

2nd Update Meeting on Illegal Logging and Associated Trade  
Convened by Forest Trends

**SUMMARY OF PROCEEDINGS**

February 14, 2008  
Alfred Nobel Hall, House of Sweden  
Washington, DC USA

**Session 1: Sourcing of Wood products**

*Chair: Michael Jenkins, President, Forest Trends*

*Kerstin Canby, Director, Forest Trade & Finance, Forest Trends*

The U.S. Green Building Council

*Brendan Owens, Vice President, LEED Technical Development, U.S. Green Building Council*

Mr. Brendan Owens introduced the U.S. Green Building Council (USGBC) and the Leadership in Energy and Environmental Design (LEED) certification system. The objective of the USGBC is to organize all those involved in the building industry into a progressive association that thinks critically about how it can make construction more sustainable. The USGBC established the LEED certification system in 2000, which is based on similar existing models of 'Green Building' verification, such as in the UK. LEED is based on a list of criteria for builders to use in order to reduce the carbon footprint of the building construction process in the U.S. LEED currently gives credit towards the certification of a building if certified wood is used in the process of construction, but the USGBC does not have a strict policy on the use of illegal logs in the construction process. Brendan noted that the process of developing the criteria for certification in relation to the source of wood products is ongoing, and any change to this policy will be the result of consensus.

Wood for Paper: Fiber Sourcing in the Global Pulp and Paper Industry  
(Commissioned by the America Forest & Paper Association)

*Al Goetzl, President, Seneca Creek Associates, LLC*

Mr. Al Goetzl presented his paper on the sources of fiber for the global pulp and paper industry. His analysis provides a breakdown of the source of fiber depending on forest type and provides an overview of certification as it relates to this supply. His findings suggest that certification constitutes a large and growing proportion of fiber supply; however, his research does not provide any distinction or qualification of the different certification regimes that pertain to this supply. Illegal logging does not seem to be as pressing an issue for fiber supply for the pulp and paper industry, due to the fact that as much as 85% of wood fiber is sourced in regions of the world where sustainable forest management is already practiced. Even in countries where illegal logging is perceived as a significant issue, such as Brazil, the legality of the source of fiber for pulp and paper is not a pressing concern since almost all is derived from plantation resources. In response to questions posed, Al described the problem of illegal logging as one that tends to occur when pulp capacity grows faster than the fiber supply needed to meet the new demand. Additionally, he noted that issues of legality are quite separate from issues of good forest management.

**Session 2: Initiatives in Europe and Canada**

*Chair: Jagmohan Maini, Adjunct Professor, Faculty of Forestry, University of Toronto*

Initiatives in Europe

*Julia Falconer, European Commission*

Miss Julia Falconer explained that the EU approach is to address both demand and supply on forest products of unknown origin. She provided background information on the FLEGT process that was launched in 2002 as an umbrella initiative for the EU commission and European states in response to growing illegal logging and trade. In producer countries the EU is developing partnerships that support governance reforms, support measures to regulate trade in timber and to improve transparency and traceability and thus to improve confidence in the legality of forest products. Partners will introduce licensing that verifies legality of all exports: the EU will restrict access to EU markets from these countries for any unlicensed goods. The FLEGT is providing a platform for discussions between civil society, government and private sector in these developing countries with the intention of encouraging a broad coalition of support for the VPA and legality Verification. In addition, the EU is promoting trade and business partnerships between EU and partner country operators. In each country debate revolves around definitions of legality and systems to better regulate logging practices.

The EU is also discussing with China on ways to work together to address trade in illegal forest products, including consideration of jointly supporting legality verification systems. The EU has been considering further legislation to address trade in illegal forest products to and weaknesses of the bilateral approach as existing legislation is inadequate. Consultations and Impact assessments have been completed and deliberations on options will continue in 2008. Links between forest governance and REDD are essential and discussion is underway on how best to ensure strong links between the two initiatives. In response to questions from the audience regarding demand and incentives for FLEGT licenses, Ms. Falconer suggested that price premiums are unlikely to materialize and that the stronger incentive for forest enterprises is perceived demand in the business community for legal verification of forest products.

