



Working Paper

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Reducing demand for illegal timber: Targeting corruption in customs and procurement

Corruption and illegal logging are well-known drivers of deforestation. In 2001 it was estimated that major timber exporting countries — Indonesia, Brazil and Cameroon — had an illegal logging rate of at least half of their total timber production. This illegal timber finds its way into the consumer markets, often unchecked or unidentified by timber importing countries and industries. As a result, it has been estimated that 20 per cent of wood-based products entering the EU are likely to be illegally sourced.

A crucial aspect of stemming the flow of and demand for illegal timber is improving customs and procurement regulations in importing countries. With some exceptions, timber-consuming countries are beginning to recognise their role in fighting illegal logging. Since 2003, the European Union's Forest Law Enforcement, Governance and Trade initiative (EU-FLEGT) has focused on ensuring the legality of timber imports and promoting better governance through licensing of legal wood in partner countries. In the US, the 2008 Lacey Act amendments banned the illegal trade in timber and established severe penalties for those found to be in violation of the law.

The Lacey Act Amendments: The US Combats Illegal Timber

The Lacey Act, a 100-year old law in the US, was already a strong tool for agencies fighting wildlife crimes and illegal trade, but the 2008 amendments sought to ban the trade in illegally sourced plants and their products, including timber and wood products.

The act now goes as far as banning paper and furniture that is illegally sourced within the US and from other countries. Importantly, the act places the burden of proof of the legality of the timber on the buyers. This means that they must have the proof of the country of origin and the species name of all the plants contained in their products. The act prescribes penalties for violation of the law, including forfeiture of goods, fines and even jail.

The EU Approach to Illegal Timber: Licensing & Verification

FLEGT was adopted by the EU in 2003 to combat illegal logging and the associated trade. It is based on bilateral voluntary partnership agreements (VPAs) between the EU and timber-rich producer countries to limit imports of illegal timber. These VPAs are to be followed eventually by a licensing system that will certify legal products in partner countries and license them for import into the EU. The initiative aims to issue its first FLEGT licenses in 2012.

There will also be support for voluntary industry initiatives and the development of government procurement policy to buy only from legally certified sources.

So far Ghana, the Republic of Congo and Cameroon have finalised VPAs with the EU, and Indonesia is likely to join the group in 2011. Negotiations are also ongoing with Liberia, Gabon, Democratic Republic of Congo, the Central African Republic, Malaysia and Vietnam.

Both the Lacey Act and FLEGT recognise the need to curb the problem and the role that importing countries play in the illegal trade in timber (see side bars). Although such advances have signalled a positive policy shift in importing countries to combat illegal logging, the role of corruption has not yet been adequately tackled. Policies need to give greater attention to the corruption risks that accompany import procedures and sustainable forest certification. For example, even if customs agencies and government procurement policies are strengthened to curb the demand side of the illegal timber trade, corruption can too easily circumvent the changes and undermine legitimate processes.

1. Illegal logging: demand-supply side dynamics

Most major consumer and importing nations — including China, Japan, the United States and member countries of the European Union — benefit from low-cost imports of timber from tropical countries, much of which comes from the Asia Pacific region. Efforts to conserve forests mean that legal supplies have decreased and are unable to meet the demand for cheap timber. This situation has increased the incentives and financial benefits of illegal logging and trade. Indeed, large scale illegal logging is driven by the international consumer market, without which there would be no illegal trade.¹

This demand, coupled with weak law enforcement and forest management creates an environment conducive to corruption — a primary means of circumventing laws and regulations enabling logging beyond legal and sustainable levels. Paradoxically, importing countries often provide development assistance to forest-rich countries to promote better forest governance, without acknowledging that it is their demand for cheap wood products and own governance weaknesses that contribute to illegal timber imports.

Indonesia, one of the world's largest timber-exporting countries, introduced an export ban in 2001 on round-wood and squared logs to curb the destruction of its forests. Yet, it is estimated by the UN Environmental Programme that between 73 and 88 per cent of timber logged in the country in 2007 was illegally sourced.² Even protected forests are not safe. According to the Indonesian government, timber is being illegally harvested from 37 of the country's 41 national parks.³ Much of this timber winds up in international markets. In 2006, it is thought that 'at least 786 shipments declared as Indonesian sawn timber and logs — more than 2 shipments per day — entered the US.'⁴

The United States is not alone, however. In China, between 1997 and 2005, the country's total forest product imports more than tripled in volume from 40 million to 134 million m³, and more than doubled in value.⁵ China is now a key link in a vast global commodity chain, with tens of thousands of Chinese businesses responding to the growing demand for cheap wood-based products, especially furniture, by American, European and Japanese consumers.

