

# **Rough trade**

## How Australia's trade policies contribute to illegal logging in the Pacific Region

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## **Abstract**

The Australian Government is not doing enough to ensure that Australian imports of forestry products are consistent with the goals of Australian aid programs and stated commitments to reduce greenhouse gases. Australian aid includes programs and projects to help Indonesia, Papua New Guinea and the Pacific Island nations to better manage their forestry resources for long-term sustainability, maximum socio-economic benefit for their citizens and to participate in REDD (reduced emissions from deforestation and forest destruction), the innovative program rewarding carbon sequestration. Illegal logging in these countries is more extensive than generally understood and it is a serious impediment to achieving the goals of Australian aid programs.

Illegal logging is a major cause of deforestation and environmental destruction; it undermines nations' efforts to manage forest resources for a sustainable industry, destroys the livelihood of forest-dwellers and costs governments large sums in lost revenue. It fosters corruption and is associated with organised crime and violence. It undercuts the international and Australian domestic markets for wood products from legally managed forestry by being cheaper. Deforestation is responsible for about 20 per cent of global greenhouse-gas emissions, and illegal logging is responsible for a large part of the deforestation. Continued illegal logging demonstrates that governments cannot protect their forest resources and it undermines their credibility for participation in the REDD mechanism.

Ultimately, illegal logging is market-driven and a significant part of the demand is international. Australia inadvertently contributes to these problems by importing timber and wood products, including wooden furniture, without adequate controls in place to ensure that the wood is legally sourced. The lack of legal mechanisms available to Customs for the control of illegal wood imports is inconsistent with the goal of Australia's aid program, environmentally sound management of natural resources among neighbouring countries and at home. It may benefit the importers of certain products by keeping prices low but those artificially low prices undercut Australia's own forestry and forestry-based industries. Several specific measures are recommended to ensure that timber and wood-product imports are legally sourced.

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## Acronyms and Abbreviations

A3P	Australian Plantation Products and Paper Industry Council
AFCS	Australian Forest Certification Scheme
AMAF	ASEAN Ministers on Agriculture and Forestry
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of South East Asian Nations
ASEM	Asia-Europe Meeting
AusAID	Australian Agency for International Development
CITES	Convention on International Trade in Endangered Species
DAFF	Department of Agriculture, Fisheries and Forestry
DEWHA	Department of Environment, Water, Heritage and the Arts  As of September 2010, this department has been reorganised as the Department of Sustainability, Environment, Water, Population and Communities, or SEWPaC.
DFAT	Department of Foreign Affairs and Trade
EMS	Environmental Management System
EU	European Union
FAO	Food and Agricultural Organisation of the United Nations
FSC	Forest Stewardship Council
FLEGT	Forest Law Enforcement, Governance and Trade
GDP	Gross Domestic Product
IFCI	International Forest Carbon Initiative
ITTO	International Tropical Timber Organization
LAS	Legality Assurance System

LOI	Letter of Intent
MoU	Memorandum of Understanding
MRVs	Measurable, Reportable and Verifiable Schemes
NGO	Non-governmental Organisation
PNG	Papua New Guinea
RAN	Rainforest Alliance Network
REDD	Reducing Emissions from Deforestation and Forest Degradation
REDD+	REDD plus conservation, sustainable management of forests and enhancement of forest carbon stocks
RILO-A/P	Regional Intelligence Liaison Office of Asia and the Pacific
RIS	Regulation Impact Statement
TTAP	Tropical Timber Action Plan
UNCCPC J	United Nations Commission on Crime Prevention and Criminal Justice
UNFCCC	United Nations Framework Convention on Climate Change
UNFF	United Nations Forum on Forests
VPA	Voluntary Partnership Agreement
WGAFFC	Working Group on Agriculture, Food and Forestry Cooperation



## Executive summary

Australian aid policy and Australian trade policy are inconsistent in the area of forestry and wood products. Australian aid tries to encourage sustainable management of forests, but the largest challenge to sustainable management is illegal logging, and Australian import policies for timber and wood products are not strong enough to halt the import of illegally sourced products into Australia.

Australia's aid program (AusAID) has focused on economic development, improvement in standards of living, good governance and social conditions in neighbouring countries, including those that are the focus of this study: Indonesia, Papua New Guinea (PNG) and the Pacific Islands. AusAID also puts significant effort into the sustainable management of forest resources and using the new REDD (reducing emissions from destruction and degradation of forests) mechanisms that have grown out of global concern for climate change. (See Appendix A for REDD and REDD+ definitions.) AusAID's International Forest Carbon Initiative (IFCI) focuses on pilot work in Indonesia and PNG to assist local communities to protect their forests, rehabilitating those that are destroyed or degraded and managing them in ways that will allow the forest owners to qualify for assistance under the REDD initiative.

The same countries that are the focus of Australia's work on the IFCI are among those that have problems with illegal logging and trade in illegally produced wood products. Illegal logging is a problem of astonishing scale worldwide. Where large forest stands still exist, they are in remote areas and vulnerable because legislation concerning the ownership and use of forest resources is either weak or not enforced or both. Vast sums of money are involved, and the illegal trade has led to corruption, breakdown in governance, organised crime and violence.

The concept of sustainable forest management is included in the laws of some countries and not others. Not all legal logging activities are conducted in a sustainable manner, but it is clear that no illegal logging is sustainable, responsible as it is for massive environmental, economic and social damage in the Asia-Pacific area. When illegal logging cannot be controlled, it undermines countries' ability to manage their natural resources, revenues and credibility for participation in REDD programs

and for potential investors and it undermines Australia's aid efforts in these countries.

There are many drivers of illegal logging but of concern to Australia is the demand for timber and wood products in high-income, wood-importing countries, including Australia. Because there have been, until recently, very few laws prohibiting the import of illegally harvested timber and wood products anywhere in the world, and because it has been relatively easy to blend illegally harvested wood into processing and marketing chains, vast areas of old forest have been destroyed, enormous sums of money have disappeared mostly into a relatively small number of private pockets, and both the forest-dependent rural populations and their nations have suffered economic losses and environmental damage. This situation has continued for decades despite various national and international attempts to correct it. Some source countries, notably Indonesia, are now seriously confronting the problem and taking steps to stop the practice. They need help from the importing countries and have asked for it.

In order to end the illegal trade, experience shows that it will be necessary to control both the producing (supply) side and the consuming (demand) side. With some source countries trying to control the supply of wood and others appearing unable to do so, it is time to look seriously at the demand side. Recently, the US enacted legislation against importing inadequately documented timber and wood products and laws are just beginning to come into force. The European Union (EU) established a process under FLEGT (Forest Law Enforcement, Governance and Trade) for voluntary partnership agreements (VPA) that would include setting up chains of custody verification, certification and third-party monitoring systems. The FLEGT and EU due diligence procedures (for importing from other, non-VPA countries) are now, as of September 2010, set to be strengthened into law by 2012, requiring importing companies to trace the source of their wood and imposing penalties for failure to do so. Stopping the import of illegal material in high-income countries will not solve all the problems of forest destruction but, by removing a large part of the high-end demand, it will be a major step in the right direction.

Australia has been considering establishing a policy on wood and wood-products imports that would ban illegally sourced wood in line with promises made during the 2007 federal election. And during the recent

election campaign, both the Labor Party and the Coalition stated that, if elected, they would take action to halt the import of illegal timber. Retailers and wood-importing companies are now responding to consumer demand for sustainably harvested wood. Australian trade organisations, commercial firms and environmental organisations have made statements supporting stronger legislation against importing illegally harvested timber and wood products that incorporate illegally harvested wood.

Illegally harvested wood is generally cheaper than wood harvested under a legal, sustainably managed and verified system that ensures taxes, duties and forest owners are paid. The illegal trade undercuts the value of legal trade internationally as a result and threatens Australia's domestic production and processing as well. Despite this, there is some opposition to a stronger wood-import policy. As Australia is a net wood-importing country, the import of cheaper materials will benefit some businesses but it will undermine properly managed domestic wood production and processing. A report commissioned by government, produced as an input to an RIS (Regulation Impact Statement) that cast doubt on the advantages of legislating stronger controls of wood imports, contained numerous methodological and estimation flaws, some of which were pointed out in official responses from the EU and many groups in Australian civil society, including Australian trade groups. The minister distanced himself somewhat from its conclusions but the government has not yet (as of June 2010) taken any legal action on the issue.

The extent of trade in illegal wood is very large, with some estimating that up to 40 per cent of the world trade comes from illegally logged tropical forests. Australian wood and wood-product imports contain an estimated nine per cent of illegally harvested wood but the proportion may be higher. Furniture, sawn wood, some building materials (window frames, doors, flooring for example) and paper products are particularly concerning. Australia should work to stop the import of illegal wood for its own sake as well as that of its partners in aid and trade. This is not a simple task but neither is it impossible. Sophisticated information and communication technologies and the fact that other countries are working to strengthen certification systems and customs controls suggest that a united international effort to stop the illegal trade is perfectly feasible.

Much is happening elsewhere in the world. In May 2010, Norway and Indonesia announced an agreement whereby Norway will pay Indonesia up to US\$1 billion for forestry projects with a two-year moratorium on new logging concessions. Later in the year, a new global Forest Legality Alliance that unites conservation groups, government agencies, corporations and business associations with a stake in promoting legal, forest-product supply chains was announced. In June, the EU announced its agreement to ban the import of all illegal timber beginning in 2012.

For economic, environmental and ethical reasons, Australia should join the efforts of both developed and developing countries by supporting the sustainable development of its partner nations and the substantial international efforts to stop illegal logging. Recommendations cover six areas:

**Continue and strengthen aid work on forest preservation/renewal.**

Australia has taken a leading role in its work on increasing forest-management skills and on restoration in Indonesia in addition to supporting pilot use of REDD mechanisms to reward local populations for preserving forests. Aid-program managers and policymakers must be aware of the pitfalls in implementing REDD and programs must be coordinated with a clamp-down on illegal logging, or they will not work.

**Develop strong trade policies and laws to ensure that Australian imports of timber and wood products do not include illegally sourced materials.** In the trading sphere, Australia can assist partner nations and also work on the home front. Illegal logging is, to a significant degree, driven by the markets in high-income countries. Given the overwhelming influence of the financial power gained by illegal logging interests and the damage caused, it is important that Australia participate in international efforts to stop trade in illegally logged timber and wood products.

**Engage with trade organisations and other elements of civil society in Australia to create a unified acceptable approach to the problem and to educate the purchasing public.** The problem of illegal logging affects different groups differently. Some importers and consumers may gain from cheaper imports but local industries are hurt by them. Most consumers would prefer not to have to make difficult choices and appreciate clarity. Many Australians feel strongly about

playing a responsible role internationally, particularly for less-advantaged peoples and the environment. Very few would willingly support violent organised crime.

**Continue to support research into DNA identification and other forms of dendroprovenancing.** Current research into dendroprovenancing (DNA identification and other methods of identifying the source and species of wood), both in Australia and internationally, will make verification of wood sources much easier and simplify certification systems when these methods are ready to implement.

**Strengthen Australian Customs, including sharing of information and harmonising procedures with other nations.** Facilitating the harmonising of Customs' procedures and the sharing of information will be a step forward. A complementary and necessary measure is to facilitate the import of well-documented, legally harvested products by streamlining import procedures for this category of wood and wood products.

**Expand participation in regional and international initiatives aimed at controlling illegal logging.** Government can assist its businesses to import only legally harvested wood and wood products by working on bilateral agreements with exporting countries. Australia should coordinate with other national legislative initiatives that aim to make the import and trade in timber that cannot be shown to have been legally sourced an illegal and prosecutable act. When its import laws are stronger, Australia may take a lead in regional and international organisations working to stop the illegal trade.



## 1. Introduction

This paper was written with the goal of examining Australia's aid and trade policies with regard to forests. Australia is contributing in a significant way through its aid policies, programs and projects to the aims of better management of remaining forests around the world, in particular focusing on its immediate aid-and-trade partners in the Pacific Region and also supporting other international work such as World Bank initiatives on improved forest management. Australian aid work is pioneering the use of the REDD and REDD+ (reducing emissions from deforestation and forest degradation) mechanisms that were established in the wake of the Copenhagen Climate Conference in pilot projects in Indonesia; it is also laying the groundwork for similar work in Papua New Guinea (PNG) and elsewhere. (See Appendix A for REDD and REDD+ definitions.)

However, on the trade side where the key threat to good forest management is illegal and unsustainable logging, both rampant in the countries where Australia is working to promote good management in its aid programs, there has been much less progress. Illegal logging is a problem of both supply and demand. Improved forest management will help with the supply side of this problem by reducing the access of illegal loggers to forests. On the demand side, better control of wood imports in countries worldwide will reduce the demand for cheap, illegally sourced products. Australia's lack of specific trade policies and import legislation to stop the unwitting import of illegally harvested timber and wood products is potentially undermining the goals of the aid projects.

During campaigning in the recent federal election, both the Labor Party and the Coalition published statements that, if elected, they will take action to halt the import of illegal timber.<sup>1,2</sup> However, statements about intentions to halt the import of illegally logged timber and wood products have been made by governments in the past with no discernible effect. Specific laws with strong enforcement measures are required along with a

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<sup>1</sup> P Garrett and T Burke, 'Government takes strong action on illegal timber imports', Australian Labor, 12 August 2010.

<sup>2</sup> Liberal Party, *The Coalition's plan for real action to support forestry: Coalition Election Policy 2010*, Barton, 2010.

credible verification system and due diligence checks. It is important that the public remains aware of this issue and holds the government to its promises.

The paper looks at this potential contradiction and suggests a course of action. Following the Introduction, Chapter 2 summarises Australia's aid program and underlying supporting agreements on forestry management with Indonesia, PNG and the Pacific Islands. Chapter 3 assesses the extent of illegal logging and the problems it causes. Chapter 4 examines illegal logging and efforts to curtail it in the countries of focus in this study. Chapter 5 covers the drivers of illegal logging. Chapter 6 discusses trade patterns in illegally logged timber and wood products. Chapter 7 explores Australian and international efforts to limit the illegal logging by controlling imports. Chapter 8 makes policy recommendations for Australia.



## 2. Australian aid programs for forestry management in Indonesia, PNG and the Pacific Islands<sup>3</sup>

### 2.1 The Asia-Pacific Forestry Skills and Capacity Building Program

Australia began the Asia-Pacific Forestry Skills and Capacity Building Program in 2007 to assist countries in the Asia-Pacific Region to increase their forest management expertise and to improve the carbon sequestration performance of their forests. Under Phase I of the program, \$2.1 million was spent on 15 projects. Most funding went to hands-on training and training workshops aimed at improving skills for managing forests sustainably and combating illegal logging. In early 2008, the program became part of the International Forest Carbon Initiative (IFCI), one of Australia's key climate-change policies and programs.<sup>4,5</sup>

### 2.2 International Forest Carbon Initiative

#### Forest Carbon Partnerships

Australia's IFCI aims to demonstrate that reducing emissions from deforestation can be part of an effective international response to climate change. Total funding allocated to date is A\$200 million over five years. A central element of the initiative is taking practical action on REDD through collaborative Forest Carbon Partnerships with Indonesia and PNG.<sup>6</sup>

Within the framework of the Indonesia-Australia Forest Carbon Partnership, Australia will support Indonesia in the development of its own national framework for avoided deforestation and in the implementation of the Kalimantan Forests and Climate Partnership. The Kalimantan Partnership is the first large-scale demonstration activity of its kind, with goals to prevent the deforestation of up to 70,000 hectares of Kalimantan's peatland forests, to rehabilitate 200,000 hectares of

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<sup>3</sup> Note that much of this section is taken verbatim or nearly verbatim from official government statements on websites of the Department of Agriculture, Fisheries and Forestry (DAFF), the Department of Climate Change and Energy Efficiency (DCCEE) and AusAID listed in the bibliography.

<sup>4</sup> DAFF, *Asia-Pacific Forestry Skills and Capacity Building Program*, Australian Government, 2010.

<sup>5</sup> DCCEE, *International Forest Carbon Initiative*, Australian Government, 2010.

<sup>6</sup> DCCEE, *International Forest Carbon Initiative*.

degraded peatland and to plant up to 100 million new trees on rehabilitated peatland. It includes:

- measures to reduce emissions from deforestation and forest degradation
- approaches to forest-carbon measurement linked with Indonesia's national systems
- incentive-based payments for forest-dependent communities in Central Kalimantan
- institutional and governance arrangements for REDD activities.<sup>7,8</sup>

In the northern part of the site, interventions will focus on avoiding deforestation and conserving intact forest areas. Activities will include measures to improve forest-management practices directed towards preventing and managing fire and addressing illegal logging. Key to achieving this will be the communities in Central Kalimantan. In the southern part of the site, interventions will focus on reversing processes of environmental degradation. This will be achieved by blocking drainage canals to raise the water table and re-wet the peat, and reforestation to re-establish tree cover in highly degraded areas. Rehabilitating the hydrology of the peat system will also assist in reducing the frequency of peatland fires, a major cause of Indonesia's emissions.<sup>9</sup>

The Sumatra Forest Carbon Partnership aims to reduce greenhouse-gas emissions from deforestation and forest degradation on the Indonesian island of Sumatra. Worth A\$30 million, it will address immediate threats to forests on mineral soils in Jambi Province. Following the first in Kalimantan, this is to be a second demonstration activity. It is also in line with the UN-REDD program on reducing emissions from deforestation and degradation.<sup>10</sup>

The goal of the Papua New Guinea-Australia Forest Carbon Partnership is to assist PNG to develop policies to avoid deforestation; in addition, it aims to introduce a forest-carbon measurement system and

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<sup>7</sup> AusAID, *Indonesia-Australia Forest Carbon Partnership Factsheet 2*, December 2009.

<sup>8</sup> AusAID, *Kalimantan Forests and Climate Partnership Factsheet 3*, December 2009.

<sup>9</sup> AusAID, *Kalimantan Forests and Climate Partnership Factsheet 3*.

<sup>10</sup> 'Indonesia, Australia announce carbon project in Sumatra', *MySinchew.com*, 2 March 2010.

demonstration activities to enable PNG's participation in future international forest-carbon markets. Credible accounting of changes in forested areas is essential for such participation and so, as a first step, Australia will support PNG in the development of a rigorous forest-carbon measurement and accounting system.

