



Human Rights Now

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A statement demanding the cessation of trade with companies engaged in illegal logging in the State of Sarawak, Malaysia

Human Rights Now (HRN), a Tokyo-based international human rights NGO, expresses its deep concern that the illegal logging of forests in the Malaysian State of Sarawak gravely infringes upon the human rights of the indigenous people. HRN also condemns the Japanese companies that have continued to import a substantial portion¹ of Sarawak timber regardless of the existing human rights concerns.

Recently, the Malaysian government and the government of Sarawak have started to seriously address the issue of illegal logging; thus, now is the best time for Japanese companies to cease trade with companies engaged in illegal logging and to eradicate the import of illegally logged timber. Moreover, the Japanese government must promptly revise relevant Japanese laws and regulations in order to strengthen its control over the importation of illegal timber.

1. Infringement on the human rights of the indigenous people by illegal logging in Malaysia and the measures implemented by the Malaysian government

For many years, illegal logging and development activities in Malaysia have deprived the indigenous people of their ancestral lands and forests. The indigenous people depend upon these resources for all aspects of their traditional ways of life; thus, the illegal logging of these forests results in a grave infringement on the indigenous people's human rights ensured by national laws and international human rights standards.

To address the situation, SUHAKAM (The Human Rights Commission of Malaysia) conducted a fact-finding survey that focused on human rights and in 2013, published a report of its

¹ According to 2012 statistics, Japan accounted for 38% of Sarawak timber's trade. See, Sarawak Timber Industry Development Corporation, 'Export Statistics of Timber and Timber Products Sarawak 2012,' URL: http://www.sarawaktimber.org.my/timber_statistic/Export_Statistics_Timber_Products_Sarawak_2012.pdf, 3.

findings concerning the land rights of the indigenous people.² The report details the failure of laws to recognize these customary land rights. As a consequence, logging and development permissions were granted in such a manner that constitutes a violation of the indigenous people's rights.³

Following this report, the Malaysian government set up a task force to consider the report and on June 17, 2015, it was reported that the Malaysian government has decided to accept almost all of the recommendations made by the task force.⁴ These recommendations include, among others, the proper recognition of the indigenous people's land rights and a requirement to obtain prior informed consent of the indigenous people who would be affected by the development. It is also reported that the Malaysian government would implement each recommendation within one to three years.⁵

2. The situation of illegal logging in Sarawak and the recent shift of the state government's policy

For a long time in Sarawak, many NGOs have reported on the illegal logging practices associated with the collusive relationship between the state government and major logging companies.⁶ Coupled with the fact that Sarawak land laws do not properly recognize the land rights of the indigenous people,⁷ the timber licenses have been granted in such a way as to ignore the indigenous people's land rights, resulting in numerous disputes and lawsuits.⁸ Additionally, illegal logging is observed outside the concession areas granted by the timber licenses.

Even the Chief Minister has criticized this situation.⁹ Last year, the Chief Minister in Sarawak stepped down and Adenan Satem succeeded as the new Chief Minister. Since taking office, Satem has announced a policy to seriously address the illegal logging issue. Satem directly warned the key senior officials of the "Big Six" logging companies in Sarawak – namely, WTK Holdings Sdn Bhd, KTS Holdings Sdn Bhd, Rimbunan Hijau Forest Corporation Sdn Bhd, Tan Ann Group,

² 'Report of the National Inquiry into the Land Rights of Indigenous Peoples,' 2013, SUHAKAM, URL: <http://nhri.ohchr.org/EN/Themes/BusinessHR/Business%20Womens%20and%20Childrens%20Rights/SUHAKAM%20BI%20FINAL.CD.pdf>

³ Ibid, 164.

⁴ Loh Foon Fong, 'Cabinet forms committee on indigenous land rights,' The Star Online, June 17, 2015, URL: <http://www.thestar.com.my/News/Nation/2015/06/17/cabinet-approves-indigenous-lands-rights/>

⁵ Ibid.

⁶ See, e.g., Lim Teck Wyn, 'Malaysia: Illegalities in Forest Clearance for Large-scale Commercial Plantations,' Forest Trends, December 2013, URL: http://www.forest-trends.org/documents/files/doc_4195.pdf, 'An Industry Unchecked: Japan's extensive business with companies involved in illegal and destructive logging in the last rainforests of Malaysia,' Global Witness, September 2013, URL: https://www.globalwitness.org/documents/10687/japan-sarawak-report-final-lo-res_2.pdf and 'Development of Global Timber Tycoons in Sarawak, East Malaysia,' Bruno Manser Fonds, February 2011, URL: http://stop-timber-corruption.org/resources/bmf_report_sarawak_timber_tycoons.pdf.

⁷ SUHAKAM (n 2 above), 164.

