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Illegal Logging

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Summary

Illegal logging and the international trade in illegally logged timber is a major problem for many timber-producing countries. It causes environmental damage, costs governments billions of dollars in lost revenue, promotes corruption, undermines the rule of law 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 in 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 initiatives by industry to work with their suppliers to source legal timber.
- Assistance with improved law enforcement in producer countries.

Impacts and scale

Illegal logging – the breaking of national 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 behaving legally. 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. By some estimates, in five of the top ten most forested countries on the planet, at least half of the trees cut are felled illegally.

The impacts of these illegal activities are multiple:

- *Environmental:* illegal logging depletes forests, destroys wildlife habitats. Illegal logging in central Africa, for example, is threatening the survival of populations of the great apes, including gorillas and chimpanzees.
- *Climate-related:* In reducing forest cover, illegal logging impairs the ability of land to absorb carbon emissions, a matter of growing importance in the context of attempts to limit climate change.

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- *Physical*: the destruction of forest cover can often have knock-on effects. Flash floods and landslides in the Philippines in recent years, for example, killed thousands of 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 \$1bn–2bn a year in unpaid taxes and charges (out of a total budget, in 2003, of about \$40bn).

- *Developmental*: future generations will suffer even more. Vietnam, for example, lost a third of its forest cover between 1985 and 2000, partly owing to illegal logging, whereas in 1997 illegal logging in Cambodia was at least ten times the size of the legal harvest.¹ These rates of extraction are clearly unsustainable, destroying valuable sources 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 US industry study 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.² As the World Bank has observed, 'widespread illegal extraction makes it pointless to invest in improved logging practices. This is a classic case of concurrent government and market failure.'³

- *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 insurgents were sustained primarily by the revenue from logging areas under their control. When, under donor pressure, Thailand and Cambodia cooperated to close their joint border to log exports at the end of 1996, the rebels 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.

The G8 Action Programme

Given these multiple 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 raised the issue's profile and in the end helped to trigger a much wider range of activities on illegal logging than the original text had contemplated.

The G8 returned to the issue in 2005, when a meeting of

environment and development ministers 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. Japan is expected to take up the issue once more when it chairs the G8 in 2008.

International discussions and agreements

The G8 discussions helped to stimulate a series of Forest Law Enforcement and Governance (FLEG) ministerial conferences, coordinated by the World Bank. To date three such conferences have taken place, in 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 another and with governments of consumer countries to tackle illegal activities. All three conferences concluded by adopting wide-ranging ministerial declarations. Subsequent activities have been limited, though discussions on creating a regional trade enforcement framework in East Asia have recently started; nevertheless, as with the G8 discussions, the processes helped raise the profile of the issue.

In addition to the FLEGs, recent years have seen illegal logging discussed in a wide range of international organizations, including in particular the UN Forum on Forests, Food and Agriculture Organization (FAO) and International Tropical Timber Organization (ITTO). ITTO has funded projects on forest law enforcement and conducted a study of import and export data discrepancies; together with the FAO, in 2005 it published guidance on best practice for forest law compliance.

A number of countries have also reached bilateral agreements with trading partners, designed to improve collaboration in controlling the trade in illegal timber. Indonesia has been particularly active, signing agreements with the UK, US and a number of other countries. The UK–Indonesia Memorandum of Understanding, agreed in 2002, was particularly important as it prefigured the approach of the EU's initiative on Forest Law Enforcement, Governance and Trade (FLEGT), then just beginning to be discussed.

The EU's FLEGT initiative

The EU is a major global importer of timber and wood products, and several of its trading partners suffer from extensive illegal activities. The FLEGT Action Plan therefore focuses on improving governance in timber-producing countries, and establishing systems to exclude illegal timber from EU markets. Approved in October 2003, 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 help the partner country set up the licensing scheme, improve enforcement and, where necessary, reform its laws.

- Examination of EU member states' legislation (for example on handling stolen goods, or 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 voluntary industry initiatives, and government procurement policy, to limit purchases to legal sources.
- Encouragement for financial institutions to scrutinize flows of finance to the forestry industry.

The FLEGT initiative centres on the exclusion of illegal products from EU markets. Since there is currently no means of distinguishing legal from illegal products at the border, the EU's solution is a new timber licensing system, designed to identify legality of production and relying on credible verification of legal behaviour throughout the chain of custody of the products. This is similar in effect to systems already in place in several international agreements, including the Convention on International Trade in Endangered Species, and the Kimberley Process on conflict diamonds, which feature licence or permit systems designed to exclude undesirable products from international markets.

The EU system is being built up through a series of bilateral agreements with major timber-producing and -exporting partner countries; as of mid-June 2007, negotiations with Ghana, Indonesia and Malaysia were under way, and many other countries have expressed interest. The regulation to implement the licensing scheme in the EU was adopted in December 2005. Initially the system will cover logs, sawnwood, plywood and veneer, but the intention is to extend it to other product categories as soon as the signatory countries wish.

