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FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE
(FLEGT)

PROPOSAL FOR AN EU ACTION PLAN

TABLE OF CONTENTS

1.	EXECUTIVE SUMMARY	3
2.	INTRODUCTION	4
3.	THE ORIGINS AND SCOPE OF THE ACTION PLAN	5
4.	THE EU ACTION PLAN FOR FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE (FLEGT)	6
4.1.	Support to timber-producing countries	6
4.2.	Trade in timber	9
4.3.	Public procurement	15
4.4.	Private sector initiatives	16
4.5.	Financing and investment	18
4.6.	Supporting the Action Plan with existing legislative instruments	19
4.7.	Conflict timber	21
5.	CO-ORDINATION AND PROGRAMMING	21
6.	THE NEXT STEPS	23
	ANNEXES	24

1. EXECUTIVE SUMMARY

This document, the EU Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT), sets out a process and a package of measures through which the European Commission proposes to address the growing problem of illegal logging and related trade. Addressing this issue is one of the European Commission's priorities in the follow-up to the 2002 World Summit on Sustainable Development (WSSD).

The Action Plan is the start of a process which places particular emphasis on governance reforms and capacity building, supported by actions aimed at developing multilateral co-operation and complementary demand-side measures designed to reduce the consumption of illegally harvested timber¹ in the EU (and ultimately major consumer markets elsewhere in the world).

Development co-operation: Efforts will be focused on promoting equitable and just solutions to the illegal logging problem which do not have an adverse impact on poor people; helping partner countries to build systems to verify timber has been harvested legally; promoting transparency of information; capacity building for partner country governments and civil society; and promoting policy reform.

Trade in timber: The EU will initiate a longer-term process of dialogue with wood-producing and wood-consuming countries to extend international collaboration to tackle illegal logging and to develop a multilateral framework on which actions could be based. In the immediate term, a voluntary licensing scheme is proposed, whereby partner countries issue a permit attesting to the legality of timber exported to the EU. This will require a Council Regulation for implementation. The Commission will review options for, and the impact of, further measures, including, in the absence of multilateral progress, the feasibility of legislation to control the imports of illegally produced timber into the EU.

Public procurement: Practical information will be provided to guide contracting authorities on how to deal with legality when specifying timber in procurement procedures.

Private sector initiatives: Measures are proposed to encourage private sector initiatives for good practice in the forest sector, including the use of voluntary codes of conduct to source only legal timber.

Financing and investment safeguards: Banks and financial institutions which invest in the forest sector should be encouraged to develop due diligence procedures which take account of the environmental and social impact of forest sector lending; including conformity with relevant legislation. Export Credit Agencies should be encouraged to develop guidance on improved project screening procedures and codes of practice for forest sector projects.

Implementation: To support implementation of the above activities, a co-ordinated EU response is proposed, drawing on the different strengths and capacities of the Commission and EU Member states. A joint work programme will be prepared with Member States to facilitate this.

¹ Throughout the document the term 'timber' is used to refer to roundwood and rough sawnwood. The term 'timber products' implies additional further processing.

2. INTRODUCTION

Illegal logging takes place when timber is harvested in violation of national laws. The clandestine nature of illegal logging makes its scale and value difficult to estimate in relation to the global trade in forest products (estimated by the OECD to be worth over €150bn per year²), but strong evidence suggests that it is a substantial and growing problem. The World Bank's 1999 review of its global forest policy observed: "In many countries, illegal logging is similar in size to legal production. In others, it exceeds legal logging by a substantial margin."³

The illegal exploitation of natural resources, including forests, is closely associated with corruption and organised crime. In some forest-rich countries, the corruption fuelled by profits from illegal logging has grown to such an extent that it is undermining the rule of law, principles of democratic governance and respect for human rights.

In some cases the illegal exploitation of forests is also associated with violent conflict. Profits from the illegal exploitation of forests (and of other natural resources) are often used to fund and prolong these conflicts.

Illegal logging and associated trade undermines the competitiveness of legitimate forest industry operations in both exporting and importing countries. In so doing, this limits the ability of these industries to conduct operations that foster sustainable forest management, and sustainable development generally.

Illegal logging costs governments vast sums of money. Estimates suggest that illegal logging costs timber-producing countries €10-15 billion per year in lost revenues,⁴ which could otherwise be spent on the provision of better healthcare, education and other public services, as well as the implementation of sustainable forest management.

Illegal logging also causes enormous environmental damage and loss of biodiversity, for instance through logging of national parks, and can facilitate the illegal exploitation of wildlife. It can be a contributory factor to the process of deforestation, and it can increase the vulnerability of forests to fires – both of which have climate change implications. It undermines sustainable forest management and has a long term negative impact on the livelihoods of forest-dependent people, many of whom are amongst the world's poorest and most marginalised people.

Illegal logging thus undermines many essential elements of the EC's development objectives: public sector financing for development targeted at the poor, peace, security, good governance, the fight against corruption, and sustainable environmental management.

Although the supply-side of the problem lies in timber-producing countries, strong international demand for timber can be exploited by unscrupulous operators and traders, with the effect of encouraging illegal logging operations. As a major source of this demand, important measures can be taken by the EU and other major consumers of timber products to direct demand towards only legally harvested timber.

² OECD Environmental Outlook (2001)

³ World Bank, Forest Sector Review (1999)

⁴ World Bank Revised Forest Strategy (2002)

3. THE ORIGINS AND SCOPE OF THE ACTION PLAN

This Communication proposes an Action Plan through which the European Union intends to support efforts to tackle the problem of illegal logging. The Commission began work on this following a Ministerial Conference in Indonesia in September 2001, and held an international workshop in Brussels in April 2002 to which experts from the main wood-producing and importing countries, forest-based industries, civil society and other stakeholders were invited as part of the process of developing this Action Plan. The Plan also builds on the commitments made in the Communication on a Global Partnership for Sustainable Development⁵ and in the 6th Community Environmental Action Plan.⁶ The Action Plan represents a contribution to the implementation of the WSSD Plan of Implementation, specifically paragraph 45c.⁷

A description of EU involvement in national and international efforts to improve forest law enforcement and governance around the world is presented in Annex 1. Notable amongst international efforts are a series of regional initiatives addressing forest law enforcement and governance. The first such regional initiative was the Asia Forest Law Enforcement and Governance process. This has made considerable progress in raising political commitment to address illegal logging, and in bringing together the governments of timber-producing and consuming countries, local and international civil society, the private sector, and donors, in a co-ordinated programme of work. A similar process is now being initiated in Africa, with possible replication in other regions. The European Commission and a number of EU Member States have provided strong support to the processes in Asia and Africa – both through political support and financial contributions.

These regional initiatives in Africa and Asia focus only on the question of legality, and do not address wider and more complex questions concerning the sustainability of forest exploitation. There is a distinct difference between the two: legal timber can be harvested in an unsustainable manner, for example through authorised land clearance; and illegal timber can come from sustainable sources, for example, timber harvested under indigenous management systems which are sustainable but don't comply with formal legal requirements.

This Action Plan adopts the same approach taken in the Africa and Asia regional processes, and deals only with the question of legality, but it should be noted that the EU's wider objective is to encourage sustainable forest management. Since in many countries forest legislation is based on the premise of sustainable forest management, better law enforcement will in general lead to more sustainable forest management. Where this is not the case the EU should encourage a review of the legal framework. Better forest governance is therefore an important step on the path to sustainable development

The Action Plan should thus be placed in the context of the overall efforts of the European Community to achieve sustainable forest management, both within and outside the EU. European Community efforts in this regard include substantial tropical forest development co-operation programmes in Brazil, Central Africa and Indonesia.

⁵ COM(2002) 82, 13.2.2002

⁶ Decision No 1600/2002/EC of the European Parliament and the Council, 22 July 2002

⁷ Paragraph 45c states: Take immediate action on domestic forest law enforcement and illegal international trade in forest products, including in forest biological resources, with the support of the international community, and provide human and institutional capacity-building related to the enforcement of national legislation in those areas.

4. THE EU ACTION PLAN FOR FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE (FLEGT)

The Action Plan consists of support for timber-producing countries, efforts to develop multilateral collaboration to combat the trade in illegally harvested timber, voluntary measures to support governments wanting to ensure that illegally harvested timber from their territory is not admitted to the EU market, public procurement policy, private sector initiatives, measures to avoid investment in activities which encourage illegal logging, and conflict timber. In addition reference is made to existing legislation at Community and Member State level which could be applied to address the issue.

4.1. Support to timber-producing countries

The highest levels of illegal logging are found in developing and emerging market countries, and development co-operation has an important role to play in building capacity to tackle the illegal logging problem.

