



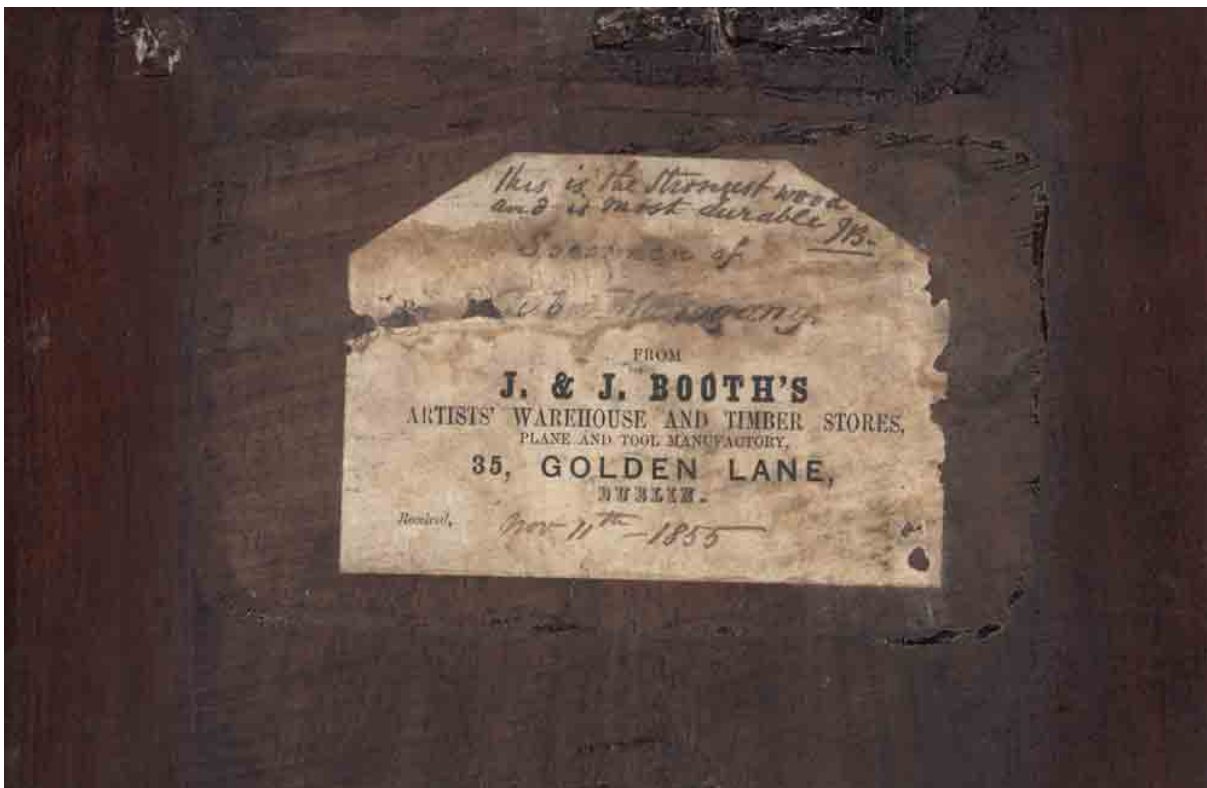
Policy submission
on
'Wood Procurement'
by
Just Forests
in response to a
public consultation
call on a:
*'Discussion Paper-
Towards a National
Action Plan on Green
Public Procurement
May 2010'*

Date of this submission:
31st August 2010



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For centuries, Ireland has imported tropical timber from all over the world. This is probably the first sample of Cuban “Spanish” Mahogany to come into Ireland in 1855. (see the hand-written note)

2011 - International Year of Forests – 2011

Putting a ‘Wood Policy’ in context

2011 has been declared the **International Year of Forests** by the [United Nations](#).^[1] to raise awareness and strengthen the [sustainable forest management](#), conservation and sustainable development of all types of forests for the benefit of current and future generations.

[Forests](#) are an integral part of global [sustainable development](#). According to [World Bank](#) estimates, more than 1.6 billion people depend on forests for their livelihoods. The forest product industry is a source of economic growth and employment, with global forest products traded internationally in the order of \$270 billion.

The UN’s [Food and Agriculture Organization](#) (FAO) estimates that every year 130,000 km² of the world's forests are lost due to [deforestation](#). Conversion to agricultural land, unsustainable harvesting of timber, unsound land management practices, and creation of human settlements are the most common reasons for this loss of forested areas.

According to the World Bank, deforestation accounts for up to 20 percent of the global [greenhouse gas emissions](#) that contribute to [global warming](#). FAO data estimates that the world's forests and forest [soil](#) store more than one trillion tons of carbon – twice the amount found in the atmosphere.

The World Bank estimates that forests provide [habitats](#) to about two-thirds of all species on earth, and that deforestation of closed [tropical rainforests](#) could account for [biodiversity](#) loss of as many as 100 [species](#) a day.

According to the [International Union for the Conservation of Nature](#) (IUCN) and the Global Partnership on Forest Landscape Restoration, “Across the globe lie more than a billion hectares of lost and degraded forest land that could be restored”.

2010 – International Year of Biodiversity – 2010



Introduction

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**21 Years of education for sustainable development (ESD)
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For two decades Just Forests has endeavoured to highlight the urgent need for Irish society to source their timber need from responsibly-managed forests worldwide. We have brought the matter of '*responsible timber sourcing*' to numerous government departments, state agencies, local authorities and professional bodies. We have also provided development education (DE) and education for sustainable development (ESD) to the Irish public and the schools system through our very popular hands-on, travelling exhibition –Wood of Life.

Later this year we will launch our new 'Good Wood Guide' for construction studies/woodwork teachers.

Ireland has a particular responsibility for deforestation and illegal logging. Inadequate forest cover in Ireland has made us very dependent on other countries for our timber/wood product needs. Economic development and consumption in this country is very much dependent upon natural resources from other parts of the world, in particular some of the poorest countries of Africa, Latin America and S.E. Asia. This is particularly true for timber. Most of the logging in tropical and boreal regions focuses on high-value trees that are exported for consumption in Europe and Asia.

While China's imports of tropical timber is skyrocketing, only half of it is actually consumed in China, the other half is re-exported to EU countries, like Ireland, and US markets in the form of wood products (plywood for hoarding, flooring, furniture, etc). As a global consumer, trade partner and investor, Ireland has an obligation to consider the impact of its policies and actions on sustainable development. It also has the responsibility to promote equity in the use of forest resources.

All observers are in agreement that 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 Papua New Guinea (PNG) and therefore warrant classification as Illegal Timber (as per the advice of the UK's Timber Trade Federation and others). 1

New EU Legislation:

In June 2010, representatives of the European Commission, Council and Parliament reached agreement on the text of legislation designed to remove illegal wood from European trade. On July 7, the European Parliament voted overwhelmingly in favour of the agreed text, thereby removing the last major hurdle to passage of the legislation. It is now expected the European Council will rubber-stamp the text and formally accept it into European law in

September or October 2010. Member states have until 2012 to put proper 'due diligence' systems into place to ensure they comply fully with the new law.

The Importance of Wood:

When people admire wood and wood products, they rarely think for a moment of the country of origin of the forest from which the wood is taken. Nor indeed do they think of the conditions in which the population of that country live or the damage caused to their environment by the destruction of their forests. Nor do they realise that the accumulated destruction of forests in all countries is contributing in a massive way towards overall global warming.