Australia's contribution to the World Bank's Forest Carbon Partnership Facility will assist developing countries to establish credible estimates of their national forest-carbon stocks, identify sources of forest-related emissions, determine the opportunity costs of avoided deforestation interventions and design appropriate response strategies.<sup>11</sup>

### **Concept Development Grants**

Under the IFCI, up to A\$1.5 million has been made available to support international non-government organisations (NGOs) to develop concepts for REDD demonstration activities. International NGOs possess practical, on-the-ground experience, particularly in providing alternative livelihoods to local communities and in developing and implementing programs that provide payments for environmental services. IFCI aims to draw upon this knowledge by supporting relevant NGOs to develop concepts for incentive-based REDD demonstration activities in Indonesia and PNG.

The three key objectives of the grants are to:

- 1) demonstrate through the activity concepts that REDD can be part of an equitable and effective future global outcome on climate change
- 2) promote creativity, transparency and methodological rigour by supporting the development of a range of ideas to identify how investment in REDD can achieve emissions reductions while promoting sustainable livelihood options for forest-dependent communities
- 3) strengthen linkages between local initiatives and national governments in order to inform the thinking of those governments

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<sup>11</sup> AusAID, *Indonesia-Australia Forest Carbon Partnership Factsheet 2*.

on how to shape national REDD strategies and launch demonstration activities in selected areas/landscape types.

The grant funding supports the development of initial demonstration activity concepts, which are then provided to the host country's national government for its consideration. AusAID lists nine such grants given out under the first phase of the Concept Development Grants program. They are funded in the A\$100,000 to A\$200,000 range and are pilots in specific regions of Indonesia and PNG aimed at testing forest-management projects that will be consistent with REDD for communities, commercial logging companies and/or local government agencies to manage their forest resources.

### **2.3 Australian and Indonesian Letter of Intent**

In November 2008, the Australian and Indonesian governments signed a Letter of Intent (LoI) to cooperate primarily on capacity building in forestry and on verifying the legal origins of timber products. The LoI builds on existing bilateral agreements between the Australian and Indonesian governments, the Australia-Indonesia Ministerial Forum and the Australia-Indonesia Working Group on Agriculture, Food and Forestry Cooperation (WGAFFC). The LoI provides a framework to:

- support cooperation on building the capacity of forest professionals and experts to implement sustainable forest-management practices in the region, including preventing illegal logging
- work toward determining legal requirements for the trade of timber and wood products
- develop systems that assure the legality of timber and wood products, which include forest certification and chain of custody
- collaborate to enhance forest law enforcement and governance and encourage sourcing of timber and wood products from legal and sustainable forest practices.<sup>12</sup>

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<sup>12</sup> DAFF, *Australia's Bilateral Agreements on Forestry*, Commonwealth of Australia, 2010.

## 2.4 Australia and PNG Memorandum of Understanding

Australia and PNG signed a Memorandum of Understanding (MoU) on 10 June 2009 with the aim of encouraging greater cooperation in relation to:

- sustainable forest management and the certification of forests
- promoting improved trade, investment and sustainable development that includes improvements in the legal verification of the origins of timber and timber products
- identifying the capacity-building needs to support future growth in the forest industry of both countries
- identifying areas for closer collaboration on forestry issues through the existing multilateral forestry forums
- identifying opportunities for closer collaboration on forest research activities, which support mutually beneficial outcomes.<sup>13</sup>

## 2.5 Experience in implementing REDD in Australia and internationally

A recent report outlined the difficulties that have confronted Australia, a high-income, developed country with good governance, well-developed institutions and an educated population, in implementing the REDD requirements in order to meet its own Kyoto obligations effectively and actually decrease rates of deforestation.<sup>14</sup> The report noted four potential hazards to be drawn from the experience:

- 1) risks associated with politically negotiated baselines
- 2) difficulty in setting baselines
- 3) measurement uncertainty
- 4) difficulty in implementing successful policy measures for reducing deforestation and forest degradation.

The argument, well-backed-up by accounts of Australia's experience thus far, is that while REDD is clearly a good idea, a great deal depends on

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<sup>13</sup> DAFF, *Australia's Bilateral Agreements on Forestry*.

<sup>14</sup> A Macintosh, *Reducing emissions from deforestation and forest degradation in developing countries: A cautionary tale from Australia*, Policy Brief no. 12, The Australia Institute, April 2010.

reliable implementation. Major pitfalls involve the difficulty in achieving accurate measurements to establish realistic baselines and the potential for political manoeuvrings. Given the difficulties experienced even in a country with good institutions, further issues can be expected to arise in a developing country context where governance, institutional and technical problems exist. Other authors have commented on the specific risks and difficulties of implementing REDD in developing countries:

There is great risk that the international community will rush into REDD investments that can provide crucial 'offsets' for carbon markets in the US and elsewhere, without the necessary safeguards to protect the environmental integrity of the outcomes. This will leave forests vulnerable to further destruction and prevent meaningful actions by Northern countries to reduce emissions. The Indonesian government's recent attempts to classify environmentally devastating oil palm plantations as forests are an alarming yet telling sign of the challenges that lie ahead. Further incentivization of the creation of oil palm plantations would legalize further deforestation—much of it technically illegal—and accelerate natural forest clearance, biodiversity loss and greenhouse gas emissions.

Multi-lateral coordination and engagement is critical for meaningful reductions of greenhouse gas emissions and true ecosystem protection. REDD schemes must use science-based forest definitions, guard against natural forest conversion and include key safeguards for community rights and tenure. It is imperative that these policies encourage governance reforms and include robust, multi-level monitoring, reporting and verification systems.

Indonesia, with its carbon-rich peat swamps and rapid deforestation rate, has been seen as a crucial target—and challenge—for REDD. The Indonesian government, quick to see the financial benefits this new schema might offer, was the first country to issue regulations specifically written to address REDD, allowing indigenous peoples, local authorities and private investors to engage in REDD projects. As REDD schemes are developed, the Indonesian government must strengthen internal capacity to effectively manage, distribute and monitor funds. **REDD policies in Indonesia will only succeed if the development of legal and sustainable forest product markets is supported. Otherwise, even the most well-intentioned plans would be undercut by demand-side forces and leakage of illegal timber products.**<sup>15</sup>. (Emphasis added).

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<sup>15</sup> A Chan, *Illegal Logging in Indonesia: The Environmental, Economic and Social Costs*, Blue-Green Alliance, April 2010.

## 3 Illegal Logging

### 3.1 Extent of illegal logging

A fifth of the world's wood comes from countries that have serious problems enforcing their timber laws, and most of those countries are also experiencing the fastest rates of deforestation. Until a decade ago, many governments were reluctant to acknowledge illegal logging, largely because it was made possible by the corruption of their own officials. As early as the nineteen-eighties, the Philippines had lost the vast majority of its primary forests and billions of dollars to illegal loggers. Papua New Guinea, during roughly the same period, experienced such catastrophic forest loss that it commissioned independent auditors to assess why it was happening; .... In 1998, the Brazilian government announced that most of the country's logging operations were being conducted beyond the ambit of the law.<sup>16</sup>

The issue is not a new one; despite serious alarms being raised for many years about the devastation of the remaining large forests of the world, large-scale, often illegal and uncontrolled logging and massive deforestation have continued unabated for decades. The G8 leaders recognised the problem in 1998 and committed to act, spending large amounts of money and effort.<sup>17</sup>

Recent coverage by the BBC included the estimate that up to 40 per cent of the world's wood production is estimated to come from illegally logged tropical forests.<sup>18</sup> The World Bank has stated that the cost to governments may be around US\$15 billion a year.<sup>19</sup> Some estimates state that approximately 50 per cent of timber exports from the Amazon Basin, Central Africa, Southeast Asia and the Russian Federation originate from illegal logging.<sup>20</sup>

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<sup>16</sup> R Khatchadourian, 'The Stolen Forests: Inside the covert war on illegal logging', *The New Yorker Magazine*, 6 October 2008.

<sup>17</sup> Chatham House, *Illegal Logging and Related Trade: 2008 Assessment of the Global Response (Pilot Study)—Summary, Energy, Environment and Development Programme*, London, August 2009, p. 6.

<sup>18</sup> M Kinver, 'EU set to ban illegal timber from 2012', *BBC News*, 17 June 2010.

<sup>19</sup> K Schrader and L Ivers, *Weak Forest Governance Costs US\$15 Billion A Year*, News Release No:2007/86/SDN, The World Bank, 2006.

<sup>20</sup> German Institute for Forest Genetics, *Putting timber fingerprinting into practice: Progress towards tracing illegal logging with DNA and chemical fingerprint methods*, German Federal Ministry of Agriculture, Food and Consumer Protection, September 2008.

Illegal logging is a major driver of deforestation, with the volume of industrial wood from illegal sources estimated at 350-650m cubic metres each year. Although certification schemes do exist, experts say that in many regions, just as much timber is logged illegally as legally, making it very difficult for consumers to make an ethically based choice.<sup>21</sup>

Accurate estimates of the extent of illegal logging are difficult to make as data are seldom reliable. The figures shown in Table 1 were compiled by World Bank officers in 2006 and are often quoted.

Table 1: Indicative estimates of illegal logging (2000–04)

Region/country	Percent of total production
<b>Russia</b>	
Northwest production	10 to 15
Far-eastern production	50
<b>Southeast Asia and Pacific</b>	
Cambodia	90
Indonesia	70 to 80
Lao PDR	45
Malaysia	up to 35
Thailand	40
Vietnam	20 to 40
Papua New Guinea	70
<b>South America</b>	
Bolivia	80
Brazil	20 to 47
Colombia	42
Ecuador	70
<b>Africa</b>	
Cameroon	50
Gabon	70
Ghana	60

Source: World Bank,<sup>22</sup> Schrader.<sup>23</sup>

<sup>21</sup> Kinver, 'EU set to ban illegal timber from 2012'.

<sup>22</sup> World Bank, *Guidelines: Formulation and Implementation of National Action Plans to Combat Illegal Logging and Other Forest Crime*, World Bank Technical Paper, draft for discussion,



### 3.2 Summary of the problems caused by illegal logging in source countries

Illegal logging is broadly recognized as one of the most critical proximate causes of deforestation and forest degradation.<sup>24</sup>

In Asia, as elsewhere around the world, the remaining great forests are disappearing at an alarming rate. The Food and Agriculture Organization of the United Nations (FAO) has estimated that the area of primary forest in Asia decreased at an average rate of 1.5 million hectares a year from 1990–2005.<sup>25</sup> Traditional owners, smallholders, tribes and villagers have lost control over their forests and the forest resources they used. Over-cutting causes severe environmental problems locally and, as is now becoming widely recognised, globally. Not all legal logging is done sustainably nor are the proceeds always properly handled, but it is clear that illegal logging is widespread and damaging. Until it is stopped, efforts to ensure that forests are managed sustainably are doomed to fail. Unfortunately, illegal logging has been a feature of the timber industry in the countries of focus in this report.

Summarised here are the problems caused by illegal logging, which:

- 1) Inflicts serious environmental damage, rewards criminal behaviour and undermines governments by encouraging the corruption of public officials.
- 2) Robs local populations of their natural resources; those who depended on the forests for game and other food, wood and a wide variety of non-timber forest products are impoverished by deforestation. Agricultural production is damaged when erosion on clear-cut land creates non-productive wasteland. Revenues from illegal logging tend to be captured by 'logger barons' and

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revised June 2006, The International Bank for Reconstruction and Development/The World Bank, Washington DC, 2007.

<sup>23</sup> Schrader and Ivers, *Weak Forest Governance Costs US\$15 Billion A Year*.

<sup>24</sup> H Scheyvens and F López-Casero, *Enhancing Customs Collaboration to Combat the Trade in Illegal Timber*, Institute for Global Environmental Strategies, 2010.

<sup>25</sup> FAO (Food and Agriculture Organization of the United Nations), *Global Forest Resources Assessment 2005: Progress towards sustainable forest management*, FAO Forestry Paper 147, Rome, 2005.

officials, rarely land owners; sometimes the funds are used for political purposes and have even funded armed conflict.

- 3) Interferes with the ability of nations to manage forest resources. Ideally countries want to manage their forests sustainably for long-term income streams and to avoid environmental problems; some might prefer to clear some forest areas for immediate income or to use land for other purposes. Whatever a country's goals, illegal logging undermines its ability to manage its forests to achieve those goals.
- 4) Undermines legitimate logging because it undercuts the pricing of sustainably harvested plantations by flooding markets with cheaper timber and wood products—it damages legitimate players in domestic and international trade.
- 5) Sabotages the collection of public revenues from taxation of legal logging operations; this results in large monetary losses for governments and discourages investment by indicating to potential investors that the rule of law is not enforced.
- 6) Causes a significant proportion of deforestation and thus of atmospheric carbon and climate change; world-wide, deforestation accounts for about 20 per cent of global greenhouse-gas emissions.<sup>26</sup>
- 7) Undermines the credibility of governments with respect to participation in REDD programs.

### 3.3 Socio-economic impacts

In many timber-producing countries the majority of trees are illegally cut, resulting in significant losses of assets and revenues and devastating damage to the forests upon which hundreds of millions of the world's poorest people depend.<sup>27</sup>

When forests are cut there is immediate loss of wild plant and animal resources on which local people depend, reducing their ability to feed and

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<sup>26</sup> J Blaser, *Forest law compliance and governance in tropical countries*, FAO (Food and Agriculture Organization of the United Nations) and IITO (International Tropical Timber Organization), Rome, 2010.

<sup>27</sup> Chatham House, *Illegal Logging and Related Trade*.

house themselves. Traditional people in tropical areas tend to use a wide assortment of non-timber forest products, including forest fruits and plants, medicinal herbs, leaves for roofing, vines for baskets and more. Much of the traditional diet comes from forest-dwelling animals and often from fish in clear-running streams. When deforestation is associated with high levels of erosion on hillsides, rivers become heavily silted and fish species disappear. This situation is documented as occurring all over Borneo. Traditional activities, including hunting, fishing and farming, are all disrupted when the forests are gone. Some tribal people do find jobs with timber companies but they are often very poorly paid and only hired short term. For most, the long-term economic impact is devastating.

In tropical areas deforestation is often a cause of erosion, soil loss and conversion of land to wasteland, thus affecting agricultural production. Most of the nutrients stored in a tropical forest are in the trees, underbrush and leaf litter and, when these are removed, rain leaches the soil and nutrients quickly disappear. Traditional slash-and-burn agriculture (where small areas of forest were cut and burned and crops grown with the benefit of minerals in the ash for a few years and then the area was left to regenerate) is generally considered to have been sustainable as long as the cut areas were relatively small and the fallow periods were long enough for the forests to regrow between cuttings. Increasing population pressure has made this system less viable because the areas cut have become larger and the land has less time to recover between the shorter rotation periods. Uncontrolled large-scale logging operations are at the extreme end of the spectrum and most damaging of all.

Deforestation upstream has caused flooding damage to small settlements and even large cities and, as has been reported around Asia and elsewhere, denuded hillsides have caused devastating mudslides in heavy rains. Watersheds are disrupted and water storage reduced. Economic impacts include shortening the usable lifetime of reservoirs by filling them with silt and sometimes damaging roads and other infrastructure. Mangroves stabilise coastlines and their removal often leads to coastal erosion.

Most tropical forests consist of a wide range of tree species and very few of them succeed when cultivated in reforestation projects but some plantations do well and every effort should be made to source wood from these rather than from old-growth mixed forests containing species that

are largely irreplaceable. Deforestation leads to a loss of biodiversity and environmental value; it is an economic loss when forest animal and plant species with chemical properties that are, or could be in the future, of use for medicines and industry are lost.

AusAID-sponsored projects in Indonesia (discussed above) are working to rehabilitate deforested land. Badly damaged deforested land can be a site for plantation establishment for the wood industry. There is now a great concern that by falsely declaring standing old forests as degraded land, unscrupulous companies are gaining permission to establish plantations of oil palm and fast-growing trees leading to remaining old forests being cut.<sup>28</sup>

### 3.4 Impact on governance

Illegal logging is sometimes undertaken by criminal gangs but often the line between legal and illegal logging is blurred. There are many documented cases where legally operating logging companies with legally obtained permission to harvest certain timber concessions conduct mixed legal and illegal activities. They have logged in areas outside their permitted concessions, including in national parks,<sup>29</sup> and/or taken more from a given area than permitted, felled prohibited species and committed similar offences. Since the best remaining timber areas are largely in remote areas now, and given the limited resources of supervisory agencies and the clout of the frequently well-financed and powerfully connected logging companies, the possibility of this sort of behaviour being stopped or even recognised and reported has tended to be low.

Generally, the traditional owners in the areas where illegal logging takes place have very little political clout and few financial resources unlike well-funded logging companies and the criminal gangs of timber thieves. Occasionally NGOs, notably in PNG, have helped local communities to fight off logging interests and protect their forests (for example, the Papua New Guinea Eco-Forestry Forum in 2008).<sup>30</sup>

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<sup>28</sup> Environmental Investigation Agency and Telepak, *Up for Grabs; Deforestation and Exploitation in Papua's Plantations Boom*, London and Bogor, 2009.

<sup>29</sup> Chan, *Illegal Logging in Indonesia*.

<sup>30</sup> 'PNG court rules in favour of anti-loggers', *ABC Radio Australia*, 31 October 2008.

Most countries experiencing uncontrolled illegal logging have actually enacted laws that would, if enforced, stop the illegal practices. The problem lies in the lack of enforcement, which occurs sometimes as a consequence of the lack of resources but mostly because the amounts of money involved, and the threats of violence against officials who do not comply, can be hard to resist when harvest and shipment of illegal timber is involved.

Illegal logging and government corruption are mutually reinforcing. Those running the illegal logging operations corrupt government officials because they have the resources to do so. The officials, who should be overseeing and ensuring that logging operations are performed legally, allow illegal operations to continue or become involved because they profit from it. Sometimes central authorities are implicated but even when this is not the case, the participation of local and regional officials makes control difficult. The judiciary can also be compromised when judges are bribed successfully to give mild or not-guilty verdicts to those charged as a result of enforcement attempts. Customs officials are sometimes bought off in similar ways.

### **3.5 Illegal logging, violence and ‘conflict timber’**

Despite the violence inflicted on whistle-blowers and journalists, reports of the victimisation of villagers and forest-owners opposed to logging on their lands and physical attacks by agents of logging companies acting illegally or with quasi-legal permission are becoming numerous in the literature.

