Supporting background to Just Forests' formal submission/complaint to DG-Environment on the continued (and verifiable) use of Illegally-logged timber in Ireland originating in tropical and other regions outside the EU.

China has become a major player in the international timber trade during recent years. EU imports of products from wood and paper from the People's Republic almost tripled between 2003 and 2006 (from 4 million m³ to 11.5 million m³). China itself imports the greater proportion of the wood used to manufacture these products from so-called high-risk regions such as the Far East of Russia, South-East Asia and Africa, with a high probability of illegal origin. China's imports of red canarium and bintangor tend to be supplied from PNG and therefore warrant classification as Illegal Timber (as per the advice of the UK's Timber Trade Federation and others). [1]

EU FLEGT Action Plan

In 2003 the EU adopted an action plan to combat illegal logging and the associated trade (FLEGT –Forest Law Enforcement, Governance and Trade). Licensing regulations in the framework of Voluntary Partnership Agreements (VPAs) with producer countries seek to exclude illegal timber from being imported into the EU. Negotiations to reach these agreements are being undertaken or prepared with Indonesia and Malaysia as well as with a number of timber exporting countries in Africa. VPAs were recently signed by Ghana and Congo Brazzaville. However, the findings of Just Forests' research show that, even if all foreseen FLEGT partnerships are agreed and successfully implemented, more than 90% of the overall imports of illegally logged wood will still enter the EU.

This is due to a number of shortcomings in the regulation. No negotiations are planned with the most relevant producer and transit countries (e.g. Russia, Brazil, China, Eastern European countries) and many products that are manufactured from illegal wood are not covered by FLEGT regulation (e.g. furniture and other ready processed wood products or paper which account for a substantial proportion of some candidate countries' wood-based product exports to the EU). Using the simplest of devices, e.g. milling a groove in a piece of wood, it is possible to re-declare sawnwood as 'profiled' wood and thereby circumvent FLEGT regulation.

Additional legislation needed: EU-wide ban on trading in illegal wood

While traceability systems to reduce illegal timber imports are already in place by some of the major forest industry companies in Europe, e.g. in Finland, additional legislation at EU level is urgently required to ensure that only wood and paper products from legal sources are traded – with an obligation to provide proof for processors as well as traders. This is the only way to exclude illegal timber sources with processing and import through transit countries and to stop commercial illegal logging in EU Member States. A legal origin is only a first step towards sustainable provenance from ecologically and socially responsible forestry management. Consumers and companies already have the option today of using the Forest Stewardship Council (FSC) certification, which guarantees both the legality and sustainability of products. Under its (very open ended) Forest Law Enforcement Governance and Trade initiative, the European Commission has started to negotiate bilateral voluntary partnership agreements "VPAs" with a handful of the countries which account for a substantial proportion of the EU's imports of Illegal Timber.[2] The legality licensing schemes which are being developed under this initiative could become models for other importing countries (and producer countries) to adopt – particularly if they are simple, have sustainability as their primary focus, and involve local stakeholders. More importantly, the initiative will encourage the laundering

of Illegal timber through third countries – especially China - until such third countries also have comparable agreements with the EU.

Although research into additional legislative options has been carried out, there is little to show that any new legislation will follow. A variant on the USA's Lacey Act seems to offer most potential. In the mean time, importers can import Illegal Timber almost without fear of conviction.[3]

Certification

Perhaps the best way at present to ensure that one's timber purchases derive legally from sustainably managed forest is to ensure that they are credibly certified as such. In some countries, certification does not rely on improved governance, enhanced administrative capacity, new laws or law enforcement. It merely reflects sound long term management and compliance with relevant law. Elsewhere however, vested interests might be so powerful or the law might be so inequitable[4] that establishing credible certification is problematic. Further, even the most established certification schemes are still evolving and are not immune from criticism.

Due Negligence - The case for stronger EU legislation on illegal timber[5]

Nearly five years after the launch of the Forest Law Enforcement Governance and Trade (FLEGT) Action Plan, the European Commission (EC) in October 2008 finally issued a proposal for a regulation "*laying down the obligations of operators who place timber and timber products on the market*".
EIA believes that in its current form the proposal is seriously flawed. It fails to prohibit the import and sale of illegally-logged timber, resulting in wood products made from stolen timber remaining available on the market.

Main Flaws at a Glance

1. **Failure to prohibit illegal timber in the EU market.**
   Instead of prohibiting it, the EC proposal permits continued trade in illegally-logged wood within the EU market – failing to address the "*weak rules to prevent trade in illegally harvested timber*" cited in the proposal as the key driver for illegal logging.

2. **Proposed due diligence systems are vague, limited in coverage, and lack common and dissuasive penalties.**
   a) Uncertain legal obligations: the proposal fails to adequately define or lay down clear and common rules on systems and monitoring of "due diligence" that will be applied equally across member states.

   b) Limited company coverage: the due diligence systems proposed are restricted to only the first company to place timber on the EC market – effectively exempting the majority of the EU timber trade.

   c) No clear and common sanctions: the proposal fails to define any EU-wide deterrent penalties.

3. **Unacceptable product exemptions and implementation delays**.
   The proposal exempts wood used for energy production and also states that the regulation will not be applied for a full two years following passage into law.

Solutions at a Glance

The proposed regulation should be amended, by:

1. **Including a general prohibition on the placement of illegal timber in the EU market, with EU-wide sanctions for infringement**.

2. **Strengthen the requirement for due diligence measures applicable to all EU companies in the supply chain**

3. **Remove unjustified product category exemptions, and ensure the regulation applies from the date of final agreement by the Council of Ministers**

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Just Forests' references:

[1] Email from Globaltimber .org.uk -26/06/2009

[2] Cameroon, Gabon, Ghana, Indonesia and Malaysia (– but not China, Russia or Brazil, which, together, probably supply the EU with a greater quantity of Illegal Timber).

[3] http://www.illegal-logging.info/papers/RIIA_EU_control_of_imports.doc and http://www.illegal-logging.info/papers/Illegal_logging_legal_opinion_March_06.doc

[4] http://www.illegal-logging.info/papers/CIFOR_Justice_in_the_Forest.pdf

[5] Due Negligence – An EIA Report -http://www.illegal-logging.info/item_single.php?item=document&item_id=702&approach_id=26