4.1.1. Equitable and just solutions

Illegal logging can range in scale from large industrial operations working openly and illegally in national parks, through to impoverished smallholder farmers clearing land for agriculture or cutting timber for housing without possessing the necessary licences.

The challenge is to ensure that actions to address illegal logging, particularly enhanced law enforcement, do not target weak groups, such as the rural poor, while leaving powerful players unscathed. This requires careful consideration in countries where corrupt elements within the police and judicial services operate in complicity with large scale illegal business activities.

Existing forest laws and policies frequently promote large scale forest operations and may exclude local people from access to forest resources. This inequity breeds resentment and conflict. It also forces local people who depend on forest resources to operate illegally, since they often have no choice in the way they meet their basic livelihood needs. However, given the correct incentives, forest-dependent communities can become key allies in the drive to reduce illegal logging. Many examples of this have evolved *in situ* – sometimes with and sometimes without donor help. For example, in West Kalimantan, Indonesia, a forest protection scheme launched by the village of Pendaun has been replicated by neighbouring settlements, effectively excluding illegal loggers from a large area of hitherto unprotected forest.⁸ In Brazil, the Mamiraua Sustainable Development Reserve is one of several examples of structures for participation of civil society in the management and protection of forests. Similar examples exist elsewhere in the world.

Donors, including the EU and Member States, can give greater weight to these initiatives by providing support to community-based forest management, by helping to propagate lessons from these schemes in national laws and policies, and by working with partner governments to ensure that key underlying factors, such as land tenure and access to forest resources, encourage local participation in the fight against illegal logging.

⁸ Case study presented at the Asia Ministerial Conference for Forest Law Enforcement and Governance. 11-13 September 2001, Bali, Indonesia.

4.1.2. Verification systems

In countries with weak forest law enforcement, reliable systems which can distinguish legal from illegal production will be essential in order to provide credible guarantees to the market that timber has been legally harvested. Such systems would form the basis for the identification of legally harvested timber for export to the EU market under proposed Partnership Agreements (Section 4.2). The setting up of such systems is likely to require technical development and additional capacity building and institutional strengthening in government institutions, civil society and the private sector.

Amongst the measures which can be applied, a range of technologies can help to monitor harvesting operations and track timber from point of harvest, through processing mills, ports and on to final markets. Development of such monitoring and tracking systems will be supported by future EC forest development co-operation.

4.1.3. Transparency

Donors can help to encourage greater transparency of information within the forest sector. Important aspects of transparency include the availability of accurate information on forest concession location and ownership, forest condition, and the provision of information on laws and regulations translated into languages understood by the general public.

Transparency is also helped by the involvement of independent monitoring and auditing of systems to verify the legality of timber in producing countries. Independent monitoring makes verification systems more credible and less prone to corruption. There are many examples of where independent monitoring has been used to good effect in the forest sector, at the instigation of the relevant national authorities. Accountants, auditors, consultants and non-governmental organisations have all played an important role in this ground-breaking work to promote transparency.

Technologies such as remote sensing and aerial photography also have an important role to play in ensuring transparency. The Joint Research Centre of the European Commission (JRC) has a long-standing expertise in the application of remote sensing technologies to forest mapping and monitoring and the management of information, and will be able to offer relevant expertise to support the evolving FLEGT programme.

4.1.4. Capacity building

Partner governments need donor support to implement broad governance reforms, for example in the judiciary, the police and the military. In many countries corruption and the lack of accountability in these institutions does much to encourage illegal and unsustainable exploitation of natural resources, including forests.

Direct help is also needed to build capacity to deal with the new and complex set of issues which government agencies in developing countries must deal with: monitoring and gathering evidence of environmental crime; building legal cases against those who transgress; raising awareness of environmental law within the police, the legal profession, public prosecution services and the courts; training of customs officials; and awareness raising to help build the public and political support needed to tackle the entrenched corruption which often lies beneath illegal logging. Capacity building can also be directed to support revenue collection in the forest sector, since it is through enhanced revenues that partner countries stand to gain

most from reducing illegal logging. Capacity building should not be limited to the public sector, but must also include civil society and the private sector.

4.1.5. Policy reform

Forest laws and policies prepared in past political eras (such as under colonial administrations or ousted dictatorships) may be outdated and over-emphasise a top-down approach which is neither equitable nor effective, especially in remote areas with little government presence. Laws may also be so complex that complying with all the requirements becomes a disproportionate burden, thus inadvertently creating incentives which encourage illegal activities. In other cases laws may be contradictory, especially where such legislation emanates from different sectors.

There is frequently a need for policy reform and simplification of procedures. National forest programme (nfp) processes provide a framework through which all stakeholders – governments, industry and civil society – can work towards this type of reform in the forest sector. The EC is supporting nfp processes in various countries.

Box 1: Indonesia as a pilot example of a forests and governance support programme

The case of Indonesia provides a pilot example of how development co-operation to support the Action Plan will work in practice.

The Indonesian government has identified stopping illegal logging as a high policy priority, and has taken some ground-breaking steps towards addressing the problem. Fighting illegal logging and corruption form an important focus in the political dialogue between the Indonesian government and the EU (and other) donors, who meet together in the forum of the Consultative Group on Indonesia (CGI). Indonesian ministers and European Commissioners have also on a number of occasions met to discuss closer collaboration to tackle illegal logging.

This policy priority is reflected strongly in EU development co-operation with Indonesia, including in the EC Country Strategy for the country, which prioritises the management of natural resources and good governance.

A process to identify a forests and governance support programme is now under way. The lessons learned both from the dialogue with the Indonesian government, and the experience with preparing the support programme will offer valuable lessons for other countries participating in the FLEGT programme.

Engagement in policy dialogue between donors and partner governments can also do much to promote the necessary reform. This is a very important area of work, since it is becoming clear that initiatives to promote good governance for the management of natural resources will fail in countries where the broader policy environment is not favourable to reform and change. Policy dialogue to promote forest sector reform has had some success in Cambodia, Indonesia and Cameroon (among others). In the latter, forest sector reform became a condition of future financial assistance from the IMF after a study highlighted the large revenue losses due to illegal logging.

To implement development co-operation actions for 4.1.1 to 4.1.5, the Commission will:

- work to integrate further support for FLEGT issues into future programming of EC Thematic, Country and Regional development co-operation, into EC Country and Regional

Strategy Papers, and into national Poverty Reduction Strategies (PRSPs), in countries where this is a national priority, and in particular in FLEGT Partner countries.

- use the funds available under the Tropical Forest Budget Line (B7-6200). Combating illegal logging is identified as a priority issue in the 2002/2003 strategic guidelines for the Tropical Forest Budget Line;⁹ and;
- use resources already earmarked for FLEGT-related activities under existing Regional and Country Programmes (box 1).

4.2. Trade in timber

Illegal logging is largely concentrated in developing and emerging market countries, but the international demand for timber provides a substantial market, within which there is scope for unscrupulous operators to procure and trade in illegally harvested timber. The OECD estimates that the global trade in timber is worth over €150bn a year.¹⁰ There is strong evidence – as summarised in the 1999 World Bank Forest Sector Review and demonstrated in a growing number of country-based studies – to show that a significant share of this trade is likely to be based on illegally harvested timber.

In the light of wood product trade patterns presented below and in Annex 2, and because of the nature of the problem of illegal logging, a multilateral framework gathering main importers and exporters would be the most effective way of tackling the issue.

However, given the complexity of building such a multilateral framework and considering the urgency of helping exporting countries to better control the legal origin of their exports, the EU, in addition to pursuing multilateral co-operation, aims to immediately conclude bilateral or regional FLEGT partnership agreements, which are described further below. These complementary measures can play an important role in restricting the entry of illegally harvested timber into the EU.

4.2.1. EU import patterns in timber products

This section provides an outline of the size and nature of flows of forest products into the EU in order to provide the context for trade-related elements of the Action Plan. The greater part of the trade in timber and timber products occurs between developed countries and is not unduly affected by illegal logging activities. For example, the EU has an important trade in temperate hardwood logs, veneers and sawnwood from North America. This trade involves lower volumes of timber than, for example, the trade with Russia, but has a higher value due to the type of product.

Intra-EU trade is also very important, accounting for around 80% of the total EU trade in timber. Nevertheless, the EU is an important market for both legal and illegally harvested timber entering international trade. Other important markets for internationally traded timber are Japan, China and the United States.

⁹ Throughout this document the term Tropical Forest Budget Line refers to funds made available under budget line B7-6200 (now 21 02 05) on the basis of Regulation (EC) No 2494/2000 of the European Parliament and of the Council of 7th November 2000 on measures to promote the conservation and sustainable management of tropical forest and other forests in developing countries.

¹⁰ OECD Environmental Outlook (Paris, 2001, page 122).

