

Senate Rural and Regional Affairs and Transport References Committee

**Questions on Notice – Monday, 16 May 2011
CANBERRA**

**Inquiry into the exposure draft and explanatory
memorandum of the Illegal Logging Prohibition Bill 2011**

Question Number	Page No's.	Witness	Question asked by	Answered
1	11	Aust. Forestry Standard Ltd	Senator O'Brien	23/5/11
1	37	HSI	Senator O'Brien	23/5/11
1	52	Greenpeace	Senator O'Brien	24/5/11
1	55	NZ High Commission	Senator O'Brien	25/5/11
1	58	DAFF	Senator Colbeck	26/5/11
2	59	DAFF	Senator Colbeck	26/5/11
3	59-60	DAFF	Senator Colbeck	26/5/11
4	60	DAFF	Senator Colbeck	26/5/11
5	61	DAFF	Senator Colbeck	26/5/11
6	64-65	DAFF	Senator Colbeck	26/5/11
7	65-66	DAFF	Senator O'Brien	26/5/11
8	67	DAFF	Senator O'Brien	26/5/11

**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE**

**Inquiry into the exposure draft and explanatory memorandum
of the Illegal Logging Prohibition Bill 2011**

Public Hearing Monday, 16 May 2011

Questions Taken on Notice – Australian Forestry Standard Ltd

HANSARD, PG 11

Miss Watts: Through the complaints and grievances process, which is internationally recognised, on an international level there has been a complaint and grievance in Indonesia regarding practices under a certified organisation there. The escalation and appeals have gone up to the IAF level, where certification bodies and auditors were also investigated. The findings have not been fully released yet.

Senator O'BRIEN: Is that the only incidence of an alleged breach of that standard being pursued?

Miss Watts: It is the only one I am aware of.

Senator O'BRIEN: Could you take that on notice and let us know if there are others? Could you provide us with more detail, if you are able to, about the circumstances of that alleged breach and the proceedings that have taken place?

Miss Watts: Yes.

**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE**
**Inquiry into the exposure draft and explanatory memorandum
of the Illegal Logging Prohibition Bill 2011**
Public Hearing Monday, 16 May 2011
Questions Taken on Notice – Australian Forestry Standard Ltd

23-May-11

RESPONSE: Kayt Watts
CEO, AFSL

HANSARD, PG 11

Records of incidents or breaches to Certification

June, 2009

- PEFC received and supported a formal complaint relating to compliance of three certified Mills, operating in Indonesia against its International Chain of Custody Standard.
- PEFC's International Chain of Custody Standard is independently audited and verified by an accredited certification body. In the case of the certified Mills in the complaint, this assurance is provided by SGS South Africa (Pty) Ltd. - Qualifor Programme.
- SGS as the certification body issued a response to the complaint, stating that the operations in question are in compliance with PEFC's International Chain of Custody Standard.

July 2010

- Report by an international environmental non-government organisation (eNGO) to PEFC International regarding the compliance of a PEFC Certified organisation operations based in Indonesia.
- PEFC International requested the eNGO submit evidence of non-conformity
- As the eNGO chose not to submit evidence supporting the allegations made in its published report PEFC decided to take those sections of the report pertaining to PEFC and have them investigated by SGS South Africa (Pty) Ltd. - Qualifor Programme, the relevant certification body in this case. The results of which will determine what actions will be taken and, dependant on the outcome could result in a termination of the certificate by the Certification Body.
- PEFC International has received a Draft report and has asked for further clarification. PEFC is continuing to engage with the eNGO.

REGISTER OF COMPLAINTS AND RESOLUTIONS GAINST CERTIFIED ORGANISATIONS

As the process between Standards Setting and Certification is separate, any complaints against a certified organisation is handled by their Certification Body, any complaints against a Certification Body is handled by their National Accreditation Body.

The register of these complaints are held by the above relevant Bodies.

CANCELLATION OR SUSPENSION OF A CERTIFICATE

Misuse of certificate and certification mark

The Certification Body shall take suitable action, at the expense of the Client, to deal with incorrect or misleading references to certification or use of Certificates and certification marks. These include suspension or withdrawal of Certificate, legal action and/or publication of the transgression.

Suspension of a certificate by a certification body

A Certificate may be suspended by the Certification Body for a limited period in cases such as the following:

- (a) if a Corrective Action Request has not been satisfactorily complied with within the designated time limit; or
- (b) if a case of misuse as described in Clause 14 is not corrected by suitable retractions or other appropriate remedial measures by the Client; or
- (c) if there has been any contravention of the Proposal, Application for Registration, General Conditions for System, Product and Service Certification, these Codes of Practice or the Regulations governing the use of the certification mark; or
- (d) if products are being placed on the market in an unsafe or non-conforming condition.
- (e) if audits are not carried out within the prescribed timeframe.

