



Position Paper

EU Public Consultation on additional options to combat illegal logging and associated trade

Introduction

On 22 December 2006, the European Commission (EC) launched a public consultation on additional options needed to combat illegal logging and associated trade. An online questionnaire can be downloaded at :

<http://ec.europa.eu/yourvoice/ipm/forms/dispatch?form=IllegalLogOptions>

These options include:

1. Strengthening Voluntary Partnership Agreements,
2. Strengthening Voluntary Industry Schemes,
3. Implementation of an Import Ban,
4. (a) Legislation which prohibits the trading and possession of timber and timber products harvested in breach of the laws of the country of origin,
(b) Legislation which requires that only legally harvested timber and timber products be placed on the market.

In response, Greenpeace and Friends of the Earth are recommending that the European Union (EU) adopt legislation that supports both developing and developed countries in their efforts to regulate and conserve their natural resources by requiring that timber and timber products placed on the EU market come only from legal sources and responsibly managed forests. In the rest of this document, we will refer to this legislation as "option 4B +" because it has option 4B at its core, but also takes additional features from option 3 and 4A.

This briefing note outlines why such legislation is necessary by :

- i) Highlighting the scale and impact of the global forest crisis and the need to address it urgently;
- ii) Outlining the potential benefits and pitfalls of voluntary partnership agreements,
- iii) Describing the scope, requirements and possible features of a future EU law,
- iv) Listing the potential benefits of such a law (including WTO compatibility);
- v) Outlining the shortfalls of private sector voluntary schemes (option 2)
- vi) Listing other political actions that are needed to stop deforestation, halt biodiversity loss and combat climate change.

1. Scale and impact of the global forest crisis

The world is facing a major environmental crisis: rampant deforestation is leading to unprecedented biodiversity loss, social conflict, deepening poverty and fuelling climate change. Over-exploitation and illegal logging are key factors in forest loss. Illegal logging is widespread in many major timber-producing countries, especially where governance is weak and corruption is rife. It has been estimated that almost half of all logging activities in regions such as the Amazon, Congo Basin, South East Asia and Russia are illegal¹.

¹ For further details on illegal logging, see Duncan Brack and Gavin Hayman, *Intergovernmental Actions on Illegal Logging* (Royal Institute of International Affairs, March 2001) and Duncan Brack, Gavin Hayman and Kevin Gray, *Controlling the International Trade in Illegally Logged Timber and Wood Products* (Royal Institute of International Affairs, February 2002); both available from www.riia.org/sustainabledevelopment.

Environmental: A staggering 80% of the world's ancient forests have already been destroyed or degraded and what remains is under threat². Housing two-thirds of the world's land-based biodiversity³, these forests are home to a wealth of plant, animal wildlife and genetic resources. The destruction of forests is having a massive impact on wildlife habitats, and pushing many species to the verge of extinction⁴, such as the great ape populations. The complex forest ecosystems also play a vital role in the stabilization and fertilization of soil, the rain cycle, and in the absorption and storage of carbon. Deforestation has been estimated to account for about 20% of global carbon emissions, more than is currently emitted by the transport sector globally⁵.

Social: According to the World Bank, 90% of the 1,2 billion people living in extreme poverty are directly or indirectly affected by deforestation. Forest destruction erodes valuable ecosystem services, such as water and food supplies, compromising the livelihoods of those populations that are directly dependent on the forest. It also disrupts traditional cultures and lifestyles and creates social conflict among indigenous and local populations, leading to violence, crime and human right abuses.

Economic: The direct impact of illegal logging on the economy of forest countries is huge. The World Bank has estimated that illegal activities could account for a loss to forest-rich countries of at least US\$ 15 billion per year - a tenth of the value of the timber trade worldwide. Huge amounts of possible government tax revenue are being lost in developing countries which desperately need funds to develop their health, education and infrastructure sectors. Cheap flows of illegal timber are also distorting global markets, undercutting prices, reducing the economic incentive for responsible forest management and harming legitimate and law-abiding timber companies.

