

BUILDING THE CAPACITY OF INDONESIAN LAW ENFORCEMENT ORGANIZATIONS TO ADDRESS ENVIRONMENTAL CRIMES

ANNEX A – PROGRAM DESCRIPTION

I. Introduction

Under this Agreement, DOJ will provide expert technical assistance to USAID to help build the capacity of Indonesian law enforcement organizations to address national and transnational environmental crimes in order to help protect Indonesian forests and marine ecosystems, vital natural resources which the people of Indonesia and the world depend upon. No assistance provided with funds under this Agreement, however, shall be used for the actual investigation or prosecution of a specific crime(s). DOJ will also support the establishment of community networks to enhance community understanding and awareness of environmental law and environmental crimes.

USAID/Indonesia will implement a 2009-2014 strategy that includes natural resource management programs to improve the protection and sustainable use of forest and marine resources. The Forest Resource Sustainability Project (FOREST) will develop land use policies, establish local multi-stakeholder forest management agreements, link conservation with economic development, and improve corporate environmental practices. The Marine Resources Program (MRP) will strengthen the management capacity of the Ministry of Marine Affairs and Fisheries to develop and oversee sustainable fisheries and marine protected areas.

Services provided by DOJ under this Agreement will help advance USAID's objective of building the capacity of specific institutions of the Government of the Republic of Indonesia (GOI) under FOREST and MRP, specifically USAID will utilize the expert services of DOJ to strengthen the investigative and forensic skills of select law enforcement agencies within the GOI to help them address environmental crimes that threaten these vital forest and marine ecosystems.

This Agreement is not and shall not be construed as a supplement or buy-in to any DOJ program, and while there may be synergies or complementarities, no funds provided under this agreement shall be used to support, directly or indirectly, any DOJ program.

II. General Background

Indonesia is a key partner nation for the U.S. and has demonstrated itself to be a more dynamic influence in ASEAN affairs as well as in the United Nations. Indonesia is moving progressively forward as it reforms its economic and political institutions. Indonesia's success as a democratic nation, respectful of human rights and the rule of law, is critical for U.S. objectives in fostering democracy, maintaining regional stability, and promoting Indonesia's role in regional affairs. At the same time, porous borders and coastlines, a vast sprawling geography, and historically weak and corrupt law

enforcement make Indonesia a haven for transnational criminal activity that threatens the economic stabilization of the region and the sustainability of natural resources.

The Government of Indonesia estimates on the state loss associated with Illegal Unregulated Unreported Fishing (IUU), forest ecosystem destruction primarily through illegal logging, and wildlife trafficking is approximately \$6 billion per year. These illegal and illicit activities that require organized syndicate systems of operations and the laundering of assets and profit are clearly within the legal definition of organized crime.¹ The lack of resources, fused information, internal controls, and multilateral inability to manage borders, ports, and seaways, and poor record of prosecutions make transnational organized environmental crime a national security issue that requires multi-discipline whole of government and community approach and commitment.

Under this Agreement, DOJ will focus on building the investigative and forensic skills of Indonesian law enforcement organizations to address environmental crimes. Through separate means, DOJ will build capacity within the Attorney General's Office (AGO) to prosecute environmental crimes in Indonesia. These activities demonstrate that DOJ is building capacity upon a continuum of activities to strengthen law enforcement in Indonesia.

Forest Ecosystem and Habitat Protection

Indonesia is endowed with some of the most extensive and biologically diverse tropical forests in the world. Tens of millions of Indonesians depend directly on these forests for their livelihoods, whether gathering forest products for their daily needs or working in the wood-processing sectors of the economy. The forests are home to an abundance of flora and fauna unmatched in any country of comparable size. Even today, almost every ecological expedition that sets out to explore Indonesia's tropical forests returns with discoveries of new species.

