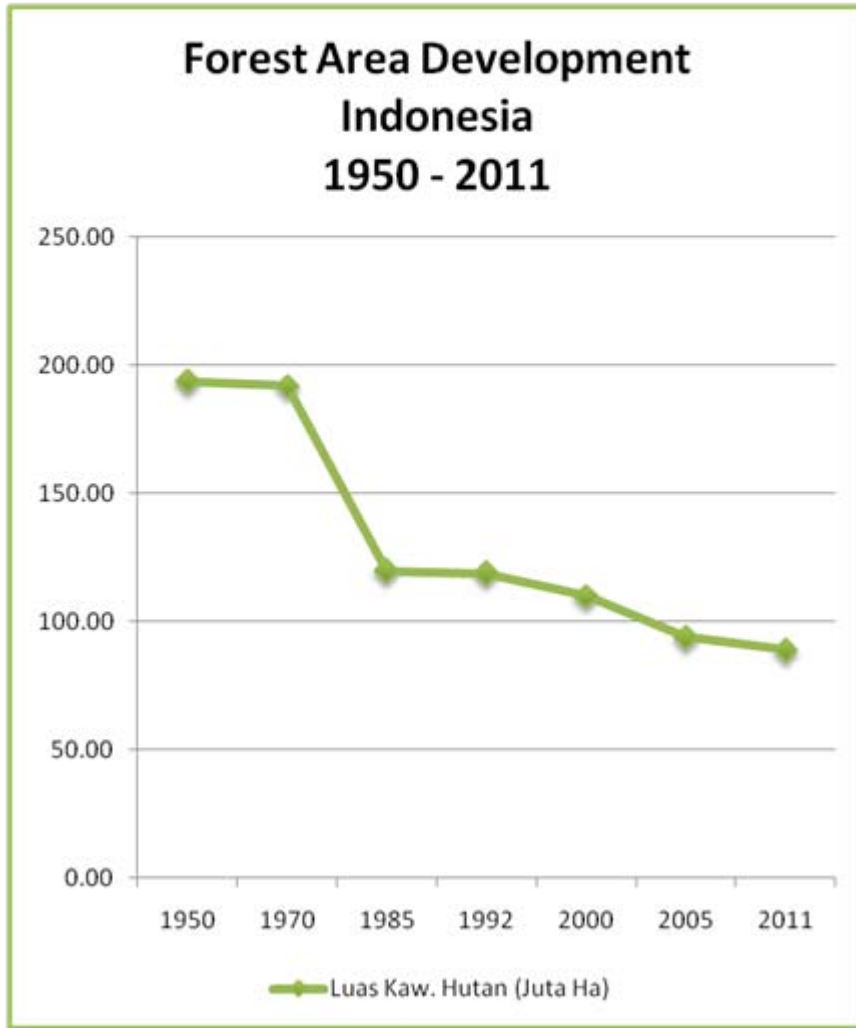


Illegal Logging Corruption in Forestry Sector

UNODC Anti-Corruption Talk Series with Special
Focus on Forest



Indonesian Forest Fact



The beginning of extractive policies on natural resources:

Law No. 5 / 1967 on the Principles of Forestry,

Law No. 1 / 1967 on Foreign Investment, Law No. 6 / 1968 on Domestic Investment and

PP 21/1970 on Forest Exploitation Supply and demand gap of timber industry

The rate of deforestation, 1985-1997 amounted to 1.6 million hectares per year,

1997-2000 was 3.8 million hectares per year, from 2001 to

2006 of 2.6 million hectares per year,

2007 of 2.7 million hectares

The rest

23 million hectares of remaining forest cover spread in 39 critical watersheds

In 2000-2010, 400s of forestry sector conflict

Illegal Logging Terminology

This highly nuanced legal term, and restrictions used by the government truly in the context of law ansich.