Political: Reduced access to natural resources and the illicit use of revenue arising from these resources is becoming an international security issue. Illegal timber trade is usually associated with money laundering, corruption, lack of respect for the rule of law and contributes to regional and national political instability through the financing of civil wars and dictatorial regimes, Liberia, Myanmar/Burma, Cambodia and the Democratic Republic of Congo being recent examples.

2. Voluntary Partnership Agreements - Potential benefits and Shortfalls

Background : Illegal logging is a problem that, even though its consequences are mostly seen in wood producing countries outside the EU, has to be addressed within the European Community as well⁶. This is because the EU is one of the main global importers of timber and timber products and therefore shares a responsibility for developments in timber producing countries outside its borders. The EU has recognized this problem and undertook its first step to address it by adopting an EU Action Plan on Forest Law Enforcement, Governance and Trade (FLEGT) in 2003, of which Voluntary Partnership Agreements (VPAs) with timber producing countries form the cornerstone⁷.

The VPAs aim to help timber producing countries improve their governance and law enforcement and to implement a licensing system to ensure that only legal timber enters the European market. The licensing scheme as defined in the EU Council regulation from 20 December 2005⁸, obliges VPA signatory countries to install credible "FLEGT" licenses and paper work within the country to guarantee the legality, proof of origin and reliable tracking of timber products being imported into the EU. The Licensing Scheme currently includes veneer, plywood, sawn wood and round wood. More products can be added to this general list, if both the EU and the partner country agree.

² WRI, World Resources Institute (1997). *The Last Frontier Forests: Ecosystems and Economies on the Edge*. WRI, Washington DC. http://pubs.wri.org/pubs_description.cfm?PubID=2619

³ WRI, World Resources Institute (2000). *World Resources 2000-2001: People and Ecosystems: The Fraying Web of Life.*, Oxford University Press, Oxford.

⁴ Millenium Ecosystem Assessment (2005), <http://www.maweb.org/en/index.aspx>

⁵ Stern Review on the Economics of Climate Change (2007), see at : http://www.hm-treasury.gov.uk/independent_reviews/stern_review_economics_climate_change/sternreview_index.cfm

⁶ See Greenpeace, FERN, WWF Report, "Facing Reality – How to stop the imports of illegal timber into the EU", see at : <http://eu.greenpeace.org/downloads/forests/FLEGTReport.pdf>

⁷ EU FLEGT Action Plan (2003), http://ec.europa.eu/development/body/theme/forest/initiative/docs/Doc1-FLEGT_en.pdf

⁸ Council Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community

In a statement published in September 2006, several NGOs outlined the minimum requirements which need to be fulfilled to make VPAs positive instruments to combat illegal and destructive logging⁹. Ultimately, VPAs should aim to :

- improve forest governance, enforcement mechanisms, and tackle corruption; involve civil society in law-making and in participatory forest management ; stimulate forest law reform that will lead to ecologically and socially responsible forest management ;
- Contribute to the establishment of a sustainable and fair trade regime, including the implementation of a credible licensing system that guarantees consumers that wood products sold in the European market come from legal and sustainable sources.

Voluntary Partnership Agreements present an important opportunity within timber producing countries, but they are not sufficient alone to address the problem of illegal logging thoroughly. Several serious pitfalls have been identified, including :

• **Risk of circumvention:** The partnership agreements will only cover direct trade between partner countries and the EU Member States. Timber and wood products imported by the EU, via a third party country such as China and Russia, are not addressed, even though these two countries are the main suppliers of the EU market in timber products today. A Dutch study¹⁰ shows that VPAs would only cover 4% of all direct timber imports in the EU, taking into account all countries that have shown interest in a VPA,

• **Limited product coverage:** secondary processed products, such as paper and furniture, which represent about 55% of the total trade in timber products, will not be covered by the voluntary scheme, at least not initially,

• **Risk of laundering:** If the partner country has no national legislation to control the import and sale of timber and timber products from non-partner countries, any illegal timber imports could be mixed with the legal domestic production of the partner country, and exported to Europe with a valid legality licence.

