

Added Value and Challenges of the Follow-the-Money Approach in Environmental Crimes

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Abstract

Environmental crimes have a wide impact on the country's losses in social and economic development and threaten the sustainability of living things and the ecosystem. In addition, environmental crimes also produce follow-up crimes, namely criminal acts of money laundering (TPPU). Based on the Financial Action Task Force (FATF) July 2021 Report on Money Laundering from Environmental Crimes, environmental crime is one of the crimes that is estimated to generate the most profitable income in the world, which is around USD 110 to 281 billion annually. Unfortunately, the handling of money laundering cases related to environmental crimes in Indonesia remains suboptimal, as evidenced by the disproportionate number of environmental crimes addressed by money laundering authorities in this sector. This study examines how law enforcement of forestry and environmental crimes needs to be strengthened by a follow-the-money approach. This study used descriptive and qualitative analysis methods involving secondary data from various related institutions and primary data from unstructured interviews with several investigators in the field of environment and forestry. The findings of this study indicate that law enforcement in the areas of forestry and environmental protection, particularly in the application of anti-money laundering measures, remains suboptimal. This inadequacy is largely attributed to the limited experience of investigators in handling environmental cases. Whereas, adopting a follow-the-money approach in environmental investigations could significantly enhance the effectiveness of these efforts, allowing for a more comprehensive uncovering of past illegal activities. Additionally, this approach has the potential to identify a broader network of involved parties, including the identification of beneficial owners.

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Introduction

Criminal acts in the forestry and environmental sectors are predicate crimes for money laundering crimes.¹ Indonesia enshrined this regulation in Article 2 letters v and w of Law No. 25 of 2003 concerning Amendments to Law No. 15 of 2002 concerning the Crime of Money Laundering, passed on October 13, 2003. This was maintained until now in Article 2 paragraph (1) letters w and x of Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes.² The use of certain types of criminal acts as predicate crimes is because these types of crimes are considered serious crimes and generate wealth.³ The United Nations Convention Against Transnational Organized Crime (UNTOC) in 2000, known as the Palermo Convention, requires member states to reach various predicate crimes, from money laundering to serious predicate crimes. UNTOC also states that if a country lists in a particular list of crimes originating from money laundering crimes in its legislation, it must at least include in the list various violations related to organized crime groups.⁴

The push to categorize forestry crimes as serious crimes continues to emerge.⁵ In 2015, some international institutions such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), The International Criminal Police Organization (Interpol), the United Nations Office on Drugs and Crime (UNODC), World Bank Group and World Customs Organization encouraged the crime of plant and wildlife trade and forestry crime to be designated as a serious crime. Several international institutions that are members of the International Consortium on Combating Wildlife Crime (ICWC) assess that illegal hunting and trade in wild plants and animals significantly impacts species and entire ecosystems, local communities and their livelihoods, national economies, and national and regional security. Indonesia Center for Environmental Law (ICEL) stated that the crime of illegal logging should be categorized as an extraordinary crime because the crime has a large and multi-dimensional impact on social, cultural, ecological, economic, and political which can

¹ Husein, Y., Combating environmental crime with anti-money laundering initiatives: Indonesian experiences. In *Following the Proceeds of Environmental Crime*. (pp 71-80). Routledge. 2014.

² Direktorat Hukum PPATK, *Kajian Hukum Unsur Menyembunyikan dan Menyamarkan dalam Perkara Tindak Pidana Pencucian Uang [Legal Study of Elements of Concealment and Disguise in Money Laundering Cases]*, Jakarta: PPATK, 202.

³ Eddy O.S. *Hiariej, Teori dan Hukum Pembuktian [Theory and Law of Proof]*, Penerbit Erlangga, Yogyakarta: 2012.

⁴ United Nations, Convention against Transnational Organized Crime. 2000. Based on the Palermo Convention, a serious or serious crime is an act that is a criminal act that is threatened with a minimum prison sentence of four years or a heavier penalty. The definition of organized crime is a structured group consisting of three or more persons who exist for a certain period of time and act together to commit one or more crimes or serious crimes to obtain, directly or indirectly, financial gain or other material gain.

Meanwhile, based on the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substance in 1988, otherwise known as the Vienna Convention, the characteristics of serious crimes are:

1. The involvement of organized crime groups whose perpetrators are members;
2. The involvement of the perpetrator in other internationally organized crimes;
3. The existence of other unlawful acts that are facilitated by the commission of the crime;
4. The use of violence or firearms by the perpetrator;
5. Crimes committed by civil servants and the crimes are related to their positions;
6. Making children victims or using children to commit crimes;
7. Crimes committed in or around correctional institutions, educational institutions, social service institutions, or other places where school children or students gather to carry out educational, sports and social activities.

