

# OVERVIEW OF FOREST LAW ENFORCEMENT IN PENINSULAR MALAYSIA

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**March 2001**

*Highlights of this report were presented at a workshop on Illegal Logging in East Asia,  
Sponsored by World Bank - WWF Alliance\* in Jakarta, Indonesia, August 27-28, 2000*

**WWF MALAYSIA**



## ***Acknowledgements***

The authors would like to thank to the Director General of Forestry Department of Peninsular Malaysia and his staffs for their support and comments to this report.

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## ***Executive Summary***

The main objective of this report is to discuss the forest law enforcement system in Peninsular Malaysia. It focuses mainly on the roles played by the State Forestry Department, supported by other government agencies and the public, in the prevention, detection and suppression of forest crimes. Some data on the incidence of forest crimes are presented to highlight the trends in the extent of the problem over the past several years.

Forest law enforcement in Peninsular Malaysia is a highly decentralized activity. According to the Constitution, forest is a state matter and the State governments are responsible for forest policy formulation and implementation, including forest law enforcement. The role of the federal forestry department is very much advisory in nature in the sense that it gives forestry technical advice to the State governments. Each of the State Forestry Departments has a forest law enforcement unit that serves as the nucleus for activities related to the prevention, detection and suppression of forest crimes. The Unit is responsible for inspecting logging activities, checking logging licenses, inspecting mill premises, monitoring forest produce in transit and investigating public complaints. Officers in the District Forest Office help in daily forest enforcement activities.

In Peninsular Malaysia, offenses such as illegal logging and forest encroachment are treated seriously by the law. The maximum punishments for such offenses are quite severe. In addition to heavy penalties, the authority have instituted other measures to curb the problems and these include conducting spot checks, helicopter surveillance, regular training programs for their officers to equip them with the necessary knowledge and skills on forest law enforcement, and running public awareness campaigns. Realizing the significance of the problems and the need for combined efforts in eliminating them, the Forestry Departments often work together

with other government agencies, including the police and the army, in their enforcement operations.

Partly due to the strategies mentioned above, the incidence of forest crimes over the last several years shows a declining trend. The average number of illegal logging cases dropped from 223 for the period 1987 - 1993 to about 28 for the 1994 - 1999 period. There were only four reported cases of forest encroachment in 1999. Higher number of forest offenses was reported in the rich forest states of the east coast of Peninsular Malaysia than in the other states. No evidence has been shown to indicate that illegal logging is an organized crime in Peninsular Malaysia.

In spite of the decline in the occurrence of forest offenses, the authorities should institute other measures to deter forest offenders, possibly to stop them from committing similar offenses in the future. In particular the authorities should:

- implement the forest law fully and effectively. Illegal loggers should be punished more severely in accordance with the provisions of the law.
- provide more resources for forest law enforcement, particularly funds, trained and committed manpower
- educate forest communities, private timber companies and policy-makers on the importance of forestry and forest law enforcement
- promote programs that would provide opportunities for rural communities to earn income from sources other than the forest lands
- review timber pricing policies that encourage the occurrence of forest offenses.

# Overview of Forest Law Enforcement in Peninsular Malaysia

## PART 1 INTRODUCTION

### Background

Forest offenses are essentially the acts, or their omission, which contravene the provisions of the forest laws of the country. Some of these offenses, such as illegal logging and forest encroachment, present serious obstacles in the achievement of sustainable forest management. Illegal logging, which involves the felling of trees and/or removal of timber from the forest without a valid licence, deprives the government of revenue from charges imposed on the timber. The main aim of illegal logging is to take timber out from the forest without paying its due charges to the government. In addition, illegal logging can be very disastrous to the forest and its environment, as the activity is not under the control and supervision of the forest authority. Rampant illegal logging activities could also upset the planning for sustainable harvest particularly if it involves large tracts of forest area. Forest encroachment, is another category of acts or activities prohibited which also contribute to the destruction of flora and fauna and such activities include clearing or breaking up any land for cultivation or any other non-forest purposes.

As in many other countries, forest offenses are not new problems in Malaysia. Studies done by Subramaniam (1994), Litinggah (1997) and Shahrum (1998) showed that these forest offenses had repeatedly been occurring during the last few decades. Therefore, it is not surprising that the government introduced higher penalties for such offenses through the amendments made in the National Forestry Act of 1984. In spite of the introduction of higher penalties, forest offenses still continue to take place and this shows that increasing the punishment is only one of the factors influencing the occurrence of forest offenses. A complex relationship of many factors influences the occurrence of forest offenses.

This part of the report briefly describes the forestry sector of Peninsular Malaysia with the main purpose of giving the context against which the rest of the report is based. The constitutional setting will be first described followed by discussions on forestry administration, the status of forest resource and the role of the wood-based industries in Malaysian economy.

### Constitutional Setting

Under the provision of Article 74 Clause (2) of the Malaysian Constitution, land and forest are defined as state matters and are thus within the jurisdiction of the respective State Governments. Clause (3) of Article 76 of the Malaysian Constitution ensures that all Acts related to land and forest shall not come into force in a State unless it has been adopted by a law made by the legislature of the State. As such each State is empowered to enact laws on forestry and to formulate forest policy independently. The executive authority of the Federal Government only extends to the provision of advice and technical assistance to the States, training and the conduct of research, and in the maintenance of experimental and demonstration stations.