• **Rule of origin principle:** Even if VPA partner countries were to introduce measures to ensure legality of timber entering and leaving their markets, this will not be enough to prevent the risk of circumvention because of the principle of the rule of origin, which does not oblige companies processing timber in third countries, to declare the legal source and geographical origin of the raw material mixed in the final product,

• **Risk of market segmentation:** It is possible that whilst the EU is tackling the legality of timber products entering its market, illegal products will be diverted to non-EU countries, either for immediate consumption or for re-exportation to Europe following processing.

• **Geographical scope:** The EU is currently considering only high risk countries in tropical regions for VPAs, while illegal and destructive logging is also a problem in the Northern Hemisphere, especially in Russia.

• **Risk of entrenching of environmentally and socially destructive practices :** The risk is high that future VPAs entrench environmentally and socially destructive forest practices, especially if partner countries, decide to weaken their existing laws or legalize existing illegal practices in order to avoid short-term reduction of capacity and reforms in the forestry sector.

3. Scope, features and possible requirements of a future EU law

In the EU FLEGT Action Plan, the European Commission recognised that the voluntary FLEGT licensing scheme could be circumvented, and that for a variety of reasons, some important wood-producing countries may choose not to enter into FLEGT partnership agreements with the EU. It also recognised that there is currently no Community legislation prohibiting the import and marketing of timber or timber products produced in breach of the laws of the country of origin, beyond the small number of individual tree species which are listed on the Appendices of the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES).

⁹ NGO statement on VPAs (2006), a guiding document from Greenpeace, FERN and Global Witness to the European Commission on implementation of voluntary partnership agreements to control illegal logging and work towards sustainable forest management, available at : http://www.fern.org/media/documents/document_3760_3761.pdf

¹⁰ AidEnvironment (2006) Factsheet effectiviteit van de FLEGT Vrijwillige Partnerschappen (VPA's) commissioned by Milieudefensie, Greenpeace Netherlands and ICCO.

Consequently, the European Commission committed to undertake an analysis of the options for, and the impact of, further measures, including, in the absence of multilateral progress, the feasibility of legislation to control imports of illegally harvested timber into the EU. To stimulate this debate, Greenpeace, Fern and WWF submitted a draft legislative proposal to the European Commission in December 2004. This proposal was assessed by two institutes – the Institute for European Studies of Brussels Free University (Belgium) and Chatham House (UK) – which have both concluded that the draft proposal would be feasible and WTO compatible¹¹.

Following this, today Greenpeace and Friends of the Earth are making additional recommendations on the scope and possible features of a future EU law in response to the questionnaire issued by the Commission for the public consultation on additional options needed to combat illegal logging and associated trade. These include:

- Effective legislation against illegal logging and associated trade should be cost effective, fair, enforceable, involve civil society and include sanctions. It should recognise that the import and sale of timber and timber products that are harvested in breach of international and timber producing countries' laws may be a criminal act and it should be drafted as an Environmental law, based on Article 175 of the EC Treaty,
- All companies importing into and operating within the European market should be required to demonstrate the legality of their timber and timber products. Companies should also be required to provide evidence of the geographical origin of the raw material (country, place of extraction) and its Latin name to avoid confusion,
- To provide a degree of legal certainty, the legislation should rely on a general legality standard for the European market. This standard should take into account the national laws and regulations of forest rich countries, customary international law and international treaties, such as the UN Convention on Biological Diversity (CBD) and the International Tropical Timber Agreement (ITTA). The general legality standard under the EU law would not replace, but would underpin and create a baseline for the legality definitions formalised in the FLEGT partner countries through the negotiations of VPAs. By incorporating forest-rich countries' laws and international commitments into the legality standard and recognizing the administrative institutions, such as issuers of valid harvest licenses, of these countries, the new EU law would respect and support each country's sovereignty. A strong legality standard, including aspects of ecologically and socially responsible forest management, would facilitate the step from compulsory compliance with laws to voluntary certification for sustainable forest management, such as the Forest Stewardship Council (FSC),
- The primary responsibility for proving geographical proof of origin and legality should rest with the companies that are importing and selling the products into the EU. Evidence regarding origin and legality should be provided at the border and at any sales place in the European market,
- The evidence of legality and geographical origin should be through *credible, valid and verifiable* documentation. This will enable authorities to differentiate effectively between legal and illegal timber and reduce the risk of fraudulent documents. This burden of proof through documented verification would relate to the whole process of harvesting, transport, processing and sale in all countries involved. Checking against the evidence based on paperwork will make the legislation much more enforceable. Various EU Regulations include models of verification upon which to draw (e.g. Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code for textiles and agricultural products),
- Efforts already undertaken by environmentally progressive countries and companies should be acknowledged. If specific documents containing information on origin and legality are currently being used in certain countries, these could be treated in the same way as the standardized format adopted by the Commission, including the FLEGT licensing scheme. Existing private traceability and verification schemes that have a thorough approach and have been proven to be successful such as FSC, could be accepted as proof of legality. The European Union should institute an independent transparent mechanism to assess these documents and to make sure that they comply with the requirements of the law. This mechanism, involving experts and stakeholder representatives would rely on strict principles and criteria, and include evaluation of the performance on the ground,

