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Examining the Indonesia FATF Membership to Combat Money Laundering in Natural Resources Sector

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ABSTRACT
The aim of this study is to shed light on Indonesia's decision to become a full member of the Financial Action Task Force (FATF) and examine its impact on money laundering within the country's mining, forestry, and fishery sectors. The research follows a deductive approach, attempting to respond to the question: How does full FATF membership contribute to eradicating money laundering in Indonesia's mining, forestry, and fishery sectors? This article employs doctrinal legal research method, which analyzes and interprets existing rules, principles, and case law. The paper finds that FATF membership is advantageous for Indonesia, as it helps address the gaps and challenges the country faces in tackling money laundering in the natural resources sector. Specifically, it addresses Indonesia's struggles in mutual legal assistance in extradition and asset confiscation, beneficial owner tracking, regional and international financial sector collaboration, and other internal issues. Furthermore, FATF membership demonstrates Indonesia's strengthened commitment to tackling money laundering in the natural resources sectors.

KEYWORDS: Money Laundering, Natural Resources, FATF Membership, Beneficial Owner, Mutual Legal Assistance

1. Introduction

In recent years, there has been a noticeable surge in illicit activities within the realm of green financial crimes, resulting in an estimated USD 110 to 281 billion in criminal gains annually world-wide.[1] UNEP has stated that environmental crimes are among some of the most profitable forms of transnational criminal activity. This trend poses a significant threat to not only the economy, but also to global ecosystems and the overall well-being of the planet.[2] At present, there exists no universally accepted definition for green financial crimes.[3] However, it typically encompasses activities such as fraud, money laundering, tax evasion, and corruption in the environmental sector, projects, or policies.[4] This paper will focus on money

[1] C. Nellemann and R. Henriksen, *World Atlas of Illicit Flows* (Norway: RHIPTO, 2018), p. 15. last modified 15 March, 2024, https://globalinitiative.net/wp-content/uploads/2018/09/Atlas-Illicit-Flows-FINAL-WEB-VERSION-copia-compressed.pdf.

[2] Yasinta Widya Paramitha, "Membangun Kepedulian Pencegahan Green Financial crime di Indonesia: ICW," *Membangun Kepedulian Pencegahan Green Financial Crime Di Indonesia | ICW*, last modified 15 March, 2024, https://antikorupsi.org/index.php/id/membangun-kepedulian-pencegahan-green-financial-crime-di-indonesia#:~:text=Green%20financial%20crime%20dapat%20diartikan,Laporan%20Tahunan%20PPATK%2C%202022.

[3] Shacheng Wang and Zhongyu Tian. "New challenges in financial supervision: Environmental Crime Terrorism Financing", *Trends in Organized Crime* 9, no. 5 (2023): p. 2. doi:10.1007/s12117-023-09500-6.

[4] Muchamad Satria Endriana, "Green Financial Crime: Expose about financial crime in the environment and renewable energy world," *IOP Conference Series: Earth and Environmental Science* 1270, no. 1 (2023): p. 1. doi:10.1088/1755-1315/1270/1/012012; Hedi, "PPATK Mulai Bidik Pencucian Uang terkait green financial crime, APA ITU?," *Kumparan*, last modified 15 March, 2024, https://kumparan.com/kumparannews/ppatk-mulai-bidik-pencucian-uang-terkait-green-financial-

laundering in the natural resources sector, which persists as one of the main problems in the realm of green financial crimes faced internationally.[5]

Money laundering may be defined as the process by which criminals "clean" the benefits of their activities to hide their illegal origin.[6] The act of money laundering is thus considered as a follow-up crime, while the original unlawful activity of generating the illicit gains is characterized as a predicate offense/core crime.[7] This is done to avoid suspicions and legitimize the money gained. 'Following the money,' confiscating it and arresting the money launders and beneficiaries are key to preventing these crimes that are causing detriment to the environment from happening.[8] Money laundering itself in the context of green financial crimes may happen in many forms and within different sectors. Here, we will discuss money laundering occurring in three specific sectors of the environment: the mining, forestry and fishery sectors. These sectors represent the primary areas where environmental money laundering occurs.[9]

Among the nations struggling with issues regarding this illicit activity, Indonesia stands as a focal point. Positioned as a middle-income unitary sovereign state in Southeast Asia, Indonesia stands as the world's fourth most populous jurisdiction, with approximately 261 million individuals scattered across 1,000 islands.[10] A cornerstone of Indonesia's economy lies in its natural resources,[11] driven by the country's abundance in biodiversity.[12] Agriculture, forestry, and fishing contribute 12.4% to Indonesia's GDP, while mining adds another 12.22% (2022 figures).[13] This economic reliance on natural ecosystems, coupled with the nation's geography, makes money laundering within natural resource sectors a prevalent concern.[14]

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crime-apa-itu-1xml3djqAxU; FATF, *Money Laundering from Environmental Crime* (Paris: FATF, 2021), pp. 3, 11. last modified 15 March, 2024, https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/Money-Laundering-from-Environmental-Crime.pdf.

5 Financial Action Task Force (FATF), *Money Laundering from Environmental Crime*, pp. 3, 5.

6 Asia / Pacific Group On Money Laundering, "About APG," *FATF STANDARDS*, last modified 15 March, 2024, https://apgml.org/about-us/page.aspx?p=acbf69ba-a694-4db0-b1be-f27172dde9fc; United Nations Office on Drugs and Crime, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment*, Bangkok: UNODC, 2013, last modified 15 March, 2024, https://www.unodc.org/documents/data-and-analysis/Studies/TOCTA_EAP_web.pdf.

7 Yunus Husein, "National and international cooperation in the prevention and eradication of money laundering," *Indonesian Journal of International Law* 7, no. 1 (2021): p. 8.

8 Louise Shelly, Nancy and Omer Hirst Chair, "Why is money laundering a critical issue in natural resource corruption?," *World Wildlife Fund,* last modified 31 March, 2024, https://www.worldwildlife.org/pages/tnrc-introductory-overview-why-is-money-laundering-a-critical-issue-in-natural-resource-corruption.

9 Arthur Ananta and Mardiansyah, *Indonesia Risk Assessment on Money Laundering 2021* (Jakarta: INTRAC, 2021), pp. 38, 200-201, 369.

10 Financial Action Task Force (FATF), *Anti-Money Laundering and Counter-Terrorist Financing Measures: Indonesia - Mutual Evaluation Report September 2018*, (Sydney: FATF, 2018), pp. 5, 15. last modified 15 March, 2024, https://www.fatf-gafi.org/content/dam/fatf-gafi/fsrb-mer/APG-Mutual-Evaluation-Report-Indonesia.pdf.coredownload.inline.pdf.

11 KOMINFO, "Leading Resources of ASEAN member countries - ASEAN Indonesia 2023," *ASEAN Indonesia 2023*, last modified 15 March, 2024, https://asean2023.id/en/news/leading-resources-of-asean-member-countries.

12 Statista Research Department, "Topic: Natural resources in Indonesia," *Statista*, last modified 15 March, 2024, https://www.statista.com/topics/4690/natural-resources-in-indonesia/#topicOverview.

13 Statista Research Department, "Gross domestic product (GDP) share of Indonesia in 2022, by sector," *Statista*, last modified 15 March, 2024, https://www.statista.com/statistics/1019099/indonesia-gdp-contribution-by-industry/.