Despite this, there are remedies that can and have been pursued by the governments of countries that are driving demand. Public procurement, for example, is responsible for a significant amount of consumption, and changes in practice here can lead to positive steps by the private sector, including increased demand for verification and sustainability criteria. A number of public procurement policies have been designed to favour timber from legal and sustainable sources — in Belgium, Denmark, France, Germany, Japan, the Netherlands, New Zealand and the UK. Yet this vital step requires long-term commitment and investment by governments.⁶ Unfortunately, this has not materialised, making the implementation of such policies slow.

2. Corruption: violating export bans and international customs

As in the case of Indonesia, a number of countries have already banned the export of round-wood. This is wood that is felled and trimmed in country, but is transferred elsewhere for processing, thus not supporting ancillary activities around logging that provide jobs and revenue for the country. Despite these bans, there are often discrepancies between the import and export statistics of trading partners, suggesting that in reality international bans are often flouted.⁷

The Environmental Investigation Agency (EIA), for example, estimates that 500,000 m³ logs are transported from Vietnam to Lao PDR each year, violating Vietnam's export ban on logs and sawn timber.⁸ Indeed, export bans on timber are not always matched by import bans in other countries: criminalising the export of logs from one country does not necessarily criminalise its import into another. Furthermore, the link between the two processes relies on documentation which can be easily circumvented by corruption. In the Asia Pacific region, corruption and fraud have been used to falsify valuable permits from CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) and violate import regulations in exporting⁹ and importing countries.¹⁰

In the case of Indonesia's export ban, Malaysia is the only country in the region that has accepted the ban and therefore, in theory, complies. Yet despite the ban, Malaysia is still identified as being allegedly the main timber laundering centre in the region. It plays a large role as a transit country in a regional network that also involves China and Singapore.¹¹ Illegal timber and wood products originating from Indonesia become 'legal' once they are provided with the necessary legal forestry documents in Malaysia. Furthermore, Singapore, the largest trans-shipment port in the region, is accused of allegedly granting passage to containers from all over the world without verifying the legal authenticity of the documents accompanying them.¹²

Even when the authenticity of documents is questioned at borders, bribery involving customs officials can facilitate the flow of illegally-logged timber. There are numerous examples of payments being made to circumvent documentation checks. It has been reported that for a small bribe to a customs official, undocumented timber has moved from Russia into China,¹³ and irregularities and corruption in the customs process at the Chinese-Burmese border have been well-described by Global Witness.¹⁴

Customs officers are a vital link in the chain of the illegal timber trade. They sit on the frontline of trade, and control the flow of goods and services. However, according to Transparency International's *2010 Global Corruption Barometer* customs institutions also suffer high levels of corruption.¹⁵ In 2010, 8 per cent of respondents in the Asia Pacific region reported paying bribes to customs officials in the previous 12 months, and overall customs officials were considered the fourth most corrupt institution, after the police, registry and permit services and the judiciary.¹⁶ The need to prevent corruption and increase levels of integrity in customs institutions has been acknowledged by the World Trade Organisation¹⁷ and the World Customs Organisation, as evident in the revisions made to the Arusha Declaration to address governance and integrity.¹⁸

3. The way forward

Governments of importing countries are in the position to set standards on import regulations — and in some cases have done so. Many countries have strong legislation to control and regulate the timber coming into their ports. However, the situation is improving from a low baseline. The role of timber import countries as

Timber Trade Governance: A Profile of the Asia Pacific region

There appears to have been progress made in regional timber trade governance with the advent of various bilateral agreements to curb the trafficking of illegal timber. Several producer countries in the region have signed agreements or memoranda of understanding (MoU) with consumer countries.

China and Indonesia: In December 2002, the two countries signed the 'Joint Cooperation to Combat Illegal Logging' agreement.

China and the EU: In April 2008, China and the EU signed the 'Summary of the Talks', which agrees that they will exchange views on bilateral coordination mechanisms on forest law enforcement and administration.

Indonesia and Malaysia: In a reciprocal policy arrangement to Indonesia's log export ban from 2001, Malaysia banned the import of logs from Indonesia.

Indonesia and Japan: An MoU between these countries was signed in 2003, including a commitment to 'effective collaboration between enforcement agencies... aiming to mutually provide information on the application of the relevant laws and regulations of the respective countries'.¹⁹

Although these are clearly positive steps, the implementation of such regional trade agreements has been limited. The financial incentive to launder logs, inadequate controls at customs and weak governance that provides space for corruption means that the illegal timber trade continues to flourish in the region. Progress on ratifying and implementing the recently negotiated FLEGT-Voluntary Partnership Agreement (FLEGT-VPA) in the EU would be a positive measure for all timber producers in the region.

trade partners and their contribution to forest destruction and corruption needs to be further highlighted, raising the demand for legislation to ban illegal and unsustainable imports into consumer countries. Further improvements in the sector will not only come from better laws and regulations, however, but will demand greater enforcement and monitoring. Important areas for action include:

Revising legislation to incorporate anti-corruption tools

In order to curb corruption, it is necessary to have legislation that criminalises not only the import of illegally sourced timber and forest products, but also products whose legality or provenance is unproven or suspect. Such legislation should address the importing of timber laundered through third country diversions, taking into account that timber may have been come through timber transfer countries, such as Vietnam or Malaysia.²⁰

Strengthening enforcement capacity and encouraging regional cooperation

Although the revision of legislation in some contexts is vital, often the real challenge is enforcing regulations. It must be ensured, for example, that large traders are not allowed to slip through the net. Those that are caught violating the law must be punished and blacklisted according to the regulations.