¹¹ IES study available for download at : <http://eu.greenpeace.org/downloads/forests/IESstudy.pdf> ; Chatham House study available for download at : http://www.illegal-logging.info/papers/Add_options_030406.doc

- The legislation should cover all timber and timber products, including secondary-processed wood products. The EC Customs Code and non-preferential rules of origin applying to timber should be modified so that the companies based in the last country in which the processing of products took place should be obliged to prove the origin and the legality of the raw materials¹². This will stimulate companies based in countries specialised in wood processing and selling timber products on the European market to implement systems for verification of legal compliance, thus reducing the risk of circumvention and market segmentation,
- Evidence regarding origin and legality could demand larger financial and technical efforts from developing countries than from developed countries where law enforcement and tracking is more established. In order to avoid an unintended restriction on legitimate international trade, the EU should offer financial and technical assistance to developing countries aimed at establishing the required technical and bureaucratic infrastructure. The EU has already made an important first step in this respect and shown its good faith by proposing to all forest-rich countries to negotiate FLEGT partnership agreements, which will provide for capacity-building,
- The legislation should provide the power to impose fines and penal sanctions on companies in order to deter subsequent offences, and to increase the economic risks of engaging in illegal timber trade. Trade in illegal timber should be considered as an environmental crime. Fines and penal sanctions should be publicised to increase awareness of the risks involved of engaging in illegal activities,
- The legislation should give to consumers and interested parties, such as NGOs, access to information and to the Courts. Principles have already been laid down in the Aarhus Convention and related EC Directives, such as 2003/4/EC,
- Finally, the legislation should be based on the principle of “product responsibility”. This is a common standard in many other branches of the economy, for example trade in food products. The level of product responsibility is detailed within the UN Convention on Contracts for the International Sale of Goods (CISG). Article 41 of the CISG provides that the seller is obliged to deliver goods that are free of legal defects and the importer is entitled to demand the relevant substantiation.

4. Potential benefits of such a law

The adoption of legislation as proposed above, combined with the strengthening of VPAs, as well as increasing financial assistance and incentives (e.g : privileged market access, tax reduction, etc...) would have manifold benefits. This is especially important, when considering the numerous impacts that illegal and destructive logging is having ecologically, socially, economically and politically. In particular, we anticipate the following benefits :

Compliment and stimulate VPAs : The legislation proposed above will limit the risk of third country circumvention and stimulate companies based in countries specialised in wood processing and selling timber products on the European market to implement systems for verification of legal compliance. The adoption of the law would not undermine progress or interest by timber-producing countries in the collaborative FLEGT VPA. In fact, we believe that partner countries would speed up negotiations in anticipation of the law, in order to benefit from the technical/financial assistance of the EU, and thus get a comparative advantage as «first movers».