WOOD is one of the earth's most versatile and probably most familiar natural raw materials and the important role it plays in our daily lives often goes unnoticed. Each day millions of people around the world derive their livelihoods working with wood. The quality of our lives has been greatly enhanced because of this wonderful resource.

ITS MYRIAD OF USES is staggering. Wood, in its easy to recognise natural state provides us with furniture, building components, musical instruments, sporting equipment, household utensils, etc. In its altered (processed) form its role is not so obvious, yet it is there, under the guise of paper, fabric, glue, alcohol, rubber, food medicine, etc.

IN MANY DEVELOPING COUNTRIES fuelwood is the major source of energy, supplying as much as 97% of total consumption. Already millions of people in Africa experience dreadful hardship on a daily basis in their search for fuelwood just to boil water to render it suitable for drinking. Over the coming years 3 billion people worldwide will face acute fuelwood shortages as this dwindling resource disappears from traditional fuelwood sources.

“One of the ways we can promote sustainable development is to highlight the links between deforestation and global poverty... Irish Aid is committed under its environment policy to ensure that climate change and other environmental challenges are responded to and this is why it is one of our four priority issues that cut across the work of all our programmes.”

Michael Martin, Minister for Foreign Affairs

Mission: The 'development' rationale of Just Forests programme pivots around a number of key issues and challenges: wood and poverty, wood and energy/firewood, wood and livelihoods/construction, wood and health, wood and education, wood and biodiversity, wood and sustainability, wood and climate-change, wood and art/music, wood and sports, wood and conflict/war, wood and politics, wood and waste and wood and economic development/industry.

Background paper for this submission

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The following is taken from ‘Section 9’ (pages 34, 35, 36 and 37) of the ‘Discussion Paper- Towards a National Action Plan on Green Public Procurement May 2010’ and forms the basis for this submission.

9. Wood procurement

9.1 The long-term aim of the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan is sustainable forest management. As an indispensable first step, Ireland and the other EU Member States are taking steps to ensure that all timber imported into the EU derives from a legal source. The FLEGT Briefing Note number 2ⁱⁱⁱ outlines some of the difficulties in defining “legal” timber. These include the wide variety of legal regimes in countries exporting timber to the EU, the large number of laws affecting timber trading in each country (not all of these laws being equally relevant or consequential); and the inconsistencies and contradictions sometimes found between some of these laws, decrees of government departments etc. In addition, “existing forest laws in some countries may exclude local people from access to forest resources, forcing them to operate illegally to meet their basic livelihood needs; or compliance may be beyond the practical means of small forest operators”.

9.2 Nonetheless, the FLEGT Briefing Note number 2 proposes that “legal” timber would embrace the following elements:

- “Granting of and compliance with rights to harvest timber within legally-gazetted boundaries;
- “Compliance with requirements regarding forest management, including compliance with relevant environmental, labour and community welfare legislation;
- “Compliance with requirements concerning taxes, import and export duties, royalties and fees directly related to timber harvesting and the timber trade;
- Respect for tenure or use rights to land and resources that may be affected by timber harvest rights, where such rights exist;
- “Compliance with requirements for trade and export procedures”

9.3 The FLEGT Action Plan defines a timber licensing system to guarantee the legality of imported wood products in order to obtain the license. The lynchpins of this licensing system are the Voluntary Partnership Agreements, signed between third country timber-producing countries and the EU. While guarantees of legality are worthwhile and positive results of the FLEGT process, they do not necessarily advance the situation with regard to the sustainability of the wood procured.

9.4 One of the most significant achievements at the Copenhagen summit in December 2009 was the agreement to establish a so-called REDD+ (Reducing Emissions from Deforestation and Forest Degradation) mechanism^{iv}, which puts a value on living trees and provides finance (US\$3.5 billion over three years) to developing countries to reduce deforestation. While this will help to reduce the supply of unsustainable timber, public procurement policy in Ireland should seek to make a difference in terms of demand. It is not solely the demand for unsustainable timber that continues

to imperil the world's forests. It is estimated that one in ten products on our supermarket shelves contains palm oil, which is often harvested on land recently cleared of forest.

- 9.5 From April 1st 2009, public procurers in the UK have been obliged to demand that wood products must be from independently verifiable legal and sustainable sources of FLEGT- licensed timber: “The policy is mandatory for all central government departments, executive agencies and non-departmental public bodies. It also applies to other public sector bodies, such as local authorities, who have voluntarily adopted the policy. The requirements apply to all timber and wood-derived products used on the government estate, such as paper, furniture and construction timber, including temporary site works and material supplied by contractors^{iv...}” Of interest also are the social criteria contained in the UK Government’s timber procurement contracts, as part of its definition of sustainable timber. These oblige public procurers in the UK to take into account tenure and use rights, means of resolving grievances and dispute, and safeguarding the basic labour, health and safety rights of forest workers – as an integral part of what is sustainable. As part of their GPP processes, Denmark, the Netherlands and other EU countries have also established criteria for sustainable timber.
- 9.6 In Germany, the Federal Government can only buy wood certified as being from sustainably-managed forests. With regard to the potential legal issues to this approach, Germany, France and Denmark take the view that these criteria are linked to the subject-matter of the contract, through the right of public procurers to ask for legally-produced goods. As such, it is possible to require compliance with laws affecting very broad areas related to the harvesting of timber, such as social criteria related to the payment of fair wages and respect for certain working conditions regarding protection of health and safety. These criteria directly refer to the work of harvesting timber. They are also covered by the ILO Conventions, compliance with which is recognized as a potential contract performance clause in EU Directive 18 of 2004. It is similarly possible to exclude tenderers who use child labour.
- 9.7 It is estimated that over 80% of timber used in Ireland is sourced from Irish or European forests. Both the Forest Stewardship Council^{vi} and the Programme for the Endorsement of Forest Certification^{vii} – forest certification bodies which provide certification as to the sustainable management of forests – are well established in Ireland. The forests managed by Coillte have been certified by the Forest Stewardship Council since 2001^{viii}. The Programme for Endorsement of Forest Certification Schemes comprises some 35 independent national members and over two million hectares of forest certified. PEFC (Ireland) Ltd was incorporated in 2009. Tender documentation could thus specify certificates for chain of custody for the wood – FSC, PEFC or any other authoritative certification scheme – provided that any other equivalent means of proof is also accepted. This is already the case where the Office of Public Works is concerned. The OPW requires that all wood used for construction in its projects is legal and sustainable, in accordance with the EU Action Plan for Forest Law Enforcement, Governance and Trade, cited above. Endangered species designated by the Convention on International Trade in Endangered Species

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of Wild Fauna and Flora (CITIES) should not be used. Contractors are also required to demonstrate their compliance with these timber sustainability requirements, for which the OPW accepts a number of the existing commercial certification systems for verification purposes. Furthermore, contractors must employ good environmental practice on site vis-a-vis waste reduction, waste recovery, minimisation of packaging, recoverable packaging materials, control of environmental emissions, product design, and the efficient use of materials and transport. The OPW also requires contractors to take measures to limit occupational exposures; and asks that materials used be locally sourced where possible.

36 Can the OPW's wood specification be used as a model of best practice for all public bodies engaged in construction procurement? Are there other examples of public authorities contracting for either legal or sustainable wood? Is it reasonable for this to be made mandatory?

