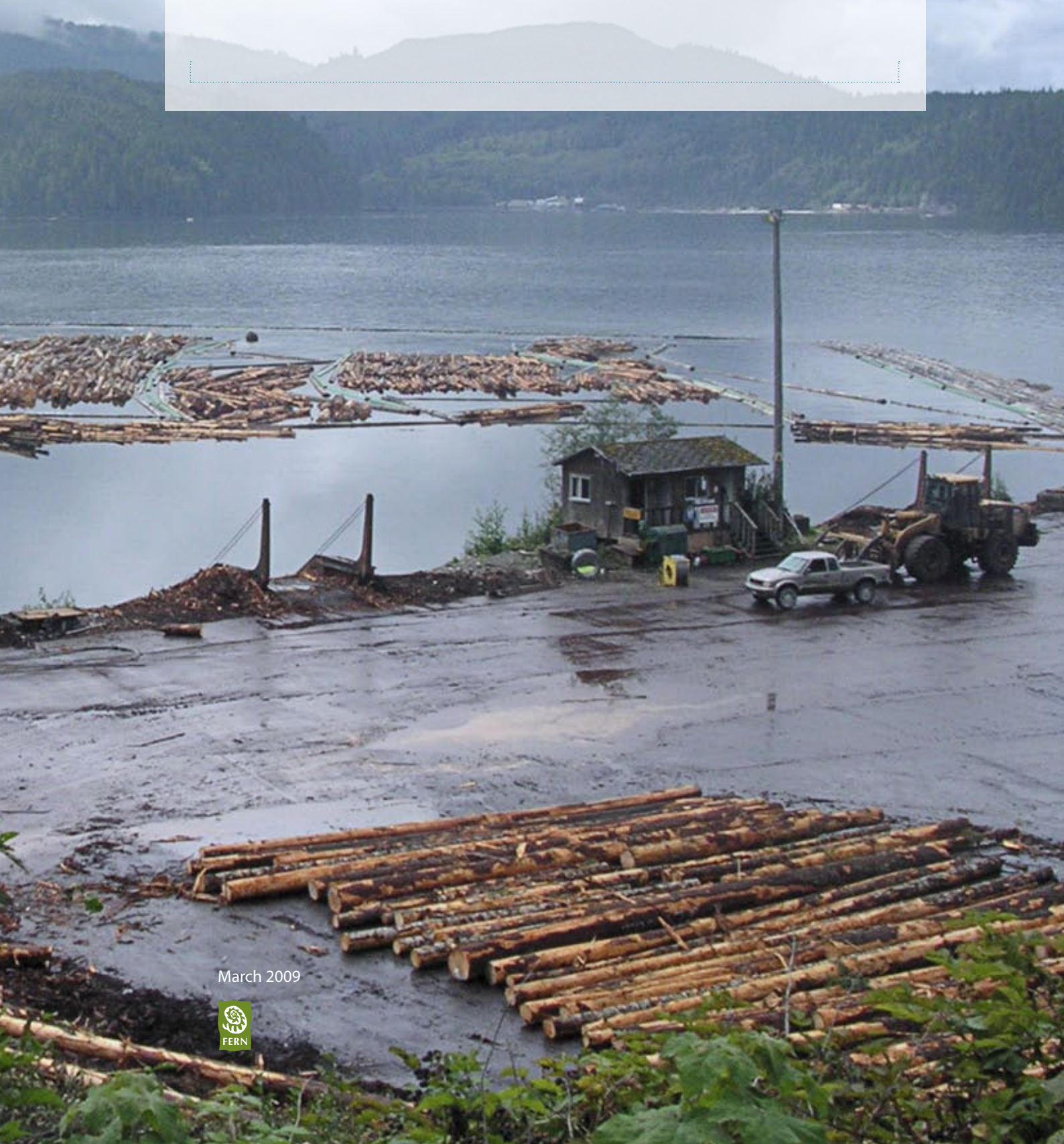


Buying a sustainable future?

Timber procurement policies in Europe and Japan



March 2009





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FERN works to achieve greater environmental and social justice, focusing on forests and forest peoples' rights in the policies and practices of the European Union.

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Front and back cover: Old growth forests are still being cut down to make place for plantations in Canada, which are often PEFC certified. These are logs from Vancouver Island in Canada. Photo Saskia Ozinga

Page 6: Logging trucks are a common sight in Canada. Photo Saskia Ozinga

Page 8: Columbus monkeys roaming free in a small forest protected by local communities in Bouabeng-Fiema, Ghana. Photo Luutsche Ozinga

Page 10: Pygmy woman marking a sacred tree to protect it from logging in FSC certified CIB concession in Congo. Free Prior Informed Consent of local communities has to be an essential part of certification. Photo Norbert Gami/TFT

Page 14: Theatre 'De Spiegel' in Zwolle, Netherlands, built with FSC certified timber. Greiner van Goor Huijten Architecten BV. Photo Scagliola/Brakkee, Rotterdam

Page 18: Sawmill worker marking up planks from FSC certified CIB concession in Congo. Workers' rights must be a key element of both FSC and PEFC certificates. Photo: Edward Parker/TFT

Page 42: Peeling of logs for veneer, not always included in procurement policies, in Indonesia. Photo Lewis Du

Page 44: PEFC certified forest in France. With the exception of Belgium and the Netherlands all other European countries with a procurement policy have accepted all PEFC schemes as proof of legality and sustainability. Photo nos-forets.org

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Abbreviations

ATFS	American Tree Farm System
ATO	African Timber Association
AFS	Australian Forest Standard
BFH	Federal Research Centre for Forestry and Forest Products (BFH)
BfN	Federal Agency for Nature Conservation
BREEAM	Building Research Establishment Environmental Assessment Method
BRIK	Indonesian Forest Industry Revitalisation Agency
BRL	National Assessment Guidelines (Netherlands)
CITES	Convention on International Trade in Endangered Species
CEPI	Confederation of European Paper Industries
Cerflor	Brazilian certification scheme
CoC	chain of custody
CPET	Central Point of Expertise on Timber (UK)
CSA	Canadian Standards Association
Defra	Department for Environment, Food and Rural Affairs (UK)
EAS	Equivalence Assessment System (Netherlands)
EC	European Community
EU	European Union
FAO	Food and Agriculture Organisation
FERN	Forest and the EU Resource Network
FLEGT	Forest Law Enforcement, Governance and Trade
FoE	Friends of the Earth
FSC	Forest Stewardship Council
G8	Group of Eight Industrialised Nations
GDP	gross domestic product
GEM-DDEN	Study Group on Public Procurement for Sustainable Development and the Environment (France)
GPP	Green Public Procurement
ICCO	Interchurch Organisation for Development Cooperation (Netherlands)
ILO	International Labour Organisation
ITTO	International Tropical Timber Organisation
IWGIA	International Workgroup for Indigenous Affairs
JFWIA	Japanese Federation of Wood Industry Associations
LCB	Le Commerce du Bois (France)
LEI	Lembaga Ekolabel Indonesia (Indonesian Ecolabelling Institute)
MCPFE	Ministerial Conference for the Protection of Forests in Europe
MTCC	Malaysian Timber Certification Council
NWGTR	National Working Group for Tropical Forests (France)
NGO	non-governmental organisation
OECD	Organisation for Economic Cooperation and Development
OLB	Origine et Légalité des Bois
PEFC	Programme for the Endorsement of Forest Certification Schemes
RIIA	Royal Institute for International Affairs
SFI	US and Canadian Sustainable Forestry Initiative
SFM	sustainable forest management

TPAC	Timber Procurement Assessment Committee (Netherlands)
TPAS	Timber Procurement Assessment System (Netherlands)
TTAP	Timber Trade Action Plan (UK)
UK	United Kingdom
UNESCO	United Nations Educational, Scientific and Cultural Organisation
VPA	Voluntary Partnership Agreement
VROM	Ministry of Housing, Spatial Planning and the Environment (Netherlands)
vTI	Federal Research Institute for Rural Areas, Forestry and Fisheries (Germany)
WTO	World Trade Organisation
WWF	Worldwide Fund for Nature

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Note

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Introduction

In countries everywhere, government spending inevitably accounts for a significant proportion of total national expenditure. Therefore if a country's government can implement public procurement policies that are environmentally friendly and ethical, the effects ought to be at least positive, and possibly even far-reaching.

But what do these policies mean in practice? Because there are such wide variations in their scope and enforcement, the aim of this publication is to act as a central source of information on the timber procurement policies of seven different countries, namely Japan (as one of the world's largest importers of timber), and the six EU member states which have adopted such policies: Belgium, Denmark, France, Germany, the Netherlands and the United Kingdom. It also examines what these policies set out to achieve, how they are monitored and enforced, and what the development of a new EU-wide Green Public Procurement (GPP) policy might mean for the world's forests in the future.

One of the main differences in national policies concerns the question of whether it is possible for governments to pay attention to social issues in the countries from where timber is sourced. This is the subject of continuing debate in the EU and internationally, and this publication aims to explain the background, the current situation, and the possible advantages of taking social issues into account, so that those who wish to lobby for their inclusion are fully informed of the facts.

For a quick overview of all procurement policies, see Table 1 on page 19. The text of the report elaborates on the longer table, from page 27 onwards (Table 2).



Summary

As this report shows, there are both similarities and differences between the various procurement policies in the different member states. Some member states, notably Germany and France, rely on existing certification schemes. Others have developed their own procurement standards – notably the UK and the Netherlands – and there is an emphasis on establishing whether existing certification schemes meet these standards. In addition, some policies are mandatory while others are voluntary. In most of the countries discussed here, however, there is a mixture of the two, with the policies being mandatory at the national level, while local authorities are issued with guidelines and encouraged to follow them.

As the certification schemes vary so much across different countries – even under the same umbrella scheme, such as PEFC or FSC – NGOs have repeatedly urged member states to be cautious about taking the legality and sustainability of certified timber at face value, and to accept only national schemes. However, as there are practical difficulties in doing this – and as timber certified under specific schemes from different countries is not clearly identifiable – all member states except the Netherlands and Belgium have opted for adopting umbrella schemes, even when they are aware of the large differences within these schemes.

Some member states use the term ‘sustainable forest management’ to explicitly include social issues such as recognition of land rights (notably the Netherlands, Denmark and Belgium). Others, specifically the UK, seem to exclude these issues, though there are indications that this is about to change.¹ FERN has always argued that there is no reason, legal or otherwise, to exclude social issues.

The EU published its communication on public procurement in July 2008, though unfortunately there is little emphasis on upward harmonisation. By using the notoriously weak standards of the EU Ecolabel scheme as a basis, the danger is that standards will be dragged down to the lowest level, instead of member states being encouraged to raise their standards and to implement good policies. However, a working group has recently been formed to discuss these issues in more detail; and our newsletter EU Forest Watch will keep track of the latest developments as they unfold.

1 See minutes of CPET Reference Board meeting March 2009 at <http://www.proforest.net/cpet/documents>



Public procurement as a tool for reducing illegal and unsustainable timber consumption

A number of countries around the world have adopted public procurement policies aimed at reducing the proportion of illegal and unsustainable timber and timber products consumed by government and other public bodies. In the European Union, six member states – Belgium, Denmark, France, Germany, the Netherlands and the United Kingdom (UK) – have adopted such policies; and member states that are considering or developing policies include Finland, Italy, Portugal, Spain and Sweden. Outside the EU, public procurement policies have been adopted by Japan, New Zealand and Norway.²

There is little reliable data on public sector timber consumption, and thus it is difficult to gauge the potential impact of public procurement policies on the timber trade in member states. Government purchasing in OECD countries during the period 1990–97 has been estimated at about 9% of GDP. In the UK, government procurement was 10.48% of GDP in 2005–06.³ However, government purchasing varies across different product sectors (being typically higher in the defence, energy and transport industries) and may be calculated in different ways depending on the extent of centralisation in the country in question. This means that government procurement in the timber sector is not necessarily proportional to government procurement in the whole economy.⁴ Box 1 gives estimates of government timber procurement in Japan, Denmark and the UK.

2 In addition, Australia has developed environmental purchasing guidelines encouraging the use of recycled materials (preferred) or sustainably produced materials, including those originating from a certified source e.g. the Australian Forestry Standard, FSC, or from a Regional Forest Agreement area in Australia. Since 2007 Mexico has required the use of sustainable timber for furniture and office supplies (under 3rd party certificates ensuring SFM); and Switzerland has, since 2004, required the use of sustainable timber for products financed or subsidised by the federal government (proof required: FSC, PEFC; MTCC, LEI, ATFS are possible through consultation with the Purchasing Commission of the Swiss Confederation; Q-Swiss Quality Equivalent systems).

3 Duncan Brack, *Controlling Illegal Logging using Public Procurement Policy*. Chatham House, 2006
<http://www.illegal-logging.info/uploads/Procurementandillegallogging.pdf>

4 Duncan Brack, *Social Issues in Timber Procurement Policies*. 3rd draft. Chatham House, June 2008, p 6.
http://www.illegal-logging.info/uploads/2_SITPthirddraft.pdf

Box 1: Estimates of government timber procurement in Japan, Denmark and the UK

Japan. In 2002 WWF International estimated that, in Japan, government procurement accounted for 17% of all Japanese imports of timber and wood products. However, Japanese government officials subsequently indicated that the government is responsible for only 3% of total wood product use.⁵ The reason for the differences in these estimates is unclear.

Denmark. A survey carried out in late 2005 gave the value of Denmark's consumption of timber and timber products as approximately DKK 28 billion (approx. Euro 3.76 billion at 2009 exchange rates) out of which public consumption accounted for roughly DKK 2.6 billion or slightly less than 10%.⁶

UK. The UK Government Environmental Audit Committee's second report on sustainable timber noted that central government departments are estimated to purchase 20% of all timber bought in the UK, and the overall figure including all local authorities and other governmental bodies could be as high as 40%, but there is no reliable means of compiling data on government timber purchases. The report stated: 'It seems incredible to us that the complete lack of reliable data, clearly identified as a fundamental hurdle to improving sustainable timber procurement at least four years ago, and recognised as such by the Government, has yet to be properly addressed.'⁷ The UK's Central Point of Expertise on Timber (see page 25) has now started work on this issue.

Government purchase of timber and wood products consists mainly of timber for construction, furniture for offices and parks, and paper. Public procurement of construction timber can be significant. For example, the use of tropical timber in marine construction and public works accounts for some 15%–27% of the market for tropical timber in Denmark, and 25% of the market in France.⁸ The Belgian government has indicated that 18% of the timber on the European market is destined for public sector buildings.⁹

Public procurement policies should reduce the amount of illegal and unsustainable timber purchased by government. They can also have wider effects on the market.

Public procurement policies, if functioning correctly, should reduce the amount of illegal and unsustainable timber purchased by government. They can also have wider effects on the market. By upholding international environmental and ethical standards in practical ways, governments show leadership, which helps to change attitudes and encourage the private sector and citizens to voluntarily adopt sustainable timber purchasing practices. In addition, if suppliers are already providing sustainable timber for public purchasers it may be easier for them to supply the same products to all their customers, and they may become advocates for

5 Institute for Global Environmental Strategy, *Japan's Public Procurement Policy of Legal and Sustainable Timber. Progress, challenges and ways forward*. August 2007, p 9. http://www.illegal-logging.info/uploads/IGES_publicprocurement_final.pdf

6 Rambøll Management, *Evaluation of the Danish Guidelines on Public Purchase of Tropical Timber. Sub project A: User Survey. Summary and Conclusions*. Danish Ministry of Environment, January 2006.