### Forestry Administration

Forestry administration in Peninsular Malaysia can be divided into three levels, namely the Federal, State and district levels. Each state of the peninsula, with the exception of Malacca, has its own forestry department headed by the State Director of Forestry who is responsible to the Chief Minister of the state. At the state level, the State Director of Forestry is usually assisted by two Deputy Directors (Forest Development and Forest Operation) and other officers, namely Forest Management Officer and Silvicultural Officer. The District Forest Officer assisted by a deputy and several uniform field staffs' heads forestry administration at the district level. The District Forest Officers report directly to the State Director of Forestry. The state forestry department is responsible for the implementation of the forest policies of the state, including forest law enforcement. Forest law enforcement is the responsibility of the district office with the advice of the state forestry office.

At the Federal level, the Director General who is answerable to the Federal Minister of Primary Industry heads the administration. He is assisted by two deputies and several directors. The main responsibility of the federal forestry department is to give technical advice to the state forestry departments as well as policy advice to the federal government. Professional and sub-professional foresters are appointed by the federal government and seconded to the state governments.

**Table 1: Forested Area in Peninsular Malaysia, 1996**

State	Permanent Reserved Forest (ha)	Other Forested Area* (ha)	Total forested area (ha)
Johore	325,873	88,619	414,402
Kedah	342,602	4,114	346,716
Kelantan	626,372	267,889	894,271
Melaka	7,309	1,200	8,509
Negeri Sembilan	169,081	15,175	184,256
Pahang	1,394,991	563,454	1,958,445
Perak	995,804	72,372	1,068,176
Perlis	10,259	1,146	11,405
Pulau Pinang	6,406	848	7,254
Selangor	247,765	11,119	258,884
Terengganu	557,661	110,507	668,168
Wilayah Persekutuan	61	0	61
<b>Total</b>	<b>4,684,094</b>	<b>1,136,453</b>	<b>5,820,547</b>

\* Stateland forests and Wildlife Reserves

Source: Forestry Department of P. Malaysia, 1998

In order to facilitate the adoption in a coordinated and common approach to forestry, the National Forestry Council (NFC) comprising the Chief Ministers of all the thirteen (13) Malaysian States and Ministers of the relevant federal ministries, chaired by the Deputy Minister, was established on 20 December 1971 by the National Land Council (NLC). The NFC serves as a forum for the Federal and the State Governments to discuss and resolve common problems and issues relating to forestry policy, administration and management. All the decisions of the NFC have to be endorsed by the NLC. The responsibility for implementing the decisions of the NFC lies with the respective State Governments unless it is within the authority of the Federal Government.

### Timber Harvesting Rights

In Malaysia, logging and associated activities are under the control of the respective State Forestry Departments through the District Forest Offices. Logging areas are awarded to logging companies under licenses issued in accordance with the National Forestry Act 1984, Rules and Regulations. Permission to take forest produce from a permanent reserved forest or State land by way of license or minor license may be granted by the State Authority through the process of invited tenders, negotiated agreement or such other manner or process as it may deem fit in the circumstances of any particular case.

In return for getting the timber harvesting rights, the logging operators or contractors are required to pay certain fees or charges. These forest charges are levied by the State Government for the removal of forest produce. There are basically three major forms of forest charges, namely, premium, royalty and forest

development cess. Premium is a charge levied for the occupation of area and privilege of harvesting the forest from a specific area granted under a license and the rate varies from State to State. Royalty is a charge levied by all States based on the unit of produce actually removed from the forest. The forest development cess is an additional charge levied on timber removed and paid into the Forest Development Fund in the respective State of Peninsular Malaysia for silvicultural and forest management purposes.

### Forests and Wood-based Industries in Peninsular Malaysia

Forests still form a dominant physical landscape of Peninsular Malaysia and the wood-based industries have played a significant role in the socio-economic development of the country. In addition to providing timber for the manufacture and export of many products, forests have assumed an increasing role in providing recreation opportunities for the people as well as contribute towards foreign exchange earnings through tourism related activities.

### Status of Forested Area and Log Flow in Peninsular Malaysia

Table 1 shows the status of forested areas in Peninsular Malaysia in 1996. In 1996, the total forested area in Peninsular Malaysia was about 5.8 million hectares and this represents about 44 percent of the total land area of the peninsula. Slightly more than 81 percent of the forests are classified as reserved forests and these are areas dedicated permanently for production, protection and amenity purposes. Of all the states, Pahang, Perak and Kelantan are the three states with the biggest forest areas accounting for more than 65 percent of the total

**Table 2: Log Flow in Peninsular Malaysia, 1994 -1998**

	Year					TOTAL
	1994	1995	1996	1997	1998	
Log productions	11,389,332	9,029,852	8,418,992	7,415,453	5,126,370	41,318,414
Log Imports	264,345	558,251	463,964	496,834	496,217	2,269,611
<b>TOTAL</b>	<b>11,653,677</b>	<b>9,588,103</b>	<b>8,882,956</b>	<b>7,902,287</b>	<b>5,622,587</b>	<b>43,588,025</b>
Log consumption	9,196,184	10,046,498	9,173,683	9,172,923	5,532,675	43,121,963
Balance +/-	2,457,493	-458,395	-290,727	-1,270,636	89,912	466,062

Source: Forestry Department, P. Malaysia, various years

forest area in the peninsula.