⁵ Auriga, *Modul Pemulihan Aset dalam Kejahatan Sumber Daya Alam dan Lingkungan Hidup [Asset Recovery Module in Natural Resources and Environmental Crimes]*, Jakarta: Yayasan Auriga, 2022.

be seen from the consequences caused by illegal logging found and studied by various government and non-governmental institutions, national and international.⁶

The UN General Assembly in 2019 passed several resolutions to combat the illegal wildlife trade, namely by issuing UN General Assembly Resolution 73/343, which calls on its members "to amend national legislation, to the extent necessary and appropriate so that crimes related to the illegal trade in wildlife can be treated as original crimes in the crime of money laundering."⁷ A crime designated as a serious crime must be dealt with through various approaches, including a financial approach or follow-the-money.⁸ On December 7, 2021, President of the Financial Action Task Force (FATF) Dr. Marcus Pleyer called for countries to take ill-gotten advantage of environmental crimes by optimizing the involvement of the public, private, non-profit, and academic sectors.⁹ The FATF shows that global environmental crimes generate about USD 110 to USD 281 billion annually from illegal logging, mining, waste disposal, etc.

Since 2003, Indonesia has made crimes in the forestry and environmental sectors a criminal act from money laundering. However, the use of financial approaches in dealing with forestry and environmental crimes from 2003 to 2021 is still considered low. One of the factors that are considered to be the cause of the suboptimal use of the financial approach and the application of money laundering crimes in law enforcement in the forestry sector is the restriction of TPPU investigators in the explanation of Article 74 of Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes,¹⁰ which mentions only 6 investigators as investigators of money laundering crimes, namely the Indonesian Police, the Indonesian Prosecutor's Office, the Corruption Eradication Commission (KPK), the Ministry of Social Affairs and the National Narcotics Agency (BNN), the Directorate General of Taxes (DGT), and the Directorate General of Customs and Excise (DJBC). So, the Ministry of Environment and Forestry (Indonesian: *Kementerian Lingkungan Hidup dan Kehutanan*, or KLHK) investigators, as investigators of the original forestry crimes, are considered unable to handle money laundering cases. This problem has been resolved with the Constitutional Court's judicial review decision No. 15/PUU-XIX/2021 dated June 10, 2021. The court considered that the provisions of Article 74 of the PPTPPU Law are contrary to the 1945 Constitution of the Republic of Indonesia and do not have binding legal force if it is not interpreted as "What is meant by 'original criminal investigator' is an official or agency who is authorized by laws and regulations to conduct investigations."

The process of testing article 74 of the PPTPPU Law, namely the applicants consisting of Investigators from the Ministry of Environment and Forestry and the Ministry of Maritime Affairs and Fisheries (Indonesian: *Kementerian Kelautan dan Perikanan*, or KKP), among

⁶ Ari Sulastri, Ratri Istanita, and Neneng Sri Rahayu, "Handling Money Laundering Crime in the Forestry Sector through Integrated Governance," *International Journal of Economics Development Research (IJEDR)* 4, no. 2 (2023): 1118–1129.

⁷ United Nation, Resolution No. 73/343 Tackling illicit trafficking in wildlife. 2019.

⁸ Direktorat Hukum PPATK, *Penerapan Delik Pencucian Uang untuk Tujuan Pemidanaan dan Asset Recovery [Application of Money Laundering Offences for Criminal Purposes and Asset Recovery]*, Jakarta: PPATK, 2019.

⁹ FATF High-Level Conference on Environmental Crime (fatf-gafi.org, 2021). <https://www.fatf-gafi.org/en/publications/Fatfgeneral/Environmental-crime-conference-dec-2021.html/> accessed 02 February 2024.

¹⁰ Menurut Soerjono Soekanto, masalah pokok penegakan hukum terletak kepada faktor-faktor yang mempengaruhinya. Faktor-faktor tersebut adalah pertama, faktor hukumnya, kedua faktor penegak hukum, ketiga, faktor sarana atau fasilitas, keempat faktor masyarakat dan kelima faktor kebudayaan. Soerjono Soekanto, Faktor-faktor yang mempengaruhi penegakan hukum [The main problem of law enforcement lies in the factors that affect it. These factors are first, the legal factor, the second is the law enforcement factor, third, the facility factor, the fourth is the community factor and the fifth cultural factor. Soerjono Soekanto, *Factors Affecting Law Enforcement*] (Jakarta: Raja Grafindo Persada), 2007, 5.

others, conveyed one of the objectives of the test because it assessed that law enforcement efforts for criminal acts within the scope of the applicants' duties were closely related to the perpetrators' motives to obtain financial benefits and economic impacts that could be caused by the criminal act. The purpose, according to the Petitioner, namely, to maximize the purpose of the law enforcement process, is needed to mainstream law enforcement efforts using the anti-money laundering regime approach, which is applied by tracing whether there is an alleged money laundering crime originating from the original crime within the scope of the Petitioner's authority. Furthermore, in April 2023, based on the assessment of the Mutual Evaluation Report, Indonesia still needs to develop the best efforts to focus on combating money laundering crimes stemming from forestry and environmental crimes. The financial approach is still low in utilization compared to the number of forestry and environmental crimes handled conventionally by investigators of the original crime. Statistical data on the handling of criminal cases handled by KLHK investigators, during 2015 – 2021 can be seen in Table 1.