Just Forests Submission:

Just Forests have been calling for a National Timber Procurement Policy for a number of years. As a support to the above EU initiative our particular approach is to have all timber specifiers, including local authorities in Ireland adopt a responsible timber procurement policy. Please note one important emphasis to our proposed timber policy in the Introduction page- which states: *"Timber is to be preferred as the most environmentally or climate change-friendly construction material in comparison with alternatives such as concrete, stone, PVC etc and should be the material of choice in all major construction projects". (Policy paper referred to above is available on request).*

Why is this emphasis on timber as the 'preferred' construction material so important to Just Forests? While we agree that illegal logging is one of the most important direct drivers of deforestation-as it also undermines forest governance and sustainable forest management-it is not the only driver. After much discussion with other parties, in my opinion it is not primarily illegal logging that is causing tropical deforestation. Illegal logging in tropical forests involves selectively cutting valuable timbers, a process which can damage the forest, but does not eliminate it. What eliminates the forest is something altogether different. Deforestation is primarily caused by the fact that sustainable logging is not economically competitive with other land uses such as soybean, palm oil, cattle ranching and other smaller scale agriculture. So people are clearing virgin and logged forests for agriculture.

This is a big issue – and Just Forests is delighted to see that your document acknowledges that illegality of timber harvesting is not the only driver of deforestation. Trumpeting the illegality aspect only can make people think that a sensible option is to boycott hardwood timber-this is not what Just Forests wants. This is the worst possible consequence, because it means demand and therefore price falls for these valuable timbers. This means that those attempting to manage the forest sustainably can't break even. The forest therefore becomes 'worthless' and is quickly cleared for

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something that will make money. Just Forests would like to see the matter of appropriate land use reflected much more strongly in legislation- and through a 'Wood Policy'. Though we recognise this, like the issue of timber as a 'preferred' construction material is a matter for inter-departmental discussion.

Also, Just Forests recognises certification as a good tool for encouraging better forest management, IF it encourages people to buy timber from sustainable sources. But if on balance people think - 'timber is rather complicated - I'll go with concrete buildings and PVC window frames' then we have lost on two counts. First, the resultant construction is much less climate friendly (see attached briefing sheet for Nordic Timber Council which you may feel free to circulate or print). Second, the economic incentive to manage forests sustainably disappears in the tropics in favour of land use alternatives such as soybean, palmoil and cattle ranching. On balance, Just Forests would rather the illegal loggers made money - who at least COULD manage the forest sustainably one day - rather than the soybean farmers, who will never manage forests even if paid for carbon sequestration services/sinks etc. So, we would see independent forest certification and 'due diligence' as mutually supportive in the fight against illegal-logging and deforestation.

Ireland/EU has a particular responsibility for deforestation and illegal logging. Economic development and consumption in this country is very much dependent upon natural resources from other parts of the world, in particular some of the poorest countries of Africa, Latin America and S.E. Asia. This is particularly true for timber. Most of the logging in tropical and boreal regions focuses on high-value trees that are exported for consumption in Europe and Asia. While China's import of tropical timber is skyrocketing, only half of it is actually consumed in China, the other half is re-exported to EU countries, like Ireland, and US markets in the form of wood products (plywood for hoarding, flooring, furniture, etc). As a global consumer, trade partner and investor, Ireland has an obligation to consider the impact of its policies and actions on sustainable development. It also has the responsibility to promote equity in the use of forest resources. The following bullet points from your document still raises major concerns unless '3rd Countries' such as China are part of the solution.

- **How does this proposal deal with potential circumvention under the FLEGT VPA scheme?**

'The proposal foresees that the operator is deemed to have fulfilled his obligation with regard to timber and timber products that are FLEGT licensed, by the simple fact to have obtained these licenses. As regards imported products the FLEGT Regulation stipulates that FLEGT VPA countries only have to certify that these products have been legally imported. The Council at that time deemed it to be excessive to require FLEGT VPA countries to judge on the legality of the logging and production processes in 3rd Countries[like China/India]. As a result of this decision there may be possibility of circumvention. The Commission is trying to address this issue in the FLEGT VPA negotiations.'

- **Option 5 concerns-page 9, Regulation proposal OCT08 illegal_logging.pdf**

'There were also concerns about the fact that option 5 does in fact not prohibit the placing on the market of illegally harvested timber and derived products but instead requires timber operators to show sufficient care in ensuring that they do not place illegally harvested timber on the market. However it was recognised that the proposed measures, by relying on the responsible operators have the potential to induce permanent and implementable changes in the EU timber market and are therefore able to deliver better solutions to the challenging problem of illegal logging and related trade.'

However, Just Forests believes *that the* adoption of the above named EU timber proposal/legislation would have positive knock-on effects globally and fairly quickly. Within China, it would stimulate and expedite adaptation to EU requirements and lead to improvements in Ireland's timber import requirements and enforcement. Just Forests fully supports the above named EU timber proposal/legislation and wishes you well in its early and speedy adoption and implementation at National and EU-wide level.

What is needed now?

Wood-fuel for energy:

Ireland is one of the least forested countries in the temperate world. Only about 11% of the land area is covered by trees. Simply planting more trees would have value: they will soak up CO₂, reduce the risk of catastrophic flooding in times of intense storms, and possibly help reduce summer peak temperatures. Possibly thousands of local people would be employed planting and looking after the trees. But the even more important objective is to reduce fossil fuel use by replacing coal and gas. In other northern countries, wood-fuel provides a substantial fraction of total heat needs through district heating systems that burn the wood in central plants and then distribute hot water to local homes. This replaces the need to use gas or oil. Increasingly, these wood-fuelled heating plants are also generating electricity as well using turbines. Ireland could aim to install thousands of small-scale wood-burning (or, more likely, wood gasification) plants dotted around forested areas feeding energy into the National Grid.

Import Substitution & Overseas Development Assistance (ODA):

Planting a greater volume of quality hardwood trees in Ireland will help offset our reliance on imported hardwoods. This particular practice carries a very heavy carbon, environmental, economic and social footprint especially for developing countries. Here in Ireland we keep hearing about the rapid loss and degradation of forests worldwide, yet we rarely grapple with how

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this affects the 1.8 billion people who depend on these forests and woodlands, where a healthy ecosystem means food, medicine, fuel and often a livelihood which leads them out of poverty. Denied the social safety nets that many of us in the rich countries like Ireland take for granted, the rural poor rely heavily on wild resources, which are often under threat.

For almost 3 billion people in both developing and developed economies wood is the primary source of energy for heating and cooking. The planting and management of trees here in Ireland to meet our own energy needs and with excess to export will create hundreds of jobs in Ireland with minimum financial outlay.

Attitudinal change to wood is urgently needed:

It is also important to emphasise that global populations are growing steadily and within the next 20 years we will have over 9 billion people on the planet. Therefore we must as a matter of urgency initiate a programme of public education that instils a greater appreciation of forest resources with an emphasis on attitudinal change towards natural resources and their significance in our lives.

