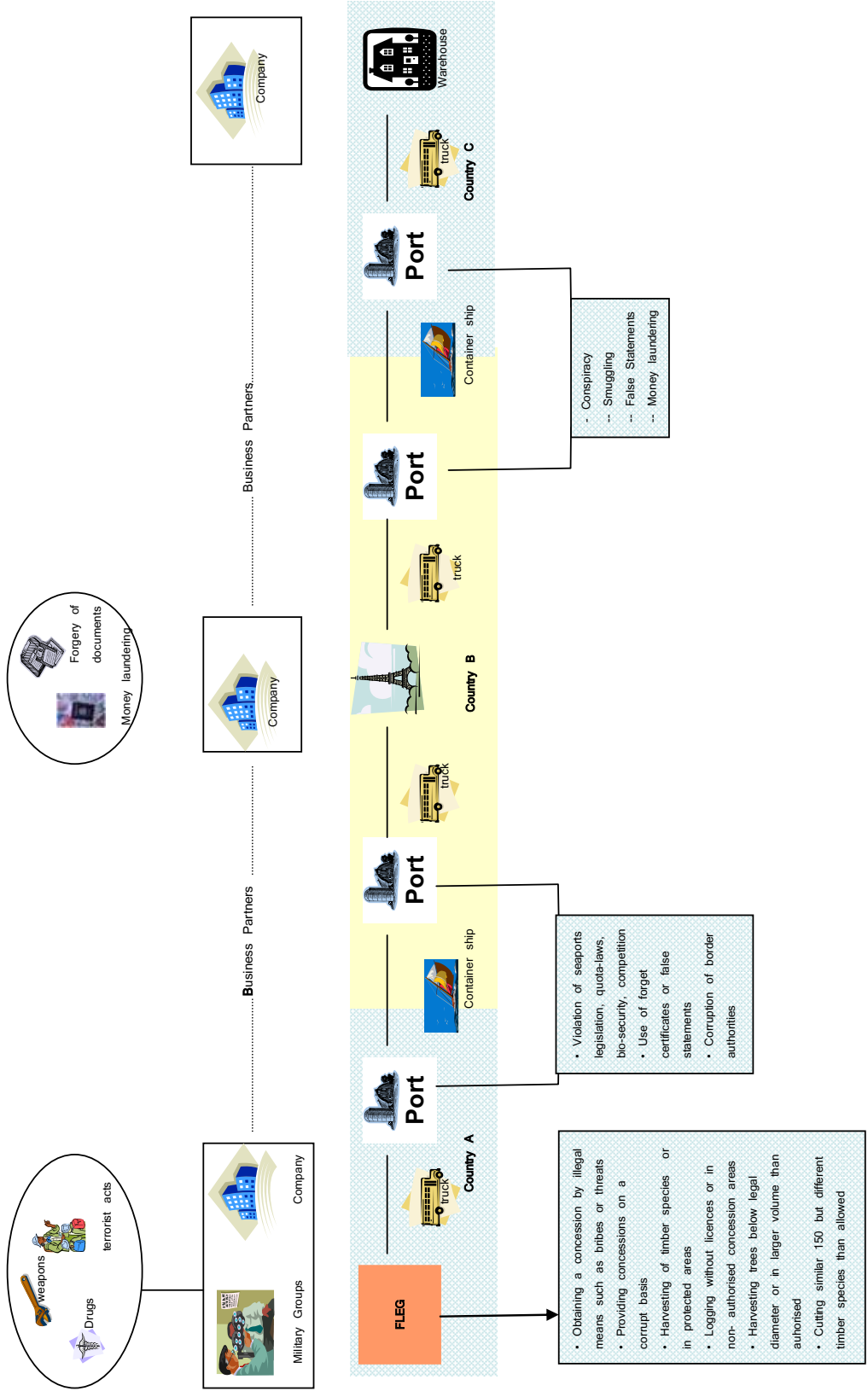


Diagram 1 - Structure of timber trafficking

### **1.12 The crime of Money laundering applied to illegal logging**

There is no doubt that illegal logging and timber trafficking generates large amounts of money for those involved. Numerous studies suggest that the profits can amount to millions, if not billions, of dollars. Apart from the obvious concerns of not being arrested for their principle activities, those same people are also faced with the problem of how to hide these illicit profits; hence 'money laundering'

What is money laundering? It is the process of disguising the proceeds of crime in an effort to conceal their illicit origins and legitimize their future use. Its objective is to conceal the true ownership and origin of the proceeds, and to maintain control and change the form of those proceeds. To achieve these goals those concerned follow a basic four step process, which begins with the 'predicate crime', in this case illegal logging, and timber trafficking. There will almost certainly be other associated crime at this point such as violence, or threats of violence, bribery, corruption and the like.

What follows is the 'placement' of the proceeds of the crime, or crimes. This can take a number of forms, but often has the profits deposited into banks, invested into asset purchases, or simply gambled. The objective being to introduce the proceeds into the stream of 'normal commerce'.

The next step in the process is referred to as 'layering' whereby the money is distanced from its source by moving it to different countries or into different bank accounts. It can then be used to buy equipment and assets, invest in share portfolios, or converted into foreign currency, to name but a few possibilities.

The final stage in the process is referred to as 'integration'. This occurs when the Laundered proceeds are distributed back to the criminals in a way that creates the appearance of legitimate wealth.

This process of disguising the origins of illicit funds can be complex and convoluted. Investigation of this type of financial crime, or '*following the money*', is almost invariably beyond the capacity of many law enforcement agencies in the developing world. Criminals know this, and will exploit that weakness.

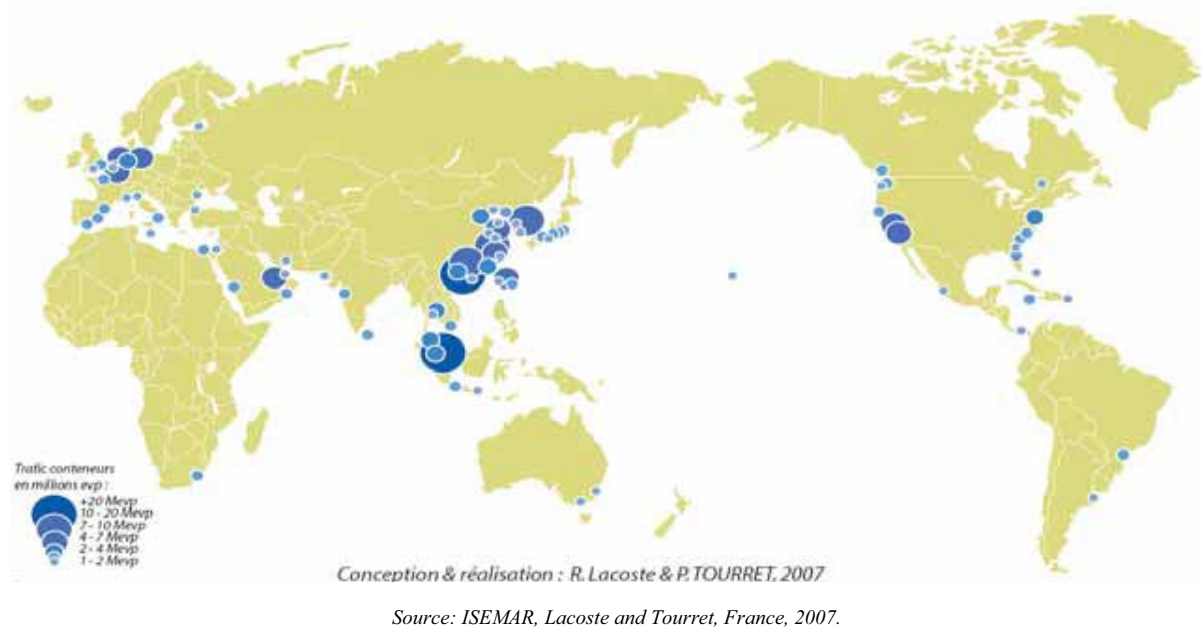
To be truly effective in combating this type of crime there is a need for significant capacity and international cooperation and collaboration. This is noticeably absent in a large number of developing countries worldwide.

### **1.11 Trafficking channels.**

Timber trafficking has been greatly facilitated with developments in multi-modal transport. Longer distances and larger regions are now covered within a shorter period of time since road, rail, air, and sea transport routes are better inter-connected. Due to the size of shipments and relatively high cost, the use of air transport for timber trafficking is limited. Instead timber is mainly transported either by land or by sea. The container system enables the transport of timber in high quantities and at a low cost. Timber, logs, or wooden

products are loaded in containers standardised in size and shape that can then be transferred rapidly and easily via automatic equipment to other ships for onward travel, or to commercial railroads and trucks for overland transportation. The complexity of the multi-modal system and an inability to inspect all the containers enables criminals to more easily conceal the true origin and ownership of cargo. Although in some countries the government has officially designated certain seaports for timber imports, most import crimes remain undetected at seaports since less than two percent of the cargo traffic is inspected.

Refer also to following diagram illustrating seaport that handle more than 1 million containers annually.

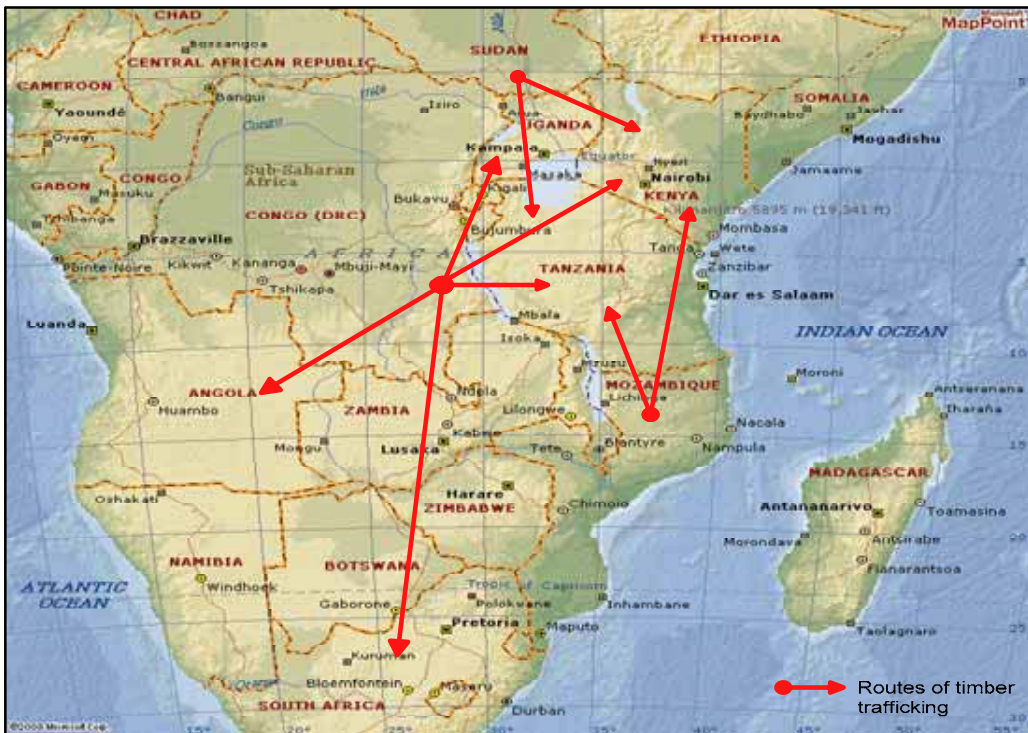


**Diagram 2 -Ports with traffic of over a million containers**

**- Trade routes for timber trafficking --**

The concentration of illegal logging in border areas shows that timber is primarily trafficked within neighbouring countries. As illustrated on the following maps, many consignments of illegal timber are introduced through the seaports of another Asian country to obtain certificates of convenience and to reach European seaports more easily after several stops making the tracking difficult. In Africa, it is very likely that ports along the mainland of the eastern coastline, in particular in Kenya and Tanzania, will become an increasingly important hub in timber trafficking. The trends identified on the maps show that Asia is developing a more attractive timber market than Europe.

*- Routes of timber trafficking -*



*Diagram 3 - Illegal logging in Indonesia, Malaysia and Africa*

### 1.13 Timber species most subject to trafficking

Law enforcement actions can be undertaken only when timber species are protected under international conventions, such as CITES, or under national laws. The timber species primarily affected by illegal logging due to their commercial potential, have been identified as follows.<sup>9</sup>

#### Ramin

**Latin name:** Gonystylus spp. (Gonystylus bancanus, Gonystylus macrophyllus, Gonystylus warburgianus)  
**Status under CITES:** Listed in Annex II.  
**Geographic distribution:** South-east Asia (Malaysia, Indonesia, India, Myanmar, Philippines).