Table 1. Summary of Case Handling by KLHK Investigators Throughout the Period 2015 to 2021

Environmental Field	Total Cases 2015-2021	Forestry Field	Total Cases 2015-2021
Environmental pollution	1641	Forest and land fires (Indonesian: <i>kebakaran hutan dan lahan</i> , or Karhutla)	2.118
Dumping waste contains hazardous or toxic materials	319	Illegal logging	582
Environmental damage	489	Crime of illegal trade in wild plants and animals (Indonesian: <i>tumbuhan dan satwa liar</i> , or TSL)	438
Violations of environmental permits and regulations	304	Forest encroachment	1.295
		Violation of forestry permits and regulations	115
		Tenure conflicts	584

Source: 2021 Performance Report, KLHK

Forestry and environmental crime cases that utilize the follow-the-money approach and have been decided by the court, namely the *Labora Sitorus* case (illegal logging and illegal fuel trading),¹¹ *Ripansyah* cases (Illegal logging),¹² Ali Honopiah's case concerns the sale and purchase of protected wildlife.¹³ The number of forestry and environmental crimes that have utilized the follow-the-money approach is relatively small compared to the number of cases in the environmental sector handled by investigators, as seen in Table 2. This study aims to discuss the practice of law enforcement of forestry and environmental crimes by the Ministry of Environment and Forestry and Police investigators, the potential added value of the follow-the-money approach, and the challenges faced by the added value generated from the follow-the-money approach.

¹¹ Pengadilan Negeri Sorong, Petikan Putusan Nomor 145/PID.B/2013/PN.SRG. 2014 [Sorong District Court, Excerpt of Decision Number 145/PID. B/2013/PN. SRG. 2014].

¹² Pengadilan Negeri Kasongan, Petikan Putusan Nomor 12/Pid.Sus-LH/2021/PN Ksn. 2021. [Kasongan District Court, Citation of Decision Number 12/Pid.Sus-LH/2021/PN Ksn. 2021].

¹³ Pengadilan Negeri Pekanbaru, Petikan Putusan No. 38/Pid.Sus-TPK/2018/PN Pbr. 2018. [Pekanbaru District Court, Citation of Decision No. 38/Pid.Sus-TPK/2018/PN Pbr. 2018].

Table 2. Criminal Cases of the Ministry of Environment and Forestry with a Follow-the-Money Approach

Year	Financial Intelligence Report of Forestry Sector	Financial Intelligence Report of Environmental Sector	Financial Intelligence Report of Maritime and Fishery Sector	Money Laundering Court Decision
2019	0	5	1	0
2020	0	2	0	0
2021	5	8	0	1
2022	3	27	0	0
2023	2	11	3	0

Source: December 2023 Statistics Bulletin, PPAATK

This study uses descriptive and qualitative analysis to answer the research objectives. Qualitative descriptive research is aimed at describing existing phenomena, both natural and man-made, that pay more attention to the characteristics, quality, and linkages between activities.¹⁴ Descriptive analysis was carried out on secondary data related to the handling of crimes in the environmental sector from various institutions such as the Ministry of Environment and Forestry, Indonesian Financial Transaction Reports and Analysis Center (INTRAC or in Indonesian: *Pusat Pelaporan dan Analisis Transaksi Keuangan* - PPAATK), and the Center for Environmental and Forestry Security and Enforcement (Indonesian: *Balai Pengamanan dan Penegakan Hukum Lingkungan Hidup dan Kehutanan*, or Balai Gakkum LHK) Sumatra Region. Meanwhile, to gain in-depth knowledge, qualitative analysis was carried out through data collection from unstructured interviews with several investigators in the field of environment and forestry.

Law Enforcement Practice for Forestry and Environmental Crimes

The results of interviews with Investigators at the Security and Law Enforcement Center (Balai Gakkum) of the Ministry of Environment and Forestry and Investigators from the Directorate of Certain Crimes of the Indonesian Police in the West Java, Surabaya, and Medan regions, generally stated that their party had never conducted a financial investigation in handling cases related to forestry and environmental crimes. The triggering factors for investigating forestry and environmental crime cases usually start with arrests when officers conduct surveillance in forest areas, nature reserves, animal sanctuaries, bird parks, and outside forest areas such as ports, airports, and bird markets. In addition, officers also often get information from the public on social media. The investigator's admission in the interview stated that no special employees in their agency carried out cyber patrols. Each region has a segmentation of products/wildlife that are traded. This happens due to natural factors such as natural conditions (as producers) and geographical conditions of the region (as distribution channels). Investigators said that the cases handled were related to perpetrators in the region and across Indonesian and even foreign regions.