The Client shall not identify itself as certified and shall not use any certification mark on any products that have been offered under a suspended Certificate.

The Certification Body will confirm in writing to the Client the suspension of a Certificate. At the same time, the Certification Body shall indicate under which conditions the suspension will be removed. At the end of the suspension period, an investigation will be carried out to determine whether the indicated conditions for reinstating the Certificate have been fulfilled. On fulfilment of these conditions the suspension shall be lifted and the Client notified of the Certificate reinstatement. If the conditions are not fulfilled the Certificate shall be withdrawn.

All costs incurred by the Certification Body in suspending and reinstating a Certificate will be charged to the Client.

Cancellation of certificate

A Certificate will be cancelled if (i) the Client advises the Certification Body in writing that it does not wish to renew the Certificate or goes out of business, (ii) the Client no longer offers the products or (iii) the Client does not timely commence application for renewal.

In cases of cancellation no reimbursement of assessment fees shall be given and notified to the appropriate accreditation body, if any.

Penalty

Penalties for non-compliance founded on a complaint, surveillance audit or re-certification audit is the Suspension or Cancellation of that organisations Certificate.

Founded complaints against a Certification Body can lead to Suspension or Cancellation of that Certification Bodies accreditation.

International and Australian Complaints and Appeals Procedures

GL 7/2007 - PEFC Council Procedures for the Investigation and Resolution of Complaints and Appeals
<http://www.pefc.org/standards/technical-documentation/pefc-guides-2010/pefc-guides/item/426>

PROCEDURE 12 - JAS-ANZ Complaints Procedure

PROCEDURE 9 - JAS-ANZ- Appeals Procedure

http://www.jas-anz.com.au/index.php?option=com_content&task=blogcategory&id=50&Itemid=1

128749.IAF-PR1-2007_Complaints_Handling_Issue_2v2_Pub

<http://www.iaf.nu/>

AFS - Complaints and Grievances Procedures, Issue 3

<http://www.forestrystandard.org.au/9documents.asp>

ADDRESSING LEGALITY AND NON-CONTROVERSIAL SOURCES WITHIN THE CERTIFICATION SCHEME

All PEFC National Governing Bodies and their endorsed Standards and certification schemes comply with (or are currently undergoing revision to comply with) the following requirements within the current PEFC International Standards. This includes the Australian Forestry Standard AS 4707.

PEFC ST 2002:2010 Chain of Custody of Forest Based Products – Requirements (extract)

Reference to the full Standard: <http://www.pefc.org/standards/technical-documentation/pefc-international-standards-2010/pefc-international-standards>

Appendix 2: PEFC Due Diligence System (DDS) for avoidance of raw material from controversial sources

Normative

1 Scope

1.1 This appendix provides requirements for the PEFC Due Diligence System which is required to be implemented by all organisations implementing this standard for all input forest based material of those product groups which are covered by the organisation's chain of custody and for which percentage based method has been applied, with the exception of:

- (a) certified material/products delivered by a supplier with PEFC recognised certificate,
- (b) recycled material,
- (c) material/products other than certified which are covered by the supplier's PEFC recognised chain of custody certificate,
- (d) material covered by the supplier's PEFC DDS certificate which was issued by PEFC notified and accredited certification body.

1.2 This appendix may also be implemented by organisations without chain of custody for the purposes of third party certification by PEFC notified certification bodies.

1.3 The organisation shall clearly identify the product groups for which the PEFC DDS is being implemented.

1.4 The organisation implementing the requirements for the PEFC DDS shall not apply on-product claims relating to the origin of material in non-controversial sources. The organisation may only communicate information on implementation and maintenance of PEFC DDS with respect to specific product groups.

1.5 The organisation's PEFC DDS shall be supported by the organisation's management system meeting requirements of chapter 6 of this standard.

1.6 The organisation shall implement the PEFC DDS in three steps relating to:

- (a) supplier's self-declarations,
- (b) risk assessment and
- (c) management of high risk supplies.

1.7 The organisation procuring raw material originating from threatened and endangered species classified by CITES shall follow all the regulations defined by CITES and other international conventions as well as national legislation.

1.8 The organisation shall not include any forest based material originating from countries which are covered by UN, or applicable EU or national government sanctions relating to export/import of forest based products.

Note: The term “applicable” means that sanctions are applicable to the organisation.