Illegal logging and timber smuggling, seen as one of the main factors undermining Indonesia's competitiveness on the international market by supplying the competitors with under-priced logs, has been one of the main targets of forestry law enforcement (FLE) operations in Indonesia. The Ministry of Forestry estimates that in 2006 alone about 10 million m³ of timber left Indonesia without any documentation and in the same year the illegal logging caused by the supply-demand gap, driven mostly by the pulp and paper industry, stood at 52 million m³.²

¹ United Nations 1975-"Organized crime" is understood to be the large-scale and complex criminal activity carried on by groups of persons, however loosely or tightly organized, for the enrichment of those participating and at the expense of the community and its members. It is frequently accomplished through ruthless disregard of any law, including offences against the person, and frequently in connection with political corruption

Interpol 1993- Any group having a corporate structure whose primary objective is to obtain money through illegal activities, often surviving on fear and corruption.

² Center for International Forestry Research

Illegal logging is driving forest loss across Indonesia. In what has been dubbed the world's largest environmental crime, over sixty (60%) percent of timber felled in Indonesia comes from illegal sources.³

Defining Illegal Logging and Economic Impact to Indonesia

Illegal logging is the harvesting, transporting, processing, buying or selling of timber in violation of national laws. This definition also applies to harvesting wood from protected areas, exporting threatened plant/tree species, and falsifying official documents. Less obvious acts of illegal logging include breaking license agreements, tax evasion, corrupting government officials and interfering with access and rights to forest areas.⁴

Illicit activities in the Indonesian forests are manifested in several forms ranging from smuggling and theft to exploitation above the prescribed limits. Temporary shutdowns are used as an excuse not to pay taxes even though operations continue without interruption. Logging is also being continued in concessions where harvesting rights have expired. Fictitious schemes are reported to represent state losses of IDR 3.5 trillion in East Kalimantan alone.⁵ A common practice is understatement of production figures and manipulation of shipping records. It is for this reason that official figures on production and consumption of logs do not reconcile.⁶

Law-abiding forest enterprises cannot compete with cheap timber from illegal operations, which heavily distort trade and undermine legitimate business. Illegal logging is also often closely associated with corruption and organized crime. Through the loss of tax revenues, illegal logging has a huge economic and social impact, causing an estimated economic loss of almost USD 4 billion⁷ annually. Illegal logging aggravates the loss of biodiversity through logging of protected areas. It can contribute to deforestation, forest fires and the illegal exploitation of wildlife and has negative impacts on the livelihoods of forest-dependent people.

Illegal logging takes place on national territory, however because global forest resources constitute a global public good the international community has taken a great deal of interest in combating illegal logging. The G8 Action Plan on Forests in 1998 was the catalyst for the World Bank, the Governments of the United Kingdom and the United States and other partners to organize the Forest Law Enforcement and Governance (FLEG) process to foster broad political commitments for improving law enforcement. Today the FLEG initiative comprises a broad coalition including civil society and the private sector.

Wildlife Trafficking

³ World Bank 2006

⁴ http://www.panda.org/about_our_earth/about_forests/problems/forest_illegal_logging/#2

⁵ SEAKLA 2007

⁶ SEKALA 2007

⁷ World Bank 2006

Wildlife trafficking is one of the most profitable types of illegal trade in the world, preceded only by narcotics and weapons. The profit world-wide is in the billions. Indonesia is a source country for the illegal wildlife trade that feeds the exporters, importers, and trans-shippers. The profits from the illegal wildlife trade in Indonesia is almost \$1 billion USD per year - in mammals such as the critically endangered Sumatran Tiger, pangolins and orangutans, as well as reptiles, birds, and animal by-products. The demand for the Indonesian pangolins from Sumatra, Kalimantan and Central Java to other Asian countries is 140,000-160,000 per year with a profit close to \$200 million for this single species. Sumatran tigers are getting up to \$60,000.00 per tiger on the illicit market, and only an estimated 400 wild Sumatran tigers are still believed to be in existence.