The same thing was conveyed by the Investigator of the Directorate of Certain Crimes of the Indonesian Police in the West Java, East Java, and North Sumatra regions. He admitted that he had not deepened the financial side to the maximum in handling wildlife and illegal logging

¹⁴ Wiwin Yuliani, Metode penelitian deskriptif kualitatif dalam perspektif bimbingan dan konseling [Qualitative descriptive research methods in the perspective of guidance and counseling], *QUANTA: Jurnal Kajian Bimbingan dan Konseling dalam Pendidikan* 2, no. 2 (2018): 83-91, <https://doi.org/10.22460/q.v2i2p83-91.1641>

cases in the West Java region. So far, law enforcement efforts against cases of illegal trade in protected wildlife and illegal logging are steps to clarify and prove criminal acts committed by perpetrators to sellers and suppliers of the cases handled.

Investigators from the Java, Bali, and Nusa Tenggara Region of the Environment and Forestry Balai GAKKUM stated that when they found that timber was not a right in the case of illegal logging, a file check and physical check of the wood would be carried out. Furthermore, the investigator also checks the sender's identity, which must be shown on the transport document. In the transport memorandum, information about the location of the forest and timber arrears must be included. In this checking activity, the officers often find the volume of wood that exceeds the volume recorded in the document (size deviation of 5%) or the discovery of different types of wood. Then, indications of different types of wood can be found according to the location of the forest. Checking Forest Product Administration Information System (Indonesian: *Sistem Informasi Penatausahaan Hasil Hutan*, or SIPUHH) data, in this case, can be carried out by the agency for one year of ongoing data (ongoing).

Investigators also informed us that in the case of smuggling protected wildlife, buyer data often cannot be traced because the goods are entrusted with information that someone will take them later. However, the identity of the previous taker was not known. In addition, the investigator said that it has not maximized financial transaction information so far. Data from the Sumatra Regional Environment and Forestry Balai Gakkum Investigators, during the period 2015 - June 2022, investigated 357 cases, as can be seen in Table 3.

Table 3. Criminal Investigator Data of the Balai GAKKUM LHK for the Sumatra Region

Types of Forestry Crimes	Total Cases
Illegal Logging	164
TSL	150
Forest Encroachment	33
Illegal Encroachment	8
Karhutla	1
Environmental damage	1
Total	357

Source: Processed from the case handling data of the Balai GAKKUM

The results of Table 3 show that the investigation conducted by the Sumatra Regional Balai GAKKUM during the 8-year period (2015 - June 2022) was dominated by cases of illegal logging and illegal TSL trading. When viewed over a period of time per year, cases of illegal logging are especially illustrated in Figure 2.

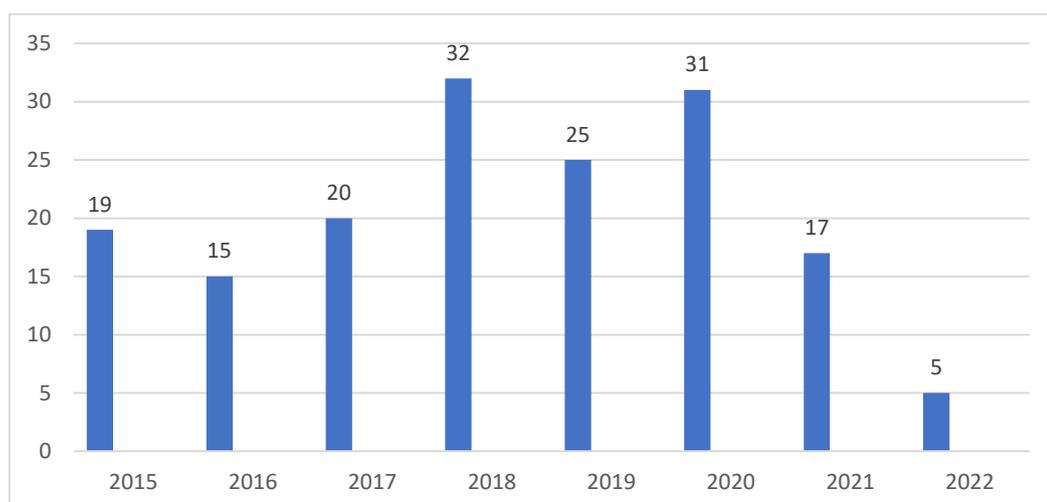


Figure 2. Number of Illegal Logging Cases from North Sumatra

Figure 2 shows that during the year, illegal logging cases were handled by investigators at least 15 cases and at most 36 cases. Some illegal logging cases have been known, and there has been a court decision with the lightest sentence of 6 months in prison and the heaviest sentence of 10 years in prison, as shown in Table 4 and Figure 3.