7 Environmental Audit Committee. *Sustainable Timber*. Second Report of Session 2004–05. Volume I. House of Commons, 18 January 2006. www.parliament.the-stationery-office.co.uk/pa/cm200506/cmselect/cmenvaud/607/607i.pdf

8 Duncan Brack, *Social Issues in Timber Procurement Policies*. 3rd draft. Chatham House, June 2008, p 7

9 Belgian Ministry of Public Health, Food Chain Security and Environment. *Le Bois Certifié Durable: Un Guide pour les Services Administratifs Fédéraux*. Date: after May 2006. www.guidedesachatsdurables.be/bs_mb/guide_bois_durable.pdf

procurement policies and local authorities. FAO research suggests that such knock-on impacts can achieve market leverage of up to 25%.¹⁰

Market research in the UK and the Netherlands has shown that the volume of certified timber products has increased since the introduction of public procurement policies, although other factors have also played a part in this, including other government policies, pressure from NGOs and the public, and changes in the attitude of industry.¹¹ A study carried out by the Timber Trade Federation (TTF) showed that 56% of wood and wood products imported into the UK in 2005 were certified, but that demand for certified products was only 10%. Softwood and panel products comprised most of the certified imports, with certified sawn softwood reaching 58% market share (4.4 million cubic metres), softwood plywood 46.5%, hardwood plywood 23.8%, orientated strand board nearly 100% and medium-density fibre board 88%. Much smaller volumes of sawn hardwoods were imported, with only 11% certified (mostly European oak and beech).¹² The TTF estimates that the proportion of certified imports is likely to have increased a little since 2005, with more certified softwood arriving from Russia and the Baltic, and more certified hardwood from Malaysia and Africa, but overall imports of certified hardwood are still likely to be below 20%.¹³

According to the TTF report, the supply of certified timber in the UK is greater than the demand, which mostly originates from high-profile central government contracts involving the largest timber distributors.¹⁴ Increased demand from smaller timber distributors and purchasers could further increase the proportion of certified timber imported. The UK government is encouraging the timber industry to play an active role in encouraging buyers in local government authorities to adopt procurement policies and purchase of sustainable timber.¹⁵

The certification systems must genuinely identify legal and sustainably produced timber. If not, public procurement policies may, at worst, provide a market incentive for continuing environmentally and socially damaging timber production.

For these changes in the market to have a meaningful impact, however, the certification systems and other evidence used by public procurers to assess timber supplies must genuinely identify legal and sustainably produced timber. If not, public procurement policies may at best have little influence on timber trade, and at worst, provide a market incentive for continuing environmentally and socially damaging timber production. In this context, NGOs have repeatedly voiced concerns about the use of PEFC certificates, which are currently accepted by all the countries discussed in this paper¹⁶ as well as about the quality of FSC certificates¹⁷.

10 Duncan Brack, *Social Issues in Timber Procurement Policies*. 3rd draft. Chatham House, June 2008, p 7

11 Duncan Brack, *Controlling Illegal Logging using Public Procurement Policy*. Ibid p 6

12 Timber Trade Federation press release, 26 January 2007

13 email from TTF to Duncan Brack, 18 June 2008

14 ibid

15 Phil Woolas and Gareth Thomas, Sustainability goes local. *Timber Trade Journal*, 29 March 2008

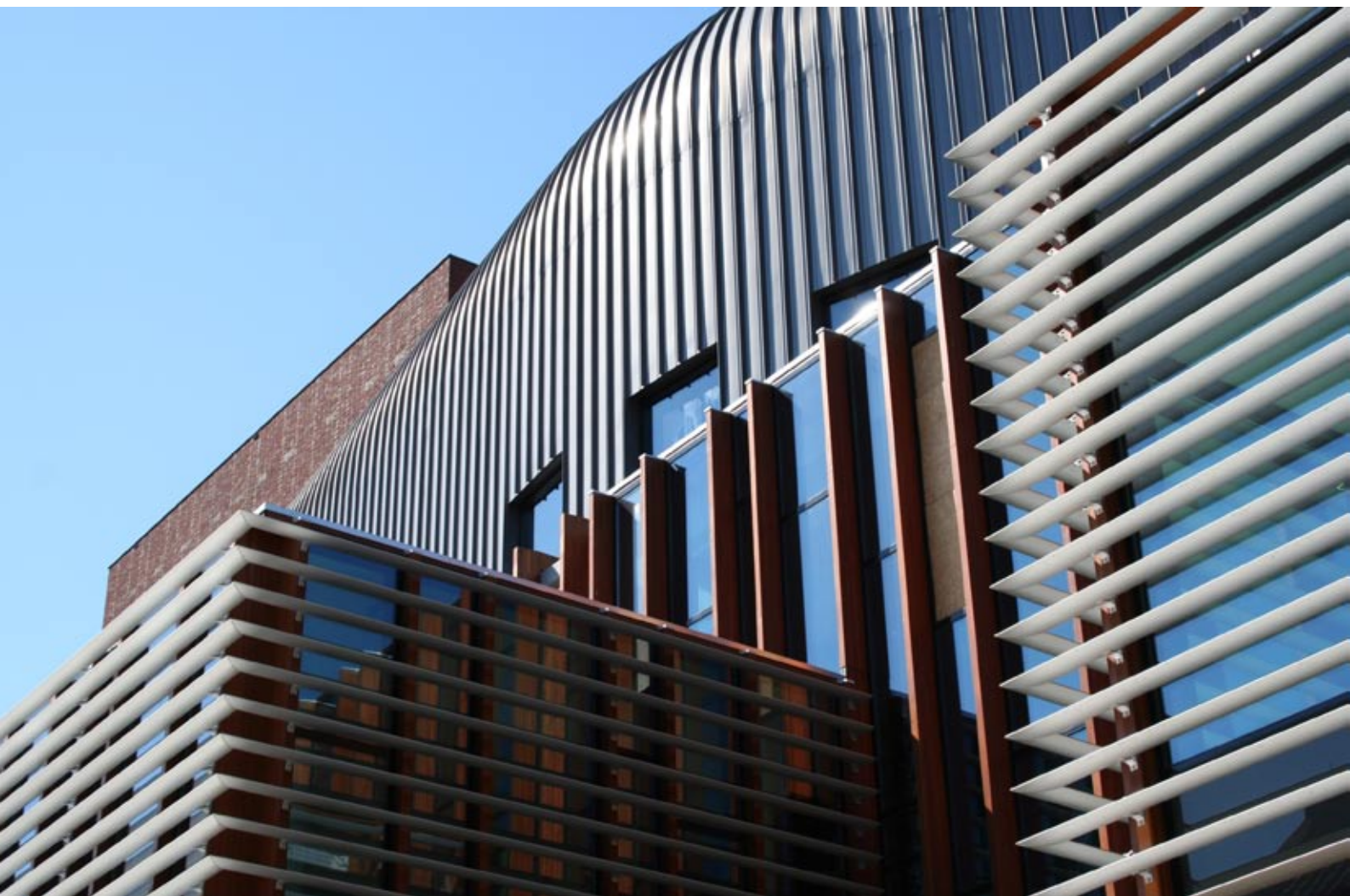
<http://www.tjonline.com/story.asp?storycode=54660&encCode=4693500451BC6798653JTBS737226611>

16 PEFC is an umbrella scheme which endorses national certification schemes. Several of these still allow unsustainable logging in high biodiversity areas and inadequate chain of custody tracking. Environmentalists are particularly concerned about the Australian Forest Standard (AFS) and American Sustainable Forest Initiative (SFI). See also www.pefcwatch.org

See WWF, FERN, Greenpeace, Friends of the Earth, *UK Government decision undermines its own timber policy*. Press release 20 December 2006 available at www.fern.org

17 See statement 'Regaining credibility and building support', November 2008 available at www.fern.org

NGOs are also concerned about procurement policies relying largely on the timber industry's own choice of proof, which can include industry codes of conduct, such as in France and Japan.



EU procurement rules¹⁸

In January 2004, the EU issued two new public procurement directives: Directive 2004/18 on coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, and Directive 2004/17 on the coordination of procurement procedures of entities operating in the water, energy, transport and postal services sector. The directives cover national, regional and local authorities for contracts above specified values.

The key principles are that procurement policies of EU member states should:

- not discriminate between contractors from different EU member states
- operate in a transparent manner
- ensure equal treatment of suppliers
- ensure value for money.

The five stages in the procurement process are:

1. Definition of the subject matter of the contract: what is to be purchased?
2. Technical specifications: these define the subject matter of the purchase more specifically. They must be included in the general procurement documents or the contract documents. The procuring authority can specify *a base set of technical specifications*. This will be the 'standard' definition that lays down the minimum requirements, and also specific 'variants', i.e. alternative definitions which, for example call for a higher environmental performance than the standard. Company bids can either refer to the standard or the variant definitions. This allows the government to move the market gradually up to higher standards.
3. Selection of candidates: who is able to fulfil the contract? This covers issues that justify a public procurer excluding a candidate from bidding (convictions, professional misconduct, non-payment of taxes). It also assesses a candidate's technical capacity, i.e. whether or not the bidder has the capacity and experience to deliver the contract.
4. Contract award: deciding which bid to choose. The procuring authority can choose either the bid with the lowest price or 'the most economically advantageous tender'. The procuring authority has to indicate beforehand (either in the contract notice or the contract documents) what criteria will be applied in deciding which tender will be most economically advantageous, so that the tender process is transparent and fair.
5. Contract performance: specifying how the contract must be carried out.

¹⁸ For more detailed explanations of EU procurement rules see Duncan Brack, *Social Issues in Timber Procurement Policies*. 3rd draft. Chatham House, June 2008, pp42-46; and Mike Garforth, *To Buy or Not to Buy: Timber Procurement Policies in the EU*. FERN, January 2004, pp 15-23. Available at www.fern.org

The issues relevant to legal and sustainable timber procurement can be incorporated into the different stages as follows:

Defining the subject matter

The subject matter must be defined clearly. The directive does not actually define what it means by 'subject matter', but the European Commission's interpretative communication states that 'at this stage, contracting authorities have a great deal of scope for taking social considerations into account and choosing a product or service that corresponds to their social objectives'. Thus a procurement policy specifying legal and sustainable timber as its subject matter could, in principle, be acceptable, as long as the terms *legal* and *sustainable* were sufficiently and clearly defined.

Technical specifications

The technical specifications must define 'the required characteristics of a product or service'. The characteristics do not have to be visible or physically present in the product, but they do have to be 'related to the subject matter'. The European Commission's interpretative communications allow procuring authorities to specify environmentally sound production processes. Thus, in principle, sustainably produced timber can be included in the technical specification. The environmental aspects of sustainably produced timber are generally accepted as relevant to the subject matter, but there is some debate as to whether 'social' issues, such as rights of indigenous peoples in the forests where the timber originates from are related to the subject matter (see section 5).

Technical specifications must not mention specific makes or sources of products as these could discriminate against some bidders. Instead, the specifications must define the characteristics required in such a way that the conformance of specific materials to the specified criteria can be evaluated objectively. Thus authorities can identify sustainability criteria, and indicate to bidders the forest certification schemes that would be accepted as suitable proof of meeting those criteria, as long as they also accept any other equivalent evidence that bidders might provide.

Awarding the contract

When deciding on the 'most economically advantageous' tender, European case law has established that procurers do not have to base their decisions on purely economic criteria, but can take ecological criteria into account, as long as they are linked to the subject matter and applied transparently and in a non-discriminatory way. European case law also indicates that it may be possible to argue that the criteria do not have to result in a direct benefit to the procuring authority itself, but can benefit the wider population, including global benefits (e.g. reduced CO2 emissions).

Contract performance

Specifications about how the contract must be carried out (contract performance clauses) must not be disguised technical specifications, selection criteria or award criteria. All applicants must be able to carry out the clauses should they be awarded the contract, therefore the clauses must be announced in advance to all applicants so that they are aware of them when preparing their bids. Authorities can define contract clauses whose objective is the protec-

tion of the environment. As contract clauses do not need to be linked to the subject matter, it may be easier to insert a legal/sustainability requirement in this part of the tender process, than in the technical specifications. The UK government, for example, provides procurers with model contract clauses to inform tenderers about the contract conditions relating to timber and wood derived products that all contractors must comply with, making clear that they must use either legal timber or the 'variant' of sustainable timber in the contract.¹⁹

19 *Timber procurement Advice Note*, November 2005. www.proforest.net/cpet/documents



Public procurement of timber in EU member states and in Japan

Table 1: Overview of existing procurement policies as of February 2009²⁰

Information in this table is liable to change, an up to date version will be posted on the FERN website at www.fern.org. If you notice any inaccuracies or have an update please contact info@fern.org

Country	Requirement	Coverage	Acceptable proof	Introduction	Review
Belgium	Sustainable	Wood, not paper	FSC, PEFC or equivalent	2005	In progress, results expected mid-2009
Denmark	Currently: legal; sustainable preferred	Wood and paper, but policy not mandatory	2003: FSC for sustainable tropical, MTCC for 'progressing to sustainable' tropical Temporary guidelines: Sept 2006: CSA, FSC, MTCC, PEFC, SFI for legal Feb 2008: FSC or PEFC as proof of 'legal and sustainable'	2001	Review completed 2008, decision awaited on revision
France	Legal and sustainable	Wood and paper	Any product or chain of custody certification, management plan, eco-label or industry code of conduct	2005	
Germany	Legal and sustainable	Wood, not paper	FSC, PEFC or equivalent	2007	2011
Japan	Legal; sustainable desirable	Wood and paper	Certification or chain of custody verification, self-declaration under industry code of conduct or company-determined method, state-approved export permits	2006	
Netherlands	Currently: legal; sustainable if possible	Wood and paper	Legal: MTCC, FSC, PEFC, CSA, SFI; Criteria for sustainable being tested. PEFC Germany and Finland and FSC currently accepted as sustainable.	2004	
New Zealand	Legal; sustainable desirable	Wood and paper	Certification or legality verification scheme, or supplier's declaration	2006	
Norway	Use of tropical timber banned	Timber in buildings	n/a	2007	
UK	Legal; sustainable preferred. Legal and sustainable only from April 2015	Wood and paper	Legal: currently MTCC or equivalent; from April 2009 to 2015 only FLEGT licence Sustainable: FSC, PEFC, CSA, SFI or equivalent	2000	Reviews of main certification schemes every 2 years; social issues currently under review

20 Adapted from Duncan Brack, *ibid.* with additional information from Sofie Tind Nielsen, Public procurement policies for timber – overview and comparison, identifying key similarities and differences. Workshop presentation, Copenhagen, April 2008
<http://www.skovognatur.dk/NR/rdonlyres/D17D6589-B5D4-48BE-8AC1-4ADF601F6C93/58125/PPPsontimber.pdf>

Development of procurement policies

Belgium

In 2003 the Federal Government agreed to implement a green public procurement policy on timber, based on the outcome of the Ministerial Conference in Helsinki. The Belgian timber procurement policy, which came into effect on 18 March 2006, accepts FSC and PEFC Belgium certification as evidence of sustainable forest management and sets up an Expert Committee to evaluate other national PEFC schemes and 'equivalent certificates'. The committee must reach decisions by consensus.