#### Mahogany

**Latin name:** Swietenia spp. (Swietenia macrophylla, Swietenia mahagoni, Swietenia humilis)  
**Status under CITES:** Listed in Annex II  
**Geographic distribution:** Mexico and Central America, Caribbean and tropical South America.

#### African Teak

**Latin name:** Pericopsis elata  
**Status under CITES:** Listed in Annex II.  
**Geographic distribution:** Tropical Africa. Tropical regions of Central and West Africa (Ivory Coast, Ghana, Cameroon, RCA, Zaïre).

#### Brazilian Rosewood

**Latin name:** Dalbergia nigra  
**Status under CITES:** Listed in Annex I  
**Geographic distribution:** Tropical South America. Northeast Brazil

#### ***- Different forms of trafficked wood -***

The timber market has evolved over the last ten years, and continues to evolve as market demands change. The demand in high quality wooden products has increased regardless of the legislation regulating and controlling the timber trade which has become more restrictive since the early 1990's. The trafficking of timber logs predominant in the 1990's has now evolved into the trafficking of finished manufactured goods. While the EU is still importing significant quantities of round-wood and sawn-wood from various areas of the world, the British HM Royal Customs reported that timber is generally imported as finished products such as wooden blinds, snooker cues, and picture frames. The main reason is that finished products make it harder to trace the origin of the wood and are less likely to raise suspicions as to the origin of the timber.

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<sup>9</sup> NCB Roma (Italy) (August 2008) and CITESwoodID from H.G. Richter, K. Gembruch, G. Koch (2005)



## **1.15 Nature of the threat posed by illegal logging**

### ***- On national law enforcement infrastructures -***

As an organised crime, illegal logging poses a potentially significant threat to national security as it provokes the development of criminal groups and networks. They secure ownership of logging concessions through acts of violence, for example: intimidation, death threats, or murders in and against local communities. As a result, the rule of law is undermined in the countries affected by the problem as are the enforcement functions of the governmental agencies. When, through corruption, the phenomenon of illegal logging reaches political or military spheres, the political infrastructure and stability of a country can be jeopardised. Failures to minimise the diverse impacts of illegal logging can lead to a population's disaffection and loss of confidence in law enforcement authorities and their capabilities and, by extension, a loss of confidence in national institutions.

### ***- On national economies -***

Illegal logging affects both the economy of the country in which it occurs and the country which is the final destination of the illegal timber. Profits generated by illegal logging remain undeclared, particularly when it relates to foreign private companies established in the relevant country. Tax evasion represents a significant loss of revenue for the countries' governments. NCB Dar-Es-Salaam (Tanzania) reports that, in Tanzania alone, millions of dollars worth of timber revenue is being lost each year due to illegal exports of logs and timber products. In 2004 and 2005, timber royalty losses amounted to US \$58 million annually. A further consequence is the distortion of the global timber market as goods coming from illegally harvested timber are invariably cheaper than legitimate products. According to a US study, the world prices were depressed by between 7% and 16% in 2004 by the prevalence of illegal products in the market. Consequently, the US firms were losing at least US \$460 million that year in forgone sales<sup>10</sup>.

### ***- On national security -***

As a profit crime, illegal logging generates revenue that may be re-circulated to money laundering operations or used to fuel armed conflicts. Chatham House attests that in Africa the substantial revenues from illegal logging funded national and regional conflicts, notably in Liberia and the Democratic Republic of Congo. Likewise in Cambodia, the Khmer Rouge insurgents were sustained for several years primarily by the revenue generated from logging areas under their control<sup>11</sup>. NCB Bogotá (Colombia) reported that some groups at the margins of the law admitted to making profits from trading timber from some regions of the country. The national security of these countries is directly affected as illegal loggers command control over part of the country, while the political and economic infrastructures are paralysed by the state of war. Criminals behind illegal logging can also be involved in other criminal activities such as drugs and arms trafficking, acts of terrorism, and war crimes. NCB Roma (Italy) suggests that some war criminals from former Yugoslavia hide behind gangs exploiting illegal logging in Bosnia-Herzegovina.

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<sup>10</sup> Illegal Logging Briefing Paper, Chatham House, London, July 2007

<sup>11</sup> Ibid

### **1.16 Problems regarding the legality of illegal timber trafficking**

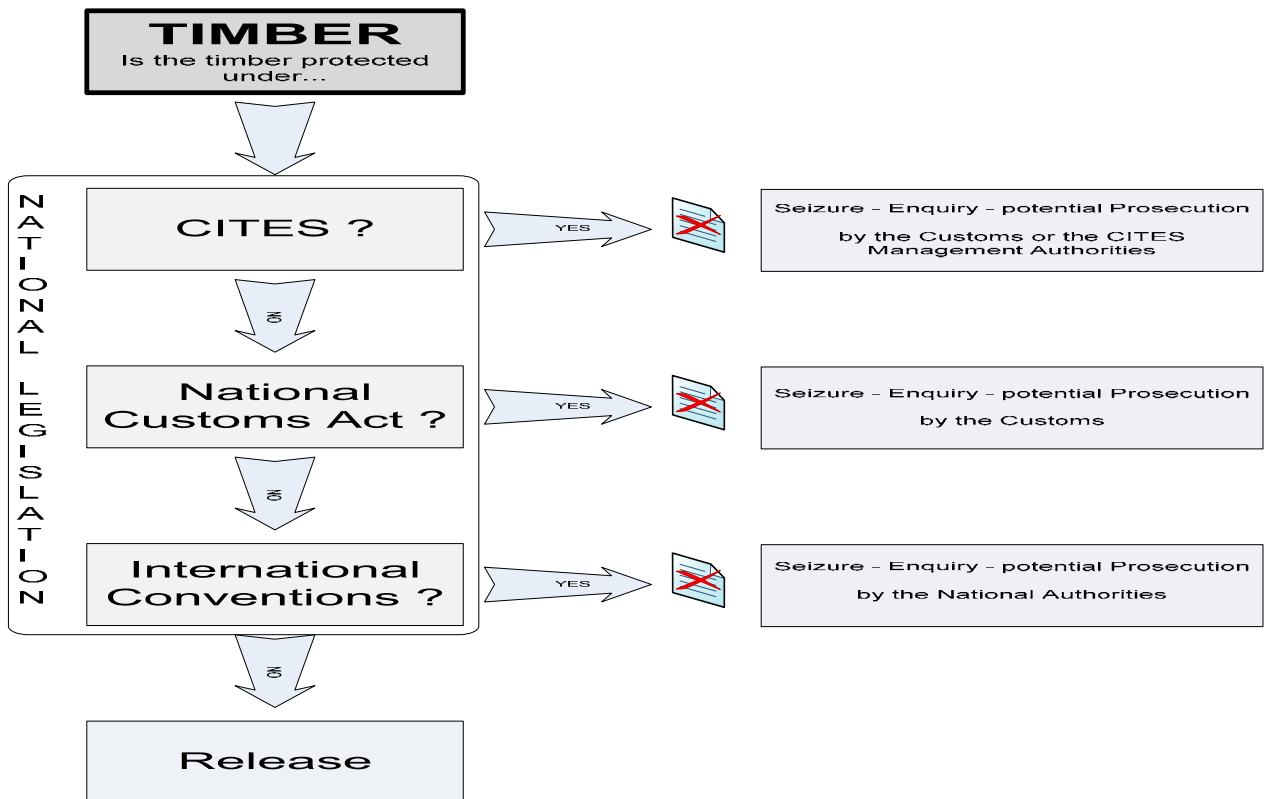
In order for any law enforcement officer to undertake investigations they must first be satisfied a crime has occurred. When considering crimes of violence, and other crimes against the person, or drug or weapon trafficking, the answer as to whether a crime has occurred would appear to be obvious. The same cannot be said when considering international trade in primary products; fish, animals, and plants, including illegal timber. The legality of unlawfully logged timber at any given time in its journey from the forests to the end user will be largely determined by time and space. The question; what is the national law that relates to the product, can often depend on where it currently geographically is, and at what time it is there?

The reasons for this and the difficulty faced by law enforcement agencies in investigating this crime type are:

- Timber is not an illegal product per se. Its possession, trade, or transportation may not constitute a crime as such, unlike drugs or child pornography. At border controls or customs check points, the law enforcement authorities must be able to prove the timber's illegality to take any further action. It can, in many cases, become difficult or impossible to state whether the origin of the timber is legal or illegal. The illegality is all the more difficult to assess when the timber has been processed into finished manufactured products, which is often the form in which illegal timber arrives at the country of importation.
- In itself, illegal logging constitutes a local crime that falls under national legislations. It is then a crime which is very difficult to prosecute "up to destination" since it does not imply the infringement of the laws or regulations of the countries that import and consume the timber or the countries in which the timber is in transit. Illegal logging becomes relevant to international law enforcement only once the timber has left, or is in the process of leaving, the country in which it was cut. Consequently, illegal logging must not become dissociated from the problem of illegal timber trafficking which is not as difficult to prove and prosecute.
- Timber traders can be subject to sanctions or prosecution for illegal timber trafficking only on the condition that the timber traded is a species protected under national laws or under CITES. This trade is regulated with a system of certificates and needs to fulfil specific conditions to be declared legal. It is often only in countries where the mechanisms of control and certification are codified in national legislations, such as in the EU, that the possibility of prosecuting the timber traders exists.
- The legality or illegality of the timber depends on the legislation of the country where the goods are located, not on the legality or illegality of the upstream process. A piece of wood can originate from illegally logged timber and yet be sold with complete legality in another country. Therefore, the international characteristics of illegal logging raises two questions: Determining the country where the prosecution should take place, and determining the legislation under which the crime falls. In general, criminals are prosecuted in the country where the crime was committed and the legislation of that country is applied.

- Weakness of governance and poor law enforcement are also major issues when it comes to dealing with curbing illegal logging. Due to the specific nature of the timber, only highly specialized or trained officers may be able to identify the differences between the various timber species. The poor awareness of law enforcement officers in international law enforcement mechanisms and international platforms of cooperation further decreases the chances of detecting trafficking and lowers the risk of any prosecutions being brought. This issue is exacerbated by the corruption that exists in many countries and undermines the rule of law which enables illegal loggers to operate with near impunity. As a consequence of this incentive, the level of criminal activities in terms of quantity, intensity, and diversity is increased.

The following diagram simply illustrates the steps that may be taken in determining law enforcement action at a border control



*Diagram 4– Checking process of the legality of the timber.*

## PART II. FOREST CRIME IN A GLOBAL CRIMES PERSPECTIVE

**Concern about illegal logging generally arises from concerns about environmental values. However, as discussed in part 1, the consequences of illegal logging extend into economic, public security and social spheres, suggesting that a higher priority should be attached to it by national and international law enforcement authorities. Yet the global criminal justice system is limited in both its ability to address the full range of other crime priorities and in its ability to function independently of national authorities. This section tries to put forest crimes and international law enforcement options and mechanisms into perspective.**

### **2.1 Is illegal logging an international crime priority?**

As a result of the 09/11 terrorist attacks in New York, 2974 people lost their lives. During that same year 37,862 people died on US roads, 6977 on German roads, and 3598 on British roads. In 2001 alone as many people died every 26 days on US roads as were killed in the 09/11 attacks. Which event, or events, has had the most impact on our lives since?

To quote statistics in regard to an even more obvious law enforcement issue; Drug related deaths in the European Union are approximately 8000 per year. Drug related killings in Mexico in 2008 were over 6000, Gun related homicides in the USA in 2000 were 10,801 and in 2004 the USA recorded 16,907 gun suicides. The general public, however still insist on the right to bear firearms and, despite law enforcement efforts, there is no appreciable reduction in global drug use, seemingly regardless of the significant amount of resources devoted to both issues.

These are interesting examples of how different kinds of risks are perceived and assessed by people and are relevant to the point of law enforcement priority. The broader and more important point, however, is that law enforcement policy has to respond to popular perceptions, political priorities, legal mandates and restrictions, budget limits, opportunities, etc. and so on, to allocate enforcement effort. The international “system” ends up pursuing a diversified portfolio of crimes and criminals ranging from jewel thieves to drug dealers. Heretofore, illegal logging doesn’t make it on the list. Should it?

### **2.2 Understanding international criminality “It’s a jungle out there”**

While a law enforcement officer will see a crime as a breach of law, a criminal will consider it as an opportunity. The world community is faced with vast and ever changing criminal threats. These include, and are made worse by, criminal opportunities created by constant changes in politics, economics, globalization, and technology that also impact on the formulation and implementation of policymaking and the practice of criminal justice. Criminals are constantly seeking new and innovative ways to improve their business and make profit, and will engage in the trafficking and trade of anything to further that aim.