#### Canadian Government Perspective

*Peter Besseau, Director of International Affairs, Canadian Forest Service*

Mr. Peter Besseau provided a brief overview of the Canadian perspective on illegal logging as well as its relative position in the forest products trade and existing international efforts to address this problem. Canada's own forest resources are not as susceptible to illegal logging as in other countries due to its well-established forest services department, but the country remains concerned about legislation elsewhere, such as the Lacey Act, that could affect the country's trade position. The import of illegal logs is relatively insignificant in Canada compared to volumes imported by the U.S. and the EU. Regardless, Canada continues to participate in international forums such as FLEG, G8, ITTO and numerous others that address issues relating to illegal logging and forest governance. Canada's current policy stance is more concerned with addressing the underlying causes of illegal logging and it believes this issue is best addressed through partnership agreements and capacity building in supply countries. Mr. Besseau highlighted the role of model forests and the International Model Forest Network in providing a framework for communities to become directly engaged in sustainable forest management in ways that empower them in the context of planning and management of forests for community – as opposed to illegal logging - interests. Additionally, he noted that Canada will continue discussions with like-minded countries to explore the feasibility of developing an international convention on forests, as it believes this would be an important tool in addressing this issue.

#### Quebec Wood Export Bureau Auditing and Traceability System: A Canadian Commitment to Responsible Trade

*Carl-Eric Guertin, Responsible Trade Manager, Quebec Wood Export Bureau*

Quebec's forest resources represent 20% of Canada's forest resources, 2 % of the worlds, and more than 40% of Quebec's productive forest resource is certified. In Quebec, governance, law enforcement and legality of sourcing are all well managed, leading to a low-risk log supply in terms of corruption and illegal forest activities. Even though, in order to meet the market demand from both the public and private sectors for verified and legal wood products, Mr. Carl-Éric Guertin presented the Auditing and Traceability System of the Quebec Wood Export Bureau (Q-WEB). Explanations for this include the need to demonstrate Q-WEB members' commitment to responsible trade and the complex process of tracing wood sources for

small and medium forest enterprises, which gets increasingly difficult as we move along the supply chain. Nevertheless, the existence of Q-WEB system help raised awareness amongst it's membership for CoC certification and sustainable forest management in general.

### **Session 3: Update on Legislative Initiatives**

*Chair: Michael Jenkins, President, Forest Trends*

#### **Using Trade Policy to Stop Illegal Logging**

*Judah Ariel, on behalf of Congressman Blumenauer (D-OR), U.S. House of Representatives*

Mr. Judah Ariel, on behalf of Congressman Blumenauer, used his time to speak about the Legal Timber Protection Act, which is the House version of the proposed Lacey Act amendments, and the significance of this bill for addressing illegal logging. The updated version of the Bill, passed by the House Natural Resources Committee, includes changes that make it easier for legally operating companies to report and trade, increasing the incentives for businesses to operate legitimately and legally. Congressman Blumenauer believes the bill is very close to passing as a standalone bill in the House once further amendments are made that address concerns from the biotech industry and nursery businesses that should not significantly weaken the bill. The congressman hopes that the passing of this bill will serve as a model to be replicated for the future; coalition building and negotiations should become a regular vehicle for passing bills on pressing international issues.

Two recent models exist where trade agreements are being used to mitigate illegal logging. The U.S.-Peru FTA is significant in that it provides the U.S. with the ability to monitor the legality of Peruvian shipments of wood. While the FTA has not yet come into force, its effects are already being seen as some of the worst concessions in Peru have already been cancelled. The MOU with Indonesia, whose full effect remains to be seen, and a pending MOU with China, provides the U.S. with a framework for information sharing and cooperation in working with supply countries and manufacturing-heavy countries on clamping down on illegal logging and associated trade.