Increase development opportunities in timber-producer countries : The combination of EU law and VPAs will contribute to the protection and preservation of those countries' wealth in natural resources. Initially, reducing production capacity may cause a few companies and mills to make substantial changes, but the rapid increase in value and prestige of production, through legality licensing and voluntary eco-labelling, should restore the competitiveness of the forest sector. Furthermore, legal and sustainable forest logging will increase tax revenues in developing countries, which added to the increased final assistance and economic incentives of the EU and international community, would allow such governments to invest more resources in developing sustainable alternative to large scale industrial logging, thus creating more employment and safeguarding the long-term economic interests of the country,

¹² See also the opinion of the European Parliament, Report on the implementation of a European Union forestry strategy (2006), available for download at : <http://www.europarl.europa.eu/sidesSearch/search.do?type=REPORT&term=6&author=1905&language=EN&startValue=0#>

This would seem particularly appropriate for a country like Indonesia. At this moment, many wood processing companies rely on timber from unknown (illegal) sources because their own concessions do not provide sufficient amounts of timber. This is not an economically viable situation; companies already fall short on timber supplies and this situation is expected to deteriorate in the coming years. It can be resolved by shifting from a « boom and bust » forestry model (intense logging activity for a few years and then the logged over area is abandoned) to ecologically and socially responsible forest practices, and by investing in alternative economic activities compatible with sustainable development.

Contribute to improving working and living conditions of the forest sector and local communities: The application of principles of responsible forest management should lead to a significant improvement of the working conditions in the forest sector, as well as the living conditions of the local population and forest dependent people, in line with Millenium Development Goals (MDG). Recent studies show that local workers in Indonesia get less than a tenth of the value of the harvested timber. A recent report also gives examples of workers and human rights abuses in Papua New Guinea¹³. An EU law according to the principles set out above would contribute to changing this situation.

Establish a level playing field and reward best practices : Legality is a prerequisite for healthy economic development. The legislation would establish a level playing field, guaranteeing fair competition for companies operating on the European market. In particular, the legislation would give an advantage to companies who invest in best practices and are already controlling the proper enforcement of high social and environmental standards on the ground. These companies are currently being penalised by the lack of EU legislation on illegal timber, as their products face unfair competition from cheap illegal timber sold on the European market. An EU law according to the principles set out above would stop the depreciation of prices for timber and timber product and increase the economic viability of the forest sector within and outside the EU, especially for small businesses. “Black sheep” companies would be obliged to modify their practices to avoid criminal and economic sanctions. The new legislation would put an end to European companies and customers being witting or unwitting recipients of illegally obtained goods.

Fast track implementation of a chain of custody (CoC) system facilitating transition from compulsory legality certification to voluntary eco-labelling : The legislation proposed above would oblige all companies operating on the European market to implement a verifiable chain of custody for their timber and timber products. CoC certificates increased in 2005 by approximately 20%, reaching 7,200 certificates worldwide, however, such documents only cover a fraction of overall trade¹⁴. With the adoption of this EU law, the number would dramatically increase. It would facilitate the step from compulsory compliance with laws to voluntary certification for sustainable forest management. In countries outside the United Nations Economic Commission for Europe (UNECE) region, almost all companies holding a CoC certificate obtained their eco-label from the Forest Stewardship Council (FSC). Today, less than 7% of the global forest area is eco-labelled and less than 5% of tropical forests are managed sustainably¹⁵. An EU law fast tracking implementation of CoC would help to rapidly increase the percentage of eco-labelled products.

Advantage small businesses : The legislation should increase the economic viability of the forest sector, especially small/medium sized companies in Europe, in line with the objectives of the Lisbon Agenda. Small forest owners will benefit from the exclusion of products deriving from illegal and destructive logging, as it will end unfair competition resulting from price dumping. Forest owners, especially in Europe, are already familiar with the instrument for forest management and CoC certification. The systems may have to be adjusted to the requirements of the legislation, but not reinvented.

Increase consumer confidence and enhance product image : The legislation would increase transparency on the market and enhance the image of wood as an ecologically and socially responsible material, against other materials used in the construction industry, such as energy intensive materials (e.g., steel). Consumer confidence would rise, having a positive effect on the market share of timber and timber products. This would increase the viability of the forest sector in the long-term, with the transition from an intensive and destructive logging activity over a short period of time to a model based on ecologically and socially responsible forest management.