Wood & Waste

As a means of helping to deal with the high volumes of wood waste generated by our consumerist society Just Forests recommends the following Good Wood Tips:

Repair – doors and windows often only need repairs or modifying rather than costly replacement

Restore – have your furniture re-polished and restored

Refurbish – renovate and redecorate your existing home instead of building a new one

Reclaim – if you must demolish a building reclaim useable timbers and wood products

Recycle – pass on your unwanted furniture to a local charity for distribution to those in need

Reuse – use used envelopes again and again. Write on both sides of paper when possible

Refuse – do not accept timber and wood-based products from non-certified forests

Rethink - where possible always give preference to locally-grown timber and avoid using illegally-logged and endangered tropical woods

Replant – support local, national and international tree planting initiatives

Education & Awareness

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Just Forests also recommends that all schools are encouraged to visit the Wood of Life exhibition and engage with our Just Music project. See www.justforests.org for more on this.

Role of Competent (implementing) Authority

The Irish government must designate one or more competent authorities (CA) that will be responsible for the application of this Regulation. The CA is in turn responsible for the recognition of monitoring organisations which, to ensure consistency and transparency, will involve a consultative process involving all government departments. The CA must carry out checks on the monitoring organisations to ensure their systems comply with the regulation. Competent authorities will also carry out checks on operators and will apply penalties where applicable. These powers and responsibilities must be elaborated upon within the implementing regulation.

The Office of Public Works (OPW) Sustainable Timber Requirements document attached to this submission is not a suitable ‘model of ‘best practice’ for all public bodies...’

Your Question is: *36. Can the OPW’s wood specification be used as a model of best practice for all public bodies engaged in construction procurement? Are there other examples of public authorities contracting for either legal or sustainable wood? Is it reasonable for this to be made mandatory?*

- **No! Not in its present format.**
(See page 22 for a copy of their Wood Specification/Environmental Policy)
- **Yes there are other examples of Public Authority wood procurement policies that can be used**
- **Yes it is ‘reasonable’ and essential [for timber policies] to be made mandatory**

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**Just Forests submission to The Forest Service (Friday, August 28, 2009),
much of which forms the basis of this submission and is still relevant to this
submission**

Submission Regarding the Consultation on a European Commission Proposal for a Regulation of the European Parliament and of the Council, laying down the obligations of operators who place timber and timber products on the market¹

1) Are you content that the costs and benefits reflected in this consultation impact assessment reflect the actual costs to your organisation? Please provide any evidence of further potential costs and benefits.

Just Forests considers that the impact assessment study carried out by the European Commission was comprehensive and sound enough to support this legislative proposal. However, we regret that the environmental costs of ecosystem loss resulting from illegal logging have been largely disregarded in this study.

To our knowledge there has been no consultation impact assessment carried out in Ireland. With regards to the UK consultation impact assessment, we support our UK associates findings. They did not find the assessment particularly helpful in terms of indicating actual costs. They also found that there was a huge range in estimated costs and wide variation in the assumptions that were taken to assess these costs. They concluded that it was difficult to assess what the actual costs would be.

2) Are you content that a prohibition on the placing of illegal timber on the Community market for the first time would strengthen the Regulation in a proportionate and appropriate way?

A key strength of the Regulation is that for the first time it requires the operation of a due diligence procedure in order to manage risk. As the regulation currently stands after the European Parliament vote, it is an offence to have knowingly, recklessly or negligently failed in operating a due diligence procedure. These offences apply not only to those first placing illegal timber and wood products on the Community market, but also to those making such products available in the market place. It is not currently an offence to be in possession of illegal timber and wood products in the first place.

¹ This submission is based on the EC Regulation, not on the current version of the Regulation, as voted by the European Parliament.

Just Forests recently wrote to the EU Commissioner for Consumer Affairs requesting her to make it an offence to sell wood-based products that derive from illegally-logged timber. Irish/EU consumers of wood-based products have a right under EU law to guarantees that the furniture they buy is not the proceeds of illegal-logging operations and is not contributing to species extinction.

Just Forests also believes that focusing a prohibition only on the placing of illegal timber on the Community market, (if such a prohibition can be agreed upon), would not be appropriate for this legislation and that it would also have to cover those making such products available in the market place. It could be argued that if the importer has complied with the regulation, there will be no problem further up the supply chain. This may not necessarily be so. It may sometimes only be possible to detect illegal timber after the products have already been sold onto the EU market.

If a retailer is tipped off that the products already purchased are in fact illegal timber, failure to cover the full supply chain means that this retailer would be under no obligation to address the matter. This undermines the aim of this regulation which is to, “detect and deter trade in illegal timber”. There does not seem to be a clear policy reason to exempt all subsequent traders from any due diligence obligation, or to limit the ability of enforcement authorities to deal with illegally harvested timber once it is sold on (unless they can rely on existing laws). This is very different to the CITES regime where any commercial dealing is caught to some extent, depending on the list of the species concerned.

Obviously the intention of extending the accountability throughout the supply chain is focused on ensuring that deliberate, large scale fraud is no longer possible.

3) Are you content with the scope of the current proposal, which covers only those operators who first place timber on the EU market?

No. This regulation should apply not only to those who first place timber on the EU markets but also to all those who make timber and wood products available in the market place. The obligation to exercise due diligence should be extended to all operators to ensure full traceability from forest to retailers. Unless all operators are included, the risk of illegal timber or timber products being sold to consumers would seriously increase.

In addition, we believe the Council and the European Parliament should strengthen and clarify the criteria and principles which define an effective due diligence system and require

operators (traders, commercial entities, etc) to introduce a sufficient ‘due diligence’ system within a specified time frame. Operators need legal clarity and certainty on how to comply with the law. Strengthened criteria would include, for example, requirements for operators to:

- ensure the legality of timber products throughout the supply chain by means of a traceability system and third party verification, at least at the point of entry.
- provide on the spot documentation (where deemed necessary) to prove the legality of their timber or timber products, with information on the country of origin (meaning where the timber was harvested and not where it was last processed), concession, species (scientific name), volume, value and weight, the supplier operators who have been involved in supplying the timber or timber products, and those who will be supplied with these products. As the timber/timber product progresses through the supply chain, it would be the responsibility of those at each step to keep a record of who has supplied the timber/timber product and who it is sold on to. This means that a product can always be traced back to its point of entry into the EU and is our preferred approach.

Refined methods of timber identification can now ensure that if fraudulent or inaccurate paper work is suspected, spot checks can be done on species or even potentially country of origin and concession (e.g. through isotope tracking – such methods are currently being used to check on the veracity of organic farming claims).

4) Are the definitions of ‘operator’, ‘placing on the market’, and ‘risk management’ clear in their coverage?

No. We suggest the following changes:

Operator:

The definition should be changed to mean any natural or legal person that places or *makes available* timber on the market place.

Placing on the market:

The definition should include the first making available of timber and timber products on the Community market; subsequent processing and distribution of timber does not constitute 'placing on the market'.

Risk management:

The definition should be changed to include *the systematic identification of risks and the implementation of* a set of measures and procedures carried out by operators in order to minimise the risk of placing illegally harvested timber and timber products on the market. It should also include activities such as collecting data and information, analyzing and assessing risk, prescribing and taking action, and regular monitoring and review of the process and its outcomes, based on international, Community or national sources or strategies. Therefore it should define what a risk management procedure consists of;

- how this is to be implemented;
- how the Commission and Member States will help determine the level of risk;
- and what operators should do when faced with products running a high risk of being illegal

5. Is the range of legislation captured in 'applicable legislation' clear in its scope, and what is the feasibility of collecting or having access to the information required within this legislation?