The Expert Committee (comprising the Ministry of Health, Food and Environment, Ministry of Foreign Affairs, Foreign Trade and Development Cooperation, Belgian Federation of Timber Producers, Belgian Federation of Timber Importers, a trade unions representative and a representative of environmental NGOs) met several times and could not agree on which national PEFC or equivalent certificates were complying with the sustainability criteria laid out in the circular. Eventually the chairman of the Expert Committee proposed a compromise in which two national PEFC lists would be used. The two lists were endorsed by the Environment Minister on 5 April 2006. List one contains agreed PEFC certificates; list two contains the certificates on which consensus could not be reached (but which are nevertheless accepted). In the event of there being equivalent tenders, preference will be given to timber with an FSC certificate, a certificate from PEFC-Belgium, or a certificate from PEFC systems on list one.

In late 2007, the government commissioned ProForest (a private company) to evaluate the policy, including an analysis of the criteria used to assess timber, and how widely federal bodies are implementing the policy. More results can be expected in mid-2009.

For more information see www.guidedesachatsdurables.be

Denmark

Parliament agreed in June 2001 that central government should adjust public procurement policies so that tropical timber would be purchased only from legal and sustainable sources. Voluntary guidelines on public purchases of tropical timber were developed in consultation with a broad range of stakeholders. The guidelines for purchase of tropical timber (excluding recycled wood and paper) were published in 2003, and proposed three levels of specifications in tenders: legal timber (minimum), progressing to sustainable (second best option), and sustainable (best option). FSC was accepted as evidence of sustainable and MTCC as progressing to sustainable.²¹

An evaluation of the guidelines was carried out between September 2005 and January 2006.²² A broad contact group was established, comprising representatives from timber trade federations, timber purchase federations, major certification schemes and NGOs as well as procurement specialists from other EU countries and the European Commission. In addition,

²¹ This stepwise progression to sustainability is now considered unnecessary, and is no longer used.

²² Evaluation of timber procurement guidelines. Summary and key conclusions.

an advisory steering committee followed the evaluation process more closely and provided recommendations for follow-up actions to the Danish Minister for the Environment.

The evaluation revealed the need to update the criteria, include timber from all sources, and target the guidance better to the needs of different users. Based on the results of the evaluation, the Ministry of Environment published a nine-point plan for purchase of legal and sustainable timber in February 2006. This announced the expansion of the purchasing policy to all kinds of timber (not just tropical) and set out the actions the Minister intended to take to improve guidance and promote uptake of legal and sustainable timber.

Temporary guidelines for public procurement of timber were issued in September 2006, recommending that purchasers could use the following certification schemes as adequate documentation of the minimum requirement of legality for all types of timber: CSA, FSC, MTCC, PEFC and SFI. Alternatively, and on a case-by-case basis, legal and sustainability documentation could be submitted for specific assessment by the individual purchaser. The previous 2003 guidelines continued to be valid for purchase of legal and sustainable tropical timber only, as long as purchasers were aware that the guidelines required updating with regard to tropical timber.

Meanwhile draft criteria for legal and sustainable timber from all sources went out for consultation in mid-2007. The structure of the draft closely follows corresponding criteria used by the UK. The results were collated and subjected to broader discussion at a workshop on timber procurement policies in Copenhagen in April 2008. The work to finalise the criteria is ongoing, and at present the government cannot say how closely the revised criteria will follow the draft criteria.

Whilst continuing the work on finalising the criteria, in February 2008 the government issued temporary advice to public buyers to accept a certificate either of FSC or of PEFC, as proof of 'legal and sustainable' timber. The temporary advice was made public via the Danish Forest and Nature Agency's Website, a letter to the boards of FSC and PEFC as well as all members of the steering committee and a note to the Danish parliament. The temporary advice was valid until 1 April 2009. The Danish NGOs IWGIA, Nepenthes and WWF withdrew from the Steering Committee following the February 2008 announcement, on the grounds that PEFC is not a guarantee of sustainable forestry and that the government was unnecessarily prolonging the process of adopting its own criteria.

The Danish government says that it intends to use the opportunity of this temporary recommendation to explore options for more harmonised and/or coherent approaches to key criteria and requirements to documentation. The government is collaborating informally with the UK, Netherlands and Belgium on the matter, and also works closely with the European Commission, the MCPFE and other relevant fora.

In the mean time the *'Guidelines for the purchase of legal and/or sustainable tropical timber'* of 2003, the *'Guidelines on the purchase of legal timber'* (2006) and the February 2008 *'Temporary guidance on legal and sustainable timber'* apply.

For more information, go to <http://naturvejledernet.skovognatur.dk/English/> (under construction in March 2009)

France

On 7 April 2004, the French government approved an Action Plan for Tropical Forests, which included developing a prime minister's 'Advice Note' (*circulaire*) to public buyers, with the aim of increasing the share of publicly procured tropical wood and wood products from legal sources under sustainable forest management to 50% in 2007 and 100% in 2010. In May 2004, the Advice Note began to be formulated under the cooperation of the Ministries of Finance, Agriculture and Ecology and Sustainable Development. In late 2004 the National Working Group for Tropical Forests (NWGTR) (composed of government, forestry and trade, NGOs and independent experts) consulted with the forestry and timber trades on the policy. The main French timber trade federation Le Commerce de Bois (LCB) was particularly influential in shaping the new policy.²³ At a UNESCO conference in January 2005, the French President announced that 'from this year on, the State in France will use only eco-certified timber for big building works. In 2010, the totality of public purchases will have to conform to this commitment.'

The 'Advice note on public wood purchases for sustainable forest management' was approved on 5 April 2005. It applies to wood from all sources, not just tropical, and consists of a letter from the Prime Minister and a technical annex with specifications for public procurement. It is complemented by an 'Information notice on tools for sustainable forest management in public procurement of timber and derived products' which was produced in March 2005 by the Study Group on Public Procurement for Sustainable Development and the Environment (GEM-DDEN). GEM-DDEN was established in 2004 as part of the government's strategy on tropical forests and is composed of ministers, technical experts, professional bodies and public buyers (including representatives of local authorities). It produces technical guidance for public buyers and has three committees, one of which deals with social issues in public procurement. It has published several guides to public procurement including guides on paper and construction timber; the latter reiterates the policy documents.

In October 2007 the Grenelle Environment Forum, involving consultations and roundtables between the state, industry and civil society, issued conclusions affirming the procurement policy objectives.²⁴ The draft environmental law incorporating the Grenelle conclusions commits the state to promote certification and, from 2010, to use only certified wood, or wood from sustainably managed forests, in public construction projects.²⁵

The government does not have its own mechanisms for verifying the legal and sustainable origin of timber, but leaves it to procurers and suppliers to choose from a wide range of evidence. The timber trade has responded actively to the policy. LCB, the main timber trade association, has aligned itself to this provision by drawing up an Environmental Charter on Wood Purchases and Sales, which should have become compulsory for all 170 LCB members in 2008. The Charter has its own steering committee of government, environmental NGOs and a consultancy company working on corporate responsibility. The Charter commits members to

23 Institute for Global Environmental Strategy, *Japan's Public Procurement Policy of Legal and Sustainable Timber. Progress, Challenges and Ways Forward*. August 2007 p 53

24 Le Grenelle Environnement. *Document Récapitulatif des Tables Rondes tenues à l'Hôtel de Roquelaure les 24, 25 et 26 Octobre 2007*. November 2007. p 14 www.legrenelle-environnement.fr/grenelle-environnement/IMG/pdf/tables_rondes_web.pdf

25 Republic of France, *Projet de Loi de Programme Relatif à la Mise en Oeuvre du Grenelle de l'Environnement*. 2008. p 163. www.conseil-economique-et-social.fr/rapport/docton/08050216.pdf

year on year increases in purchase from certified sustainably managed forests (or progressing towards certification). LCB accepts all internationally recognised certification schemes. LCB members are audited biannually on the percentage of certified timber purchased (with different percentages required for sawn wood, hardwood from Asia, South America or Africa, hardwood from Europe and others, and panel products).

For more information, go to www.ecologie.gouv.fr

Germany

The federal government introduced legislation in the 1970s requiring topical timber in federal building projects to be certified as sustainable.

Revision of the policy started in 2003. Pilot evaluations of certification schemes were carried out in 2005 and 2006 against an internal set of criteria. On 17 January 2007, the federal government issued a *Joint Instruction on the Procurement of Wood Products*, with participation of the Ministry of Food, Agriculture and Consumer protection (lead ministry), Ministry for the Environment, Nature Conservation and Nuclear Safety, Ministry of Economics and Technology, and Ministry of Federal Transport, Building and Urban Affairs. An *Accompanying Explanation for Procurement of Timber Products* was also published in January 2007. FSC and PEFC certificates are accepted as evidence of 'legal and sustainable'.

The policy is valid for 4 years. It will be reviewed before the end of the 4-year period, i.e. in 2011. The review will be based on reports from the Federal Research Institute for Rural Areas, Forestry and Fisheries (vTI) (previously known as the Federal Research Centre for Forestry and Forest Products (BFH) and the Federal Agency for Nature Conservation (BfN) on the status and evolution of FSC and PEFC. Reports from federal procurement centres, about their experience with the regulations and the effect on the proportion of wood products procured, will also be evaluated.

The review will feed into further development of the policy, which will provide incentives for certification schemes to improve. Special attention will be given to improved control methods and transparency, inclusion of high ecological standards for plantations, and responsible use of primary forests and other ecologically valuable forests.

For more information see:

www.bmelv.de/cln_045/nn_1062918/EN/07-Forestry/_forestry_node.html_nnn=true

Netherlands

The government created the Keurhout Foundation in April 1996. A government white paper in February 1997 established the basis for the Keurhout system, in which the Foundation ensured 'minimum requirements' of sustainable forest management in public procurement.

Following an evaluation of the minimum requirements in 2001, the government, in collaboration with major forest, trade, social and environmental organisations, started developing draft guidelines for the assessment of wood products from sustainable forest management,

together with an assessment protocol. A timber procurement policy was announced on 18 June 2004, requiring all national government institutions to purchase timber from legal, and where possible, sustainable sources, setting a target of 100% timber from sustainable sources by 2010. The *Keurhout Protocol for the Validation of Claims of Legal Timber* was used from late 2004, based on a Board of Experts assessing claims of legal timber and chain of custody made by producer/supplier members of Keurhout. Following disagreement between the private sector and the government, however, the Keurhout system was placed under the Netherlands Timber Trade Federation and stopped being the official assessment body.

In 2004, the draft guidelines on wood imports from different countries were piloted. The content of the National Assessment Guideline (BRL) was agreed in October 2005, with the intention that the Guideline would serve both as a certification scheme in the Netherlands and to assess the equivalence of other certification schemes. However the environmental organisations disagreed with the proposed organisational structure and withdrew from the process. The Ministry continued by setting up the Equivalence Assessment System (EAS) which performed a test run on six national certification systems (FSC Sweden, FSC Brazil, PEFC Finland, PEFC Germany, CSA and MTCC).

In 2006 the Netherlands decided to adopt the UK's criteria for legality. Based on the results of the test run, the Ministry of Housing, Spatial Planning and the Environment announced on 22 August 2007 that the Board of Equivalence Assessment had concluded that the BRL/EAS did not work because none of the tested certification systems were fully compatible with the Dutch set of criteria, mainly due to the complexity of the guidelines and the very detailed set of criteria. Therefore an improved set of criteria has now been developed on the basis of the experiences gained during the test run. The new criteria will be solely used for the purpose of timber procurement, not as a certification system itself. Consultations have been carried out with relevant stakeholders. The Timber Procurement Assessment Committee (TPAC), an expert body established by the government, is using these draft criteria (TPAS) to assess national certification schemes. As of February 2009 PEFC German, PEFC Finland and FSC were accepted as proof of sustainability and PEFC International, PEFC Belgium and PEFC Sweden were being assessed. The new, simplified criteria for sustainable timber, sent to parliament on 18 June 2008, include social criteria. Stakeholder are encouraged to provide comments during the assessment process and a website has been created to monitor the assessment at <http://www.tpac.smk.nl/>

For more information please look at <http://www.tpac.smk.nl/> or contact Lizet Quaak, Ministry of Housing, Spatial Planning and the Environment at Lizet.Quaak@minvrom.nl

United Kingdom

Voluntary guidance advising on the purchase of legal and sustainable products was issued in 1997. At the G8 summit in July 2000, the UK government pledged action to tackle the trade in illegally harvested timber, and in the same month a binding policy requiring all government departments and their agencies to 'actively seek to buy timber and timber products from sustainable and legal sources' was announced. The minimum requirement is legal timber, with suppliers encouraged to offer sustainable timber (which includes legal sources in its definition).

An interdepartmental buyers' group was established to advise on and monitor performance and central government departments and their executive agencies began to apply the policy. A scoping study to define the contract and variant specifications for legal and sustainable timber was carried out in 2002. A Central Point of Expertise on Timber (CPET) was established in 2004 to provide government procurement personnel with information and advice to support the implementation of the policy. CPET is operated by the private company ProForest.

In November 2004, CPET completed its assessment of the five most common certification schemes used in the UK timber supply chain, to determine which of them met UK government requirements for legal and sustainable timber. The certification schemes were reassessed in early 2005 after changes had been made to two of the schemes. Accepted schemes are MTCC (or equivalent) for assurance of legality, and CSA, FSC, PEFC and SFI (or equivalent) for assurance of sustainability. At the latest review published in December 2008 CSA was approved as providing evidence for sustainability; PEFC, SFI, and FSC were approved as providing evidence for sustainability for products or product lines containing more than 70% certified or recycled raw material. MTCC was approved as providing evidence for legality²⁶. CPET reviews the certification schemes every two years.

In April 2005 CPET completed a pilot project to provide assistance, support and guidance to a sample group of government departments and agencies, and their suppliers, selected by Defra. Based on the results of the pilot, the CPET helpline was launched in August 2005. The website, with information about the policy and technical guidance, was launched shortly thereafter. CPET's helpline is available free of charge to public bodies (including public bodies that voluntarily adopt the policy) and their suppliers. CPET runs training courses, assesses evidence to decide whether timber sources qualify as legal or sustainable, and monitors how the policy is being implemented in practice.

A UK government '*Timber procurement advice note*' was issued in 2004 and revised in 2005. A revised definition of the words 'legal' and 'sustainable' was published in November 2006, and technical guidance on evaluating 'Category B' evidence (evidence not based on certification schemes) was published in December 2006. Detailed guidance is also provided on the website.

In March 2007, as part of the UK Government Sustainable Procurement Action Plan, and based on studies showing that the availability of certified sustainable timber in the UK had increased, the policy was revised. From 1 April 2009 only timber from sustainable sources or FLEGT-licensed timber will be accepted. From April 2015 only sustainable timber will be accepted.

For more information see www.proforest.net/cpet

26 See <http://www.proforest.net/cpet/evidence-of-compliance/category-a-evidence/approved-schemes>

Japan

The law concerning the *Promotion of Procurement of Eco-Friendly Goods and Services by the State and Other Entities* was enacted in 2000. This 'Green Purchasing Law' is implemented through the *Basic Policy for the Promotion of Eco-Friendly Goods and Services*. In February 2005, the Japanese cabinet resolved to revise the policy to include the legality and sustainability of designated wood items. In January 2006 the Forestry Agency called for public comments on the proposed revision.