The three major forest types found in Peninsular Malaysia are inland forest, mangrove forest and peatswamp forest. Of the three forest types, inland forest accounts for more than 92 percent of the total area. Very little of the lowland forest is still left in the country and timber harvesting operation is now concentrated in the hill **forests**. This type of forest is dominated by tree species belonging to the dipterocarpaceae family.

Table 2 shows the log flow situation in Peninsular Malaysia for the period 1994 to 1998.

Total log production from Peninsular Malaysia, at least for the 1994-1998 period, averaged to about 8.7 million cubic meters per year and annual log production is declining. The major log producers are the East Coast states of Pahang, Kelantan and Terengganu. Average log consumption amounted to about 8.6 million cubic meters per annum. Therefore, there is no sub-

stantial difference between the volumes of log produced and consumed. Data also show that Peninsular Malaysia has begun importing log on a small scale.

According to available information, species within the Medium Hardwood Category are the ones, which are logged the most. Some of the major species logged are Kedondong, Red Meranti, Kelat, Keruing, Kempas and Medang. Rubberwood accounts for quite a significant proportion of the total log production and it is mainly used for the manufacture of furniture.

#### **Contributions of the Wood-based Industry to the Economy**

The importance of the wood-based industry can be seen from its contribution towards foreign exchange earnings, which in 1999 amounted to, about RM 17 billion. These amount forms nearly 25 percent of the total foreign exchange earnings generated in that year. In terms of export

**Table 3: Number of Wood Processing Mills in Peninsular Malaysia, 1997**

Type of mills	Number
Sawmill	711
Plywood/Veneer	50
Moulding	141
Particleboard	4
Pulp and Paper	0
Furniture & Carpentry	2,620
Blockboard	12
Laminated Board	34
Cement board	4
Woodchip	1
Parquet	26
Prefabricated House	10
Matches	4
Pencil	3
Kiln Drying	122
Preservation	118
MDF	7
<b>Total</b>	<b>3,867</b>

Source: Forestry Department of P. Malaysia, 1998

earnings, plywood industry comes first, followed by sawntimber, furniture, panel products and moulding industries. The wood-based industries taken together generated direct employment opportunities to about 250,000 people.

The wood-based industry in Peninsular Malaysia has been dominated by three main processing activities, namely sawmilling, plywood and veneer production. In 1997, the number of wood processing mills in Peninsular Malaysia was 3,867 and out of these more than 2500 are furniture mills, the majority of which are small-scaled family owned backyard mills (Table 3). Only about 500 of the furniture plants are export oriented. The next biggest number of mills is the sawmill that stood at more than 700, followed

by moulding at 141 and plywood/veneer at 50.

The three main processing mills consume about 70 percent of the total log production from the forests of Peninsular Malaysia. The sawmilling industry, in particular, consumes more than 80 percent of the total log consumption of the three types of mills.

In 1997, the reconstituted panel products industry comprises 12 blockboard plants, 11 particleboard/chipboard plants, 9 MDF plants and 6 wood-cement board plants. Of these, the MDF plants had registered the highest growth and most of the mills are capital intensive and equipped with the latest technology to optimize raw material utilization.

## PART 2 PURPOSE AND METHODOLOGY

The main objective of this report would be to discuss the system that exists in Peninsular Malaysia that handles and manages the problem of forest offenses, in general, and illegal logging, in particular. In so doing, the report highlights the roles played by the Forestry Department, other government agencies, and the public to prevent, detect and suppress the occurrence of forest offenses. It also describes the mechanisms and procedures that have been instituted by the Forestry Department, in particular, to handle the problem of forest offenses.

The report will also present some data to highlight the extent and occurrence of forest offenses, particularly illegal logging. To date, no specific case study has been made on illegal logging, although as mentioned earlier, a few studies

have been done to describe the extent of the problem and identify factors underlying it. Such studies do highlight some aspects of forest law enforcement in the states.

Information and data for this report are gathered from two main sources. The first source is the relevant personnel in the Forestry Department and the second is the various publications and reports on policies and procedures related to forest law enforcement as well as on the incidence of forest offenses. Brief interviews were made with experienced enforcement officers in order to gain better understanding of the law enforcement process and to identify factors influencing forest offenses. Due to the confidentiality of some information, the individuals interviewed would prefer to remain anonymous.

## PART 3 PREVENTION STRATEGIES

Prevention strategies are measures taken by the government, particularly the forest authority, to reduce or even eliminate the occurrence of forest offenses. These measures can include those that are aimed at deterring likely offenders, strengthening policy and its implementation, and educating the public on the importance of forestry and forest law implementation. In Peninsular Malaysia, higher penalties were introduced in the forest law in 1993. Consequently, the forestry authority emphasizes the importance of law enforcement in policy and planning documents, conducts training programs for its staffs and carries out campaign programs for the public.

### Legal Strategies

The key measure taken by the Government to prevent forest crime was by amending the National Forestry Act, 1984 to incorporate new provisions to deter the occurrence of forest offenses. The Act was enacted to update and harmonize forest law in the Peninsula. Prior to the Act, the various State governments depend on the State Forest Enactment's, which were formulated in 1930's, for legal guidelines on forest management and conservation. The Act also enables the effective implementation of the National Forestry Policy passed in 1978. It was amended in 1993 to further strengthen its provisions to curb illegal encroachment of forests and theft of timber. The Act has been adopted by all the states in Peninsular Malaysia.