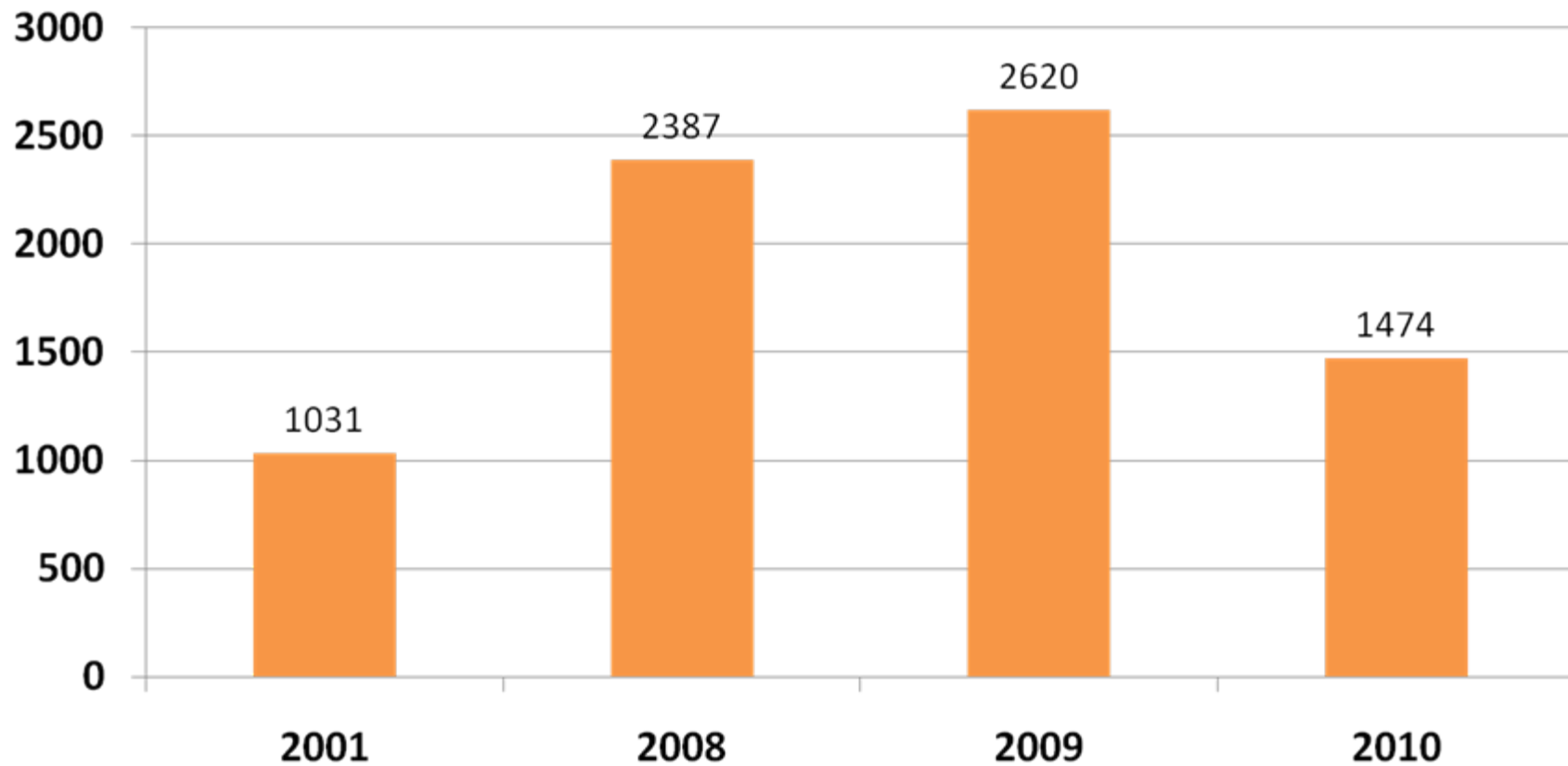
Interpretation of the law on "illegal logging " in the end only be limited to purely legal issues.

Illegal Logging can also be described as "destructive logging" it can be seen from what is done by companies that acquire legality.

Illegal Logging Facts

- 2003, 36,4 million sqm, 1,825 million hectares, IDR 43,680 trillion lost
- 2006, 30 million sqm timber cut illegally , deforestation rate 2,6 million hectares
- Average Forest lost 2001-2006 : 23,323 million sqm/year, state losses in average IDR 27,9 trillion/year
- Average cases/year 2001-2006 (\pm 2000 cases); 2007 (9600 cases); 2008 (300 cases)

Illegal Logging cases in the police



Verdicts on Illegal Logging cases

2005-2008, of 205 accused, 66,83% acquitted (137), sentenced to jail below 1 year 44 (21,46%); 1-2 year 14 (6,83%), over 2 years 10(4,88%).

In Supreme Court, 82.76% cases handled by the SC “only” involved farmers, field operator and driver as the accused. While CEO, commissioners and sawmill owners only 17,24%.

