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Illegally logged timber secured in place with chains on board a vessel seized by Indonesian authorities, November 2001, Indonesia.

Illegal Logging

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Illegal logging and the international trade in illegally logged timber is a major problem for many timber-producing countries in the developing world. It causes environmental damage, costs governments billions of dollars in lost revenue, promotes corruption, undermines the rule of law and good governance and funds armed conflict. It retards sustainable development in some of the poorest countries of the world. Consumer countries contribute to these problems by importing timber and wood products without ensuring that they are

legally sourced. In recent years, however, producer and consumer countries alike have paid increasing attention to illegal logging. Main initiatives include:

- A series of discussions and declarations, including the Forest Law Enforcement and Governance (FLEG) conferences on East Asia, Africa, and Europe & North Asia.
- Measures to exclude illegal timber from international markets – notably the EU's Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan, which centres on a licensing system for legal timber exported from partner countries.
- The use of government procurement policy to ensure that only legal (and usually sustainable) timber products are bought by government purchasers.
- Voluntary industry initiatives to work with their suppliers to source legal timber.
- Assistance with improved law enforcement in producer countries, and the establishment of systems to track the movement of legal products.

Impacts and scale

Illegal logging – the breaking of laws on harvesting, processing and transporting timber or wood products – is widespread in many major timber-producing countries. By logging in protected areas (such as national parks) or over allowed quotas, by processing the logs without acquiring licences, and by exporting the products without paying export duties, companies may be able to generate much greater profits for themselves than by adhering to national laws and regulations. The extent of illegal logging in some countries is so large, and law enforcement is so poor, that the chances of detection and punishment may be very small – and the incentives to operate illegally correspondingly large.

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For more details and further information on all the topics covered in this paper, see www.illegal-logging.info, a website designed to provide comprehensive and up-to-date information on all aspects of the debates around the control of illegal logging and in the international trade in illegally logged timber.

The impacts of these illegal activities are multiple:

- *Environmental*: illegal logging depletes forests, destroys wildlife habitats and impairs the ability of land to absorb carbon dioxide emissions, with resultant impacts on climate change. Illegal logging in central Africa, for example, is threatening the survival of populations of the great apes, including gorillas and chimpanzees.
- *Physical*: the destruction of forest cover can often have knock-on effects. Flash floods and landslides in the northeastern Philippines in December 2004, for example, killed over a thousand people. The government blamed illegal logging, which had denuded the mountain slopes.
- *Budgetary*: illegal logging loses governments revenue. Estimates from Indonesia suggest that the government is losing more than \$1bn a year in unpaid taxes and charges (out of a total budget, in 2003, of about \$40bn).
- *Developmental*: future generations will suffer even more. World Bank studies in Cambodia in 1997 suggested that illegal extraction, worth \$0.5bn–1bn, was over 4m m³ a year, at least ten times the size of the legal harvest. If that level of extraction continued, the country would be logged out within ten years of the industry starting – destroying a valuable source of employment and export revenues for the future.
- *Social*: illegal logging undermines respect for the rule of law and of government, and is frequently associated with corruption, particularly in the allocation of timber concessions.
- *Trade-related*: as illegally logged timber is invariably cheaper than legitimate products, it distorts global markets and undermines incentives for sustainable forest management. A study published by the American Forest & Paper Association in 2004 estimated that world prices were depressed by between 7% and 16% (depending on product) by the prevalence of illegal products in the market, losing US firms at least US\$460m each year in forgone sales.¹ As the World Bank reported, ‘widespread illegal extraction makes it pointless to invest in improved logging practices. This is a classic case of concurrent government and market failure.’²
- *Political*: the substantial revenues from illegal logging fund national and regional conflict, most recently in Liberia and the Democratic Republic of Congo. In Cambodia, for several years, Khmer Rouge forces were sustained primarily by the revenue from logging areas under their control. When, under donor pressure, Thailand and the Cambodian government cooperated to close their joint border to log exports at the end of 1996, the insurgents opened peace negotiations.

By definition, the scale of illegal logging is difficult to estimate, but it is believed that more than half of all logging activities in the most vulnerable forest regions – southeast Asia, central Africa, South America and Russia – may be conducted illegally. Worldwide, estimates suggest that illegal activities may account for over a tenth of the total global timber trade, representing products worth at least \$15bn a year.