Ineffective law enforcement and heavy-handed tactics by logging companies are the main causes of the intimidation suffered by journalists when reporting on logging in remote areas, press activists said on Friday. Margiyono, advocacy coordinator for the Alliance of Independent Journalists (AJI), told the *Jakarta Globe* that journalists reporting on environmental damage within logging concessions were often bullied by the companies’ security teams, who held sway over the scant police presence in such areas. ‘The police have virtually no authority there, which leaves the logging companies in effective control of security,’ he said.<sup>31</sup>

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<sup>31</sup> F E Satriastanti and I Lutfia, ‘Logging Firms Accused of Intimidating Journalists’, *JakartaGlobe*, 4 June 2010.

Recent reports from Indonesia name two journalists who were murdered after reporting on illegal logging and another who has received threats written in blood:

... Ardiansyah Matra'is wrote a series of articles for "Jubi" magazine about illegal logging by local military officers, and took photos of their operations. He was then kidnapped and threatened by soldiers who threatened to kill his family members if he continued his work. On 30 July 2010, Matra'is's naked, handcuffed body was found in the River Gudang Arand. ... Days earlier, well-known journalist Muhammad Syaifullah, who reported on environmental destruction, was found dead in his home on 26 July in Balikpapan, Borneo. He ran the Borneo bureau of "Kompas", Indonesia's biggest daily newspaper, and reported extensively on illegal logging. ... Syaifullah was found by colleagues frothing at the mouth. Local journalists believe he was poisoned.<sup>32</sup>

The term 'conflict timber' was coined some years ago in relation to the way the conflict in the Congo was funded.<sup>33</sup> There have been documented cases of money from illegal logging funding various conflicts around the world, including in countries such as Cambodia<sup>34</sup> and Burma where illegally logged timber has been smuggled across borders and falsely documented as sourced in Indonesia or Malaysia. 'Cross-border timber sales in the 1990s provided the Khmer Rouge in Cambodia with a monthly \$10-20m during the dry season to fund its fighting.'<sup>35</sup>

Recently, research undertaken by the Environmental Investigation Agency (EIA) showed that illegal-logging syndicates in Afghanistan paid the Taliban for safe passage of timber through mountainous passages to Pakistan for subsequent sale in the Asian market. The EIA also states that the Taliban allegedly bring weapons into Afghanistan to use against American and Australian troops via the smuggling routes of the illegal timber syndicates.<sup>36</sup>

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<sup>32</sup> IFEX, 'Two environmental reporters found dead; threats to journalists escalate', 11 August 2010.

<sup>33</sup> A Blondel, 'The logs of war: how timber fuels the world's worst conflicts', *Le Monde diplomatique*, English version, January 2004.

<sup>34</sup> Global Witness, *Country for sale—how Cambodia's elite has captured the country's extractive industries*, Washington DC, February 2009.

<sup>35</sup> Blondel, 'The logs of war'.

<sup>36</sup> T Arup, 'Call to ban timber logged illegally', *theage.com.au*, 1 June 2010.

### 3.6 Government revenues and financial impacts of illegal logging

Governments generally apply taxes to the timber industry but illegal logging is either not reported or under-reported. Volumes cut are under-reported and false low prices are reported, especially for higher-value woods; a great deal of illegally cut wood is smuggled and mixed in with legally cut wood further down the marketing chain. Statistics on such illegal activities are not easily obtained but partial data have enabled rough estimates to be made by different organisations.

Financial losses to governments as a result of the world's illegal timber trade were assessed at US\$10 billion a year in 2006.<sup>37</sup> More recently, the figures have been higher with the World Bank estimating that illegal logging costs developing countries US\$15 billion a year in lost revenue and taxes.<sup>38</sup> Lost revenues are a direct effect of illegal logging but there are also indirect costs to countries. Illegal logging can be a warning that law enforcement is lax and corruption a problem, which can inhibit investment over the long term.<sup>39</sup>

### 3.7 Depressed international prices and impact on Australia's timber industries

Current market prices for timber perversely favor illegally harvested timber. A 2004 study by Seneca Creek Associates for the American Forest and Paper Association found that illegal logging has depressed global timber product prices by 7 to 16 percent.<sup>40</sup>

Given that illegal logging agents do not pay owners of forests or governments in full (if at all) and that they cut costs by other means, for example harvesting in particularly damaging ways, it is not surprising that illegally logged wood is cheaper than wood from legally harvested and sustainably managed sources. Although estimates of the amount of illegally harvested wood in the world supply vary, and no doubt change from year to year as well, it is clear that the total amount is substantial. It

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<sup>37</sup> World Bank, *Guidelines*.

<sup>38</sup> EIA (Environmental Investigation Agency), *Provide more resources to fight global environmental crime, EIA tells governments*, press release, 26 January 2009.

<sup>39</sup> P Sheikh, *Illegal Logging: Background and Issues*, CRS Report for Congress, updated 9 June 2008.

<sup>40</sup> Chan, *Illegal Logging in Indonesia*.

is therefore not surprising that the large amounts of illegal wood in world trade depress world wood prices. This affects legal wood producers around the globe, not just those in the major source countries where illegal logging is such a large problem but also in countries with a cleaner wood industry.

Some US studies on the effects of illegal logging on the domestic wood industry are quoted briefly here.

Illegal logging increases the supply of wood products on global markets, contributing to increased production and consumption of wood flooring and hardwood plywood. U.S. imports of wood products such as flooring and hardwood plywood have grown significantly in recent years, accounting for 48 percent of the market.<sup>41</sup> Conservative estimates place U.S. industry losses due to illegal logging-related depressed wood prices and lost exports at over \$1 billion. It has been estimated that the U.S. would stand to gain \$460 million a year on wood exports between 2002 and 2012 with the eradication of illegal logging.<sup>42</sup>

The U.S. pulp and paper industry has also been hard hit by a rise in unfair imports. The United Steelworkers (USW) reports that imports of paper products, like coated free sheet (CFS) paper, have increased to meet rising demand while domestic production has fallen. Declining production has led to job losses – between 2002 and 2007, ten U.S. CFS paper mills closed and 2,800 jobs were lost.<sup>43</sup> A more recent report from the U.S. International Trade Commission found that from 2006 to 2009, the number of production workers within certain coated paper mills dropped nearly 50 percent, from 4,514 to 2,165.<sup>44</sup> Major exporters of CFS paper include countries where reliance on illegal timber is a concern, such as China and Indonesia.

It is not clear if studies with similar estimates have been done to quantify the effects of illegally harvested wood on the wood producers and the

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<sup>41</sup> United States International Trade Commission (2008). *Wood Flooring and Hardwood Plywood: Competitive Conditions Affecting the U.S. Industries*, Investigation No. 332-487, USITC Publication 4032, Washington DC, August, p. 3–22.

<sup>42</sup> Seneca Creek Associates, LLC and Wood Resources International, LLC, *'Illegal' Logging and Global Wood Markets: The Competitive Impacts on the U.S. Wood Products Industry*, prepared for American Forest & Paper Association, November 2004, p. 26.

<sup>43</sup> United Steelworkers (USW), *Overview of U.S. coated free sheet paper mills: industry job losses from unfair imports & subsidies*, USW backgrounder 2002–2007, March 2007.

<sup>44</sup> United States International Trade Commission, *Certain coated paper suitable for high-quality print graphics using sheet-fed presses from China and Indonesia*, Investigation Nos. 701-TA-470-471 and 731-TA-1169-1170 (Preliminary), Publication 4108, November 2009, p. 152.



wood industry as a whole in Australia. Some of Australia's trade organisations have, however, spoken out about the damage to Australia's own forestry sector.<sup>45,46,47</sup> It may be that the advantages of relatively cheap imports to the timber and wood-product industry are influencing policymakers but it is clear that those in the domestic timber and wood-based industries who use domestic supplies can only be hurt by underpriced imports. Permitting these imports to continue is, in effect, an import subsidy, the opposite of domestic protection. Using the free market to justify the import of illegal materials is a distortion of the concept as practised in advanced economies.

As was discussed at length on 30 May 2010 in the ABC radio interview, 'Background Briefings, Timber Politics', at least one company in Australia is importing tissue paper known to include material from undocumented and suspicious timber sources.<sup>48</sup> The company cuts and packages the paper as bathroom tissue, which allows it to be labelled as 'Made in Australia' although very little of the production is actually taking place in this country. The price of this product is lower than that of similar products sold by Australian companies that follow requirements to use only sustainably harvested and legally sourced materials and therefore need to charge a higher price.

### 3.8 Global environmental impacts and greenhouse gas emissions

Illegal logging and the illegal trade in timber are the principal causes of deforestation in the Asia-Pacific region.<sup>49</sup>

Deforestation accounts for up to one-third of total anthropogenic carbon dioxide emissions, and illegal logging is one of the major causes of worldwide deforestation.<sup>50</sup>

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<sup>45</sup> A3P (Australian Plantation Products and Paper Industry Council), *Member guidelines: Stopping the supply of illegally logged forest products to Australia*, Canberra, 2007.

<sup>46</sup> A3P (Australian Plantation Products and Paper Industry Council), *Submission on the draft regulatory impact statement (RIS)—proposed new policy on illegally logged timber*, Canberra, 2009.

<sup>47</sup> VicForests, *Tropical rainforests and illegal logging, factsheet*, 2009.

<sup>48</sup> S Crittenden, 'Timber Politics', *Background briefing*, 30 May 2010.

<sup>49</sup> A Schloenhardt, *The illegal trade in timber and timber products in the Asia-Pacific region*, Research and Public Policy Series no. 89, Australian Institute of Criminology, Canberra, 2008.

There has long been data showing that deforestation can contribute to decreasing rainfall and increasing droughts in some areas by changing the albedo (reflection of sunlight) of the landscape. It is also known that cutting down forests reduces evapotranspiration and results in less downwind precipitation, which can have serious repercussions for rain-fed agriculture. Recently, Russian researchers have claimed that forests, not temperature, are the main drivers of winds due to the previously unconsidered drop in pressure that occurs when water passes from gas to liquid state in condensation. So ecosystems that maintain a moist atmosphere, as rainforests do, draw in air and moisture from elsewhere. This is still contested, but it is clear that 'on hydrological grounds alone, conserving forest is often essential'.<sup>51</sup>

Now, due to growing evidence of large-scale shifts in global climate with uncertain but increasingly disturbing effects, sources of greenhouse gases and carbon sequestration are suddenly of great concern.<sup>52</sup> Forests are huge carbon sinks and their destruction has contributed to, and continues to contribute to, global climate change because of their role in changing atmospheric gases and sequestering carbon. Deforestation on peat soils, found in many parts of tropical countries, is particularly damaging as peat oxidises when exposed to the air, releasing additional large amounts of carbon.

Deforestation and forest degradation in the tropics accounts for about 20% of global emissions of carbon dioxide. This makes forests the second most important contributor to global warming after fossil fuels and the largest source of greenhouse gas emissions in most tropical countries. On the other hand, well-managed forests, and a reduction in deforestation, can make a substantial contribution to climate-change mitigation by reducing

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<sup>50</sup> IPCC (Intergovernmental Panel on Climate Change), 'Coupling between changes in the climate system and biogeochemistry', in *Climate change 2007—The physical science basis, Working Group I Contribution to the Fourth Assessment Report of the IPCC*, Cambridge University Press, Cambridge, 2007.

<sup>51</sup> J Astill, 'Seeing the wood: A special report on trees', *The Economist*, 25 September 2010.

<sup>52</sup> 'Suddenly' applies to the general public awareness and also greater scientific consensus; some climate experts and other scientists and science writers have been trying to raise concern about these issues for decades. See for example J Lovelock, *Gaia: A new look at life on Earth*, Oxford University Press, Oxford, 1979; B McKibben, *The end of nature*, Random House, N Y, 1989. In 1964, Charles David Keeling was the first to link rising carbon in the atmosphere from gas emissions to warming trends and point out possible dangers. See C Hamilton, *The return of Dr. Strangelove: the politics of climate engineering as a response to global warming*, Canberra, 2010.

forest-related greenhouse gas emissions and by sequestering carbon in growing forests.<sup>53</sup>

There is also a greater concern that large-scale elimination of forests is contributing to global changes that appear to be reducing the earth's self-regulating mechanisms, which help to keep both the global atmosphere and temperature relatively stable. First proposed by James Lovelock (then working on Mars planetary atmospheric chemistry for NASA) and Lynn Margulis (micro-biologist, known for the theory of symbio-genesis), this concept, now referred to as Gaia Theory, has been refined and developed over the years. The basic idea is that all life on earth, microbial, plant and animal (including human), interacts chemically with the atmosphere, rocks, soil and oceans to create negative feedback systems that tend to counteract changes towards the extremes and are thus somewhat self-regulating.

These ideas, once considered radical at best, are now more widely accepted;<sup>54</sup> wild areas, and very importantly forests, are now regarded as an essential part of these atmospheric and temperature self-regulating functions of the planet. The growing concern is that collectively we may have removed too much of the wild-forest area for it to function as necessary, a concept that in no way contradicts the concern about climate change but rather underlies it. This is a complex subject and mentioned here only to emphasise that growing evidence indicates that reducing the total global area of forest cover may have dire consequences in more ways than previously believed.

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<sup>53</sup> Blaser, *Forest law compliance and governance in tropical countries*.

<sup>54</sup> 'The Earth System behaves as a single, self-regulating system comprised of physical, chemical, biological and human components. The interactions and feedbacks between the component parts are complex and exhibit multi-scale temporal and spatial variability. The understanding of the natural dynamics of the Earth System has advanced greatly in recent years and provides a sound basis for evaluating the effects and consequences of human-driven change.' (Part of the 'Amsterdam Declaration on Global Change', issued at *Challenges of a changing earth: Global Change Open Science Conference*, a joint meeting of: the International Geosphere-Biosphere Programme (IGBP), the International Human Dimensions Programme on Global Environmental Change (IHDP), the World Climate Research Programme (WRCP) and the International Biodiversity Programme (DIVERSITAS), Amsterdam, The Netherlands, 10–13 July 2001.

## 4. Illegal logging in Indonesia, PNG and the Pacific Islands

### 4.1 Indonesia

Indonesia has had the sad distinction of being cited as a particularly egregious example of large-scale uncontrolled and often illegal logging activities. Many sources have commented on it and some have made estimates, as the following brief quotes show.

By 2001, Indonesia had lost 72 per cent of its original forest cover almost entirely due to the activities of the timber industry, which had either cleared forest or paved the way for forest conversion.<sup>55</sup>

Travel by road through Sumatra or by river through Kalimantan and you will find practically no jungle left. Riau, the birthplace of our language, Bahasa Indonesia, is no more the beautiful province of wild honey-bees, sophisticated villagers who tap their private rubber trees and compose pantun poetry. Much of it has been transformed into environmentally unsound plantations of oil palm and wood for paper pulp. The society has been fragmented and is now unable to sell their labor to the industries of paper, palm or oil, marginalized in their own birthplace. The rich, black soil under a jungle has a very fragile structure and when vast areas are logged bare and left through a rainy season, the monsoon waters carry all the fertile topsoil down river to the sea. What you have left is a young desert and anything you plant there will struggle to survive. The plants in the vast plantations of Riau appear sickly; the soil they grow on is red and unfertile.<sup>56</sup>

Indonesia is home to more endangered species than any other place in the world, and logging was conducted in a state of near total anarchy. By the late nineteen-nineties, the government estimated that as much as seventy per cent of the country's total timber harvest was illegal, and the World Bank calculated that Indonesia was losing three and a half billion dollars annually because of it.<sup>57</sup>

At its height in the 1990s, 80 per cent of timber shipped from Indonesia was illegally logged and deforestation was at the rate of two million hectares a

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<sup>55</sup> Forest Watch Indonesia and Global Forest Watch, *The State of the forest: Indonesia*, E Matthews (ed.), Bogor, Indonesia, 2002.

<sup>56</sup> B Prijosusilo, 'Mr. President, sack the forestry minister', *The Jakarta Post*, 21 July 2007.

<sup>57</sup> Khatchadourian, 'The Stolen Forests'.

year - the equivalent of 11 football pitches every hour. Illegal logging is estimated to cost the nation \$4 billion a year.<sup>58</sup>

In 2005, under the leadership of the new president of the country, Susilo Bambang Yudhoyono (SBY), the Government of Indonesia launched serious attempts to crack down on corruption and illegal logging, both making and publicising arrests. The campaign to stop illegal logging has continued since then but setbacks are numerous. A spate of recent articles in *The Jakarta Post* and the *Jakarta Globe* have reported on national measures implemented in an attempt to stop what SBY (as the president is locally known) calls the 'logging mafia' (*cukong* in Indonesian), powerful bosses who run Indonesia's illicit timber industry. Some are supportive, but many doubt that the logging mafia is being checked.

President Susilo Bambang Yudhoyono last month ordered a taskforce to investigate forest crime as part of an effort to save Indonesia's remaining rain forests.<sup>59</sup>

Indonesia has the world's third largest forested area with 120 million hectares of rainforest. However, 1 million hectares are lost annually to forest fires and illegal logging. Forestry Minister Zulkifli Hasan said his office had a target of reducing illegal logging cases to 12 or less per year. There were 700 reported cases in 2008. The ministry estimated the financial loss from illegal logging at Rp 30 trillion (US\$3.3 billion) per year. On Friday Zulkifli reported to the President that primary forests in Indonesia now only made up 24 percent of total forest cover from the previous 71 percent.<sup>60</sup>

Rapid deforestation in Indonesia by legal and illegal loggers has made the country one of the world's highest emitters of the greenhouse gases blamed for global warming. Indonesia plans to reduce its emissions by 26 per cent by 2020,<sup>61</sup> which will clearly require a major effort to control illegal logging. The extent of the problem was calculated by Human Rights

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<sup>58</sup> EIA, *Provide more resources to fight global environmental crime*.

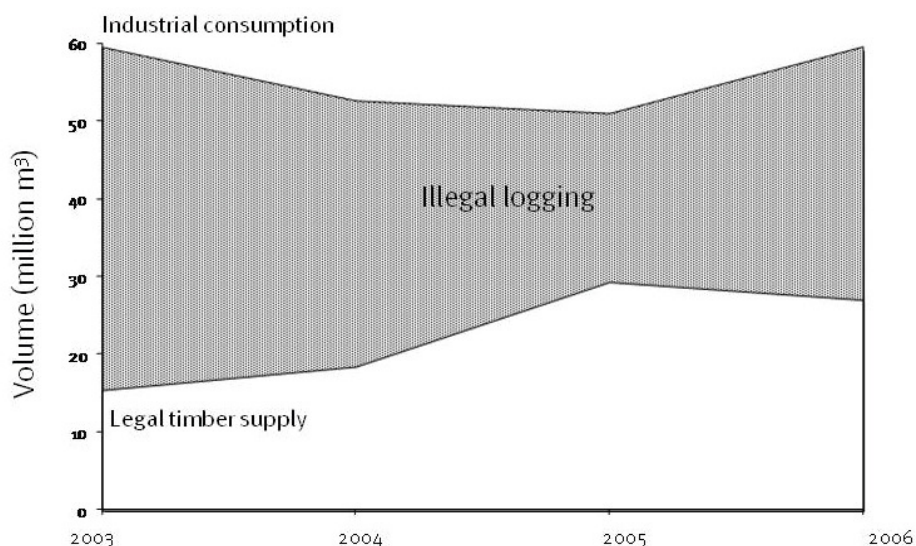
<sup>59</sup> A P Simamora, 'Lack of transparency hinders fight against logging mafia', *The Jakarta Post*, 20 April 2010.