At the G8 Gleneagles Summit in July 2005, Japan agreed to tackle illegal logging as part of its Climate Change Initiative through, amongst other things, a government procurement policy. The revised basic policy incorporating legality and sustainability of designated wood items was enacted on 1 April 2006. The Forestry Agency's '*Guideline for verification on legality and sustainability of wood and wood products*', published in February 2006, sets out the modalities for verifying legality and sustainability, involving either provision of a certificate of sustainable forest management or a chain of custody certificate, self-declaration under industry code of conduct or company-determined methods. The guideline is reviewed and can be amended periodically by a multi-stakeholder meeting including forest owners, industry, academics and NGOs.

In May 2006 the Japanese Federation of Wood Industries Association (JFWIA) established a Council for Tackling the Illegal Logging Issue as part of the Forestry Agency's *Project to Promote a Comprehensive Response to Illegal Logging*. The Council held its first meeting in July 2006 and the implementation of the timber procurement policy effectively started in October 2006.

The Japanese policy entrusts private sector suppliers with the decision as to which documents to accept and provide as evidence of legality in order to meet the policy requirements. JFWIA established a code of conduct in March 2006 supporting the procurement policy which served as a template for most other associations. By 16 March 2007 all 19 national timber industry associations and 104 prefecture timber industry associations had established codes of conduct for the purpose of supplying public contracts.

For more information, see www.env.go.jp/en/laws/policy/green/index.html

Table 2: An overview of the different timber procurement policies

The table starting on the next page describes the different elements of the timber procurement policies of Belgium, Denmark, France, Germany, the Netherlands, United Kingdom and Japan. For more information on these procurement policies please see the website links for the different countries below.

Belgium: policy documents

Circulaire P&O/DD/2 comportant la politique d'achat de l'autorité fédérale stimulant l'utilisation de bois provenant de forêts exploitées durablement. Monitor Belge 09.02.2006. www.guidedesachatsdurables.be/bs_mb/circulaire%20PO-DD-2.pdf

Le bois certifié durable : Un guide pour les services administratifs fédéraux. Ministry of Public Health, Food Chain Security and Environment. Date: after May 2006. www.guidedesachatsdurables.be/bs_mb/guide_bois_durable.pdf

Information on how to include criteria for sustainable purchasing in the tender process. www.guidedesachatsdurables.be/fr/criteres.html

Approved PEFC certifications. www.guidedesachatsdurables.be/bs_mb/compromis%20def_FR.doc

Denmark: policy documents

Purchasing Tropical Timber – Environmental Guidelines. Danish Environmental Protection Agency and Danish Forest and Nature Agency 2003. http://www2.sns.dk/udgivelser/2003/tropical/16022004_UK.pdf

Purchasing Tropical Timber – Environmental Guidelines, Background material. Danish Forest and Nature Agency, 2nd revised translation, March 2006. <http://www2.sns.dk/udgivelser/2003/tropical/background/default.htm>

Draft Criteria for Legal and Sustainable Timber and Assessment of Certification Schemes. Danish Forest and Nature Agency, April 2007. http://www.skovognatur.dk/NR/rdonlyres/12C242D1-3A53-4AB7-870F-11377E45E1D7/39935/draft_19_30_5.pdf

The Environment Ministers 9-point plan for purchase of legal and sustainable timber. Ministry of the Environment, 6 February 2006. http://www.skovognatur.dk/NR/rdonlyres/BED48B01-359E-4EB8-88EF-B3A817441FEE/17530/eval9_point_plan1.pdf

Temporary guidelines for public procurement of timber – legality assurance. Ministry of Environment, 20 September 2006. <http://www.skovognatur.dk/NR/rdonlyres/BED48B01-359E-4EB8-88EF-B3A817441FEE/30514/briefingnote20sep2008.pdf>

France: policy documents

Plan d'action du gouvernement en faveur des forêts tropicales. 7 April 2004. http://www.ecologie.gouv.fr/IMG/pdf/DP_plan_action_gvt.pdf

Circulaire portant sur les moyens à mettre en œuvre dans les marchés publics de bois et produits dérivés pour promouvoir la gestion durable des forêts. 5 April 2005. www.ecologie.gouv.fr/IMG/pdf/050405.pdf

Groupe Permanent d'Etude des Marchés « Développement Durable, Environnement » (GPEM/DDEN). Notice d'information sur les outils permettant de promouvoir la gestion durable des forêts dans les marchés publics de bois et produits dérivés, March 2005. <http://www.ecologie.gouv.fr/IMG/pdf/05-022.pdf> GEM-DDEN.

Guide de l'achat Public Eco-Responsable. Le bois, matériau de construction. 2007. <http://www.ecologie.gouv.fr/IMG/pdf/07-018.pdf> Institute for Global Environmental Strategy.

Japan's Public Procurement Policy of Legal and Sustainable Timber. Progress, challenges and ways forward. August 2007.

http://www.illegal-logging.info/uploads/IGES_publicprocurement_final.pdf (Pages 52-56 includes information on the French public procurement policy, including interviews with French officials)

Germany: policy documents

Joint instruction on the procurement of wood products. 17 January 2007. http://www.bmelv.de/clin_045/nn_757138/SharedDocs/Gesetzestexte/H/HolzbeschaffungErlassEN.html__nnn=true

Explanatory Notes regarding the procurement of wood products. Attachment to the joint instruction of 17.01.2007. http://www.bmelv.de/clin_044/nn_750634/SharedDocs/Gesetzestexte/H/HolzbeschaffungErlassAnhangEN.html

Netherlands: policy documents

All relevant policy documents are available at www.tpac.smk.nl

United Kingdom: policy documents

All available at www.proforest.net/cpet/documents

Timber procurement Advice Note. November 2005. Central Point of Expertise on Timber.

UK Government Timber Procurement Policy: Criteria for Evaluating Certification Schemes (Category A Evidence). Second Edition, May 2006. Central Point of Expertise on Timber.

UK Government Timber Procurement Policy: Definition of 'legal' and 'sustainable' for timber procurement. Second Edition November 2006. Central Point of Expertise on Timber.

Evaluation of Category A Evidence. Review of forest certification schemes Results. December 2006. Central Point of Expertise on Timber.

UK Government Timber Procurement Policy: Framework for Evaluating Category B Evidence. First edition Development Draft 2 December 2006. CPET Practical Guides.

Category B evidence. Supply Chain Information. January 2007. CPET Practical Guides. *Category B evidence. Forest Source Information*. January 2007

The UK Government's Timber Procurement Policy. CPET Briefing Note, March 2008

Japan: policy documents

Law Concerning the Promotion of Procurement of Eco-friendly Goods and Services by the State and Other Entities.

<http://www.env.go.jp/en/laws/policy/green/1.pdf>

Basic Policy on Promoting Green Purchasing. April 2006 (translation February 2008). <http://www.env.go.jp/en/laws/policy/green/2.pdf> Ministry of Environment.

Japan's Green Purchasing Policy: Tackling Illegal Logging. March 2007. http://www.env.go.jp/en/earth/forest/pamph_jgpp.pdf Forestry Agency of Japan.

Guideline for Verification on Legality and Sustainability of Wood and Wood Products. February 2006. <http://www.rinya.maff.go.jp/policy2/ihou/eiyaku.pdf> Institute for Global Environmental Strategy.

Japan's Public Procurement Policy of Legal and Sustainable Timber. Progress, challenges and ways forward. August 2007.

http://www.illegal-logging.info/uploads/IGES_publicprocurement_final.pdf

Type of product	
Belgium	Wood products only, not paper products
Denmark	Wood and paper products In principle the policy also applies to composite products. A minimum percentage of timber is not specified
France	Wood and paper products The policy applies to the wood components of composite products
Germany	Wood products (rough, semi-finished and finished products), not paper products For composite products, the policy applies only if virgin timber is the most significant component
Netherlands	Wood and paper products No formal decision yet how the policy applies to composite products
UK	Wood and paper products
Japan	Wood and paper products Specifically: paper, stationery, office furniture, interior fixtures and bedding, public works materials (lumber, glued laminates, plywood, laminated veneer lumber, flooring)

Mandatory or voluntary	
Belgium	Mandatory for federal government and organisations of public interest Green procurement guidelines are provided to local authorities
Denmark	Voluntary for both central government and local authorities No indication as yet as to whether the policy is likely to be made mandatory
France	Mandatory for national departments and agencies Local authorities are encouraged to refer to it
Germany	Mandatory for the Federal Administration Federal states, communities and public institutions encouraged to support and adopt the policy
Netherlands	Mandatory for public institutions at national level Provinces, local councils and public institutions are encouraged to support and adopt the policy.
UK	Mandatory for central government departments in England, executive agencies and non- departmental public bodies. The devolved administrations of Scotland, Northern Ireland and Wales have adopted the policy, making it mandatory throughout the UK Autonomous bodies that receive public funding (local authorities, universities) are encouraged to voluntarily adopt the policy
Japan	The policy is compulsory for central level ministries and agencies, Diet, courts and independent administrative institutions Local authorities are encouraged to follow

Minimum requirements	
Belgium	Timber must be from sustainable sources
Denmark	Currently, timber from legal sources is the minimum recommended requirement, with sustainable timber preferred
France	Timber must be from legal and sustainable sources. Paper and packaging should be recycled
Germany	Timber must be from legal and sustainable sources. Recycled products should be preferred over virgin sources
Netherlands	Timber from legal sources is the minimum requirement. All national government institutions are required to purchase from verifiably sustainable sources if possible
UK	Timber from legal sources is currently the minimum requirement, and sustainable timber should be preferred. Recycled timber should be preferred in all cases From April 2009: only sustainable or FLEGT licensed timber will be accepted From April 2015, only sustainable timber will be accepted
Japan	The 2006 policy includes legality as a 'criterion for evaluation' and sustainability as 'factor for consideration'. This means that legality is the minimum requirement

Targets	
Belgium	
Denmark	
France	50% from legal and sustainable sources by 2007, 100% by 2010
Germany	
Netherlands	100% from sustainable sources by 2010
UK	100% from sustainable sources by 2015
Japan	

Thresholds	
Belgium	
Denmark	Draft guidelines 4.3: legal timber must be 100% from verified legal sources
France	Draft guidelines 4.4: 'Sustainable' timber products must have an average minimum content of 70% raw wood material from 'sustainably managed forests' as defined in the draft criteria
Germany	
Netherlands	
UK	Legal timber must be 100% from verified legal sources For sustainable timber, a minimum of 70% of the material (by category, e.g. window frames, wall panelling, floor joists, furniture, site hoardings are all separate categories) is from a sustainable forest source, which can be either recycled wood and/or virgin timber from an adequately managed forest source
Japan	A range of different percentage recycled content is required for paper products. For example, printing paper must have at least 70% recycled pulp content

Timeline	
Belgium	Policy adopted 2005 Currently under review. Results expected in second half of 2009
Denmark	Policy adopted in 2001 Guidelines for tropical timber (excluding paper and recycled timber) published 2003. Review initiated 2005. Temporary guidelines for timber and paper products from all sources issued in September 2006. Temporary advice (valid until April 2009) issued in February 2008 to accept either FSC or PEFC certification as proof of 'legal and sustainable' timber Review expected to be completed and decision taken in 2009. Meanwhile the 2003 and 2006 guidelines and 2008 advice all remain valid
France	Policy adopted in 2005 A review of the implementation of the policy started in the third quarter of 2008
Germany	Policy requiring tropical timber in federal building projects to be certified as sustainable introduced in the 1970s New policy adopted January 2007, valid for 4 years Policy to be reviewed before the end of the 4-year period, i.e. in 2011
Netherlands	Policy adopted in June 2004 New criteria (TPAS) were presented in June 2008: FSC International, PEFC Germany and PEFC Finland comply with TPAS. PEFC Sweden, PEFC Belgium, PEFC International and MTCC are currently being assessed.
UK ⁶	Voluntary policy adopted 1997 Binding policy adopted 2000 Policy revised March 2007, with new minimum requirements taking effect from April 2009
Japan	Policy adopted 2006

Agencies responsible for policy	
Belgium	Ministry of Public Health, Food Chain Security and Environment
Denmark	Ministry of Environment Danish Forest and Nature Agency
France	Ministry for Ecology and Sustainable Development Study group on public procurement for sustainable development and the environment 'GEM-DDEN'
Germany	Ministry of Food, Agriculture and Consumer protection Federal Research Institute for Rural Areas, Forestry and Fisheries (vTI) (previously known as the Federal Research Centre for Forestry and Forest Products (BFH)) Federal Agency for Nature Conservation (BfN)
Netherlands	Ministry of Housing, Spatial Planning and the Environment (VROM)
UK	Department for Environment, Food and Rural Affairs (Defra) Central Point of Expertise on Timber Procurement (CPET)
Japan	Ministry of Environment Forestry Agency (within Ministry of Agriculture, Forestry and Fisheries)