No, it should be amended to include legislation whether national, regional or international; in particular that concerning the conservation of biological diversity, forest management, resources use rights and the minimization of adverse environmental impacts. It should also take into account property tenure, rights of indigenous peoples, labour and community welfare legislation, taxes, import and export duties, royalties or fees related to harvesting, transportation, marketing and consumer rights/protection.

Given the concerns expressed by small forest owners and small and medium based enterprises at the administrative burden this could potentially place upon them, there needs to be a balance here between the level of risk that these fundamental requirements have not been fulfilled and the requirements of the due diligence procedure. This does not mean however that small and medium based enterprises should be excluded from this regulation. To do so

would be to create what could be a highly damaging loophole in the legislation. It would also be inconsistent with the approach of other, similar legislation. The CITES and Basel regimes contain no such exception for example.

6. Are you content with the exemption for biomass and related products?

No. All wood products which could contain illegally sourced timber should fall under the scope of this Regulation. The Council and the European Parliament should close the loophole providing exemptions for certain wood products and ensure that wood products used for energy production (and other wood products which may be subject to mandatory sustainability criteria in the future), are covered by the law. This is critical because increasingly the wood products proposed for exemption are being harvested and produced in high risk parts of the world, and therefore subject to the same legality (and environmental sustainability) concerns as other timber products.

7. Are you content with the exemptions for 338/97 (CITES) and 2173/2005 (FLEGT)?

Yes, if the implementation of the Voluntary Partnership Agreements is monitored and the effectiveness of the implementation of a VPA is reviewed at a certain point to guarantee that the VPA is working.

8. Are the information requirements of the due diligence system sufficient for ensuring legality? Do you have any concerns with either obtaining, or making available this information?

No. Existing national legislative supervision and any voluntary chain of custody mechanism which fulfill the requirements under this Regulation should be used as a basis for the due diligence system.

Operators who make timber and timber products available on the market should, throughout the supply chain, be able to:

- (i) identify the operator who has supplied the timber and timber products, and the operator to whom the timber and timber products have been supplied;
- (ii) provide upon request information on the name of the species, the country/countries of harvest and where feasible the concession of origin, either by retaining this information from the point of entry, or by ensuring that their product can be tracked back through the supply chain.

(iii) check, where necessary, that the operator who has placed the timber and timber products on the market has fulfilled the obligations of this Regulation.

9. Should the Risk Management criteria and procedures be further clarified, or are these sufficient for now, ahead of further elaboration in an Implementing Regulation?

No they should be clarified and clear rules established. Based on legal advice, Just Forests considers that 'risk' means the likelihood of an event that may occur with regard to timber or timber products imported into or exported from the territory of the Community, which prevents the correct application of this Regulation. "Risk management means the systematic identification of risk and the implementation of all measure necessary for limiting exposure to risk. This should include activities such as collecting data and information, analysing and assessing risk, prescribing and taking action, and regular monitoring and review of the process and its outcomes, based on international, Community or national sources or strategies

10 Are you content that the responsibility for the development of criteria to assess the risk of illegally harvested timber rests with the European Commission, and do you have views on how to best develop useful and relevant criteria?

Yes, provided that it takes place under a transparent comitology procedure which includes all stakeholders. Criteria should be based on factors related to the product type, source or complexity of the supply chain with certain categories of timber and timber products, or suppliers considered 'high risk' and requiring extra due diligence obligations from the operators. These may include:

- requiring additional documents, data or information
- requiring third party audits
- giving prior notification to the control authorities of the date and details of purchasing

Timber and timber products from:

- conflict areas, or suspected to come from country (ies) / region (s) covered by a UN Security Council ban on timber exports, by an EU Council ban on timber imports, or from country / region who have unilaterally adopted exports ban,
- countries where there is consistent and reliable information regarding significant failures of forest governance, low level of forest law enforcement or high level of corruption,
- countries where official FAO statistics show a decrease in forest area,

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- supplies where information on potential irregularities supported by reliable evidence, that has not been disproved by investigation, has been made available from customers or external parties

11. Are you content with the principle that, where possible or relevant, the existing due diligence systems developed by Monitoring Organisations can be used?

In our view, there is need for very robust guidelines and rules to be set out with clear minimum requirements for what constitutes an acceptable Monitoring Organisation. Not every organisation adopting a due diligence system has carte blanche to assume a monitoring role. Monitoring organisations must be sufficiently independent of operators to avoid any conflict of interest, or appearance of conflict of interest. Independent auditing of companies and the monitoring organisation itself, would be considered a vital back up to the monitoring of companies by a timber trade federation for example, were it to seek a monitoring role.

12. Is the Regulation sufficiently clear on the duties, responsibilities and requirements of Monitoring Organisations?

No. The list of requirements provided with this regulation is insufficient and should be amended to ensure the credibility and independence of monitoring organisations. These should demonstrate appropriate expertise of the forest sector, and be legally and financially independent from the operators that they certify.

13. Do you agree that Monitoring Organisations should be approved and checked by Irish authorities (rather than EU level checks and approval)?

The guidelines, rules and minimum requirements and approval of a list of suitable monitoring organisations need to be agreed at an EU level, but then it is sufficient for checks to be done by Irish authorities. One of the risks of establishing accreditation procedures at a national level is that this could lead to differing standards and market distortion. It would also be very difficult to take a unilateral stance against a monitoring organisation that no longer fulfilled the requirements of the regulation, but had the approval of another Member State.

14. Is the Regulation sufficiently clear on the level and nature of checks by the Competent Authority? How could this be improved?

No. The Regulation needs to provide competent national authorities with powers to control the trade in timber products, investigate crime and alleged infringements, take immediate measures towards enforcement and prosecute offenders. Competent authorities in the Member States should have a mandate to perform various controls on both monitoring systems and on individual operators where necessary. These controls should include regular checks, field audits, investigations, unannounced controls, raids and sting operations. Where serious infringements are suspected of having taken place, competent national authorities should be provided with powers to start full investigation and apply immediate enforcement measures (i.e. immobilising transport vehicle, seizing and confiscating timber and/or timber products).

It is difficult to prescribe in advance the desirable frequency of regular checks (sometimes these will be prompted by complaints or intelligence for example) but a minimum should be stated, perhaps on an annual basis. In addition, checks should be carried out in any case, where:

(a) the competent authority of the Member State has grounds to question the compliance with the requirements of this Regulation of the placing on the market of timber or timber products by an operator; or

(b) the competent authority of the Member State is in possession of information that questions the compliance by the operator with the requirements for due diligence systems set out in this Regulation.

Member States may also decide to carry out random checks.

15. Are you content with this record keeping requirement?

Yes

16. Are you content with the principle of cooperation between Member States? Would you like to see this cooperation extended to other areas of the Regulation?

Yes if the EC keeps the coordination of this task. The cooperation between Member States should not mean that the implementation of this regulation is weakened.

17. Are you content with the requirements and duties assigned to the Competent Authority (including those in other Articles of the Regulation)?

Yes, provided that the rules are clearly set out as to how the checks are conducted and the Member States are given more rights/duties to conduct checks of monitoring organisations and operators. However, the accreditation of monitoring organisations should take place at EU level or at least the determination of organisations considered suitable.

18. Are you content with the establishment of the Committee for exchanging information between Member States on the checks carried out, and are its roles and responsibilities sufficiently clear?