<sup>60</sup> A P Simamora, 'Taskforce sets sights on illegal logging mafia allegations', *The Jakarta Post*, 19 April 2010.

<sup>61</sup> 'Indonesia, Australia announce carbon project in Sumatra'.

Watch in a particularly extensive report as quoted here and shown in two figures from that report.<sup>62</sup>

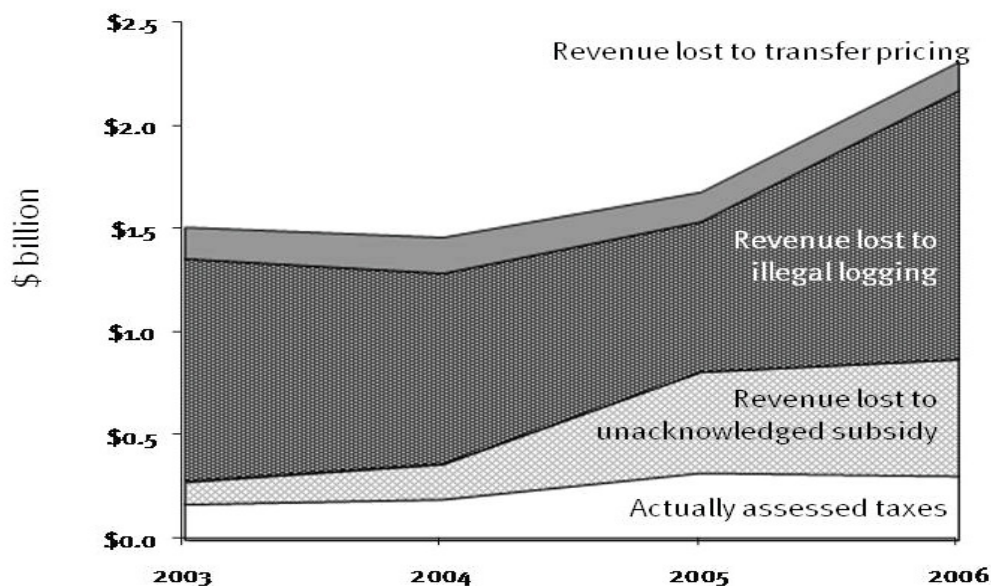
Figure 1: Indonesia: legal and illegal timber supply



Indonesia's official wood supply from 2003 to 2006 was roughly 20 million cubic meters per year, while the amount of wood consumed by Indonesia's forest industry (pulp and paper, plywood, veneer, and other wood-based products) was more than 50 million cubic meters, outstripping legal supply by 150 percent, some 30 million cubic meters per year, as shown in Figure 1. The shortfall, represented by the shaded area, is the minimum amount of wood that came from illegal logging or smuggled imports.

<sup>62</sup> Human Rights Watch, *“Wild Money”: The Human Rights Consequences of Illegal Logging and Corruption in Indonesia’s Forestry Sector*, New York, NY, December 2009.

Figure 2: Indonesia: logging revenue lost



Total annual estimate of revenue lost to the Indonesian government is derived from the sum of the amount undercharged by undervaluing timber and exchange prices (unacknowledged subsidy), the amount of fees uncollected on illegally harvested wood (using real timber and exchange prices), and the estimated amount of export taxes evaded through transfer prices. It does not include losses due to the evasion of corporate and income taxes and certain minor taxes, losses due to unreported smuggling, and the consumption of wood by mills (possibly numbering in the hundreds) with production capacities of less than 6000 cubic meters per year.<sup>63</sup>

A report by a coalition including the BlueGreen Alliance and the Rainforest Action Network (RAN) released in the United States in early 2010 found that 40 to 55 percent of Indonesia's timber is illegally harvested. It warned that 98 percent of the archipelago's lowland forests could be gone by 2022. At stake is [sic] not only the forests and their precious plants and animals, such as endangered Sumatran tigers and Javan rhinos. According to RAN, carbon emissions from deforestation in Indonesia account for about five percent of global emissions, or more than all the cars, planes, buses and trains in the United States combined. President Susilo Bambang Yudhoyono recently vowed to take on the "logging mafia" but analysts

<sup>63</sup> Human Rights Watch, "Wild Money":

doubt he will confront the powerful networks of officials, security personnel and big business who are involved.<sup>64</sup>

## 4.2 PNG

Papua New Guinea, during the 1980s, experienced such catastrophic forest loss that it commissioned independent auditors to assess why it was happening; they determined that logging companies were 'roaming the countryside with the self-assurance of robber barons; bribing politicians and leaders, creating social disharmony and ignoring laws in order to gain access to, rip out, and export the last remnants of the province's valuable timber'.<sup>65</sup>

PNG contains the largest intact tropical rainforest wilderness in the Asia-Pacific Region and the third largest in the world and it has developed extensive laws to protect its forest resources. A 1991 law established Forest Management Agreements enabling customary landowners to sell (for timber royalties) cutting rights to the Forest Authority, which grants cutting rights to private companies. There is a national Forest Plan and individual management plans. PNG, however, is large and remote and its government agencies are no match for the financial pressure of illegal logging. Much of the logging is illegal, and PNG is experiencing the same kind of corruption problems as Indonesia.<sup>66</sup>

Even logging interests admit that 'Corruption remains a major problem, at both the National and Provincial Government levels. Up to 40 per cent of the National budget may be stolen. Efforts by donors to improve governance have yet to lead to better socio-economic outcomes'.<sup>67</sup> Nevertheless, the same logging interests<sup>68</sup> also make a case for the amount of income and employment brought to PNG from logging activities:

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<sup>64</sup> P Mandari, 'Certified Logging no Match for Indonesia's Timber "Mafia"', *The Jakarta Globe*, 16 May 2010.

<sup>65</sup> Khatchadourian, 'The Stolen Forests'.

<sup>66</sup> Chatham House, Energy, Environment and Development Programme. 'Papua New Guinea', *illegal-logging.info*, 2010.

<sup>67</sup> ITS Global, *Submission to the Inquiry by the Senate Foreign Affairs, Defence and Trade Committee on the Economic and Security Challenges facing Papua New Guinea and the Island States of the Southwest Pacific*, on behalf of the Papua New Guinea Forest Industries Association, Melbourne, 2008.

<sup>68</sup> ITS Global, *Submission to the Inquiry by the Senate Foreign Affairs, Defence and Trade Committee*.



The commercial forestry industry generates between 5 and 8 per cent of GDP and around 5 per cent of merchandise exports. Taxes on log exports amounted to around 6 per cent of all tax receipts and around 5 per cent of all revenue collected by the PNG Government between 1998 and 2004. Those taxes fund around 30 per cent of development expenditure. The industry generates around 10,000 jobs, primarily in remote areas where there is little or no other paid employment. It provides and maintains health and education services and transport infrastructure in remote areas where National and Provincial Governments are either unable or unwilling to do so.<sup>69</sup> Local people use and value highly the jobs, income and social services and infrastructure provided by forestry companies. While the export of logs is and will remain central to the industry's economic contribution (with log exports nearly doubling in value between 1998 and 2005), the industry is also contributing to value adding via investments in processed timber products. Processed forest product exports are increasing.<sup>70</sup>

ITS Global works on behalf of the Papua New Guinea Forest Industries Association (PNGFIA), the largest member of which is the Malaysian logging company Rimbunan Hijau (RH). RH was fined by the PNG Supreme Court for illegal logging in 2008.<sup>71</sup> The logging industry is widely criticised by environmental and socially-concerned NGOs, which claim that logging practices in PNG are destructive and exploitative.

It is an industry that is synonymous with political corruption, police racketeering and the brutal repression of workers, women and those who question its ways. Its operations routinely destroy the food sources, water supplies and cultural property of those same communities. They provide a breeding ground for arms smuggling, corruption and violence across the country. In return, the industry generates no lasting economic benefit to forest communities, considerable long-term cost and a modest 5 percent

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<sup>69</sup> 'Beyond that, the dependency by government field officers on the companies for housing, transportation, schooling and other public services leads to significant concerns. This is the basis for complaint by the industry, which has to finance and manage these activities in addition to logging. It is, however, also significant concern [sic] because of the codependency of government officials with the FMA owners.' (See ITTC (International Tropical Timber Council), *Achieving the ITTO Objective 2000 and Sustainable Forest Management in Papua New Guinea: Report of the Diagnostic Mission*, Forty-Second Session, 7–12 May, Port Moresby, Papua New Guinea, 2007, p. vi.)

<sup>70</sup> ITS Global, *Submission to the Inquiry by the Senate Foreign Affairs, Defence and Trade Committee*.

<sup>71</sup> Papua New Guinea Eco-Forestry Forum, 'ITTC: Papua New Guinea Forest Sector plagued with serious problems', *illegal-logging.info*, 23 May 2007.

contribution to the national budget.<sup>72</sup> These claims are contested by PNGFIA: 'Nor is it true that its forests are under imminent threat of destruction. PNG has very good growing conditions. It is moving to sustainable forest management principles and practices. Regrowth forests absorb more carbon than mature forests.'<sup>73,74</sup>

In light of the conflicting versions of events from domestic and international NGOs and the forestry interests represented by ITS Global, it may be instructive to look at excerpts from a report of the International Tropical Timber Council (ITTC):

The findings of the team were presented at the forty-second meeting of the ITTC, which took place from 7 to 12 May 2007, in Port Moresby, PNG. The diagnostic team, which was sanctioned by the PNG government and authorized by the ITTC found that the forestry 'sector is plagued with serious problems' and although the laws governing the PNG forestry sector 'are generally excellent' enforcement of its own laws was a huge problem. Forest law enforcement and governance was one of many issues discussed at the recent meeting. The report further states that both 'government and industry have not been able to demonstrate integrated, economically viable, ecologically compatible and socially acceptable forest management practices'. The logging industry in PNG is predominantly foreign-owned and the ITTC report highlights 'the apparent price-setting monopoly of a single foreign company', continuous problems of transfer pricing and the role of the National Forest Board in 'taking decisions without due process'.

The PNG government has sanctioned numerous reviews in the past, including those of the World Bank and the UK Overseas Development Institute. These reviews have been conducted using internal and external experts in forestry and law including government agencies such as the Department of Labour and the Department of Environment and Conservation. The recent finding of the ITTC mission only confirms what has already been found in these past reviews, the recommendations of which remain unimplemented. The PNG Eco-Forestry Forum (PNGEFF), a

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<sup>72</sup> ACF (Australian Conservation Foundation) and CELCoR (The Centre for Environmental Law and Community Rights), *Bulldozing progress: human rights abuses and corruption in PNG's large scale logging industry*, Boroko and Carlton, 2006.

<sup>73</sup> ITS Global, *Submission to the Inquiry by the Senate Foreign Affairs, Defence and Trade Committee*, p. 21.

<sup>74</sup> The claim that 'regrowth forests absorb more carbon than mature forests' is contradicted by considerable recent research. See for example H Keith, B Mackey and D Lindenmayer, 'Re-evaluation of forest biomass carbon stocks and lessons from the world's most carbon-dense forests', *PNAS* 106(28), pp. 11635–11640.

PNG non-governmental organization, which has actively engaged in the campaign against illegal logging and the promotion of sustainable forest management practices, has welcomed the report by reinforcing its call for the government to immediately place a moratorium on new timber permits or permit extensions; establish a Commission of Inquiry into current logging operations and move to establish an Independent Commission against Corruption. The ITTC findings also acknowledged 'PNG civil society, particularly NGOs, provide an important contribution in the forest sector' and the 'PNG government should seek more effective involvement of landowners and NGOs on the National Forest Board'. PNGEFF was the only NGO representative on the National Forest Board and was removed by recent amendments to the Forestry Act.<sup>75,76</sup>

### 4.3 Solomon Islands

The timber industry has been responsible for 20 per cent of government revenues and more than 50 per cent of export revenues. With much of the land forested (estimates of 88%) initially, government has not prioritized conservation of forests, and the rate of harvesting has been notoriously high, with observers now estimating that the forests will be exhausted within ten years.<sup>77</sup>

The Solomon Islands legislated the *Forest Resources and Timber Utilization (Amendment) Act 2000* with the objectives of sustainable forest management, developing the timber industry to benefit the islanders and ensuring the rights of customary owners. In practice, some NGO forestry projects have developed plans and even achieved Forestry Stewardship Council (FSC) certification, but many forests do not come under management plans.<sup>78</sup>

The timber industry has been surrounded by controversy involving logging-related conflicts with local communities, widespread destructive logging practices (such as high-grading, with little regard for the residual forest and the implications of degradation) by multinational companies, widespread illegal logging and allegations of corruption at all levels of government. Recently, the government has made efforts to enforce greater control over

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<sup>75</sup> Papua New Guinea Eco-Forestry Forum, 'ITTC: Papua New Guinea Forest Sector plagued with serious problems'.

<sup>76</sup> ITTC (International Tropical Timber Council), *Achieving the ITTO Objective 2000 and Sustainable Forest Management in Papua New Guinea: Report of the Diagnostic Mission*.

<sup>77</sup> Chatham House, Energy, Environment and Development Programme, 'Solomon Islands', *illegal-logging.info*, 2010.

<sup>78</sup> Chatham House, Energy, Environment and Development Programme, 'Solomon Islands'.

logging, including the development of the National Code of Practice for Timber Harvesting, moratoriums on new licenses, repeals of unused licenses, and cancellation of concessions. However, these measures have had only limited success to date. The government currently lacks the administrative capacity and resources to address the challenge of reducing the degradation and exhaustion of the forests and identifying alternative sources of income.<sup>79</sup>

A recent item from a local Solomon Island newspaper gives an indication of local discussions:

Solomon Islanders and their government have been surviving on monies derived from illegal logging activities since logging came to the country more than 20 years ago. Logging revenue has been the main foreign income earner for the country in the last 20 years. But estimates say this will be no longer the case after 2012.<sup>80</sup>

The *Solomon Islands Diagnostic Trade Integration Study 2009 Report* stated that much logging had been carried out illegally and listed the following illegal practices:

- logging protected species
- duplication of felling licences
- logging in protected areas
- logging outside concession boundaries
- logging in prohibited areas such as steep slopes, riverbanks and water catchments
- logging without authorisation
- obtaining logging concessions through bribes
- transporting illegally harvested timber
- exporting timber in contravention of national bans
- declaring lower values and volumes than actually exported
- ignoring environmental, social and labour laws and regulation
- breaches of logging agreements' as offences.<sup>81</sup>

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<sup>79</sup> Chatham House, Energy, Environment and Development Programme, 'Solomon Islands'.

<sup>80</sup> 'Nation survives on illegal logging', *Solomon Star News*, 24 April 2010.

<sup>81</sup> Solomon Island, Ministry of Foreign Affairs and External Trade, *Solomon Islands Diagnostic Trade Integration Study, 2009 report*, D Gay (ed.), Honiara, Solomon Islands, 2009, p. 217.

When made, payments to forest owners are slow and delivery of infrastructure (schools, clinics, roads) is less than was promised. Locals may be unsophisticated in their dealings with the companies so landowners tend to spend royalty payments poorly and provincial authorities are considered compromised.<sup>82</sup>

#### 4.4 Other Pacific islands

The study placed a high importance on awareness raising and support for sustainable forest management and the codes of logging practice among policy makers and landowners in Vanuatu and Solomon Islands. ... Overall, it found that all stakeholders in PNG, Vanuatu and Solomon Islands had a 'very weak' commitment to, and understanding of, sustainable forest management. In Fiji, it was deemed to be 'weak'.<sup>83</sup>

Fiji has had some issues with illegal logging, particularly over valuable wood species such as mahogany and sandalwood, but according to Chatham House sources the Government of Fiji takes the management of its forests seriously:

There have been cases of disputes between native land owners and commercial logging companies over ownership of trees and alleged illegal logging of mahogany, and of illegal harvesting of mahogany from plantations. A former government minister was investigated in spring 2008 for illegal logging in collusion with a number of businessmen. However, swift enforcement action appears to have been taken in each case.

Approximately 150,000 ha of natural forest have been systematically harvested in Fiji. Logging is usually carried out using a selection system, but there is very little post-harvest management, and a number of heavily logged forests have subsequently been converted to other uses. The government is now encouraging reduced impact logging. To harvest timber on native lands, a Forestry Right License is required and is negotiated through the Native Lands Trust Board. The government has also encouraged the development of plantations which should provide an alternative to native forest harvesting. The government works with a number of agencies to run forestry activities aimed at educating

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<sup>82</sup> 'Nation survives on illegal logging', *Solomon Star News*.

<sup>83</sup> Australian Senate, Foreign Affairs, Defence and Trade References Committee, *Economic challenges facing Papua New Guinea and the island states of the southwest Pacific*, Volume 1, Commonwealth of Australia, Canberra, November 2009.

communities on the importance of maintaining ecosystems and sustainable forest management.

The Fijian government has made significant achievements in the drive towards sustainable forest management, using the National Code of Logging Practice, the promotion of reduced impact logging, a ban on circular sawmills, and a series of awareness and education programs. A number of forests are moving towards certification.<sup>84</sup>

The sandalwood issue has been covered some in local news:

This year, the Ministry of Agriculture intervened in the western highlands to address sandalwood theft and claims that landowners were being exploited. According to former Sandalwood Industries Fiji CEO, Amit Chand, logging companies were harvesting in prohibited areas at night. The ministry has also heard allegations by loggers that ministry staff were colluding with loggers to get sandalwood out of the country illegally..... Prices up to \$40 per kilogram are being offered by some exporters, which the people of the island believe has forced villagers and harvesters to steal the wood. Most of the wood is sold to Asian importers for use in carving and the manufacture of soap and oils. Sandalwood exporter, Paula Gade, said the problem was not limited to Lau and existed across the country. ... Prices being offered on the international market were much more than the price offered for sandalwood locally.<sup>85</sup>

Islands other than Fiji have issues with illegal logging but there is less media coverage.