14 Financial Action Task Force (FATF), *Anti-Money Laundering and Counter-Terrorist Financing Measures: Indonesia - Mutual Evaluation Report* (Paris: FATF, 2023), p. 20. last modified 15 March,

Beyond economic factors, Indonesia grapples with significant vulnerabilities to money laundering. These vulnerabilities stem from a lack of efficient Mutual Legal Assistance (MLA), the absence of beneficial owner tracking, regulatory gaps within its financial system, and the inefficiency of law enforcement entities lacking adequate coordination. The Basel AML Index 2023, a global measure of anti-money laundering and counter-terrorist financing (AML/CFT) risks, reinforces Indonesia's precarious standing, ranking it at 82 out of 110 countries with the highest AML risk and an overall score of 5.01.[15]

To address the issue of money laundering, Indonesia has implemented several strategies by issuing laws and regulations. This includes Law No. 15 of 2002 concerning the Crime of Money Laundering, Law No. 25 of 2003 concerning Amendments to Law No. 15 of 2002 concerning the Crime of Money Laundering, and Law No. 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering.[16] Specifically for money laundering in the natural resources sector, Indonesia has also implemented Law No. 32 of 2009 concerning Environmental Protection and Management, Law No. 23 of 2014 concerning Regional Government, Financial Services Authority Regulation No. 51/POJK.03/2017 concerning the Application of the Prudential Principle in Environmental and Social Risk Management, amongst other regulations. Nonetheless, as of the end of 2022, understanding and responses to money laundering in the natural resources sector was assessed to still be underdeveloped,[17] with priorities mostly placed on money laundering involving terrorism and narcotics.[18] Environmental crimes was classified as one of medium risk for money laundering and represents a minor share of investigations in the country.[19] However, suspicions linger that official numbers do not accurately portray the actual high levels of illicit proceeds laundered in a sophisticated manner and in substantial volumes within this sector.[20]

In October 2023, Indonesia became a full member to the Financial Action Task Force (FATF) in a strategic move to combat money laundering.[21] The FATF serves as the global standard-setting body for AML/CFT.[22] Since 2019, the FATF has prioritized strengthening the understanding and measures to tackle money laundering in the natural resources sector.[23] Indonesia's membership in the FATF is perceived as a positive step for the country's economic credibility, symbolizing its determination to combat financial crimes within its borders.[24]

2024, https://www.fatf-gafi.org/content/dam/fatf-gafi/mer/Mutual-Evaluation-Report-Indonesia-2023.pdf.coredownload.inline.pdf.

15 Basel AML, "Basel AML index," *Public Ranking - Basel AML Index*, last modified 15 March, 2024, https://index.baselgovernance.org/ranking.

16 Endriana, "Green Financial Crime," p. 5; Japriyanto, Desia Rakhma Banjarani, and Risa Mahdewi, "Money laundering as a transnational crime problems and the ideas of legal policy reformation in Indonesia," *Corruptio* 3, no. 1 (2022): p. 23; Ari Sulastri Sulastri, Ratri Istania, and Neneng Sri Rahayu, "Handling Money Laundering Crime in the Forestry Sector through Integrated Governance," *International Journal of Economics Development Research* 4, no. 3 (2023): p. 1119.

17 Endriana, "Green Financial Crime," p. 3.

18 FATF, *Anti-Money Laundering and Counter-Terrorist Financing Measures: Indonesia - Mutual Evaluation Report*, p. 18.

19 *Ibid*., pp. 37, 70.

20 *Ibid*., p. 12.

21 Deni Surjantoro, "Indonesia Menjadi anggota penuh FATF KE-40," *Kementerian Keuangan RI*, last modified 15 March, 2024, https://www.kemenkeu.go.id/informasi-publik/publikasi/siaran-pers/Indonesia-Menjadi-Anggota-Penuh-FATF-ke-40.

22 FATF, *Money Laundering from Environmental Crime*, pp. 6, 52.

23 *Ibid*., p. 6.

24 United Nations Office on Drugs and Crime, "Indonesia joins global efforts to Combat Financial Crimes," *United Nations: Office on Drugs and Crime*. Last modified 15 March, 2024,

Scholars express optimism that this move will lead to significant improvements in Indonesia's anti-money laundering framework and performance.[25]

This paper aims to delve into Indonesia's decision to become a member of the FATF and examine its impact on money laundering within the country's mining, forestry, and fishery sectors. Additionally, the paper aims to determine whether the FATF helps address difficulties Indonesia faced and contributes to advancing the nation's environmental goal, or whether its membership is mere formality. Theoretically, under international law, states engage in international conventions and organizations as a measure to enhance their national law. This decision is driven by a State's need to harmonize domestic law with international standards to achieve its ends. Indonesia's membership in the FATF reflects this and hence poses the question: To what extent the full FATF membership may contribute to eradicate money laundering in the mining, forestry, and fishery sectors in Indonesia?

To answer this research question, the article will begin by providing a brief overview of money laundering in Indonesia and explore cases of money laundering in the mining, forestry, and fishery sectors in Section 2. Under this section, the challenges Indonesia faces within this sector are also explored. Subsequently, Section 3 will then analyze Indonesia's decision to participate in the FATF and the commitments that Indonesia undertakes through it. The ensuing Section 4 will then assess the effect the membership has towards the natural resources sectors in Indonesia, examining if full FATF membership truly strengthens regulatory frameworks and produces beneficial results. Lastly, in Section 5, the paper will conclude and posit that FATF is advantageous for Indonesia and shows the international community a strengthened commitment to handling financial environmental crimes.

2. Money Laundering in Indonesia

Indonesia, boasting the largest economy in Southeast Asia, is grappling with vulnerability to financial crimes. Internationally, Indonesia is perceived poorly,[26] with the Basel AML index 2023 categorizing it as a country of medium-risk country for money laundering,[27] and the US Department of State Money Laundering assessment designating it as a country of primary concern regarding money laundering and financial crimes.[28] According to the National Risk Assessment done by the FATF, Indonesia's money laundering risk is centered on predicate offenses such as narcotics, corruption, banking crimes, taxation, forestry, and

https://www.unodc.org/unodc/news/2023/November/indonesia-joins-global-efforts-to-combat-financial-crimes.html.

25 Kementerian Keuangan RI, "Indonesia Resmi Jadi Anggota Penuh FATF, Menkeu: Bawa Dampak Positif bagi Kredibilitas Perekonomian Negara," *Kementerian Keuangan RI*, last modified 15 March, 2024, https://www.kemenkeu.go.id/informasi-publik/publikasi/berita-utama/Indonesia-Resmi-Jadi-Anggota-Penuh-FATF; Rahmad Nasution, "Minister expects Indonesia to become full FATF member by 2023," *Antara News*, last modified 15 March, 2024, https://en.antaranews.com/news/252169/minister-expects-indonesia-to-become-full-fatf-member-by-2023.

26 Tookitaki, "A guide to anti-money laundering in Indonesia," *Tookitaki*, last modified 15 March, 2024, https://www.tookitaki.com/blog/indonesia-anti-money-laundering-guide.

27 Basel AML, "Basel AML index."

28 KnowYourCountry, "Indonesia Country Summary," *KnowYourCountry*, last modified 15 March, 2024, https://www.knowyourcountry.com/indonesia#:~:text=US%20Department%20of%20State%20Money,Money%20Laundering%20and%20Financial%20Crimes.

capital market-related crimes.[29] The primary channels for laundering proceeds from these crimes involve the banking, capital markets, and real estate sectors.[30]

The main legal framework governing the crime of money laundering in Indonesia is Law No. 8 of 2010 the Law concerning the Prevention and Eradication of the Crime of Money Laundering. This law has undergone multiple revisions in less than a decade, reflecting the intricate nature of the issue.[31] Initial changes were introduced through Law No. 15 of 2002, amended by Law No. 25 of 2003, with the latest amendments under Law No. 8 of 2010. A notable change made under this amendment was the addition of forestry and environmental crimes as a predicate offense to money laundering.[32] This underscores Indonesia's commitment to aligning anti-money laundering legislation with the evolving demands of law enforcement, international standards, and best practices. Aside from the Law on Prevention and Eradication of the Crime of Money Laundering, there are investigations and efforts being made by the National Police, Public Prosecutors, and the Corruption Eradication Commission (KPK). Despite the country's strides in combating money laundering, the dimension related to environmental crimes continues to be an underdeveloped area that warrants attention and dedicated efforts.

2.1. Money Laundering in Indonesia's Natural Resources Sector

The environment holds paramount importance in Indonesia, as a country with 92 million hectares of forest and 3.1 million square Km of oceans. However, alongside its natural wealth, Indonesia faces a significant threat of money laundering in the natural resource sector. These crimes, as defined by the FATF, encompass illegal mining activities, forestry crimes, and illegal, unreported and unregulated (IUU) fishing.[33] Such activities typically involve a spectrum of offenses ranging from fraud, money laundering, tax evasion, and corruption. The aggregated value of losses due to green financial crimes in Indonesia according to the Financial Transaction Reports and Analysis Centre (PPATK) has reached IDR 4.8 trillion in 2022.[34] This threat of environmental money laundering is particularly acute in Indonesia and is notably manifested across three key sectors: mining, forestry, and fishery. These three sectors present a multifaceted challenge faced by the country, requiring detailed examination of each sector to understand the problem of money laundering within the country.