Marine Ecosystem Law Enforcement and Maritime Security

Indonesia is the largest archipelagic state in the world with 17,508 islands, of which 6,000 islands are inhabited, with the longest coastline in the world and a sea area of approximately 5.8 million square km representing approximately 70% of its total territory. The Indonesian coastal zone supports approximately 60% of Indonesia's 240 million people. In some areas, local people are heavily dependent on a wide variety of reef and reef-associated animals for home consumption and trade, including turtles, fish, mollusks, crustaceans and echinoderms.

Fisheries are predicted to collapse by the year 2050 due mainly to illegal unregulated, unreported (IUU) fishing. This means that key species will be reduced to 10% of their stock, and will therefore be incapable of sustaining their population base. When this occurs, fisheries will no longer be a viable source of nutrition, livelihoods or the \$2.6 billion in fishery exports Indonesia achieved in 2008. Adding to the problem is the enormous waste of the industrialized fishing fleet which catches, kills and throws back overboard a large part of 27 million tons of marine life discarded on average each year. The most blatant cause of this destruction and waste is the unregulated growth and expansion in commercial fisheries based on large-scale, capital and technology intensive fishing vessels, the world's fleet of industrialized fishing vessels.

Whether it is the protection of forest and critical ecosystems, wildlife smuggling or protecting Indonesia's vast marine ecosystems an Achilles heel has been effective, consistent enforcement and prosecution of those involved in multi-faceted, complex transnational environmental crime. USAID will utilize the particularly suitable services of DOJ to provide technical assistance and training to strengthen the capabilities within the law enforcement chain to address national and transnational environmental crimes.

III. Project Description

Technical assistance and training will develop the necessary skills of select GOI law enforcement agencies to address environmental crimes. Specific agencies will include the Ministry of Forestry (MOF), Ministry of Marine Affairs and Fisheries (MMAF), Indonesia National Police (Directorate 5 and Marine Police), Indonesian Attorney

General's Office, Directorate of Sea Transportation/Port Authority, Customs, Indonesian Financial Transaction Reports and Analysis Center (PPATK), and others as appropriate. Support may include the provision of non-lethal equipment to enhance investigative or reporting capabilities.

DOJ will work with law enforcement authorities to improve skills their in monitoring and surveillance, coordination, investigation, evidence documentation, and prosecution to effectively fight transnational environmental crime. DOJ will support the integration of all training and procedures into the standard operating procedures of the Indonesian National Police (INP), MOF, MMAF, and the PPATK. DOJ will also provide support to non-law enforcement entities, including local NGOs and community networks and other stakeholders as specifically described herein.

Forestry

1. Multi-Agency Coordination and Training Support

DOJ will work with key law enforcement agencies at the national, provincial, and local levels to build the investigative and forensic capacities to address transnational environmental crimes. The focus will be on illegal logging, wildlife trafficking and smuggling. GOI agencies include the Indonesian National Police (INP), Investigators in POLDA (Provincial Police), Ministry of Forestry (MOF), the Indonesian Financial Transaction Reports and Analysis Center (PPATK), and Attorney General's Office and Customs (where appropriate).

At the regional level, this project will integrate NGOs into basic training to develop an understanding of the investigative process, share expertise and experiences and develop a working network with local and/or regional law enforcement officials. Only USAID-approved NGOs will be involved. Several high biodiversity value areas in Sumatera and Kalimantan which are under increasing pressure will be identified as sites for the training. For more information on site selection, refer to the criteria in VI. Site Selection below.

DOJ support will provide technical assistance and training to strengthen skills needed to effectively address environmental crimes. DOJ will provide basic and advanced training in Indonesian, international and other environmental laws including the US Lacey Act, investigative procedures, criminal investigations management, evidentiary procedures and forensics, fraudulent document detection, interview and interrogation techniques consistent which adhere to internationally accepted standards for human rights, informant management, basic surveillance and operational planning. Support is expected to include the provision of equipment for determining age of wood and wood type, hand-held density measure instruments, a global positioning system (GPS), cameras, information technology systems, vehicles, and other non-lethal equipment, all of which must be specifically approved by USAID.