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<sup>84</sup> Chatham House, Energy, Environment and Development Programme, 'Fiji', *illegal-logging.info*, 2010.

<sup>85</sup> S Chand, 'Police uncover timber scam', *Fiji Times Online*, 17 November 2009.

## 5 The Drivers of Illegal Logging

### 5.1 Market forces: financial incentives

Forest product companies, and the global markets they drive, are the single most influential force affecting the well-being of the world's forests.<sup>86</sup>

There can be many reasons for cutting down forests; historically, land clearing for agriculture, including crops, pasture and fuel, and for settlements has been the major one. These processes certainly predate legal systems around the world and continue today but, in recent years, the rate of deforestation has increased and in the remaining large forests logging is now largely driven by markets, both domestic and international.

The fundamental reason for illegal logging is the market value of the wood. Unfortunately for the future of forests, the wood is simply so valuable that the incentives to cut and sell trees are very high with the timber of some large individual trees worth thousands of dollars. It is like the drug trade in that sense:<sup>87</sup> there is just too much money at stake attracting a wide assortment of people from the opportunistic to the desperate who are willing to operate outside the law or to distort it to suit their purposes if they have the power to do so. Violence, both threatened and real, has often played a role in the harvesting of, and trade in, illegal timber.

It is clear that the high prices for timber are not driven totally by domestic demand. International prices for wood and wood products driven by imports in high-income countries are a major factor. A great deal of illegally harvested wood is traded internationally and processed into building materials, furniture and numerous other products, much of which is ultimately exported to high-income countries.

The potential earnings from stealing and selling timber are a major incentive. The revenues are high and the costs are relatively very low, as a 2005 example from Papua province in Indonesia shows:

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<sup>86</sup> B Cabarle, Quoted on World Wildlife Fund site, 2010.

<sup>87</sup> The comparison is not frivolous as this quote shows: 'In 2003, von Bismarck picked up the trail in Singapore, where he went undercover and met with a trafficker who boasted that profits from black-market ramin were "better than drug smuggling"'. See Khatchadourian, 'The Stolen Forests'.

According to analysis carried out by Conservation International (CI), the Papuan police successfully interdict only three per cent of vessels carrying illegal logs. Eighty per cent of these cases do not result in a fine, and in the small number of cases where a fine is levied it is usually less than \$1000. The analysis finds that based on an average profit of \$100 000 for illegal logging cases, the threat posed by fines under the current enforcement regime stands at \$7, meaning that the incentive to carry out illegal logging is 14 000 times greater than the disincentive posed by enforcement actions. Even when the cost of illegal timber being confiscated is factored in, the incentive is still 1000 times higher than the disincentive. Clearly the low risk of capture and prosecution is a major factor in the explosive growth of illegal logging in Papua.<sup>88</sup>

An effective approach to stopping illegal logging must be to reduce the benefits by cutting access to markets and increasing the costs through enforcement of forest laws, confiscation of illegal shipments and fines. At present, the bribes are a substantial cost but less than that of the legal taxes.

## 5.2 Corruption of political power and legal and institutional weaknesses

Tempo reported having counted in one day at least 30 ships laden with illegal wood departing from a single port in Ketapang, each capable of bearing up to 800 m<sup>3</sup> of valuable meranti, kruing, and bengkirai wood and worth some \$200,000. The scale of these reported bribes suggests that each day some \$500,000 exchanges hands to allow smuggled wood worth some \$6.6 million to pass. These bribes are only 8 percent of the value of the wood, still less than the 15 percent that loggers would have to pay in government fees had the wood been legally harvested.<sup>89</sup>

Individuals and companies have profited enormously from illegal logging; the scale of bribery and intimidation is staggering. Examples can be found throughout the literature, although not usually as specific about costs as the example above from one particularly notorious port in Indonesia. It is clear from such reports that those engaged in illegal logging have the financial means to offer substantial bribes.

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<sup>88</sup> EIA (Environmental Investigation Agency) and Telepak, *The last frontier: illegal logging in Papua and China's massive timber theft*, written and edited by J Newman and S Lawson, February 2005.

<sup>89</sup> Human Rights Watch, "Wild Money":



As in the drug trade, the stakes are high enough that the major illegal players are often involved with bribery and corruption of public officials in the form of payments to legitimise paperwork or simply 'to look the other way'. Logging companies often have more financial resources than regional officials, which can mean stronger political influence. The fact that local authorities have often been persuaded by bribery, threats, or both, to legitimise illegal logging makes prosecution of such crimes unlikely.

Government officials have frequently given away timber concessions to friends and political allies, a practice that is often general knowledge among local populations, which have little or no power to object. Even very high officials have used their positions to profit from the timber trade. Many questioned former President Suharto's ties with major logging companies and how concessions were granted during his presidency. Suharto's Mega Rice Scheme (MRP) in Central Kalimantan, a plan to develop 1.5 million hectares, much of which included deep peat soils, for rice production was flawed from the start.

It was technically infeasible for a number of reasons and, as forewarned by experts, it was a complete failure for rice growing. The MRP has been called one of the biggest environmental disasters of the 20<sup>th</sup> century. A great deal of rapid land-clearing was done, some before the project began and some later on, with the higher quality timber being harvested and the lower quality largely burned. That burning, plus the overly drained and dry peat, combined in some years with El Nino dry weather to cause the massive forest fires that occurred in 1997 and in later years. Most of the deep-peat area is now neither forest nor usable cropland. AusAID-funded projects in Kalimantan mentioned in section 2.2 above are attempting to rewet the drained peat and rehabilitate some of the peat forest.

In addition, the transmigrants brought in to Central Kalimantan to grow the rice risked starvation and many turned to illegal logging to make a living.<sup>90</sup> Because the project was promoted by the president of the country it was, by definition, legal. However, the decisions were misguided at best,<sup>91</sup> and the project failure increased illegal logging.

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<sup>90</sup> Wetlands International, 'Facts and figures about peatland degradation', 2007.

<sup>91</sup> 'Kompas reported that converting 1.4 million hectares of forest will double the supply of logs in Indonesia over the first three years of the project. As the project will delay the need to import logs

The line between legal and illegal logging can be complex. A project such as the rice scheme in Kalimantan mentioned above is a particularly striking case where the stated and actual reasons for clearing the forests diverged. It may have been dishonest and a destruction of natural resources belonging to traditional owners, indeed arguably to the national population as a whole, but it was technically legal as the then-president of the country proclaimed it as an important development scheme.

Currently, much of the concern around illegal logging is that companies can develop oil palm and other plantation crops in degraded or deforested areas and it is apparently only too easy to declare even good forests as 'degraded'.

Wirendro Sumargo, executive director of Forest Watch Indonesia, said there has been a shift in defining illegal logging since the massive expansion over the last decade of plantations, especially those devoted to palm oil. ... That lack of monitoring, he said, allows many companies to harvest natural timber illegally by applying for permits to grow crops on lands they claim are deforested, but actually contain natural forests with high-quality trees.<sup>92</sup>

In an interview published by *The Jakarta Post* in June 2010, the Forestry Minister Zulkifli Hasan said: 'There are another 40 million hectares of degraded forests that could also be turned into plantations. In Riau, for example, there are huge areas of idle and degraded forests, so why do the companies prefer doing business on thick peatlands?'<sup>93</sup> If it were a matter of having to clear land for planting, it might be assumed that

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for a few more years, it will cover up the crisis in the forest industry by protecting the government from the accusation that it has mismanaged the nation's forests. Not coincidentally, the PT Sambu Group will help implement the project. Bob Hasan, the timber czar and close friend of the president, owns the group.

'The cost of the project could run to US\$ 2-3 billion. As no international funding agency wants to touch the project, interest from the Reafforestation Fund will provide seed money for the first stage of forest conversion. The Forestry Department has accumulated this fund from the mandatory fees that forest concessionaires must pay the government. In theory concessionaires can reclaim their deposits after they replant trees. However, instead of re-establishing forest, the fund will be used to demolish it'. See 'Politics and peat: the one million hectare sawah project', *Inside Indonesia* 48, October-December 1996.

<sup>92</sup> Satriastanti, 'Legitimate Companies to Blame for Much Illegal Logging: Expert'.

<sup>93</sup> 'Guest speaker: moratorium on natural forests, peat not prompted by Oslo grant: Forestry Minister', record of an interview by A P Simamora of the Forestry Minister Zulkifli Hasan, *The Jakarta Post*, 6 July 2010.

degraded forests would be easier to clear than standing forests. But the value of the trees is so high that the answer to the Forestry Minister's question is clear—harvesting valuable trees on peatland is a great way to finance an oil palm or other plantation. If the plantation turns out not to be viable, investors may still come out significantly ahead financially, depending on the amount invested in the plantation. In some cases, it may be more profitable, and easier, not to establish a plantation other than on paper as an excuse to harvest the trees.

The problem is the legal and institutional weaknesses that make it possible for theft to be legitimised. Part of the summary from South-East Asian participants in the FAO/ITTO workshop of 2007 pointed to an assortment of these as major barriers to stopping the illegal trade:

Although only 5 per cent of the world's forests are located in Southeast Asia, the region accounted for nearly 25 per cent of global deforestation in the previous decade, with illegal logging a major driver. A significant difficulty in addressing illegality in the forest sectors of Southeast Asian countries is the inconsistency of forest laws with other environmental laws and with regulations relating to customs and trade, banking, and anti-corruption, and also a lack of joint enforcement approaches between agencies. Moreover, there is often a lack of coordination between countries with respect to the resolution of transboundary issues. In most countries there is little independent oversight, giving rise to the potential for political interference in such matters as the awarding of concession areas.<sup>94</sup>

It has long been known that timber money and politics are mixed but it is not openly discussed or documented and certainly not challenged for fear of reprisal. Despite the violence associated with organised crime, that situation seems to be changing now with a series of articles in *The Jakarta Post* and *Jakarta Globe* (several of which have been quoted for that reason in this paper).

In Malaysian Borneo (Sarawak), recent reporting even included a video posted on YouTube:

An extraordinary video document released by Malaysia's independent news service, Malaysiakini, is likely to cause the Malaysian Prime Minister Najib Abdul Razak major political long-term damage at both domestic and the

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<sup>94</sup> Blaser, *Forest law compliance and governance in tropical countries*.

international level. The seven-minute video<sup>95</sup> sequence shows the Malaysian Prime Minister's involvement in vote-buying for a local timber tycoon in the Sarawak town of Sibul.<sup>96</sup>

Interestingly, it can be seen in the video that the prime minister is quite open about his proposal to a pre-election crowd, promising five million ringgit (about US\$1.5 million) if his candidate is elected and saying, 'You help me, I help you'. Locals agree that the practice is so well-established that apparently the prime minister felt no need to be discreet about it. The ruling Barisan National Party lost the by-election in the Sibul, a result that many say relates to this chain of events.

### 5.3 Illegal logging by legal companies and lack of monitoring

In addition to authorities 'legalising' questionable and outright illegal logging, there is the fact that legitimate companies are guilty of engaging in much of the practice as well. This is well-known and widely cited in the literature, including the extensive study commissioned by the Australian Institute of Criminology.<sup>97</sup>

An article in the *Jakarta Globe* in April 2010 also made this point very clearly:

Law enforcement agencies must focus on legitimate companies that manipulate the law to gain unfair access to forests, rather than individuals chopping down a handful of trees to construct a house or groups of criminals working in the black market," said Rhino Subagyo, executive director of the Indonesian Center for Environmental Law. 'Furthermore, he said, there was still a lack of monitoring by the government, which allows companies to ignore the harvesting limits dictated by their permits. The result is widespread clear-cutting of forests.'<sup>98</sup>

Extensive monitoring and enforcement of law will be required to stop illegal logging where even legitimate companies cannot resist the

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<sup>95</sup> Link to the Malaysiakini video: <http://www.youtube.com/watch?v=LwNLT428PqU>. It is also interesting to note that the offered funds are for repairs to flood damage largely caused by deforestation upstream. The PM did not get the vote he was looking for in an upset called 'the Sibul miracle' and he subsequently said that the money for the flood repairs was in doubt.

<sup>96</sup> BMF (Bruno Manser Fund), 'Timber corruption: Malaysian prime minister caught red-handed', *World-Wire*, 8 June 2010.

<sup>97</sup> Schloenhardt, *The illegal trade in timber and timber products in the Asia-Pacific region*.

<sup>98</sup> Satriastanti, 'Legitimate Companies to Blame for Much Illegal Logging: Expert'.

temptation to engage in the practice. This is, however, astonishingly difficult and costly in the remote areas of developing countries. Therefore a two-part, supply-and-demand strategy is needed to enable governments to reduce the supply of illegally logged wood from producing countries and, by limiting imports to fully certified wood only, the demand from importing countries. Since the driver of most of the illegal logging in remote forests is financial gain, the best approach will be to increase the costs by prosecuting illegal actions and to decrease the benefits by reducing the top end of the market.

## 6 Trade Patterns of Illegally Logged Wood and Wood Products and Entry into Australia

### 6.1 Marketing chains

The problem of illegal logging does not stop at the harvesting stage. For years, reports have been written documenting with photographs and maps the trade routes used to move illegally harvested timber around Southeast Asia and elsewhere. Although the extent of this trade is difficult and dangerous to document, it is no longer secret,<sup>99,100,101,102</sup> a great deal is known about it and information on the subject is now available online on such websites as the Chatham House illegal logging site<sup>103</sup> and in local newspaper articles.

Trade routes change as sources of wood and opportunities for smuggling change and as numbers of exported wood products and markets for them have proliferated. The following is an example:

While more and more manufacturers were moving to China, the forest products industry there was dramatically changing. In 1998, the Yangtze River watershed flooded, killing more than three thousand people and causing more than thirty billion dollars in damage. At the time, some Communist Party officials believed that the flood was exacerbated by soil erosion—the result of “over quota” cutting of trees—and the government banned logging throughout much of the country. In order to meet its immense demand for raw materials, China began to buy unprecedented quantities of wood from abroad; it is now the largest importer of logs and also the largest exporter of finished wood products. China began to act the way many developed countries in North America and Europe do: it had destroyed much of its primary forests, gained from doing so, and was now protecting the trees it had left by buying wood indiscriminately, often from

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<sup>99</sup> Schloenhardt, *The illegal trade in timber and timber products in the Asia-Pacific region*.

<sup>100</sup> EIA (Environmental Investigation Agency) and Telapak Indonesia, *Timber Trafficking, Illegal Logging in Indonesia, South East Asia and International Consumption of Illegally Sourced Timber*, London, 2001.

<sup>101</sup> EIA (Environmental Investigation Agency) and Telepak Indonesia, *The last frontier: illegal logging in Papua and China's massive timber theft*, written and edited by J Newman and S Lawson, February 2005.

<sup>102</sup> EIA (Environmental Investigation Agency) and Telepak Indonesia, *Rogue traders: The murky business of Merbau timber smuggling in Indonesia*, London, 2010.

<sup>103</sup> Available at: <http://www.illegal-logging.info>

“high risk” countries, like Indonesia. The year of the flood, China started importing large volumes of wood from Russia, which has more forest than any country in the world and was in a state of political and economic anarchy. The greatest traffic in illicit wood is now thought to be from Russia to China.<sup>104</sup>

In recent years, it has been estimated that 40 per cent of all wood products imported by China is supplied by countries with a high incidence of illegal logging such as Russia and Indonesia.<sup>105</sup> China is by no means the only country with questionable wood in its supply chain but it is particularly important because of its size and export volume. China imports 80 per cent of PNG’s log exports,<sup>106</sup> a cause for concern given the large proportion of PNG’s logging estimated to be illegal and China’s reputation for processing illegal wood. Australia purchases wood products from China. The marketing chains for wood, particularly processed wood, are complex and have been extremely difficult to document precisely. The work to establish a ‘chain of custody’ as part of the certification of wood and wood products is a direct response to the lack of data and the concern.

As it is incorporated into various goods, illegally harvested wood is most likely shipped to many countries without their being aware of it. Recent innovative work in Germany<sup>107</sup> using an input-output model of world trade incorporating intermediary products suggests that the numbers generally used to estimate the proportion of illegal wood in trade are probably too low; the standard world-trade models that show only bilateral trade are not designed to capture that effect.<sup>108</sup>

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<sup>104</sup> Khatchadourian, ‘The Stolen Forests’.

<sup>105</sup> A Contreras-Hermosilla, A Doornbosch and M Lodge, *The economics of illegal logging and associated trade*, Round Table on Sustainable Development, Organization for Economic Co-operation and Development, Paris, 8–9 January 2007.

<sup>106</sup> ITS Global, *Submission to the Inquiry by the Senate Foreign Affairs, Defence and Trade Committee*.

<sup>107</sup> M Dieter, ‘Analysis of trade in illegally harvested timber: Accounting for trade via third party countries’, *Forest Policy and Economics* 11, 2009, pp. 600–607.

<sup>108</sup> ‘The results show that international trade increases the global domestic supply of illegally harvested timber by more than 70% in each scenario. In particular industrial round-wood from Papua New Guinea, Malaysia, Indonesia and Myanmar passes through many countries until it ends in form of finished wood products in the country of final destination. Not only due to suggested illegally harvested timber in the own country, but also due to strongly developed trade relationships, China holds the lead in total supply and use of illegally harvested timber. However

## 6.2 Rationale for regulation and certification on the importing side

The public, private businesses and the governments of timber-importing countries around the world are increasingly aware that their importation of timber and wood products may be contributing to the destruction of the remaining old forests. There is also a heightened recognition that, in many cases, the national governments of source countries are incapable of controlling illegal logging. This combination is driving the push for regulation and certification on the importing side, since the exporters are not always providing it.

The exporters are also aware of the problem and some have been asking for help in the form of controls from the consuming side for a number of years. The following is an Indonesian example from 2001. Indonesian NGO group, Wahana Lingkungan Hidup Indonesia, or The Indonesian Forum for Environment, (WALHI) has also asked Australia for help directly.<sup>109</sup>

Currently, the demand for timber from our wood-based industries exceeds the supply that can be met from the legal and licensed harvest. This domestic timber shortage is being exacerbated by the fact that the price of logs traded on the international market is much higher than log prices in our domestic market—a market anomaly which provides a strong incentive to exporters of unworked logs and places further pressure on our shrinking forests. One consequence of this burgeoning international trade is that Indonesia cannot address the growing problem of illegal logging and the associated trade in timber alone and without the full assistance and co-operation of other countries in the region, and other consuming countries.<sup>110</sup>

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this result must be seen against the background of the large population in China. This aspect also helps to explain the predominant position of China, Brazil and Russia with regard to the domestic use of illegally harvested timber. A comparison of import of illegally harvested timber on the basis of “simple” (covering only bilateral trade) and inverse export coefficients demonstrates the model's merit. The hitherto usually simple approach underestimates the “real” trade by a third up to a half.’ See Dieter, ‘Analysis of trade in illegally harvested timber’.