Modus operandi on Corporate Illegal Logging

- Opening the road without permission
- logging outside the block
- fell below the limit of allowable diameter
- “cuci mangkok” –relogging
- To cut down trees on the riverside an area with steep slope
- Cutting not in accordance of RKT (annual workplan)
- Land clearing for plantation / HTI

Modus operandi of Forest Corruption Mafia

- Abuse of authority in issuing permits (Post publication of PP 34 in 2002) For example: issued by the Governor and the Regent, but the authorities is the Minister of Forestry Granting permission which not fit the designation.
- Oil palm should only be in the Area of Other Use (APL), if in the forests hould be used to switch the status of non-forest areas; HTI should not be opened in production forests that are still productive

Modus (cont'd)

Regulation and policy used to demolish forest and covering forest crimes, e.g.:

- a. P.05/Menhut-II/2004
- b. Permentan 26 Tahun 2007
- c. Permenhut P.62 Tahun 2007
- d. Permenhut P.14 Tahun 2008
- e. Permentan 14 Tahun 2009

Modus (cont'd)

- Bribery and Gratification to the national/local official where permit issued;
- The company facilitates law enforcement agencies, e.g: operational vehicle in Riau
- Officials provided "free shares" in the palm oil company's
- Manipulate the EIA data as eligible for opening of palm and timber plantations

Modus (cont'd)

- Issuance of the Decree by the Regents without EIA
- Conducting illegal logging disguised as oil palm plantation, but oil palm was never planted.
- Splitting the company to get permission to exceed the limit locations.
- Cubication deal of wood in each RKT (regardless of the amount of timber that is calculated only 5 cubic meters per hectare, and the rest corrupted)

Modus (cont'd)

- Illegal Timber laundering using legal company to get official document
- Using local communities to open the forest for oil palm plantation
- Legalization of illegal timber during auction process
- Re-logging practice (logging outside the designated block)

case study

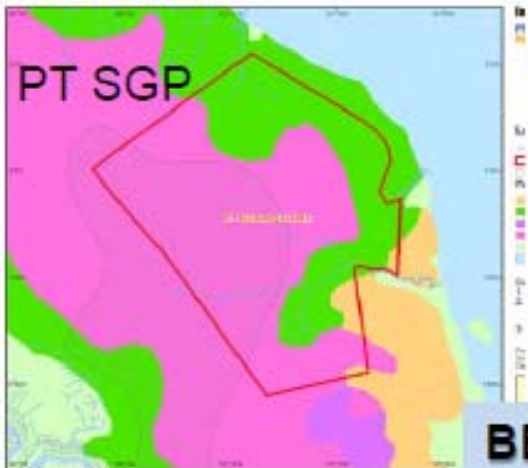
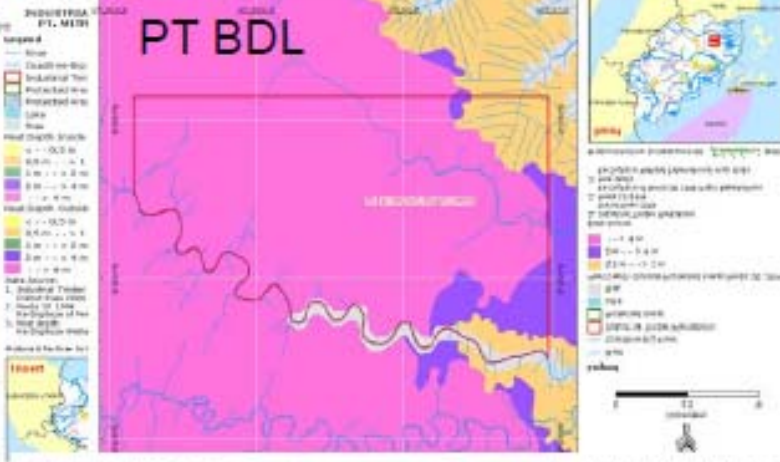
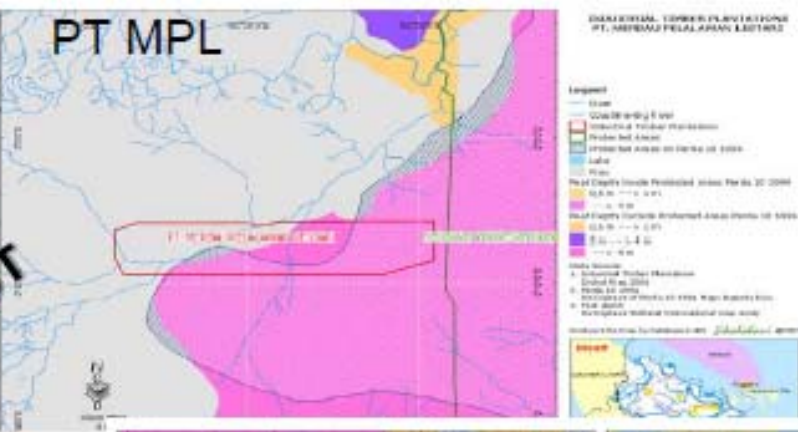
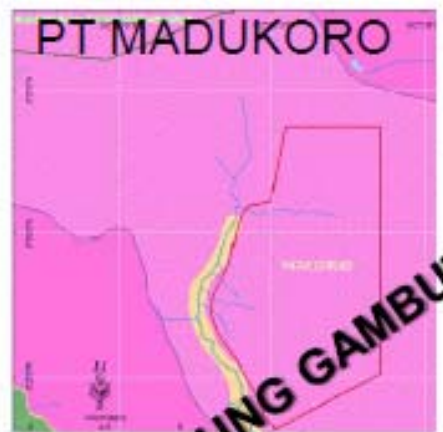
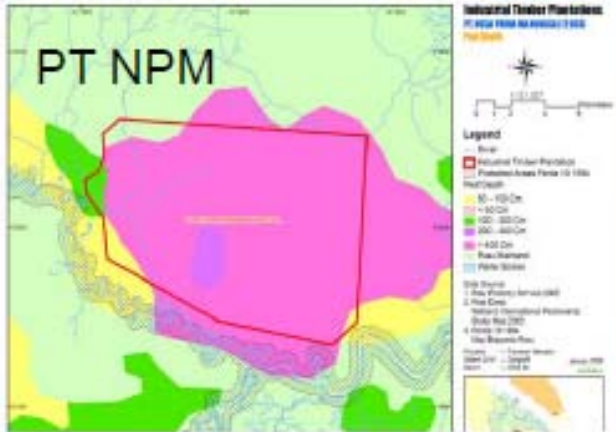
FOREST CRIME AND LAW MAFIA IN THE
ISSUANCE OF INVESTIGATION
TERMINATION LETTER (SP3) ON 14
COMPANIES IN RIAU