Products such as; Pirated movies, drugs, stolen works of art, stolen cars, precursor chemicals, endangered species, human cadavers and fake computer software, through to trafficking in human beings and weapons, are all easily seen in illegal trade. What is less easily observed is the effect on economies, political stability and the breach of tax laws, treaties and domestic laws that inevitably follows.

It could also be argued that any introduction of, or changes in, regulatory, or governance mechanisms such as FLEG, FLEGT, REDD or similar cap and trade initiatives would present similar opportunities for those seeking to exploit potential loopholes in legislation or new multi-lateral agreements.

***- International political landscape -***

Political changes shape crime patterns. For example, the end of the Cold War and the formation of the EU resulted in the breakdown of political and economic barriers within and between countries in Europe and the former eastern block. The trade of goods, the movement of people, and the flow of capital significantly increased. These formations of political alliance also imply looser border controls which enables international criminals to expand their networks, establish themselves in new regions, and to extend the scope and scale of their activities. Conversely, political tensions between countries can undermine, international cooperation, and the breaches in diplomatic dialogue between those countries create loopholes in the international justice system that criminals will take advantage of.<sup>12</sup>.

***- Economic and financial reforms -***

Economic reform also changes the nature of crime. In previously state-controlled countries with now opening economies, reforms are intended to boost trade and to enable a country to become more competitive in the global marketplace. Criminals will take advantage of the unstable transition period to establish front companies and quasi-legitimate businesses that facilitate smuggling, money laundering, financial fraud, intellectual property piracy, and other illicit ventures. The move to a cashless society also brings changes in the scope and nature of crime and crime control. For instance, robberies will decrease since less cash is used in daily transactions, while “smart card” counterfeiting attempts as well as credit card and fund transfer frauds are likely to increase<sup>13</sup>.

***- Globalisation multiplies possibilities -***

International organised crime groups are attracted to major centres of global commerce and banking. The benefit from the concentration of modern telecommunications and information systems, and the multimodal platform of transport in seaports and airports. The high volume of international trade facilitates their involvement in illicit activities and financial transactions. The use of containers for high volumes of legitimate international trade provide them the opportunity to smuggle illicit goods such as drugs and arms across national boundaries and to conceal the true origin and ownership of the shipments with ease. Criminals have greater choices in travel routes and modes of transport (ship, rail, plane, or truck) and can arrange itineraries in a way that minimizes the risk of interception. International criminal syndicates count on avoiding close scrutiny of their activities because

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<sup>12</sup> International Crime Threat Assessment, US Government interagency working group, US, 2000

<sup>13</sup> New crimes or new responses, Dr. A. Graycar, Australian Institute for Criminology, Canberra, June 2001

businesses and government wish to facilitate legitimate commercial and financial transactions and rapid transshipment of products<sup>14</sup>.

**- Technological Advances -**

Advances in technology have contributed to the appearance of new areas and types of crime that pose significant difficulties for transnational police investigations. Recent technological developments have created a wide range of novel methods that facilitate the execution of existing conventional crimes such as fraud, forgery, intellectual property crime, and extortion. Improvements in telecommunication and new technologies provide criminals with the same advantages to support their illegal activities as those offered to legitimate businesses:

- New ways of communication within and between illegal criminal networks on a global basis;
- Increases in the pace, volume, and scope of international traffic;
- New information technology tools such as mobile phones, blackberry, and the Global Positioning System;
- On-line marketing strategies for illicit commodities dealing.

With the chances of detection reduced, criminals can also use the interactive capabilities of advanced computers and telecommunications systems to develop new financial systems that facilitate financial offences such as money laundering and tax evasion unobtrusively and in high volume and to create false trails for law enforcement and banking security agencies<sup>15</sup>.

## **2.3 Priorities in international Law Enforcement**

**- Vulnerability -** *“A condition resulting from how individuals negatively experience the complex interaction of social, cultural, economic, political and environmental factors that create the context for their communities”<sup>16</sup>.*

**- Some criteria -**

Public safety, national security, and stability. Crimes such as terrorism, corruption, cyber-crime, and money laundering are often given priority by governments because of the nature and degree, as well as the scope and scale, of the threat that they pose and the number of civilian lives they potentially endanger. Illegal logging is far less easy to understand by the public and is generally seen as a victimless crime

Public perception of danger. The sense of personal insecurity gets translated into demands for tougher laws and increased police presence and action. Public opinion is often derived largely from the media, through the influence of television, newspapers, and the impact of images. For example, the public are particularly sensitive to issues surrounding child pornography, drug trafficking, and organised street crime.

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<sup>14</sup> International Crime Threat Assessment, US Government interagency working group, US, 2000

<sup>15</sup> International Crime Threat Assessment, US Government interagency working group, US, 2000 and New crimes or new responses, Dr. A. Graycar, Australian Institute for Criminology, Canberra, June 2001

<sup>16</sup> UNODC. An Introduction to Human Trafficking, Vulnerability Impact and Action. Background paper, 2008.

Allocation of resources. This is one of the most important criteria when it comes to defining priorities. The cost of operating the criminal justice system must be weighed against the gains made in public and governmental security. Law enforcement activities are always limited by resources such as financial constraints, material capacities, and the available manpower and time.

INTERPOL's General Assembly. The General Assembly annually defines INTERPOL's priority crime areas in consultation with its member countries. In terms of police cooperation, the six areas of crime listed below are currently considered to be the most important with urgent action demanded to tackle them.

## **INTERPOL's six priority crime areas**



### **Drugs and criminal organizations**

Tackling the growing problem of drug abuse and trafficking, often linked to other crimes.



### **Financial and High-tech Crime**

Combating counterfeiting, payment card fraud, intellectual property and cyber-crime.



### **Fugitives**

Tracing fugitives, who threaten public safety and undermine criminal justice systems.



### **Public safety and terrorism**

Countering terrorism, which threatens public safety and world security.



### **Trafficking in human beings**

Fighting abuse and exploitation of people, which breach human rights and destroy lives.



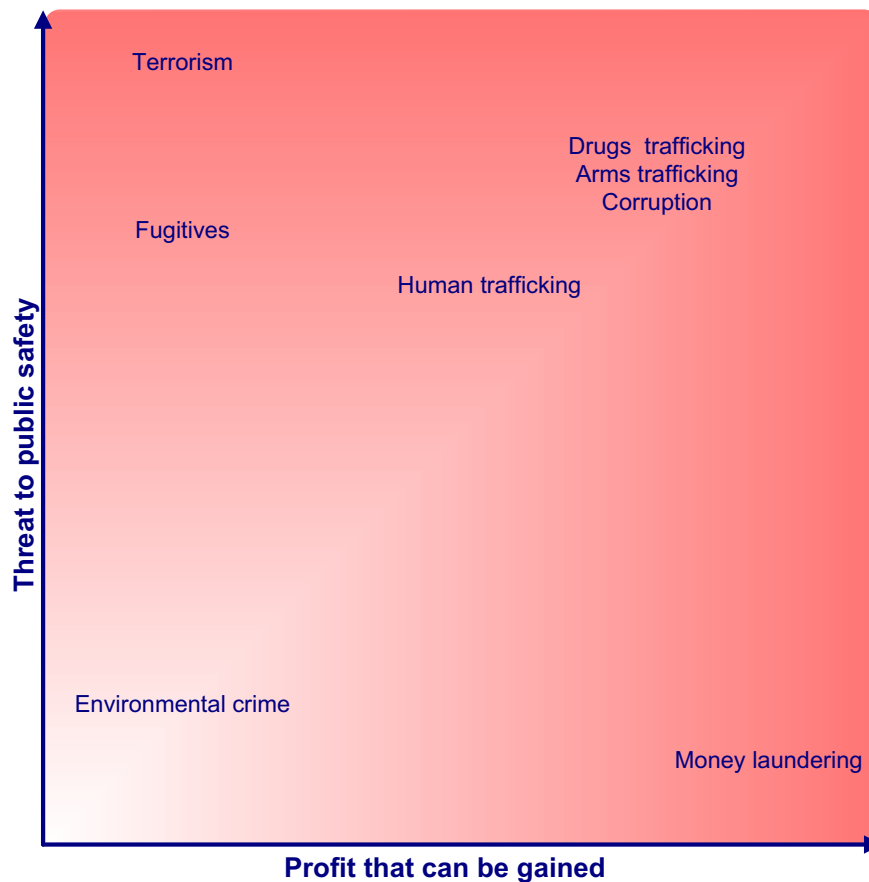
### **Corruption**

'Working together towards a corruption-free world by promoting and defending integrity, justice and the rule of law.'

The Environment Crime Program, which includes illegal logging issues, is located within the Public Safety and Terrorism sub-directorate. As can be seen it is a somewhat unusual 'fit' but doesn't easily fall within the remaining 5 priority areas; it may nonetheless overlap into those areas.

Considering a less violent crime type; Money Laundering. An effort was made between 1996 and 2000 by the Financial Action Task Force (FATF) to produce an estimate of the amount of money being 'laundered' globally. This group failed to produce any estimate of exactly how much money was involved. What is known however is that the quantity of seizures identified through investigations in the USA alone amounted to USD 386 million of money laundering related assets in 2001, with a corresponding figure of USD 241 million for forfeited assets. When compared to quoted figures associated with illegal logging in the billions of dollars this amount would seem to be just the tip of the iceberg.

## 2.4 Environmental Crime - Illegal logging in relation to other 'important' crime areas



The answer to the question “is illegal logging an international crime priority?” would, given the current global economic, military and law enforcement environment, probably be a firm “No!”

Priority setting by law enforcement agencies during times of fixed or shrinking budgets is largely determined by political imperatives and public perception. In fact the same could be said even during times of little budgetary restraint.

The chart above illustrates where illegal logging, under the banner of environmental crime, might fit when it comes to allocation of effort and resources.

*Given the World Bank's estimate that the economic losses due to illegal timber trade could be as much as USD 10 billion annually, one could reasonably expect that the illegal timber trade would have a much higher priority than is actually the case, particularly when considering that many national police agencies have a money laundering division.*

This then is the environment that law enforcement agencies, both national and international, operate in. Environmental Crime, including illegal logging and timber trade, is competing



for law enforcement resources against types of crime that may not be as economically damaging but are seen by the public, media and governments as deserving of a higher priority. Without the expectation that law enforcement budgets are likely to be significantly raised across the board then the concept that illegal loggers must be pursued with the same vigor as terrorists, drug traffickers and the like needs to be advanced within the constraints that exist. There needs to be a realization that more has to be done with current parameters and making the best use of what is available now.

## **2.5 Illegal logging vs. drug trafficking**

The value of the global illicit drug market for the year 2003 was estimated at US\$13 bn [billion] at the production level, at \$94 bn at the wholesale level (taking seizures into account), and at US\$322bn based on retail prices and taking seizures and other losses into account<sup>17</sup>.

In 2000, Americans spent about \$36 billion on cocaine, \$10 billion on heroin, \$5.4 billion on methamphetamine, \$11 billion on marijuana, and \$2.4 billion on other substances<sup>18</sup>.

With estimates of \$100 billion to \$110 billion for heroin, \$110 billion to \$130 billion for cocaine, \$75 billion for cannabis and \$60 billion for synthetic drugs, the probable global figure for the total illicit drug industry would be approximately \$360 billion. Given the conservative bias in some of the estimates for individual substances, a turnover of around \$400 billion per annum is considered realistic. This figure can be compared to estimates of more than \$500 billion which are based solely on the average of minimum and maximum process in the United States<sup>19</sup>.

The international illegal trade in drugs has been extensively studied, its cost is generally understood and well documented, and the impact of the use of narcotics is obvious to the general public. Illegal logging and timber trafficking, however, is neither as well studied nor understood by the public at large and those who set law enforcement priorities.

When estimates of global illicit drug markets are quoted at US\$322 billion, and then compared to published estimates of illegal logging at US\$10 billion the reasons for the seemingly low law enforcement response appear obvious. Examine however that the value of illicit drug trade at production level was US\$13 billion; significantly closer to the illegal logging figures. Unfortunately, with estimates of the cost of illegal logging appearing to conflict in many case, be completely absent in others, and unfortunately often identified with groups pursuing a 'cause' and creating bias, it is difficult to obtain any large resource from law enforcement agencies to deal with this problem..