<sup>109</sup> ‘Forest groups call on Oz to ban illegal timber import’, *The Jakarta Post*, 16 August 2010.

<sup>110</sup> W Wardoyo, Suhariyanto and B M Purnama, *Law Enforcement and Forest Protection in Indonesia: a retrospect and prospect*, paper presented on the East Asia Ministerial Conference on Forest Law Enforcement and Governance, Bali, Indonesia, 11–13 September 2001.



### 6.3 Australia's work to discover marketing chains of illegal timber

The report by A Schloenhardt, commissioned by the Australian Institute of Criminology in 2008, is particularly complete and very useful.<sup>111</sup> The coverage of laws affecting illegal logging and trade in timber (and lack thereof) is extensive as is the topic of illegal logging and trade in illegal or questionable timber and wood products. The report also addresses the question of how much of Australia's imported wood and wood products is estimated to come from illegal sources.

The level and modus operandi of illegal importation of timber and timber products into Australia have thus far attracted little research by government agencies and academic scholars. Consequently, accurate data and estimates about the extent of the problem in Australia are extremely limited, and it is impossible to identify any trends and developments. In 2005, the Department of Agriculture, Fisheries and Forestry (DAFF) commissioned a consultancy firm to assess the current and future 'impact on the Australian forest product imports of the overseas trade in illegal or suspect forest products'.<sup>112</sup> This report estimated that approximately nine percent or A\$452m of all timber and timber products imported into Australia come from an illegal source.<sup>113</sup>

Based on imports in 2003–04 and furniture imports in 2002–03, the report estimates that the percentages of various categories of imported timber and timber products were as shown in Table 2 below. The estimate of the average percentage of all illicitly sourced wood products as nine per cent has been widely quoted and probably remains the best percentage estimate available. It should be regarded with caution however, as data on illegal logging and illegally harvested wood in the marketing chains are incomplete and the imports can change as can the proportion of illegal material.

The report also points out that 'From the information available, it appears that most importers in Australia obtain their supply from overseas in good faith or may occasionally be careless about the source and legitimacy of their supplies. There are few known examples in which importers

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<sup>111</sup> Schloenhardt, *The illegal trade in timber and timber products in the Asia-Pacific region*.

<sup>112</sup> Jaakko Pöyry Consulting, *Overview of illegal logging*, prepared for the Australian Government Department of Agriculture, Fisheries and Forestry, Melbourne, September 2005.

<sup>113</sup> Schloenhardt, *The illegal trade in timber and timber products in the Asia-Pacific region*.

deliberately brought illegal timber into the country, knowing that the product was illicit'.<sup>114</sup> It adds, however, that 'Given the difficulties of tracing most imports and the lack of any documentation and certification, information about the sources of the illicit timber and timber products is limited. It is often equally difficult to establish the routes along which illegal timber is traded and identify the recipients and facilitators in Australia'.<sup>115</sup>

Table 2: Estimated proportion of Australian timber imports from illicit sources

Type of product imported	Per cent of imports estimated to be illicit
Sawn timber	6
Wood-based panels	11
Plywood	19
Veneer	16
Wood pulp	-
Paper products	-
Printing & writing paper	4
Tissues	11
Packaging	1
Wooden furniture	22
Miscellaneous (including doors, mouldings, etc.)	14
<b>Total</b>	<b>9</b>

Source: Jaakko Pöyry Consulting.<sup>116</sup>

Note: All data from 2003–04 except furniture data, which are from 2002–03.

<sup>114</sup> Schloenhardt, *The illegal trade in timber and timber products in the Asia-Pacific region*.

<sup>115</sup> Schloenhardt, *The illegal trade in timber and timber products in the Asia-Pacific region*.

<sup>116</sup> Jaakko Pöyry Consulting, *Overview of illegal logging*.

## 7 Regulation of wood imports internationally and by Australia

### 7.1 International initiatives

#### EU-FLEGT Action Plan and Voluntary Partnership Agreements

The European Union's Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan identifies a range of measures to address the problem of illegal logging and related trade, including governance reforms and capacity building in timber-producing countries. The primary mechanism is Voluntary Partnership Agreements (VPAs) between the EU and timber-producing countries where illegal logging is a problem. Each VPA will establish a licensing scheme to ensure that only timber products that have been produced in accordance with the national legislation of the exporting country are imported into the EU. Import into the EU of timber exported from a Partner Country will be prohibited unless the timber is covered by a valid license.

The issuing of licenses will require implementation of a legality assurance system (LAS). The Licensing Authority will need to have evidence to confirm that the timber was legally produced and that it can be traced to known legal origins, which will require a definition of legally-produced timber, a mechanism for control of the supply chain (e.g. wood tracing system or chain of custody) and a means for verifying that the requirements of the legality definition and the supply chain have been met.<sup>117</sup>

Systems for control under FLEGT may be either on the producer side or on the importer side but they must cover all stages of the supply chain. Where shipments are of processed products, verification of the effectiveness of these controls would need to be implemented in the forest, at intermediate storage, in processing facilities and at the export port. Verification of log shipments could be confined to the forest, intermediate storage and port stages. The requirement of third-party verification is central.

Within the EU, the regulation to introduce the requirement for licensed products from VPA countries was adopted in December 2005. The development of each country's licensing system is anticipated to take about

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<sup>117</sup> European Commission, 'FLEGT Briefing Notes 1–8', Brussels, 2007.

two years, so the first FLEGT-licensed timber could be entering trade in late 2010.<sup>118</sup>

Malaysia is working to become the first country in Asia to sign a voluntary agreement with the EU guaranteeing that all timber exports to that block have been harvested legally. The EU has already signed agreements with Ghana, the Republic of the Congo and Cameroon and is working on others. The goal is for the importing process to be streamlined to enable the source countries to determine that the timber has been harvested according to their national laws and the criteria in the stated agreements, generally that trees have not been harvested from protected forests, that species have not been endangered and that companies are complying with trade and customs regulations. A third-party monitor such as an independent auditing company will ensure compliance.<sup>119</sup>

A new bilateral agreement was announced in June of 2010 whereby Norway will pay Indonesia up to US\$1 billion and in return Indonesia will cease to assign new timber concessions for two years. Existing timber concessions that have been assigned but not yet implemented will not be affected and some observers are worried that these are so extensive that a great additional area of forest will be destroyed. It is nonetheless a strong statement from a European country.<sup>120</sup>

### **EU's decision to ban illegal timber in 2012**

The announcement of the EU's decision was made on 17 June 2010. It is a major step, if only a work in progress as of current writing. The following excerpts are from the press announcement as reported by the BBC:

The EU is set to finally ban illegal timber in 2012 after protracted legal wrangling over the issue. After two years of negotiations, legislators reached a compromise on a deal that will require companies to trace where their timber was harvested. MEPs will vote on the proposal in July before it is presented to the European Council in the autumn. Members of the European Parliament and the European Council on Wednesday reached a

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<sup>118</sup> D Brack, *Controlling Illegal Logging: Consumer-Country Measures*, Chatham House briefing paper, London, January 2010.

<sup>119</sup> L Gooch, 'Loggers Seeking an edge in E.U.', *The Global Edition of the New York Times*, 10–11 April 2010.

<sup>120</sup> T Allard, 'Norway to pay for Indonesian logging moratorium', *Sydney Morning Herald*, 28 May 2010.

provisional agreement that there should be a 'prohibition' on illegal timber in the EU. The plans also set out the responsibilities along the supply chain, and say companies will have to carry out risk assessments and use 'due diligence' systems in areas where illegal activities are suspected. 'Substantial penalties would apply in cases of non-compliance, which could be calculated on the basis of environmental damage caused,' the European Parliament said in a statement. However, timber used to produce printed material such as books and newspapers will be exempt for a further five years.

'The world's largest market is about to shut its gates to companies profiting from illegal trafficking and forest destruction,' said Sebastien Risso, forest policy director for Greenpeace EU.<sup>121</sup>

### US Lacey Act (amended) and the EU Due Diligence Regulation

The US *Lacey Act of 1900* was enacted to protect wildlife from excessive commercial hunting. It has been amended several times, most recently in 2008 when plants were included, with the aim of restricting both domestic and international trade in illegal timber. The Lacey Act now makes it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant in violation of the laws of the US, a state, an Indian tribe, or **any foreign law that protects plants** [emphasis added].

From December 2008, importers of timber products have been required to provide information on the scientific name of the species, the value and quantity of the timber and the name of the country in which it was harvested. Implementation of this element of the Act is being phased in gradually for different product types. The first enforcement action under the amended Lacey Act took place in November 2009.

The Lacey Act does not permit ignorance of the source of timber to be an excuse. Penalties for those who do not exercise 'due care' are less stringent than for those who deliberately import illegal or undocumented timber but there is no such thing as an 'innocent owner'. This obviously puts tremendous pressure on importers, distributors and retailers. Furthermore, many exporting countries do not have clear laws on legal and illegal wood trade. Importers are, understandably, showing great

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<sup>121</sup> Kinver, 'EU set to ban illegal timber from 2012'.

interest in certification schemes such as voluntary schemes, CITES certification and the new provisions under FLEGT.

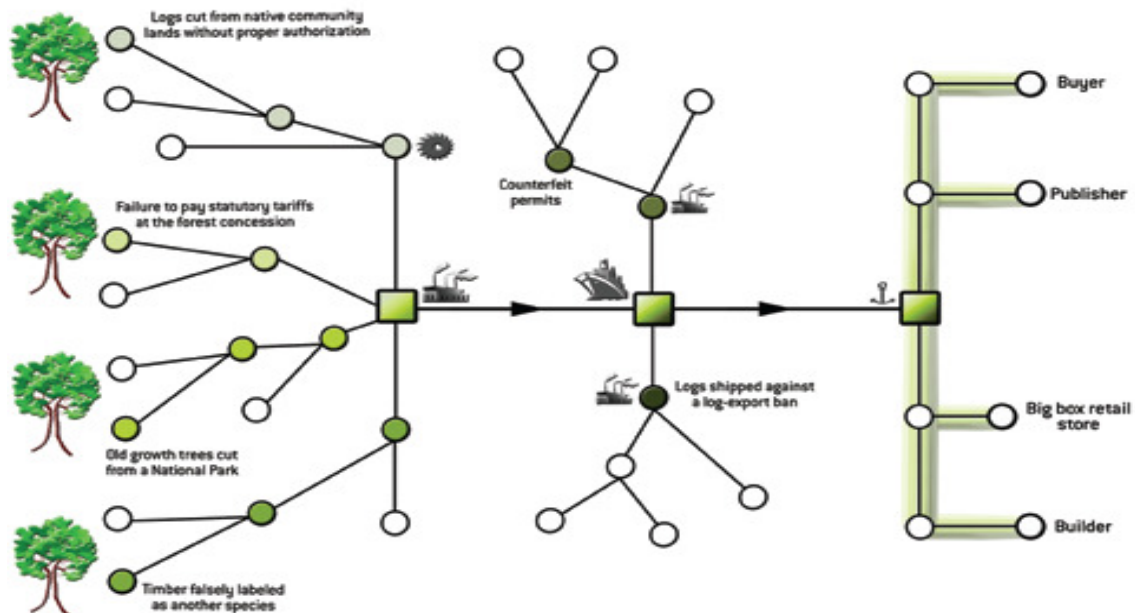
A violation of the Lacey Act consists of two basic components:

- 1) An underlying violation of a foreign, state, or tribal law occurs; this violation does not have to be of a criminal statute, nor one actively enforced in the foreign country. It does, however, have to be a violation of a law or regulation related to protection or management of plants or derivative products.
- 2) When this underlying violation occurs, that good which is now 'tainted' as an illegal good must go somewhere—it must be traded in the US. It is this second act of trade, whether export, transport, sale, purchase or import, that triggers a violation of the Lacey Act. The following graphic illustrates this schematically.<sup>122</sup>

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<sup>122</sup> EIA, *Setting the Story Straight—the U.S. Lacey Act: separating myth from reality*, Washington, January 2010.

Figure 3: Diagram of underlying violation and act of trade: how the Lacey Act works



Source: EIA.<sup>123</sup>

The EU FLEGT approach affects only countries that have entered into bilateral agreements (VPAs). Because these take time to create and some countries are hesitant about participating, the risk remains that producing countries will simply export to the EU through non-VPA countries. To avoid this, the EU made a more general regulation requiring importers to exercise due diligence. The 'due-diligence' regulation does not establish the same sort of underlying offence as the Lacey Act and, as a consequence, it needs to go into some detail as to what timber operators must do to avoid handling illegal products. This will be strengthened by 2012 when laws banning illicit timber in the EU come into effect.

The hope is that these measures will bring about significant changes quickly although much remains to be worked out under both systems.

<sup>123</sup> EIA, *Setting the Story Straight—the U.S. Lacey Act: separating myth from reality*.

## Public procurement policies in several countries

In all developed countries, the public sector is a major purchaser (or specifier) of timber for a variety of uses: construction (including contractors' disposable material), office or park furniture, and paper. Purchasing of goods and services by public authorities – central, regional and local – is estimated to account for an average of about 10 per cent of GDP. Several EU member states, and a number of other countries, now possess government procurement policies aimed at ensuring that public purchasers source only legal and/or sustainable timber and wood products. As of January 2010, these include Belgium, Denmark, France, Germany, Japan, the Netherlands, New Zealand, Norway and the UK; a number of other countries, mostly EU member states, are considering adopting similar policies. The European Commission's policy on green procurement states that legality should be a minimum requirement for wood-based products.<sup>124</sup>

See Appendix B for the UK example of definitions of legality and sustainability and import requirements for government procurement of timber and wood products.

## 7.2 Dendroprovenancing

Research into identifying the species and source of wood (dendroprovenancing) via DNA and other biological markers is progressing in Australia and elsewhere. At a workshop in Germany in 2007,<sup>125</sup> 40 scientists from nine countries discussed methods of timber identification, including genetic markers that vary between regions of origin, tree-ring analysis and comparative analysis of different isotopes. Some of these methods are 'on the threshold of usability'. Ongoing work focuses on identifying species and country or region of origin.<sup>126</sup> It is hoped that when dendroprovenancing has reached the stage of standardised testing methods with proven results, verifying certification will be much simpler.

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<sup>124</sup> Brack, *Controlling Illegal Logging*.

<sup>125</sup> International workshop on 'Fingerprinting methods for the identification of timber origins', 'Using scientific methods to combat illegal logging', summary and conclusions of workshop held in Königswinter, Germany, October, 2007.

<sup>126</sup> German Institute for Forest Genetics, *Putting timber fingerprinting into practice*.



### 7.3 Effectiveness of international measures to stop trade in illegal timber

The cited preliminary examples below, including some first-hand anecdotal evidence,<sup>127</sup> suggest that these new legal requirements are already beginning to have an effect up through the market chain to illegal logging and traders in questionable products. After some investigative work linked Walmart products sold in the USA (wooden toilet seats, baby cribs) to the Russian-Chinese trade in illegally harvested wood, Walmart began a major effort to clean up its suppliers:

In July, Wal-Mart signed an agreement with the World Wildlife Fund to eliminate illegal wood from its furniture within six years, and to work together on ...risk assessment. The company had good reason to act quickly. Its announcement followed the passage into law of the Lacey Act amendment, and similar legislation had already been introduced in the British Parliament and was being considered by the European Union. Wal-Mart began advising its suppliers to meet with attorneys about the new law.<sup>128</sup>

Procurement policies are effective because they can be developed and implemented more rapidly than most other policy options – generally they do not need new legislation.... The evidence also suggests that they can have a much broader impact on consumer markets than simply through the direct effect of government purchases. Suppliers' preferences for relatively simple supply chains magnifies the effect; if they need to supply sustainable timber for public purchasers, for example, the evidence suggests that they are tending to prefer to supply the same products to their other customers too. One estimate suggested that government procurement can achieve market leverage of up to 25 per cent of the market (compared with about 10 per cent for direct purchases) when knock-on impacts such as these are included.<sup>129</sup>

A number of bilateral Memoranda of Understanding and Joint Statements on cooperation to tackle the trade in illegal timber and/or other forest products have been signed between exporter and importer countries. Indonesia has been particularly proactive in organizing MoUs on illegal

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<sup>127</sup> 'The price for illegally harvested wood has dropped way down here in Sarawak now that the US & Europe have closed their doors; they're flogging it off in China and India.' (Author's personal communication with a 30-year resident, April 2010. These sentiments may or may not be accurate in detail but suggest a clear change in the market.)

<sup>128</sup> Khatchadourian, 'The Stolen Forests'.

<sup>129</sup> Brack, *Controlling Illegal Logging*.

logging with its trading partners. A range of activities have been organized under some MoUs, including various forms of collaboration between Customs agencies, while others lie fairly dormant. Audits of the Indonesian timber industry carried out under the auspices of the MoU indicated that the legality of almost no Indonesian plywood could be guaranteed, leading UK buyers to search elsewhere for their supplies. These audits evolved into the EC-supported Tropical Timber Action Plan (TTAP), which helps suppliers in timber producing countries implement systems to assure legality. Brack (2005a) concludes that the UK-Indonesia MoU proved its value in “providing assistance for the establishment of some of the conditions that Indonesia will need to fulfil [if] it is to agree to a Voluntary Partnership with the EU under FLEGT ... Bilateral efforts under the MoU have now been superseded by the FLEGT VPA negotiation process.”<sup>130</sup>

Despite these and other encouraging first signs, it can be expected that the new regulations described here will also generate incentives for the creation of more elaborate schemes to circumvent them. Fraud is likely and some has already been detected. The tightening of some markets will send more illegally procured wood into the less-controlled markets. Australia should want to avoid becoming one of those.

#### **7.4 Need for coding of legal products to allow ‘seamless importing’**

There is a need not only to combat illegal logging and the resultant trade, but also to promote the positive trade of legal and sustainable timber. Wood products may have advantages for climate change mitigation over their substitutes. Customs have a role to play, not only in restricting the trade in illegal timber, but also facilitating the trade of legal and sustainable timber.<sup>131</sup>

The streamlining of importing procedures to reward good business practices should be introduced as quickly as punitive measures for handling non-certified wood are established. It is important not to punish companies that are trying to follow good practices and those working with wood from plantations. To avoid such perverse results, significant emphasis should be placed on certifying legally sourced wood and making its trade simpler and faster. Importers in countries with strict import regulations can be expected to increase demand for the easy-to-

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<sup>130</sup> Scheyvens and López-Casero, *Enhancing Customs Collaboration to Combat the Trade in Illegal Timber*.

