

# Legally REDD: Building Readiness for REDD by Supporting Developing Countries in the Fight Against Illegal Logging

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*"Expecting or asking one country to combat illegal logging while at the same time receiving or importing illegal logs of course does not support efforts to combat these forest crimes. In fact, allowing import [of] illegal logs and associated products will only intensify the crimes. Perhaps allowing harvest, import, and trade [of] illegally cut timber and associated products could also be considered as an act to assist or even to conduct forest crime."*

-- Remarks by Muhammad Prakosa, Minister of Forestry of the Republic of Indonesia at the Twelfth Meeting of the Consultative Group on Indonesia, Denpasar, January 2003<sup>1</sup>

## Summary

If reducing emissions from deforestation and forest degradation (REDD) is to work effectively, developing countries will need support to build the capacities required for enforcing their own laws and regulations. At present, timber production that violates the developing country's own laws both acts as a barrier to REDD and costs these countries billions of dollars per year. This paper examines the approach taken by Parties to the challenge of illegally produced timber, and proposes measures to support developing countries in tackling this problem that could form part of the climate framework to be negotiated in Copenhagen.

## REDD, Governance and Legality

For developing countries to benefit from REDD efforts, significant improvements in environmental governance will be needed. In particular, effective emission reductions will require the ability to manage leakage and ensure permanence, as well as the ability to reliably account for the rate of timber extraction from forests. This in turn will require the capacity to effectively enforce domestic laws that govern forests – no easy task in large developing countries with extensive forest cover.

The capacities needed to effectively implement REDD are similar to those needed to combat illegal deforestation. Clear forest tenure and management laws, appropriate agricultural and land use policies, and coordination of local-, state-, and national-level agencies and laws are all critical. Building these capacities to fight illegal deforestation – as defined by the developing country’s own laws – can be seen as a key part of a readiness strategy.

Just as important, unless illegal deforestation is brought under control, effective application of measures to achieve REDD may be impossible. Where illegal deforestation activities abound, countries will not be able to ensure that deforestation activities do not shift to another forested region, causing leakage and/or compromising the permanence of the emission reductions achieved.

Meeting this challenge will mean both supporting capacity building in developing countries and removing demand for illegally harvested forest products. Policymakers have begun to recognize these needs; for example, the US American Climate and Energy Security bill (HR 2545), passed by the House in June 2009, includes a provision providing direct support for countries seeking to address illegal logging issues in their countries. The bill includes a provision for a fund that would provide support to build a country’s capacity to provide credible offsets. Measures to address illegal deforestation could include the enhancement of transparency, accountability, and coordination of actions taken by government bodies, including the judiciary, to manage their forests.

Yet measures that address governance issues – rather than undertake discrete emission reductions activities – may not always result in immediately quantifiable emission reductions. Therefore, since such activities are integral to countries’ abilities to effectively

reduce emissions from deforestation and forest degradation, activities designed to improve governance should be supported by policy instruments beyond the purchase of emission reductions. For example, they could be recognized as nationally appropriate mitigation actions (NAMAs) and/or considered as readiness or scaling up activities in a phased approach to REDD. Recognition of such activities will be necessary for countries to gain capacity building, technology transfer or financial support for governance improvements that they measure, report and verify.

### The Scale of the Opportunity

Reining in illegal deforestation will also provide an additional means of increasing financial flows to REDD countries. Forest-related product markets generate billions of dollars (see Table 1). Even if only a small portion of these total values are generated by illegal deforestation – for example, the World Bank has estimated annual losses from illegal deforestation to be on the order of US\$15 billion<sup>2</sup> – significant sources of income will be lost. These captured revenues provide significant avenues and incentives for actors to bypass domestic legal systems and may undermine any governance measures taken domestically. If these illegal sales were replaced by (higher value) legal ones, billions of dollars of new revenue can be secured for forested developing countries.

In addition, there might be other sources of revenues from such actions; for example, there have been discussions in the context of the US Lacey Act Amendment, whereby revenues from successfully prosecuted cases on illegal timber products would be shared with the sourcing country to help them improve enforcement of their national laws. This translates to an additional source of revenues for governments battling illegal deforestation and seeking to achieve REDD. In other programs like the EU’s Forest Law Enforcement Governance and Trade (FLEGT), companies receive more direct access to specific markets, thereby also providing greater financial opportunities.

Table 1:

Commodities that are often linked to illegal deforestation	Total value of commodity traded internationally
Timber	\$224.3 billion
Palm Oil	\$12.7 billion
Soy	\$22 billion

Source: FAO 2006<sup>3</sup>

## Support for Measures to Reduce International Deforestation Drivers by UNFCCC Parties

The recognition that all Parties should take measures to help achieve REDD by reducing international drivers of deforestation has gained some traction in the UNFCCC negotiations. For example, the US, Norway, and Tuvalu, representing the Alliance of Small Island States (AOSIS), have each addressed this topic in their UNFCCC submissions.

The US highlighted the importance of non-REDD country's policies on REDD countries, noting the "dynamic links between population growth, consumption patterns, demands for food, fiber, and fuel, and land use decisions" and stated that "the REDD framework shall encourage all Parties to find appropriate ways to relieve the pressure on forests and land that results in greenhouse gas emissions" (US Submission. FCCC/AWGLCA/2009/MISC.4/Add.2).