#### **Revisions of Lacey Act: Implications for Prosecutors**

*John Webb, Assistant Chief, Environmental Crimes Section, U.S. Department of justice*

Mr. John Webb discussed the significance of proposed amendments to the Lacey Act as a tool for the U.S. Department of Justice to address trade in illegal forest products. The proposed Lacey Act amendments, if enacted, would enable federal prosecutors to tackle illegal imports of forest products similar to the way the Lacey Act's various enforcement tools are used against illegal wildlife trafficking. Illegal importers of forest products would face federal enforcement beyond the limited applicability of current federal law to Endangered Species Act or CITES-listed specimens. The Lacey Act is also a crucial diplomatic step to demonstrate to the international community U.S. initiative on illegal logging. In terms of the domestic forest industry, it is likely that U.S. producers will support strict forfeiture provisions for illegal forest products and reject support for a so-called "innocent owner defense" to remove illegal wood from the marketplace. The amendment to the Lacey Act not only opens the Lacey Act enforcement regime to illegal forest products, it also makes prosecution for other offences possible. For instance, by making illegal logging and associated trade a Lacey Act offense, the smuggling statute, 18 U.S.C. Section 545, can be used which in turn opens the door to possible money laundering offenses in appropriate cases.

#### **Update on the Combat Illegal Logging Act (S.1930)**

*Senator Ron Wyden (D-OR), U.S. Senate*

Senator Ron Wyden talked about the combined House and Senate bipartisan effort in advancing illegal logging legislation, such as the Combat Illegal Logging Act in the Senate, and bi-partisan efforts in the Senate to include it in the Farm Bill passed by the Senate. In terms of the political process, Wyden

expressed his satisfaction with the process of the Bills' negotiations and the executive branches efforts to support the cause, which should be a model for future natural resource policy negotiations. He expressed his concern over the timing of the Bill, emphasizing the importance of acting quickly to protect the American forest sector for the future, an industry with a particularly large stronghold in his home state of Oregon. He also noted how environmental NGO's have helped by providing information relating to the severity of the damage that has, and will continue to be done, to natural ecosystems if this issue goes unaddressed. In the future, the Senator will be looking to build upon the work of all those involved with forestry policy, looking to market based solutions for problems such as illegal logging.

Update from an NGO Perspective

*David Groves, on behalf of Sascha von Bismarck, executive Director, Environmental Investigation Agency*

Mr. David Groves talked about EIA's role as part of a coalition working to pass legislation to address U.S. demand for illegally-sourced wood and wood products. EIA's traditional methods involve going into the forest and gathering primary data to expose illegal logging incidences. This work resulted in one of the largest crackdowns against illegal logging to date in 2005, when 1,500 Indonesian officials were sent to Papua Province to address illegal logging of merbau. The operation temporarily dried up the global supply of merbau, but illegal logging resumed after the operation concluded. This case study demonstrated how international demand for cheap wood products undermines even substantial efforts by producer countries to stem illegal logging within their borders. Unfortunately, there is a lack of laws that enable prosecutors in consumer markets to do anything about their nation's import of illegal wood.

Using the Lacey Act to address this void in authority was appealing because it required only a small change to an existing law and was accompanied by an existing enforcement infrastructure. Starting two years ago, incredible effort has been displayed by all coalition members in support of this effort. In March, Congressman Blumenauer introduced a bill that has since been unanimously passed by the Committee on Natural Resources and Senator Wyden introduced legislation in August that is currently attached to the Farm Bill. As the Farm Bill continues to be negotiated, the coalition is looking to move the standalone bill in the House.

The NGO community recognizes that the bill needs to work for industry for it to have its intended effects. NGOs need to assist industry to achieve compliance with the new law, as well as provide information to the enforcement community to complement their great work in implementing it.

