

# ILLEGAL LOGGING AND FOREST CERTIFICATION: A VIEW FROM A LOW RISK SUPPLIER

*Photo by : Northeastern Loggers Association*



**Rupert Oliver, consultant to the American Hardwood Export Council (AHEC), explains how the US hardwood industry is influencing international policy debate on forest certification and illegal logging.**

Scaling concern for climate change has driven an upsurge in political interest in green issues over the last 12 months. The EU's Environment Commissioner has described climate change as "one of the most threatening issues that we are facing today". Tony Blair as UK Prime Minister described it as "the single most important issue". Chancellor Merkel of Germany vowed to make climate change the top priority within the G8 and EU during 2007. And Italy's Prime Minister Romano Prodi has said that "climate change is the real threat to global peace".

Political concern for climate change

has gone hand in hand with concern for illegal logging. Deforestation is estimated to account for around 20 per cent of global greenhouse gas emissions. Because illegal logging is regarded as a major cause of deforestation, the search for solutions to this problem has attained a political profile close to that of climate change. The Governments of all the major timber producing and consuming countries are now committed at Ministerial level to regional Forest Law Enforcement and Governance (FLEG) processes. Illegal logging is expected to be a priority theme during the Japanese government's presidency of the G8 in 2008.

The wood products industry should be a major beneficiary of the intense global interest in greenery. Carbon trading and "avoided deforestation" schemes are a potentially huge new source of finance for sustainable forestry operations. Wood in use, particularly

for long-term structural applications, acts a carbon store. Tough new energy efficiency standards in construction in many parts of the world should boost demand for wood due to its excellent insulation properties. Efforts to improve forest governance should help shift the international wood products industry on to a sustainable footing, ensuring long term supplies and improving public perceptions of the forest sector.

Few wood products should benefit more than American hardwoods. The United States is host to a vast natural hardwood resource that has enormous potential to act as a sustainable "wood basket" for other areas of the world. Between 1953 and 2007, the volume of US hardwood growing stock more than doubled from 5,210 million m<sup>3</sup> to 11,326 million m<sup>3</sup>. Hardwood growing stock will grow a further 15-20 per cent through 2030. Each year for the last 50 years American hardwood forests stored around 110 million tonnes of CO<sub>2</sub> (excluding all harvested material). That's enough to offset about 10 per cent of US annual residential emissions, or 6 per cent of US annual transport emissions.

This rapid growth in America's hardwood resource builds on a firm foundation of strong governance and efficient forest regulation. At national level, the United States is committed to the Montreal Inter-Governmental Sustainable Forestry Principles. The U.S. Federal Government regularly undertakes systematic assessments of national progress against these principles – most recently in the USDA National Report on Sustainable Forests of 2003. The United States scores very highly on international governance indicators, such as those of the World Bank. All this gives confidence that forest



laws in the United States are comprehensive and effectively enforced.

Nevertheless the emerging international interest in greenery presents new challenges, even for American hardwood suppliers. Concern for illegal logging has gone hand in hand with rising interest in new trade measures designed to counter the problem. The last few years have seen a rapid expansion in procurement policies requiring that wood must derive from legal and sustainable sources. Policies covering public sector procurement are now being implemented by the governments of Japan, the UK, France, Belgium, Netherlands, Denmark, Germany, and New Zealand. Efforts to develop and promote similar policies amongst major timber importing companies have been intensifying.

The motives behind introduction of these policies are admirable. By driving demand for legal and sustainable wood products and excluding illegal products from the market, buyers hope to eradicate a key cause of illegal logging. However problems can arise when buyers set out detailed specifications for what constitutes "legal and sustainable timber" based on incomplete knowledge of – or lack of concern for – supply chains and underlying forestry issues in timber supplying countries.

There has been a tendency – particularly in public sector procurement – to demand that wood must be traceable to forest of origin and that there should be independent certification of forestry practices at forest management unit level. Some government procurement policies, for example in Germany and Belgium, require that all wood supplied for government contracts must be either FSC or PEFC certified.

Certification is a very useful tool for demonstrating sustainability. In recent years, concerted efforts have been made by the leading certification systems, including SFI, FSC and PEFC, to ensure they are applicable to a broad range of forestry conditions. Nevertheless, these certification systems have not yet found all the answers. Questions need to be raised over whether certification is universally applicable or whether it is necessarily the best solution to promote sustainability in all contexts.

American hardwoods are a case in point. The vast majority of American hardwood derives from the eastern United States where around 73 per cent of hardwood forest land is privately owned, often by families whose ownership stretches back several generations. There are approximately 4 million private forest owners in the region with an average

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lot size of 50 acres. Certification in this context is not about contacting a small number of large land owners or forest concessionaires to encourage them to adopt a set of certification standards and pay for an audit. A huge amount of time and resources must first be devoted to raising awareness of certification through mass marketing and educational campaigns. This in a market environment where there is still only very patchy demand for certified wood products.