This is not clear. Is this Committee part of the committee process or not? If yes, then Just Forests considers that NGOs and other key stakeholders should have a direct role in the Committee. The exchange of views on how to implement the regulation (obstacles, techniques) is welcomed but it should not lead to an ineffective, or highly delayed implementation regulation.

19. Are you content with the timing for the Regulation to enter into force?

No. The Regulation should enter into force immediately

20. Are you concerned about particular products which fall into, or out of scope of the Regulation?

Yes. All wood products which could contain illegally sourced timber should fall under the scope of this Regulation. The Council and the European Parliament should close the loophole providing exemptions for certain wood products and ensure that wood products used for energy production (and other wood products which may be subject to mandatory sustainability criteria in the future) are covered by the law. This is in our view critical if this

Regulation is serious in its aim of detecting and deterring the trade in illegal timber and wood products.

21. Are you content with the principle that this list can be amended by the Commission (Article 12)?

Yes, but this should not be used as an excuse to exclude certain wood products, on the basis that they can be included at a later date. The list should be amended to add product categories but not to remove them!

Questions for SMEs not applicable

Additionally, it is expected that the due diligence regulation will be accompanied by an implementing regulation. It is the opinion of Just Forests that key stakeholder and public interest in the illegal logging issue is such that the only acceptable means of conducting this process will be through a Regulatory Procedure with Scrutiny in order to ensure greater transparency.

The following steps are recommended for the successful implementation of any 'timber procurement policy':

- 1 **Who is responsible?** A nominated person and department will need to be given the specific task of implementing the new timber purchasing policy.

- 2 **Identify and inform key people on policy implementation.** Implementing this policy requires changes and adjustments in current procurement procedures within your Authority. The policy that we recommend has already been assessed to conform to international and national trade agreements, but we suggest that you take advice from your own legal department. Once you have been notified that the policy is legal, the nominated person will need to ensure that the following people are aware and understand the change in policy.
 - 1 Elected Councillors (voting members) and the County Manager/Chief Executive
 - 2 Director of Services – Environment Strategic Policy Committee (SPC)

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- 3 Director of Services – Housing Social & Cultural Strategic Policy Committee (SPC)
- 4 The Chief Architect and Chief Engineer
- 5 The Chief Purchasing Officer, Head of Property Services
- 6 Local Agenda 21 (LA21) Officers and the Chief Environment Officer
- 7 Outside contractors, sub-contractors and timber/wood product suppliers

3 **Demand legal Timber.** Clearly specify requirements for timber/wood products through contract clauses and purchase orders. MORE????

4 **Informing other buyers of new policy.** The easiest way of informing key personnel about the policy change is to hold a meeting. DSO and outside contractors should be encouraged to attend. The LAP can assist with presentation material and by arrangement, suggest or contribute a speaker(s). It is vital at this stage that everyone is informed about the FSC and the reasons why this particular accreditation scheme is being supported. (See LAP 'Guidance notes for contractors' for more detailed information on what the FSC is).

Lack of communication is one of the primary factors hindering the implementation of environmental policies.

5 **Monitoring.** Once the suggested timber purchasing policy has been cleared by the legal department and staff has been informed of the policy change, a monitoring procedure can be inaugurated.

For simplicity's sake, this might take the form of a pie chart which shows the following headings for timber and wood based products obtained by the Authority:

- 1) **Product from known well managed forest – certified**
- 2) **Product of unknown origin.**
- 3) **Product from forest areas where good management is probably the norm**
- 4) **Product from forest areas where good management is probably not the norm**
- 5) **Product from 'local sources'.**

If it is to have any meaning, this chart should be revised (annually), and the proportion of wood in categories 1, 3 and 5 should be required to increase steadily as understanding of wood purchase policy issues spreads through the Authority.

***Cost:** Certified timber may cost more (but often there is no additional charge). Each Authority must decide under Best Value, parameters for supporting genuine “sustainability” in their timber purchasing. Across a range of products, research has shown premiums between from 0 and 10 percent. This can be discussed with suppliers.

It is also essential that a cross-departmental approach be taken to ensure all Government Departments have a common and mutually supportive policy on timber procurement and forest management/conservation.

OPW Environmental Requirements (received by email 30/08/2010)

Sustainable Timber Requirements

The OPW requires wood that is used for construction in its projects to be legal and sustainable in accordance with European Union regulations regarding public procurement.

Contractors must avoid sourcing illegally logged timber in accordance with the EU illegal logging action plan known as F.L.E.G.T.

Endangered species on the C.I.T.I.E.S. should not be used.

Contractors are required to demonstrate their compliance with the OPW’s timber sustainability requirements. Such compliance should be demonstrated by credible evidence of verification that shows that the timber used is both legal and sustainable. There are a number of existing commercial certification systems that are acceptable, namely CSA, FSC, PEPC, and SFI. However, the OPW recognises that other sources and forms of proof and verification that timber is legal and sustainable may be submitted to demonstrate compliance with its legal and sustainability requirements. Such sources or forms of verification should take the form of ‘verification of source’ under the terms of the European Union procurement policies; an appropriate chain of custody standard; the requirements for the protection of endangered species; and independent assurances of sustainable forestry practices.

Written statements to this effect including any original documents may be required by the Director of Furniture Services, Furniture Division O.P.W.

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Contractors must be compliant with all relevant environmental legislation and employ good environmental practice on site vis-à-vis:

Waste reduction

Waste recovery

Minimisation of packaging

Recoverable packaging materials

Control of environmental emissions

Product design

Efficient use of materials and transport

Contractors must take adequate measures to limit occupational exposures

Contractors must use wood materials efficiently and take measures to minimise waste during production of furniture

Packaging is used only where absolutely necessary. All packaging materials are made from recyclable materials.

Packaging does not contain PVC or ozone depleting substances.

Cardboard packaging is made from at least 80% recycled material

Material used in the manufacture of the product to be locally sourced where possible.

Solid wood furniture shall not be treated with impregnating toxic substances or pesticides.

Non-renewable materials, including metals, shall be kept to a minimum.

Materials used in the manufacture do not contain substances, which are carcinogenic, toxic, allergenic, or reprotoxic. Materials do not contain substances classified as harmful to the environment, as per directives 67/548/EEC, 1999/45/EC or their amendments.