Firstly, in the mining sector, money laundering manifests through collusion and corruption.[35] Losses incurred by the state in 2022 due to mining without a permit or illegal

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[29] FATF, *Anti-Money Laundering and Counter-Terrorist Financing Measures: Indonesia - Mutual Evaluation Report*, p. 5.

[30] *Ibid*.

[31] Suhayatmi *et al.,* "The Role of International cooperation in Eradication of Money Laundering in Indonesia," *Journal of Social Political Sciences* 3, no. 4 (2022): p. 368.

[32] Bambang Setiono and Yunus Husein, *Fighting Forest Crime and Promoting Prudent Banking for Sustainable Forest Management: The Anti Money Laundering Approach* (Bogor Barat: Center for International Forestry Research, 2005), p. 3.

[33] FATF, *Money Laundering from Environmental Crime*, p. 8.

[34] Mahinda Arkyasa, "PPATK uncovers alleged green financial crime funds infiltrating political parties totalling IDR 1 trillion prompting strong anti-corruption measures," *Indonesia Business Post*, last modified 15 March, 2024, https://indonesiabusinesspost.com/insider/ppatk-uncovers-alleged-green-financial-crime-funds-infiltrating-political-parties-totalling-idr-1-trillion-prompting-strong-anti-corruption-measures/.

[35] Muslihudin Muslihudin, *et al.,* 'Relationship between environmental damage and corruption cases in Indonesia,' *E3S Web of Conferences* 73, no. 3 (2018): p. 1.

mining reached IDR 3.6 trillion, which was suspected to be then laundered.[36] These losses happen largely in the gold mines and the nickel extraction industry.[37] A significant case is the illegal nickel mining in Blok Mandiodo, Sulawesi Tenggara in 2023, where the former high rank officer at the Ministry of Energy and Mineral Resources, was implicated for facilitating illegal mining practices, resulting in substantial state losses of IDR5.7 trillion.[38] The mining activities extended beyond approved quotas and into protected forest areas, leading to extensive environmental damage. The High Prosecutor's Office confiscated IDR79 billion from various parties involved in the mining corruption case, which was laundered and broken into several bank accounts and in foreign currency.[39] The lack of stringent oversight and law enforcement in the face of ambitious nickel industry expansion in Indonesia allowed illegal mining practices to flourish, causing widespread deforestation totalling 24,811 hectares over two decades.[40] These environmental consequences further intersect with social issues, as regions hosting nickel mines experience a paradoxical rise in poverty despite economic growth.[41]

Secondly, in the forestry sectors, money laundering typically takes the form of illicit payments hidden through legitimate transactions, forged permits obtained through bribery, under-reporting timber productions or black-market timber sales. Losses incurred by the state every year due to illegal logging is estimated to be IDR 9 trillion or USD 1 billion.[42] However, the KPK suspects that the actual numbers are much larger, and these figures are underestimations. New auditors have found that between 2003 and 2014, there were 629.1 million cubic meters of unreported timber harvested, which vanished into the black market.[43] One noteworthy case involves a money laundering scheme of illegal timber exports from West Kalimantan to Europe and South Korea, occurring between 2008 and 2022, revolving around

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[36] Pasha Yuda Ernowo, "Banyak Celah potensi kerugian Negara Dari sektor pertambangan," *InfoPublik*, last modified 15 March, 2024, https://www.infopublik.id/kategori/nasional-politik-hukum/764610/banyak-celah-potensi-kerugian-negara-dari-sektor-pertambangan; Raden Ariyo Wicaksono, "Tambang ilegal bikin negara rugi triliunan rupiah," *betahita.id*, last modified 15 March, 2024, https://betahita.id/news/detail/8230/tambang-ilegal-bikin-negara-rugi-triliunan-rupiah.html?v=1670866464.

[37] Muslihudin Muslihudin, *et al.,* 'Relationship between environmental damage,' pp. 1, 3.

[38] BBC, "Korupsi Tambang nikel ilegal Jerat Eks Dirjen Minerba, PEGIAT: Negara Ditipu oknum nakal pengusaha Dan Penguasa," *BBC News Indonesia*, last modified 15 March, 2024, https://www.bbc.com/indonesia/articles/c06elxp0g22o.

[39] Sugi Hartono, "Kejati Sultra Rahasiakan Dua Nama Tersangka tindak Pidana Pencucian Uang Kasus Blok Mandiodo," *Tribunnewssultra.com*, last modified 15 March, 2024, https://sultra.tribunnews.com/2023/10/31/kejati-sultra-rahasiakan-dua-nama-tersangka-tindak-pidana-pencucian-uang-kasus-blok-mandiodo?page=1.

[40] Pradipta Pandu, "Ekspansi pertambangan nikel Picu Deforestasi Seluas 25.000 Hektar," *kompas.id*, last modified 15 March, 2024, https://www.kompas.id/baca/humaniora/2023/07/13/ekspansi-pertambangan-nikel-picu-deforestasi-seluas-25000-hektar; Raden Ariyo Wicaksono, "Tambang ilegal bikin negara rugi triliunan rupiah."

[41] Saiful Rijal Yunus and Agnes Theodora, "Kemiskinan Naik di sentra pengolahan nikel, Efek Ganda Hilirisasi Belum optimal," *kompas.id*, last modified 15 March, 2024, https://www.kompas.id/baca/ekonomi/2023/07/20/kemiskinan-naik-di-sentra-pengolahan-nikel-efek-ganda-hilirisasi-belum-terasa.

[42] Fitri Setiyani Dwiarti and Bainal Huri, "Pemberantasan Tindak Pidana illegal logging melalui pendekatan pencucian uang," *Keadilan* 21, no. 1 (2023): p. 27; Perpustakaan Kementerian Lingkungan Hidup, "Kerugian Akibat Pencucian Uang Bidang Kehutanan Capai US$ 1 Miliar," *Perpustakaan Kementerian Lingkungan Hidup*, last modified 15 March, 2024, http://perpustakaan.menlhk.go.id/pustaka/home/index.php?page=detail_news&newsid=193.

[43] Vit, Jonathan, "Indonesia losing billions from illegal logging," *Mongabay,* last modified 31 March, 2024, https://news.mongabay.com/2015/11/indonesia-losing-billions-from-illegal-logging/.

the illegal logging of 1,050 cubic meters of land.[44] To combat this, KPK has done extensive investigations in this sector. In 2016, KPK brought 30 individuals to court for abuses of power, bribery, and money laundering related to forestry permits. All defendants were found guilty of at least one charge.[45] This signifies the active action of KPK in investigating and prosecuting within this sector. However, after this occasion the enforcement has been sporadic, with only one additional case prosecuted in the subsequent four years, indicating a lack of sustained efforts to tackle money laundering and its predicate offense in this vital sector.[46]

Lastly, the fishery sector in Indonesia also faces a prevalent issue of money laundering and corruption, leading to substantial financial losses for the state. Losses incurred by the state in 2019 due to IUU fishing is estimated to be USD 23 million or an equivalent of IDR 362 trillion.[47] IUU fishing is criminalized under Law No. 45 of 2009 concerning Fisheries and Law No. 32 of 2014 on the Ocean. Proceeds from this crime are specifically addressed under Law No. 8 of 2010 as well.[48] Nonetheless, the fishery sector has been a hotspot for bribery, with 802 reported cases of bribery involving private individuals or businesses from 2004 to 2021.[49] The modus operandi often includes bribes related to licensing procedures for fishing vessels and corruption in procurement and permitting processes. These illicit activities use money laundering as a way to legitimize the proceeds received. A high-profile case involved the conviction of the former Minister of Maritime Affairs and Fisheries, Edhy Prabowo, for accepting a bribe of Rp. 25.7 billion from lobster seed exporters which he laundered through multiple bank accounts under aliases.[50] Furthermore, this activity does not only have detrimental economic consequences, but it also raises issues of forced labor and modern slavery which is prevalent in this industry.