⁸ Lim (n 6 above), 25

⁹ See, e.g., Global Witness (n 6 above), 6, 11, and Desmond Davidson, 'Sarawak warns timber companies over illegal logging, as MACC probes industry,' The Malaysian Insider, November 17, 2014, URL: <http://www.themalaysianinsider.com/malaysia/article/sarawak-warns-timber-companies-over-illegal-logging-as-macc-probes-industry>

Samling and Shin Yang Groups – that they, including their sub-contractors and other relevant parties, must not engage in illegal logging. He stated that the timber licenses have been used illegally to log timber outside the companies' concession areas¹⁰. Further, the government has suspended issuing new timber licenses until the illegal logging activities are addressed¹¹.

From now on, the measures taken by the Malaysian government and the Sarawak government's shift in policy are expected to attract attention to the issue of illegal logging in Sarawak. As a main importer of Sarawak timber, Japan may soon be requested to issue a response to these changes.

3. The promotion of illegal logging by the lax regulations in Japan

As the largest importing country of Sarawak timber and timber products,¹² Japan is criticized for its lax regulations regarding illegal timber, which leads to the promotion of illegal logging in Sarawak¹³.

The laws and regulations in Japan concerning illegal timber are the Act on Promoting Green Purchasing¹⁴ and “the Basic Policy on Promoting Green Purchasing¹⁵” based on the Act. This latter policy requires the public sector to procure only legally verified wood. The Forestry Agency of Japan has developed a guideline¹⁶ to determine which timber is considered legal. Unfortunately, there is still no law or regulation that prohibits the private sector from importing illegally logged timber or any criminal penalty against violators.

The Goho-wood system, established based on the guideline of the Forestry Agency, is a scheme in which the private sector voluntarily participates. For proof of legality, this system requires either a forest certification¹⁷ or verification by a logging company that an industry association approves.¹⁸ However, this verification relies on certified documents issued by the Sarawak side, which is problematic because of the reported collusive relationship between the state government and logging companies. Furthermore, the Goho-wood system, does not required any further review.

¹⁰ Davidson (n 9 above).

¹¹ Jack Wong, 'More gains for Sarawak timber firms,' The Star Online, October 20, 2014, URL: <http://www.thestar.com.my/Business/Business-News/2014/10/20/More-gains-for-Sarawak-timber-firms-Tough-measures-by-the-state-government-to-dramatically-reduce-ill/?style=biz>

¹² Sarawak Timber Industry Development Corporation (n 1 above).

¹³ Alison Hoare, 'Illegal Logging and Related Trade The Response in Malaysia,' Chatham House, January 25, 2015, URL: http://www.chathamhouse.org/sites/files/chathamhouse/field/field_document/20150121IllegalLoggingMalaysiaHoare.pdf, 12.

¹⁴ Official name: Act on Promotion of Procurement of Eco-Friendly Goods and Services by the State and Other Entities (Act no. 100 of 2000), URL: <http://law.e-gov.go.jp/htmldata/H12/H12HO100.html>

¹⁵ Amended on February 3, 2015 by decision of the Cabinet meeting, URL: <http://www.env.go.jp/policy/hozen/green/g-law/archive/bp/h27bp.pdf>

¹⁶ The Guideline for Verification on Legality and Sustainability of Wood and Wood Products (February 2006, the Forestry Agency), URL: <http://www.rinya.maff.go.jp/j/boutai/ihoubatu/pdf/gaido1.pdf>.

¹⁷ A voluntary system initiated by the private sector whereby independent third-party organizations issue a certification to timber companies that certifies that the companies manage the forests properly.

¹⁸ Goho-wood Navi, “Method of verification,” retrieved on July 16, 2015, URL: <https://www.goho-wood.jp/certification/>

Thus, this system has not been able to eliminate illegally logged timber in Sarawak¹⁹.

These inadequate Japanese regulations against illegally logged timber and the Japanese importing companies that easily rely their inadequacies are promoting the problem of illegal logging in Sarawak.

4. Conclusion

Considering the above situation, Human Rights Now demands that Japanese companies immediately cease the import of timber and timber products from the logging companies engaged in illegal logging in Sarawak. In addition, Human Rights Now insists that the Japanese companies do not resume trade with such logging companies until they obtain an internationally recognized forest certification such as certification by the Forest Stewardship Council (FSC).²⁰ Moreover, Human Rights Now calls on the Japanese government to revise the relevant laws and regulations to completely ban the import of illegal timber and include criminal penalties for violators.

¹⁹ Global Witness (n 6 above), 17.

²⁰ WWF, 'WWF Forest Certification Assessment Tool (CAT),' retrieved on July 16, 2015, URL: http://wwf.panda.org/what_we_do/how_we_work/businesses/transforming_markets/news/?246871/WWF-Forest-Certification-Assessment-Tool-CAT