The main objectives of amending the Act are as follows:

- i) To increase the penalties and tighten the procedures in compounding forest offences
- ii) To transfer burden of proof from the prosecutor to the defense in the court
- iii) To delegate power in writing by State Director of Forestry under section 88, 89, 90, 92 or 93 to any member of the armed forces not below the rank of Lance Corporal as empowered to the police but shall not include the power of investigation
- iv) To add new sections 100A and 100B for rewards and protection of informers respectively, section 101A for power of court to order revocation and disqualification, section 110A for offenses committed by licensee or holder of permit, and New Sixth Schedule for list of machines, equipment and conveyance".

- v) To make general amendments in the national language text, change of name in the national language text and substitute sections 5, 69, 101 and 104

In order to ensure that the amendments are fully understood by the enforcement officers in the states, the Federal Forestry Department prepared and circulated a report that clearly explained the various changes made in the law. Members of the public also have access to the original law and its Revised Version because they are sold in bookstores. The details of the various amendments are shown in Appendix 1

### Forest Policy and Long Term Plan

The National Forest Policy for Peninsular Malaysia of 1978 was revised in 1992 to incorporate several new elements, one of which is on the importance of forest law enforcement. In this revised policy statements, it was emphasized that the State Governments through their respective State Director Forestry must judicially implement the National Forest Act 1984 (Revised 1993) to ensure sustainable forest resource management and conservation.

The importance of forest law is also acknowledged in the country's five-year economic development plan. In the Seventh Malaysia Plan (1996 - 2000), for example, it was stated that the National Forestry Act, 1984 was amended for the main purpose of enhancing the effectiveness of forestry enforcement. Sections 19-26 of the Plan on Forest Resources read as follows:

*"To enhance the effectiveness in forestry enforcement, the NFA 1984 was amended in 1993, and steps were taken to institute the preparation of EIA to protect the forest environment and biodiversity, in particular the logging of natural resources. Reduced Impact Logging (RIL) was encouraged, and helicopter logging was carried out in Sarawak".*

In response to the call for more effective forest law enforcement, all the states in Peninsular Malaysia incorporate activities that prevent forest crime through demarcation of external forest boundaries and capacity building in their long term planning. The Selangor State Government, for example, in its Seventh Malaysia Plan (1996 - 2000) invested in the demarcations of external

forest reserves boundaries in order to prevent forest crimes, particularly encroachment for illegal agricultural activities and illegal extraction of forest produce.

The Selangor State government also invests in programs aimed at strengthening the manpower competency through additional personnel, in service training and additional vehicles for enforcement activities. For the purpose of facilitating accessibility into forest areas for forest development works and forest operation activities existing forest roads were upgraded of existing while new ones constructed in strategic locations in order to help in carrying out forest surveillance operations.

### Forest Management Plan

Elements of law enforcement are incorporate in the Forest Management Plan to guide the monitoring of forestry activities. In the latest format introduced by Forestry Department of Peninsular Malaysia it is explicitly stated under the forest protection section (subsection *boundary control*) that the department should describe actions to be taken to control encroachment, shifting cultivation and illegal logging.

In the Forest Management Plan of Johor for the 1996 –2005 period, for example, 1,224.7 km of permanent forest estate external boundaries will be demarcated while maintenance works will be carried out on about 2,453.04 km of existing boundaries. The main purpose of such activities are essentially to ensure that the boundaries are visible and easily identified by the public as well as forestry personnel. Other measures include the maintenance of about 3,791.9 km of compartment boundaries.

Other than boundary control, however, there is no requirement in the plan to describe the enforcement operations that need to be carried out by the forestry personnel. No surveillance strategies need to be stated, so are the frequency, time and type of personnel involves in the patrolling and logistics support. In addition, it is noted that there is no provision on education and extension activities to create public awareness towards the existence and the importance of the forestry law and regulations. Without such awareness the department will not be able to get the necessary support from the public in helping its law enforcement activities.

### Forest Manual Of Peninsular Malaysia 1953 (Revision 1995)

In her effort to improve the efficiency and effectiveness of the administration and

management of the forest resources, the Forestry Department had revised the Forest Manual in 1995 which was originally formulated during British administration in the year 1935. The manual documents in detail all the processes and procedures of administration, management and services provided by the Department.

Chapter 14 of the Manual describes in detail the processes and procedures in forest law enforcement activities. The various aspects covered include: classification of forest and wood industry offenses; detection of offenses in the forest; inspection of logging areas, wood-based industries premises, and forest produce in transit; as well as handling public complaints. The Manual also gives detail guidelines on how to take action when forest offenses occur, confiscation and seizure of illegal forest produce, and procedures and techniques on how to make arrest. It also describes the procedures in making a police report and how to write an investigation paper and finally, how to prosecute in court.