1.9 The organisation shall not include any wood based material from genetically modified organisms in the product group covered by the organisation’s PEFC DDS.

1.10 The organisation shall not include in the product group covered by the organisation’s PEFC DDS any wood based material originating in conversion of forests to other vegetation type, including conversion of primary forests to forest plantations.

2 Self-declaration of suppliers

2.1 The organisation shall require from all suppliers of material covered by the scope of the PEFC DDS, a signed self-declaration that the supplied material does not originate from a controversial source with the exemption applying to supplies delivered directly from forest owners of the organisation’s own country where the organisation demonstrates that the country is representing “low” risk based on risk management criteria of the PEFC DDS.

2.2 The supplier’s self-declaration shall include:

- (a) a written statement that to the best of the supplier’s knowledge the supplied material does not originate from controversial sources,
- (b) a written commitment to provide information on the geographical origin (country / region) of the supplied raw material which is necessary information for the organisation’s risk assessment,
- (c) a written commitment that, in the case where the supplier’s supplies are considered as “high” risk, the supplier will provide the organisation with necessary information to identify the forest management unit(s) of the raw material and the whole supply chain relating to the “high” risk supply.
- (d) a written commitment, where the supplier’s supplies are considered as “high” risk, the supplier will enable the organisation to carry out a second party or a third party inspection of the supplier’s operation as well as operations of the previous suppliers in the chain.

Note: The term “country/region” used throughout this appendix refers to the country/region of forest where the raw material was harvested. The term “region” used throughout this appendix refers to a sub-national level.

2.3 Where the organisation has signed contracts with its suppliers, the requirements of chapter 2.2 shall be covered by the contract documentation.

3 Risk assessment

3.1 The organisation shall carry out the risk assessment of procuring raw material from controversial sources for all input material of the product group(s) covered by the scope of the PEFC DDS.

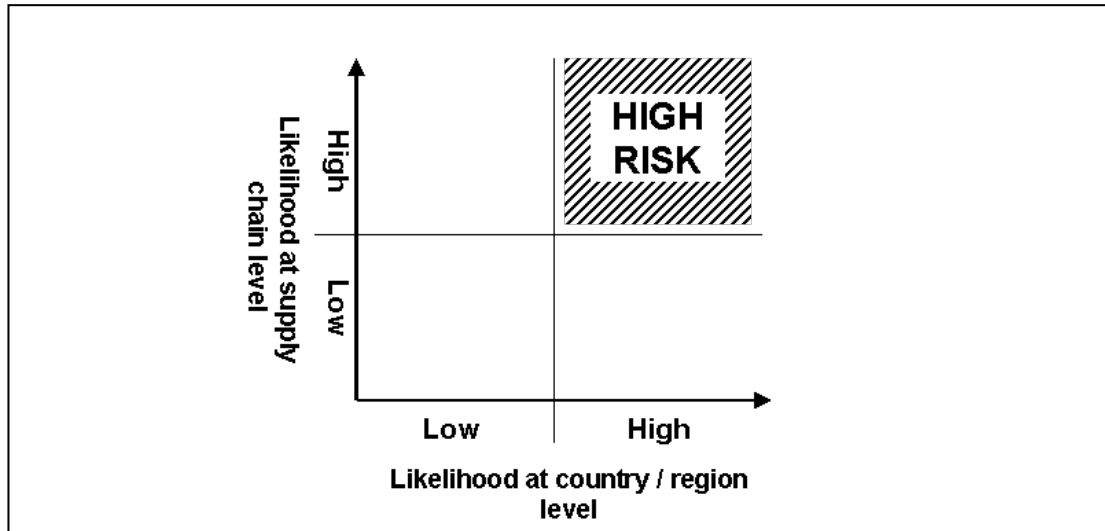
3.2 The organisation’s risk assessment shall result in the classification of supplies into the “low” or “high” risk category.

3.3 The organisation’s risk assessment shall be carried out based on an evaluation of:

- (a) the likelihood that activities defined under the term controversial sources occur in the country / region of the supply (hereinafter referred to as the likelihood at country / region level) and;
- (b) the likelihood that the supply chain has not been able to identify a potential controversial source of supply (hereinafter referred to as the likelihood at the supply chain level).

3.4 The organisation shall determine the risk, based on the combination of the likelihood at country / region level and the likelihood at the supply chain level in order to classify all supplies as “high” risk where both the likelihood at the country / region level and the likelihood at the supply chain are assessed as “high” (See Diagram 1).

Diagram 1: Determination of “high” risk supplies by combination of likelihood at country / region level and supply chain level



3.5 The organisation shall classify the likelihood at country / region level as “high” for all supplies where any of the following indicators in Table 1 apply.