case position

- Logging using IUPHHK-HT permit not in accordance with the law
- Establish monoculture plantation (HTI) in concession area gained in bribery laden permit process, proven by the permit issued by the regent of *Pelalawan*
- Establish HTI in protected peatland area
- Establish HTI in overlapping area

Overlapping Area Permit

Company Name	Overlapping with "Kawasan Lindung" Perda 10 1994		Forest Status MoF/ Status Hutan TGHK	Forest Status Provincial Land-use Plan/ Status Hutan RTRWP	Overlapping with Palm Oil or Forest Concession	
	2	19			21	22
	Ha	%			HPH	Kebun
PT. MERBAU PELALAWAN LESTARI	2458	45.81%	HPK & HPT	KL & APL	PT. Dexter Kencana Timber	PT. Duet Rija
PT. NUSA PRIMA MANUNGGAL			HPT	APKK	PT. Siak Raya Timber	PT. Peputra Supra Jaya
PT. NUSA PRIMA MANUNGGAL (lic 2003)			HPK, Perairan	APKP		PT. Raja Garuda Mas Sejati (1999)
PT. MADUKORO	14678	100.00%	HP	KL	PT. Yos Raya Timber	
PT. BUKIT BATABUH SEI INDAH			HPT	APKK	PT. IFA	PT. Regumas Agri Utama (1992), Kebun Swadaya
PT. CITRA SUMBER SEJAHTERA	353	2.14%	HPT	KL & APKK	PT. IFA	Kebun Swadaya
PT. MITRA KEMBANG SELARAS	9522	63.14%	HPK & HPT	APKK & KL	PT. Dexter Kencana Timber	PT. Gandaerah Hendana
PT. BINA DUTA LAKSANA			HPK & HP	APKP & APKK		PT. Tenaga Pembina Sejahtera, PT. Shadu Eka Citra
PT. RIMBA MANDAU LESTARI			HPK	APKK		PT. Teguh Karsawana Lestari (1998), PT. Gelora Sawita Makmur
PT. INHIL HUTANI PRATAMA	38	0.32%	HP & HPT & HPK	APKP, APKK, KL		CV. Nirmala
PT. ARARA ABADI MINAS	2188	10.41%	HPT & HPK	APKK & KL & APKP		PT. Sekar Bumi Alam Lestari (1994), PT. Surya Inti Sari Raya (1994), PT. Dumai Indah Perkasa
PT. SUNTARA GAJA PATI	16233	34.55%	HP & HPK & HPT	APKK & KL	PT. Diamond Raya Timber	
PT. ANUGRAH BUMI SEJAHTERA						