### Malaysian Criteria and Indicators for Sustainable Forest Management

The importance of forest law enforcement is also spelled out in the criteria and indicators for sustainable forest management recently formulated in the country. Among the criteria and indicators that either relate directly or indirectly to the prevention of illegal forest activities are as follows:

- I. Criteria 1: Enabling conditions for sustainable forest management  
Indicators: 1.1 Existence of a framework of laws, policies, and regulation govern:
  - e) the control of forest harvesting
  - f) the control of encroachment
  - i) the participation of local communities
- II. Criteria 2: Forest resource security  
Indicators: 2.2. Length and percentage of external boundaries of the permanent forest estate demarcated or clearly defined
- III. Criteria 6: Economic, Social and Cultural Aspects  
Indicators: 6.1. Ratio of domestic log production to processing capacity of wood-based industries  
Indicators: 7.10. Extent to which tenure and user rights over the forest are documented and recognized  
Indicators: 7.11. Extent to which forest planning and management practices and processes consider legal or customary rights with to indigenous and local communities, forest dwellers and other forest dependent communities

### **Professional or In-service Training**

The Forestry Department conducts regular training programs on forest law enforcement to enhance the skills, leadership ability and knowledge of its personnel. Training on the National Forestry Act, 1984, forest law enforcement, investigation and prosecution, and law and court procedure is given to senior officers, forest rangers and foresters. The senior officers were given training in law enforcement aspects that include the techniques of law enforcement, investigation and court proceeding. In running the course, the Forestry Department was assisted by personnel from the Malaysian Royal Police College, and the Training Institute of Law and Judiciary of the Prime Ministers Department.

### **Public Education**

Prior to the amendments of the National Forestry Act, 1984, very little effort has been done by the Forestry Department to educate the public on the importance of forest law enforcement. However, since the revision in 1993, nation wide seminar and dialogs were conducted with the objective of informing loggers, sawmillers and the general public on the importance of forests and forest industries, including forest law. However, such seminars and dialogs are not conducted on a regular basis. Some district forest offices do conduct briefings to loggers and their workers about forest law, rules and regulations prior to the commencement of logging operations but this is not a standard practice.

## PART 4 DETECTION OF FOREST OFFENSES

### Role of the Forestry Department and Other Stakeholders

Among others, the prevention and control of illegal logging and encroachment are carried out through air surveillance using helicopter, if required, as well as spot checks. The Enforcement Unit both at the Federal and State levels could step up efforts to prevent and investigate encroachment, fire, grazing and illegal exploitation of forests and collaborate with the police and the armed forces to enhance surveillance of forestry activities, especially in curbing illegal logging, encroachment of forest areas and timber theft, as provided for under section 5 of the National Forestry Act 1984.

The enforcement of sections 15 and 40 of the National Forestry Act, 1984 with regard to a maximum fine of RM 500,000 and an imprisonment for a term of not less than one (1) year but not exceeding 20 years for commission of a forest offense would serve as a deterrent penalty. With the enforcement of sections 100A and 100B public involvement and participation in curbing such illegal activities and reducing their incidences in the forest areas is enhanced. The development of Geographical Information System (GIS) and remote-sensing technology would further strengthen the monitoring capacity on the implementation of detection techniques of forest resource changes due to occurrences of illegal logging and encroachment as well as fire.

### Occurrence of Forest Offenses

Available data show that the occurrence of all types of forest offenses in Peninsular Malaysia

is, of late, considerably low. The total number of reported cases for the period 1996-1999 is 374 cases and this gives an average occurrence of 93.5 cases per year (Table 3). There is not much variation in the occurrence of forest offenses between the years. Of all the states, forest offenses occurred much more in Kelantan than the other states. Forest offenses occurred three times more in that state than in Pahang, where the next highest incidence of forest offenses occurred.

The east coast states of Pahang, Terengganu and Kelantan still have large areas of forests and harvesting activities are more active in this region than the other three regions of Peninsular Malaysia. It could be to this factor that the occurrence of forest offenses is highest in the East Coast region (Table 4).

The various forest offenses, as prescribed by the National Forestry Act, 1984 can be generally categorized into three classes (Table 5). Data show that category III offenses recorded the highest number of cases and the number is increasing. Offenses in this category can be considered as minor offenses. The most serious of the offenses would be in category I, which essentially are illegal logging cases. The rate of occurrence of offenses in this category has been quite consistent averaging about 20 cases per year. On the other hand, forest encroachment activities for agricultural purposes seem to be declining during the last few years. In 1996, there were 86 cases and it dropped to only 6 cases in 1999.

### Incidence of Illegal Logging

Data in Table 6 show the occurrence of illegal

**Table 4: Number of Forest Offenses by Region, 1996-1999**

Region		1996	1997	1998	1999	TOTAL
Northern Region	Perlis	0	5	1	0	6
	Kedah	1	18	10	8	37
	P.Pinang	0	0	1	0	1
	Perak	13	19	7	8	47
Central Region	Selangor	13	7	9	10	39
	N.Sembilan	7	0	5	2	14
Southern Region	Melaka	1	0	0	0	1
	Johor	5	6	5	1	17
East Coast Region	Kelantan	42	27	17	56	142
	Terengganu	9	5	4	4	22
	Pahang	10	9	16	13	48
<b>TOTAL</b>		<b>101</b>	<b>96</b>	<b>75</b>	<b>102</b>	<b>374</b>

Source: Forestry Department P. Malaysia, unpublished

**Table 5: Number of offenses by category, 1996-1999**

Year	Category I	Category II	Category III
1996	14	86	1
1997	22	36	38
1998	23	8	44
1999	26	4	72
<b>TOTAL</b>	<b>85</b>	<b>134</b>	<b>155</b>

Category I – logging without license, logging outside boundary, construction of infrastructure and forest roads without permission.