Policy implementation	
Belgium	<p>The policy applies to purchase, rental and leasing of products containing timber</p> <p>The tender document must specify that the wood has to meet the specifications set out in the Official Circular, defined as 'wood from sustainably managed forests'. This is further elaborated as 'wood from sustainable forest management as certified by an independent body based on internationally recognised criteria'</p> <p>Tender offers must refer to either an accepted certification scheme or another certification scheme. In the latter case, tender offers must include documentation to show that the certification scheme meets the official requirements. If there is no certification for the timber, the tenderer must demonstrate by other means that the timber meets the requirements of the tender</p> <p>If no tender can offer sustainable timber which meets the requirements, re-tendering is required</p>
Denmark	<p>Under the Danish Environmental Protection Act, all public authorities have a general obligation to pursue the objectives of the Act through the establishment and management of public institutions as well as through procurement and consumption</p> <p>Each central government institution is obliged to develop its own green procurement policy as well as an action plan for its implementation. The Federations of regional and local government in Denmark have entered an agreement with the Minister of Environment to develop green procurement policies in all counties and municipalities and to collaborate on the implementation of green procurement policies</p>
France	<p>The policy affects over 200,000 public buyers, including 200 central state buyers. Public buyers must verify that timber used to carry out contracts is from sources that guarantee sustainable forest management, provided there is sufficient potential supply</p> <p>Two categories of product are defined: Category I: round wood, sawn timber, veneer and plywood. Category II: all other products (products of secondary transformation) including particle board, furniture and paper</p> <p>The contract specification must be in terms of performance requirements and can refer to the specifications for sustainable forest management as defined by certification systems (Category I and II) and ecolabels (Category II)</p> <p>Tenderers can be selected on the basis of their adherence to professional codes of conduct, holder of chain of custody certificate, and samples or descriptions etc.</p> <p>The tender should include a clause requiring the contractor to be able to prove (on request from the public body at any time during the period of carrying out the contract and during the warranty period) that the products comply with sustainable forest management specifications</p> <p>For Category I, tenderers must provide at least one of five suggested, independently verified, types of evidence. If not, the bid must be rejected</p> <p>All bids must specify the country of origin, species of timber and name and address of supplier</p> <p>For Category II, tenderers must provide an eco-label or forest certification certificate, or self declarations, which are recommended to be endorsed by an independent body</p> <p>For both Category I and II, the public buyer must accept any other appropriate evidence that proves the products are from legal and sustainable sources</p>
Germany	<p>The German Contract Procedures for Building Works, Part A (Vergabe- und Vertragsordnung für Bauleistungen (VOB/A)) and the German Code for Awarding Public Services Contracts, Part A (Verdingungsordnung für Leistungen, (VOL/A)), have been amended to reference the policy</p>
Netherlands	<p>The public institutions at national level are advised to buy sustainable timber; at if this is not available, at least to verify the legality of the product prior to buying. The Dutch government is using the UK definition and criteria for legality</p> <p>Guidance on how to include criteria for legality and for sustainability in the tender process will be developed in 2009</p>
UK	<p>All central government departments, executive agencies and non departmental public bodies must actively seek to purchase legal and sustainable timber. Legality must be a condition of contract for all wood and wood products supplied, including temporary site works and material supplied by subcontractors</p> <p>Invitation to tender: When deciding which suppliers to invite to tender, the procuring authority can consider the track record of potential suppliers in supplying timber from legal and sustainable sources, and reject suppliers that are unable to show they have capacity to provide evidence of systems used to ensure chain of custody. Suppliers cannot be rejected on basis of allegations of illegal conduct (e.g. trading in illegal timber and corruption), only if convicted of criminal offense or found guilty of grave professional misconduct</p> <p>Contract clauses: The current Timber Procurement Advice Note (2005) includes recommended model contract clauses to enable procurers to integrate the policy more easily into tender contracts</p> <p>The contract clauses include stipulations that the contractor must obtain documentary evidence of legality, sustainability or recycled timber before delivering any timber or wood derived product. The contractor must be able to produce the evidence at any time if requested by the procuring Authority for up to 6 years from the time of final delivery. If the Authority is not satisfied with the evidence, the contractor must pay for independent verification</p> <p>Procuring authorities can use the free CPET helpline for guidance on assessing evidence, or they can pass it to CPET for assessment and advice. Acceptance of CPET's advice is voluntary</p> <p>'Sustainable' is currently a variant specification and therefore optional. Tenderers can choose to offer an additional, separate bid to supply sustainable timber, that may be priced differently</p> <p>Guidance on contract award: bids that cannot meet the requirement to supply legal timber are rejected</p> <p>If no tender offers a fully compliant bid, the Authority decides whether to re-tender or move to a negotiated procedure</p> <p>The Authority must decide whether to choose from among the variant (sustainable) bids or from the minimum standard (legal) bids. Where there is a difference in price between variant and standard bids the Authority must decide whether the premium is affordable and represents good use of resources. Where the variant bid does meet the affordability and effectiveness tests then the variant option should be preferred. The Authority then awards the contract on the basis of the best value for money within the option (either variant or non variant) chosen. Providing sustainable timber represents value for money, the Authority will prefer it</p> <p>Suppliers' statements that they can supply evidence for the legal or sustainable sourcing of timber products must be taken at face value when considering bids. The evidence can only be requested prior to the invitation to tender or post contract award. Deliveries should be rejected if they are found not to comply</p>
Japan	<p>Purchasing officers enter into a conditional contract that includes the use of verified legal and sustainable wood and wood products</p> <p>The head of each ministry or agency and the head of each independent administrative institution, etc. is required to draw up and publish every fiscal year a policy to promote the procurement of eco-friendly goods (including timber)</p>

Definitions of illegal, sustainable and recycled	
Belgium	<p>The Official Circular states the criteria that must be fulfilled by certification systems to guarantee that timber is from legal and sustainable sources:</p> <p>Legal: 'the forest management [must] respect national laws and international conventions.' (Criterion 3)</p> <p>Sustainable: 'the forest management [must be] based on internationally accepted principles and criteria (amongst others the Helsinki criteria) which are adapted at the institutional and political level to the local situation' (Criterion 1)</p>
Denmark	<p>Legal: timber felled in accordance with all relevant laws and regulations in the producing country. The draft criteria set out standards for legality identical to those of UK</p> <p>Sustainable: the draft guidelines define sustainable forest management as 'consistent with the Forest Principles as set out by UNCED 1992' Standards for sustainable forest management should 'build on relevant broadly recognised international, regional or national guidelines, criteria and indicators defining sustainable forest management at the forest management unit level'</p> <p>Standards for sustainable forest management should ensure:</p> <ol style="list-style-type: none"> 1. legal timber production (as above) 2. minimising harm to ecosystems 3. maintenance of forest productivity 4. maintenance of forest health and vitality 5. maintenance of biological diversity 6. maintenance of the extent of the forest resources 7. maintenance of socio-economic functions (uphold local peoples' rights and other social issues) <p>Standards 1–5 are identical to the UK's</p> <p>Recycled: defined in the draft guidelines as:</p> <ul style="list-style-type: none"> • pre-consumer recycled wood and wood fibre or industrial by-products but excluding sawmill co-products • post-consumer recycled wood and wood fibre • drift wood <p>The recycled nature of the timber must be verified</p>
France	<p>The government does not commit to a particular definition and accepts third party definitions Guidance documents mention the 1993 Helsinki Inter-ministerial Conference definition: 'Sustainable management means the stewardship and use of forests and forest lands in such a way, and at a rate that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfil, now and in the future, relevant ecological, economic and social functions, at local, national, and global levels, and that does not cause damage to other ecosystems'</p>
Germany	<p>Germany accepts the FSC and PEFC definitions of sustainably (and legally) produced timber</p>
Netherlands	<p>Legal: draft criteria use the same criteria as the UK</p> <p>Sustainable: criteria have been finalised and include legislative requirements, social aspects, health and labour conditions, ecological aspects, regulatory functions, economic aspects, management issues. Full definition is available at http://www.tpac.smk.nl/webadmin/files/pdf/Procurement%20Criteria%20Timber%20Dec%202008.pdf</p> <p>The definition consists of numerous criteria and a weighing system. You dont have to meet all criteria but you do need to meet all principles. Currently FSC, PEFC Finland and PEFC Germany have been accepted. PEFC Belgium, Sweden, International and MTCC are currently being assessed.</p>
UK	<p>Legal: the forest owner/manager must have legal rights to use the forest. The forest management organisation and contractors must comply with local and national laws on forest management, environment, labour & welfare, health & safety and other parties' tenure and use rights. All relevant royalties and taxes must be paid and CITES must be complied with</p> <p>A 'sustainable source' refers to forest management that must minimise harm to ecosystems, maintain forest productivity, ensure forest ecosystem health and vitality and maintain biodiversity. The details of the interpretation must be decided based on balanced participation of social, environmental and economic interests</p> <p>Recycled timber is recovered wood that has been in previous use but no longer used for the purpose of the tree which originally felled:</p> <ul style="list-style-type: none"> • pre-consumer wood and wood fibre • post-consumer wood and wood fibre • driftwood <p>In order to meet the UK Government's criteria for sustainable timber, the material must be (a) 'recycled timber' or (b) timber from a 'sustainable source' (as described above); or (c) a combination of (a) and (b)</p> <p>The recycled nature of timber must be proved through documentation and independent verification, similar to the proof for legal and sustainable</p>
Japan	<p>Legal: 'harvested in a legal manner consistent with procedures in the forest laws of timber producing countries and areas'</p> <p>'Illegal logging' means among other things:</p> <ul style="list-style-type: none"> • logging without legitimate permission • logging in prohibited areas • logging prohibited timber species' <p>Sustainable: 'harvested under sustainable management'</p>

Evidence of compliance: certification	
Belgium	<p>Government assesses certification schemes</p> <p>The Official Circular of February 2006 defines 11 criteria for acceptable certification systems and deems FSC and PEFC Belgium to meet these criteria. The Circular also accepts other national PEFC certificates providing the country fulfils the criteria of 'a highly developed social dialogue and respect for the rights of indigenous peoples'</p> <p>Other national PEFC certificates have been placed on two positive lists. When buying, renting or leasing timber, public authorities can consider schemes on either list. However, if two equivalent tenders are being evaluated, preference should be timber with certificates from FSC, PEFC Belgium or PEFC list 1. 'PEFC certifications from list 2 can equally be taken into consideration'</p> <p>The current PEFC lists (endorsed by the Ministry of Environment on 5 April 2006) are: List 1: Austria, Czech Republic, Chile, Denmark, Germany, France, Italy, Lithuania, Luxembourg, Norway, Portugal, Slovakia, Spain, Switzerland, United Kingdom List 2: Australia, Brazil, Canada, Finland, Sweden, USA</p> <p>The Expert Committee reviews the lists annually and can re-examine them if new evidence is available</p>
Denmark	<p>Government assesses certification schemes</p> <p>The 2003 guide on public purchase of tropical timber identified FSC certification as evidence of sustainable timber and MTCC as evidence of 'progressing to sustainable'. All other certificates were either considered not appropriate for use in the tropics or insufficient to stand alone e.g. LEI certification could only help to verify legality if accompanied by additional documentation</p> <p>The government is currently revising criteria for legality and sustainability, which will be used to assess certification schemes.</p> <p>Meanwhile, in addition to the 2003 guidance on certification schemes for tropical timber, in September 2006 the government recommended that certificates from CSA, FSC, MTCC, PEFC and SFI provided adequate verification of legality for timber from all sources.</p> <p>In February 2008 the government issued a temporary recommendation of either FSC or PEFC certificates as evidence of 'legal and sustainable' timber for timber from all sources</p>
France	<p>Government accepts certification schemes</p> <p>Forest certification certificates are accepted for Category I and II products</p> <p>The French government accepts all major national and international certification schemes without assessing them. The Notice of Information from 2005 states that all certification schemes "mentioned" by the ITTO and the African Timber Organisation (ATO) are acceptable for public procurement of tropical wood</p>
Germany	<p>Government assesses certification schemes</p> <p>The government accepts FSC or PEFC certificates as proof of legal and sustainable forest management (based on an initial internal assessment by government)</p> <p>If serious deficiencies in the FSC and PEFC systems emerge and are confirmed by an evaluation by vTI and BfN, the certification scheme will have 12 months to improve, or it will be excluded. Serious deficiencies include certification of timber from illegal logging, infringement of significant criteria of the certification system, and newly arising or recognised deficiencies in the certification scheme or in the national schemes it endorses, particularly if sustainable forest management or an intact chain of custody cannot be guaranteed. If major deficiencies occur in endorsed national schemes, the certification scheme would be deemed to have improved if it revoked its endorsement or proved that products from that source no longer entered the chain of custody</p> <p>Certificates comparable to FSC and PEFC are also accepted, if verified by vTI and BfN</p>
Netherlands	<p>Government assesses certification schemes</p> <p>The Netherlands has adopted the UK's CPET approved schemes (both Category A and Category B) for legal timber (the minimum requirement). The Timber Procurement Assessment Committee assesses Category B evidence</p> <p>The Dutch government will use its own sustainability criteria (expected September 2008) and its own assessment procedures carried out by the Timber Procurement Assessment Committee, to assess certification schemes' verification of sustainability</p>
UK	<p>Government assesses certification schemes</p> <p>CPET's assessment of certification schemes ('Category A' evidence) accepts MTCC certificates as assurance of legality. CSA, FSC, PEFC and SFI certificates are accepted as assurance of sustainability</p> <p>A review of the certification schemes started in May 2008. The review process examines publicly available documentation for each scheme and implementation of the documented requirements. It does not examine certification performance on the ground or outcome of certification in the forest, as these are judged to be the role of independent verification. The current review process involves CPET collating information from the certification scheme against CPET's May 2006 version of <i>Criteria for Evaluating Certification Schemes (Category A Evidence)</i></p> <p>External, objective, verifiable input is also solicited from stakeholders (referring to scheme documentation only, not to outcomes in the forest) and a technical panel of 4 experts in certification who are independent of individual certification schemes. The results are expected to be finalised and referred to the CPET's advisory Reference Board (comprising trade, NGO and Government representatives) in July 2008, followed by approval from Defra and public notification of the final results in September 2008</p>
Japan	<p>Government accepts certification schemes</p> <p>The Japanese government has not carried out assessment of certification schemes</p> <p>Acceptable schemes include Sustainable Green Ecosystem Council (local scheme), CSA, FSC, LEI, MTCC, PEFC and SFI</p>

Evidence of compliance: other evidence	
Belgium	Other types of evidence will be accepted, as long as the tender can demonstrate that the wood comes from a sustainable sources that meets all the 11 criteria Such evidence would most likely be evaluated by the Expert Committee. So far there have been no requests to assess other evidence
Denmark	Guidance for tropical timber is in the 2003 Guidelines and the background paper: <ol style="list-style-type: none"> 1. Other certification schemes 2. Export permits, certificates of origin, other declarations from the authorities and from suppliers and sub-suppliers 3. Concession agreements 4. A documented eco-management system in accordance with ISO 14001 or EMAS II or another documented eco-management system 5. Specification of the standards and guidelines used for forest management, including information about whether they have been developed in a consultative process, open to participation by financial, environmental, and social stakeholders 6. Specification of the overriding principles and criteria guiding the forest management, indicating who has developed these 7. Specification of the method for monitoring compliance with the standard and the entity responsible for such monitoring 8. Documentation for legally produced tropical wood in accordance with a bilateral agreement between Denmark or the EU and the supplying country (not yet developed, as of 31 December 2003) <p>It is recommended that alternative documentation be submitted for impartial third party assessment</p> <p>At a seminar on legal verification of timber in March 2007, businesses and NGOs provided examples of how they tried to develop alternative methods of documentation to assure legality or sustainability. Most concluded that it was difficult, and needed specialist knowledge*</p>
France	For Category I products, the following are accepted, if independently verified: <ul style="list-style-type: none"> • legality license by producer country • attestation of management plan • manager's or • suppliers' compliance with industry/trade association's code of conduct <p>Existing custom documents to qualify legal/ sustainable products when entering the EU market are also accepted</p> <p>For Category II products, eco-labels are accepted</p> <p>Any other type of appropriate proof of legal and sustainable origin provided by the contractor must also be accepted</p>
Germany	Other certificates or individual specifications (timber without a certificate) are accepted provided the bidder is able to demonstrate that forest management was consistent with the FSC or PEFC standards in the country of origin <p>Evaluation of other evidence will be undertaken at the expense of the bidder by the vTI and the BfN</p> <p>Other certificates that are accepted by this process will be treated like FSC or PEFC certificates</p>
Netherlands	Criteria for other types of proof of sustainability are being developed <p>For legality, other equivalent evidence, as outlined in UK's <i>Framework for evaluating Category B evidence</i></p>
UK	<i>A Framework for Assessing 'Category B' evidence</i> (other types of credible evidence) was published in June 2006, and includes checklists which suppliers must be able to complete to provide information on the supply chain, forest source information on legality and where applicable, sustainability <p>Category B evidence is considered equal to certification if there is robust evidence of a chain of custody from forest to end user, and legal, and preferably, sustainable forest management (using the same definitions as for Category A evidence). CPET assesses such evidence on a case by case basis</p> <p>Category B evidence is needed in cases of broken chain of custody or if there is no certificate. In practice it is limited to short or straightforward supply chains (including broken Chain of Custody), uncertified local producers, and proving legal origin for countries with low risk. For long or complex supply chains it is rarely possible to provide adequate Category B evidence</p> <p>Checklist 1 covers the supply chain. The supplier/contractor must investigate the supply chain and provide, for each stage in the supply chain, a description of control systems, how these were checked and evidence</p> <p>Checklists 2 and 3 set out requirements for legality and sustainability (same definitions as for Category A evidence)</p> <p>The risk of illegal or unsustainable timber determines the level of verification required: <i>first party verification</i>: (suppliers check themselves e.g. a supplier declaration), <i>second party verification</i> (customers check their suppliers) or <i>third party verification</i> by an independent organisation</p> <p>The following legality verification systems may provide adequate assurance of legality: OLB (Origine et Légalité des Bois), SmartStep programme, Global Forest and Trade Network, SGS verified legal timber (available from Congo), TTAP. These are evaluated by CPET under the Framework for evaluating Category B evidence on a case-by-case basis**</p>
Japan	Other evidence accepted includes: <ol style="list-style-type: none"> 1. Voluntary code of conduct of wood industry associations (which is mandatory for association members), including verification by downstream companies of the legality and sustainability of forest management, and separate CoC of verified and non-verified wood products. Verification should document the number and type of products, the harvest site, compliance with forest laws and sustainable forest management 2. Own procedure set up by individual companies who are not members of wood industry associations (similar to method above). This procedure is used by the chip/pulp importing processors under the Japan Paper Association <p>No independent government or 3rd party verification is required for 1) or 2)</p> <p>Japan's wood industry consider the following schemes as evidence of legality:</p> <ul style="list-style-type: none"> • Indonesia: BRIK export permit, SKSHH transport permit • Malaysia: Statement on Legality of Timber Source; Export Declaration, Form 2 • PNG: Monitoring of all round log exports by SGS • Russia: Dalexportles Association of Timber Exporters Far East Russia (DEL) system • China (re-exported wood products): currently none, but options being explored by a working group under the Council for Tackling Illegal Logging***