It is widely recognized that drug trafficking cannot be stopped, only reduced, in spite of the fact that the legislation regulating drug crime is some of the most severe with a number of countries applying the death penalty for drug trafficking offences. Governments try to

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<sup>17</sup> United Nations Office on Drugs and Crime (UNODC), World Drug Report 2005 (Vienna, Austria: UNODC, June 2005), p. 127

<sup>18</sup> Abt Associates, "What America's Users Spend on Illegal Drugs 1988-2000"

<sup>19</sup> United Nations Drug Control Program, "Economic and Social Consequences of Drug Abuse and Illicit Trafficking," Technical Series No. 6, 1998, p. 55 Washington, DC: Office of National Drug Control, December 2001), p. 2.

establish policies that are both strongly deterrent and preventive, such as long periods of imprisonment for offenders, good media coverage to inform the public, good training for law enforcement officers, and significant amounts of resources to counter drug trafficking, but the issue of illegal drug trade remains.

Forest crimes do not benefit from the same level of attention afforded to drug trafficking. Bad governance, poor or weak enforcement of forest laws, corruption and lack of political will to improve the situation are often strong incentives for the criminals behind illegal logging to continue. The low risk of being arrested and then convicted enables illegal loggers to commit their crimes with near impunity. The consuming public, and in many cases policy makers and law enforcement agencies often fail to see the immediate impact of illegal logging and may also fail to understand the wider consequences of this type of crime. For example; the wider economic loss, the associated violence and corruption, and more recently the potential for large monetary fraud that may become prevalent with the initiatives of Carbon credits and trading associated to Forestry.

Therefore illegal logging and timber trade will continue to occur as long as that activity generates good profits. Accordingly if the financial gain from illegal logging activities is outweighed by the cost of equipment, labor, transport and punitive measures (risk), or if this activity begin to generate negative publicity for governments or private companies, then illegal logging may begin to reduce as criminals engaged in it move their activities to other more profitable, or low risk, areas.

The wide spread of drug trafficking, despite tough legislation against it, can be explained by the high profits that it generates. Depending on the criteria used for the calculations, drug trafficking represents the second or the third largest of the global goods trades. Unlike logs, whose transport requires complex logistical support, drugs are relatively simple to transport as they can be hidden anywhere and utilise any mode of transport, be it train, boat, mail, or plane.

The ease with which narcotics are trafficked contrasts strongly with the negative impact the use of drugs has on society and the economy. Drug trafficking significantly increases street criminality and, in some countries, profits generated from drug related crimes can be used to destabilise the political system. The economic costs of drug abuse include significant personal spending of disposable income on illegal drugs, costs associated with medical care and drug rehabilitation programs for drug abusers, and the spending required by the law enforcement agencies as well as the judicial and penal systems to deal with drug related crimes. On the other hand, the immediate effects of illegal logging are mostly felt only by the local communities. This in part also goes towards the priority setting by, and resource allocation of, law enforcement. The public and law makers see the effects of the illegal drug trade in obvious and often graphic ways in their society. The visible impact of illegal logging is not as visible to those not directly exposed to deforestation, and the simple possession of a timber finished product is not considered a crime.

## 2.6 The INTERPOL Red Notice – a useful example



The Red Notice seeks the provisional arrest of a wanted person with a view to extradition based on an arrest warrant or court decision. It contains two main fields of information:

- Identity particulars: comprehensive identity details, physical description, photograph, fingerprints, occupation, languages spoken, identity document numbers, etc.
- Judicial information: offence the person is charged with; references to the laws under which the charge is made or conviction was obtained; the maximum penalty which has been or can be imposed, references to the arrest warrant or sentence imposed by a court and details about the countries from which the requesting country will seek the fugitive's extradition.

There are currently 1,600 valid Red Notices published by INTERPOL concerning people wanted internationally for drug trafficking, and 1,885 for criminal acts related to terrorism. **In contrast only four Red Notices have been published for illegal logging.**

Refer following table, environmental Crime figures also include wildlife crime generally, and other pollution/environmental crime.

Offence	Offence id	Valid Red Notices
Crimes against children	IC	572
Fugitives	IF	399
Genocide, War Crimes and Crimes Against Humanity	IH	755
People Smuggling, Trafficking & Illegal Immigration	II	354
Kidnapping	IK	955
Crimes against Life and Health	IL	4,700
Organized Crime /Transnational Crime	IO	1,263
Sex Crimes	IS	728
Terrorism	IT	1,342
Crimes involving Works of Art	PA	25
Counterfeiting/Forgery	PC	1,624
Drugs related crimes	PD	2,017
<b>Environmental crime</b>	PE	<b>39</b>
Fraud	PF	6,204
Hijacking	PH	25
Computer and information technology crimes	PI	66
Money Laundering	PM	536
Thefts	PT	2,588
Hooliganism/Vandalism/Damage	PV	202
Crimes involving the use of Weapons/Explosives	PW	1,281

*Diagram. 5- Statistics on INTERPOL Red Notices in 2009*

It is very apparent that law enforcement agencies, particularly national police, are utilizing proven methods of alerting countries to international fugitives in regard to more 'traditional' crimes but failing to utilize those same tools when confronted with other international crime in the form of illegal logging.

## **2.7 Measuring success in law enforcement**

The most notable features of international criminal justice problems are their persistence and their increase. As the world has become smaller, international crime seems to have increased, and the number and sorts of crimes which are expected to have an international response has grown.

### ***- Success in combating crime -***

Measuring success in law enforcement is extremely difficult. Should we perhaps be asking the question “should we even be doing this?” and if the answer is either yes or no, then perhaps we need to further ask “Why?”

Perhaps the answer lies in the fact that Police are by virtue of their profession multi-taskers, they in effect ‘do it all’ from the jaywalker through to murderers and drug dealers. There are cogent arguments that law enforcement should not differentiate, but the reality is often very different.

### ***- So how do we define success? -***

The range of criteria against which to measure successes represents the first obstacle. Is it relevant to reference the number of arrests? The arrest of a significant number of street drug dealers does not mean that drug trafficking is being fought successfully as new dealers will quickly appear on the street and the supply of drugs and their availability would remain the same. Should the number of victims saved be considered instead? Should the fact that ‘nothing’ is happening be considered a measure of success? A day without any terrorist attacks does not necessarily imply that a bomb attack is not being prepared. In addition, statistics must be handled very carefully. A decrease in the quantity of illegally harvested timber imported from Indonesia, for instance, does not prove that illegal logging is being tackled successfully in that country. Rather, it is more likely that the crime has been displaced. The timber illegally felled in Indonesia may be processed in China so that its real origin is blurred. Finally, the influence of the media must not be forgotten. Larger media coverage of a crime type does not necessarily signify that the crime is more widespread or more heavily enforced than any other.

### ***- Efficiency of responses to crime -***

The efficiency of the different approaches in countering criminal activities is also difficult to assess. It is possible to say that some tools ‘work,’ such as public awareness, cooperation between the different parties, and sharing information, while some others do not seem to work such as underestimating the issue, acting without a suitable framework, throwing resources blindly. The impact of some other approaches is nevertheless hard to evaluate. For instance, improving governance does not often provide immediately visible results, but more in-depth and permanent changes may become visible in the long-term. There is also the need to adapt the response to the crime. Anti-money laundering procedures will not be efficient in combating pedophilia since it is not a financial crime, but that approach may help in tackling crimes such as illegal logging or drug trafficking where financial issues are more prevalent. The efficiency of a tool also depends on the environment in which the crime is committed. Even though an approach may appear to work in one set of circumstances, this does not always guarantee that similar results will be achieved in a different context. For instance banning the import of timber from Liberia has been successful, whereas banning timber imports from China, which is itself an importer of

illegally harvested timber, would be unlikely to achieve similar results, and in fact may result in creating diplomatic conflict and other non related trade issues.

***- Illegal logging is an emerging crime –***

Illegal logging is not considered to be a priority in the field of international crime, although many of the crimes associated with it may be, so perhaps on that basis alone it should receive more attention and resources simply because it contributes to the other more recognizable crime types discussed in this paper.

Many governments are reluctant to acknowledge its occurrence in their country as illegal logging is sometimes made possible by the corruption of their own officials. A lack of public awareness also plays an important role in causing illegal logging to be underestimated as a crime of international importance. Alexander Von Bismarck, an environmental activist and Executive Director of the Environmental Investigation Agency (EIA), is quoted in an article in the New Yorker that, *‘an economy that structurally undervalues wood is bound to accept illegal timber without much resistance, because the excess black-market supply only reinforces the misconception that wood is cheap and the supply nearly inexhaustible’*<sup>20</sup>. The fact that timber is ‘easy to launder’ and that it appears as a ‘clean business’ compared with drugs or traffic in human beings also leads to the misconception that illegal logging is not a serious crime. Although illegal logging is overshadowed by ‘more important’ crimes such as terrorism or drugs trafficking, it remains an emerging crime that poses a number of challenges.

## **2.8 Potential challenges posed by illegal logging**

***- Corruption of public official -***

Although criminal groups rarely organize politically, they can and do gain considerable power over politicians and other government officials through corruption and the economic influence they exercise. Criminal groups cultivate and rely on corrupt political elites, government officials, and law enforcement and security personnel to protect their operations and to provide cover for expanding their activities, often into the legitimate economy. They use their political leverage to protect their illicit operations from public scrutiny and law enforcement pressure; to push for legislative and administrative regulations favorable to their criminal business interests; and to gain insider access and information to government economic strategies and plans that can give them an unfair advantage over legitimate business competitors.

***- Compromising the integrity of democratic institutions -***

Corruption of public officials inevitably erodes the integrity of democratic institutions, including legislatures and judiciaries. Criminal organizations attempt to manipulate political and legal systems to their advantage. They use illicit proceeds to help fund the campaigns of preferred candidates or to buy votes in the legislature in an effort to protect their safety, freedom, and criminal operations. Criminal influence in the legal system may short-circuit law enforcement

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<sup>20</sup> Stealing the forests, The New Yorker’s article, R. Khatchadourian, New York, October 2008

investigations, preempt prosecutions, prevent convictions, or avoid long sentences. Damage to the integrity of democratic political and judicial institutions undermines their credibility and erodes public support for democracy.

***- Penetrating the legitimate economy -***

Through investments in legitimate enterprises, criminal organizations can gain substantial interests in, or even control over, critical sectors of the national economy. Criminally controlled or influenced businesses have ready access to considerable amounts of interest-free capital to invest in productive enterprises, an advantage legitimate businessmen do not have. Such unfair competition may put legitimate business enterprises at a disadvantage. Criminal groups tend to invest more in high-volume cash-flow businesses that provide good cover for money laundering or contraband smuggling. Business enterprises influenced or controlled by criminal groups also put them in position to ‘steal’ legitimate government and business revenue. Moreover, companies controlled by organized crime frequently create cost overruns or demand kickbacks in other sectors such as public works projects.

***- Damaging the credibility of banking and financial institutions -***

The use of banks and financial institutions to launder money and for other illicit financial transactions undermines their credibility. Poorly capitalized banks established by criminal organizations weaken the banking system and may increase the likelihood of a major domestic financial crisis. A weakened banking system increases the danger of domestic liquidity crises and can magnify the impact of foreign financial shocks on the economy. These developments can undermine confidence in a country’s financial system, leading to extensive capital flight and depriving the country of investment resources. If the financial system is closely integrated into global financial markets, the risk of contagion (the crisis spreading to other countries) increases.

***- Undermining support for democratic and free market reforms -***

In countries with weak or developing democratic institutions or transitioning economies, as is the case in Eastern Europe, the intersection of organised crime with corrupt political elites can erode the public credibility of reforms and prevent democratic and free market systems from being consolidated and institutionalized. The general public may feel it has no stake in political and economic reforms when those reforms appear to benefit organized crime, unscrupulous businessmen, and corrupt politicians and government officials, rather than law abiding citizens. Therefore, rising crime and societal problems intensify public disillusionment. This loss of faith in a newly democratic government’s ability to cope with the power and influence of criminal networks and corrupt officials may result in stronger political support for anti-democratic hardliners<sup>21</sup>.

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<sup>21</sup> *International Crime Threat Assessment, US Government interagency working group, 2000*

## 2.9 Shaping better approaches to counter crime

### *- Developing criminal analysis –*

Criminal analysis can be defined as the identification and the methodological highlighting of the relationship between crime data and other relevant data for police and judicial use long-term basis. Criminal intelligence analysis seeks to identify links between crimes, associations among criminals, the role of individual people in criminal activity, and the relationship between crime and other factors such as location, employment rates, and communication methods. The advantage of criminal analysis is the introduction of structured methods and a uniform set of techniques focusing on the development of hypotheses, reconstructing the course of individual criminal incidents, identifying a series of related crimes, understanding criminal networks, and analysing the scope and patterns inherent in criminal activity.