2.2. Challenges and Countermeasures

The detrimental effects of corruption in the mining, forestry, and fishery sectors extend beyond financial losses, encompassing weakened rule of law, compromised environmental

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[44] Hendra Cipta and Teuku Muhammad Valdy Arief, "Polisi Usut Dugaan pencucian Uang Eksportir Kayu ilegal dari Kalbar Ke Eropa Dan Korsel Halaman all," *KOMPAS.com*, last modified 15 March, 2024, https://regional.kompas.com/read/2022/09/24/173152078/polisi-usut-dugaan-pencucian-uang-eksportir-kayu-ilegal-dari-kalbar-ke?page=all.

[45] Sofie Arjon Schütte and Laode M Syarif, "Pemberantasan Korupsi di Sektor Kehutanan, Pelajaran Dari KPK," *betahita.id*, last modified 15 March, 2024, https://betahita.id/news/detail/5776/pemberantasan-korupsi-di-sektor-kehutanan-pelajaran-dari-kpk-1-.html.html.

[46] Sofie Arjon Schütte and Laode M Syarif, "Pemberantasan Korupsi di Sektor Kehutanan, Pelajaran Dari KPK."

[47] Haryanti Puspa Sari and Yoga Sukmana, "KKP: Kerugian Akibat 'illegal fishing' capai 23 miliar dollar as," *KOMPAS.com*, last modified 15 March, 2024, https://money.kompas.com/read/2023/05/16/161137126/kkp-kerugian-akibat-illegal-fishing-capai-23-miliar-dollar-as#:~:text=%22IUU%20Fishing%20ini%20suatu%20ancaman,16%2F5%2F2023.

[48] Zaki Mubarok, "Indonesia legal analysis of IUU fishing and transnational organized fisheries crimes: Loopholes and proposed measures," *Indonesian Journal of International Law* 17, no. 1 (2019): pp. 118, 126-127. doi:10.17304/ijil.vol17.1.780.

[49] Zaki Mubarok, "Indonesia legal analysis of IUU fishing," p. 114; Pusat Edukasi Antikorupsi, "Praktik Suap-menyuap Dan Bahayanya di Sektor Perikanan, Pusat Edukasi Antikorupsi," last modified 15 March, 2024, https://aclc.kpk.go.id/aksi-informasi/Eksplorasi/20230818-praktik-suap-menyuap-dan-bahayanya-di-sektor-perikanan.

[50] Donald Banjarnahor, "Cerita ATM Sakti Dalam Perkara Korupsi Edhy Prabowo," *CNBC Indonesia*, last modified 15 March, 2024, https://www.cnbcindonesia.com/news/20201126120939-4-204841/cerita-atm-sakti-dalam-perkara-korupsi-edhy-prabowo; Pusat Edukasi Antikorupsi, "Praktik Suap-menyuap Dan Bahayanya di Sektor Perikanan, Pusat Edukasi Antikorupsi."

regulations, increased illegality, and a threat to the global ecosystems. Acknowledging these detriments, Indonesia has employed many efforts to respond to these issues. KPK has been commended for its relentless investigation of high-level targets and its high conviction rates, with some even calling it a success story.[51] Particularly, KPK has been praised for its focus on natural resource investigations, especially in the aforementioned forestry sector.[52] Nonetheless, the problem remains, money laundering in the natural resources sector presents a unique set of complexities for the country that makes it difficult to tackle them completely.

2.2.1. Mutual Legal Assistance in Extradition and Confiscation of Assets

Tackling money laundering in the natural resources sector comes with several challenges that impede effective prevention and law enforcement in Indonesia. Firstly, hurdles arise in establishing cooperation between agencies and states for MLA concerning the detection and confiscation of assets derived from money laundering or environmental crimes abroad.[53] The complexity and cross-border nature of green financial crimes, involving intricate transactions and multiple actors, make identification and resolution more challenging, necessitating better coordination between states and international agencies.[54]

To deal with this necessity, the Money Laundering Committee (or Komite Koordinasi Nasional Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang) was established in 2004 through the Presidential Decree No. 1 of 2004, in accordance with the Law No. 25 of 2003 on Money Laundering.[55] Over time, it has evolved with changes in legislation, such as Law No. 8 of 2010 and with the Presidential Regulation No. 117 of 2016. The committee's purpose, as outlined in Article 92 of Law No. 8 of 2010 on Money Laundering, is to improve coordination among relevant institutions in preventing and eradicating money laundering. This coordination involves various functions, including setting direction, policy, and strategy for combating money laundering. In addition, between 2017-2022 Indonesia has also entered into a number of agreements for MLA and extradition.

Albeit, increasing international cooperation and coordination has been a persisting issue and main strategy of the Indonesian Money Laundering Committee. The Mutual Evaluation Report of the FATF in 2018 has highlighted this issue, stating that although a strong framework is in place, the number of outgoing MLA and extradition requests is relatively small and slow compared to the country's risk profile.[56] Between 2013 and 2017 Indonesia has received 59 incoming MLA requests, none of them related to predicate environmental crimes. During the same time period, Indonesia has also made a total of 92 outgoing MLA requests,

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51 "Indonesia's anti-corruption commission: the KPK," *Centre for Public Impact,* last modified 31 March, 2024, https://www.centreforpublicimpact.org/case-study/indonesias-anti-corruption-commission-the-kpk/.

52 Louise Shelly, Nancy and Omer Hirst Chair, "Why is money laundering a critical issue in natural resource corruption?"; United Nations Office on Drugs and Crime, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment*.

53 PPID PPATK, "Nasional – portal Keterbukaan Informasi publik PPATK." *PPID PPATK*, last modified 15 March, 2024, https://ppid.ppatk.go.id/?page_id=817; FATF, *Money Laundering from Environmental Crime*, pp. 37, 41, 44; FATF, *Anti-Money Laundering and Counter-Terrorist Financing Measures: Indonesia - Mutual Evaluation Report*, p. 171.

54 Endriana, "Green Financial Crime," pp. 4, 6; Yunus Husein, "National and international cooperation," pp. 4, 9.

55 Ari Sulastri Sulastri, "Handling Money Laundering Crime in the Forestry Sector through Integrated Governance," p. 1119.

56 FATF, *Anti-Money Laundering and Counter-Terrorist Financing Measures: Indonesia - Mutual Evaluation Report September 2018*, pp. 107-108.

once again none of them relating to the predicate environmental crimes.[57] Requests for international cooperation primarily relate to higher-risk predicate crimes of narcotics and, to a lesser extent, to corruption. This number is not due to the lack of cases or need in the natural resources sector, but is attributed to the absence of urgency and the difficulty in spotting these cases. The low figure may also be attributed to the misclassification of money laundering in the natural resources sector as mere corruption.[58] Nonetheless, these figures suggest the need to establish a specific, consolidated operational AML strategy for investigation of money laundering related to forestry/environmental crimes.

2.2.2. Tracking Beneficial Ownership

Secondly, Indonesia faces a general challenge in regulating and tracking Beneficial Owners in money laundering cases. A Beneficial Owner may be defined as an individual who has control over the corporation, is entitled to and/or receives benefits from it, or is the valid owner of its funds or shares, both directly and indirectly.[59] Unlike Legal Owners, Beneficial Owners are challenging to track as they tend to operate behind the scenes and are not known to the public. Identifying Beneficial Owners is crucial for combating money laundering, especially money laundering in the natural resources sector, as it optimizes asset recovery, aids in evidence gathering, and facilitates the conviction of all liable actors.

Indonesia has made great progress in regulating and prosecuting money laundering cases, but this effort would be futile if those who benefit from the crime are not caught. A company named PT Mayawana Persada cleared 140 million square meters of forest on the island of Borneo between January and August of 2023 for pulpwood.[60] However, the owners of the company cannot be found and held responsible, as they and the proceeds gained are hidden in a shadow company in the British Virgin Islands.[61] This is a common phenomenon where shadow companies are utilized to engage in Trade-Based Money Laundering (TBML), a form of laundering natural resources through trade transactions, to disguise illicit goods and integrate them with legitimate trade transactions to give them an appearance of lawfulness.[62] Such a method is commonly used since natural resources are difficult to smuggle and highly regulated in their sales; thus, they are inserted into legitimate supply chains for sale,[63] involving global schemes with multiple layers and foreign companies. Therefore, to track the actors of this process, it is important to "follow-the-money" in these trades of illicit goods, find

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57 *Ibid*., p. 107.