Tackling the problem: the G8 Action Programme

Given these impacts, it is not surprising that in recent years international attention has increasingly focused on illegal logging. Many recent debates and activities were catalysed by the G8 Action Programme on Forests, launched in May 1998 and wound up in 2002. The G8 agreed to undertake a range of actions, including assessments of the nature and extent of

international trade in illegally harvested timber and assessments of the effectiveness of measures to control illegal activities. G8 commitments are, of course, not legally binding, and some G8 members did little to implement the Action Programme, but in others it was taken much more seriously. In general, it helped to raise the issue’s profile and in the end helped to trigger a wide range of activities on illegal logging – much wider, in fact, than the original text had contemplated.

The G8 returned to the issue in 2005, when the joint meeting of environment and development ministers at Derby recognized the need for joint action between consumer and producer countries. Ministers committed themselves to support existing international processes and enforcement activities, halt the import and marketing of illegally logged timber in their own countries, encourage public procurement policies and work with the private sector and civil society – essentially a recognition of what some G8 countries were already doing. As before, whether the statement will make a difference to the less active G8 countries is questionable, but once again the G8 debates helped to raise the profile of the issue.

International discussions and agreements

One of the key international forums in recent years for the discussion of illegal logging has been provided by the World Bank-coordinated Forest Law Enforcement and Governance (FLEG) processes, which to date have featured three international ministerial conferences: East Asia (Bali, September 2001), Africa (Yaoundé, October 2003) and Europe & North Asia (St Petersburg, November 2005).

The FLEG conferences brought together governments, industry, NGOs and researchers from countries both inside and outside the region, in an attempt to establish frameworks through which producer country governments could work with one other and with governments of consumer countries to tackle illegal activities. All three conferences concluded by adopting wide-ranging ministerial declarations, and the East Asia FLEG established a regional task force to ‘advance the objectives’ of the Declaration, together with an advisory group of NGOs and industry. Progress in establishing the regional frameworks envisaged, however, has been slow and few activities in this region can be attributed directly to the Declaration. Nevertheless, there remains the possibility of a regional network or framework to improve information exchange, share best practice and combat intra-regional trade.

In addition to the FLEGs, recent years have seen illegal logging discussed in a wide range of international organizations, including the UN Forum on Forests, Food and Agriculture Organization (FAO), UN Economic Commission for Europe, conferences of the parties to the Convention on Biological Diversity and the Convention on International Trade in Endangered Species (CITES), the World Summit on Sustainable Development (WSSD), the International Tropical Timber Organization (ITTO) and even the World Trade Organization’s Committee on Trade and Environment. The run-up to the WSSD saw the formation of the Asia Forest Partnership and the Congo Basin Forest Partnership – two international partnerships, bringing together national governments, international institutions and civil society groups, with objectives which included tackling illegal logging. The ITTO has funded projects on forest law enforcement and conducted a study of import and export data discrepancies; together with the FAO, it has recently developed guidance on best practice for forest law compliance.

Bilateral agreements

Following the original G8 discussions, and the East Asia FLEG conference, in April 2002 the UK and Indonesia agreed a Memorandum of Understanding aimed at reducing and eventually eliminating the trade in illegal timber. Commitments set out in the MoU, and its accompanying Action Plan, include:

- Identification of key legislative reforms by both countries.
- The establishment of systems for the verification of legal compliance, based on independently verified chain-of-custody tracking and identification systems.
- The provision of capacity-building assistance by the UK to support these initiatives.
- Support by both governments for civil society involvement.
- The joint development of data exchange systems and of effective collaboration between enforcement agencies in both countries.
- Encouragement for action by the timber industry.

The MoU is also important because it heavily prefigured the contents and approach of the EU's own initiative on Forest Law Enforcement, Governance and Trade (FLEGT), then just beginning to be discussed (see below). Indonesia has since made similar arrangements with Norway, China, Japan and Korea, though none of them have yet led to much activity on the ground.

Measures to exclude illegal products from international markets

Since the G8 Action Programme, the role of consumer countries in driving the demand for timber and wood products, and thereby contributing to illegal logging, has come to the fore. This has been a major focus of the activities of the EU, which is a significant global importer of timber and wood products; several countries from which EU member states import such products suffer from extensive illegal activities.