There are four key regions and countries within the scope of this Action Plan, which together contain nearly 60% of the world's forest and supply a large proportion of internationally traded timber – Central Africa, Russia, Tropical South America and Southeast Asia. Each region is characterised by specific trade patterns. Volumes of timber that are imported from Africa by the EU remain limited (less than 4% in value of world trade flows in wood products) but constitute an important trade for the region. In certain countries, most notably in Central Africa, exports of timber to the EU account for over 20% of their total trade with the EU.¹¹ The EU is an important market for timber from Russia – in particular from Northwest Russia – which is the largest supplier of roundwood to the EU. Exports to the EU from Russia are important in both absolute and relative terms.

EU imports from Asia and Latin America are less important. In the case of Asia which is the most important importer and exporter of tropical wood, the EU counts for only a minor part of exports. Summary trade data is presented in Annex 2. Unlike Russia and Africa, which export mainly roundwood or sawnwood, Asia and South America mainly trade in processed timber products with higher added value, such as mouldings, furniture and paper. The longer and more complex supply chain for these products raises some difficulties with respect to verifying legality of the raw materials. Firstly, such products are often made with wood from more than one source. Secondly, processing often takes place in an intermediary country before export to the final marketplace. This is particularly the case in Asia, where there are very strong indications that large volumes of wood are harvested illegally in Indonesia, Burma, and Cambodia and shipped to large manufacturing centres in other countries of the region. These products are then processed and sold onto major consumer markets, such as Europe, often at very competitive prices and frequently at prices which undermine legitimately produced goods.

Tracking products made of wood harvested in one country and processed in another is more complex than tracking primary and rough-processed products manufactured in the country where the raw material was harvested. According to the non-preferential rules of origin in the Community applying to timber, as set out in the EC Customs Code,¹² goods are deemed to originate in the country where they underwent their last, substantial, economically justified processing.

Given the place of the EU in the world market of wood products, important but not dominant, any measure targeting trade flows will be more efficient if extended to include collaboration with other importers (i.e. in a multilateral framework). When designing trade measures, attention has also to be paid to the specificity of each region and of the potential to divert trade flows to regions where demand is on the rise, such as Asia.

4.2.2. Developing the multilateral framework and international collaboration

An important element of the trade-related measures set out in this part of the Action Plan is to engage other major timber consumers and explore ways of working together towards a more comprehensive framework to restrict the volumes of illegally harvested timber entering their markets. This part of the Action Plan will build on a need for such collaboration highlighted by the G8.

¹¹ DG Trade: <http://europa.eu.int/comm/trade/bilateral/acp/acp.htm>

¹² Council Regulation (EEC) No 2913/92, OJ L 302, 19.10.1992, p.1-50 as last amended

Some initial exchanges of views amongst major consumer blocks have taken place. At the EU-Japan Summit in Tokyo on 8 July 2002, it was agreed to continue exchanging views and collaborating in order to combat illegal logging and the use of illegally harvested timber and related products as a priority under the EU-Japan Action Plan.¹³ At a high-level EU-US Task Force meeting held in Copenhagen, Denmark, on 15 July 2002, the US and EU delegates expressed great interest in working together on this issue.

The EU, the United States and Japan were all present at a side event on illegal logging hosted by the European Commission at the World Summit on Sustainable Development (WSSD) in Johannesburg, in August 2002. At the side event, which also included producer country governments, representatives of the private sector and non-government organisations, all parties expressed agreement on the need to work together to tackle illegal logging.

Co-operation between the EU, the US and Japan in this matter would account for a large part of the world market for timber and timber products. Efforts must also be made to engage other major wood-consuming nations, particularly China, in the expansion of the global FLEGT initiative.

Once a caucus of the main wood-producing and importing countries are working closely together to combat illegal logging and the associated trade, it may become appropriate to look at ways of transforming this step-by-step approach into a global process, whether by multilateral agreement or by a series of linked regional agreements.

To develop the multilateral framework and international collaboration, the Commission will:

- continue to build on contacts made with Japan and the US, widen this dialogue to include other major markets for timber and key timber-producing countries, and seek to build consensus amongst importing and exporting countries on the best way to tackle the problem;
- explore possibilities for collaboration on the issue with countries in the European Free Trade Area (EFTA);
- engage in dialogue, based on the ideas presented in the Action Plan, with other countries in appropriate international meetings, such as the UN Forum on Forests, International Tropical Timber Organisation, the regional FLEG processes, the Asia Forest Partnership and the Congo Basin Forest Partnership; and
- gather lessons from international efforts in other sectors, such as the Kimberley Process, an international initiative to restrict trade in conflict diamonds with a view to building effective conditions and a framework for multilateral actions.

These actions will be taken in close collaboration with other importing and exporting countries which share the EU's concerns about illegal logging.

4.2.3. Voluntary licensing of exports

Countries attempting to tackle illegal logging can find their efforts frustrated by the fact that once illegally harvested timber is shipped abroad there is no simple means to prevent it

¹³ See http://europa.eu.int/comm/external_relations/w28/1.htm, Annex 2, objective 3, final point

entering the supply chain and providing profits for those involved. Similarly, importers purchasing timber from countries alleged to have problems of illegal logging often are not able to ensure that they only purchase legally harvested timber, unless they operate a chain of custody system going back to the forest or purchase certified timber. The Commission thus proposes to launch a voluntary licensing scheme to ensure that only legal timber is imported from countries participating in the scheme.

Under this scheme, exports of timber from participating countries (FLEGT Partner Countries) to the EU would be accompanied by an export permit, which would be granted if the timber has been harvested in conformity with relevant national legislation. Timber originating in a FLEGT Partner Country and arriving at an EU point of import would not be released for free circulation in the EU without such a permit.

In order for the scheme to function properly, FLEGT Partner Countries would need to establish reliable and credible systems and structures to identify and certify timber harvested in conformity with national legislation and monitor its flow to the EU and elsewhere. Initially, a phasing-in period may be required.

The FLEGT partnership agreements would initially cover a limited range of solid wood products (roundwood and rough sawnwood) due to the difficulties of ascertaining the origin of processed timber products, but provision could be made to extend the scheme to other product categories, where practicable. This could involve development of a means of verifying that timber imports from third countries, which were then subject to further processing and exported to the EU, were harvested in conformity with national legislation in the country where the wood was logged. Such an approach would be facilitated if regional rather than national FLEGT partnership agreements were developed.

The main advantages for participating countries would be:

- increased market confidence for timber from participating countries;
- increased revenues from taxes and duties – indications are that these will more than cover the expenses associated with running a system to verify legality of harvesting and tracking;
- additional enforcement tools to combat illegal activities in the market of origin of the wood;
- once established, the mechanisms could be upgraded to support the tracking and verification of certified timber from sustainably managed forests; and
- priority for EC development assistance for FLEGT-related support measures, to be decided in the context of programming of the relevant country strategies.

The Commission will propose a Regulation to implement the scheme. The Regulation will define the products covered; describe the permit / licence required to verify that timber has been legally harvested; specify the nature and mandate of any advisory or management bodies set up to assist the Commission; and indicate the countries to which these controls apply as per the voluntary partnership agreements. It will also make provision for participating countries to nominate the competent authorities for issuing and verifying the licence and provide for administrative co-operation between EU and FLEGT partner country authorities.

Conditions in the forest sector, and the overall governance environment, vary sharply from country to country. The details of the systems and structures required to verify that timber has been legally harvested in the country of origin will be tailored to meet these different conditions, in consultation with potential partner countries. Detailed proposals will also be contingent on the results of studies underway. Licensing and associated schemes must be usable by industry and commerce and controllable by governments and other relevant services; licensing must be effective, cost-effective, reliable, publicly verifiable and not penalise legitimate business.

There will be some elements common to each agreement – notably that partner countries should have or be committed to developing credible legal and administrative structures and technical systems for the purpose of verifying the legality of wood production according to national laws. This implies:

- a commitment to ensure that the applicable forest law is consistent, understandable and enforceable and is supportive of sustainable forest management principles;
- developing technical and administrative systems to monitor logging operations and identify and track timber from the point of harvest to the market or point of export;
- building checks and balances into the tracking and licensing system, including the appointment of independent monitors, where this is considered necessary for the effective functioning of the scheme; and
- developing procedures to licence the export of legally harvested timber.

Box 2 below illustrates some of the steps to be considered for a hypothetical Partnership Agreement in a country wishing to establish a system with a third party monitoring element.

Box 2: An example of procedures under a hypothetical Forest Partnership Agreement

Step 1: The FLEGT Partner Country designates an accreditation body, which is empowered to appoint bodies to certify the legality of wood products.