58 FATF, *Anti-Money Laundering and Counter-Terrorist Financing Measures: Indonesia - Mutual Evaluation Report September 2018*, pp. 33, 46-47, 111, .

59 Ginting, Jamin and Adessya Thalia Chairunissa, "Adopting the Financial Action Task Force (FATF) Recommendations in Realizing Beneficial Owners Transparency in Limited Companies to Prevent Money Laundering Criminal Acts in Indonesia," *Journal of Legal, Ethical and Regulatory Issues* 24, no. Special 4 (2021): p. 2.

60 "How secrecy jurisdictions enable the destruction of Indonesia's rainforests," *The Gecko Project*, last modified 31 March, 2024, https://thegeckoproject.org/articles/how-secrecy-jurisdictions-are-facilitating-the-destruction-of-indonesia-s-rainforests/; Hans Nicholas Jong, "Deforestation surges in hotspot of critically endangered Bornean orangutans," *Mongabay*, last modified 31 March, 2024, https://news.mongabay.com/2023/10/deforestation-surges-in-hotspot-of-critically-endangered-bornean-orangutans/.

61 "How secrecy jurisdictions enable the destruction of Indonesia's rainforests."

62 Zdanowicz, John S., "Trade-Based Money Laundering and Terrorist Financing," *Review of Law & Economics* 5, no. 2 (2009): pp.857-859.

63 The Terrorism, Transnational Crime and Corruption Center. "Trade-Based Money Laundering and Natural Resource Corruption." *World Wildlife Fund.* Last modified 31 March, 2024. https://www.worldwildlife.org/pages/tnrc-introductory-overview-trade-based-money-laundering-and-natural-resource-corruption.

the companies involved, and determine to whom the benefits from the transactions are transferred. To achieve this, revealing the Beneficial Owners becomes essential in uncovering those who are liable for these laundered transactions.

Indonesia only recently recognized the existence of the Beneficial Owners through the adoption of the Presidential Decree No.13 of 2018 and the Financial Services Authority Regulation No.12/POJK.01/2017 as amended by Financial Services Authority Regulation No. 23/POJK.01/2019 concerning the Implementation of Anti-Money Laundering and Counter-Terrorism Funding Program in the Financial Services Sector. These regulations incorporate the concept of Beneficial Owners into Indonesia's money laundering laws, mandating that all corporations must disclose the names of their Beneficial Owners to the State for it to be published in a publicly available registry. These laws were enacted as part of efforts to comply with the 24th recommendation of the FATF and to fulfill the requirements for full membership in the FATF.[64] However, criticism persists as critics argue that the laws are still lacking in details and implementation.[65] Only 32.38% of legal entities have reported their Beneficial Owners since the enactment of the law four years ago, up to March 2023.[66] The companies that do report their beneficial owners, are being questioned for its accuracy as studies have found that there have been discrepancies in the real beneficial owners and the name registered.[67] Additionally, there remains a deficiency in international collaboration, given that determining beneficial ownership in cases of money laundering frequently transcends national borders.[68]

2.2.3. Regional and International Cooperation of Financial Sectors

Thirdly, Indonesia faces challenges in collaborating with banks to prevent, identify, and recover proceeds from money laundering. Bank financing is crucial for large-scale projects involving natural resources and facilitates trade through credits, letters of credit, and short-term financing instruments.[69] Most large transactions occur through bank transfers, both regionally and internationally.[70] However, the banking sector encounters difficulties, including

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[64] Ginting, Jamin and Adessya Thalia Chairunissa, "Adopting the FATF Recommendations," pp. 4, 7-8; Aryanto Nugroho, "Masyarakat Sipil Desak Aksi Konkret Perkuat Pelaksanaan Keterbukaan Penerapan Prinsip Mengenali Pemilik Manfaat (Beneficial Ownership) Pasca Indonesia Menjadi Anggota FATF," *Indonesia Corruption Watch, l*ast modified 31 March, 2024, https://www.antikorupsi.org/id/masyarakat-sipil-desak-aksi-konkret-perkuat-pelaksanaan-keterbukaan-penerapan-prinsip-mengenali.

[65] Ginting, Jamin and Adessya Thalia Chairunissa, "Adopting the FATF Recommendations," pp. 6-7, 13-14.

[66] Kanwill, "Kemenkumham Blokir Akses Korporasi yang Belum Laporkan Beneficial Ownership," *Kantor Wilayah Nusa Tenggara Timur - Kementerian Hukum dan HAM Republik Indonesia, l*ast modified 31 March, 2024, https://ntt.kemenkumham.go.id/berita-kanwil/berita-utama/12184-kemenkumham-blokir-akses-korporasi-yang-belum-laporkan-beneficial-ownership.

[67] "How secrecy jurisdictions enable the destruction of Indonesia's rainforests."

[68] Suhayatmi *et al.,* "The Role of International cooperation in Eradication of Money Laundering in Indonesia" *p. 383*; Jacqueline Anastasia Sihombing, "Beneficial Ownership: Transparency as An Effort To Prevent And Eradicate Money Laundering And Its Impact On Investment Markets," *Policy, Law, Notary And Regulatory Issues (Polri)* 2, no. 3 (2023): pp. 208, 210.

[69] Bambang Setiono and Yunus Husein, *Fighting Forest Crime*, p. 2; Commercial Editorial, "Collaboration is key: How central banks are tackling money laundering," *Central Banking*, last modified 15 March, 2024, https://www.centralbanking.com/central-banks/governance/7937741/collaboration-is-key-how-central-banks-are-tackling-money-laundering.

[70] Go Lisanawati, "Unravelling legal issues related to financial transactions in money laundering," *AML/CFT Journal: The Journal of Anti Money Laundering and Countering the Financing of Terrorism*

coordination among entities and banks regarding unusual and suspicious activities. Despite central banks reporting such information to their FIUs, the lack of communication between domestic and foreign entities hampers transaction prevention and delays reaction times.[71]

Nevertheless, banks in Indonesia generally demonstrate a good understanding and implementation of anti-money laundering measures.[72] While large banks effectively implement preventive measures and collaborate with authorities, it's unclear if smaller banks do so equally across all obligations. Although some smaller banks show a reasonable understanding of risks and implementation measures relative to their size.[73] Nonetheless, persistent issues with late reporting and a lack of explicit guidelines for communication between banks and other entities domestically and internationally highlights a necessity for continued vigilance and regulatory enhancements to effectively combat money laundering in Indonesia.[74]

2.2.4. Internal Threats

Lastly, a lack of cooperation between government and private sectors impedes collaborative efforts essential for overcoming green financial crime.[75] The presence of corruption and collusion between parties involved in green financial crime and law enforcement or regulators further hampers disclosure and resolution efforts. These operations are often backed by organized crime and powerful figures in the government, where corruption undermines law enforcement efforts at various checkpoints, with financial backers frequently bribing authorities.[76] Collaboration between government and private sectors is hindered, impeding efforts to combat green financial crime effectively. Additionally, collusion between crime perpetrators and officials complicates disclosure and resolution.[77] Notably, the involvement of powerful figures, such as the ex-Director-General of Mineral and Coal, exacerbates enforcement challenges.[78]

3. Indonesia Membership to FATF

3.1. FATF Measures Against Money Laundering in Natural Resources Sector

The FATF is an intergovernmental organization founded in 1989 to safeguard financial systems and the broader economy from the threats of money laundering, terrorist financing, and proliferation. Its primary objectives are to enhance financial sector integrity, contribute to

1, no. 2 (2023): p. 184; FATF, *Anti-Money Laundering and Counter-Terrorist Financing Measures: Indonesia - Mutual Evaluation Report*, p. 36.