### *- Enhancing forward planning –*

#### Drafting a realistic framework

Illegal Logging and Timber Trade needs to be clearly defined and prioritised as it is important that the roles and responsibilities of the participants involved are clearly stated from the outset. Initiatives must be properly resourced in terms of manpower, budget, and capabilities in addition to being assigned a time frame with clear schedules and attainable deadlines.

#### Defining feasible objectives

All crime requires four ingredients: a motivated offender, a suitable target, an opportunity, and the absence of capable guardians. Combating illegal logging does not necessarily mean stopping it altogether since crime is an inherent component of human nature. Rather, it is a matter of mastering its structure by making crimes harder to commit, reducing criminal opportunities, anticipating new crimes or forms of criminality, preventing and deterring criminality, and ensuring that the regulatory controls operate efficiently and effectively.

#### Developing a coherent strategy

Responses tailored to specific criminal environments are needed as the appropriate responses to crime will differ according to a number of regional factors: to what extent a country has the law enforcement capabilities to tackle the issue, to what extent the crime is considered a priority, and whether there appears to be a need to address more fundamental problems such as providing diversionary activities or reducing the incentives to commit the crime<sup>22</sup>.

### *- Increasing public awareness and capacity building -*

Information is a key strategic tool in preventing illegal logging. Public awareness can be raised in the media by journal articles or television shows and through campaigns organised by public agencies, private companies, or consumer protection associations.

Making a crime more visible helps the public to realise that it can be a passive participant in that crime or that it may be a potential victim. A public better informed and educated is likely to change its behaviour, for instance its consumption habits regarding wood products, which can impact on the structure and mechanism of crime related to that area. Strengthening communities by reinforcing the stake people have in them, both symbolically

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<sup>22</sup> Tackling personal robbery: lessons learnt from the police and community partnerships, British Government Home Office, London, 2003

and materially, is also an important crime prevention strategy. Building or maintaining community confidence in law enforcement agencies, legal institutions, and democratic systems of government may discourage individuals from engaging in criminal activity and reduce opportunities for corruption.

***- Sharpening tools in technology and the sciences -***

Developments in technology and sciences have greatly assisted efforts to tackle crime. While the motivations behind criminal activity are difficult to change, reducing the opportunities for criminals to prosper is a more feasible goal. Improvements in locks and alarm systems, location devices, identification systems, and satellite surveillance are new methods for narrowing the scope of criminal opportunities and contribute to existing methods of crime control and law enforcement. However, while new scientific tools such as fingerprint and DNA databases combined with biometric passports can discourage individuals from committing crime, advancements in psychological research such as profiling, intelligence led policing, and criminal analysis must not be neglected as they also continue to constitute efficient tools in preventing criminal activities. For instance, in the fight against organised crime groups, a more strategic intelligence-based approach with a long-term focus and an emphasis on national planning, information gathering, and undercover operations is of prime importance<sup>23</sup>.

***- Diversifying partnerships -***

Inter-agency cooperation is one of the most important developments in combating crime in recent years with the most desirable configuration including law enforcement agencies, specialists in technology and sciences, and private businesses. Regulatory systems within the government are often in charge of monitoring legitimate industries and transactions that are vulnerable to criminal activity. Some regulatory agencies, such as the financial services sector, marine ports, and the construction industry have already incorporated into their mandate the powers and resources to address organised crime activities. The cooperation between government and law enforcement agencies and private sector bodies needs to be improved. The private sector is often in the 'front line' of the fight against many transnational criminal activities, including money laundering, extortion, and smuggling. In addition, non-governmental organisations are also playing an increasing role in these partnerships<sup>24</sup>.

***- Improving international cooperation -***

Global problems require global solutions. While globalisation has allowed international criminals to operate with disregard to international borders, governments and law enforcement agencies remain often limited by national boundaries. Cooperation between the different governments, international organisations, law enforcement agencies, and other institutions is imperative in tackling transnational crime. It is also essential to adopt multilateral conventions and international treaties and to share information between regulators in different countries. Greater international uniformity in national laws can facilitate the prosecution and sanctions of offenders and prevent criminals from basing their activities in countries with less stringent controls. Better international harmonisation of laws is also needed to make business practices more uniform and to create a global environment in which economic crime is harder to perpetrate<sup>23</sup>.

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<sup>23</sup> Ibid

<sup>24</sup> New Crimes or new responses, Dr. A. Graycar, Australian Institute for Criminology, Canberra, June 2001.



### 3.1 International legal framework

#### ***THERE IS NO OPERATIONAL INTERNATIONAL POLICE FORCE.***

**In order to have a law enforcement agency that transcends national borders there must first be laws that are applicable and binding internationally, and agreements by countries to surrender some of their sovereign rights to external agencies.**

If it is accepted that illegal logging is just one of many serious and significant global criminal justice problems, the following section discusses how international mechanisms are supposed to operate and what this might mean for forest law enforcement.

At the onset, it must be appreciated that criminal law enforcement is, and has always been a national prerogative.

Cooperation in law enforcement matters internationally, is given effect by a variety of mechanisms and arrangements such as:

- Bilateral mechanisms such as Multi Legal Assistance Treaties (MLAT), Multi lateral Environment Agreements (MEA), the US Lacey Act. etc.
- Ad hoc responses to individual cases via Letters Rogatory, extradition treaties and the like.
- Ongoing multilateral and regional generic arrangements such as INTERPOL.
- Crime specific arrangements, for example; CITES, WCO, FATF, ASEAN-WEN.

Therefore, effective international law enforcement is entirely reliant on cooperation between sovereign nations.

#### ***- International judicial instruments –***

Several legal instruments are available to facilitate judicial cooperation between countries. To track a criminal either during the investigation or during the prosecution, magistrates can use:

- Letters Rogatory: the customary method of obtaining international judicial assistance from abroad in the absence of a treaty or executive agreement;
- Mutual Legal Assistance Treaty: a process that countries use to provide and obtain formal government to government assistance in criminal investigations and prosecutions. It requires a pre-existing bilateral treaty between the requesting and receiving countries;
- International Arrest Warrants: issued when law enforcement officers produce evidence able to convince a judge or magistrate that there are good reasons to believe a crime has taken place and that the person named in the warrant is criminally responsible for that crime;
- Treaty of Extradition: the process by which one country sends a person who is wanted for the prosecution of an extraditable offense or for the imposition or enforcement of a sentence to the requesting country. Extradition is not granted in certain circumstances, such as:

- if the request has been made to prosecute a person on account of their race, religion, nationality, ethnic origin, political opinions, sex, or status;
- if the person is at risk of being subjected to torture, cruel or inhuman treatment, or degrading punishment;
- if the offense carries the death penalty under the law of the requesting state;
- if a final judgment has been rendered against the person in the requested state in respect of the offense for which the persons extradition is requested<sup>25</sup>.

Not all countries classify illegal logging as an extraditable offence; this means that illegal loggers may not always be subject to extradition.

***- International declarations -***

States gather during conferences to discuss international issues, agree on the orientation to take, and propose new legal texts to adopt. High level politicians deliver official declarations on the strategy or the plan of action that the country intends to follow regarding the issues on the agenda. The 1992 Rio Declaration constitutes a reference regarding environment issues. It reaffirmed the Stockholm Declaration and provided 27 principles guiding environment and development debates. As for illegal logging, FLEG ministerial meetings are noteworthy. Although FLEG declarations may morally commit a country to undertake certain actions, they are not legally binding. As a result, countries with a weak capacity for implementation, or with high levels of corruption, make few efforts to turn declarations into actions, and in the main there are no consequences resulting from those failures. Unfortunately many of the FLEG declarations could be said to be ‘all talk and no action’.

Another high level gathering which illustrates the problems with non binding agreements or resolutions is the G8 Action Program on Forests.

The G8 Summit of 1998 adopted an ‘Action Program on Forests’ that addressed five issues relating to forest management: monitoring and assessment, national forest programs, protected areas, the private sector, and illegal logging. As the G8 commitments are not legally binding, the Action Program has been implemented at different levels in different G8 countries. Ten years later in May 2008, although some progress had been made by both importing and exporting countries to exclude illegally logged timber from the market and to improve forest governance, the G8 meeting held in Japan reiterated its concerns regarding illegal logging.

***Hence, there are no solid mechanisms to implement international agreements into legislation.***

Many environmental initiatives consist of lobbying states to ratify the various international conventions and to increase international cooperation in fighting cross-border environmental crime. While many countries worldwide have accumulated numerous sets of environmental laws, their implementation has proven to be more difficult. The international legal system is limited by nations’ sovereignty. Although the UN Security Council has a

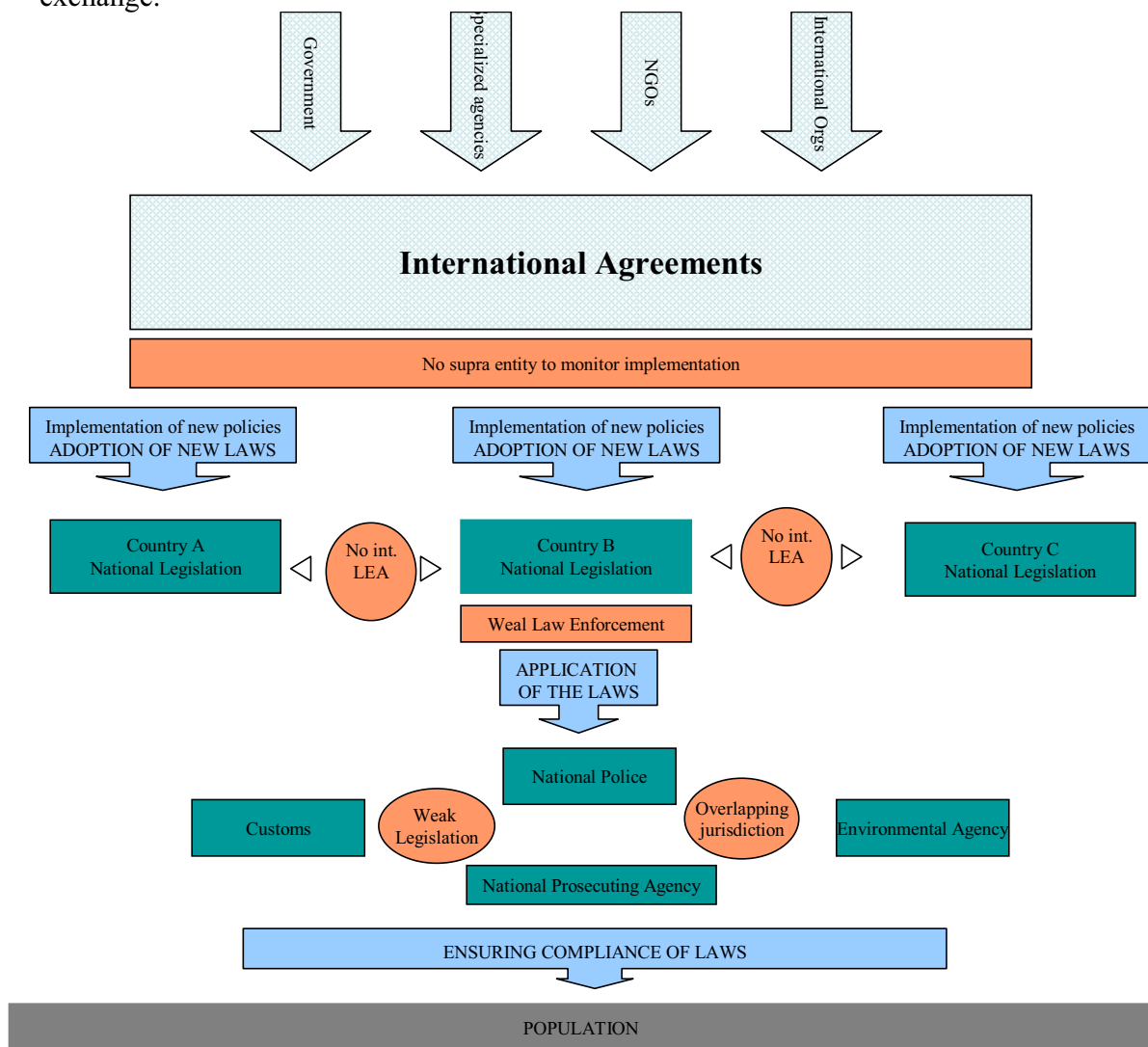
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<sup>25</sup> International extradition: US Law and Practice, Bassiouni, 2002

legally binding authority on almost all countries in the world, it only intervenes in major situations such as genocide or war crimes. As a result:-

*There is no real ‘super-entity’ that has the authority to force or to control the implementation of international agreements in national legislation.*

Consequently, mechanisms for implementing international environmental policies across different agencies are rare. At the country level, national law enforcement agencies collect data from environmental agencies in order to conduct investigations with the purpose of detecting violations of international environmental agreements. These different agencies charged with implementing the national or international policies are often limited by concerns for other priorities, their capabilities, and their resources. Some national agencies have overlapping jurisdictions and possess weak systems for cooperation and information exchange.