* Danish Forest and Nature Agency, *Verifying 'legal timber' through alternative means of documentation (without certificate) – a mini seminar on practical experiences*. Danish Ministry of Environment, March 2007. http://www.skovognatur.dk/NR/rdonlyres/12C242D1-3A53-4AB7-870F-11377E45E1D7/38166/samlet_3udgave.pdf

** Sofie Tind Nielsen, *Timber legality and sustainability verification – the CPET approach using Category B evidence*. Workshop presentation, Copenhagen, 7-8 April 2008

*** Institute for Global Environmental Strategy, op cit, p 17

Evidence of compliance: FLEGT	
Belgium	Sustainable timber is the minimum requirement. FLEGT-licensed products do not fulfil the policy's criteria for sustainability
Denmark	The future use of FLEGT licences is under consideration
France	FLEGT certificates will be accepted as evidence of legality
Germany	The German policy has sustainable timber as the minimum requirement. No guidance on the acceptability of FLEGT is currently available
Netherlands	The government has not taken a decision on whether FLEGT licences will be accepted. FLEGT is accepted as legal timber
UK	FLEGT licenses will be accepted as equivalent to legality until April 2009, at which point they will be accepted as the only form of legality, until 2015 when they will no longer be accepted
Japan	No definite information at present, though commentators have recommended Japan to collaborate with the EU to recognise VPA licensing schemes and make use of FLEGT achievements

Social criteria (see main text)	
Belgium	Two of the 11 criteria for assessing certification systems refer to social issues
Denmark	Draft criteria contain detailed guidance on assessment of social issues for sustainable timber. Some social issues are also covered by the draft criteria for legal timber and operation of certification schemes, both of which are identical to the UK criteria
France	The 2005 guidance states that according to EU recommendations social issues such as protection of forest-dependent populations can't be included in public tenders. However, in practice, social criteria are accepted through the use of certification and eco-labels
Germany	Accepts FSC and PEFC social criteria
Netherlands	TPAS contains detailed guidance on assessment of social criteria
UK	Argues that EU procurement rules don't allow specification of social or ethical issues unless required by law Criteria for legal timber, procedure for developing standards and operation of certification schemes include some important social issues The UK position on social criteria is currently under review
Japan	Accepts social criteria of certification schemes

Promotion of policy to local government	
Belgium	The administration runs a campaign to promote sustainable timber products, targeted at the wider public Local/regional governments can decide their own policy. The federal government does not actively encourage uptake by local/regional government, but is trying to establish a dialogue with the regions (Flanders, Wallonia, Brussels) The Flemish government has certified its own forests under FSC. It has drawn up a framework environmental agreement with local authorities and provides incentives for local authorities to purchase FSC-certified timber, by reimbursing part of the expenses incurred. The Flemish government has drawn up its own criteria for sustainable forest management, against which it is currently assessing PEFC The Walloon government is considering a public procurement policy. As it is seeking PEFC certification for its forests, it is more orientated to PEFC
Denmark	The policy is being promoted to local government 'through a broad range of tools, agreements, information, networks etc.'
France	The policy does not mention local authorities, but the Notice of Information was sent to them Eleven regional councils are discussing drawing up charters for timber use with local representatives of the timber trade. Such charters have been signed by Limousin (2006) and Lower Normandie (2007) The town of Lyon has produced a guide to sustainable timber purchase, and other towns were considering similar initiatives in 2005* A public website www.ecoresponsabilite.environnement.gouv.fr provides information on environmental issues for local government administrations. The Ministry of Environment and Environment Agency support local networks on public procurement and sustainable development
Germany	The government plans to promote interest and acceptance by other public consumers (federal states, communities and public institutions) The federal state of Baden Württemberg and the German Railways have adopted the policy**
Netherlands	Local governments have adopted the policy and have a target of 50% sustainable by 2010. Local government is involved in the implementation process
UK	CPET is considering how to increase awareness and uptake of the policy by local authorities. Defra has called on suppliers to encourage local authorities to develop sustainable timber procurement policies, and is working with WWF to set up a programme to raise awareness with local authorities over the coming months In 2005 just under half of 27 London boroughs responding to a survey had included environmental purchasing criteria in their tender specifications for wood products. They were mainly using forest certification systems, especially FSC certified products or equivalent. However, only a third of the councils requested documentary evidence of certified product status from contractors and suppliers. Of the 27 councils, two were assessed as 'forest friendly', eight as 'forest fair' and the rest as 'forest failing'*** Case studies of 12 councils out of 45 in the North-east of England showed four had a partial timber procurement policy, two had a full timber procurement policy, one was systematically monitoring the implementation of its policy and one was likely to develop a policy explicitly modelled on central government procurement policy****
Japan	Prefectures and municipalities have been informed of the guideline and they are expected to make efforts to comply In 2007 16 of 33 municipalities in Kanagawa Prefecture were taking steps to implement the national Green Procurement Policy – including the guidelines for purchases of legal and sustainable timber

* Guide d'achat durable: le bois. <http://www.lyon.fr/static/vdl/contenu/environnement/Bois3.pdf>

** Ulrich Bick, *Public procurement policy in Germany – recent developments and next steps*. Workshop presentation, Copenhagen, 7-8 April 2008. http://www.skovognatur.dk/NR/rdonlyres/D17D6589-B5D4-48BE-8AC1-4ADF601F6C93/58148/GermanProcurementpolicy_UlrichBick.pdf

*** Richard Howorth, Beatrix Richards and Christian Thompson, *Capital Offence: Is London failing the Forests?* WWF, 2006

**** Duncan Brack, *Local Government Timber Procurement Policies. Case Studies in North East England and Yorkshire and the Humber*. Chatham House, 2007. http://www.illegal-logging.info/item_single.php?item=document&item_id=517&approach_id=8

Monitoring, evaluation, reporting and enforcement	
Belgium	<p>The Official Circular states that contractors who make false declarations may, after investigation, be excluded from some or all public tenders issued by federal procurement agents</p> <p>There is no mechanism to compel federal purchasing officers to implement the policy</p> <p>The initial results of the 2007 evaluation include:*</p> <ul style="list-style-type: none"> • 55% of federal ministries and institutions are actively implementing the policy. 37% say it is easy to implement, 60% need additional support to implement it • Policy requirements are not clear enough and procurement officers lack understanding about forest certification
Denmark	<p>A user survey was carried out in late 2005**. Out of 1500 public institutions contacted, about 440 people responded, mostly people responsible for timber procurement for public institutions. Additional interviews were conducted with public purchasing agents</p> <p>60% had heard of the guidelines. Out of 45 who had actually bought timber in the preceding 2 years, four had read the guidelines, 21 knew of them but had not read them and only 1 used the guidelines when buying the timber</p> <p>Users did not find the guidelines relevant to them or operationally useful. This was, because they were not aware of the issues, or the difference that green procurement policies could make, or they rarely bought tropical timber and then only in small quantities and actually deciding the right thing to do when buying timber was difficult</p> <p>The report recommended that an advice hotline should be set up and guidance should be developed tailored to the needs of four main types of buyer: port operations managers, managers responsible for building, leaders of institutions, and chief procurement officers</p> <p>A supplementary evaluation is planned for in near future covering a broader range of green procurement guidelines, including timber procurement</p>
France	<p>Data on timber procurement by public bodies is not collected systematically. Officials acknowledge that there are shortcomings in ensuring traceability of verified timber products</p> <p>A public procurement observatory was set up in 2007 to collect general data on government procurement. The 2008 timber procurement review will be based on this data complemented by specific analysis of wood products</p> <p>The 2007 Grenelle Environment Forum proposed developing specific indicators for future assessment and to study the setting up of a specific reference centre to monitor the timber procurement policy</p>
Germany	No action currently. Pending review in 2011
Netherlands	The results of the policy are monitored every two years and reported to parliament
UK	<p>CPET guidance advises authorities to maintain an audit trail if they decide to purchase timber and timber products that can't be shown to be legal, or they decide not to take action if a contractor can't provide evidence of legality</p> <p>CPET carried out a Construction Sector Study in 2007*** with participation of 14 public bodies and nine construction projects, to assess implementation and get reliable data on timber procurement</p> <p>The study found that public bodies supported the policy but implementation was incomplete. Most of the public bodies (9/14) had a procurement policy in place (not all were consistent with government policy) but contractual specifications on timber procurement were not always applied and procurement personnel had limited knowledge of the policy. Only half of the bodies collected data on timber purchases</p> <p>Of the construction projects, most (7/9) were under a timber procurement policy, either the public body's or the construction company's. Companies often seemed to be more proactive about the policy than the public body contracting them, but the level of on-site implementation was quite variable. 7/9 projects passed the policy requirements on to suppliers, 5/9 projects monitored suppliers' compliance in some way but checking of documentation was not always robust. 6/9 recorded certified timber purchases</p> <p>The study recommended developing an agreed (possibly mandatory) reporting system on timber purchases aligned with the Building Research Establishment Environmental Assessment Method (BREEAM – an existing system used by the construction sector to record timber purchases) and a more effective governmental oversight system including independent assessment of the reporting system, spot checks, incentives to reward policy delivery and sanctions for failing to implement the policy</p>
Japan	<p>At the end of each fiscal year, the heads of mandated bodies are required to prepare and publish a summary of its procurement track record and submit it to the Minister of the Environment</p> <p>An 'Operating Procedure' attached to the JWFIAs Code of Conduct regulates the accreditation of businesses with respect to verification of legality and sustainability of wood products and prescribes on-site (pre-announced) inspections when necessary. Infractions, such as evidence falsification, can result in withdrawal of accreditation and the infraction may be publicised on the corresponding association's website</p> <p>A survey of 1,868 local municipalities and related public agencies, as well as to 778,000 homebuilders found in December 2007 that lack of information on legally logged wood and wood products and lack of understanding of the issues by public organisations and businesses were hampering the promotion of green procurement****</p>

* Christoph van Orshoven, *Belgian Federal Public Procurement Policy on Timber and Timber Products – Recent developments*. Workshop presentation, April 2007, Copenhagen. www.skovognatur.dk/NR/rdonlyres/D17D6589-B5D4-48BE-8AC1-4ADF601F6C93/58149/BelgianPPP_update_Copenhagen_ChristopheVanOrshoven.pdf

** Rambøll Management A/S, *Evaluation of the Danish guidelines on public purchase of tropical timber. Sub project A: User survey. Summary and conclusions*. Danish Forest and Nature Agency, January 2006. http://www.skovognatur.dk/NR/rdonlyres/4F1BF89C-1BB6-4C3E-BFDB-564188C93E3E/16522/Report2A_UK.pdf

*** Central Point of Expertise on Timber, *UK Government Timber Procurement Policy: Construction Sector Project: policy implementation and reporting*. June 2008

**** Lack of Information on Legal Timber and Wood Products Hampers Gov't Green Procurement Policy (2 May 2008) <http://www.japanfs.org/db/2063-e>

Impact on timber imports and use	
Belgium	A monitoring mechanism is not yet in place, so data on impact is not available. It is expected that the policy will increase demand for sustainable products, which will increase the supply
Denmark	A survey of timber users in 2005 looked at the potential extra costs of purchasing legal and/or sustainable timber, but concluded that it was not possible to give an overall figure as much depended on availability of different species of timber, and how implementation of a binding policy would affect market supply and demand*
France	In 2005 public procurement was estimated to account for about 25% of French consumption of tropical timber** The target of 50% legal and sustainable in 2007 and 100% in 2010 is thought potentially achievable, due to the high proportion of certified timber in France – all central state-owned and 60% of municipality-owned forests are PEFC certified
Germany	Data will be available following the review in 2011
Netherlands	Market research studies show that the volume of certified timber products has grown steadily since introduction of the policy*** No data is currently available on the direct impact of the policy. It is expected to have a significant effect and other market players to follow suit It is expected that the target of 100% sustainable procurement by 2010 will be reached for some temperate species, but less likely for some tropical species. If government organisations fail to meet the 100% target for sustainable, they will be required to explain why Target on sustainable timber on the Dutch market has now been set at 50% by 2011
UK	Government is estimated to account for 10% of timber purchases in the UK, and other public sector bodies for 30% Certified products (imported and domestically produced) comprise 60% of the market, increasing by 5% per year**** The Timber Trade Federation published a study in February 2007 that stated 'the share of certified material available in the UK is predicted to rise to 70.3% in 2006 from 66.7% in 2005'***** Anecdotal evidence and feedback from the construction sector and the timber trade indicate that the policy has caused an increased demand for certified timber, but data on the impact of the policy on sustainable timber use is lacking*****
Japan	By 16 March 2007 all 19 national timber industry associations and 104 prefecture timber industry associations had established codes of conduct for the purpose of supplying public contracts***** By January 2008 about 60% of current central state purchases of lumber and plywood were accompanied by evidence of legality*****

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* Rambøll Management, op cit

** Rémy Risser, *French policy on public procurement of timber and wood products*. Workshop presentation, Berlin, 7-8 June 2005.
www.ecologic.de/download/projekte/900-949/933/8_risser.pdf

*** Duncan Brack, *Controlling Illegal Logging using Public Procurement Policy*. Chatham House briefing paper, June 2008.