71 Ananta and Mardiansyah, *Indonesia Risk Assessment on Money Laundering 2021*, pp. 79-80; Bambang Setiono and Yunus Husein, *Fighting Forest Crime*, pp. 3-4, 6; FATF, *Anti-Money Laundering and Counter-Terrorist Financing Measures: Indonesia - Mutual Evaluation Report*, p. 20.

72 Ananta and Mardiansyah, *Indonesia Risk Assessment on Money Laundering 2021*, pp. 79-80; FATF, *Anti-Money Laundering and Counter-Terrorist Financing Measures: Indonesia - Mutual Evaluation Report*, p. 20; FATF, *Anti-Money Laundering and Counter-Terrorist Financing Measures: Indonesia - Mutual Evaluation Report*, p. 4, 9-10.

73 FATF, *Anti-Money Laundering and Counter-Terrorist Financing Measures: Indonesia - Mutual Evaluation Report*, pp. 9, 89.

74 *Ibid*., p. 121.

75 Endriana, “Green Financial Crime,” p. 6.

76 Bambang Setiono and Yunus Husein, *Fighting Forest Crime*, pp. 5, 9-10, 13, 16.

77 *Ibid*., pp. 11, 14, 19.

78 Rony Ariyanto Nugroho, “Former director general of mineral and coal at the Ministry of Energy and Mineral Resources detained by the ago,” *Kompas.Id*, last modified 15 March, 2024, https://www.kompas.id/baca/english/2023/08/09/en-bekas-dirjen-minerba-kementerian-esdm-ditahan-kejagung.

safety and security, and lead global efforts in combating illicit financial activities.[79] The FATF engages in extensive research to understand the methods and trends employed by criminals and terrorists in raising, using, and moving funds.[80] Through the publication of reports, it disseminates information on the latest money laundering, terrorist financing, and proliferation financing techniques, enabling countries and the private sector to take effective countermeasures.

Central to its efforts are the FATF Recommendations, a set of comprehensive measures divided into seven distinct areas.[81] These recommendations form a global framework that aids countries in addressing illicit financial flows by implementing robust laws, regulations, and operational measures.[82] The FATF monitors over 200 countries and jurisdictions to ensure the full and effective implementation of its standards, assessing them with the assistance of nine FATF Associate Member organizations, the IMF, and the World Bank. Mutual Evaluation Reports are then released assessing the conformity of a country with the general recommendations. Providing more specific key findings and priority actions on each point for a country to improve on in implementing the recommendations. These recommendations are non-binding. However, non-compliance is often met with global criticism, or worse, inclusion on the Non-Cooperative Countries and Territories (NCCTs) list.[83] The NCCTs is a list of countries that fail to meet international standards and are thus deemed uncooperative in combating money laundering globally.[84] When a country is placed on this list, sanctions may be applied by other member countries, including political and economic isolation.[85]

The FATF has been recognized as a pioneer in researching environmental crime and money laundering.[86] As early as 2013, the organization released a series of global reports focusing on the risks and vulnerabilities associated with money laundering and terrorist financing in industries such as gold, diamonds, and illegal wildlife trade.[87] The most recent addition to this series is the 2021 report specifically addressing money laundering stemming from environmental crime.[88] In this report, to combat money laundering in the natural resources sector, the FATF provides 4 recommendations to act as a framework for a country

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79 FATF, *Mandate of Financial Action Task Force* (Washington DC: FATF, 2019), pp. 1, 4. last modified 15 March, 2024, https://www.fatf-gafi.org/content/dam/fatf-gafi/images/brochures-other/FATF-Ministerial-Declaration-Mandate.pdf.coredownload.pdf.

80 FATF, "What we do," *FATF*, last modified 15 March, 2024, https://www.fatf-gafi.org/en/the-fatf/what-we-do.html.

81 FATF, *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation* (Paris: FATF, 2023), last modified 15 March, 2024, https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf.

82 Nankpan Moses Nanyun and Alireza Nasiri, "Role of FATF on financial systems of countries: Successes and challenges," *Journal of Money Laundering Control* 24, no. 2 (2020): pp. 235-236.

83 Nicholas W. Turner, "The Financial Action Task Force: International Regulatory Convergence Through Soft Law," *New York Law School Law Review* 59, no. 3 (2014-2015): pp. 554-555.

84 Nankpan Moses Nanyun and Alireza Nasiri, "Role of FATF on financial systems of countries," pp. 238, 240.

85 Rini Wulandari and Mohammad Kemal Dermawan, "Construction of Anti-Money Laundering Policy in Indonesia from an International Law," *Baltic Journal of Law & Politics* 15, no. 4 (2022): pp. 1179.

86 Melina Risso, Carolina Andrade Quevedo, Lycia Brasil, Vivian Calderoni, and Maria Fe Vallejo, *FOLLOW THE MONEY: connecting anti-money laundering systems to disrupt environmental crime in the amazon* (Brazil: Igrape Instititute, 2023), p. 14, last modified 31 March, 2024, https://igarape.org.br/wp-content/uploads/2023/04/SP60_FOLLOW-THE-MONEY.pdf.

87 *Ibid*.

88 FATF, *Money Laundering from Environmental Crime.*

to address money laundering from environmental crimes. The first standard requires countries to criminalize money laundering for a range of environmental offenses.[89] This is in relation to FATF recommendation no. 3, where countries should criminalize money laundering on the basis of the Vienna Convention and the Palermo Convention.[90]

Secondly, countries are required to identify and assess their money laundering and terrorist financing risks across crime areas, and to take steps to mitigate these risks.[91] Thirdly, countries should ensure that the private sector is aware of ML/TF risks, and that they introduce preventative measures, such as reporting suspicious financial transactions.[92] These obligations extend to, among others: banks, dealers in precious metals and stones, lawyers and trust and company service providers when carrying out financial transactions. Lastly, from the law enforcement perspective, countries should have sufficient powers to investigate, trace and confiscate criminal assets across crime areas.[93] These standards act as pillars to guide countries party to the FATF to tackle environmental money laundering.

3.2. Indonesia Membership Effort

Even before Indonesia's membership to the FATF, the organizations' involvement in Indonesia has been long present. In 2001, the FATF included Indonesia into the NCCTs list, black-listed for being a "money laundering paradise".[94] FATF then decided that Indonesia would leave the NCCTs list in 2005 as Indonesia was considered to have made efforts to adopt the recommendations and improved their regulations, policies, and handlings of money laundering; for example, through the amendment of the Law on Money Laundering.[95] Prior to 2023, Indonesia's status within the FATF is as an observer of the FATF.

Indonesia has expressed its desire to become a full member of the FATF since 2016, when the state began taking concrete efforts to comply with the recommendations of the global anti-money laundering organization.[96] This goal was primarily motivated by the fact that Indonesia is the only G20 member state that is not a full member of the FATF.[97] Mahendra Siregar, the Chairman of the Board of Commissioners of the Financial Services Authority, stated, "Indonesia's position as a full member of the FATF would put Indonesia on par with other G20 member countries."[98] Furthermore, Director General of Taxes at the Ministry of Finance, Suryo Utomo, explained a number of advantages or benefits for Indonesia if it succeeded in becoming a full member of the FATF. He stated, "our primary hope is to become members of the FATF. With membership, Indonesia stands to gain numerous benefits, including recognition for its credibility and transparency in all economic activities. This would

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89 *Ibid*., p. 7.
90 FATF, *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*.
91 FATF, *Money Laundering from Environmental Crime*, p. 7.
92 *Ibid*., p. 7.
93 *Ibid*., p. 7.
94 Ananta and Mardiansyah, *Indonesia Risk Assessment on Money Laundering 2021*, p. 33.
95 Ginting, Jamin and Adessya Thalia Chairunissa, "Adopting the FATF Recommendations," p. 11.
96 FNH,"4 Urgensi Indonesia Menjadi Anggota FATF," *Hukom Online*, last modified 31 March, 2024, https://www.hukumonline.com/berita/a/4-urgensi-indonesia-menjadi-anggota-fatf-lt58d4cb040d555/.
97 Suhayatmi *et al.,* "The Role of International cooperation in Eradication of Money Laundering in Indonesia" p. 383.
98 Kiki Safitri and Erlangga Djumena, "Indonesia Resmi Jadi Anggota Penuh FATF, Apa Keuntungannya?," *KOMPAS.com*, last modified 31 March, 2024, https://money.kompas.com/read/2023/10/31/081000626/indonesia-resmi-jadi-anggota-penuh-fatf-apa-keuntungannya-.