<sup>131</sup> Scheyvens and López-Casero, *Enhancing Customs Collaboration to Combat the Trade in Illegal Timber*.

import, risk-free products under measurable, reportable and verifiable schemes (MRVs), with this preference possibly becoming an even stronger market influence than the trade-restricting options. In any case, it is an important element of the total approach.

While certification is a good and necessary concept, it is also the case that certification markers, paperwork and pretty much any form of required documentation can be easy to fake. The forging of documentation is now widespread and, even with more stringent requirements, is likely to be much cheaper and easier than tracking the movement of timber and wood products through the marketing chain to ensure that timber sold has been legally harvested. Any such system will require independent third-party monitoring, probably both national and international.

## **7.5 Australia's efforts to curtail importation of illegal timber and wood products**

### **Australia's certification and codes of practice for domestic wood production**

Forest and chain-of-custody certification assures buyers in Australia and around the world that the forest products they obtain from Australian producers originate from legally harvested and sustainably managed native forests and plantations. Several private organisations here conduct forest and chain-of-custody certification according to standards set by either the Australian Forest Certification Scheme (AFCS) or the Forest Stewardship Council (FSC) scheme. The AFCS uses the Australian Forestry Standard, which was developed via a nation-wide process involving representatives of the Australian community, industry and government. The FSC uses a standard that complies with its international 'Principles of Responsible Forest Management'. Both schemes issue chain-of-custody certificates that identify and track certified wood and wood products through the supply chain. The area of certified forest and plantation in Australia has grown rapidly to about 10.4 million hectares and includes most of the native forests managed for timber production.

In addition to certification, multiple-use public and private forests are managed in accordance with codes of practice, with many forest managers using environmental management systems (EMS) that are certified independently to an ISO standard. Public forest management

agencies with certified EMS in place include Forests NSW, ForestrySA, Queensland's Department of Environment and Resource Management Forest Products, Forestry Plantations Queensland, Western Australia's Forest Products Commission, Victoria's Department of Sustainability and Environment and Forestry Tasmania. Several large private forestry enterprises also have EMS.<sup>132</sup>

Thus, Australia's domestic production is certified as are its exports. The importing side, however, is different.

### **The current legal situation for imported timber and wood products**

Australia has not yet taken legal steps as comprehensive as the FLEGT Action Plan or the Lacey Act but it too has begun to consider policy that would address the difficulties importers face in assuring that imported wood is of legal provenance.

In 2008, the report written for the Australian Institute of Criminology could conclude that:

Australia is, after China and Japan, the third-biggest consumer of timber and timber products in the Asia-Pacific region. ... It is this demand, especially for cheap timber supplies, that fuels the trade in illegal timber and translates into higher levels of illegal logging abroad. However, consumption of illegal timber is not criminalised and largely not regulated in Australia.<sup>133</sup>

It remains true that there are almost no laws against importing or using illegal timber in Australia with the exception of some species covered under CITES and some small specific prohibitions. Between 2008 and 2009, however, Australia negotiated agreements (or MOUs) with Indonesia, PNG and China, all of which include commitments to work together to identify mechanisms to verify the legal origin of wood products.<sup>134</sup> Australia also participates in multilateral processes, including the non-legally binding arrangements of the United Nations Forum on Forests (UNFF) addressing the management of all types of forests and

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<sup>132</sup> Bureau of Rural Statistics, *Australia's Forests at a Glance 2010: data to 2009*, Department of Agriculture, Fisheries and Forestry, 2010.

<sup>133</sup> Schloenhardt, *The illegal trade in timber and timber products in the Asia-Pacific region*.

<sup>134</sup> Brack, *Controlling Illegal Logging*.

the resolution of the United Nations Commission on Crime Prevention and Criminal Justice (UNCCPCJ) dealing with illicit international timber trafficking.<sup>135</sup>

These agreements are not legally binding and there are no provisions for confiscating illegally produced timber or questionable wood products that lack full documentation. It would appear that private businesses are, however, concerned about this issue.

Nearly three-quarters of the importing businesses reported some policy on illegal logging and that most of these were the result of consumer demand for products coming from a legal source, clear evidence that consumers can influence what is imported.<sup>136</sup>

Jaakko Pöyry Consulting could write in 2005 that:

There is to date no accepted industry-wide policy and no uniform standard for importation of timber and timber products into Australia. The 2005 review of the Australian timber and timber product market found that the industry, including wholesalers, hardware stores and even industry such as the Australian Timber Importers Federation, lacked any policies and procedures to detect and restrict timber imports from illegal or suspicious sources.<sup>137</sup>

Unfortunately, this is still the case.

Clearly, Australia can do more to regulate imports of timber and wood products and there are a number of reasons why it should. Private companies would benefit from government support and coordination in establishing standards for importing certified timber and wood products. Such efforts are likely to be more effective if coordinated as part of a regional and/or international effort.

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<sup>135</sup> CIE, *A final report to inform a Regulation Impact Statement for the proposed new policy on illegally logged timber*, prepared for the Department of Agriculture, Fisheries and Forestry, Canberra and Sydney, 2010.

<sup>136</sup> The Timber Development Association New South Wales, *A review of the current policies & practices employed by the timber and timber products importers to determine the legality of supply*, prepared for the Australian Timber Importers Association with the financial assistance of the Department of Agriculture, Fisheries and Forestry, Sydney, 2006.

<sup>137</sup> Jaakko Pöyry Consulting, *Overview of illegal logging*.

## Movement towards an importing policy in Australia and the RIS

Under the topic of illegal logging, the DAFF website<sup>138</sup> confirms that the government has committed to work with regional governments and industry to:

- 1) build capacity within regional governments to prevent illegal timber harvesting
- 2) develop and support certification schemes for timber and timber products sold in Australia
- 3) require disclosure at point of sale of species, country of origin and any certification
- 4) identify illegally logged timber and restrict its import into Australia
- 5) argue that market-based incentives aimed at reducing emissions from deforestation and forest degradation should be included in a future international climate-change agreement.

The website also presents the recent final version of a paper commissioned by the government from the Centre for International Economics (CIE) as an input to a Regulation Impact Statement (RIS) on the proposed new policy on illegal logging.<sup>139</sup> This paper is disturbing in that it is methodologically seriously faulty in a number of ways and yet it remains on the website and seems to be supported in some quarters. It has drawn strong criticism, officially from the EU<sup>140</sup> as well as from various groups in Australian civil society<sup>141</sup> for its exaggeration of the costs of wood certification, its mishandling of the definitions of different levels of certification and verification and its strange estimation of benefits. Its estimate of the negative costs (benefits) of illegal logging was \$92 billion a

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<sup>138</sup> DAFF, 'Illegal logging'.

<sup>139</sup> CIE, *A final report to inform a Regulation Impact Statement for the proposed new policy on illegally logged timber*.

<sup>140</sup> European Union, Directorate General Environment (2009). 'Technical comments DG ENV-2 on Regulatory Impact Statement', in letter to Australian Embassy and Mission to the European Communities, Brussels.

<sup>141</sup> Uniting Church of Australia, Justice and International Mission Unit, Synod of Victoria and Tasmania (2009). *Submission to proposed new policy on illegally logged timber: Issues Paper*, written by M Zirnsak, Melbourne.

year, \$80 billion of which was taken to be generated by economic activities in the wood-producing countries. There is room for debate around these figures and for challenging CIE's relatively low estimates of the *benefits of stopping illegal logging*, which omitted difficult-to-price items and were arguably too low for that reason and others.

The overriding issue is that using the financial gains from illegal activities in other countries as a justification for a policy of inaction against importing the products of those illegal activities into Australia is mind-boggling. An identical argument could be mounted against other illegal activities such as heroin production and export or human trafficking. Both are notoriously lucrative but the financial gains generated for those involved are not seen as a justification for Australia to make policy that disregards heroin imports and human trafficking. It is astonishing that such an important part of the conclusions of the CIE report rests on this treatment of the financial gains from illegal activities as a benefit.

A conclusion of the RIS report by CIE is that:

Any unilateral action taken by Australia is likely to be ineffective in reducing illegal logging because of the potential for timber products incorporating illegally logged timber to be diverted to less discerning markets and because Australia is such a small part of the global market.<sup>142</sup>

Both of these statements are partly true but incomplete. Clearly, Australia would not be acting alone; in fact it is currently lagging behind many other countries that are taking action. The recent laws enacted by the EU and the US will force purveyors of illegal timber to expand in other, less-discerning markets and, if it does not strengthen its import controls, Australia runs the risk of becoming one of these. Australia is a relatively small part of the global market but it is very near to the Asian countries of most concern and is involved with several of these in both aid and trade. It is the third largest importer of timber and wood products in the region and to pretend that it is too small to matter is to underestimate its potential to influence its neighbours and the international community. The Minister for Agriculture, Fisheries and Forestry in the previous government, Tony

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<sup>142</sup> CIE, *A final report to inform a Regulation Impact Statement for the proposed new policy on illegally logged timber*.

Burke, distanced himself from the CIE report in a radio interview<sup>143</sup> and in a personal communication from his office,<sup>144</sup> but it remains to be seen what the government will do.

### International calls for Australia to help control the trade in illegal wood

The international community has begun to call on Australia to participate in the movement to control the trade in illegal timber and wood products. The EU formally criticised the conclusions of the CIE report described above and recently US congressman Earl Blumenauer called on the Australian Government to legislate to ban illegal timber imports into Australia.

... He says Australia is part of a global supply chain and positioned strategically on the edge of a vast area where some of the most destructive logging practices have been taking place. He is dismissive of arguments that Australia is such a small market for imported timber that a ban on illegal imports would have little effect. 'I think people look to Australia in a way that actually is disproportionate, perhaps to your numbers of people. ... It would have a great deal of impact if Australia would step up its efforts to prevent illegal logging from entering your chain of commerce'.

Mr Blumenauer says it is important that Australia legislates to criminalise illegal timber imports, as opposed to establishing a voluntary or industry regulated system. 'The problem with a less aggressive and comprehensive effort is that it continues to advantage people who cheat. ... If we have points in the line of defence against illegal logging that are weak it's going to end up undercutting what we're all trying to achieve.... So it needs to be comprehensive, it needs to be enforceable and Australia is positioned in terms of the regard that people have for it around the world and its

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<sup>143</sup> '... what we've done with the consultants [sic] report, yep, they've come back and they've recommended three—given us three options that they reckon would implement them. The one that they prefer would be a breach of the election promise so we're not going to do it. But for the complaints yesterday to take a consultants [sic] report and presume that that somehow reflects Government policy is simply wrong.' See T Burke, [Transcript of] Tony Burke—an interview with Fran Kelly, *Radio National Breakfast*, 18 February 2010.]

<sup>144</sup> 'Many stakeholders raised concerns over the extent of the analysis in the report and the CIE's support for a non-regulatory option. Minister Burke has since indicated that this option is not acceptable as it does not deliver on the government's commitment to restrict the importation of illegally logged timber products into Australia.' Letter dated 23 June 2010, David Mortimer, Executive Manager, Climate Change Division, DAFF.



geographic location, to be able to have profound impact in changing this unfortunate pattern'.<sup>145</sup>

## **7.6 Australia's participation in international and regional forestry agreements**

DAFF has overall responsibility for representing Australia's interests in international and regional organisations and processes where forestry is a significant issue. The international agreements include:

- United Nations Forum on Forests: Facilitate implementation of the Non-Legally Binding Instrument on all Types of Forests by organisations, including the Collaborative Partnership on Forests
- Food and Agriculture Organization of the United Nations, Forestry Department and Committee on Forestry
- The Montreal Process.

Regional agreements on forestry where DAFF represents Australia's interests include:

- Asia-Pacific Forestry Commission
- Asia Forest Partnership
- Asia-Pacific Network for Sustainable Forest Management and Rehabilitation
- International Tropical Timber Organization
- Association of South East Asian Nations
- Asia-Pacific Economic Cooperation.<sup>146</sup>

Australia is also a signatory to CITES, the Convention on International Trade in Endangered Species of Wild Fauna and Flora. While CITES is a useful international agreement that has notably helped protect ramin,<sup>147</sup> most of the species affected by international timber smuggling are not

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<sup>145</sup> S Crittenden, 'Australia urged to ban illegal timber imports', *ABC News*, 28 May 2010.

<sup>146</sup> DAFF (Department of Agriculture, Fisheries and Forestry), 'International and regional forums', 2010.

<sup>147</sup> A tropical hardwood-tree species occurring in peat swamp and lowland freshwater-swamp forest in Borneo, Sumatra and Peninsular Malaysia.

covered by it. Since 2008, however, it has been strengthening its work in relation to timber/tree species and international bodies including ITTO and FAO.<sup>148</sup>

Schloenhardt points out that the trade in illegal timber is a regional issue and illicit dealers take advantage of differences in laws and enforcement mechanisms.<sup>149</sup> In addition, sensitivity over sovereignty issues can complicate matters. Cooperation between source, transit and destination countries will be important in limiting this trade. Ideally, this cooperation should include agreements on policies and certification methods as well as communication among law enforcement, customs and forestry officials. Numerous organisations exist, both internationally and regionally, that address parts of these issues, including those listed above. There are also a number of private-sector groups, some of which have Australian members.

From time to time new organisations appear, such as the Forest Legality Alliance (Alliance) launched in May 2010 with a particular focus on supporting private-sector efforts and policies to reduce trade in illegally harvested wood. The Alliance is a global public-private initiative open to businesses, industry associations, financial institutions and civil society organisations with a stake in legal forest-product supply chains.

The Alliance will ensure that importers and supply chains know and understand the emerging new trade policies. It will develop new online resources that help companies assess the risk of encountering illegal wood, conduct due care, and complete import declarations. It will work with suppliers to document best practices and unforeseen challenges associated with purchasing legal wood and complying with import regulations. It will focus on the capacity for legal trade in the sector as a whole, rather than on the performance of individual companies, and complement existing initiatives that certify legality and sustainability.<sup>150</sup>

Recommendations from the conference on enhancing customs collaboration to combat the trade in illegal timber included this strong

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<sup>148</sup> Scheyvens and López-Casero, *Enhancing Customs Collaboration to Combat the Trade in Illegal Timber*.

<sup>149</sup> Schloenhardt, *The illegal trade in timber and timber products in the Asia-Pacific region*.

<sup>150</sup> World Resources Institute, *Global Alliance Launched to Curb Trade in Illegal Wood*, news release, 26 May 2010.

endorsement for bilateral agreements as well as the mention of a new tool developed by the World Customs Organization for its members.

The greatest prospect for enhanced Customs collaboration against the illegal timber trade in the short-to-medium term lies in bilateral arrangements on illegal logging. The challenge is thus to make fullest use of existing bilateral arrangements and statements on illegal logging to promote enhanced Customs collaboration and to encourage provisions for Customs collaboration in future agreements.

The WCO Secretariat has recently developed ENVIRONET for the purpose of informal consultation and assistance from experts and other Customs colleagues related, but not limited to, consignments controlled by the multilateral environmental agreements (MEAs). ENVIRONET is an internet based service maintained and made available free of charge by the WCO to all members subscribed to the users group....The scope of ENVIRONET covers all information that is relevant to Customs environmental border protection, in particular implementation and enforcement of several trade related MEAs. In addition, information related to nuclear materials, illegal trade in timber, and unregulated, unreported fishing may also be exchanged via ENVIRONET.<sup>151</sup>

## 7.7 The argument for greater Australian control of wood imports

It is very important for the Australian Government to make policy in accordance with its commitments to work against this illegal and destructive trade, which has been causing economic, environmental and social havoc for decades in those parts of the world where large forests still exist. Legal logging is not always 'sustainable' but illegal logging never is. Reducing illegal logging is the first step towards ensuring that legal logging is conducted sustainably. The reasons why attempts to stop illegal logging have largely failed are many, but two of the most important are:

- 1) The extraordinary financial power, and therefore political clout, of those who profit from it to corrupt, intimidate and control agencies and communities, thereby taking whatever they want.

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<sup>151</sup> Scheyvens and López-Casero, *Enhancing Customs Collaboration to Combat the Trade in Illegal Timber*.

- 2) The strong demand for low-priced timber and wood products, a significant part of which comes from the richer countries and generates the huge profits that feed illegal logging operators.

The time for Australia to act on this matter is now because of several factors.

- 1) After years of inaction and paralysis, the leaders of some of the nations in this region that have been among the most affected by this plague are now attempting to put a stop to illegal logging within their borders. They are prosecuting offenders and working to support those companies and agencies that are trying to manage their forests legally and more sustainably. Australian action now would support their efforts.
- 2) Australia will not be acting alone if it works to better control its borders against the importation of illegally cut timber and wood products. The EU, the US and several other countries are establishing legal sanctions to limit the products of illegal logging entering their domestic markets. Some are developing bilateral and multilateral agreements to help source countries develop 'chain-of-custody' information systems to enable wood producers, processors and exporters to demonstrate that their wood is legally sourced, with no illegal material mixed into the marketing chain. Together with independent third-party monitoring, this will lead to strong certification systems in the source countries. Independent monitoring is essential, given the historical success of powerful illegal logging interests in corrupting legislative and judicial processes in producer countries. Australia can do its part to support these initiatives by closing its doors to the illegal part of the trade and at the same time encourage legal producers by streamlining fully certified imports.

Although Australia's relatively slow response on this policy matter to date is worrying, it is in the country's interest to assist in curbing illegal logging for a number of reasons.

- 1) To foster international credibility and to avoid being one of the markets where producers can continue to sell their illegally sourced products, Australia as a law-abiding, responsible

nation should stand with those trying to stop the illegal logging trade. Australia's regional role should be to cooperate with neighbouring countries, assisting them with the reform and improvement of the governance and management of their natural resources; AusAID programs are geared to this goal and Australian trade laws should be consistent with this aim.