Step 2: The FLEGT Partner Country designates an independent monitor and sets out a transparent dispute settlement mechanism.

Step 3: The EC confirms that the proposed system constitutes a credible system to verify that timber has been legally harvested.

Step 4: Certificates are issued for legally harvested timber, allowing customs authorities to clear legal shipments for export. Information derived from the permits may also be made available to the general public for inspection, for example through an electronic platform.

Step 5: The export permit denoting legal harvesting is produced at the Community port where timber is declared for free circulation in the EU, and checked by Member State customs authorities against the description of the consignment provided under pre-shipment notification.

Step 6: Customs only accept declarations for release for free circulation into the EU when timber is accompanied by the necessary export permit.

The EU will also seek to develop regional approaches to FLEGT partnerships in order to implement coherent and efficient trade measures within interregional frameworks.

For the Association of South East Asian Nations (ASEAN), an important timber-producing region where illegal logging presents a challenge to several member countries, the forestry sector has been identified as a potential priority area for enhanced future co-operation with the EU. As part of the strategy for building relations with Southeast Asia, the Commission will develop a trade action plan with the region – the Trans-Regional EU-ASEAN Trade Initiative (TREATI) – comprising dialogue and joint activities with the goal of facilitating trade and investment flows. Building on bilateral agreements, it is hoped that these activities may eventually lead to the establishment of a regional FLEGT Partnership Agreement with ASEAN.

If appropriate, interregional-FLEGT partnership agreements will be promoted by the EU in current regional trade negotiations with other regions, such as Central Africa, the wider group of Africa, Caribbean and Pacific (ACP) countries, and Mercosur as a contribution to sustainable development, in line with the overarching goal to promote sustainable development agreed by the EU and its third country partners in the WSSD.

To implement the voluntary licensing of exports, the Commission will:

- enter into discussions with interested countries and regional organisations on the elements of proposed FLEGT partnership agreements, and ensure broad stakeholder participation. This includes establishing a dialogue in the current frame of regional trade negotiations with a view to promote interregional FLEGT partnerships;
- in parallel with the above, request the authorisation from the Council, on the basis of article 133 of the TEC, to enter into negotiations on FLEGT Partnership Agreements with timber producing countries; and present to the Council and European Parliament a Regulation setting up the voluntary licensing scheme;
- negotiate with interested parties and regional organisations on the elements of proposed FLEGT partnership agreements
- sign Memoranda of Understanding¹⁴ to work towards a FLEGT partnership agreement with interested countries; and
- conclude FLEGT Partnership Agreements with interested countries.

The European Commission will use existing structures for dialogue with potential partner countries and also take advantage of forest-related international meetings and processes to engage with potential partner countries, in particular the regional FLEG processes co-ordinated by the World Bank. Where there is interest in taking the discussion further, funding for support activities such as workshops and studies will be provided within existing co-operation instruments. Collaboration with relevant EU Member States development co-operation programmes will be sought to strengthen the process.

¹⁴ Memoranda of Understanding will be brief statements of political intent to co-operate to address illegal logging, signed by the EC and potential partner countries. These MoU will help to harness existing political will to address illegal logging while the longer process of setting up voluntary agreements is ongoing.

4.2.4. Additional legislative options

In the EU there is currently no Community legislation prohibiting the import and marketing of timber or timber products produced in breach of the laws of the country of origin. For a variety of reasons, some important wood-producing countries may choose not to enter into FLEGT partnership agreements with the EU, despite the advantages outlined above in 4.2.3. The Commission will therefore review options for, and the impact of, further measures, including, in the absence of multilateral progress, the feasibility of legislation to control imports of illegally harvested timber into the EU, and report back to the Council on this work during 2004. Member States should also examine how the trafficking of illegally harvested timber is addressed under national laws.

There are legislative instruments and international processes which may help to inform the Commission's position in this regard, including the US Lacey Act, which applies to fish and wildlife products, and the Kimberly Process, an international initiative to control the trade in conflict diamonds. The UN Convention on Transnational Crime may also be a useful instrument for this aspect of the Action Plan.

On the legislative framework, the Commission will:

- undertake an analysis of the options for, and the impact of, further measures, including, in the absence of multilateral progress, the feasibility of legislation to control imports of illegally harvested timber into the EU, and report back to the Council on this work during 2004. Specific questions to be addressed will include the likely impact on customs services responsible for enforcing the rules and procedures for distinguishing legal from illegal timber arriving from countries which are not participating in the voluntary licensing scheme; and how to treat shipments of wood from non-partner countries which are suspected to be of illegal origin; and
- conduct consultations with forest sector stakeholders on the options for and the impact of further legislative controls to address the imports of illegally harvested timber.

4.3. Public procurement

European Community legislation on public procurement is governed by Directives 92/50/EEC (Services), 93/36/EEC (Supplies) and 93/37/EEC (Works) for the classical sectors and by Directive 93/38/EEC for the utilities sectors. The directives were last amended by Directive 97/52/EC for the classical directives and by Directive 98/4/EC for the utilities directive.

The above-mentioned directives are currently undergoing a complete revision. The Commission has put forward a proposal for a new joint directive for the classical sectors, combining the Services, Supplies and Works Directives, and has proposed a revised directive for the utilities sector. These proposals are currently going through a co-decision procedure with the Council and the European Parliament.

The current public procurement legislation, as well as the proposed future legislation, offers a number of possibilities for taking into account environmental considerations in public

procurement procedures. The Commission has recently presented a Communication which sets out the possibilities under the current legislation.¹⁵

In line with this Communication on public procurement and the environment, a Handbook on Green Procurement is being developed. This will present clear guidance and best practice examples on the utilisation of environmental considerations in public procurement procedures as part of the drive towards sustainable development.

On public procurement, the Commission will:

- use the Handbook on Green Procurement to show that under the public procurement directives it is possible to take into account legally harvested timber and products made from such timber. Environmental aspects of sustainable forest management can be taken into consideration in public procurement. Schemes that certify sustainable forest management cover environmental considerations and other issues including, usually, the legality of harvesting of the timber. Certification of sustainable forest management can therefore act as a means of proof of compliance with these environmental requirements and increase the likelihood that the public authority is being supplied with legally harvested timber. Such a request should be integrated into the definition of the subject matter of the contract and the technical specifications of the call for tender. This possibility will also apply in the proposed future procurement directives.
- draw the attention of Member State governments to the fact that illegal logging can be addressed through the adoption of procurement policies as described above.

Member States should make use of their competencies in this field. For example, both the present and the proposed future public procurement Directives mention the possibility of excluding a bidder from a contract for ‘grave professional misconduct’. The definition of grave professional misconduct is an issue of Member State competence. For application of this exclusion criterion, Member States will have to examine whether deliberately handling illegally harvested timber would constitute grave professional misconduct according to their national law.

4.4. Private sector initiatives

A fourth theme which the Commission proposes to address through the Action Plan is that of private sector initiatives based on principles of corporate social responsibility. The private sector has a key role to play in combating illegal logging, and can exert a direct and positive influence through a network of business relationships extending from the forest to the market place. A recent Communication¹⁶ on corporate social responsibility defines the concept as when “companies integrate social and environmental concerns in their business operations and in their interactions with stakeholders on a voluntary basis”.

This theme relies less on prescriptive policy measures and more on encouraging the private sector in the EU to work with the private sector in timber-producing countries according to voluntary codes of practice for timber harvesting and procurement, supplemented by rigorous voluntary independent audit of the supply chain. This approach is likely to be particularly

¹⁵ Commission Interpretative Communication on the Community law applicable to public procurement and the possibilities for integrating environmental considerations into public procurement, COM(2001) 274 final, see <http://simap.eu.int/EN/pub/src/welcome.htm>, under ‘rules and guidelines’.

¹⁶ COM(2002) 347 final, 2 July 2002

effective in cases where the trade is dominated by relatively few suppliers and importers into the EU. The voluntary licensing scheme described in section 4.2 above will also greatly assist this type of initiative.

European businesses working in the forest sector are developing a number of initiatives to introduce more socially and environmentally responsive approaches into their business practices. One such scheme is being developed by the Tropical Forest Trust¹⁷ (Box 3).

A number of interesting initiatives outside the forest sector are also currently pushing forward the boundaries of corporate social responsibility. Notable among these is the Extractive Industries Transparency Initiative, which was launched at the World Summit on Sustainable Development and now being further developed by the G8. The initiative aims to address the key issue of governance of natural resources and the revenues flowing from their extraction. Although the initiative focuses on oil, gas, and mining and does not include timber, it nevertheless establishes interesting principles for co-operation between the private sector and producer and consumer countries which could be applicable in the context of the FLEGT programme.