Category II – forest encroachment for agriculture activities and settlement.

Category III – felling of unmarked trees, unlicensed workers, unregistered machinery and other breaches of rules and regulations.

logging activities in permanent reserved forest in Peninsular Malaysia for the period 1987 to 1999.

The total number of illegal logging cases recorded for the period is 1725 and the average case per year is 133. The highest number of cases was recorded in 1991 at 512 while the lowest was 14 recorded in 1996. The number of cases fluctuates from 1987 to 1993 but drastically reduced starting in 1994. The average number of cases per year for the period 1987 to 1993 is 223 and this is eight times more than the annual average for the 1994 – 1999 period. Of all the states, Kelantan, and Pahang recorded relatively higher number of cases than the other states.

The drastic reduction in the number of illegal logging cases could be due to the introduction of higher penalties as specified in the amendments of the National Forestry Act, 1984. The amendments were made in 1993 and were adopted by the states progressively beginning in 1994. One of the main changes made in the Act is the increase in penalty for “illegal logging” from a maximum fine of RM 10,000 to RM 500,000. The maximum length of imprisonment was increased from 3 years to 20 years.

### Organization for Forest Offenses

There is no detail information on how forest crimes are organized. However, there is evidence to indicate that some forest encroachment activities are organized by those who want to make quick profits. These individuals will hire foreign workers to fell the forest area as large as 20-50 hectares and then sell them to any interested party. Such activities normally take place in easily accessible forest areas.

There are two other types of encroachment. The first involves the villagers who need land for the cultivation of crops, especially fruit trees. Such encroachment is normally done on small scale involving an area of one to two hectares. It normally happens near forest fringes. The second type involves the aboriginal people that practices shifting cultivation. They normally cut in remotely located areas, often close to their villages.

There is also no information whether or not there is organized market for illegally cut timber. Based on discussions with forestry department personnel, it can be generally concluded that the illegal timber is disposed locally and probably being utilized by illegal wood-based industries.

**Table 6: Illegal logging in Permanent Reserved Forest, 1987 – 1999**

State	'87	'88	'89	'90	'91	'92	'93	'94	'95	'96	'97	'98	'99	Total
Johor	9	10	22	12	23	12	17	9	5	-	1	2	1	123
Kedah	9	5	30	18	10	10	-	3	3	1	-	3	3	95
Kelantan	25	26	35	34	156	15	26	7	12	6	9	2	10	363
N.S'bilan	16	11	16	18	11	47	12	1	2	2	-	4	2	142
Pahang	13	6	25	29	137	31	42	7	4	3	3	4	7	311
Perak	37	12	21	26	108	28	10	1	3	-	5	3	2	256
Perlis	2	-	2	-	-	-	-	-	-	-	-	-	-	2
Selangor	56	56	68	17	39	23	8	1	3	-	3	3	1	278
Terengganu	5	10	14	18	28	25	34	12	4	-	1	2	-	153
<b>Total</b>	<b>172</b>	<b>136</b>	<b>233</b>	<b>172</b>	<b>512</b>	<b>191</b>	<b>149</b>	<b>41</b>	<b>36</b>	<b>14</b>	<b>22</b>	<b>23</b>	<b>26</b>	<b>1725</b>

Source: Forestry Department P. Malaysia, unpublished.

There is little possibility that the illegal timber being mixed with the legal ones since each log has to be tagged before passed through the forest checking stations for inspection. Licensed wood-based industries are not likely to purchase illegal timber because it will jeopardize their image. Records are kept on all logs received and stored in the mill premises, including the dates of processing. Forest officers on regular basis inspect these records and cases of discrepancy will be reported to the higher authority. Illegal timber can also be processed for rough timber by the local community using chainsaw only and later sell them to local people for construction of their own houses.

### **Impacts of Forest Offenses**

Impacts of forest crimes can be classified into two categories, namely direct and indirect impact. Direct impacts relate to lost of revenue to the state government in the form of premium, royalty and cess. Indirect impacts are those as-

sociated with damage to forests and wildlife. No studies have been conducted to estimate both the direct and indirect impacts of forest offenses.

In terms of impact per unit area of forest, encroachment activities are most costly because revenues are not collected from the felled timber while the damage done to the environment is very substantial since forests are cleared and converted to agriculture. In addition, the industry will also suffer due to decreasing log supply.

Some estimates on the lost in revenue can be judged by looking at the amount of compensation paid by illegal loggers to the Forestry Departments. From 1996 to 1999, the total amount of compensation collected by the forest department was about RM 7 million, giving an average of about RM 20,000 per offense. The total lost is a lot more when damage to biodiversity and the environment is taken into calculation. The loss in biodiversity will take a very long time to be recovered.