Table 1: List of indicators for “high” likelihood at country / region level

Indicators	Examples of external reference sources
The actual corruption perception index (CPI) of the country presented by Transparency International (TI) is lower than 5.0.	The TI CPI is presented at www.transparency.org . On the provision of sufficient evidence that the TI CPI does not reflect the level of corruption in the forest based sector in a specific country scoring less than 5.0, the PEFC Council may make a different determination for this indicator.
The country / region is known as a country with low level of forest governance and law enforcement.	In defining this indicator, the organisation can use its internal surveys or results of surveys of external governmental or non-governmental organisations active in monitoring forest governance and law enforcement and corruption such as <ul style="list-style-type: none"> - The World Bank FLEG Newsletter (http://go.worldbank.org/FMKUFABJ80); - UK based Chatham House, (www.illegal-logging.info); - Environmental Investigation Agency (www.eia-international.org, Global Witness (www.globalwitness.org), etc.
The organisation has received comments supported by reliable evidence from their customers or other external parties, relating to its supplies with respect to controversial sources, which have not been disproved by the organisation’s own investigation.	

3.6 The organisation shall classify as "high" the likelihood at the supply chain level for all supplies where **none** of the indicators in Table 2 (below) apply.

Table 2: List of indicators for "low" likelihood at supply chain level

Indicators	Evidence and / or reference to external sources
Supplies declared as certified against a forest certification scheme (other than PEFC endorsed) supported by a forest management or chain of custody certificate issued by a third party certification body.	<p>The organisation shall be able to provide evidence that the certification scheme includes:</p> <ul style="list-style-type: none"> (a) third party certification of forest management which covers activities defined by the term controversial sources, (b) third party certification of chain of custody and, (c) a verification mechanism that non-certified raw material does not originate from controversial sources where percentage based claims apply. <p>Examples of PEFC non-endorsed forest certification schemes: Forest Stewardship Council, etc.</p>
Supplies verified by governmental or non-governmental verification or licensing mechanisms other than forest certification schemes focused on activities covered by the term controversial sources.	<p>The organisation shall be able to provide evidence on the scope of the verification or licensing mechanism.</p> <p>Examples of verification and licensing mechanisms:</p> <ul style="list-style-type: none"> - EU FLEGT (http://ec.europa.eu/environment/forests/flegt.htm) - Tropical Forest Trust (www.tropicalforesttrust.com)
Supplies supported by verifiable documentation which clearly identifies all suppliers within the supply chain, forest management unit of the supply origin and provides sufficient evidence on compliance with legal requirements.	<p>Evidence on compliance with legal requirements can be a statement from the law enforcement authority on legal compliance or absence of non-compliance, harvest permit issued or forest management plan approved by the relevant law enforcement authority. The statements produced by governmental bodies. Special attention shall be given to a statement which is produced by a governmental body of the country with TI PCI below 5.0.</p>

4 Management of high risk supplies

4.1 General

4.1.1 The organisation shall establish a second or third party verification programme for supplies classified as "high" risk. The verification programme shall cover:

- (a) identification of the whole supply chain and forest management unit(s) of the supply's origin;
- (b) on-site inspection and
- (c) corrective and preventive measures.

4.2 Identification of the supply chain

4.2.1 The organisation shall require, from all suppliers of "high" risk supplies, detailed information on the whole supply chain and forest management unit(s) of the supply's origin. The information submitted shall allow the organisation to plan and execute on-site inspections.

4.3 On-site inspections

4.3.1 The organisation's verification programme shall include on-site inspections of suppliers delivering "high risk" supplies. The on-site inspections can be carried out by the organisation itself (second party inspection) or by a third party on behalf of the organisation. The organisation may substitute the on-site inspection with documentation review where the documentation provides sufficient confidence in the material origin in non-controversial sources.

4.3.2 The organisation shall demonstrate that it has sufficient knowledge and competence in the legislation applicable to the origin of “high” risk supplies and relevant to the definition of the controversial source.

Note: Where the on-site inspection is carried out by a third party on behalf of the organisation, the organisation shall demonstrate that the third party has sufficient knowledge and competence in the legislation as required by chapter 4.3.2.

4.3.3 The organisation shall determine a sample of high risk supplies to be verified by the verification programme. The size of the sample shall be at least the square root of the number of “high” risk supplies: $(y=\sqrt{x})$, rounded to the nearest whole number and the sample shall include all suppliers of the high risk supplies. Where the previous on-site inspections proved to be effective in fulfilling the objective of this document, the size of the sample may be reduced by a factor of 0.8, i.e.: $(y=0.8 \sqrt{x})$, rounded up to the next whole number.