*Diagram 6 – International criminal justice system*

### **3.2 International prosecution instruments**

#### ***- Is there an International prosecution body? -***

Environmental crimes are not currently considered serious enough to set up an international prosecution body, although the International Court of Justice, the principle judicial organ of the UN, is in theory able to treat environmental issues. In reality very few cases regarding the environment are brought before it. It must be mentioned that the UN Security Council, although it does not have any specific mandate on environmental crimes, can have an important impact on environmental crime since its authority is legally binding. Form example.

In May 2003, the UN Security Council adopted Resolution 1478 (2003) that banned the import of all round logs and timber products originating from Liberia. The decision prohibited the Liberian government and rebel groups from accessing logging industry resources. In Liberia, the timber industry has fuelled regional conflict by supporting President Taylor and the other warring groups. The Resolution also called for the creation of an Expert Panel that would be mandated to investigate compliance with all aspects of the new Resolution, explore possible misappropriation of revenue by the Liberian government, and look into any possible socio-economics impact of the logging ban<sup>27</sup>.<sup>(27)</sup>

This ban also recognized the linkage between the illegal exploitation of natural resources such as timber, diamonds and the proliferation of illegal arms in fuelling conflict in Western Africa.

#### ***- Basis of jurisdiction -***

While illegal logging constitutes a local crime, timber trafficking is an offence that will not necessarily be sanctioned in the country where the harvesting occurred. When it comes to trans-national crime, it is difficult to determine the country where the prosecution for a crime will take place. In general, three principles can be applied:

- the Territorial principle: this provides the basis for legal jurisdiction with respect to transactions, persons, and objects within the territory and also with respect to the consequences produced within a nation's territory by persons acting outside it;
- the Nationality Principle: a state has jurisdiction over legal persons subject to its laws and regulates the activities of its nationals which own businesses outside of the country;
- the Protective Principle: a state has jurisdiction to write and uphold laws with regard to certain acts committed outside of its own territory by foreign nationals that are directed against the security of the state<sup>28</sup>.

It is also useful to keep in mind when considering prosecutions in regard to crime and the country in which it occurs, the principles of double jeopardy and dual criminality.

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<sup>27</sup> Global Witness press release, May 2003

<sup>28</sup> International law, cases and materials, Henkins, Pugh, Schachter and Smit, 1987

<sup>29</sup>.: *International extradition: US Law and Practice*, Bassiouni, 2002

### Double Jeopardy

Criminal acts that affect more than one state can be considered as separate violations as each state is a sovereign entity. As a result, each state seeks its judicial satisfaction independently of any other state. The ‘double jeopardy’ principle forbids that a defendant be tried twice for the same crime on the same set of facts. No more than a single penalty should be exacted for a single offense and no one should be punished twice for the same offence.<sup>(29)</sup>

### Dual Criminality

The extradition treaty relies on the ‘dual criminality’ principle which refers to the fact that a crime constitutes an offense under the laws of both states. This means that the criminal act in the requested state must also be a crime in the requesting state <sup>(29)</sup>.

## **3.3 International law enforcement system**

### ***- National, regional, and international police – (law enforcement cooperation)***

The international law enforcement system comprises a set of organizations and agencies at national, regional, and international levels.

At a country level, law enforcement activities are under the responsibility of the national police, or other approved national agencies that have law enforcement authority.

At a regional level, EUROPOL is one example of a law enforcement organization that provides the relevant authorities of member states a platform for cooperation and the exchange of information in addition to criminal intelligence that aims at preventing and combating serious international organized crime. EUROPOL however does not deal specifically with environmental crime;

At an international level, the UN Security Council possesses a law enforcement authority but deals mainly with political issues; the WCO enforces law at national borders; but, INTERPOL is the only international criminal police organization that exists worldwide

It must be mentioned however that **no operational international police force exists, and no organizations possess the authority to lead action on the ground.**

The decision to launch police operations remains at the discretion of the national police forces. The creation of an international police force that could engage in operations in ground would raise several issues, notably; which entity would have the authority to supervise it, which entity would bear the general costs, which entity would settle cases of conflicting interests between countries, and what would be the mandate of such a force.

The mechanisms exist, so what is required to improve law international law enforcement as it applies to illegal logging?

***- A need to improve the system of information exchange –***

The exchange of information between different countries does not follow determined rules and is often problematic for a number of reasons:

- due to security concerns, some agencies or countries can be reluctant to share information;
- relevant information must often be collected from widely scattered sources and sometimes in dangerous contexts;
- agencies or countries rarely have uniform methods of reporting crime which makes statistics harder to calculate and the collecting process longer;
- difficulties in determining the appropriate law enforcement agency to contact in other countries often make cooperation between different countries harder.

There is a need for a clearer international standardisation and harmonization in the exchange and integration of information between law enforcement agencies, customs services, and environmental agencies. Lack of basic infrastructure in developing countries also hinders international cooperation.

INTERPOL has developed a comprehensive response to that need of sharing international information on environmental crimes by creating the ‘Ecomessage’ system of environmental crime reporting. This is a comprehensive central database for the collection, storage, analysis and circulation of nominal criminal information useful to efforts in combating environmental crime. While the existence of this system has been widely publicized both to national police and a large number of environmental and wildlife law enforcement agencies, it remains significantly underutilized; consequently important information fails to be made available to countries, there is little or no strategic or tactical intelligence analysis undertaken, and information or data fails to reach the correct recipients or simply becomes lost.

***- A need to improve cooperation between different law enforcement entities –***

**Enforcement cooperation is not to be confused with law enforcement capacity building or with law enforcement advocacy such as FLEG.**

Differences in political, social, economic, and cultural areas coupled with differing legal systems may generate friction between law enforcement agencies. A lack of understanding of political structures, legal structures, and language between countries can make international investigations more complicated. A poor level of cooperation between agencies working at an international level has multiplied the number of opportunities for criminals to engage in illegal international activities with impunity as the risks of capture and prosecution remain low. At the same time, ineffective cooperation within and between agencies at national, provincial, and local levels results in weakened law enforcement capabilities in certain regions of a country. This problem is due to four main reasons:

- corruption, a serious and endemic issue;
- the ambiguity inherent in different legal texts that can be sometimes be vague and contradictory;
- the responsible agencies are sometimes reluctant to allocate resources to inter-agency activities, especially in cases where agencies have overlapping jurisdictions and an investment in new technologies is needed;

- the geography of the country: relief makes access to certain regions harder and monitoring numerous small islands is often difficult.

Consequently, significant improvements are needed in the capability and willingness of agencies to quickly share information and cooperate at national and international levels.

This situation may change during 2010 following the meetings between INTERPOL, WCO, UNODC, and CITES during November 2009, these meetings have been undertaken to agree upon a common strategy for all 4 agencies on a ‘way forward’ in combating wildlife crime, which includes illegal trade in timber and related products.

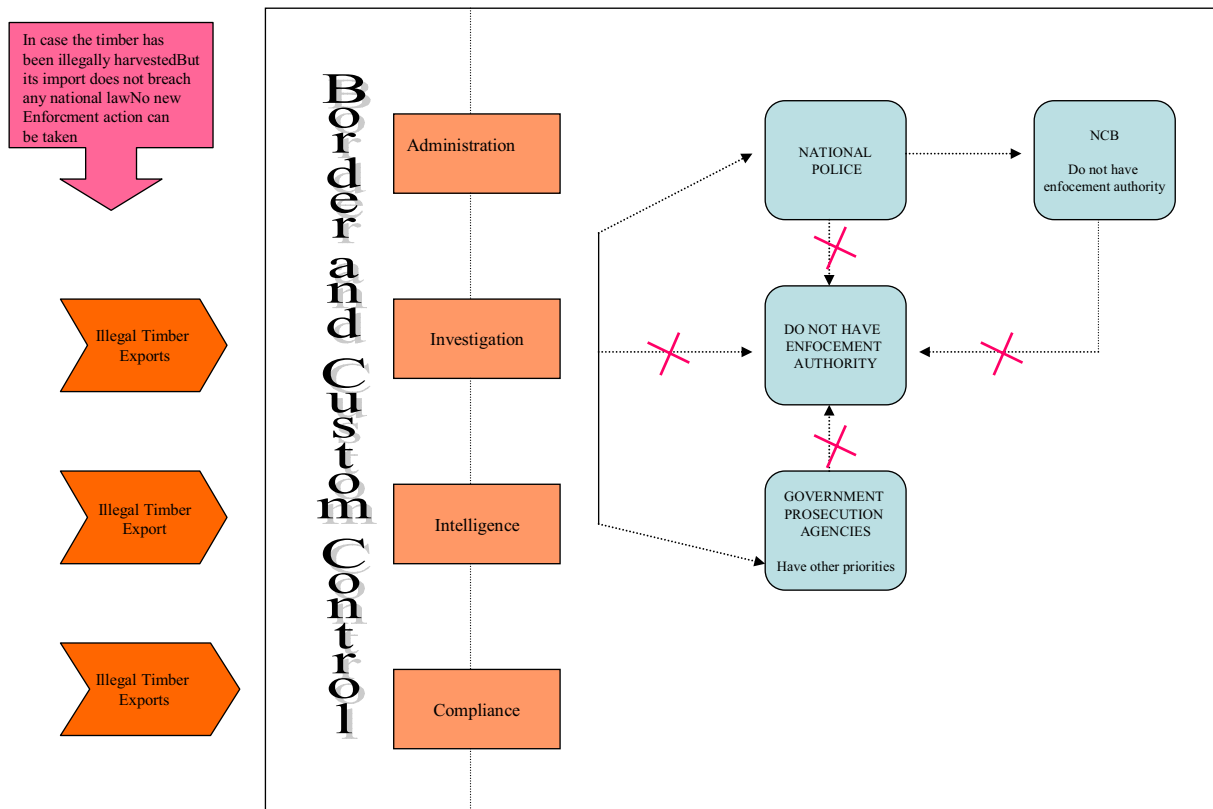


Diagram 7 – International law enforcement cooperation

### **3.4 INTERPOL as an international platform for police cooperation**

#### ***- Connecting the police worldwide -***

Since its creation in 1923 INTERPOL has extend its scope of activities to include 188 member countries with a network composed of National Central Bureaus (NCBs) and Regional Bureaus, (RBs), and partnerships with other organizations such as the UN, the WCO, the Lusaka Agreement Task Force, and the CITES Secretariat to name only a few. Its aims are to facilitate cross-border police co-operation even where diplomatic relations do not exist between particular countries and to support all organizations, authorities, and services whose mission is to prevent or combat crime.

INTERPOL's Constitution prohibits 'any intervention or activities of a political, military, religious, or racial character' and all actions are taken within the limits of existing laws and in the spirit of the Universal Declaration of Human Rights. INTERPOL has four core functions:

- Secure global police communication services. INTERPOL's communications system called I-24/7 provides police around the world with a common platform through which they can share crucial information about criminals and criminality.
- -Operational data services and databases for police. INTERPOL's databases and services ensure all NCBs can have access to the information and services they need to prevent and investigate crimes. Databases include data on criminals such as names, fingerprints and DNA profiles, and stolen property such as passports, vehicles, and works of art.
- Police training and development. INTERPOL provides training for national police forces to enhance the capacity of member countries to effectively combat serious trans-national crime and terrorism. This includes sharing knowledge, skills, and best practices in policing.
- Operational police support services. INTERPOL supports law enforcement officials in the field 24 hours a day, seven days a week with emergency support and operational activities through the Command and Co-ordination Centre. INTERPOL also possesses a system of 'diffusion' and of seven notices that alert all the NCBs of individuals wanted for serious crimes, missing persons, or unidentified bodies. At the time of writing only four red notices have been published regarding illegal logging on request of NCB Jakarta (Indonesia).