Table 4. Court Verdict on Illegal Logging Case

Duration of Prison Sentence	Total
1–12 months	46
13–24 months	61
25–36 months	16
More than 48 months	1
Total	124

Source: Processed from the case handling data of the Sumatra Balai GAKKUM

The fine paid according to the court decision on the illegal logging case from the investigators of the Sumatra Balai GAKKUM is a minimum of IDR 10,000,000 and a maximum of IDR 2,000,000,000. Details of the number of cases and the nominal fine can be seen in Table 5 and Figure 4.

Table 5. Nominal Fine for Illegal Logging Cases

Nominal (IDR)	Total Cases	Sum (IDR)
10,000,000	3	30,000,000
50,000,000	1	50,000,000
100,000,000	1	100,000,000
250,000,000	3	750,000,000
500,000,000	88	44,000,000,000
800,000,000	3	2,400,000,000
1,000,000,000	18	18,000,000,000
2,000,000,000	1	2,000,000,000
Total	118	67,330,000,000

Source: Processed from the case handling data of the Sumatra Balai GAKKUM

Data on the defendant's work and the defendant's role in 164 cases of illegal logging handled by investigators from the Sumatra Region Balai GAKKUM are shown in Table 6.

Table 6. Defendant's Employment Data and the Role of the Defendant in the Illegal Logging Case

Occupation Names	Roles	Total
Laborer	-	1
<i>Ganis Kurji</i>	Data collector	1
<i>Kernet</i> (public transportation driver assistance)	Driver assistance	3
Sailor	Sailor	2
Fishermen	Field Actors	2
Chainsaw Operator	Chainsaw Operator	4
Students	Timber Transport Workers	1
Farmer/Entrepreneur	Field Actors	6
	Leader	1
	Owner land in the Taman Nasional Gunung Leuser area	1
	Loggers	78
	Field Supervisor	1
Driver	Carrier	25
Not Defined	Owner	1
	Field Officer	1
	Intermediary	2
	-	99
Entrepreneur	Owner	3
	-	2
Grand Total		164

Source: Processed from the case handling data of the Sumatra Balai GAKKUM

The types of evidence used in proving illegal logging cases by investigators of the Sumatra Regional Environment and Forestry Balai GAKKUM, namely Tonton Trucks, Ignition Keys, STNK, Memorandum of Transport for Processed Wood, Processed Wood, Mobile Phones, Minibuses, Motorcycles, Notebooks, Saw Blades, Machetes, Diesel Engines, Rollies, Measuring Instruments, Exhausts, Sawn Timber, Log Logs, Bags, Transportation Business Licenses, Loading and Unloading Permits, banknotes, chain saws, logs, logs shipping lists, sharp guns, *sonokeling* wood, wood measuring lists, machetes.

The trend in the number of TSL illegal trade cases handled by investigators from the Sumatra Balai GAKKUM from 2015 to June 2022 can be seen in Figure 3.