**** Ibid

***** *Moving to sustainable: April 2009 date set*. CPET press release, May 2007

***** Sofie Tind Nielsen, personal communication, June 2008

***** Institute for Global Environmental Strategy, op .cit, p 17

***** Federico Lopez-Casero, *Designing a robust public procurement policy for legal and sustainable timber: recommendations for Japan*. Workshop presentation, London 17 January 2008. http://www.illegal-logging.info/item_single.php?item=presentation&item_id=225&approach_id=19

Documentation	
Belgium	www.guidedesachatsdurables.be (Site set up to provide guidance on sustainable purchasing)
Denmark	http://naturvejledernet.skovognatur.dk/English/ (under construction in March 2009) (Danish Nature and Forest Agency)
France	www.ecologie.gouv.fr/-Marches-publics-.html (Ministry of Ecology, Energy, Sustainable Development and Planning)
Germany	www.bmelv.de/clin_045/nn_757120/EN/07-Forestry/_forestry__node.html_nnn=true (Forestry page of Federal Ministry for Food, Agriculture and Consumer Protection)
Netherlands	http://www.tpac.smk.nl/ www.sml.nl (Practical tools and sample documentation (with purchasing specifications and contract conditions) for purchasing wood for items such items as office furnishings and facings) www.vvnh.nl (The Dutch wood trade association VVNH, an umbrella organisation of wood wholesalers, has set up a protocol to track the legal origin of wood. Suppliers can use the protocol to check whether their documentation meets the VVNH criteria)
UK	www.proforest.net/cpet (Central Point of Expertise on Timber) www.illegal-logging.info (Chatham House site on illegal logging)
Japan	www.env.go.jp/en/laws/policy/green/index.html (Ministry of Environment: Environmental policy – Green procurement law) www.env.go.jp/en/earth/ (Ministry of Environment- global environment page) www.goho-wood.jp/world/index.html (Council for tackling illegal logging issue, set up by Japanese Federation of Wood Industry Associations) www.maff.go.jp/e/index.html (Ministry of Agriculture, Forestry and Fisheries and Forestry Agency)

Social issues

There is considerable debate as to whether, under EU rules, procurement criteria can include 'social issues'. The term 'social issues' covers a wide range of issues such as the customary and traditional rights of indigenous peoples and local communities, rights of the workforce in logging concessions, and mechanisms for resolving disputes between forest management and local people. A more detailed treatment of social issues is being prepared by, amongst others, the Royal Institute for International Affairs (RIIA). Readers are referred to Duncan Brack's Social Issues in Timber Procurement Policies (3rd draft, June 2008) which is available, along with other comprehensive documentation, on the RIIA's Chatham House website on illegal logging, www.illegal-logging.info

In its *Buying Green handbook*, the European Commission states:

'Sustainable' and 'legal' timber are complex concepts and difficult to define. It is broadly agreed that sustainable forest management implies management with a view to, amongst others, sustaining biodiversity, productivity and vitality and also taking into account social aspects such as worker welfare or the interests of indigenous or forest-dependent people. The notions 'sustainable' and 'legal' thus refer to social and environmental, as well as economic conditions.²⁷

The handbook permits procurement contracts to include technical specifications specifying the environmental requirements for sustainably produced timber (including reference to certification schemes such as FSC or PEFC). However, further down the page the handbook states:

As with all technical specifications, you can only include those specifications which are related to the subject matter of the contract. So you cannot include specifications of a scheme on, for example, the protection of forest-dependent people.

The UK government considers that such social issues do not define the end product in terms of characteristics or performance (i.e. have no obvious effect on product quality or performance), and so do not fulfil the criterion of being related to the subject matter of the procurement contract. The UK therefore specifically excludes such social criteria when assessing certification schemes as a means of verifying legal and sustainable origins of timber, except the social criteria required under local and national laws (labour, welfare, health and safety) (see

27 http://ec.europa.eu/environment/gpp/guideline_en.htm

Appendix 1). In practice the UK has accepted social criteria as the certification schemes it has accepted all use social criteria to verify sustainable management.

In practice the UK has accepted social criteria as the certification schemes it has accepted all use social criteria to verify sustainable management.

France, Germany and Japan also accept social criteria in practice, in that the certification schemes they have accepted use social criteria to verify sustainable management of the forest concession. Belgium, Denmark and the Netherlands proactively include social criteria in their definitions of acceptable evidence of legal and/or sustainable timber (see Appendices 2, 3 and 4).

As the other member states accept social issues, the UK is currently reviewing its position. At a recent meeting of the CPET Reference Group it was announced the UK would advise the minister that certain social criteria can be included in the definition of legal and sustainable.²⁸ The EU has commissioned a study to identify the important social issues, potential conflicts/difficulties, and what is in line with the directives and what is not. The study has been finalised. The aim is to produce a guide to socially responsible public procurement during 2009, currently in consultation.²⁹ In the meantime, the EU's guidance appears to be that legal and sustainable timber should be specified in contract performance clauses, not in the definition of the technical specifications or the award criteria.³⁰

28 In the minutes of the CPET reference Board of March 2009 it was stated that 'Implementation of the social criteria has been pending as the focus has been with other matters. It was decided to now advise the minister that certain social criteria can be included in the definition of 'legal and sustainable', available at <http://www.proforest.net/cpet/documents>

29 Sue Bird, *An EU Perspective on Social Considerations in Public Procurement*. Workshop presentation, Copenhagen, 7 April 2008. <http://www.skovognatur.dk/NR/rdonlyres/D17D6589-B5D4-48BE-8AC1-4ADF601F6C93/581333/pppsuebirdCopenhagen7April08.pdf> And Sue Bird, personal communication with Saskia Ozinga, 11 May 2009.

30 Petr Wagner, *Procurement of legal and sustainable timber. EU Framework – possibilities and obstacles*. Workshop presentation, Copenhagen, 7 April 2008. <http://www.skovognatur.dk/NR/rdonlyres/D17D6589-B5D4-48BE-8AC1-4ADF601F6C93/581336/pppetrwagnerCopenhagen78april.pdf>

Table 3: Summarises how Denmark, the Netherlands and the UK deal with social issues relevant to procurement of sustainable timber

Forest-related social issues in timber procurement policies*				
		Denmark	Netherlands	UK
1	Rights of indigenous peoples	✓	✓	
2	Rights of local communities		✓	
3	Land tenure	✓	✓	✓
4	Recognition of customary rights	✓		
5	Workers' fundamental rights	✓	✓	✓
6	Health and safety	✓	✓	✓
7	Other employment conditions			
8	Community employment & facilities			
9	Fair prices		✓	
10	Multiple functions of forests		✓	
11	Protection of traditional knowledge			
12	Participation	✓	✓	✓
13	Access to information			
14	Dispute resolution	✓	✓	
15	Capacity-building			
16	Assessment of impacts		✓	
17	Governance			
18	Law enforcement	✓	✓	✓

* Duncan Brack, *Social Issues in Timber Procurement Policies*. 3rd draft. Chatham House, June 2008, p 30

The social issues under discussion are internationally accepted as a part of sustainable development, and many of them are also considered to be essential factors for sustainable forest management. Issues such as rights of indigenous peoples and local populations, rights to decent work and livelihoods, rights to identity and self-expression, and indigenous peoples' rights to free, prior and informed consent about activities affecting their lands, are covered by international human rights agreements and therefore should be included in national procurement policies. The development of the draft procurement criteria in Denmark illustrates one way in which governments can approach these issues (see Appendix 5).

Proponents argue that social criteria have a direct bearing on the quality of timber products in that land rights conflicts, protests about worker conditions and so on can disrupt the flow of timber, thus affecting the procurer's ability to complete projects and contracts on time. By this logic, social criteria are admissible under the EU rules. The UK's current position is anomalous.

Proponents of social criteria argue that as well as the ethical imperative for including social issues, and the need to comply with internationally accepted standards for forest management and sustainable development, social criteria do have a direct bearing on the quality and characteristics of timber products in that land rights conflicts, protests about worker conditions and so on can disrupt the flow of timber, thus affecting the procurer's ability to complete projects and contracts on time. By this logic, social criteria are admissible under the EU rules.

This position is supported by the legal opinion obtained by Denmark (see Appendix 5) and legal opinions obtained by FoE Netherlands and ICCO Netherlands³¹ and by WWF UK³² (Appendix 6).

There is thus sufficient evidence from actual practice and legal opinion that social issues can be included in procurement criteria. The UK's current position is anomalous.



31 http://www.fern.org/media/documents/document_3733_3734.doc

32 http://www.fern.org/media/documents/document_3735_3736.doc

Legality and sustainability

All countries covered by this document require publicly procured timber products to be from legal sources, i.e. produced in compliance with the laws of the country of origin. Belgium, France and Germany require the timber to be from (legal and) sustainable sources, and Denmark, Netherlands, UK and Japan include sustainability as an additional, preferred requirement in addition to the minimum legal requirement. Several public procurement policies therefore consider legality as the first step towards sustainability. All the countries allow the use of third party certification schemes as a means of verifying whether timber has been legally or sustainably produced.

Certification schemes are designed to assess environmental, social and economic sustainability of timber production, which includes the use of criteria to assess whether timber is produced legally. Table 4 illustrates the similarity between FSC criteria relating to legality, and criteria for the EU-run FLEGT (Forest Law Enforcement, Governance and Trade) licensing system for legal timber.³³

Table 4: FSC and FLEGT legality criteria

FSC Criteria, 1992	FLEGT Briefing Note 2, 2007
<ul style="list-style-type: none"> • respect for all national and international laws, including payment of all legally prescribed fees, royalties and taxes • long-term forest use rights held • health and safety of forest workers ensured • customary rights of local communities respected 	<ul style="list-style-type: none"> • compliance with requirements concerning taxes, royalties and fees • compliance with rights to harvest timber • compliance with relevant environmental, labour and community welfare legislation • respect for tenure or use rights to land and resources

Although certification schemes assess the legality of timber production, they do not necessarily provide sufficient assurance that imported timber is of legal origin. Certification is a quality assurance approach, not one of law enforcement, and relies on trust and goodwill. Illegal timber can, and does, enter certified timber consignments, as has been shown for FSC-certified timber from Vietnam and China.³⁴ Rather than relying on the certifiers' paper-based chain of custody systems, which can be forged, the legal origin of timber must be proved through regular and unannounced audits and spot checks designed to reveal evidence of fraud.³⁵

33 Neil Bird, *Social aspects of SFM: an introduction to standard setting*. Workshop presentation, Copenhagen, & April 2008.

http://www.skovognatur.dk/NR/rdonlyres/D17D6589-B5D4-48BE-8AC1-4ADF601F6C93/58132/ODIpresentation_NeilBird.pdf

34 Paul Eccleston, "Garden furniture for UK market from illegally logged rainforest", says report. Daily Telegraph (UK) 19 March 2008.

35 Saskia Ozinga, *Footprints in the forest. Current practice and future challenges in forest certification*. FERN, 2004 and Presentation by Saskia Ozinga at Chatham House, 20-1-2009, available at <http://www.illegal-logging.info/uploads/Ozinga.pdf>

Rather than relying on the certifiers' paper-based chain of custody systems, which can be forged, the legal origin of timber must be proved through regular and unannounced audits and spot checks designed to reveal evidence of fraud.

Thus both certification of sustainable timber production and separate verification of legality are required in order to meet public procurement demands for legal and sustainable timber. FLEGT licences, ensuring that all timber exported from a country to the EU is of legal origin, are currently being negotiated with Cameroon, Congo Brazzaville, Ghana, Indonesia and Malaysia. Liberia, Central African Republic and Gabon are preparing for negotiations. Licensed timber imports are not expected to be available until 2011. In the meantime, certification can be accepted as better than nothing in trying to ensure that publicly procured timber is legal, but this is not enough in the long term.



Harmonisation and Green Public Procurement (GPP)

The timber procurement policies of some EU member states are beginning to converge. The current versions of the draft criteria of Denmark and the Netherlands for proof of legality are identical to those of the UK. The Danish draft criteria for sustainability are almost identical to those of the UK (except for social requirements), as are the draft criteria for assessment of certification schemes (see Figures 1 and 2).³⁶

Figure 1: Criteria for standard-setting and certification

Key criteria		UK	DK (draft)
Standard setting	Participation of stakeholders	✓	✓
	Consensus for decision making process	✓	✓
	Public availability of standards		✓
	Standards based on recognised principles	✓	✓
	Performance based standard	✓	✓
Certification	Consistency with relevant ISO guidelines	✓	Identical
	Accredited to carry out FM and CoC audits	✓	Identical
	Public availability of reports	✓	Identical
	Consultation with stakeholders	✓	Identical
	Process includes review of documentation, system and field audit	✓	Identical
	Complaints and disputes mechanisms accessible	✓	Identical

Some sections of industry, for example the Confederation of European Paper Industries (CEPI), have called for the EU to ensure that member states harmonise their criteria for procurement of 'green' paper products, so that the industry can more easily meet market requirements. Environmental organisations are concerned about this proposal, not because they are opposed to harmonisation in itself, but because of the risks that harmonisation would drive standards down to the lowest level rather than raising them. The EU however took the view that decisions about national procurement schemes are a matter for member states, as long as the schemes comply with EU legislation.

³⁶ Christian Lundmark Jensen et al. *Public procurement policies for timber in Dk, NL and UK – synergies and next steps*. Workshop presentation, Copenhagen 7 April 2008 <http://www.skovognatur.dk/NR/rdonlyres/D17D6589-B5D4-48BE-8AC1-4ADF601F6C93/58147/ppsofietindjoint.pdf>

Figure 2: Criteria for accreditation and chain of custody

Key criteria		UK	DK (draft)
Accreditation	Public availability of procedures	✓	Identical
	Consistency with ISO 17011 or equivalent	✓	Identical
Chain of Custody	CoC from forest to final point of sale	✓	✓
	CoC certifications are carried out by an accredited body	✓	Identical
	Mechanism for controlling claims and labelling	✓	Identical
	Definition of recycled materials in mixed products	✓	Identical
	Threshold for verified legal	✓	Identical 100%
	Thresholds of certified material to be verified sustainable	70%	70%

However, the European Commission has recently issued a communication on establishing an EU-wide Green Public Procurement (GPP) policy³⁷ that specifies that the criteria used by member states should be compatible to avoid a distortion of the single market and a reduction of EU-wide competition. Having a single set of criteria would considerably reduce the administrative burden for economic operators and for public administrations. One of the objectives of the new communication is to address the obstacles to the uptake of GPP by setting up a process for setting common GPP criteria based on mandatory criteria across member states. It would apply to wood, wood products and paper, and take into account the whole life cycle of products (raw materials, production methods, packaging, take back, recycling etc). The GPP criteria will be based on EU-wide environmental criteria where these exist, such as the EU Ecolabel criteria. A preliminary briefing³⁸ indicates that the GPP would include environmental criteria in the procurement process via technical specifications, selection criteria, award criteria and contract performance clauses. It states that until criteria to identify greener goods, services and works are available, the Commission will support a 'broad definition' of GPP.

The target is that by 2010 the average level of EU GPP should be at the level of the best-performing member states in 2006. On this basis, by 2010, 50% (either by number or value) of all tendering procedures should be 'green' i.e. compliant with common 'core' GPP criteria. The European Commission is developing a methodology for calculating these indicators, based on analysis of a representative sample of tendering procedures. The results of the relevant study are available at http://ec.europa.eu/environment/gpp/study_en.htm

37 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008DC0400:EN:NOT>

38 Jill Michielsen, Workshop presentation, Copenhagen 7 April 2008. <http://www.skovognatur.dk/NR/rdonlyres/D17D6589-B5D4-48BE-8AC1-4ADF601F6C93/58146/PresentationfortheworkshoponGPPDenmark78408.pdf>

Appendix 1

'Social criteria', United Kingdom³⁹

Although the UK criteria for sustainable timber don't explicitly include social criteria, the criteria for legal timber, the procedures involved in defining 'sustainable' and the functioning of certification schemes do cover some important social issues.

1.1 Standard for legal compliance

1.1.1 The forest owner/manager holds legal use rights to the forest.

1.1.2 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.