## PART 5 SUPPRESSION STRATEGIES

### Government's Response System to Information on Forest Crimes

Information on forest crimes is either reported indirectly through the media or directly to the Forestry Department. Almost all the State Forestry Departments in Peninsular Malaysia has Enforcement Units that are responsible to follow up on reports of forest crimes. In line with the Client's Charter, the Enforcement Units are obliged to respond to the information almost immediately. The statement in the Charter states that whatever complaints received from the public/informer, media and other agencies must be attended to immediately. The Client's Charters states:

*“ Information and feedback received from the public will be acknowledged. All complaints pertaining to forest offences shall be acted upon within a period of not more than three (3) days.”*

Information on forest crimes can come to the office of the State Director of Forestry or to the District Office. Subsequently, either the enforcement unit at the state office or officers in the operation section of the District Forest Office will take the necessary steps to investigate the reports. According to subsection 88 (3) of the National Forestry Act 1984, any forest officer not below the rank of Assistant District Forest Officer, any police officer not below the rank of Sergeant and any officer in charge of a police station, may in relation to any investigation in respect of any forest offense, without order of the Public Prosecutor, exercise the special powers in relations to police investigations given by the Criminal Procedure Code in any seizable case. However, under the provision of section 5 of the Act, these powers of investigation cannot be delegated, even in writing, to any member of the armed forces.

The Enforcement Unit at the State Forestry Department has a bigger responsibility than just to response to reports on forest crimes. Of the eleven states in Peninsular Malaysia, four states do not have enforcement units in their organization. These states are categorized as small in terms of the size of their Permanent Reserved Forest. The unit inspects logging activities, checks logging licenses, inspects mill premises, monitors forest produce in transit, and investigates public complaints. In some cases, at the request of the district forest office, the unit

also assists in the investigation of forest offences detected at the forest district. Under the provisions of section 103 of the Act, the State Director of Forestry may prosecute any forest offense, or institute any action, suit or other proceeding relating to any matter, under this Act. In any prosecution, action, suit or other proceeding, the State Director of Forestry may appear personally, or may be represented by any Federal Counsel, Legal Adviser, advocate and solicitor or forest officer.

The Forestry Department cooperates with other state departments in the enforcement of forest law. The Department usually gets the assistance of the police, District Land Office, and Land and Mines Office when conducting large-scale enforcement operations. The main purpose of involving other agencies is to attack the problem with a multi-prong strategy. The ultimate aim is to charge the offender with bigger crimes, and not just forest crimes. With this cooperative strategy, the likelihood that the offender gets away will be minimized. The police officers are empowered under section 88, 89, 90, 91, 92 and 93 of the Act to exercise powers of arrest, search, seizure and investigation but members of the armed forces may only be delegated in writing by the State Director of Forestry to confer or imposed such duty except that the powers delegated to the members of armed forces shall not include the power of investigation.

### Outcomes of Suppression Activities

No detail information is available on the recent suppression activities. In response to a question on illegal logging raised in the Lower House of the Parliament in 1998, the Minister of Primary Industry commented that the problem has improved because offenders have been taken to court and lost and had to pay bigger amount of fines in addition to imprisonment. In one particular case, an illegal logger was fined RM50,000 and sentenced to one-year jail. However, he failed to pay his fine and as a result he received a longer jail sentence for one-half years. Jail sentences are beginning to become more common in Peninsular Malaysia lately than in the past.

### Illegal Logging and Criminal Justice System

Illegal logging are criminal acts and this means that the manner by which suspects are handled or treated is governed by the provisions of the country's law on crimes, namely the Penal Code and the Criminal Procedure Code. These laws also outline the procedure for the disposal of

confiscated materials. Sections 89 and 93 of the National Forestry Act, 1984 also provide guidelines on how confiscated materials are handled.

Current laws on “white collar crimes” or other forms of crimes are, theoretically, applicable to instigators of illegal logging. Nevertheless, the forest law itself has provisions on this subject. Section 110 of the Act provides that the employer would have been liable to any penalty for anything done or committed by his partner, agent or servant.

In Peninsular Malaysia, the same courts and judges are used for handling forest crimes as well as other crimes. There are no specialized courts and judges to hear cases on illegal logging. Forest offences are prosecuted either in the Magistrate Court or the Session Court. The judges are not specifically trained in forest law but are familiar with the National forestry (Amendment) Act 1993”.

## PART 6 CONCLUSION AND RECOMMENDATIONS

Like any other crimes, it is almost impossible to stop the occurrence of forest offenses, particularly illegal logging. Many factors are driving the occurrence of such offenses. The bottom line is, it definitely pays to commit crimes in the forests. It is true that the penalties for committing forest offenses are much higher now than before but the expected penalties are still low. Logging operations are now located in remote areas, therefore the probability of detection and arrest for forest offenses is low. In addition to remoteness of timber harvesting operations, the forestry departments are short of field staffs to monitor these operations. Also, the compensations imposed and collected for forest offenses are very low compared with the maximum penalties prescribed in the legislation. The deterrent factor for not committing forest offenses is truly not visible.

Government policy sometimes has tended to encourage illegal logging. Some state governments have charged very high tender price for timber harvesting rights and this has caused timber companies to log areas that are not allocated to them in order to recover as much cost as possible from timber harvesting operations. It was reported that some states charge price for timber very much above the expected stumpage value of the standing timber.

A steady, if not increasing, demand for logs is definitely a strong factor that influences forest offenses, particularly illegal logging. Demand for timber in the country both for domestic consumption and export is still good. However, the supply of timber is limited because the size of forest areas is decreasing day by day. As a result, the price for logs and timber products is still high. Under such a scenario and coupled with the fact that the probability of arrest is low, it is very difficult to eliminate the occurrence of illegal logging. Greed and craze for short-term and quick profits have always driven human beings to commit many different forms of crimes. Poverty and land hunger could have a strong influence on forest encroachment for agricultural activities.