¹³ Forest Trends (2006), « *Logging, Legality and Livelihoods in Papua New Guinea: Synthesis of Official Assessments of the Large-Scale Logging Industry* », see at : <http://www.forest-trends.org/documents/png/>

¹⁴ FAO/UNECE, (2006), “*Forest Products Annual Market Review*”, see at : <http://www.unece.org/trade/timber/docs/fpama/2006/fpamr2006.pdf>

¹⁵ *Ibid*

WTO compatible : The legislation would not represent an obstacle to international trade rules, as it will be non-discriminatory, treating domestic and international products and imports and exports the same. WTO purports to protect fairness and equity in international trade and cannot be assumed to aim to protect trade in illegally harvested or produced goods.

There is a worldwide political and scientific consensus about the important negative impact of deforestation, induced by *illegal* logging and associated trade, expressed in several multilateral agreements and in the laws of forest rich countries. Requesting evidence from companies to demonstrate that the timber or timber products originate from legal harvesting –‘legal’ according to the international treaties and legislation applying in the country of origin – is compatible with the good faith principle.

On the principle of proportionality, binding legislation in the EU is proportional to regulate the trade in illegal and destructive timber taking into account its wide range, impacts and the market evolution¹⁶. Because the loss of biodiversity caused by destruction of habitat from deforestation and the consequences of global warming and climate change for humans, animals and plants are both grave and irreversible, any possible measures must be taken to prevent these occurring. The impact of deforestation induced by the over-exploitation of forest resources and illegal logging is scientifically established. It has been repeatedly acknowledged in numerous international environmental treaties that these problems occur on a global scale. In light of the scale of the problem and the graveness of the potential impacts, the availability of solutions, and the cost-effectiveness of prevention, which can be provided also with EU financial and technical assistance, this legislation would clearly be proportional to the problem it aims to address.

Long-term Economic benefits would outweigh short-term costs : The market will of course have to adapt to the new rules established by the European authorities and one can expect short-term transitions costs that will have to be covered by the market. These short-term adaptation costs are expected to be small compared to the significant losses caused by illegal and destructive logging, which are substantial across many sectors of the forestry industry, also including forest owners in Europe. Such costs must be form part of the equation of any cost-benefit analysis.

For example, it is estimated that illegally harvested logs can be as much as 50% cheaper than legal logs. A large share of these logs are exported to major consuming markets (EU, US, Japan) and countries specialised in wood processing, such as China and India. These trade flows represent more than 6% of the total value of the international trade in timber products, having a serious impact on prices - depreciating them in 2004 by 7 to 16% - depending on the category of the product¹⁷. Illegality prevents normal price-setting mechanisms. Legislation is needed to give timber a price that is related to its “real” value.

Furthermore, the indirect economic costs of forest destruction resulting in biodiversity loss, erosion of ecosystem services, climate change, social conflict, deepening poverty, political instability must be taken into account, as much as the direct costs when considering the need for further measures. In particular, European decision makers have to consider seriously the costs that a failure to act would imply.

This argument was also raised in the recent report for the UK government by the economist Sir Nicholas Stern, which warned that climate change could shrink the global economy by 20%¹⁸. He highlighted that *“curbing deforestation is a highly cost-effective way to reduce greenhouse gas emissions”* and added that *“a substantial body of evidence suggests that action to prevent further deforestation would be relatively cheap compared with other types of mitigation, if the right policies and institutional structures are put in place.*