USAID plans to share learning materials developed by DOJ under this Agreement with other USAID implementing partners for use as training materials for Indonesian judges

and others on environmental law, including, but not limited to programs implemented under USAID/Indonesia's Democracy and Governance objective and programs implemented by USAID's Regional Development Mission for Asia (RDMA).

2. Environmental Crime Information Management

Based on an existing model now in use by the GOI's Marine Police, DOJ will support the development of an information management center for the collection, analysis, and archiving of information for environmental law enforcement and environmental initiatives for use by the Indonesian National Police Directorate 5 and specific divisions of the Ministry of Forestry and PPATK. The system will include a public website which will provide access to information on these topics.

3. Training Community Networks

To strengthen the Indonesian National Police's community engagement program (POLMAS), DOJ will support the establishment and training of Community Networks (CN) to educate communities about steps that they can take to help combat illegal logging and wildlife trafficking. The purpose of a CN is to develop and improve relationships between communities, the local government, and law enforcement authorities on issues related to environmental crime. These networks primarily build better relationships and communication channels, share information, and raise the level of understanding about and promotion of legality in forestry production and wildlife management. CNs will be established in priority areas around key biodiversity ecosystems in Sumatera and Kalimantan. In collaboration with USAID forest-related contractors, DOJ will provide basic community centered training on environmental laws, observation, documentation, species identification, and reporting of suspicious activities related to environmental forest crimes.

Marine

1. Multi-Agency Coordination Support and Training

DOJ will provide technical assistance to develop the investigative and forensic capacity of Indonesian law enforcement authorities to address marine-related environmental crimes. Such authorities include the Indonesia National Police (INP) Directorate 5, Marine Police Command Staff, and Criminal Investigation Division (CID) investigators, Ministry of Marine Affairs and Fisheries (MMAF) Surveillance and Law Enforcement Directorate and Civil Servant Investigators (PPNS), the Indonesian Financial Transaction Reports and Analysis Center (PPATK), and the Attorney General's Office (as appropriate). This technical assistance will support the establishment of a multi-agency working group to develop joint functional plans, information sharing, and a framework for coordination.

DOJ will develop standard operating procedures and protocols and provide training in fishing regulations and environmental laws, investigative procedures, criminal

investigations management, evidentiary procedures and forensics, fraudulent document identification, interview and interrogation techniques which adhere to internationally accepted standards for human rights, informant management, report writing, informant management, surveillance, operational planning, and port state measures. Training will occur at the national level and at the regional level in critically identified areas with high marine biodiversity in the Sulawesi, Natuna, and Arafura Seas and associated fishing ports. (For more information, refer to the site selection criteria in Section VI. Site Selection below.) Support is expected to include the provision of hand-held density measure instruments, a global positioning system (GPS), cameras, camcorders, and other non-lethal equipment, all of which must be specifically approved by USAID.

2. Training MMAF Patrol Unit and INP Marine Police Unit

Additional training will be provided to MMAF patrol units on boarding techniques, compartment searching techniques, evidentiary processes, digital photography, seaborne surveillance, interview and interrogation, and report writing. DOJ will conduct joint training with INP Marine Police Units to foster better coordination between these two organizations.

3. Training Coastal Community Networks (CCN)

DOJ will train CCNs on relevant environmental laws, observation, documentation, species identification, and reporting of suspicious activities related to marine environmental crimes. To strengthen the INP and MMAF community engagement programs, DOJ will build the knowledge and basic skills of coastal community members to appropriately participate by managing small non-violent problems internal to the community and observing and reporting suspicious activities to the police. DOJ will coordinate with USAID and other USAID implementing partners to engage communities in fishing villages in the Sulawesi, Natuna, and Arafura Sea areas where local fishing villages have been the most severely impacted by IUU especially by large international commercial fishing interests. DOJ will engage communities in sites where other USAID implementing partners are working.