1.3 Standard-setting process

1.3.2 The process of defining 'sustainable' must seek to ensure balanced representation and input from the economic, environmental and social interest categories.

Guidance on interpretation:

The only way to achieve balanced representation in practice is to ensure that the range of issues and viewpoints of the different stakeholder groups making up the economic, environmental and social interest categories are fed into and influence the standard-setting process.

Major stakeholder groups include such groups as forest owners and managers, processors, buyers, governments, academics, conservation organisations, NGOs, workers, forest users, indigenous groups, and communities.

1.3.3 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.

Guidance on interpretation:

The way in which the process is run and decisions are made is as important as the range of interests represented since an appropriate compromise will only be achieved if all the interested categories are able to influence the standard-setting and decision-making process.

³⁹ Central Point of Expertise on Timber, Criteria for Evaluating Certification Schemes (Category A Evidence) Second Edition May 2006, page 5. www.proforest.net/cpet/cpet-s-assessment-of-evidence/assessment-of-certification-schemes-category-a/

2 Certification

2.4 **The certification audit must include sufficient consultation with external stakeholders to ensure that all relevant issues are identified relating to compliance with the requirements of the standard.**

Guidance on interpretation:

Consultation with external stakeholders is very important to establish whether there are any issues which might prevent full compliance with the standard which the audit team has not identified (eg seasonal issues not evident at the time of the audit, ongoing social conflicts) and to ensure that any interpretation of the requirements of the standard for the immediate local conditions is appropriate.

2.5 **A summary of the results of the certification audit (excluding confidential information) must be publicly available to interested parties.**

Guidance on interpretation:

Sustainability can only be delivered by an appropriate balance of economic, social and environmental imperatives. It is important that representatives of each of these groups can monitor certification to make sure that the appropriate balance is being delivered.

2.6 **There is an accessible and functioning mechanism for dealing with complaints and disputes which is open to any interested party.**

Guidance on interpretation:

It is widely accepted good practice to ensure that any issues or concerns are dealt with efficiently and transparently, whatever their origin.

Appendix 2

'Social criteria', Belgium⁴⁰

The 11 criteria established by the Official Circular to assess certification schemes include:

- (7) The forest certification scheme must guarantee that the forest management is based on a highly developed social dialogue and on respect for the rights of indigenous populations. Certification must establish guaranties for protection of the environment and of social aspects.
- (8) The forest certification scheme is participatory in nature and is acceptable to a large number of stakeholders, including local communities and environmental NGOs.
- (9) Forest certification schemes must be completely transparent for stakeholders and the public.

⁴⁰ *Circulaire P&O/DD/2 comportant la politique d'achat de l'autorité fédérale stimulant l'utilisation de bois provenant de forêts exploitées durablement.* Monitor Belge 09.02.2006. www.guidedesachatsdurables.be/bs_mb/circulaire%20PO-DD-2.pdf

Appendix 3

'Social criteria', Denmark⁴¹

The 2007 Draft Criteria align themselves with an emerging international consensus on seven key thematic aspects of sustainable forest management, and specifically the FAO's interpretation of these themes in its 2007 State of World's Forest report. Accordingly, the draft criteria on the standard for sustainable forest management include a section on the socio-economic function of the forest, explaining that this 'includes aspects of land tenure, indigenous and community management systems, and traditional knowledge. The element also relates to the treatment and well-being of forest workers and users, local and forest dependent peoples, indigenous peoples and other socio-economic dynamics affected by and impacting on forests and forest management.'

- 1.2.8 The standard must seek to ensure that the socio-economic function of the forest resource is maintained. In order to do this, the standard should include requirements that:
- a. Property and land tenure rights as well as legal, customary and traditional rights related to forest land and the utilisation of forest resources should be clarified, recognised and respected.
 - b. Appropriate mechanisms for resolving disputes between timber production operators logging in the forests and local people should be laid down.
 - c. Working conditions should be safe, and guidance and training in safe working practices should be provided.
 - d. Employees must be able to organise freely and negotiate wages in accordance with the core conventions of the International Labour Organisation (ILO).

Guidance on interpretation:

Particular attention to these matters should be paid, where forest management standards are developed in areas where conflicts are frequently occurring.

Mechanisms for clarifying rights and resolving conflicts can include, inter alia: the involvement of indigenous peoples, local communities and other forest dependent communities in forest management operations, starting in the planning phase before road building and logging; as well as provisions for obtaining the free, prior and informed consent of indigenous peoples before utilising their traditional territories. Further adequate mechanisms are provided for in international agreements such as the ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries.

Social issues are also included in section 1.3 of the Draft Criteria on the process of setting sustainability standards:

⁴¹ *Draft Criteria for Legal and Sustainable Timber and Assessment of Certification Schemes.* Danish Forest and Nature Agency, April 2007. http://www.skovognatur.dk/NR/rdonlyres/12C242D1-3A53-4AB7-870F-11377E45E1D7/39935/draft_19_30_5.pdf

1.3.2 Within the overall framework set out in section 1.2, sustainability standards must be developed or adapted nationally or locally in a transparent and consultative process, which encourage participation of, and is open and accessible to all affected parties, including economic, environmental and social stakeholder groups.

Guidance on interpretation:

It is essential that the processes for the development of sustainability standards are transparent and open for participation by all affected parties, so that both economic, environmental and social concerns and needs can be taken into account. ... All affected parties should be given the option to join and influence the process. Affected parties can include, among others, consumer and producer groups, indigenous and local peoples, workers and unions, forest owners and managers, governments, NGOs and conservation organisations.

It is furthermore desired that representatives from all three major interest categories (economic, environmental and social stakeholders) are represented, and thus active encouragement to achieve this as well as the setting of practical arrangements that facilitates access for all affected parties should be part of the process. This can take the form of formal invitations to a range of relevant stakeholder groups, the choosing of meeting places with a view to facilitate access etc.

1.3.3 Standards must be determined either in consensus or through a majority voting process which prevents major interest categories (representing economic, social and environmental stakeholders) from being overruled.

Guidance on interpretation:

The consensus building process should seek to ensure that no single interest dominates the process and that the standard isn't finalised under sustained opposition to substantial issues by any important part of the concerned interests. In order to do this the scheme must specify procedures – to be agreed upon by the parties involved in the process – for dispute resolution aiming to find an appropriate compromise between competing interests. In case of a negative vote, which represents sustained opposition of any important part of the concerned interests to a substantive issue, the issue shall be resolved using appropriate conflict resolution mechanisms, such as

- (a) Discussion and negotiation on the disputed issue within the Forum in order to find a compromise,*
- (b) Direct negotiation between the stakeholder(s) submitting the objection and stakeholders with different view on the disputed issue in order to find a compromise,*
- (c) Dispute resolution process. The dispute resolution process shall be governed by the respective dispute resolution procedures agreed by the Forum.*

A majority voting process preventing major interest categories from being overruled implies that no decision may be made if it is opposed by a majority of any of the three major interest categories (economic, ecological and social).

The Danish draft criteria for legal timber and for certification systems are identical to the British criteria and cover some important social issues (see above under UK). The Danish Guidance on Interpretation for certification systems makes clear that that adequate consultation with external stakeholders during the certification audit is very important to ensure that any issues

which might prevent full compliance with the standard are not overlooked, that an appropriate balance of economic, social and environmental considerations is maintained and that complaints and dispute mechanisms must be open to any interested party.

Appendix 4

'Social criteria', the Netherlands⁴²

The current draft guidelines include the following social criteria. New simplified criteria were published in September 2008. They will include social issues.

Criterion 2.1

The features to be protected are described and determined ... with the prior consent of the local community or indigenous peoples where the preservation of property rights and rights of use is concerned.

Criterion 2.6

The legal basis underlying the management of the forest management unit, possible claims by the local community or indigenous peoples regarding property rights or rights to use the forest management unit or a part of it, and the statutory obligations related to the forest management unit, including international obligations, have been identified, as has the manner in which these statutory obligations are being or will be met.

Criterion 3.1

The information referred to in criteria 2.1 to 2.6 is analysed to determine the ecological, socioeconomic and socio-cultural impacts on the forest management unit.

Criterion 4.1

When the forest management plan is drawn up, adopted or updated and implemented, provisions are made for external communication, participation and consultation designed to provide timely and appropriate information and involve stakeholders in accordance with predetermined procedures. Complaints and conflicts are adequately dealt with and processed in accordance with predetermined procedures.

Criterion 7.4

The forest management unit is adequately protected against all forms of illegal exploitation, the establishment of illegal settlements, illegal land use and other illegal activities.

Criterion 9.4

There is an annual evaluation directed at improving the forest management system. This situation covers at least the following areas: the exploitation of forest products (timber and non-timber), other management activities, costs, productivity and safety. It also includes the monitoring results, relevant new legislation, the wishes and concerns of the local community, indigenous peoples or employees, and information on socioeconomic or ecological changes in the forest management unit and the surrounding areas.

⁴² From VROM, *National Assessment Guideline for the Certification of Sustainable Forest Management and the Chain of Custody for Timber from Sustainably Managed Forests* (2006) (non-binding English translation) as cited in Duncan Brack, *Social Issues in timber procurement policies*. 3rd draft. Chatham House, June 2008

Criterion 9.6

If the modification in the forest management plan referred to in criterion 9.5 affects the property or use rights of the local population or indigenous peoples, their prior consent is necessary.

Criterion 12.1

The precautionary principle applies to protected features of socioeconomic value. Areas are designated in the forest management unit, on a scale commensurate with its size, in which logging and other exploitation are not permitted, and in which there is minimum disturbance, so as to protect these features.

Criterion 15.1

Property and use rights of the local community and indigenous peoples are respected, unless the local community or the indigenous peoples have agreed, in accordance with the prior consent procedure referred to in criterion 4.1, to forgo those rights.

Criterion 15.2

In accordance with the provisions of the specific standard, a fair share of the production of the forest is used in a verifiable manner, to benefit the local economy and maintain the forest management unit.

Criterion 15.3

Conflicts with the local community, indigenous peoples or employees about property and use rights or workplace or employment conditions are resolved using the procedures referred to in criterion 4.1. A conflict involving the local community, indigenous peoples or the workforce as a whole leads to the suspension of all operations related to this conflict.

Criterion 15.4

The local community and indigenous peoples have equal access to jobs in the forest management unit and, if possible, are involved in the exploitation of the forest management unit in a manner other than on the basis of an employment contract.

Criterion 15.6

The local community, indigenous peoples and employees are informed and, where relevant, trained in sustainable forestry and the system used to cultivate and exploit the forest.

Criterion 15.7

If not provided for in national legislation, the forest manager takes occupational health and safety measures for the protection of employees and local and indigenous peoples.

Criterion 15.8

Contracts of employment conform to the legislation applied locally and, if this is not provided for in law, with ILO agreements.

Criterion 16.2

Forest management measures are not taken and the forest is not planted without the prior consent of the local population and indigenous peoples if these actions would have a negative effect on their property and use rights.

Appendix 5

Social issues in the development of Danish draft criteria

The Danish Draft Criteria note the ongoing debate about whether, according to EU procurement rules, there is a strong enough link to the subject matter of the contract to justify including social criteria in technical specifications for timber over and above those legislated for in the producer country. A judicial examination of social criteria requested by the Danish government and carried out during the 2005 evaluation of the 2003 guidelines concluded that social criteria can be linked to the subject matter, albeit indirectly, due to the fact that forest-dependent peoples' use of the forest affects the potential future supply of certain types of timber. The Draft Criteria recognises that social criteria should be dealt with carefully, but confirms that continued inclusion of social criteria is consistent with Denmark's commitments to protect and promote internationally recognised human rights and the sustainable management of forests in which socioeconomic values are considered important and inseparable elements.

The public consultation⁴³ on the Draft Criteria during April and May 2007 received many comments on the social criteria (section 1.2.8 in the draft) from the 36 respondents. About one third of respondents were concerned about the potential violation of EU and/or WTO procurement rules by including social issues. Several wanted unambiguous clarification on this. However the Danish Competition Authority's view was that the draft criteria do not conflict with EU tender rules. The authors of the public consultation report suggest that some respondents believe social criteria would act as trade barriers. However, a third of respondents (all NGOs) were strongly in favour of the social criteria and strengthening them.

The Danish Competition Authority opinion⁴⁴ noted that both environmental considerations and social considerations are regarded as credible objectives by EU legislation, and that contracts must be executed with respect to all mandatory regulations applied to the social area, including international conventions. Tender regulations do not preclude the application of social clauses in public contracts as long as the contract terms are published in advance, are proportional to the job under tender (i.e. they concern the specific contract, not the enterprises' operation as such), don't discriminate against foreign suppliers and employees, and concern the performance of services in the contracting entity's own country. Contracting authorities are allowed to state in the terms of the tender that a product must meet *the specifications that are included in a specific eco-label*, but not that the product must necessarily carry the eco-label. The Danish drafts of criteria do not require timber to carry specific eco-labels but merely set out the criteria to assess whether timber can be considered legally and sustainably produced, and contractors can supply eco-labels or other proof as evidence. Social considerations in EU public procurement tenders should be included as contract terms (social clauses) which all tenderers must comply with, rather than using social considerations as criteria for awarding the contract.

43 ViSKon Aps, *Consultation on Draft Criteria for Legal and Sustainable Timber and Assessment of Certification Schemes (April 2007 version) Synthesis Report of Public Consultation Results*. Danish Forest and Nature Agency, 2007 <http://www.skovogatur.dk/NR/rdonlyres/0E4CEA06-49E5-4C2C-9915-77BC4352FCB7/0/SynteserapportUK.pdf>

44 www.skovogatur.dk/NR/rdonlyres/133AF6E6-FEC4-4DB6-A955-1E0F1105CF93/57698/ConsultationKS.pdf

Appendix 6

Summary of Dutch⁴⁵ and British⁴⁶ legal opinions

The Dutch legal opinion considers that EU and Member States must not part with their obligations to respect fundamental rights imposed by international and European law. EU law and the procurement Directives are not exhaustive, and the fact that certain rights are not mentioned in the Directives does not mean they are not relevant. Social considerations are part of the object and purpose of the procurement directives. EU legislation and case law explicitly allow social criteria in public procurement, providing this is done in a transparent and timely manner and they are framed as objective criteria which satisfy the principles of transparency, non-discrimination and equal treatment, and which guarantee that tenders are assessed in conditions of effective competition. Social criteria can be framed as fundamental rights which must always be respected by the Member States, or inserted into technical specifications and/or award criteria, providing this is done in an objective and quantifiable way and linked to the subject matter of the contract, e.g. helping to ensure a reliable supply of timber now and in the future.

The British legal opinion states that 'social' criteria can be taken into account in an EU public procurement exercise where they reflect generally accepted international standards and legal norms, a policy stance taken in international instruments or agreements to which the EU is a signatory or in some other way supports, or an objective of the EU treaties. European case law also shows that social criteria (specifically relating to the conditions under which goods have been sourced), can be applied when assessing the most economically advantageous tender. EU law does not prevent a contracting authority from adopting an ethical stance as long as its position is objectively justifiable, proportionate, non-discriminatory and consistent with the objectives of the EU. While some social criteria concerning the rights or treatment of local populations are easy to justify objectively, others may not be, or may be more justifiable in certain cases than others.

45 http://www.fern.org/media/documents/document_3733_3734.doc

46 http://www.fern.org/media/documents/document_3735_3736.doc