One of the immediate steps that can be taken to minimize the occurrence of forest offenses is to make the deterrent factor visible and real. Offenders must be made to realize and experience that "crime does not pay." Illegal loggers must be punished as severely as possible and such offenses should not be compounded but dealt with in court. Judges must not sympathise with these loggers and should

sentence them with the maximum fine and jail sentence. The probability of arrest for illegal loggers would be increased with increase in spot checks, particularly by using aerial surveillance. The Forestry Department could send some officers for training on the latest techniques of forest crimes surveillance.

Forest encroachment activities are more driven by land hunger and poverty than other factors. Such being the case, the government should try to help these people by giving them land to plant their crops to earn their living. Giving them land through the FELDA or FELCRA settlement schemes might be the shortest solution to the problem of encroachment.

Forest offenses, particularly illegal logging, have been a "thorn in the flesh" to the forestry authority and will continue to haunt them in the future. The authority should be given credits for taking some positive steps to curb the problems. Increasing the penalties for forest offenses was a credible move and so was the implementation of timber tagging system. Currently, the Forestry Department is actively implementing the sustainable forest management initiative through the application of criteria and indicators that have incorporated the element of forest law enforcement. The Department is also in the process of getting certification from ISO and this should further improve the law enforcement system in the country. The bottom line is the authority is not keeping quite on the problem of forest crimes.

It is very difficult to say that the increase in penalties for forest offenses have contributed significantly to the reduction in forest offenses. A detailed study should be done to determine whether or not that is so. However, from the data shown earlier, the incidence of forest offenses has reduced drastically since the implementation of the amended forest act. This may mean that the increase in penalties has helped to reduce offenses.

Effective forest law enforcement is one of the key pre-requisites towards achieving the objective of sustainable forest management. Resource sustainability, ecosystem health and stability, environmental enhancement and protection, sustained growth of the wood-based industries are influenced by effective forest law enforcement. On the other hand, as was stressed earlier, forest law enforcement will be more effective if there is a good communication system and clear boundary demarcation.

Indirectly, law enforcement encourages good management practices and facilities.

The current legislative framework in Peninsular Malaysia does provide adequate support for effective forest law enforcement. As mentioned earlier, current legislation views forest offenses seriously by incorporating heavy penalties for them and, at the same time, it gives sufficient authority to the forest officers for its enforcement. What is required is for more resources to be put in the enforcement of the law, particularly more funds and trained and committed personnel. Also, the provisions of the law must be implemented fully.

There is also now a stronger political will and support than before for more effective forest law enforcement. Judging by comments made by a number of heads of the state governments in newspapers, there is now greater consciousness on the importance of forests and the environment to the society. Many state politicians have made strong comments in the press against illegal logging and forest encroachment and have called on the forestry authorities to deal with the problems urgently. However, there is no clear evidence on the position of the private sector with regard to forest law enforcement. There is an urgent need to study the perception of private timber companies on the issue of forest offenses so that strategies can be developed to educate them, if necessary. The bottom line is, the private sector has to realize that committing forest offenses, particularly illegal logging, would not bring any long-term benefit either to themselves or the society at large.

## Recommendations

1. Implement the National Forestry Act, 1984, fully and effectively, particularly in matters dealing with forest offenses. Illegal loggers, in particular, should be punished more severely in accordance with the provisions of the Act.
2. Provide more resources for forest law enforcement, particularly funds, trained and committed manpower, and appropriate technology.
3. Educate forest communities, private timber companies and certain politicians on the importance of forest law and its effective enforcement.
4. Promote programs that would provide opportunities for rural communities to earn income from sources other than from the forest lands.
5. Review timber-pricing policies that encourage

the occurrence of forest offenses.

## Conclusion

Like any other crimes, there are many factors driving the occurrence of forest offenses. Remoteness of timber harvesting operations, short of the forestry departments field staffs as well as low compensations imposed and collected for forest offenses has reduced the probability of detection and arrest for forest offenses. In addition, very high tender price for timber harvesting rights in some states has caused timber companies to commit illegal logging in order to recover cost. Under such a scenario and coupled with the fact that the demand for timber in the county is high, it is very difficult to eliminate the occurrence of forest offenses in particular illegal logging.

The authority, particularly the Forestry Department should be given credits for taking some positive steps to curb the problems. Increasing the penalties for forest offenses, application of criteria and indicators for sustainable forest management that have incorporated the element of forest law enforcement as well as getting certification from ISO should further improve the law enforcement system in the country. Available data show that the incidence of forest offenses has reduced drastically since the implementation of these measures.

The current legislative framework coupled with a stronger political will does provide adequate support for effective forest law enforcement. What is required is for more resources to be put in the enforcement of the law, particularly more funds and trained and committed personnel. In addition, the provisions of the law must be implemented fully. One of the immediate steps that can be taken to minimize the occurrence of forest offenses is to make the deterrent factor visible and real. Illegal loggers must be punished as severely as possible with the maximum fine and jail sentence. The probability of arrest for illegal loggers would be increased with increase in spot checks, particularly by using aerial surveillance. The Forestry Department could send some officers for training on the latest techniques of forest crimes surveillance. Since there is no clear evidence on the position of the private sector with regard to forest law enforcement, there is an urgent need to study

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