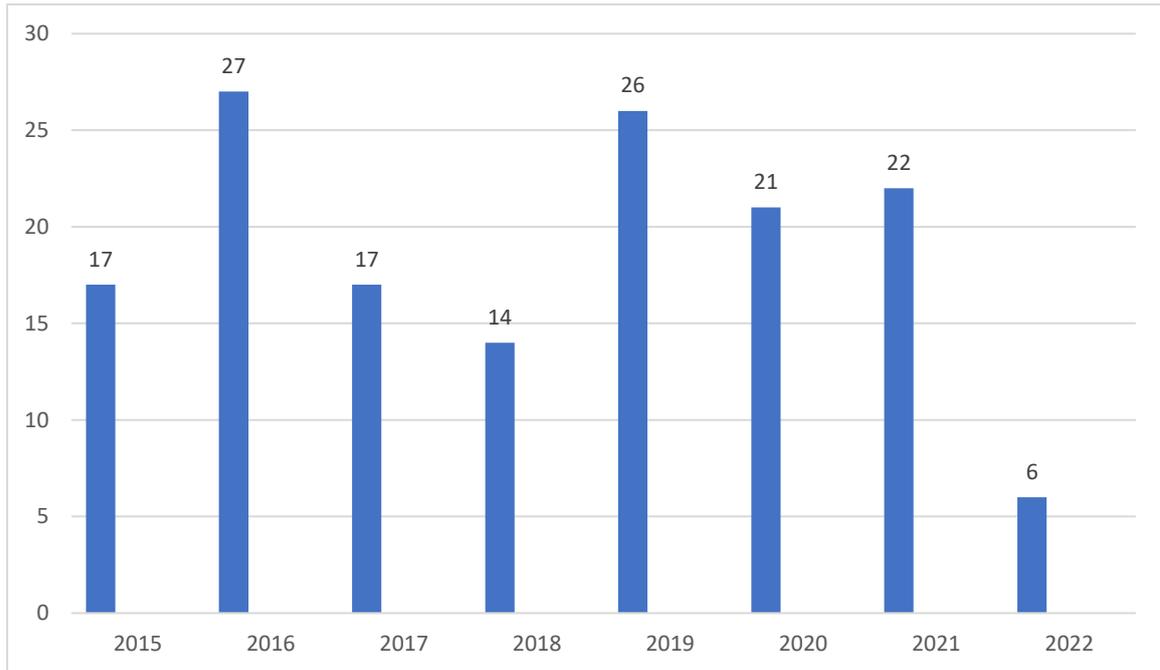


Figure 3. Trends in the Number of TSL Cases in 2015 - June 2022

The figure above shows that in a year, the lowest number of TSL trafficking cases handled by investigators was 14, and the highest was 27. For the TSL illegal trade case, out of 150 cases handled, as many as 92 cases have court decisions. Based on the court decision, the lightest sentence is 2 months in prison, and the heaviest sentence is 4 years in prison, as shown in Table 7.

Table 7. Court Verdict on TSL Illegal Case

Duration of Prison Sentences	Total
1-12 months	41
13-24 months	31
25-36 months	15
37-48 months	5
Total	92

Source: Processed from the case handling data of the Sumatra Balai GAKKUM

Data on the defendant's work and the defendant's role in 150 illegal TSL cases handled by investigators from the Sumatra Balai GAKKUM are shown in Table 8.

Table 8. Defendant's Employment Data and the Role of the Defendant in the Illegal Logging Case

Occupation	Roles	Total
Laborer	TSL Catcher	1
Bank employee	Seller Owner, TSL Buyer	1
Private company employee	TSL Owner	1
Fishermen	TSL Carrier	1
Fishermen	TSL Carrier	1
Madura satay seller	TSL Owners and Sellers	1
Farmer	TSL Catcher	2

Civil servants	TSL Owner	1
Not Defined	-	1
Entrepreneur	-	1
-	-	98
	Meshing Installer	3
	TSL Buyer	1
	TSL Owner	7
	TSL Owner Liaison Potential Buyer	2
	TSL Catcher	15
	Bear Trappers	3
	TSL Seller	7
	TSL Hunter	3
Grand Total		150

Source: Processed from the case handling data of the Sumatra Balai GAKKUM

The types of evidence used in proving the TSL case by investigators from the Sumatra Balai GAKKUM are TSL in a state of on/off/TSL parts, mobile phones, scales, cars, and social media screenshot sheets.

Added Value of the Follow-the-Money Approach in the Relationship between Forestry and Environmental Crime

Most of the forestry and environmental crimes have the main motive of generating profits (profit crime).¹⁵ In this case, timber and protected wildlife are commodities such as narcotics, weapons, and other products that generate profits. The rise of forestry and environmental crimes is also encouraged, and these crimes follow economic principles, namely supply and demand. When the products of illegal logging and hunting of protected wildlife still have a market to buy, this crime will always grow and develop.¹⁶

Forestry and environmental crime is an organized crime¹⁷ because it often involves sophisticated forms of business with various fraudulent practices. In addition, it is also a Transnational Crime because it involves international trade, as well as knowing the tax heavens.¹⁸ The follow-the-money approach concerning handling forestry and environmental crimes was initiated by two things. First, there was a report of suspicious financial transactions from the Complainant, and second, there was a request for information from law enforcement when investigators were investigating or investigating the original crime. The follow-the-money approach is carried out by exploring various financial data and other data available in the PPATK database or by conducting further searches on various financial data available in Financial Service Providers.

The results of several cases that have been carried out using the follow-the-money approach by PPATK have several added values from the financial transaction analysis process.

¹⁵ Sukardi, *Illegal Logging dalam Perspektif Politik Hukum Pidana [Illegal Logging in the Political Perspective of Criminal Law]*, Yogyakarta: Universitas Atmajaya Yogyakarta, 2005.

¹⁶ Aris Prio dkk, *Pengantar Hukum Lingkungan [Introduction to Environmental Law]*, Jakarta: Pustakabaru, 2022.

¹⁷ Wyatt, Tanya, Daan van Uhm, and Angus Nurse. "Differentiating criminal networks in the illegal wildlife trade: organized, corporate and disorganized crime." *Trends in Organized Crime* 23 (2020): 350-366.

¹⁸ Anagnostou, Michelle, and Brent Doberstein. "Illegal wildlife trade and other organised crime: A scoping review." *Ambio* 51, no. 7 (2022): 1615-1631.

This added value is in the form of more comprehensive outreach, including outreach for the period that has passed, outreach for beneficial owners, outreach for a wide network of criminals, outreach for recurring crimes, and outreach for suspicious assets and/or wealth.

Reaching the period that has passed, namely the process of analyzing financial transactions from the past period, makes it possible to find indications of a criminal act, including forestry and environmental crimes in the past period. Reaching out to beneficial owners, namely the process of analyzing financial transactions, can identify parties who should be suspected of being the main controllers or main beneficiaries of an event. Reaching a wide network of criminals, namely analyzing financial transactions, can identify parties suspected of being criminals in a wide range, from field actors to beneficial owners, including perpetrators connected in various regions or countries. Suspicious assets and/or assets can also be identified for assets that are not natural or do not match the profile of illegal trade resulting from forestry and environmental crimes.