References:

Example 5

A Greenpeace exposé of the use of Illegal Timber for a prestigious public building project highlighted the failure of the UK to implement its central government policy concerning the responsible procurement of wood-based products.ⁱ The UK's Timber Trade Federation has since advised its members against importing plywood from China if this is made even partly from species which are likely to have grown in either Papua New Guinea or the Solomon Islands.ⁱⁱ



photo credit: Tom Roche, Just Forests

Exhibit 3 Illegal Timber used during construction of civic offices in Ireland

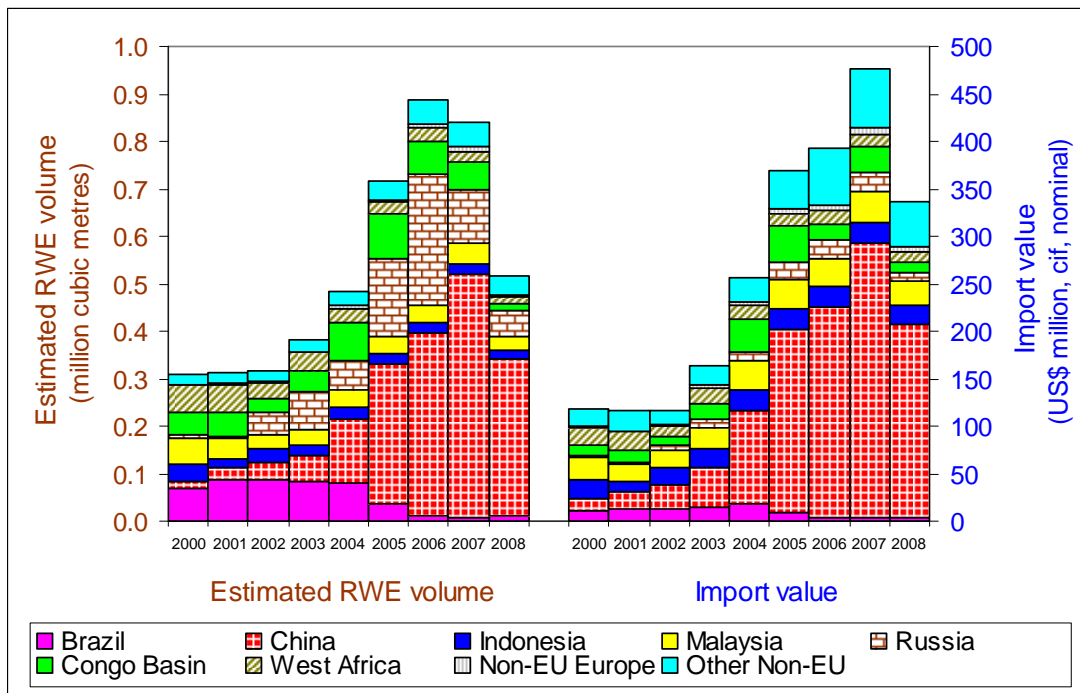
The image opposite shows a pack of red canarium plywood supplied from China under the YiXing Lion-King brandⁱⁱⁱ for use during the recent construction of new civic offices in Mullingar, Ireland.^{iv}

Although a very small amount of red canarium plywood made in China is FSC-certified (as controlled wood)^v – at a price 20%-30% greater than the norm for such plywood normally, it is very unlikely that any of this would have been used in Mullingar without FSC paperwork or branding.

The continued importation of such plywood into the EU (notably bintangor and red canarium - which have subsequently been the subject of anti-dumping proposals)^{vi} indicates that due diligence is not being applied uniformly across the EU. This reinforces the need for the import of Illegal Timber to be made an offence.

Estimates of Ireland's direct imports of wood-based products from outside the EU

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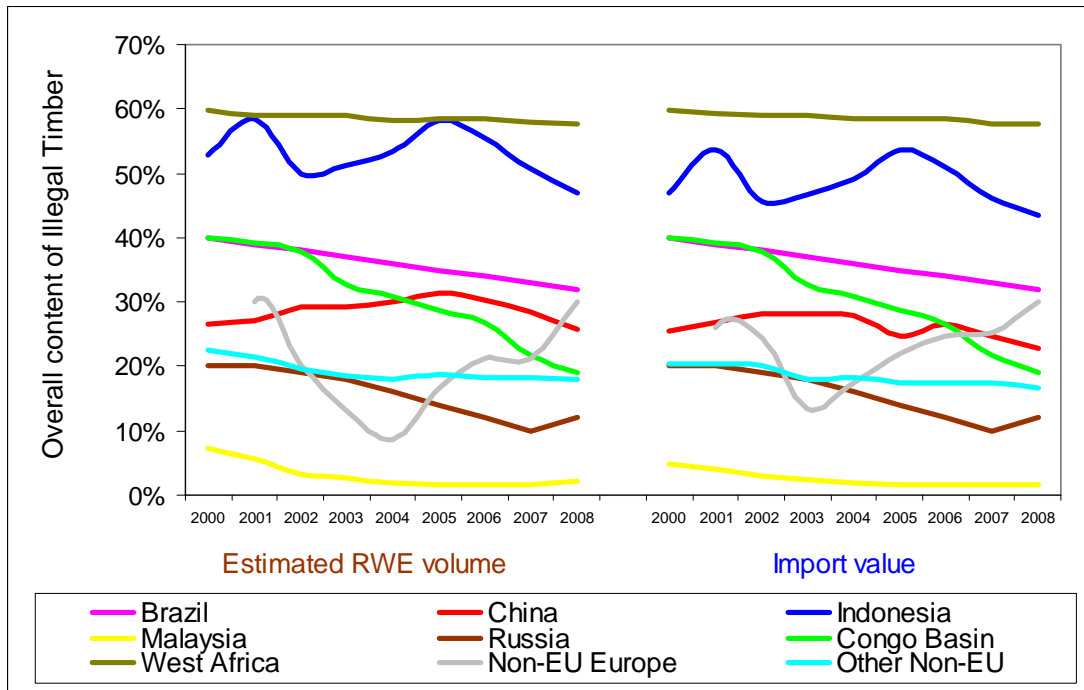
Ireland’s imports of wood-based products from outside the EU expanded rapidly during mid-decade. Most of the increase was supplied from China and, to lesser extent, Russia. Imports from West Africa decreased and seem to have been replaced by imports from the Congo Basin. Imports from Indonesia and Malaysia changed little. Supplies from Brazil fell to almost zero.

During 2007, the total RWE volume² decreased (but supplies from China continued to increase). The decline accelerated during 2008. China supplied roughly two thirds of the total during 2008.

The following charts concerning Illegal Timber are necessarily somewhat notional (i.e. reasonable but not necessarily robust).

² Roundwood equivalent “RWE” volume is a measure of the volume of logs required to make a given quantity of wood-based product.

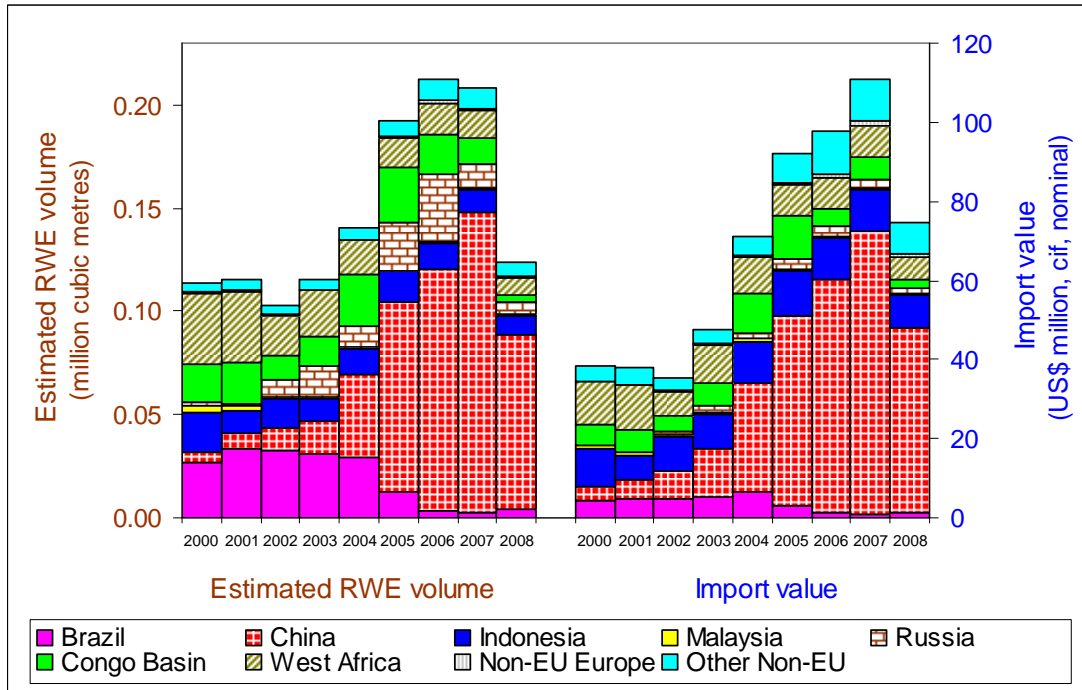
Estimates of the Illegal Timber content of Ireland's imports of wood-based products from outside the EU



The percentages assumed for 2000 are those which are suggested in a seminal study for the American Forest & Paper Association (<http://www.illegal-logging.info/uploads/afandpa.pdf>).