Spurred by the East Asia FLEG conference, in May 2003 the European Commission published its FLEGT Action Plan. It includes the following proposals:

- Negotiation of FLEGT voluntary partnership agreements with producer countries. These will include a licensing system designed to identify legal products and license them for import to the EU (unlicensed products will be denied entry), combined with capacity-building assistance to partner countries to set up the licensing scheme, improve enforcement and, where necessary, reform their laws.
- Examination of EU member states' existing legislation (for example on money-laundering) that might be of value in preventing imports of illegal products.
- Consideration of additional legislative options to prohibit the import of illegal timber, particularly products originating from countries not participating in partnership agreements and therefore not covered by the licensing scheme.
- Encouragement for financial institutions to scrutinize flows of finance to the forestry industry.
- Encouragement for voluntary industry initiatives, and government procurement policy, to limit purchases to legal sources.

The FLEGT initiative centres on the exclusion of illegal products from EU markets. The major problem with this approach, of course, is that there is currently no means of distinguishing legal from illegal products at the border. The EU's solution is therefore a new timber licensing system, designed to identify legality of production and relying on credible (probably independent) verification of legal behaviour at every stage of the chain of custody of the products. This is similar in effect to systems already in place in several international agreements, including CITES, and the Kimberley Process on conflict diamonds, which feature licence or permit systems, and tracking mechanisms, designed to exclude particular categories of products from international markets.

The EU system will be built up through a series of bilateral agreements with major timber-producing and -exporting partner countries. A regulation to implement the licensing scheme in the EU was adopted in December 2005. The European Commission and EU member states are currently conducting talks with a number of potential partner countries preparatory to signing voluntary partnership agreements.

National actions – consumer countries

The counterpart of excluding illegal products from consumer markets is building markets for verified legal products. The use of government procurement policy offers a promising route to achieving this; it is estimated that the public sector accounts for about 20% of purchases in most developed countries, and thereby can exert substantial influence on the market.

Six EU member states – Belgium, Denmark, France, Germany, the Netherlands and the UK – all currently possess systems which require proof of legal origin for all or some central government purchases of timber and wood products; they also encourage the purchasing of sustainably produced products. Several other member states are developing or considering adopting similar policies. Evidence to date suggests that UK procurement policy is already having a measurable impact on the British timber market, including the emergence of higher prices for verified legal and sustainable tropical hardwood products.

Central, regional and local governments throughout the developed world already possess or are developing a variety of 'green' procurement policies. Many local authorities, for example, encourage the use of sustainably produced timber in building projects, and authorities at all levels often promote the use of recycled paper. In principle, it should not be too difficult to incorporate criteria for the legality of timber and wood products into these policies, and often no new primary legislation is needed. Following discussions within the G8 during 2005, in April 2006 Japan announced a new central government procurement policy to exclude illegal products.

Consumer countries have also undertaken a range of other activities. The EU FLEGT Action Plan provides for an analysis of domestic legislation in EU member states – for example on theft, receiving stolen goods or money-laundering – in order to explore to what extent it can be used to target timber produced illegally overseas. Although some of these laws are probably applicable, there are major practical difficulties, for instance in obtaining evidence of the original crime from the country of origin, and tracking the movement of the products thereafter. The European Commission has yet to decide whether to recommend any additional legislation at EU level to cope with

this problem; though without some means of targeting illegal timber from countries outside the FLEGT licensing scheme, the scheme itself risks being undermined.

Another area of activity comprises efforts to monitor and control the supply of finance and investment to the timber and related industries in countries where illegal logging is rife. Logging enterprises themselves tend to require only local finance, but many related activities, such as the construction of pulp and paper mills, or forest clearance for palm oil plantations, often need considerable foreign direct investment, which they can receive from private banks, or public bodies such as export credit agencies, in the EU and other timber-consuming countries. Discussions on this topic have been held in the US and UK, among other countries, and a number of major banks have developed policies designed to scrutinize lending to enterprises in the timber industry. The Equator Principles, agreed by ten of the world's largest banks in 2003, include a commitment to respect the environmental and social safeguard policies of the International Finance Corporation in low- and medium-income countries, which currently include relevant policies on forestry, natural habitats and indigenous peoples.