However, although the added value of the follow-the-money approach can present comprehensive crime handling, applying this method has its own challenges in implementing follow-up by law enforcement agencies. Thus, law enforcement of forestry and environmental crimes that use a combination of the follow-the-money approach is still relatively low. PPATK statistical data for December 2023 (Table 2) shows only 1 case of forestry and environmental crimes decided by TPPU in 2021. Previously, in 2014, there was a case of *Labora Sitorus*, which was also processed with the crime of money laundering. An overview of the risk of illegal wildlife trade, based on the 2021 Regional Threat Assessment mapping covering Indonesia, can be seen in Table 9.¹⁹

Table 9. Risk Level of Illegal Wildlife Trade

No.	Description	High Risk	Medium Risk
1.	Profiles of parties involved	-	Entrepreneurship and private companies
2.	Most used industries	Bank	Money remittance services
3.	Types of animals that are illegally traded	Elephant tusks, reptiles, pangolins, rhino horns, and <i>sonokeling</i>	Turtles, birds, big cats, corals, sturgeon fish, other marine species.
4.	Means of illegal wildlife trade	Online trading and offline trading (conventional markets)	-
5.	Money laundering typology	Abuse of the formal finance industry	front companies, comingling (licit and illicit proceeds), and payment of property and luxury goods

Source: Regional Threat Assessment 2021

The results of the Financial Action Task Force (FATF, 2020) study show several methods that are often used to launder money from the crime of illegal wildlife trade, as shown in Table 10.

¹⁹ Austrac, Regional Risk Assessment on Wildlife Trafficking. 2021.

Table 10. Money Laundering Methods According to the FATF

No.	Methods	Description
1.	Abuse of the Formal Financial Sector	The perpetrators take advantage of cash deposit facilities, electronic banking platforms, remittance business activities, and third-party remittance services through banks accompanied by the use of couriers, as well as transactions below the reporting limit to avoid suspicion
2.	Utilization of Shell Companies and Front Companies	Shell companies and legitimate front companies are run in conjunction with illegal activities to support the transfer of wildlife and to mix legal and illegal funds (mingling), thus concealing the transfer of funds. PISL perpetrators often use undercover companies engaged in the import-export industry to justify the movement of goods and money across national borders (e.g., plastics, wood, frozen foods, artwork)
3.	Purchase of property and luxury goods	PISL perpetrators buy a lot of high-value items, such as property and luxury goods
4.	Money Remittance Business Activities (KUPU)	PISL perpetrators often use the KUPU network, both formal and informal, to cover up and launder money from PISL
5.	Fintech Utilization	The use of fintech encourages the ease of PISL transactions, especially through encrypted communication platforms, social media sites, online platforms, and the dark net

Source: FATF in 2020

Challenges in Utilizing the Follow-the-Money Approach

Law enforcers in the forestry and environment sector still use conventional approaches, especially in following up on findings in the field on alleged forestry and environmental crimes and conducting evidence to punish the perpetrators.²⁰ The confiscated property is limited to equipment used to commit criminal acts and goods/objects (such as wood, animals/parts of rare animals) due to illegal acts found in the field. Investigators have not practiced much of a financial approach in handling forestry and environmental crimes. This condition causes most of the law enforcement carried out conventionally to ensnare more field actors, not to the point of detecting the controllers or main beneficiaries of forestry and environmental crimes. Meanwhile, the follow-the-money approach has many added values that can strengthen the conventional approach. However, as reviewed in the previous section, there are several challenges in the application of the follow the money paradigm by investigators.

The first challenge is related to the paradigm of law enforcement. Facts on the ground say that many law enforcers in the forestry and environment sectors still lack experience in practicing financial investigations and utilizing the follow-the-money approach. This problem has been facilitated by many integrated trainings conducted by PPATK and initiated by the Ministry of Environment and Forestry. In addition to training, assistance is also carried out in handling one case in one region, which can be a benchmark for investigators in other regions.

The second challenge is related to the complexity of evidentiary efforts related to cases and evidence of crimes that occurred in the past period from the findings of financial transaction analysis (for example, indications of crime were found in the last 10 years). On the one hand, the superiority of the follow-the-money approach in reaching past periods can support law enforcement in unraveling the complexity of evidence, which is usually caused by several

²⁰ Auriga, *Modul Pemulihan Aset dalam Kejahatan Sumber Daya Alam dan Lingkungan Hidup [Asset Recovery Module in Natural Resources and Environmental Crimes]*, Jakarta: Yayasan Auriga, 2022

things, such as the disappearance of evidence in the field and the problem of expiration of cases where a criminal act and the perpetrator are only found after the expiration period has expired (this condition causes the perpetrator to no longer be prosecuted before the court to account for his criminal acts committed on past). Unless the criminal act is committed again at a time that has not yet entered the expiration period. The existence of this arrangement is carried out to achieve legal certainty in the prosecution process. Concerning the past period, PPATK analysts and investigators need to consider the possibility of difficulties in collecting evidence, including a data retention period in the financial industry.