BERADA DI DAS/SUB DAS

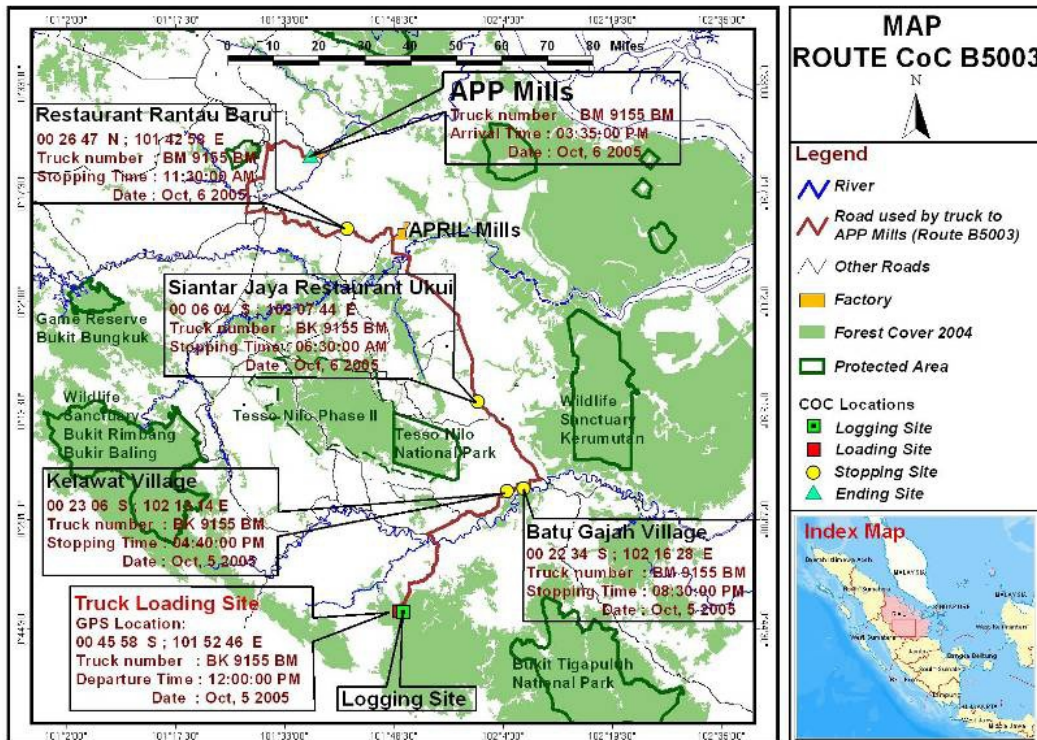
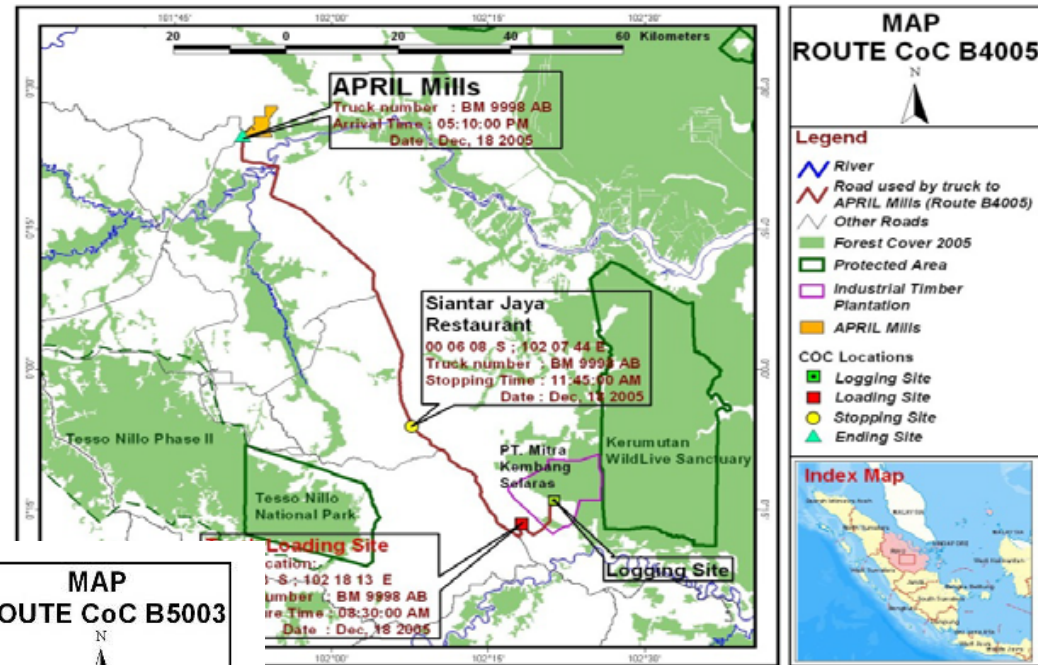
MEMBANGUN HTI DI KAWASAN LINDUNG GAMBUT