Box 3: The Tropical Forest Trust approach

The TFT works by linking the wood supply chain from producers to suppliers and on to buyers who wish to procure sustainable and legal timber products.

Members participate in the scheme because they have neither time nor human resources within their own organisations to manage the very complex process of moving forests towards certification and ensuring a future supply of legal and sustainable timber. The TFT manages this process for them.

TFT members invest a fixed percentage of their product's gross margin to fund TFT activities. Members get a return on their investment by securing a more ethical wood supply. TFT members gain access to timber products generated by specific projects they are supporting – before the project achieves certification members have the security of knowing that their supply chain originates in a project that is demonstrably moving towards certification with TFT assistance and monitoring. Having established such a close relationship with these projects, TFT members have the opportunity to secure a long-term supply of certified timber products once the project is certified.

Activities initiated under the TFT scheme include:

1. Assistance with the development of codes of conduct / wood procurement policies;
2. Assistance with understanding the current situation on forest policy, stakeholder views, and producing country issues;
3. Assistance with the identification of legal sources that can progress towards sustainable and certified;
4. Baseline and on-going assessments of forest management;
5. Technical assistance to improve forest management; and
6. Audit of members performance.

On private sector initiatives, the Commission will:

- draw lessons from new initiatives for corporate social responsibility, and examine ways of applying these lessons in the forest sector;

¹⁷ The Tropical Forest Trust is an organisation established to assist purchasers of tropical timber to source from sustainably managed forests and build capacity for certification.

- promote private sector initiatives, including support for the establishment of co-ordinating bodies, the adoption of high standards in codes of conduct, transparency in private sector activities, and independent monitoring;
- provide support for capacity building in developing countries to initiate private sector initiatives, for example in forest monitoring; and
- encourage active private sector participation, including with a view to: providing technical and financial assistance to ensure legality throughout the supply chain; developing and implementing codes of conduct and supply chain management systems; using of internal and external audit to verify compliance with the supplier code of conduct; assisting with the third party verification of the supply chain from source to end user; and reporting publicly in an agreed format on progress towards ensuring legality of products.

4.5. Financing and investment

The fifth element of the Action Plan addresses the question of financing institutions and the investment of funds in projects which potentially encourage illegal logging.

4.5.1. Improved due diligence

Large-scale capital investments in the forest sector, such as pulp and paper mills, can have a high risk attached to them if they do not have clearly defined, legal and sustainable supplies of timber over the long-term. These operations are liable to disruption due to the environmental and social damage which they cause, but current practice in banks and financial institutions for screening and risk assessment of forest sector investments does not sufficiently take this into account.

Banks and financial institutions investing in forest sector operations should be encouraged to assess the risk attached to the social and environmental factors which could have a bearing on the viability of their investments. Social factors which are of relevance to forest sector investments include conflict over land and access to forest resources (for example, disputed land ownership, or contradictions between official and traditional land ownership rights). Relevant environmental factors include the lack of a long-term supply of legal and sustainable timber (in which case the company could come to have an implicit reliance on illegally harvested timber).

On improved due diligence, the Commission will:

- encourage banks and financial institutions to take environmental and social factors into account when conducting due diligence and assessing the viability of investments in the forest sector. Particular attention must be devoted to investigating the supply and source of timber available over the longer term;
- foster the development of specific procedures for environmental and social due diligence for Export Credit Agencies (ECAs), the European Investment Bank and the Cotonou Investment Facility, since these operate with public money. Project screening procedures should ensure there is no evidence or undue future risk of illegal forest sector activity; and
- identify ways to assist Export Credit Agencies and other public lending bodies to obtain better information about forest sector investments and the associated risks; and

4.6. Supporting the Action Plan with existing legislative instruments

4.6.1. Money laundering

Under Council Framework Decision of 26 June 2001 (2001/500/JHA),¹⁸ EU Member States agreed to criminalise the laundering of the proceeds of "serious offences". Such offences shall in any event include offences which are punishable by deprivation of liberty or a detention order for a maximum of more than one year or, as regards those states which have a minimum threshold for offences in their legal system, offences punishable by deprivation of liberty or detention order for a minimum of more than six months. The criminalisation of the laundering of the proceeds from illegal logging or related offences would thus depend on whether such activity constituted a serious offence in each Member State in accordance with the above-mentioned definition.

The EU anti-money laundering directive of 1991,¹⁹ as amended in 2001,²⁰ obliges Member States to act against money laundering, notably by requiring financial institutions to report any suspicions of money laundering. It covers the laundering of the proceeds from a wide range of serious crimes but does not define serious offences in the same way as in the Framework Decision referred to above. Article 1(E) of the amended Directive does, however, require an alignment of the Framework Decision definition of serious crime before 15 December 2004 on the basis of a Commission proposal. Under the 2001 amendment some crimes are listed while others fall under a general reference to offences generating substantial proceeds or carrying a severe term of imprisonment. Thus Member States could, if they wished, treat crimes relating to illegal logging as serious offences for the purposes of the Directive. Currently only a small number of Member States designate crimes relating to illegal logging under money laundering legislation. It should be noted that the Directive states that money laundering shall be regarded as such even where the activities which generated the property to be laundered were carried out in the territory of another Member State or in that of a third country.

On money laundering, the Commission will:

- undertake work to establish the extent to which existing Member State legislation for money laundering is applicable to forest sector crimes, and disseminate this information widely to banks, financial institutions, financial crimes units and non-government organisations in the European Union;
- encourage Member States to designate illegal logging as a crime for the purposes of EC Directive 97/2001 on money laundering;
- provide development co-operation assistance, where appropriate, to strengthen developing country capacity to deal with forest-related money laundering issues; and
- encourage information sharing between the financial crimes units of the EU Member States on forest-related crimes.

¹⁸ OJ L 182, 5.7.2001, p.1.

¹⁹ Directive 91/308/EEC, OJ L 166, 28.6.1991, p.77.

²⁰ Directive 2001/97/EC, OJ L 344, 28.12.2001, p. 76.

4.6.2. *The Convention on Trade in Endangered Species (CITES)*

The 1973 Convention on Trade in Endangered Species (CITES) has an important role to play in controlling trade in endangered tree species. All EC Member States are Parties to CITES, as are all the candidate countries. CITES is currently implemented in Community law through Council Regulation (EC) No 338/97 of 9 December 1996 and Commission Regulation (EC) No 1808/2001 of 30 August 2001. CITES has developed mechanisms to ensure that trade in listed species is both legal and sustainable.

Currently 19 tree species are listed in Appendices I and II of CITES. Such a listing means that timber products from these species can only be imported into the EU when accompanied by an export permit from the country of origin and an EU import permit. An export permit is valid only if the timber was harvested legally within the country of origin. An EU import permit can only be granted when it is established that the granting of such a permit would not have a detrimental effect on the survival of the species or the extent of the territory occupied by it. Furthermore one genus and three tree species are listed in Appendix III – where countries have unilaterally restricted exports of such species. Once again, export permits granted for such species are only valid if the timber has been harvested legally.

At the 12th CITES Conference of the Parties in 2002 it was agreed to place restrictions on trade in big leaf mahogany (by listing in Appendix II) due to concerns about over-exploitation, as well as on species of the *Guaiaicum* genus (lignum vitae, tree of life). On the basis of scientific evidence it may be decided to add further tree species in future – there would appear to be a number of potential candidate species.

On the Convention in International Trade in Endangered Species (CITES), the Commission will:

- promote research on endangered timber species to justify their inclusion in Appendices I and II to CITES, and encourage wood-producing countries to use voluntary listing of timber species under Appendix III;
- work to address weaknesses in the permit system which regulates trade in species listed in the Appendices to the Convention; and
- encourage third countries to manage CITES-listed species sustainably in order to avoid potential import restrictions under Article 4 of Council Regulation 338/97.

4.6.3. *Other legislative instruments*

Member State legislation for stolen goods and other legislation may in some cases be applicable to illegal logging. This legislation would allow illegally harvested timber to be dealt with in consumer countries, rather than being stopped at the port of entry. Such legislation is a Member State competence.

The OECD Convention on Bribery and Corruption is also relevant, since illegal logging operations are virtually synonymous with bribery and corruption.

On other legislative instruments, the Commission will:

- Raise awareness, and encourage Member States to apply existing criminal legislation and other legislative instruments, including, where applicable, legislation for stolen goods, and compile and exchange relevant information.
- Encourage Member States to apply measures set out in the OECD Action Statement on Combating Bribery, including the refusal to approve credit, cover or other support where evidence is shown that bribery was involved in the award of an export contract.