**The seven types of notices and their objectives are:**

	<p><b>Red Notice</b> To seek the arrest or provisional arrest of wanted persons with a view to extradition.</p>		<p><b>Yellow Notice</b> To help locate missing persons, often minors, or to help identify persons who are unable to identify themselves.</p>
	<p><b>Blue Notice</b> To collect additional information about a person's identity or activities in relation to a crime.</p>		<p><b>Black Notice</b> To seek information on unidentified bodies.</p>
	<p><b>Green Notice</b> To provide warnings and criminal intelligence about persons who have committed criminal offences and are likely to repeat these crimes in other countries.</p>		<p><b>Orange Notice</b> To warn police, public entities and other international organizations about potential threats from disguised weapons, parcel bombs and other dangerous materials.</p>
<p><b>NB:</b> Minimum criteria for the circulation, by the General Secretariat, of international warning notifications (green notices and equivalent documents).</p>			
		<p><b>INTERPOL-United Nations Special Notice</b> Issued for groups and individuals who are the targets of UN sanctions against Al Qaeda and the Taliban.</p>	

**3.5 Enhancing the role of INTERPOL in environmental crimes**

There is currently no dedicated sub-directorate dealing with environmental and wildlife crimes at INTERPOL; although as part of the Public Safety and Terrorism sub-directorate, IPST is running an Environmental Program.

The lack of sustainability in funding of the Environmental Program makes it difficult to adopt a long-term approach to environmental crimes. Consequently only ad hoc projects can be undertaken and the CHAINSAW Project is the first project undertaken by INTERPOL regarding illegal logging. Nevertheless, it must be noted that in 1992 the General Assembly adopted Resolution AGN/61/RES/12 that established the INTERPOL Environmental Crime Committee.

The Wildlife Crime Working Group and the Pollution Crime Working Group were created on the same occasion and aim at assisting the General Secretariat in developing long-term, comprehensive, and integrated strategies, formulating policy, and implementing projects regarding the prevention and suppression of environmental crime by:

- identifying environmental crime priorities and objectives;
- studying emerging trends and current issues in environmental crime;
- maintaining an international network of experts or contact points for environmental matters;
- providing advice on environmental crime-related projects or tools;
- serving as a forum for the exchange of information and good practices and as a resource with regard to capacity building or training projects.

**- INTERPOL Ecomessages -**

A good example of the kind of initiatives INTERPOL can undertake to tackle environmental crime is the Ecomessage system. The aim of Ecomessages is to create a reporting system and database that covers all major environmental crime, including:

- illegal cross-border moving and dumping of wastes;
- illegal cross-border activities involving radioactive substances;
- illegal traffic in species of wild flora and fauna.

The Ecomessage system uses a simple form to transmit details of a particular crime which facilitates the communication of information:

- rapid and methodical entry of the report's details in a format that is compatible with the INTERPOL database;
- efficient cross-referencing of the data against other entries in the computerized database;
- organized and meaningful extraction of that data in a way that facilitates applications such as criminal intelligence analysis.

A standardised system was needed as many different governmental agencies are often involved in enforcement of environmental laws. A country's environment ministry may be responsible for specific environmental law enforcement agencies, while the customs department is often the intercepting agency of contraband and smuggled materials. Local and national police departments would also become involved in certain situations, especially if a country is lacking a dedicated environmental law enforcement agency or water police and coast guard. Many unrelated governmental agencies may play an important role as well, such as the attorney general's office. Any of these agencies may gather the information required for an Ecomessage and submit it to INTERPOL IPSG via the NCB of their country.

### 4.1 **What is FLEG?**

#### **World Bank's definition of FLEG**

*Ministerial forest law enforcement and governance initiatives create the political "space" at national and regional levels to address the complex and politically sensitive issues related to illegal logging in partnership with major stakeholders from civil society and the private sector. Co-hosted by both "producer" and "consumer" governments along with the World Bank, these ministerial level political processes aim to mobilize international commitment from both producer, consumer and donor governments – in collaboration with other stakeholders - to increase efforts to combat illegal logging as well as the associated trade and corruption in the forest sector.*

*Source : the World Bank website*

#### **- Aim of FLEG -**

The FLEG initiatives are a series of regional meetings at ministerial level where diverse partners such as local and international NGOs, politicians, public institutions and administrations, civil societies, and private groups gather to encourage high-level political commitments to address forestry issues. The FLEG process is currently engaged in a number of initiatives:

- 'establishment of a mechanism for inter-ministerial coordination, and a forum for stakeholder participation
- an analytic process for assessing the magnitude, scope, and dimension of the problems related to law enforcement and governance
- creating awareness, information sharing, and, if necessary, whistle blowing to "name and shame" the worst perpetrators of forest crimes
- a consultation and consensus-building process to define the scope of actions and priorities
- detailed definition of the actions, responsible stakeholders, mechanisms of implementation, and financing (internal and possibly external)
- obtaining the political endorsement and support for the law enforcement and governance actions'<sup>30</sup>.

#### **- Outcomes from FLEG -**

The diverse regional FLEG ministerial processes have resulted in:

- an increased awareness among the international community of the impacts of illegal logging and an identification of priorities at both regional and national levels;
- a better understanding that illegal logging is a shared responsibility between the producer and consumer countries;

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<sup>30</sup> Strengthening Forest Law Enforcement and Governance, World Bank, August 2006

- the creation of a political platform that the different participants (international organisations, researchers, NGOs, government officials, and the private sector) can use to mobilise resources and obtain cooperation;
- the creation of a network in which the different stakeholders can coordinate their respective cross-border activities and exchange information, experience, and best practices
- the gathering of data and the creation of a database on illegal logging as a basis for stakeholder discussions and as a means of establishing baselines against which progress can be monitored
- the addition of illegal logging to the agenda of the regional ministerial meetings as a means to strengthen the regional ownership of the FLEG initiatives<sup>31</sup>.

**- Critiques of FLEG -**

Although the international community expressed a great deal of concern about deforestation and declared a strong will and political commitment to tackle illegal logging during three regional FLEG ministerial conferences, **concrete results on the ground remain few in number.**

With a few exceptions, the FLEG meetings have not lead to the adoption of new laws regarding forest legislation, nor resulted in major reforms in forest governance systems at national levels.

It must be remembered that participating governments are not legally bound to implement or act upon FLEG declarations. Consequently, FLEG initiatives can only exist as advisory documents. **FLEG initiatives also lack clear frameworks for action.**

**No clear and attainable objectives arranged along a strict timetable have been defined**, for example reducing illegal logging within a country by a certain percentage within a determined number of years.

Furthermore, FLEG initiatives have not created an official body to follow up the results of the regional conferences and monitor government commitments. One of the **weaknesses of FLEG may have been to underestimate the level of corruption.**

There is a lack of transparency in determining the way in which funds have been spent. There is an urgent need to develop the accountability principle within the FLEG stakeholders making funding recipients responsible for the resources.

In addition, FLEG remains focused on forest crimes at national or regional levels. The **FLEG processes have placed illegal logging in the margins of the mainstream international criminal justice regime as it has not been considered a serious transnational organised crime.** Some aspects of illegal logging, such as the profit made from timber trafficking or the shipment of logs, have not been properly tackled even though these activities breach a number of laws against smuggling and money laundering or are in breach of the CITES conventions.

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<sup>31</sup> Strengthening Forest Law Enforcement and Governance, World Bank, August 2006

In addition, **FLEG does not take a global view of illegal logging**; rather it focuses only on the issues' bilateral dimension. FLEG initiatives and notable bilateral agreements do not take into account transit countries which represent one of the major issues in illegal timber trafficking. Consequently, the role of customs tends to be forgotten or underestimated when, in fact, they should play a key role as barriers against illegal international timber trafficking.

#### **4.2 Towards a criminal approach. Diversifying the FLEG approach, and new partnerships**

##### ***- Extending the FLEG network -***

FLEG's approach to illegal logging has been primarily focused on forest management at the expense of downstream criminal processes. For instance, during the last FLEG meeting of East African countries, held in Nairobi in October 2008, the majority of delegates were environment and forest experts. This was also reflected in the REDD and Illegal logging conference in Bali May 2009

In order to improving its effectiveness, FLEG needs to diversify its approach and incorporate a wide range of new partners, which may not be related to forestry or general environmental issues, but hold positions vital to reducing the opportunities for timber trafficking. This includes:

- the WCO and national customs officers from importer and exporter countries to better monitor the traffic of containers and conduct more efficient checks of their contents (systems of certificates, timber species, etc.);
- investigative NGOs such as Global Witness, Environmental Investigation Agency, or TRAFFIC with staff on the ground and investigative capacities;
- lobbying NGOs such as Wildlife World Fund or Greenpeace to raise public awareness in consumer countries to curb the demand in timber;
- legal advisors from importer and exporter countries capable of identifying the weaknesses in the national legislations of their respective countries;
- politicians from consumer countries, for example the EU, capable of drafting policies that better address the timber trafficking issue.
- scientists able to research the application of scientific advancements to combat illegal logging. For instance, the tracking of timber by DNA is a scientific process that can not only prove that the timber used to make a wooden product comes from a particular forest but as also which forests it does not come from. This method enables officials to check with a degree of certainty the veracity of the certificate used.
- to encourage businesses and companies, such as IKEA or WALMART, that sell timber products to sign and implement a convention stipulating that they will not buy or sell wood products if they have been, or are suspected to be, illegally harvested;
- specialised agencies, such as the UNODC, that have already developed programs applicable to combating illegal logging and timber trafficking. For example, a satellite surveillance program can be developed and maintain to monitor and analyse the extent and evolution of illegal logging in the most vulnerable regions.

- international law enforcement organisations such as INTERPOL, who will inevitably be called upon when international criminal activity is occurring.

#### **4.3 Including a criminal dimension to FLEG**

It is essential to build a bridge between the police world and the environmental world, between law enforcement officers and environmentalists. Over the years, a culture of confrontation has resulted in bad communication, miscomprehension, apprehension, and a reluctance to cooperate between the two groups. National ministries are able to implement inter-agency mechanisms to aid cooperation and collaboration; these can be as simple as the designation of official points of contacts within the different agencies.

Governments and policy makers must also pay attention to the fact that illegal logging and timber trafficking are not only local issues but transnational crimes. Law enforcement officers at local, regional, and national levels should be trained in:

- the international law enforcement system taking into account:
  - o the role of INTERPOL
  - o the role of the UN
- the role of Customs
- environmental issues:
  - o what are the environmental issues,
  - o how best to deal with them.

This can be achieved by inserting sessions on international law, law enforcement systems, and environmental issues into the programs of national policing schools and academies.

Although it is important to enhance capacity building at a national level, it must be kept in mind that corruption can undermine all efforts and results.

#### **4.4 Reduced emissions from Deforestation and Forest degradation (REDD)**

While it was not envisaged at the commencement of Project Chainsaw that the REDD initiative would form a part of this report, it has become very apparent during its writing that there is an inescapable nexus between emissions trading, illegal logging and organized crime.

As previously stated in any endeavor that involves monetary reward or compensation criminals will inevitably seek to exploit real or perceived weaknesses in systems or regimes for their own gain. The new opportunities created in the Carbon Trading market are already being thus exploited.

This can best be illustrated by two recent examples that INTERPOL is aware of.

***Seven arrests in suspected £38m carbon credit fraud***

Seven people have been arrested and 27 addresses raided over a suspected £38m fraud involving the trade of carbon credits to avoid paying value-added tax (VAT).

Officers from HM Revenue & Customs searched both residential properties and offices in both Gravesend and London targeting an alleged network of organized crime. Members are believed to have been trading large volumes of high-value carbon credits from overseas sources free of VAT.

Tax investigators believe these may then have been sold on to businesses in the UK charging VAT that is never paid to the authorities.

Officers said further arrests are likely, adding that the proceeds of this alleged crime have been "used to finance lavish lifestyles and the purchase of prestige vehicles". The Treasury removed VAT from carbon credits on July 31 as a temporary measure until the European Union works out a common policy to tackle fraudsters.

The tax dodge appears to be a variation of "carousel" VAT fraud. Carousel fraud, also known as "missing trader" fraud, typically involves goods such as mobile phones and computer chips imported VAT-free from EU member states. These are then sold in the UK, including a VAT charge, but the trader then going missing without paying the taxman.

Companies now need permits to emit carbon dioxide as part of the global fight against climate change and polluters are granted a certain number of emissions allowances that can be traded. "The Government took decisive action to prevent this type of fraud recurring by zero rating carbon credits for VAT," said Les Beaumont, deputy director of criminal investigation for HMRC.

*(Source: [www.guardian.co.uk/business](http://www.guardian.co.uk/business))*

As globalization continues, as the world demand for timber and land increases, as the resource base continues to shrink, and unless there is a revolutionary change in the quality of forest management and policy, criminals will continue to be attracted to forestry in developing countries. It can already be seen that criminals are targeting the REDD markets, for example;

INTERPOL is also aware of an ongoing investigation in a member country where a number of individuals, including persons in positions of authority, have been formally charged with crimes associated to Carbon Credits and Forestry.