The way in which the licensing scheme is being built up through agreements with individual countries, however, renders it vulnerable to evasion; illegal products could simply be transhipped via non-partner countries to the EU. Timber supply chains are becoming more complex, as timber is increasingly logged in one country and then exported to another for processing (into plywood, for example, or furniture) before export to its final destination. China is increasingly important as an importer and processor of raw timber; Chinese imports of timber, pulp and paper grew by 75% from 1997 to 2002.

Analyses of existing legislation in a number of EU member states – for example on theft, receiving stolen goods and money-laundering – have been carried out to explore whether they could be used to target the products of crimes in foreign countries. 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 is currently considering whether to recommend any additional legislation at EU level to cope with this problem; options include a requirement for proof of legality for all timber imports, or legislation specifically making it illegal to import or handle timber produced illegally overseas.

In the long run, the licensing scheme will need to extend to all major timber-producing and -consuming countries if it is to affect illegal logging on the global scale. Japan has recently expressed interest in a global licensing scheme, and may take this up during its chairmanship of the G8 in 2008.

Other consumer countries

The US, a major timber exporter in its own right, has been notably less enthusiastic about the concept of trade controls. It has tended to focus on assisting producer countries with enforcement – the main thrust of the President's Initiative Against Illegal Logging, launched in 2003, which is providing \$1m to Indonesia. The change in political control of Congress in 2006, however, seems to have led to a change in approach; in May 2007 the US included provisions directly aimed at controlling imports of illegal timber in its free trade agreement with Peru. An attempt is also being made to extend the Lacey Act (which makes it illegal to import wildlife produced illegally abroad) to timber.

In 2002 Japan, a major net importer of timber, helped to launch the Asia Forest Partnership to promote sustainable forest management in Asia. In 2006 it introduced a government procurement policy aimed at excluding illegal products; and, as noted, it has begun preparations for a G8 initiative on illegal logging in 2008. In 2006, Australia launched a discussion paper on possible national initiatives on illegal logging, and New Zealand announced that its existing preference for legal timber in its public procurement policy would be made mandatory.

Public procurement policy

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 15–20% of purchases in most developed countries, and thereby can exert substantial influence on the market.

Eight countries – Belgium, Denmark, France, Germany, Japan, the Netherlands, New Zealand and the UK – all now possess systems which require proof of legal origin for all or some central government purchases of timber and wood products; they also encourage, and in some cases require, the purchasing of sustainably produced timber. Several other countries, mainly in the EU, 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. The range of different criteria adopted for these public procurement policies, however, risks creating confusion among exporters, and it would be logical for consumer countries, particularly in the EU, to harmonize their approaches; talks are already under way between Denmark, the Netherlands and the UK.

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. Government building regulations also often encourage the use of sustainable products. 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 – offering a chance of relatively rapid action.

Industry initiatives

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

In the EU, 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 16 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 three other European federations, is supporting timber producers in Bolivia, Brazil, Cameroon, China, Congo, Gabon, Guyana, Indonesia and Malaysia 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.

Improving enforcement

Consumer countries 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 – for example 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. It has also introduced regulations aimed at preventing imports of illegal timber from Indonesia, which has stepped up domestic enforcement, with a series of highly publicized arrests and seizures of illegal timber, particularly in Papua. In the Philippines, in the wake of the floods and landslides of December 2004, a retired general, the 'forestry czar', was authorized to act against illegal loggers and lead the country's

reforestation programme. Several consumer countries have provided financial and technical assistance to such activities.

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, 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.

These steps are of particular importance in the context of international attempts to mitigate climate change. The new emerging carbon markets could deliver substantial credits for avoided deforestation – but this is not currently eligible, mainly because of concerns over whether the forests will remain standing in the long term. Lasting improvements in forest governance, therefore, could unlock substantial new resources for forest-rich countries, helping them develop sustainable forest management on a major scale.

Conclusion

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

- The need to focus on the implementation of laws and international agreements not just their introduction and negotiation 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 – and the need to tackle it at an international level.
- The role of consumer countries in driving illegal activities and the potential for them to take action to exclude illegal products and build markets for legal timber – alongside providing assistance to producer countries with law enforcement on the ground.

It remains to be seen whether this focus on illegal logging will counter effectively the destruction of the forests in many of the world's poorest countries.

¹ Wynet Smith, 'Undercutting Sustainability: The Global Problem of Illegal Logging and Trade', in Ramsay M. Ravenel, Ilmi M. E. Granoff and Carrie A. Magee (eds.), *Illegal Logging in the Tropics: Strategies for Cutting Crime* (Binghamton, NY: Haworth Press, 2004).

² 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.

³ World Bank, *Forest Sector Review* (New York: World Bank, 1999), p. 40.

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