The trends since 2000 take into account changes in the range of products supplied from each country and, for each region, changes in the quantities supplied by each country. They also reflect changes in the choices which importers in Ireland probably made, changes in the availability of certified or legally verified products from each supplying country, and changes in the law and its application.

Estimates of Ireland's direct imports of Illegal Timber from outside the EU (by supplier)

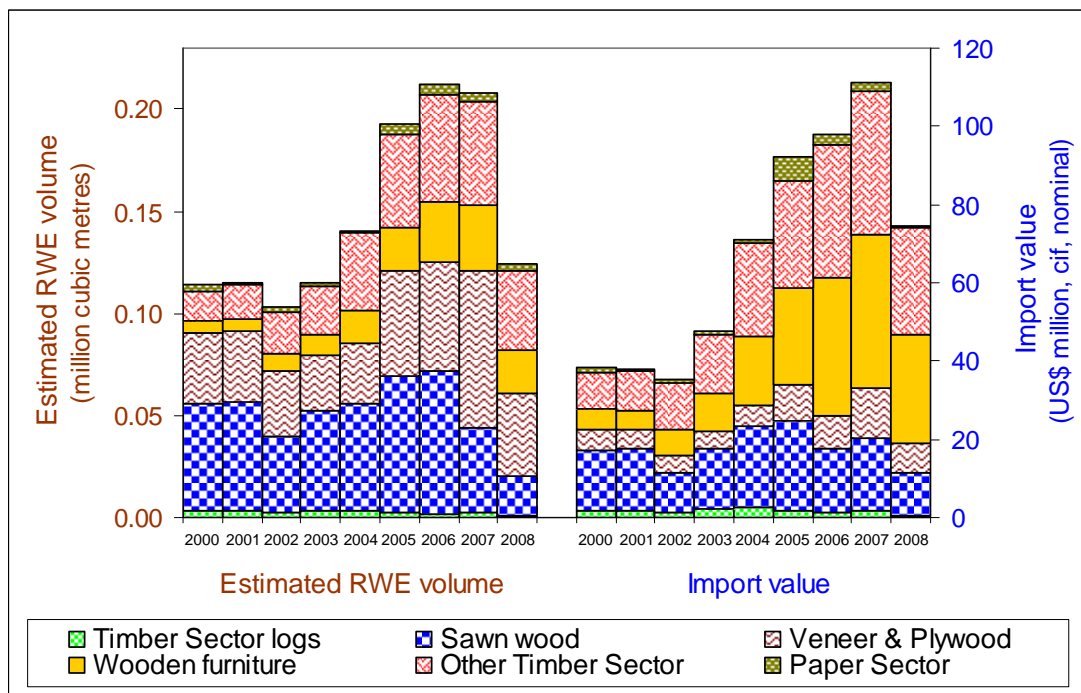


The above chart indicates that China probably supplied much more Illegal Timber directly to Ireland than any other non-EU country did during 2008.

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Estimates of Ireland's direct imports of Illegal Timber from outside the EU (by product)



Plywood is likely to have accounted for roughly one third of the Illegal Timber which Ireland imported directly from outside the EU during 2008. Sawnwood, joinery and furniture each probably accounted for a further 15%-20%.

China supplied almost all that plywood, most of that joinery (e.g. flooring) and half of that furniture. Most of these supplies from China will have been composites of wood grown in China (probably but not necessarily legally) and imported wood (probably illegal and used in the product's exterior). In addition to illegality in relation to such wood, there might also have been illegality during the manufacture and sale of the products.

ⁱ "Alternatives to unsustainable plywood in the UK construction industry" Greenpeace (April 2008) <http://www.greenpeace.org.uk/files/pdfs/forests/plywood-report-august08.pdf> §2 p5
 "Repeat Offender: How Tony Blair's Government Continues To Trash The World's Rainforests" Greenpeace (July 2006) <http://www.greenpeace.org.uk/files/pdfs/migrated/MultimediaFiles/Live/FullReport/7828.pdf> §§4 & 5 p3
<http://www.ttf.co.uk/news/releases/2006/june.asp>

The government of Papua New Guinea's own forestry review process concludes that the majority of the large logging operations which have been active during recent years can not credibly be described as lawful – "Logging, Legality, and Livelihoods in Papua New Guinea: Synthesis of Official Assessments of the Large-Scale Logging Industry, Volume 1" Forest

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Trends (2006) <http://www.forest-trends.org/documents/publications/PNG%20Volume%201%20Final%20v2%20Feb%2016%202006.pdf> §2 p2
ⁱⁱⁱ <http://www.lionkingtimber.com/ejianjie.html> (as indicated by the corporate logo)
^{iv} http://www.justforests.org/whats_new.php
^v "UK market conditions for "legal" and "legal and sustainable" wood products" Forest Industries Intelligence (2007) http://www.ttf.co.uk/TTF_market_report_Legal&Sustainable_07.pdf §3 p14
^{vi} "Tropical Timber Market Report" ITTO (1-15 September 2008) penultimate § left p13 and §1 right p10 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:291:0019:0020:EN:PDF> §1 right p1

LINKS

For most up-to-date information on issues related to this submission, please visit
EU FLEGT and illegal logging <http://www.illegal-logging.info/index.php>
Center Point of Expertise for Timber Procurement <http://www.cpet.org.uk/>



The following references are also of interest: "The Irish Woods since Tudor Times" – McCracken, E. 1971. Chapter 10 of "Anatomy of a Siege" - Wiggins, K; Pub. Wordwell, 2000, ISBN 1 869857 37 2, refers to the use of imported timber in mining during the [Siege of Limerick in 1642](#).

"Irish Country Furniture" - Kinmouth, C, Pub. Yale University Press, ISBN 0 300 05574 9 and "Irish Furniture and Woodcraft" - Teahan, J, Pub. National Museum of Ireland, ISBN 0 946172 39 0 refer to imports of various woods, particularly mahogany from America.

The earliest reference (for England) for tropical wood is 1661 referring to the use of "Jamaica wood" (Mahogany) for 2 tables and 5 "paire" of stands for Hampton Court. There is also a reference to "Dantzig" oak for panelling in the Mansion House, Dublin, dating back to the 1400's. (Source: Knaggs, G. 2002.)

See Just Forests publication [A Timber Policy for Everyone](#) for more on this matter.

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