undoubtedly be a significant aspiration because ultimately it would lead to economic recovery and strengthen Indonesia."[99] However, barriers were faced as Indonesia must demonstrate a commitment to apply FATF Recommendations and meet a minimum standard of compliance to be accepted as a full member.[100]

On 27 October 2023 Indonesia officially became the 40th full member of the FATF. This membership status was announced by the FATF President at the closing of the FATF plenary meeting in Paris, France. Indonesia's membership was obtained after a series of tests, including on-site visit Mutual Evaluation Reviews by FATF teams in July-August 2020 and reviews conducted at the FATF Plenary Meeting in June 2023.[101] Indonesia's acceptance as a full member underscores the global acknowledgment of the country's robust regulatory framework, effective coordination, and successful implementation of anti-money laundering measures. By joining the FATF, Indonesia demonstrates its commitment to preventing money laundering globally and the financing of terrorism.[102]

4. The Impact of Indonesia FATF Membership to the Protection of Natural Resources

According to the Indonesian Finance Minister, membership in FATF will have a positive impact on the Indonesia's economic credibility. She further stated that full membership "will facilitate Indonesia to carry out bilateral and multilateral (cooperation), as well as to exchange information for the development of the economy and the prosecution of various financial crimes, especially concerning taxation, customs, and excise".[103] In turn, this increased credibility would stimulate economic growth through both domestic and foreign investments.[104] Indonesia's full membership in FATF is also expected to significantly contribute to global strategic policy-making related to Anti-Money Laundering, Terrorism Financing Prevention, and Mass Destruction Weapons Proliferation Funding; as full membership means voting rights within FATF committees and working groups.[105] This increased global status may help Indonesia seek better collaboration internationally.

4.1. The Strengthening Indonesia's Weak Points

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[99] Dendi Siswantono, "Indonesia Ingin Jadi Anggota Penuh FATF, Apa Saja Keuntungannya ?," *Nasional Kontan,* last modified 31 March, 2024, https://nasional.kontan.co.id/news/indonesia-ingin-jadi-anggota-penuh-fatf-apa-saja-keuntungannya#google_vignette.

[100] FATF, "Membership process and criteria," *FATF*, last modified 15 March, 2024, https://www.fatf-gafi.org/en/the-fatf/membership-process-criteria.html#:~:text=Membership%20process%20and%20criteria&text=a)%20The%20country%20should%20provide,amended%20from%20time%20to%20time).

[101] Press Release, "Indonesia Becomes the 40th Member of the Financial Action Task Force (FATF)," *Kementerian Luar Negeri Republik Indonesia*, last modified 15 March, 2024, https://kemlu.go.id/paris/en/news/27419/indonesia-becomes-the-40th-member-of-the-financial-action-task-force-fatf.

[102] Yuni Afifah, "Indonesia's Joining as a Member of FATF, Here's UNAIR Legal Expert's Response," *Fakultas Hukum Universitas Airlangga*, last modified 15 March, 2024, https://fh.unair.ac.id/bergabungnya-indonesia-menjadi-anggota-fatf-begini-respon-pakar-hukum-unair/.

[103] Rahmad Nasution, "Minister expects Indonesia to become full FATF member by 2023."

[104] Anggi Muliawati, "Mahfud: Ruu Perampasan Aset Jadi Kunci Indonesia masuk anggota FATF," *Detiknews*, last modified 15 March, 2024, https://news.detik.com/berita/d-6673499/mahfud-ruu-perampasan-aset-jadi-kunci-indonesia-masuk-anggota-fatf.

[105] FATF MONEYVAL, "Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL)," *FATF*, last modified 15 March, 2024, https://www.fatf-gafi.org/en/countries/global-network/committee-of-experts-on-the-evaluation-of-anti-money-laundering-.html.

4.1.1. Strengthening MLA in Extradition and Confiscation of Asset

Membership in the FATF is expected to facilitate the tracking of assets abroad, as Indonesia gains more credibility and increased access to collaborate with other FATF members through its own full membership.[106] One significant problem Indonesia faces is MLA in Extradition and Confiscation of Assets. The complexity and cross-border nature of green financial crimes make the detection and confiscation of assets derived from money laundering or environmental crimes difficult.[107]

Furthermore, MLA becomes easier through full membership, as it implies minimum compliance with FATF recommendations.[108] Recommendation 37 provides provisions for MLA coordination points, which have helped states harmonize legislation and enforcement efforts through increasingly clear recommendations.[109] Therefore, as a full member, Indonesia may participate in MLA requests more efficiently due to this harmonization with fellow members compared to without membership. This addresses a significant weakness of Indonesia's current system, which could be remedied by increased collaboration with the FATF.

Additionally, full membership means an opportunity to attend meetings of the FATF, which the Financial Minister of Indonesia acknowledges as highly important.[110] This is because policymaking international organizations like the FATF provide forums for member countries to discuss international standard policies against money laundering. Such discussions may lead to closer relations with other countries, potentially resulting in bilateral agreements on MLA which is key to MLA in Extradition and Confiscation of Assets.[111] It is expected that Indonesia can increase the effectiveness of international cooperation through strong support from FATF member country networks to uncover and prosecute trafficking cases across countries/jurisdictions, including asset recovery efforts.[112]

Another step towards improving asset confiscation is the current Draft Law on Asset Confiscation,[113] which was the result of pressure by the FATF and one of the membership requirements.[114] Although not yet formalized, it suggests that FATF may have successfully

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[106] Anggi Muliawati, "Mahfud: Ruu Perampasan Aset Jadi Kunci Indonesia masuk anggota FATF."

[107] Endriana, "Green Financial Crime," p. 6; Yunus Husein, "National and international cooperation," pp. 4, 9.

[108] FATF, "Membership process and criteria."

[109] Nankpan Moses Nanyun and Alireza Nasiri, "Role of FATF on financial systems of countries," pp. 240, 242; Nina Susilo, "The asset confiscation bill could be a stumbling block," *Kompas.Id*, last modified 15 March, 2024, https://www.kompas.id/baca/english/2023/11/07/en-ruu-perampasan-aset-bisa-jadi-batu-sandungan.

[110] Dwi Nurahman, Armalia Reny WA, Desmon Desmon, and Nadia Anisa, "The urgency of Indonesian collaboration with international organizations in terms of cooperation and exchange of information on Economic Crime and Money laundering," *Advances in Social Science, Education and Humanities Research* (2023): p. 430.

[111] Ridwan Arifin, Sigit Riyanto, and Akbar Kurnia Putra, "Collaborative Efforts in ASEAN for Global Asset Recovery Frameworks to Combat Corruption in the Digital Era," *Legality Jurnal Imiah Hukum* 31, no. 2 (2023): p. 337.

[112] Dwi Nurahman, Armalia Reny WA, Desmon Desmon, and Nadia Anisa, "The urgency of Indonesian collaboration," p. 432; Aryanto Nugroho, "Masyarakat Sipil Desak Aksi Konkret Perkuat Pelaksanaan Keterbukaan Penerapan Prinsip Mengenali Pemilik Manfaat (Beneficial Ownership) Pasca Indonesia Menjadi Anggota FATF."

[113] Yosephus Mainake, "URGENSI PEMBAHASAN RUU TENTANG PERAMPASAN ASET," *INFO Singkat* 15, no. 9 (2023): p. 17.

[114] Teguh Affandi, "Asset confiscation bill to accelerate sustainable development in Indonesia," *Kaoem Telapak*, last modified 15 March, 2024, https://kaoemtelapak.org/asset-confiscation-bill-to-accelerate-sustainable-development-in-indonesia/; Nina Susilo, "The asset confiscation bill could be a stumbling block."

pressured Indonesia to take steps towards better anti-money laundering policies to better protect its natural resources.