¹⁶ Greenpeace provides maps of the intact forest landscapes threatened by over-exploitation and illegal logging at : www.greenpeace.org/forestmaps. The illegal extraction and trade in wood is a multibillion dollar phenomenon going on in more than 70 countries (Seneca Creek Associates, and Wood Resources International, 2004, *“Illegal” Logging and Global Wood Markets: The Competitive Impacts on the U.S. Wood products Industry*). Trade flows in illegal timber cover all regions, including countries which are not covered by FLEGT partnership agreements, such as Russia, which is the most significant example, as the main supplier of the EU in logs, sawn timber and plywood. A map recently published by the OECD Round Table on Sustainable Development shows that countries specialised in wood processing, play a rapidly growing role in world trade. This is the case of China, who now represents 7% of total imports of timber products, but more importantly it imports 40% of all timber products supplied by high-risk countries, especially from Russia and Indonesia. A large volume of these timber products are exported to the EU market which is, greedy for secondary processed products at cheap price, without any proof of legality. (OECD Round Table on Sustainable Development, January 2007, *“the Economics of Illegal logging and associated Trade”*, see at : <http://www.oecd.org/dataoecd/36/18/37968440.pdf>)

¹⁷ Seneca Creek Associates, and Wood Resources International (2004), *“Illegal” Logging and Global Wood Markets: The Competitive Impacts on the U.S. Wood products Industry*, Maryland, USA.

¹⁸ Stern Review on the Economics of Climate Change (2007), see at : http://www.hm-treasury.gov.uk/independent_reviews/stern_review_economics_climate_change/sternreview_index.cfm

5. Private Sector Voluntary Schemes

In its consultation paper, the European Commission has proposed to complement, strengthen or rely on private sector initiatives to combat illegal logging and associated trade. Although private initiatives sometimes have merits, Greenpeace and Friends of the Earth consider that self-regulation in the forest sector has not proven to be an effective policy in limiting illegal and destructive timber products from entering the EU market, and is unlikely to do so in the future. Progressive companies, that are implementing Chain of Custody systems and implement Sustainable Forest Management practices are undercut by others, that do not acknowledge the problem of illegal logging and are not following any ecological approaches.

Over the past years, corporations and industry associations have taken voluntary actions to ensure the use of wood coming from legal sources and responsibly managed forests in their industrial processes. These companies have made this choice for different reasons:

- Responding to consumer demand for eco-labelled products,
- Reacting to NGO demands and restoring the confidence of purchasers following high-level scandals,
- Adapting to a new regulatory framework, such as the implementation of a ecologically and socially responsible public purchasing policy in certain EU member states,

Corporations and industry associations have primarily developed two kinds of actions:

- Codes of conduct and,
- Private certification schemes.

For the following reasons, none of them has proved to be very effective :

Codes of conduct : Codes of conduct have been introduced by a number of trade bodies advocating that their members adopt responsible purchasing practices. These codes are weak and little effort is made to ensure enforcement. The codes of conduct are ideal tools to disseminate information about best practices in the forest industry. However, they often preach to the converted, without any real effect on the “black sheep” and free riders. Environmental NGOs have frequently exposed companies that are in breach of such codes of conducts but given the size of the problem and the complexity of the trade flows, naming and shaming cannot replace legislation as a tool to address the problem comprehensively¹⁹.

Voluntary Private Certification Schemes : Since the 1990s, voluntary private certification schemes have flourished on the market. Over the past 12 years, over 84 million hectares in more than 82 countries have been certified according to FSC standards while several thousand products are produced using FSC certified wood and carrying the FSC trademark. FSC operates through its network of National Initiatives in 39 countries (www.fsc.org). FSC certification is an opportunity for smallholders to get access to markets for sustainable timber and improve their livelihoods. For example in the central Amazon 1.5 million hectares of forest land received FSC certification. The land is owned and managed by a group of Kayapó indigenous people in Brazil.

Unfortunately many other private certification schemes contain serious flaws. These include low environmental standards, fuelling social conflicts and ignoring indigenous peoples rights. Schemes of particular concern are the Malaysian Timber Certification Council (MTCC), the US Sustainable Forestry Initiative (SFI), the Canadian Standards Association (CSA) and certain national schemes recognised under the Programme for the Endorsement of Forest Certification (PEFC)²⁰.