The third challenge is related to applying the follow the money approach to the results of financial transaction analysis that identifies suspected repeated criminal acts. The related criminal law theory is the theory of *Concursus* or in Dutch terms called *samenloop*. The definition of *concursum* is the occurrence of two or more criminal acts by one person where the first criminal act has not been convicted or between the initial criminal act, and the next criminal act has not been limited by a judge's decision. If a crime is committed repeatedly or several times, it is included in the *concursum realis*. Article 65 of the Criminal Code states that “*in the event of the concomitance of several acts that must be regarded as independent acts so that they constitute several crimes, which are threatened with the same principal crime, only one penalty shall be imposed. In this case, it will impact the criminal burden, with the maximum penalty imposed being the maximum amount of criminal punishment threatened for the act, but it can be more than the maximum of the heaviest penalty plus one-third.*”

The fourth challenge is following the money approach, which can result in suspicious or unnatural assets and/or assets. Through the financial transaction analysis approach, it can be identified that the assets of forestry and environmental crime perpetrators deviate from the profile. This also includes the mixing of legal assets and proceeds of crime. The assets of the proceeds of crime may be mixed with the assets of legitimate business, either in the form of liquid assets such as money in the account or the form of non-liquid assets such as land and buildings or vehicles purchased from part of the proceeds of crime and part of the money from legitimate business. In this condition, when PPATK and investigators conduct in-depth investigations, it is necessary to use various methods and approaches to obtain direct or indirect evidence in identifying assets (movable and immovable objects, both tangible and intangible) that are obtained directly or indirectly from a criminal act.

Direct evidence can be in the form of transactions related to alleged criminal acts, confessions of parties related to the transactions carried out, witnesses, and so on, licensing issues, and the existence of illegal timber or wildlife that has been found. Indirect evidence can be expert testimony regarding the analysis of transactions and fund flows carried out, company financial statements, tax reports, data related to reported timber production, etc. Law enforcement must synergize in supporting the availability of databases and information exchanges in the forestry and environmental sectors that can be used in direct and indirect proof. The usual approach law enforcement uses in identifying the existence of unnatural wealth is to use the net worth analysis method, namely by comparing reported income with known costs and expenses.²¹

The fifth challenge is related to the follow-the-money approach, which can reach a wide network of criminals and identify beneficial owners. In this case, the challenge faced is that the perpetrator has a strong network and is also constantly trying to make the complexity of efforts so that the crime is difficult for investigators in the field to prove.

²¹ Eisenberg, Paul. "Application of the net worth method in forensic accounting investigations." *International Research Journal of Multidisciplinary Studies* 4, no. 10 (2018): 1-23.

Conclusion

The results of this study identify the problems that have emerged so far regarding the lack of maximum use of the follow-the-money approach in law enforcement in the forestry and environment sectors. The experienced investigators at many law enforcement centers of the Ministry of Environment and Forestry at the regional level admitted that they have not carried out maximum deepening on the financial side in handling wildlife and illegal logging cases in the region. Law enforcement efforts that have been carried out are limited to clarifying and proving criminal acts committed by the perpetrators. Meanwhile, continuing to handle money laundering is still not optimal.

The results of the study on the use of the follow-the-money approach show that there is a potential for more comprehensive disclosure of criminal acts in the environmental sector because it can reach past periods, which are carried out repeatedly, involving more parties including the identification of beneficial owners and the discovery of greater wealth because of criminal acts due to the discovery of unnatural wealth. On the other hand, the added value offered by following the money is a challenge that must be faced by law enforcement and PPATK analysts to deepen more thoroughly so that the law enforcement efforts carried out provide legal certainty, usefulness, and justice. The challenges faced by law enforcers include a lack of experience in implementing the follow-the-money paradigm, the investigation of supporting evidence in tracing the findings of financial transactions that indicate crimes in the past, the complexity of handling the findings of repeated crimes, the separation of legal assets and assets resulting from crimes, and the proof of findings of beneficial ownership and other related parties.

Suggestions and inputs on this study, first, related to the wide range of identification of criminals, this research can be used by law enforcement to determine the priority scale of case handling, including by considering the clarity of criminal acts and the existence of assets from crime that can be confiscated; second, related to the discovery of unnatural assets and the mixture of legal assets and proceeds of crime, PPATK and investigators need to conduct in-depth investigations to obtain direct and indirect evidence of the identification of assets obtained directly and indirectly from a criminal act; Third, law enforcement needs to synergize in supporting the availability of databases and information exchanges in the forestry and environment sectors that can be used in the process of direct and indirect proof.

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