IV. Key Indicators/Results

A baseline will be established at the beginning of the project and performance will be measured based on the percentage of reduction or increase of each indicator.

Forestry

Cross-Cutting Forest-Related Indicator:

Indicator	Target
Percent of illegal timber harvest, trade or wildlife poaching interdictions by national police that are followed through to prosecution	20%

1. Develop multi-agency coordination strategies and effective investigative and forensic skills and capacity to address national and transnational environmental crimes

Indicator	Target
Multi-agency coordination networks developed with standard operating procedures and communication protocols	1 national; 6 local
Number of relevant law enforcement officers trained in investigation and environmental laws	TBD
Number of forest-related environmental crimes cases investigated and filed by DOJ-trained law enforcement members. Note: <u>This indicator pertains to tracking only</u> . As set forth in Section I of this Program Description, no assistance provided under this Agreement shall be used for the actual investigation or prosecution of a specific crime.	6

2. Design and develop an IT-based multi-agency environmental crime information collection, system to increase investigative effectiveness

Indicator	Target
Number of people trained on system	TBD
Environmental crimes information system operational, with public website and secure access pages	1

3. In collaboration with USAID, develop Community Networks (CN) to enhance community understanding and awareness of environmental law and environmental crimes as relate to forested areas.

Indicator	Target
Number of people participating in CNs trained on forest-related laws, including species identification and how to report suspected environmental crimes in forested areas	TBD
Number of facilitated, functional CNs having integrated coordination protocols and standard procedures for reporting suspected environmental crimes	6
Percent reduction in forest-related environmental crimes in areas with CNs	20%

Marine

Cross-cutting Marine Indicators:

Indicator	Target
Percent increase in arrests and decommissioned boats practicing illegal fishing in Indonesian waters. Note: <u>This indicator pertains to tracking only</u> . As set forth in Section I of this Program Description, no assistance provided under this Agreement shall be used for the actual investigation or prosecution of a specific crime.	20%

Percent increase in IUU fishing cases investigated and prosecuted. Note: <u>This indicator pertains to tracking only.</u> As set forth in Section I of this Program Description, no assistance provided under this Agreement shall be used for the actual investigation or prosecution of a specific crime.	20%
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1. Develop multi-agency coordination strategies and effective investigative skills and capacity to address national and transnational marine environmental crimes

Indicator	Target
Multi-agency maritime coordination networks developed with standard operating procedures and communication protocols.	1 national; 2 seascape
Number of relevant MMAF and law enforcement officers trained in investigation and environmental laws to address marine-related crimes.	TBD
Number of maritime environmental crimes cases investigated and filed by DOJ-trained law enforcement members. Note: <u>This indicator pertains to tracking only.</u> As set forth in Section I of this Program Description, no assistance provided under this Agreement shall be used for the actual investigation or prosecution of a specific crime.	3

2. Train MMAF Patrol Unit and INP Marine Police Unit

Indicator	Target
Number of people MMAF and INP Marine Police trained on investigation techniques	TBD
Percent reduction in destructive fishing, CTI, and related maritime and environmental criminal activity. Note: <u>This indicator pertains to tracking only.</u> As set forth in Section I of this Program Description, no assistance provided under this Agreement shall be used for the actual investigation or prosecution of a specific crime.	20%

3. In collaboration with USAID, develop Coastal Community Networks (CCN) to enhance community understanding and awareness of environmental law and environmental crimes as related to marine areas and marine life.

Indicator	Target
Number of people participating in CCNs trained on marine-related laws, including species identification and how to report suspected environmental crimes in marine areas	TBD
Number of facilitated, functional CCNs having integrated coordination protocols and standard procedures for reporting suspected environmental crimes	6
Percent reduction in marine-related environmental crimes in areas with CCNs. Note: <u>This indicator pertains to tracking only.</u> As set forth in Section I of this Program Description, no assistance provided under this Agreement shall be used for the actual investigation or prosecution of a specific crime.	20%