Despite several years of promotion by the various certification systems operating in the United States, awareness of these systems in the small forest owner sector still remains very restricted. In fact a key feature of the SFI Program, a certification system which operates throughout North America, has been to raise awareness of certification and promote good practice amongst small owners. Nevertheless, according to a recent survey<sup>1</sup>, forest certification

systems still have very low participation (2 per cent) and very low awareness (17 per cent) amongst U.S. family forest owners.

There is also a need to encourage small owners to work together in a sector where there is little or no tradition of co-operative action. The situation in the U.S. where only a small proportion of forest owners currently participate in forestry associations and similar organisations contrasts sharply with the situation in European countries where such organisations have provided a foundation for widespread uptake of group certification.

The unit costs of certification also tend to be higher for small owners. And then there is the problem of chain of custody. Fragmentation of forest ownership means that it is extremely difficult to trace wood from individual forest to point of sale. One case study<sup>2</sup> has shown how a typical American hardwood mill buys timber derived from

around 1800 forest owners in a single year. In the following year, the mill derives its timber from a different set of 1800 forest owners.

Against this background, AHEC is developing an alternative approach to certification for demonstrating the legality and sustainability of American hardwoods. It has commissioned a comprehensive data-based assessment of the risk that American hardwoods derive from illegal and other controversial sources.

The study has been commissioned from Seneca Creek Associates LLC, an independent US consultancy company, and will be subject to further independent peer review. The study is expected to provide a credible assurance that there is a very low risk of American hardwood being derived from an illegal source or a controversial source as defined under the terms of the FSC Controlled Wood and PEFC Chain of Custody standards. The study is due for completion in early 2008. AHEC is investigating the possibility of further refining the research in the future to ensure more comprehensive coverage of issues seen as critical for sustainability by major buyers.

AHEC's decision to undertake the risk assessment study forms part of a broader effort by the American hardwood industry to ensure that policy responses to illegal logging are efficient and proportionate to the scale of the problem. The underlying philosophy is that unnecessary additional bureaucracy and costs should not be imposed on suppliers in regions where illegal logging and unsustainable practices are not a problem. Time, resources, and requirements should be focused on areas and suppliers where problems do exist.

This same philosophy is inherent to the U.S. hardwood industry's firm support for the Combat Illegal Logging Act which is currently being considered for implementation by the U.S. legislature. Industry efforts promoting passage of the legislation, which now seems imminent,



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have been coordinated by the Hardwood Federation which represents over 14,000 businesses and one million hardwood families in the United States.

The intent of the Act is to make it an offence within the U.S. to trade in a wood product that has been "taken, possessed, transported, or sold" in violation of any foreign law. This would be achieved through an amendment to the U.S. Lacey Act which currently regulates trade in fish, wildlife and limited subset of plants. In accordance with Lacey, the burden of proof would lie with the prosecution rather than with the defence. In other words, if charged under the new Law, traders of wood products in the U.S. would not be required to prove that the wood in question derives from a legal source. Instead, it would be up to the prosecution to demonstrate that the wood in question was taken in violation of a foreign law. The U.S. Department of Justice has indicated that, given limited personnel resources and the high costs of gaining a conviction, the amended law would only be applied with respect to the worst actors – importers with actual knowledge and intent to import illegal shipments.

The law is proportionate to the scale of the illegal logging problem. It does not impose unnecessary new controls on suppliers in regions where the existing legal framework can be shown to be effective. The impact of the law is expected to increase pressure on U.S. importers to show due care and to take reasonable measures to monitor supply chains. The law does not dictate the mechanisms and procedures by which legality may be demonstrated. Instead companies would be given a strong incentive to assess their supply bases and to determine where there may be a significant risk of illegal activity. They would then be able to take appropriate action – for example demanding certified wood from countries where there is a high risk of illegal activity, while imposing lesser requirements on low risk suppliers.



Photo by : Northeastern Loggers Association

United States experience of implementing the Combat Illegal Logging Act should inform on-going debates in other key consuming countries of the need for and nature of legislation designed to eradicate imports of illegal wood products. The European Union is currently exploring a range of legislative options, one of which looks very like the US Lacey Act. However, other options under investigation in the EU are likely to place a much greater bureaucratic burden on wood product suppliers than the US Act.

One approach which has gained the support of influential environmental groups in the EU and seems also to be gaining ground amongst European trade interests would be a law which, in effect, assumes all wood traded within the EU is illegal unless proven otherwise. If challenged, an importer would have to provide independently verifiable evidence of its legality. Failure to produce this evidence would be

a criminal act within the EU. This approach seems disproportionate to the scale of the problem and takes no account of the risk of illegal logging in the country supplying the timber. It would add unnecessary restrictions on the trade in forest products. This would be particularly counter-productive at a time when there is every reason to increase consumption of wood to replace other less energy-efficient products like concrete and steel as a means of mitigating climate change.

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1. *Getting the Attention of Family Forest Owners, Geoff Feinberg, Sustaining Family Forests Initiative, July 2006*
  2. *Sourcing US hardwood materials for French Furniture Manufacture: A 'Chain of Custody' Case Study, Michael Buckley, Journal of the Institute of Wood Science, Volume 15, No 4, Winter 2000*