¹⁹ In The Netherlands, the Dutch Association for Wood Trade's (Vereniging Van Nederlandse Houtondernemingen VVNH) code of conduct states that members should not trade in illegal timber. Although this code of conduct is signed by all the members of the VVNH, a majority of members still purchases timber from Indonesia, knowing that almost none of their supplies can comply with the law . An arbitration system should result in penalties in case of non compliance to the code of conduct, but this is rarely the case in practice. For example, in 2004, the Independent Observer in Cameroon reported in an official report illegal logging by a Dutch logging company GWZ (Global Witness, SIGIF exercise 2002/2003) but the company was not convicted because of the supposed lack of evidence that the illegal timber was being imported into The Netherlands. Another problem is that codes of conducts are not obligatory. In the UK TTF, it will only become compulsory when 51% of its members are signed up in support of it. In frustration, many more progressive timber traders, such as Timbmet and Travis Perkins have left the organisation, reducing still further the likelihood that the Code will become mandatory. This leaves the more regressive members continuing to sell timber from dubious sources.

²⁰ Milieudefensie, Greenpeace Netherlands, ICCO, IUCN-NL, NCIV and WWF, (2006) “*Legal forest destruction*”, See at : http://www.milieudefensie.nl/globalisering/publicaties/rapporten/Legal_Forest_Destruction.pdf

Many of the operating systems behind these schemes are weak and cannot guarantee the compliance with the requirements established for the voluntary FLEGT licensing scheme, namely the independent monitoring of forest management practices, third party verification of legality throughout the supply chain, and the engagement of civil society.

Consequently, whilst the EU could encourage further the strengthening of such codes and improve certification, it is clear neither of these measures alone will prevent illegal and destructively logged timber from entering the EU market place. They do not have the scope or the clout to ensure compliance which legislation would. Legislative measures have always been the most effective means to stop criminal activities. Legislation would complement the efforts undertaken by environmentally progressive industry.

This opinion is shared by over 70 progressive companies including B&Q, Homebase, Habitat (UK), Castorama (France), IKEA and Skanska International (Sweden), Unital (Union of Italian Industries of Wood Furniture), JYSK Nordic (Denmark) and Puertas Luvipol (Spain), which have called on the Commission to introduce legislation that will lead to clear rules in Europe for fair competition and sustainable markets²¹.

6. Other necessary political actions – Toolkit to stop forest destruction

Greenpeace and Friends of the Earth believe that the adoption of legislation combined with the full implementation of the FLEGT programme would significantly help to achieve the EU targets to reduce the impact of international trade on world's biodiversity by 2010 and to end deforestation by 2020 ²².

But additional actions will have to be carried out to achieve these objectives. In particular, Greenpeace and Friends of the Earth recommend the EU to take the following actions :

- Support the implementation of the 2010 Biodiversity Target and the CBD Programme of Work on forest biodiversity and protected areas in order to fully protect intact forest landscapes and high conservation value forests and restore biodiversity, while fully respecting indigenous peoples' rights;
- Support moratoria on logging concessions in all intact forest landscapes, until the conditions for conservation and sustainable use are in place, including good governance, law enforcement and proper land-use planning involving local stakeholders and with the prior informed consent of indigenous people,
- Increase direct EU funding for forest conservation and ecologically and socially responsible forest use, and cut perverse subsidies that threaten forests,
- Promote alternatives to industrial logging, and champion the establishment of a permanent financing regime for forest conservation at the international level,

Contact Details :

Greenpeace, EU Unit, Sebastien Risso, tel: +32 (0)2 274 19 01, Email : sebastien.risso@diala.greenpeace.org

Friends of the Earth, Milieudefensie, Danielle van Oijen, tel: +31 (0)20 5507300, Email: danielle.van.oijen@milieudefensie.nl

²¹ FLEGT Industry Statement can be downloaded at :

<http://www.greenpeace.org/raw/content/international/press/reports/FLEGTIndustry.pdf>

²² EC Biodiversity Communication (2006), see at : http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006_0216en01.pdf, EC Communication "Limiting Global Climate Change to 2° Celsius: The way ahead for 2020 and beyond" (2007), see at : http://ec.europa.eu/environment/climat/pdf/future_action/com_2007_2_en.pdf