4.7. Conflict timber

Conflict timber is loosely defined as timber traded by armed groups, the proceeds of which are used to fund armed conflicts. It is usually unauthorised by the relevant government agencies and therefore illegal, but can sometimes be “legal” if authorised by the government and taking place in an area under its control. The final report of the expert panel on the illegal exploitation of natural resources and other forms of wealth in the Democratic Republic of Congo²¹ recommended that an international definition of conflict timber be developed.

On conflict timber, the Commission will:

- support work to define conflict timber – a necessary starting point for any further action to be taken at the international level.
- follow up in relevant international fora any recommendations in this regard which the UN Security Council may make.
- work to recognise and address in its development co-operation programmes the role forests play in the context of conflicts, and address relevant issues including local and indigenous peoples’ rights to the forests they depend on for a living, and good governance in remote, sparsely populated forest areas; and
- initiate discussion with Member States, other donors and forested countries on the role of forests during conflicts and in pre- and post- conflict situations, and how this can best be taken into account in work related to forest law enforcement and governance.

5. CO-ORDINATION AND PROGRAMMING

As a cross-cutting issue, action on forest law enforcement, governance and trade requires a high level of co-ordination across different sectors and between different players. A co-ordination mechanism will be established within the Commission to:

- act as a central focal point for the FLEGT initiative, and facilitate the implementation of the FLEGT Action Plan, including through existing instruments;
- provide technical inputs for the development of partnership agreements with major wood-producing countries;

²¹ UN Security Council document S/2002/1146, 16 October 2002

- develop a detailed and co-ordinated work plan for the FLEGT Action Plan with EU Member States;
- support a process of consultation with major forest sector stakeholders and other relevant parties on the FLEGT initiative in the EU and in potential partner countries;
- co-ordinate the Commission's support to ongoing international initiatives to build political commitment to address illegal logging, in particular the Africa, Asia and proposed Latin America initiatives for forest law enforcement and governance, and co-ordinate Commission positions in relation to dialogue with G8 countries and China;
- ensure that the technical inputs and expertise required to implement the FLEGT programme are made available. Immediate short term technical inputs which are needed include:
 - investigation of the importance of illegal logging in international trade, and the potential for indirect and spill over effects from measures taken by the EU;
 - economic analysis of the impact of illegal logging to affected countries – where this does not already exist – and the global economy; and
 - follow-on technical development and technical assistance to introduce systems for log tracking and legality verification both in the EU and in FLEGT Partner Countries. (A scoping exercise for this is currently being financed by the Commission.)
- assist development of a strategy to expand the focus of the initiative to include other major wood-consuming markets; and
- monitor the evolving impact of the programme on forest sector stakeholders, including forest-based industries in the EU and wood-producing countries, and governments and local communities in wood-producing countries.

As an initial step, the inter-service co-ordination group established for the development of the Action Plan will be maintained as a mechanism to co-ordinate activities. The Tropical Forest budget line, as well as other development co-operation financial instruments, will contribute to the implementation of the Action Plan.

The Commission will work to implement the Action Plan jointly with Member States and partner countries. The Commission will encourage a joint approach with Member States, including through co-ordination through the European Tropical Forest Advisers Group (ETFAG),²² and similar in-country co-ordination fora. In the short term, operational funds to initiate the FLEGT Action Plan will mainly be provided from the Tropical Forest Budget Line (B7-6200). The funds will be used to perform the tasks identified as a priority for the initiation of the FLEGT programme, where these are eligible for funding under the Regulation governing the budget line and in line with the biannual programming of the budget line. It should be noted that the Tropical Forest Budget Line can only be used to fund activities of benefit to developing countries. The Regulation governing the Tropical Forest Budget Line will expire at the end of 2006. The need to ensure the availability of resources to fund

²² The European Tropical Forest Advisers Group (ETFAG) is a forum which exists to promote co-ordination between the Commission and Member States active in the forest sector.

FLEGT-related activities will be an important factor to be taken into account by the Commission when considering whether to propose a new Regulation.

Funds available under the budget line may be insufficient to support the programmes of technical assistance and capacity building required in wood-producing FLEGT partner countries. Where appropriate, the Commission will thus work to integrate the FLEGT programme into the EC's main country-based and regional development co-operation programmes. Interested Member States will also be encouraged to contribute resources or activities to a common work plan.

6. THE NEXT STEPS

The Council and European Parliament are asked to endorse the Commission's proposals to:

- enter into negotiations for FLEGT Partnership Agreements with wood producing countries;
- present a Regulation setting up the voluntary licensing scheme, in conjunction with wide stakeholder consultation; and
- review options for, and consider the impact of, further measures to support the Action Plan, including, in the absence of multilateral progress, the feasibility of legislation to control imports of illegally harvested timber, and report back to the Council on this work during 2004.
- Member States are also asked to identify relevant national legislation which could be applied to address the illegal logging issue, and to inform the Commission of their findings.

ANNEXES

ANNEX 1: ONGOING INITIATIVES FOR IMPROVED FOREST LAW ENFORCEMENT

A great deal of effort has been put into national, regional and international initiatives to raise commitment and initiate work programmes to tackle illegal logging. Many of these initiatives involve the European Commission and EU Member States, through delegations to multilateral processes, direct policy initiatives, and programmes of development co-operation. These initiatives are summarised below.

International initiatives

At an international level, the first major public pronouncement was made at the G8 summit in Birmingham in 1998. A working group set up after the Birmingham summit reported back to the G8 meeting in Canada in 2002. This report proposed measures for the identification and verification of legal production, timber tracking, labelling and certification, linked to measures denying market access to illegal products, public procurement policy, and assistance for capacity building and forest management. The G8 also stated a commitment to identifying actions in both producer and consumer countries.

Statements have also been made in other multilateral fora. In November 2001, the 31st session of the International Tropical Timber Council (ITTC) (ITTC-31) adopted a decision on forest law enforcement in the context of sustainable timber production and trade. In May 2002, the 32nd session of the ITTC (ITTC-32) adopted a decision on forest law enforcement in Africa to undertake data collection on forests in the Central African Republic, the Democratic Republic of Congo, and the Republic of Congo, aimed at improving forest concession management and ensuring conservation in protected areas.

In March 2002, the second session of the UN Forum on Forests (UNFF-2) developed a Ministerial Message to the World Summit on Sustainable Development (WSSD) that among other things calls for immediate action on domestic forest law enforcement and international trade in forest products. In addressing progress in combating deforestation and forest degradation, UNFF-2 also highlighted the vital role of initiatives to strengthen law enforcement, and urged governments to address law enforcement and illegal logging.

The Convention on Biological Diversity in 2002 adopted an Expanded Work Programme on Forest Biological Diversity, which includes proposed actions concerning the promotion of forest law enforcement and measures to address the related trade.

Regional initiatives

The World Bank is co-ordinating regional initiatives for forest law enforcement and governance in Asia and Africa.²³ In Asia a series of regional planning meetings culminated in a ministerial conference in Bali, Indonesia in September 2001. The meeting issued a Ministerial Declaration: "Recognising that all countries, exporting and importing, have a role and responsibility in combating forest crime, in particular the elimination of illegal logging

²³ Full details of these initiatives can be found at:
<http://lnweb18.worldbank.org/ESSD/essdext.nsf/14ByDocName/ForestGovernanceProgramMinisterialProcesses>

and associated illegal trade” (Annex 3). An Asian FLEG Task Force has been set up, with associated advisory bodies consisting of industry and non-government organisation representatives, and a substantial programme of work is now ongoing. Ministers are due to meet again to review progress later in 2003.

In Africa, a Ministerial Conference is due to take place in 2003. This meeting aims to galvanise commitment in Africa at a high political level to strengthen capacity for forest governance, in particular with regard to illegal logging. It is expected that participants will endorse a Ministerial Declaration and a follow-up programme of work will be launched.

The European Commission and a number of EU Member States have provided strong support to these processes in Asia and Africa – both through political support and financial contributions.

Illegal logging and governance also form a focus of two major type II partnerships launched at the World Summit on Sustainable Development (WSSD) – the Asia Forest Partnership, launched by Japan and Indonesia, and the Congo Basin Forest Partnership, launched by the United States and South Africa.

European Commission initiatives

The European Commission set out its intention to combat the illegal logging and the associated trade in its Communication to the Council and the European Parliament on a global partnership for sustainable development²⁴ and in the 6th Community Environmental Action Plan.²⁵

To assist with the preparation of this Action Plan, the Commission hosted an international workshop in Brussels from 22-24 April 2002. The workshop was attended by representatives of the EU Member States, the governments of several non-EU wood-producing and wood-importing countries, the forest industry, and non-government organisations.