4.1.2. Strengthening Beneficial Owner Tracking

FATF has been advantageous towards Indonesia's understanding and regulation of Beneficial Owners. For example, through the 24th Recommendation which led to the creation of the Presidential Decree No.13 of 2018 and the Financial Services Authority Regulation No. 23/POJK.01/2019 concerning the Implementation of Anti-Money Laundering and Counter-Terrorism Funding Program in the Financial Services Sector. The regulation is expected to encourage transparency of beneficial owner information from corporations.[115] However, this benefit was not gained through becoming a full member of the FATF but rather through the process of becoming a member and the FATF recommendations that are also available for non-members to apply.[116]

As mentioned, Indonesia faces challenges in tracking beneficial owners due to issues with implementing laws and a lack of international collaboration. While the first issue concerning law implementation may not be addressed by FATF membership, as the organization operates merely as a soft law body, the second issue of international collaboration can be. All FATF members are required to enact recommendations set by the organization.[117] The revised Recommendation 24 includes a new obligation to mitigate risks associated with foreign legal entities. This involves harmonizing rules on beneficial ownership and closing loopholes exploited through the creation of complex, multi-layered corporate networks spanning multiple jurisdictions of FATF members.[118] Additionally, each country is mandated to establish a registry of beneficial owners managed by a public authority or body, with a requirement to share this information with other countries.[119] Therefore, unlike without membership, Indonesia may benefit from these harmonized rules and shared databases through full membership, making tracking beneficial owners easier.

In conclusion, full membership in the FATF is undeniably beneficial for Indonesia, as it encourages the enactment of laws on beneficial owners, provides access to harmonized rules, and shared databases, ultimately aiding in the more effective tracking of beneficial owners.

4.1.3. Strengthening Cooperation between Regional and International Financial Institutions

Collaboration between regional and international financial sectors was identified as a key point of improvement by the FATF in both the 2018 and the 2023 Mutual Evaluation Report.[120] Becoming a full member of the FATF might expedite progress in addressing this

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[115] Rini Wulandari and Mohammad Kemal Dermawan, "Construction of Anti-Money Laundering Policy in Indonesia from an International Law," pp. 1192-1193.

[116] Ginting, Jamin and Adessya Thalia Chairunissa, "Adopting the FATF Recommendations," p. 10.

[117] FATF, *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*.

[118] FATF, *Beneficial Ownership of Legal Persons* (PARIS: FATF: 2023), p. 16. last modified 31 March, 2024, https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/Guidance-Beneficial-Ownership-Legal-Persons.pdf.coredownload.pdf.

[119] FATF, *Beneficial Ownership of Legal Persons*, p. 40; Tookitaki, "Beneficial Ownership: A Deep Dive into FATF's Recommendation 24," *Tookitaki*, last modified 31 March, 2024, https://www.tookitaki.com/compliance-hub/understanding-beneficial-ownership-fatf-recommendation-24.

[120] FATF, *Anti-Money Laundering and Counter-Terrorist Financing Measures: Indonesia - Mutual Evaluation Report September 2018*, (Sydney: FATF, 2018), p. 147; FATF, *Anti-Money Laundering and Counter-Terrorist Financing Measures: Indonesia - Mutual Evaluation Report*, p. 172.

issue as members of the FATF enjoy certain privileges in conducting international financial transactions.[121] For example, membership might lead to an increase in international cooperation through the use of informal communication and participation in FATF forums,[122] thereby fostering collaboration in financial sectors and encouraging discussions on the application of Recommendation 13 concerning Correspondent Banking Services.[123] However, concrete results have yet to be achieved.

4.1.4. Tackling Internal Threat

Lastly, a challenge identified in Indonesia is the lack of cooperation between government and private sectors impedes collaborative efforts essential for overcoming green financial crime. Although no concrete evidence of benefit has been seen, the efforts the country has made to achieve full membership and the eventual acceptance shows the government's commitment to addressing money laundering in general.[124] Furthermore, the FATF maintains strong working relationships with public and private-sector stakeholders to develop Mutual Evaluation Reports assessing jurisdictional compliance with FATF recommendations.[125] The FATF has outlined essential priority actions for Indonesia's improvement. For instance, it underscores the necessity for Indonesia to formulate high-level operational policies across competent authorities for initiating parallel money laundering investigations when probing relevant predicate offenses relating to natural resources.[126] Joining the FATF entails enhanced collaboration with the organization and access to mutual evaluation reports and recommendations. These benefits are undoubtedly advantageous for addressing money laundering in the natural resources sector.

5. Limitations to Indonesia FATF Membership

Whether FATF membership is or will be beneficial in eradicating money laundering in the mining, forestry, and fishery sectors in Indonesia is limited by several factors. Firstly, whether Indonesia addresses money laundering in the natural resources sector ultimately depends on its political and social value, and consequently, the existence of sufficient political will to tackle and overcome the numerous challenges it faces.[127] Secondly, adopting FATF's recommendations and best practices will prove difficult due to inherent challenges in integrating transplanted legal ideas into an existing legal system and culture.[128] FATF recommendations are highly prescriptive and often require significant legal and structural

[121] Dwi Nurahman, Armalia Reny WA, Desmon Desmon, and Nadia Anisa, "The urgency of Indonesian collaboration," pp. 431-432.
[122] Ibid., p. 432.
[123] FATF, *Guidance on Correspondent Banking Services* (Paris: FATF, 2016), last modified 15 March, 2024, https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/Guidance-Correspondent-Banking-Services.pdf.
[124] Rahmad Nasution, "Minister expects Indonesia to become full FATF member by 2023."
[125] Alex Zerden, "Demystifying the financial action task force," *Default*, last modified 15 March, 2024, https://www.lawfaremedia.org/article/demystifying-financial-action-task-force.
[126] FATF, *Anti-Money Laundering and Counter-Terrorist Financing Measures: Indonesia - Mutual Evaluation Report*, pp. 12, 47-48.
[127] Jonathan A Eddy, "Legal Culture, Institutional Design Choices, and the Struggle to Implement an Effective Anti-Money Laundering Regime in Indonesia," *Australian Journal of Asian Law* 7, no. 1 (2005): pp. 17-19.
[128] Eddy, "Legal Culture," pp. 1, 18.

changes that may be difficult to implement, particularly as these recommendations are standardized without considering the country's culture and context.[129]

Lastly, it is important to note that the FATF Recommendations are merely grounded in soft law and have little coercive force aside from the threat of membership exclusion and a spot on the FATF "Black and Grey" list.[130] Unfortunately, from 2015 to 2021 there has not been a drop in money laundering cases in Indonesia or a significant improvement in Indonesia's Corruption Perception Index score.[131] However, scholars remain optimistic about the possibility of success with FATF membership.[132]

6. Conclusion

Indonesia, as a nation heavily reliant on its natural resources, faces significant vulnerabilities to money laundering in sectors such as mining, forestry, and fishery. Despite efforts to combat money laundering in these sectors, the country still grapples with a lack of international coordination, difficulty in tracking liable actors, coordination issues, and inefficient law enforcement. Indonesia's decision to become a full member of the FATF in October 2023 marks a strategic move to address these challenges. The FATF, serving as the global standard-setting body for anti-money laundering and counter-terrorist financing, presents opportunities for Indonesia to enhance its anti-money laundering framework and performance. In conclusion, membership in the FATF offers tangible benefits for eradicating money laundering in the mining, forestry, and fishery sectors in Indonesia. However, challenges and limitations remain due to the difficulties in integration of transplanted legal ideas into existing systems, lack of concrete benefits, and limited coercive force of the FATF recommendations.

[129] Rini Wulandari and Mohammad Kemal Dermawan, "Construction of Anti-Money Laundering Policy in Indonesia from an International Law," pp. 1183.
[130] Nankpan Moses Nanyun and Alireza Nasiri, "Role of FATF on financial systems of countries," pp. 239-240.
[131] Fany Dewi Rengganis and Dwi Setiawan Susanto, "Evaluation of the anti-money laundering programs implementation in Indonesia," *Integritas: Jurnal Antikorupsi* 9, no. 2 (2023): pp. 229-230.
[132] Yuni Afifah, "Indonesia's Joining as a Member of FATF, Here's UNAIR Legal Expert's Response."

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