Norway's submission (FCCC/AWGLCA/2009/MISC.4/Add.2) called for all Parties to take measures and "cooperate" on addressing leakage and permanence. While such language is vague, related policies would be one way to help address both domestic and international leakage issues, as noted above.

Tuvalu's REDD submission (FCCC/AWGLCA/2008/MISC.5/Add.2 (Part I)), on behalf of AOSIS, called for "options for exploring demand side measures relating to drivers of deforestation (e.g. export of timber and forest products)." More explicitly, Tuvalu also suggested that carbon stocks included in wood products not certified as "sustainable" and imported to an Annex I Party from a non-Annex I Party should be accounted for as an emission by the Annex I Party. To date, however, other Parties have not supported this proposal.

Since these initial submissions, additional related submissions have been made, as demonstrated by the REDD sections of the draft AWG-LCA text as well as by the draft AWG-KP text on the "Economic and Social Consequences of Response Measures" (Section F).

## Calls by Potential REDD Countries for Help Managing International Markets

A number of potential REDD host countries have also made references – although not in their submissions to the UNFCCC – to the importance of measures that other countries could take in helping them contend with illegal deforestation (see, for example, the quotation from Minister Prakosa at the start of this paper). Also, over the last decade several bilateral agreements, MOUs, and programs have been developed between consumer and supplier countries to address this issue, including:

- The EU's FLEGT program, with an agreement already signed between EU and Ghana and others being negotiated between the EU and Cameroon, Indonesia, Malaysia, and the Republic of Congo. Central African Republic, Gabon, Liberia and Vietnam are preparing for negotiation.
- MOUs and programs between the Indonesia and the US, Japan, and Australia.
- Trade-related agreements between Peru and the US.

Yet, a systematic approach for dealing with this issue has not been undertaken, and international support for REDD presents an even stronger case for taking coordinated action.

## Approaches for Recognizing Measures by all Parties to Address International Drivers of Deforestation in the UNFCCC

Given the necessity of, associated benefits of, and support for addressing international drivers of illegal deforestation for credible REDD efforts, the UNFCCC should establish incentives for all Parties to undertake actions to reduce international drivers of illegal deforestation and forest degradation.

For example, as mentioned above, Parties could agree to recognize related measures undertaken by developing countries as NAMAs. These would be supported by capacity building, technology transfer and financing support. Also, given that both the US and EU are currently developing laws, administrative technologies and capacities to implement measures resulting from the amended Lacey Act and the FLEGT, they could share their experiences and systems with developing countries. Related language could be included in the AWG-LCA section on goals of REDD, such as: ***"all Parties should take actions to reduce international drivers on illegal***

***deforestation and forest degradation in developing countries.”***

For developed countries, activities that address international drivers of illegal deforestation and forest degradation could also be measured, reported and verified (MRV) as part of their portfolio of support for REDD, along with financing for readiness processes, funds supporting policies and measures to achieve REDD, and purchasing emission reductions that will not be used as credits to meet their own targets. Related language could be included in the section on MRV of REDD support, such as:

***“developed country Parties shall undertake complementary policies and measures to ensure that the import of forest products and other commodities from developing country Parties does not contribute to emissions from illegal deforestation and forest degradation.”*** Parties could also consider an

additional incentive for developed countries to take such actions by requiring developed countries to take such actions as an eligibility criterion for their ability to purchase REDD emissions reductions to meet their targets, if such a mechanism is created.

In addition to the above textual insertions, a sectoral agreement, as part of paragraph 1(b)iv of the Bali Action Plan, that would promote, or even mandate, all Parties to take domestic measures to prevent the consumption of goods that are produced in contravention of domestic forest law and drive deforestation and forest degradation could be another viable policy instrument under the UNFCCC. Key elements of such an agreement would include the development of a global licensing and tracking system and adoption of rules that would incentivize countries to prevent imports of such forest goods, starting with timber.

## **Recommendations and Next Steps**

Basic language should be included in any agreement reached at Copenhagen on REDD to encourage all

Parties to prevent the consumption of goods that are produced in contravention with domestic laws and drive deforestation and forest degradation. In addition, Parties should consider language, such as that delineated above, that could lead to a more cooperative approach for addressing the issue. If an international system is created, Parties will need to consider how this system will interact with other multilateral agreements, such as the Convention on International Trade in Endangered Species (CITES), that already have provisions for certain timber species. Finally, Parties will need to set up a process under the Subsidiary Body for Scientific and Technological Advice (SBSTA) to further define credible non-GHG MRV performance metrics in an effort to ensure that a “race to the bottom” is not undertaken in the definitions of legality in producing countries.

Such insertions into the UNFCCC agreement will oblige countries to further consider these issues. Their inclusion will be fundamental to a REDD outcome that results in real changes in practice on the ground.

## **End Notes**

1. Johnson, Andrea. “Demand-side management & REDD: Addressing the role of international timber and agricultural trade in driving forest loss.” (Presentation, LCA Meeting. Bonn, Germany. June 3. [http://unfccc2.metafusion.com/kongresse/090601\\_SB30\\_Bonn/download/20090603\\_AndreaJohnson.pdf](http://unfccc2.metafusion.com/kongresse/090601_SB30_Bonn/download/20090603_AndreaJohnson.pdf))
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