#### **Session 4: Post-Bali: Carbon and Forest Governance**

*Chair: David Castels, Director, The Nature Conservancy – Asia Pacific Forest Program, ad Chief of Party, Responsible Asia Forestry & Trade (RAFT) Project*

Update on Bali and REDD

*Kate Hamilton, Associate Director, Ecosystem Marketplace*

Miss Kate Hamilton provided an overview of the UNFCCC conference on climate change in Bali, in December 2007, in particular the progress of REDD through the proceedings and negotiations of this conference. Forestry is becoming an increasingly important topic for those involved in carbon finance and climate change. The Bali conference was a big step forward for REDD (reduced emissions from deforestation and degradation), which is a term that emphasizes the need to reduce deforestation and forest degradation in order to mitigate carbon emissions. As a concept, REDD was widely endorsed by attendees to the conference, but there are several critical issues that still need resolution. First, while there was much agreement over the value of REDD as a concept, uncertainty exists over the precise tools and financial mechanisms to be used in its implementation. As well, the issue of leakage, or displacement of deforestation when efforts to mitigate deforestation are introduced, is still a pressing concern. Additionally, the overarching issue of governance remains a concern in relation to the implementation of effective forest

governance. In addition what remains to be seen is to what degree the mechanism for financing conservation is market based and REDD projects are commoditized. Furthermore, the impact of U.S. domestic climate change policy on the process of developing conservation finance mechanisms remains to be seen.

#### REDD and Forest Governance: Supply and Demand Perspectives

*Jade Saunders, FLEGT support team, European Forest Institute*

Jade Saunders talked about the importance of governance for REDD, risks associated with REDD governance, and lessons that have been learned through the FLEG and FLEGT processes. The issue of control over natural resources is crucial, as governments perceive legitimacy of control over their resources differently. This may result in divergence in the way governments seek to address the drivers of deforestation. In terms of governance risks from a climate perspective, poor law enforcement and inequitable revenue distribution contribute to a climate where poverty driven illegal activities persist. With these issues unresolved, there is more risk involved and less incentive for investment in REDD activities. There are also general governance risks for REDD implementation, such as whether the UNFCCC is an appropriate forum for REDD governance measures internationally, the degree of centralization or decentralization of REDD governance at the national level, and whether there are adequate incentives for politicians to make the necessary long-term commitments for REDD to be successful. The FLEG processes have revealed several areas that should be clarified in order to facilitate the implementation of REDD. Clarity of legal definitions, perceived legitimacy of the political process, donor coherence and commitment, independent verification and institutional capacity are all issues that need to be addressed. Furthermore, lessons from FLEGT demonstrate how demand for REDD accounts for at least 50% of the solution and that the FLEGT action plan – public procurement, legality licensing, private sector initiatives – is a crucial step in preparing the institutional framework for REDD.

#### **Session 5: Use of Market Based Instruments**

*Chair: Alex Moad, Assistant Director for Technical Cooperation, USFS International Programs*

#### China: PEFC Certification and the Combat against Illegal Logging

*Benson Yu, China Initiative Director, Program for the Endorsement of Forest Certification Schemes*

Mr. Benson Yu provided an overview of PEFC's program in China and their efforts to address the issue of illegal logging. PEFC was established in 1999 to promote third party certification and provide assurance for purchasers of forest products. In terms of illegal logging, PEFC has a clear definition of what constitutes a "controversial source." Acknowledging the fact that it is not feasible to have a "full" CoC for the supply chain of uncertified sources, PEFC requires that all CoC certified companies maintain control over uncertified sources, seeking to control risk and procurement of controversial sources where possible. This is done through a three step process of supplier self-declaration, risk analysis, and 2<sup>nd</sup> or 3<sup>rd</sup> party verification. PEFC's involvement in China began officially in October 2007, and it currently works with Government, NGOs and actors along the supply chain to promote CoC verification, certification and sustainable forestry in general. Certification in China is currently accomplished by PEFC, FSC and CFCC, and a total of 380 companies – totaling 576,000 hectares - have achieved certification.