The workshop examined methods of controlling the entry of illegally harvested timber into the EU, including through the use of legislation and a licence of legality; data exchange and collaboration between customs authorities; due diligence by financing institutions; and the role of public procurement policy. Further details of the workshop are available online at:

http://europa.eu.int:8082/comm/external_relations/flegt/intro/index.htm

The European Commission then hosted a side event on illegal logging at the World Summit on Sustainable Development (WSSD) in Johannesburg, in August 2002. The EU, the United States and Japan were all present. At the side event, which also included producer country governments, and representatives of the private sector and non-government organisations, all parties expressed agreement of the need to work together to tackle illegal logging.

EU Member State initiatives

EU Member States are undertaking many different actions to combat illegal logging and the associated trade. Without prejudice to their conformity with EU laws, the following paragraphs provide some examples of the types of activities which are ongoing.

²⁴ COM(2002) 82, 13.2.02

²⁵ Decision N° 1600/2002/EC of the European Parliament and the Council, 22 July 2002

Denmark, in its capacity as serving EU president, jointly hosted a side event on illegal logging at the World Summit on Sustainable Development (WSSD) with the European Commission in August 2002. The government places considerable priority on combating illegal logging and related trade, and among other actions already taken, Denmark is at an advanced stage of producing guidelines for public procurement of tropical timber, aiming to ensure that only legal and sustainable timber will be purchased by public institutions.

Finland is in the process of defining a strategy for forest development co-operation, and this may include a focus on illegal logging. The Finnish Forest Industries Federation have also issued a statement of their support for efforts to eradicate illegal logging, which is available at <http://english.forestindustries.fi/press/2002/081102.html>.

France is providing support to the Africa Forest Law Enforcement and Governance (AFLEG) process, in partnership with the US, UK, Switzerland and the Commission. Issues concerning illegal logging and trade will also be addressed in co-operation projects at the regional and national level through activities focused on capacity building, data collection and support for the control of forest activities. France is also working to encourage the commitment of the private sector, and in particular is encouraging French corporations to implement the code of conduct targeted at Forest Management.

A dialogue has been initiated within the National Working Group for Tropical Humid Forests in order to address the issue of illegal logging at the national level through awareness raising and the use of specific policy instruments, such as public procurement. A study on the impact of public procurement measures has been launched and is being managed by the ministries responsible for the environment and forests. The French Development Agency (AFD) is also working on the possible options to strengthen controls in the implementation of the Forest Management Plans supported by French Development Co-operation.

Germany in 2002 approved a new strategy for development co-operation in the forest sector. Combating illegal logging is amongst a number of priorities identified for German development co-operation in the sector. The strategy proposes to fight illegal logging and timber trafficking, as well as trade in other illegally harvested forest products (e.g. game and bush-meat), by addressing the following areas for action: Developing transparent procedures as a basis for issuing concessions and utilisation licences; establishing effective control and penalty mechanisms (law enforcement); ensuring civil society participation in these processes; creating incentives in import countries for public and private procurement of independently certified timber and wood products from sustainable forest management; and assisting partner countries with their efforts to implement and further develop the CITES endangered species convention (particularly protection of the endangered species listed and inclusion of further species in Annex 3). Action in these areas will be implemented through development co-operation programmes as and where appropriate.

The full strategy document is available in English online at:

http://www.gtz.de/forest-policy/download/Documents/German%20Government/BMZ_Forest_Sector_Concept_2002.pdf

The Netherlands does not have a specific policy on illegal logging, but some relevant actions are being taken within the Netherlands and overseas through development co-operation programmes. The subject is attracting increasing attention.

Within the Netherlands, listing in the appendices of the Convention on Trade in Endangered Species (CITES) is being used to control the illegal trade in endangered tree species. The Netherlands is also supporting a specific programme on the "Evaluation of tree species using the CITES listing criteria" to further the usefulness of the Convention in protecting endangered tree species. The Netherlands also actively promotes timber certification processes, which include a focus on the legality of sources in the country of origin.

Through development co-operation, by way of projects and the sectoral approach, the Netherlands is supporting initiatives to promote good governance in the forest sector in several developing countries, including Peru, Guatemala, Ecuador, and Surinam. The Netherlands is also financing a number of smaller relevant projects implemented by IUCN-Netherlands in a number of countries.

The United Kingdom is supporting both the Asia and Africa Ministerial Process for Forest Law Enforcement and Governance. The issue is addressed through both policy actions and country programmes in Indonesia, Cameroon and parts of Central America (among others). In April 2002 the United Kingdom signed a Memorandum of Understanding with the Government of Indonesia to combat illegal logging and the associated international trade in illegally logged timber and wood products. The MoU includes agreement to work together on legal and administrative reforms, legality verification systems, and financial and technical assistance. Both the process leading up to the signing of this MoU, and the issues which have subsequently arisen with respect to its implementation, offer valuable lessons for elements of the Action Plan which the European Commission is now preparing. The UK is also at an advanced stage of reforming public procurement policy to ensure that only legal and sustainable timber is purchased by public institutions.

ANNEX 2: A SUMMARY OF THE INTERNATIONAL TRADE IN TIMBER

The world market for the production, processing and trading of wood is largely dominated by the temperate zones and developed countries (US, EU, Canada, Japan). Tropical products account for a small proportion of total world exports of wood, namely 16% of industrial roundwood, 13% of sawnwood, pulp and paper and 39% of panels. Only plywood made of tropical hardwood accounts for a dominant proportion of the international market (71%).

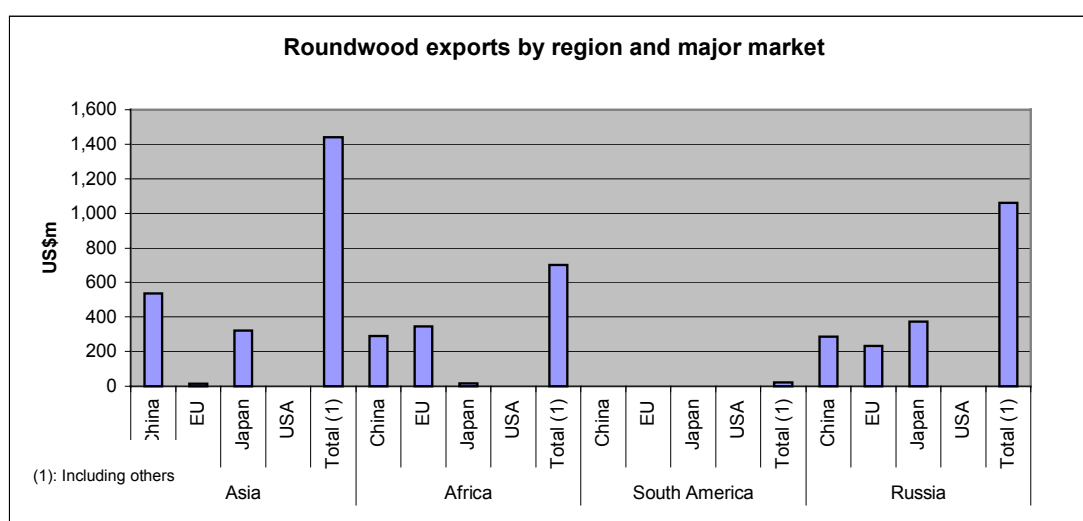
Another particularity of world trade in wood products is that much of the trade in forest products is within regions. According to the World Bank, 80% of Europe's trade is between European countries, 85% of exports from countries in Asia are to countries in the same region and 80% of North American imports come from within the region. The only major inter-regional trade flows (over US\$5 billion) are from North America to Europe and from North America and Europe to Asia and Oceania.²⁶

Nevertheless, the figures below confirm the potential for EU trade-based measures to exert an influence on the global trade in timber, and also highlights the importance of working towards wider collaboration on this issue with the other major wood consuming countries in the longer term.

Roundwood

Key points to note:

- Demand for roundwood from Asian producer countries is dominated by China and Japan.
- The EU is the largest importer of African roundwood by value.
- Trade in roundwood from South America is negligible.
- Imports of roundwood by China, Japan and the EU from Russia are of roughly equal value (although the EU is the largest importer by volume).