The accused purchased tracts of forest with boundaries either nonexistent or poorly marked, which they then on sold to companies they owned.

The Carbon credits available from the ownership of the forests were then sold to the provincial agency responsible for offering the emission carbon bonds to industrialized countries.

The crime was discovered after the true owners of the forest approached the authorities.

In order to facilitate this crime those involved used fraudulent documents and have subsequently been charged with counterfeiting and misuse of public and private instruments.

Authorities estimate the value of the fraud at USD80 million.

The complexity of this particular case, involving, fraudulent documents, remote forest areas with unclear records as to ownership, and subsequent trade in the carbon credits has seen this investigation last two years to date. It is still ongoing.

Whilst it is acknowledged that there may, at this juncture, not yet be a proliferation of this type of crime it is inevitable that criminals, particularly targeting developing or poorly resourced countries, will see the issue of Carbon Credits and their potential when related to forests and as an internationally tradable commodity as an opportunity for exploitation.

In relation to forests and global warming it could be said that any system is better than no system, which is largely the current case, but it is strongly recommended that such systems must be robust and as far as possible take into account compliance, monitoring and law enforcement issues, in the drafting and implementation stage.

Law enforcement experts currently appear to be extremely under represented at international meetings to discuss illegal logging within the overall framework of Forest governance.

#### **4.5 Potential role of INTERPOL – Why INTERPOL?**

INTERPOL is the only truly global law enforcement body, with a membership of 188 countries.

It maintains fully nominal criminal databases, has a secure global communication system, and is staffed by law enforcement officers with expertise in a wide range of crime areas.

However, due to a lack of resources, INTERPOL's potential to contribute to efforts combating illegal logging has not yet been fully exploited. Environmental crime and illegal logging specifically, has largely not been recognized by member countries and accordingly is not given a high priority. Countries and other international bodies must clearly express a will, and provide resources, before this situation is likely to change. In the meantime there is no one other international body capable of filling this gap.



INTERPOL's position in international law enforcement provides the potential and capability to be a key player in the field of environmental crime by undertaking such initiatives as:

***- The creation of an environmental crime sub-directorate -***

An adequately staffed and resourced sub-directorate on environmental crimes at IPSCG would send a strong message to the world that INTERPOL is taking environmental crime seriously. Such a program would have a mission and goals as follows:

- Mission: assist member countries in the effective enforcement of national and international environmental laws by enhancing and developing the abilities of member countries with respect to the apprehension, investigation and prosecution of environmental criminals within each respective member country and helps coordinate among multiple countries in cases having international implications.
- Strategic Goals:
  - Goal 1**: to enhance and develop the capacity, capabilities, and co-operation of member countries in the effective enforcement of their respective environmental laws.
  - Goal 2**: to encourage and assist in the exchange of environmental crime related information and intelligence between member countries.
  - Goal 3**: to provide operational support to member countries enforcing environmental laws.
  - Goal 4**: to encourage and provide opportunities to member countries to network, communicate and exchange skills with respect to enforcement of environmental crime.

***- Undertaking operational criminal analysis-***

In order to tackle illegal logging and timber trafficking as a serious transnational organised crime, it is imperative to first produce an operational criminal analysis report. This report would analyse illegal logging in one region, identify those areas most vulnerable to illegal logging, determine the presence of any criminal networks, and identify the actors, smuggling routes, and their modus operandi. The operational information once collected and analysed would then help the national police of the country in conducting police operations on the ground which could potentially result in the arrest of criminals, the seizure of round logs, the materials used in the timber industry, and the closing down of illicit companies.

***- Consider establishing an Illegal logging Program-***

A program on illegal logging at IPSCG could be conducted over several years working on the following initiatives:

- setting up an Illegal Logging Working Group including legal advisors, customs officers, and scientists to liaise together regarding operations against illegal logging;
- undertaking joint activities with the UNODC regarding satellite surveillance;
- undertaking joint activities with WCO to train national customs agencies in matters regarding illegal timber trafficking;
- undertaking joint activities with the WCO to apply the Container Control Program to timber trafficking;

- coordinating police operations against illegal logging, modeled on the successful Operation Baba. ( Multi-lateral anti Ivory trafficking operation 2008 & 2009)

***- Training NCB officers on environmental issues-***

The INTERPOL International Police Training Program (IIPTP) was set up in 2007 in order to help the international police community to achieve better co-ordination in combating international crime. The learning objectives of the program are:

- to obtain technical skills in classification and handling of messages and criminal data received from national Law Enforcement Agencies, the other NCBs, and the General Secretariat;
- to identify and transform criminal information into intelligence;
- to gain expertise in one or more of the specific crime areas, and understand international crime trends;
- to understand the respective roles of, and co-operation between, the General Secretariat and member countries through the NCB and SRB network.

It has also now been possible to include in the IIPTP program a module dedicated to environmental crimes. The training has been delivered by the Environmental Officer and aims to provide a better understanding of frequently underestimate area of environmental crime and explanations of the correct use of Ecomessages.

**4.6 INTERPOL's OASIS Program**

The Operational Assistance Services and Infrastructure Support (OASIS) Program for Africa was inaugurated in early 2008. OASIS is all about empowering law enforcement three main functions: capacity building, infrastructure, and operations. The program aims at developing operational capacities for policing in Africa, and is designed to enhance the capacity to effectively combat and tackle national and international crimes. Positive impacts are already being experienced in the fields of reinforcing the rule of law and maintaining law and order. Within the structure of OASIS there is a Wildlife Crime component which deals exclusively with crime relating to wildlife (including timber). Any new projects regarding illegal logging in Africa should ideally be conducted under the supervision of OASIS as it already provides a solid framework for operational success.

It should be noted that OASIS is entirely externally funded by the German Federal Government and will be reviewed at the end of 2011. It does however provide a very useful model that could be easily replicated in other regions should funding be available.

#### 4.7 Crime reduction pattern applied to illegal logging

OBJECTIVES	STRATEGIES	MEANS
Understanding the crime of illegal logging	<ul style="list-style-type: none"> <li>§ understanding the motives, structures, and dynamics</li> <li>§ identifying hotspots and targeting offenders</li> <li>§ defining routes and modus operandi</li> </ul>	<ul style="list-style-type: none"> <li>○ criminal analysis</li> </ul>
Reducing illegal logging opportunities	<ul style="list-style-type: none"> <li>§ improving forest management</li> <li>§ make transportation harder</li>   <li>§ undermining corruption</li> </ul>	<ul style="list-style-type: none"> <li>○ application of FLEG, FLEGT, REDD and similar mechanisms</li> <li>○ satellite surveillance of forest concessions</li> <li>○ security ranger patrols, air and marine patrols</li> <li>○ designating official ports of export and import</li> <li>○ harmonizing customs data and codes</li> <li>○ implementing mechanisms of accountability and transparency for governments and companies</li> </ul>
Making illegal trafficking harder to commit	<ul style="list-style-type: none"> <li>§ increasing and enhancing border controls</li>   <li>§ improving international cooperation</li>   <li>§ diversifying partnerships</li>   <li>§ inserting the quota management principle</li> </ul>	<ul style="list-style-type: none"> <li>○ training border authorities</li> <li>○ listing of more timber species in CITES</li> <li>○ creating a platform for the exchange of information and a central database</li> <li>○ creating a network</li> <li>○ nomination of points of contact in the different organizations</li> <li>○ implementation by a neutral, external, and international entity such as UNEP</li> </ul>
Reducing the motives of the criminals	<ul style="list-style-type: none"> <li>§ targeting, following, and reducing profit</li>   <li>§ asset forfeiture</li>   <li>§ reducing the opportunities in the timber market.</li> </ul>	<ul style="list-style-type: none"> <li>○ anti-money laundering tools</li> <li>○ freezing assets</li> <li>○ raising the quantity of seizures and destroying the goods seized</li> <li>○ banning export from a country</li> <li>○ generating bad publicity for companies to decrease the profits</li> </ul>
Preventing and deterring illegal logging	<ul style="list-style-type: none"> <li>§ increasing the visibility of law enforcement officers</li> <li>§ improving downstream criminal justice process</li> </ul>	<ul style="list-style-type: none"> <li>○ increasing public awareness</li> <li>○ legal and judicial reform and capacity building</li> </ul>
Creating effective policy to inhibit crime opportunity	<ul style="list-style-type: none"> <li>§ ensuring the policy is robust and laws enforceable</li> <li>§ improving partnership between law enforcement agencies, policy-makers, industries, and stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>○ increasing education and awareness of policy-makers</li> <li>○ utilising law enforcement experts in policy drafting</li> <li>○ Conferences, workshops, &amp; forums...</li> </ul>

If there is a general acknowledgement that illegal logging and timber trade is more than just a forest management issue, and that there is involvement by organized groups in this area of crime, then it follows there must be an acknowledgement that solutions must adopt an holistic approach to deal with it.

There cannot be effective suppression of illegal logging if the law enforcement or compliance components are neither acknowledged nor integrated into management and policy early. Similarly regulatory regimes must be robust and enforceable, and a comprehensive strategy adopted to persuade end users of timber, be they companies or the public at large, that use of illegally logged or traded timber is unacceptable.

## PART V. Items for consideration/Recommendations

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- 1) Illegal logging is not only a forest management issue. One major component of the illegal logging issue is not the forest but the profit made out of it. Illegal logging and timber trafficking must be considered and dealt with as serious transnational organized crime.
- 2) A response to organized crime requires a similarly organized response. Criminals involved in illegal logging have, and will continue, to protect their interests. They will resort to intimidation, bribery, corruption, and extreme violence. They will evade tax laws and invest profits into other illegal activity, and they will also retain the ability to undermine the rule of law and government in developing countries. The current fragmented approach to illegal logging clearly is neither recognizing this nor prepared to deal with it.
- 3) 'Hard' law enforcement tools will inevitably be required to deal with significant issues of illegal logging and timber trade. People will need to be arrested and prosecuted. In some cases this will also apply to large corporations. Money and assets will need to be seized and national and international law enforcement agencies will need to be resourced adequately to suppress this area of crime. That is not currently the case.
- 4) Both the National and International law enforcement systems and apparatus appear to have been largely ignored in the developments of regulatory regimes, and in recognizing the problem (FLEG, and the emerging REDD for example), although this may be changing in the latter part of 2009. International law enforcement collaboration, joint multi-lateral task forces, the intelligence process, investigations, financial investigation tools and the like also seem barely to have been recognized.
- 5) A strong negative approach is recommended, for example; the ban on import of timber from Liberia significantly reduced illegal logging in that country. While similar methods may not necessarily be suitable in other cases nonetheless there is a need to enhance the criminal approach, particularly orientating projects from the protection of the forests to the prosecution of criminals.
- 6) FLEG ministerial meetings have been held since early or mid 2000's but it has not resulted in the decline of illegal logging. The Political approach to the issue is clearly necessary but the results of capacity building initiatives may not become visible for decades. There is a more urgent need to improve the framework of activities of FLEG with clear strategies, objectives and timelines.
- 7) The problem of corruption must not be underestimated or ignored but taken into account when drafting capacity building programs. Any projects should be coupled with the principle of accountability. The person trained must be able to provide results.
- 8) 'Use all the tools in the box': it can be counter-productive to create new systems and/or certification regimes unless there is a clear need. It is confusing for those responsible for monitoring regimes as well as for those dealing with them in managing trade. It is recommended to consolidate existing structures and programs, and ensure they are robust and fit for purpose.

## ACRONYMS

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AFLEG	African FLEG
ASEAN-WEN Network	Association of Southeast Asian Nations - Wildlife Enforcement
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CSP	Country Strategy Paper
ICIS	INTERPOL Criminal Information System
IIPTP	INTERPOL International Police Training Program
IPSG	INTERPOL Secretariat General
ENA FLEG	European and North-Asian FLEG
EU	European Union
FAO	Food and Agriculture Organization
FLEG	Forest Law Enforcement and Governance
FLEGT	Forest Law Enforcement, Governance and Trade
MEA	Multi-lateral Environmental Agreements
NCB	National Central Bureau
NGO	Non-Governmental Organization
OASIS	Operational Assistance, Services and Infrastructure Support
REDD	Reduced Emissions from Deforestation and forest Degredation.
SRB	Sub-Regional Bureau
UK	United Kingdom
UN	United Nations
UNEP	United Nations Environmental Program
UNODC	United Nation Office of Drugs and Crimes
US	United States
VPA	Voluntary Partnership Agreement
WCO	World Customs Organization

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