#### Legality Verification: What Should Voluntary Programs for the Private Sector Include?

*Jeff Hayward, Verification Services Manager, SmartWood Program*

Mr. Jeff Hayward talked about the need for verifying the legality of wood sources and the structure of a voluntary legality verification system. The demand for verified legal wood is growing as forest policies with many large businesses, such as Citi, IKEA, Kingfisher, and members of the WWF Global Forest Trade Network, make this a requirement. There needs to be more on the ground verification to ensure

these businesses can follow through with their commitments; emphasizing the crucial role consuming nations have to play in this. There are two tiers, from an auditing perspective, to the definition of legality: Verified Legal Origin (VLO) and Verified Legal Compliance (VLC). VLO should be a first step towards full certification whereby the legal right to harvest is established, planning approvals are met, fees and taxes are paid and the CoC monitoring system is in place. The second step, VLC, should include adherence to harvesting regulations, environmental regulations, trade regulations, social and labor regulations and control over unauthorized activities. In order to implement a credible verification system, several procedures and policies must be taken into account, such as the establishment of a robust CoC, regular and frequent auditing, strict control of claims and communications, clear public reporting on performance, and respect of customary rights. As well, the governance procedures of legality programs are important, such as the inclusion of stakeholders in the development of standards, having time-bound limits for participation (before more progress towards responsible forestry needs to be shown), dealing with corruption and poor forest governance issues, and, hopefully, reaching consensus on accreditation of a common legality standard. Moreover, voluntary programs should be based upon country specific standards, tailored to suit individual country legal contexts.

Citigroup's Environmental and Social Risk Management Policy

*Courtney Lowrance, Vice-President for Environmental & Social Risk Management, Citigroup*

Miss Courtney Lowrance discussed Citi's policy, as a financial institution, in relation to illegal logging. Citi has an anti-illegal logging policy that is a core component of its broader Environmental and Social Risk Management (ESRM) Policy. Citi's ESRM Forestry Sector Standard operates on two key levels: the client level and the transaction level. Specifically, their policy covers what are called Forest Product Obligors, or customers who are involved in logging or primary processing of timber (including milling of logs for pulp, paper, sawnwood, plywood or veneer). These companies are evaluated using specific criteria regarding their operations, such as evidence of a sound sustainable forest policy and their position against illegal logging. For companies operating in what Citi deems to be "high risk" countries, companies are required to participate in an independent certification scheme. Based on its implementation experience, as a financial institution, Citi has greater leverage with clients in corporate and project finance, and less so in the capital markets. Citi has in the past withdrawn its engagement with a company when the client could not or would not verify that it was not involved in illegal logging operations. Citi believes establishment of clearer guidelines on what constitutes "legal and illegal" in the Forestry sector would provide clarity and help the financial community's approach in this sector.

### ***Session 6: Trade Agreements***

*Chair: Edgar Maravi, Natural Resources Specialist, World Bank*

Peru Free Trade Agreement: Impact and Challenges in the Peruvian Forest Sector

*Lucila Pautrat, Environmental & Forestry Specialist, Peruvian Public Ombudsman's Office (Defensoria del Pueblo)*

Ms. Lucila Pautrat gave an overview of the impact of the U.S.-Peru FTA on the Peruvian Forest Sector. In June 2007, the respective governments agreed to amend the Agreement on Commercial Promotion, specifically annex 18.3.4, the Forestry Addendum. The Peruvian government agreed to strengthen its forestry sector and control illegal logging through the use of various pieces of national legislation and international law, such as the CITES convention. Peru has many problems with illegal logging; as much as 60% of the Mahogany and Cedar exported from Peru is illegal and as much as 34% of the timber concessions inspected by the National Institute of Natural Resources (Instituto Nacional de Recursos Naturales - INRENA) between 2004 and 2007 did not meet government regulatory standards.

Until this moment, INRENA has not ratified the provisions in CITES that relate to Mahogany, even though it has been a signatory to this convention since 2002. As the social, environmental and economic ramifications of illegal logging violate the rights of Peruvian communities and are detrimental to the

countries natural ecosystems, the Peruvian government needs to continue to work towards harmonizing its domestic law and policies with international agreements and to strengthen its capacity to monitor the forestry sector. One possible solution recommended by the Peruvian Public Ombudsman's Office is the creation of a Vice-Ministry of Forestry.

*\*Remaining summaries of speeches from this session pending authorization*