Source: FAO FAOSTAT online database

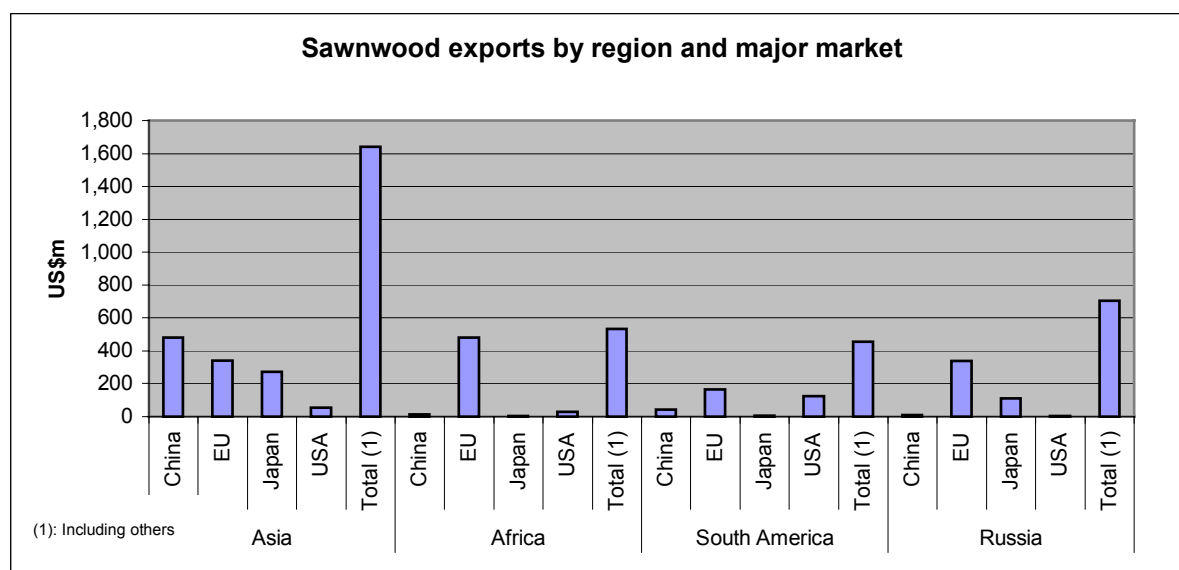
²⁶

World Bank. Future Developments in Forest Products Markets (1999).

Sawnwood

Key points to note:

- The EU is the second largest market for sawnwood from Asia, accounting for 21% of the trade with Asia by value.
- The EU is the largest importer of sawnwood from Africa, accounting for 91% of Africa's trade by value with the four major markets.
- The EU accounts for 38% of the value of sawnwood exports from South America.
- EU imports account for nearly half of Russia's trade in sawnwood.

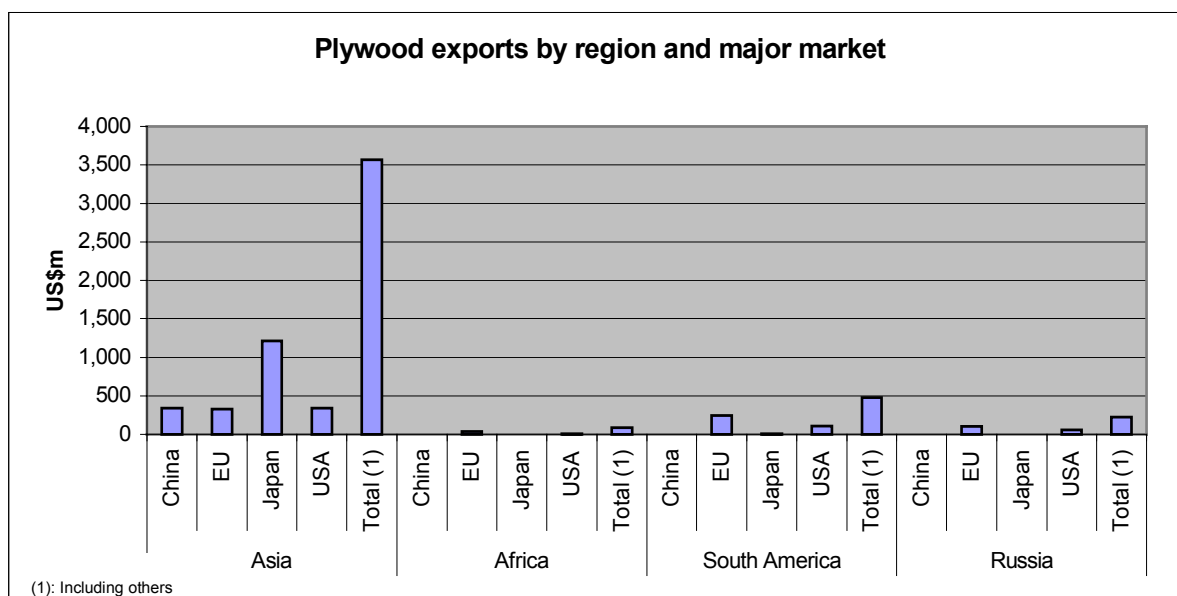


Source: FAO FAOSTAT online database

Plywood

Key points to note:

- The EU is the second largest market for Asian plywood, accounting for 9% of trade by value.
- The EU is the largest importer of plywood from Africa, accounting for 43% of Africa's (very modest) trade by value.
- The EU accounts for 51% of the value of plywood exports from South America.
- EU imports account for nearly half of Russia's plywood exports.



Source: FAO FAOSTAT online database

ANNEX 3: THE BALI DECLARATION

FOREST LAW ENFORCEMENT AND GOVERNANCE

EAST ASIA MINISTERIAL CONFERENCE

Bali, Indonesia

11 – 13 September 2001

MINISTERIAL DECLARATION

Countries from the East Asian and other regions participating in this Ministerial Conference:

Understanding that forest ecosystems support human, animal and plant life, and provide humanity with a rich endowment of natural, renewable resources;

Deeply concerned with the serious global threat posed to this endowment by negative effects on the rule of law by violations of forest law and forest crime, in particular illegal logging and associated illegal trade;

Recognising that illegal logging and associated illegal trade directly threaten ecosystems and biodiversity in forests throughout Asia and the rest of our world;

Also recognising the resulting serious economic and social damage upon our nations, particularly on local communities, the poor and the disadvantaged;

Further recognising that the problem has many complex social, economic, cultural and political causes;

Convinced of the urgent need for, and importance of good governance to, a lasting solution to the problem of forest crime;

Recognising that all countries, exporting and importing, have a role and responsibility in combating forest crime, in particular the elimination of illegal logging and associated illegal trade;

Emphasising the urgent need for effective co-operation to address these problems simultaneously at the national and sub-national, regional and international levels;

Declare that we will:

Take immediate action to intensify national efforts, and to strengthen bilateral, regional and multilateral collaboration to address violations of forest law and forest crime, in particular illegal logging, associated illegal trade and corruption, and their negative effects on the rule of law ;

Develop mechanisms for effective exchange of experience and information;

Undertake actions, including co-operation among the law enforcement authorities within and among countries, to prevent the movement of illegal timber;

Explore ways in which the export and import of illegally harvested timber can be eliminated, including the possibility of a prior notification system for commercially traded timber;

Help raise awareness, through the media and other means, of forest crimes and the threats which forest destruction poses to our future environmental, economic and social well-being;

Improve forest-related governance in our countries in order to enforce forest law, inter alia to better enforce property rights and promote the independence of the judiciary;

Involve stakeholders, including local communities, in decision-making in the forestry sector, thereby promoting transparency, reducing the potential for corruption, ensuring greater equity, and minimising the undue influence of privileged groups;

Improve economic opportunities for those relying on forest resources to reduce the incentives for illegal logging and indiscriminate forest conversion, in order to contribute to sustainable forest management;

Review existing domestic forest policy frameworks and institute appropriate policy reforms, including those relating to granting and monitoring concessions, subsidies, and excess processing capacity, to prevent illegal practices;

Give priority to the most vulnerable transboundary areas, which require co-ordinated and responsible action;

Develop and expand at all appropriate levels work on monitoring and assessment of forest resources;

Undertake the demarcation, accurate and timely mapping, and precise allocation of forest areas, and make this information available to the public;

Strengthen the capacity within and among governments, private sector and civil society to prevent, detect and suppress forest crime.

Further, in order to give full effect to the intentions of this Declaration, and to proceed with urgency to explore timely implementation of significant indicative actions developed by technical experts at this meeting, we:

Undertake to create a regional task force on forest law enforcement and governance to advance the objectives of this Declaration;

Invite the representatives at this conference from NGOs, industry, civil society and other relevant stakeholders to consider forming an advisory group to the regional taskforce;

Decide to meet again at the Ministerial level in 2003 to review progress on first actions to implement these commitments, in co-operation with relevant international partners;

Request the ASEAN and APEC countries participating in this Conference to inform the next ASEAN and APEC Summits of the outcome of this Ministerial Conference and to invite their support;

Pledge to work to see that the issue of forest crime is given significant attention in future international fora, including by the World Summit on Sustainable Development (WSSD) and the United Nations Forum on Forests, and by the member organisations of the Collaborative Partnership on Forests;

Request the G-8 countries and other donors to consider further how they can join in the fight against forest crime, including through capacity building efforts;

Encourage other regions to consider creating similar regional initiatives to combat forest crime.

Bali, Indonesia

13 September 2001