Involved Parties (Public/ State Official)

- MSK (former Minister of Forestry)
- Jend BHD (former head of national police)
- IrjenPol. Hdmk (former Kapolda Riau/former Wakabareskrim/Staff Ahli Kapolri)
- Srs (Director of legal means, execution and examination (UHEKSI) in Attorney General's Office/ former High Attorney in Riau)
- H.M RZ, SE (Governor of Riau/former regent of INHIL)
- RTR (former regent of Indragiri Hulu/DPRD Riau/TSK)
- Arwin AS (Regent of Siak/TSK)
- IMA (Regent Indragiri Hilir)
- SyuhadaTasman (former head of Forestry agency in Riau 2003-2004/TSK)
- H.AsralRahman, SH (former head of Forestry agency in Riau 2004-2005/former caretaker of head of Forestry agency in Siak 2002-2003/TSK)
- H.Burhanudin Husin (Regent of Kampar/former head of Forestry agency 2006/TSK)
- TZul, MSi (former head of Forestry agency Pelalawan 2002-2003/Bappeda Pelalawan)
- Drs E Sur (Pelalawan head of Forestry agency 2004)
- head of Forestry agency InHu 2002-2003, 2004 and head of Forestry agency InHil 2002 and 2006

Involved Parties (Companies)

1. PT Riau Andalan Pulp and Paper (RAPP) Owner: Sukanto Tonoto (RGM) Ctt. ST involved in BLBI cases Asian Agri tax mafia, now being handled by Tax Directorate General and AGO.



2. PT Indah Kiat Pulp and Paper Owner: Eka Tjipta Widjaya (Sinar Mas Group)

3. Owner of companies suspected of forest and environmental crime ("To accept and intercept natural forest logging in violation of IUPHHKHT")

SP3 Improperness

The 13 companies suspected of committing crimes of forestry and environmental crimes, as evidenced by the findings of the field, expert witness testimony from investigators, and public testimony.

According to Article 109 (2) Code of Criminal Procedure state the reason for termination of the investigation not only if investigators can not find the evidence, but also if the matter being investigated is not a criminal matter or case investigation terminated by operation of law.

The reason "13 companies" has been pocketing "permission", it is questionable considering from the beginning of this case arise, the investigators "strongly believe" the existence of consent does not necessarily ensure the company does not perform criminal acts because of the investigation results are very strong indications of "flawed process" in granting the permit.

Reasons for not damaging the environment, as testimony from the Ministry of Environment also raises a big question, because the expert witness by the investigators involved from the beginning of the investigation "deeply convinced" the occurrence of damage to the environment based on research and analysis has been done. As delivered by Prof. Bambang Hero, that he together with Dr. Basuki Oasis appointed by the Rector of IPB at the request of the MOE Riau police chief. MOE requested IPB to appoint its expert as witness.

Lanjutan

SP3 Improperness (Cont'd)

- Already have sufficient evidence based on the beginning of the Criminal Code article 17, because it has witnesses, confiscation of evidence in the form of wood, reporting witness and community
Expert witness testimony can only be used in court as regulated in statutory provisions (Criminal Code). The issuance of this SP3 is based on expert testimony which has not been heard in court.
- Article 184 of the Criminal Code set out terms of evidence, that investigation may proceed when it has two items of evidence

Alternatives to combat illegal logging by the Corruption Act is the most viable option at this time. three major cases that set a precedent to use Law 31/1999 20/2001 on Eradication of Corruption in the forestry sector, especially illegal logging. The supreme court confirms and even strengthens this proposition on cases AdelinLis, with dropped Sentence of 10 years and a fine of Rp. 2 Billion