Although many national procurement policies state that practices involving corruption are defined as illegal within what is called timber 'legality definitions'²¹ there remains considerable work to be done in turning this into real action. Practical measures must respond to the needs of individual countries, but also correspond to their place in international trade networks. Such measures would include increased capacity building initiatives such as training and technical assistance, bilateral and regional agreements to curb illegal trading, information and intelligence sharing between agencies and countries, and improved verification procedures for documents.

Building the capacity of customs and other agencies

In many ports, customs inspection systems need to be improved. A major part of this improvement will involve increasing the capacity of customs officials to deal with the illegal timber trade. This will include sharing international and regional border control experience between timber trade partners, particularly as they increasingly deal with sophisticated and complex forms of corruption in the sector. For example, transfer pricing — where a subsidiary of a company sells goods (such as round-wood) to another subsidiary of the same company below the market price in order to save taxes — is very difficult to detect as it passes through customs.

Customs personnel also need the support of a wider range of stakeholders, such as financial tracking institutions, environmental agencies, civil society and international non-governmental organisations. According to the Institute for Global Environmental Strategies, the inability of customs officials (due to the number of staff and their levels of knowledge) to identify forged documents or proscribed timber species contributes substantially to the trafficking of illegal logs.²²

Promoting certification of logs and enabling international log-tracking

The certification of logs assists in efforts to track timber through the supply chain, ensuring that only legal and sustainable timber is imported into consumer countries. Such initiatives support the efforts of the US Lacey Act and the EU FLEGT process, which rely on certification to ensure that their imports are legitimate and legal.

Certification raises its own set of corruption risks, however, as documents can be forged and customs officials can be bribed to turn a blind-eye to false or inaccurate certificates. To ensure accurate and corruption-free certification, logs must be certified independently and safeguards should be in place to ensure that this independence is not compromised. All along the supply chain officials must have the technical skills to verify the legitimacy of the certificates and identify potential forgeries. Stakeholders should also be encouraged to provide third-party monitoring of certification.

Using international conventions to combat the illegal timber trade

International conventions and other international legal instruments, such as the UN Convention against Transnational Organized Crime and the UN Convention against Corruption, could be used to greater effect in combating illegal timber trade. The potential of these international conventions to set standards for bilateral and regional agreements needs to be further explored. Furthermore, such conventions have already demonstrated the role of civil society organisations in proactive monitoring and enforcement, a practice that should be replicated at national and regional levels for agreements on illegal timber.

Promoting better governance measures on the part of the private sector

Government procurement depends on the private sector for two distinct products. The first is the supply of timber or timber products, and the second is local certification organisations who provide the certification required for this wood to be considered legal. Many companies — under pressure from consumers or influential NGOs, or simply because they recognise that integrity in business provides a better bottom line — have supported better governance in the forest sector, either in their own sources or in custody chains involving them. These initiatives are good but far more needs to be done. Companies need to recognise that corruption is an important factor driving illegal and unsustainable logging. This means that for risky areas in the timber supply chain, especially where they depend on outside audits, care needs to be taken to insure that integrity is not compromised.

Promoting collaboration between stakeholders

The final point is probably the most important. TI's Forest Governance Integrity programme has highlighted that curbing illegal logging driven by corruption is not as simple as ensuring that legislation is enforced in producer countries. Attention needs to focus on collaboration between state agencies in producer and consumer countries, as well between the private sector and civil society, to ensure that regulations are made and enforced.

Civil society has an important role to play. International NGOs, UN organisations, and other international bodies can catalyse change by detecting illegal activities and contributing to the design of systems for more transparent data exchange and dissemination. Civil society should not be seen as adversaries to state systems, but as constructive contributors and partners for their improvement. The Extractive Industries Transparency Initiative (EITI) could offer the framework for this increased participation to happen if it continues to be extended to forests (as was done in Liberia).⁶

This Working Paper was produced by the Forest Governance Integrity (FGI) Programme team, both at the TI Secretariat in Berlin and in the Asia Pacific region. Manoj Nadkarni served as lead editor.

We would like to thank Bjoern Hecht (The German Agency for International Cooperation - GIZ) for peer reviewing the paper. TI also recognises the contributions of Rebecca Dobson, Craig Fagan and Anne Grosskurth to this paper.

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PRINTED ON RECYCLED PAPER

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ISSN 1998-6408