National actions – producer countries

Consumer countries, for example in the EU, can exert a great deal of pressure by moves to exclude illegal products from their markets, but of course there is always the danger that the illegal goods will simply find other outlets – as in the rapidly growing demand from China. So action on the ground in producer countries to improve forest law enforcement, tackle corruption and promote legal harvesting is an essential part of the mix.

Several producer countries have taken recent steps to improve enforcement. Malaysia has used barcode and satellite tracking systems to reduce illegal logging in Sarawak, and has introduced regulations aimed at preventing imports of illegal timber from Indonesia. Indonesia has stepped up domestic enforcement, with a series of highly publicized arrests and seizures of illegal timber. And in the Philippines, in the wake of the floods and landslides of December 2004, a retired general was named as the 'forestry czar', authorized to take action against illegal loggers and lead the country's reforestation programme.

Many consumer countries have provided financial and technical assistance to these kinds of activities. Indonesia has been a particular focus, and cooperation with the US, UK, EU and Japan in particular has included efforts to identify training and equipment needs and improve enforcement and monitoring activities, the design and testing of systems to verify legal compliance of forest operations and track timber products from forest to export, and a process of stakeholder consultations to define exactly what is meant by 'legal timber'. Other producer countries working with international donors include Cambodia, Ghana, Liberia and countries across the Congo Basin.

Although recent rises in world prices of hardwood timber have been at least partly ascribed to the impacts of these and similar activities, the problem of illegal logging generally runs much deeper than simple lack of enforcement capacity. In some countries, it may be difficult even to decide what is illegal; in others, the definition may depend on administrative fiat, or be

easily changed by local or national governments seeking to maximize revenue. Even where the law is adequate, the compliance costs may be so high in terms of time or money that legal operations become uneconomic, particularly for small operators. For real lasting effectiveness, then, reform of legal and regulatory systems must often go hand in hand with measures to influence demand. Reform of laws outside the forestry sector is also frequently necessary, including those dealing with land ownership, bankruptcy and corruption.

Industry

Many companies and trade associations have also taken action, partly as a response to government regulation, current and anticipated, but also to a growing understanding of the role of illegal logging in undercutting markets for legal (and sustainable) products, and as a result of direct consumer and NGO pressure.

In the EU, many companies have responded to government procurement policy, but also to the expectation of the FLEGT licensing system coming into force. A number of industry associations have developed codes of conduct for their members and begun to work directly with suppliers in producer countries, encouraging – and in some cases assisting – them to ensure that their raw materials derive from legal sources.

For example, in mid-2003 the UK Timber Trade Federation (TTF) conducted independent legality audits of sixteen sawmills in Indonesia, revealing that all of them had problems meeting the most basic legality requirements. However, it was estimated that they could take action to resolve these problems over perhaps two or three years. Now, under the EU-funded Timber Trade Action Plan, TTF, together with two other European federations, is supporting timber producers in Indonesia, Malaysia, Cameroon, Congo and Gabon to ensure that verified supplies of legal timber can be provided for their EU customers.

The principle of working directly with enterprises in producer countries, ensuring that their products meet the requirements of import markets, also underlies much of the work of bodies such as the Tropical Forest Trust, the Worldwide Fund for Nature's Global Forest Trade Network, and the US Sustainable Forest Products Global Alliance.

Conclusion

The recent focus in international debates on illegal logging is not taking place in isolation. Throughout the 'forestry community' and, more broadly, those working on environment and development issues, there is a growing awareness of a series of interlinked factors:

- The need to focus on implementing (not just introducing and negotiating) laws and international agreements and the related issues of governance and corruption.
- The growth of international environmental crime – the deliberate flouting of environmental laws and regulations with an international impact.
- The role of consumer countries in driving illegal activities and the potential to take action to exclude illegal products and build markets for legal timber – as well as providing assistance to producer countries with law enforcement on the ground.

¹ American Forest & Paper Association, Seneca Creek Associates and Wood Resources International, *Illegal Logging and Global Wood Markets: The Competitive Impacts on the US Wood Products Industry* (November 2004), available at www.illegal-logging.info/papers/afandpa.pdf.

² World Bank, *Forest Sector Review* (New York: World Bank, 1999), p. 40.