- 2) The costs to Australian consumers of a full certification system of timber and wood products are not projected to be particularly high according to credible studies,<sup>152</sup> and retailers and importing groups within Australia are already attempting to meet consumer demand for 'clean' wood. The government could help its own citizens and commercial interests by supporting this move. Working with international methodology such as FLEGT certification systems could also help to keep costs low.
- 3) Australian industries that act responsibly with respect to wood production and processing within the country are damaged by the import of artificially cheap, illegal materials. Australia's own timber associations have made statements in support of government action: 'A3P welcomes the Australian Government's commitment to work with major forest product importers, wholesalers and retailers to examine options consistent with international obligations to encourage sourcing of forest products from sustainable forest practices. Forest products sourced from illegal logging currently compete in the marketplace against Australian products legally sourced from sustainably managed forests'.<sup>153</sup>
- 4) When illegally cut timber makes up a significant portion of the world market, it tends to harm timber-producing countries, including Australia, by depressing prices. It is analogous to dumping. Australia is a net-importing country; it is likely the case that importers of some timber and wood-based products

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<sup>152</sup> R Li, J Buongiorno, J Turner, S Zhu and J Prestemon, 'Long-term effects of eliminating illegal logging on the world forest industries, trade, and inventory', *Forest Policy and Economics* 10, 2008, pp. 480–490.

<sup>153</sup> A3P, *Member guidelines*.

benefit from the relatively low prices of imports that contain questionable materials. But this should be balanced against the costs to Australia's wood-producing and processing industry and the fact that it is competing against firms that are not only benefiting from destructive processes but, in some cases, are also associated with organised international crime syndicates.

- 5) It is now known that the damage caused by illegal logging is not confined to the harm it causes to the producing countries. Deforestation is responsible for roughly 20 per cent of global greenhouse gases. Illegal logging is responsible for much of the rampant deforestation in the remaining remote, important forests and it undermines all efforts to log sustainably and to reduce the emission of greenhouse gases. Australia is one of the countries most likely to suffer early from changing climate and it makes sense to be working where possible to slow that change. A better policy for Australian imports of timber and wood products, one that excludes the products of illegal logging, is ultimately in the interest of Australians and the international community.

## **7.8 The 2010 federal election**

During campaigning in the 2010 federal election, both the Labor Party and the Coalition published statements that, if elected, they would take action to halt the import of illegal timber.

The Labor Party announced that a re-elected Gillard Government would:

- introduce new legislation making it an offence to import any timber products into Australia that have not been legally harvested
- implement a code of conduct to require suppliers who first place timber into the Australian market to carry out the proper tests to ensure wood coming into the country is legal
- require the use of a trade description and the circumstances under which it can be used to give consumers confidence that they are purchasing legally sourced wood

- continue to work through Australia's bilateral agreements with Indonesia, China and PNG to ensure a consistent global approach to eliminating illegal logging
- complement the work of the US under the Lacey Act and the EU by demanding verification of the legal origins of wood.

In their statement, Peter Garrett and Tony Burke said, 'These measures will put an end to unfair competition on the Australian forestry and timber products sectors by restricting the import of illegal timber products, including sawn timber, wood panels, composite products, wooden furniture, and pulp and paper products.

'Our combination of initiatives and those of the EU and the US on illegal logging will raise the bar for forestry practices in a number of countries internationally so that in the future they will have the same high standards of sustainable forest management which are demonstrated in Australia.'<sup>154</sup>

They stated that the initiative will have no impact on the budget.

The Coalition released a 12-point 'Plan for Real Action on Forestry', which committed them to:

- provide \$20 million to forest contractors to begin a restructure within the sector
- undertake an economic assessment of long-term demand for forest products
- Regional Forest Agreements (RFAs)
- establish a National Bushfire Mitigation Programme
- legislate to make it an offence to import any timber product not verified as legally harvested
- Forest and Forest Products Certification Standards
- Sawmillers' Forestry Certification Assistance Programme
- Managed Investment Schemes
- wood biomass and renewable energy

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<sup>154</sup> Garrett and Burke, 'Government takes strong action of illegal timber imports'.

- funding for a Timber Engineering Centre of Excellence
- skills training and retention
- increase research and development.

The policy stated that the Coalition ‘has always recognised and balanced the competing environmental, social and economic objectives of native forest management through the Regional Forest Agreements and the landmark Tasmanian Community Forest Agreement’.<sup>155</sup>

The Coalition committed an additional \$35.75 million towards these forestry initiatives to be funded through recurrent savings identified over the forward estimates.

Statements about intentions to halt the import of illegally logged timber and wood products have been made by governments in the past with no discernable effect. Specific laws with strong enforcement measures are required along with a credible verification system and due diligence checks. It is important that the public remains aware of this issue and holds the government to its promises.

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<sup>155</sup> Liberal Party, *The Coalition's plan for real action to support forestry*.



## 8 Recommendations

Australia has the opportunity to support sustainable development of its partner countries and assist with substantial international efforts to stop illegal logging by several means. Suggestions are made in six areas:

- 1) Strengthen aid work on forest preservation/renewal.
- 2) Develop strong trade policies and laws relating to import of timber and wood products.
- 3) Engage with trade organisations and other elements of civil society to create a unified acceptable approach to the problem and to educate the general public.
- 4) Support research into DNA identification and other forms of dendroprovenancing.
- 5) Strengthen Australian customs procedures, including the sharing of information and harmonising procedures with other nations.
- 6) Expand participation in regional and international initiatives.

### 8.1 Strengthen aid work on forest preservation/renewal

Australia has taken a leading role in working to increase forest-management skills and restoration in Indonesia and supporting pilot use of REDD mechanisms to reward local populations for preserving forests. Aid-program managers and policymakers must be aware of the pitfalls inherent in implementing REDD and programs must be coordinated with a clamp-down on illegal logging or they will not succeed.

#### **Recommendations:**

- 1) Continue and, as appropriate, expand aid projects in support of sustainable management of forests.
- 2) Ensure that forest projects, including REDD efforts funded and/or implemented by AusAID, contain adequate certification measures so that illegally logged timber and wood products are not introduced into the marketing chain for legitimate projects.

- 3) Pay particular attention to the complexities of implementing REDD schemes and share information with, and learn from, Australian domestic and international experiences.
- 4) Encourage AusAID, the Department of Foreign Affairs and Trade (DFAT), DAFF and the Department of Sustainability, Environment, Water, Population and Communities (SEWPaC) to work together to see that Australian aid efforts (and domestic timber production and related industries) are not undermined by the lack of an Australian trade policy.

## **8.2 Develop strong laws and trade policies on timber, and wood products import**

In the trading sphere, Australia can assist partner nations and also work on the home front. Illegal logging is, to a significant degree, driven by markets in the high-income world. Given the overwhelming influence of the financial power gained by illegal-logging interests and the damage they cause, it is important that Australia participate in the international work to prevent illegal logging and the trade in illegally logged timber and wood products. Australia should follow European and US initiatives aimed at making the import of and trade in timber that cannot be shown to have been legally sourced an illegal and prosecutable act.

### **Recommendations:**

- 1) Examine existing forest-products certification systems, including the EU FLEGT and US Lacey Act provisions and those currently used in Australia for domestic timber production, as bases for an Australian requirement for certification of imported timber and wood products.
- 2) Decide on a certification system that includes proof of legal sourcing, a full 'chain-of-custody' history and independent third-party monitoring for timber and wood-product imports, including furniture. Legal sourcing indicates that a logging concession should conform to the laws of the source country, including environmental requirements and forest-ownership rights where these exist. Where such laws do not exist in the exporting countries, Australia should consider what measures of sustainability ought to be included in import requirements.

- 3) Act on election promises to require that timber and wood products must be fully certified as legally sourced with chain-of-custody and third-party monitoring, by enacting laws to empower customs authorities to seize shipments that do not have this full certification.
- 4) Streamline the import of fully certified timber and wood products to support those producers and processors who adopt the requirements of full certification.

### **8.3 Work with civil society, private companies and the purchasing public**

The problem of illegal logging affects different groups differently. Some importers and consumers may gain from cheaper imports but local industries are hurt by them. Many Australians feel strongly about playing a responsible role internationally, particularly where less-advantaged peoples are concerned, and very few would willingly support violent organised crime. Government can set policies and make laws that affect all aspects of society and the economy, clarifying the situation and freeing consumers from having to make difficult choices.

#### **Recommendations:**

- 1) Work with trade organisations and private companies to determine what support they will need to best conform to a certification system for importing.
- 2) Facilitate sharing of information and cooperation and consultation among government agencies, NGOs and commercial interests.
- 3) Help the wood industry to educate the general public about the need for, and the advantages of, ensuring that timber and wood products in Australia, both domestic and imported, have come from legal and sustainably managed sources. Industry will do its part in this but the government needs to clarify both its reasons for implementing and the method of operation of the endorsed certification system as it has for other kinds of certification systems.

#### **8.4 Support Australian research into dendroprovenancing**

Strong certification systems include the requirement for clear chain of custody where records are maintained for the inputs and outputs of each stage of production and sales, from forest source and timber-processing facilities to import. Increasingly, sophisticated information technologies are already increasing the feasibility of enforcing compliance. Developments in dendroprovenancing (DNA identification and others) will make verification of wood source much easier and simplify controls when such systems are ready to implement.

##### **Recommendation:**

- 1) Continue to support domestic research and contribute to international research to improve the technical ability to identify types of wood and geographical source (DNA testing, other dendroprovenancing).

#### **8.5 Strengthen Customs procedures such as sharing information and harmonising procedures**

Facilitating the harmonising of Customs procedures and the sharing of information will be a step forward. A complementary and necessary measure is to make the import of well-documented legal products easier by streamlining import procedures. At a recent conference on the topic of enhancing customs collaboration to combat the trade in illegal timber, several recommendations were developed concerning specific kinds of collaboration.<sup>156</sup>

##### **Recommendations:**

- 1) Information sharing on customs and forest laws, documentation accompanying shipments and export restrictions.
- 2) Spontaneous intelligence sharing on specific shipments.
- 3) Prior notification of shipments.

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<sup>156</sup> Scheyvens and López-Casero, *Enhancing Customs Collaboration to Combat the Trade in Illegal Timber*.

- 4) Joint investigation of timber-trade statistics discrepancies, with early analysis to monitor trade flows and to enable greater control of data.
- 5) Sharing of best practices and experiences to strengthen customs integrity.
- 6) Cooperation to more effectively implement CITES.
- 7) Agreement for the use of customs-export declarations, or an additional attestation of legality, in the country of import as a check on legality.

## 8.6 Expand participation in regional and international initiatives

Australia's approach to illegal logging is 'directly addressing elements of the non-legally binding UN statement on forestry,<sup>157</sup> which is a good, if general, statement.

### Recommendations:

It is recommended that Australia follow through by taking the statement as a commitment to:

- 1) Enhance bilateral, regional and international cooperation to address illicit international trafficking in forest products through the promotion of forest-law enforcement and good governance at all levels.
- 2) Strengthen, through enhanced bilateral, regional and international cooperation, the capacity of countries to combat effectively illicit international trafficking in forest products, including timber, wildlife and other forest biological resources.
- 3) Strengthen the capacity of countries to address forest-related illegal practices in accordance with domestic legislation, including wildlife poaching, through enhanced public awareness, education,

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<sup>157</sup> ECOSOC (Economic and Social Council of the United Nations), Resolution 2007/40: 'Non-legally binding instrument on all types of forests' (E/2007/INF/2/Add.2), 17 October 2007.

institutional capacity building, technological transfer and technical cooperation, law enforcement and information networks.

Government can assist its businesses to import only legally harvested wood and wood products by working on bilateral agreements with exporting countries. Part of the EU FLEGT approach to place tighter controls on imported timber is to negotiate bilateral agreements with exporting countries; several of these countries are now working to establish agreements to facilitate the import of their wood into the EU. Australia's Minister for Agriculture, Fisheries and Forestry reaffirmed on 13 May 2010 that Australia will continue to work to strengthen its bilateral agreement with Indonesia but gave few specifics.<sup>158</sup> In the recent national election campaign, both Labor and the Coalition made statements about stopping illegal wood imports; it remains to be seen what concrete steps will be taken.

It is recommended that Australia:

- 1) Work more actively with Indonesia, PNG and the Pacific Island countries on reducing illegal logging by helping them to undertake the activities necessary to attain certification for their wood exports.
- 2) Collaborate more closely with other countries and international organisations that are working on procedures aimed at developing a standardised approach to certification to facilitate the introduction of a mandatory certification status.
- 3) When Australia takes a stronger stand on limiting its own imports of illegally sourced wood and wood products, play a stronger role in international and regional organisations working to limit the illegal trade.

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<sup>158</sup> 'Australia and Indonesia have further strengthened their commitment to combat illegal logging and secure the sustainable use of forest resources. This agreement builds on work already achieved to establish formal Memoranda of Understanding with China and Papua New Guinea on tackling illegal logging. The Government stands by its election commitment to restrict the importation of illegally logged timber.' See T Burke, *Rudd Government continues to invest in forest resources*, press release, Canberra, ACT, 11 May 2010.

## Appendix A: Key REDD terms

<b>REDD</b>	The acronym stands for ‘reducing emissions from deforestation and forest degradation’. This issue was first placed on the agenda of the 2005 international climate-change negotiations. At that point, the agenda item was called ‘reducing emissions from deforestation in developing countries and approaches to stimulate action’. As a result, this is the name of the decision on REDD agreed at the 2007 UN Framework Convention on Climate Change (UNFCCC) in Bali, Indonesia (decision 2/CP.13). Decision 2/CP.13 acknowledges that forest degradation also leads to emissions and needs to be addressed when reducing emissions from deforestation. The ‘DD’ in REDD now stands for degradation and deforestation.
<b>REDD +</b>	Along with the separate decision on REDD (see above), REDD is included in the Bali Action Plan (decision 1/CP.13) as a component of enhanced action on mitigation (curbing emissions). Parties to the UNFCCC have agreed to consider policy approaches and positive incentives on issues relating to REDD in developing countries and <i>the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries</i> . It is this last clause on the role of conservation and sustainable management that has added the ‘+’ to the REDD discussion.
<b>REDD baseline</b>	An expected, or business-as-usual, emission of carbon dioxide from deforestation and forest degradation in the absence of additional efforts to curb such emissions—used as a benchmark against which emissions reductions can be measured.
<b>REDD conditions</b>	To deliver real reductions in carbon dioxide emissions, REDD must satisfy the following conditions:
Additionality	Proof that any reduction in emissions from a REDD project is genuinely additional to reductions that would occur if that project were not in place.
No leakage	Leakage is a reduction in carbon emissions in one area that

	results in increased emissions in another. A classic example is where curbing clearfelling in one region of forest drives farmers to clearfell in another.
Permanence	The long-term viability of reduced emissions from a REDD project. This is heavily dependent on the forested area's vulnerability to deforestation and/or degradation.

Source: IIED.<sup>159</sup>

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<sup>159</sup> IIED (International institute for Environment and Development), 'REDD: Protecting climate, forests and livelihoods', London, 2010.



## **Appendix B: UK example: procurement policy on timber and wood-derived products**

The recently issued UK Government's procurement policy on timber and wood-derived products now includes criteria that 70 per cent of the imported timber products should be sourced from 'legal and sustainable' logging with 30 per cent meeting the criteria for 'legal'. Thus, 'sustainable' has become part of the legal requirements for government procurement of wood products in the UK. The definitions are fairly extensive and are reproduced here as an example.

### **UK definition of legal timber and wood derived products**

For UK Government procurement, legal timber and wood derived products are those which originate from a forest where the following requirements are met:

- 1) The forest owner/manager holds legal use rights to the forest.
- 2) There is compliance by both the forest management organisation and any contractors with local and national legal requirements including those relevant to:
  - Forest management;
  - Environment;
  - Labour and welfare;
  - Health & safety.
  - Other parties' tenure and use rights
- 3) All relevant royalties and taxes are paid

There is compliance with the requirements of CITES.

### **UK definition of sustainable timber and wood products**

For the purpose of the UK Government timber procurement policy, sustainable timber and wood products must meet the legality requirements listed above and come from a forest which is managed in accordance with a definition of sustainable that meets the requirements set out below:

- 1) The definition must be consistent with a widely accepted set of international principles and criteria defining sustainable or responsible forest management at the forest management unit level.
- 2) The definition must be performance-based, meaning that measurable outputs must be included.
- 3) Management of the forest must ensure that harm to ecosystems is minimised. In order to do this the definition of sustainable must include requirements for:
  - Appropriate assessment of impacts and planning to minimise impacts;
  - Protection of soil, water and biodiversity;
  - Controlled and appropriate use of chemicals and use of Integrated Pest
  - Management wherever possible.
  - Proper disposal of wastes to minimise any negative impacts.
- 4) Management of the forest must ensure that productivity of the forest is maintained. In order to achieve this, the definition of sustainable must include requirements for:
  - Management planning and implementation of management activities to avoid significant negative impacts on forest productivity.
  - Monitoring which is adequate to check compliance with all requirements, together with review and feedback into planning.
  - Operations and operational procedures which minimise impacts on the range of forest resources and services.
  - Adequate training of all personnel, both employees and contractors.
  - Harvest levels that do not exceed the long-term production capacity of the forest, based on adequate inventory and growth and yield data.

- 5) Management of the forest must ensure that forest ecosystem health and vitality is maintained. In order to achieve this the definition of sustainable must include requirements for:
  - Management planning which aims to maintain or increase the health and vitality of forest ecosystems
  - Management of natural processes, fires, pests and diseases.
  - Adequate protection of the forest from unauthorised activities such as illegal logging, mining and encroachment.
- 6) Management of the forest must ensure that biodiversity is maintained. In order to achieve this, the definition of sustainable must include requirements for:
  - Implementation of safeguards to protect rare, threatened and endangered species.
  - The conservation/set-aside of key ecosystems or habitats in their natural state.
  - The protection of features and species of outstanding or exceptional value.
  - Process for developing the definition
- 7) The process of defining sustainable must seek to ensure balanced representation and input from the economic, environmental and social interest categories.
- 8) The process of defining sustainable must seek to ensure:
  - No single interest can dominate the process;
  - No decision can be made in the absence of agreement from the majority of an interest category.
- 9) Management of the forest must have full regard for the interests of indigenous peoples, local communities and forest workers. In order to achieve this, the definition of sustainable must include requirements for:
  - Identification, documentation and respect of legal, customary and traditional tenure and use rights related to the forest;

- Mechanisms for resolving grievances and disputes including those relating to tenure and use rights, to forest management practices and to work conditions;
- Safeguarding the basic labour rights and health and safety of forest workers.<sup>160</sup>

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<sup>160</sup> CPET (Central Point of Expertise on Timber), *UK Government Timber Procurement Policy, UK Timber Procurement: Definition of Legal and Sustainable*, Fourth Edition, UK Government, 2010.

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