4.3.4 The on-site inspections shall cover:

- (a) the direct supplier and all previous suppliers in the supply chain in order to assess compliance with the supplier claims on the origin of the raw material and;
- (b) the forest owner / manager of the forest management unit of the supply origin or any other party responsible for management activities on that forest management unit in order to assess their compliance with legal requirements.

4.4 Corrective and preventive measures

4.4.1 The organisation shall define written procedures for implementing corrective measures for non-compliance for suppliers identified by the organisation’s verification programme.

4.4.2 The range of corrective measures shall be based on the scale and seriousness of the non-compliance and should include the following:

- (a) communication of the non-compliance with a request for improvements;
- (b) requiring suppliers to define corrective measures relating to forest management unit’s compliance with legal requirements or efficiency of the information flow in the supply chain;
- (c) cancellation of use of the supplier’s supplies.

4.4.3 The organisation shall cancel the supply from those suppliers which have not provided a self-declaration as required by chapter 2 or have not provided information on the supply chain as required by chapter 2.2.

Appendix 4: Social, health and safety requirements in chain of custody

Normative

1 Scope

This Appendix includes requirements relating to health, safety and labour issues that are based on ILO Declaration on Fundamental Principles and Rights at Work, 1998.

2 Requirements

2.1 The organisation shall have a documented policy that includes the organisation's commitment to implement and comply with the social, health and safety requirements defined in this standard.

2.2 The organisation shall demonstrate that it:

- (a) ensures workers' freedom of associations and rights for collective bargaining. These include working contracts which do not prevent workers from joining/participating in workers organisations and collective bargaining; workers' access to representatives; transparent procedures for dismissal and bargaining with workers' representatives of legally recognised labour organisations where this is required or permitted by law.
- (b) prohibits the use of forced labour covering the organisation,
- (c) ensures minimum age for the employment of employees,
- (d) ensures equal employment that covers recruitment, promotion, division of work and dismissal,
- (e) ensures occupational health and safety, including its documentation and reporting.

**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE**

**Inquiry into the exposure draft and explanatory memorandum
of the Illegal Logging Prohibition Bill 2011**

Public Hearing Monday, 16 May 2011

Questions Taken on Notice – Humane Society International

HANSARD, PG 37

Mr Holesgrove: It is the chain of custody issue: each part of the supply chain needs to have confidence in the nature of the product they are dealing with. To deal with these perhaps more unscrupulous actors—and I take your point Senator Colbeck—it should be that if a processor or a retailer does happen to come into the possession of illegally harvested timber, they are subject to penalties for processing or selling it. That needs to be covered in some way. So there has to be some sort of diligence requirement. I am not quite sure how you can do that, unless you put it in the legislation. As you say, Senator Colbeck, if you have the requirement at the border, as the legislation does, and leave it at that, it is a bit of an open slather. Surely companies should be penalised if they do knowingly sell illegally logged timber. The likelihood of that happening is pretty small if you have that efficient control of the border, but there does seem to be a need to cover that. Right down to the final consumer they have to have confidence that they are getting timber that is legally logged.

As to the question of Senator O'Brien about the costs for covering all actors in the supply chain, we have not done any research on that. We have devoted limited resources to this issue. I could not answer that. It may be in some of the original regulator impact statement material, but I am not sure.

Senator O'BRIEN: You can take that on notice if you want to take it away and think about it and come back and answer it.

Mr Holesgrove: Yes.

Dear Secretary

In regard to my evidence to the Senate Standing Committee on Rural Affairs and Transport Inquiry into the exposure draft and explanatory memorandum of the Illegal Logging Prohibition Bill 2011 the following question arose:

“As to the question of Senator O'Brien about the costs for covering all actors in the supply chain, we have not done any research on that. We have devoted limited resources to this issue. I could not answer that. It may be in some of the original regulator impact statement material, but I am not sure.

Senator O'BRIEN: You can take that on notice if you want to take it away and think about it and come back and answer it.”

My response is as follows:

As stated in my response, HSI has not had the resources to undertake a detailed examination of this issue. However the *'Final Report to Inform a Regulation Impact Statement for the Proposed New Policy On Illegally Logged Timber*, prepared by the Centre for International Economics for the Department of Agriculture, Fisheries and Forestry, January 2010, has some information on this matter.

For example under *'Section 7.3 Potential impacts of legality verification, regulatory and non-regulatory options'* in regard to the explicit regulation it is stated:

*“ (b) importer or producer due diligence enforced by legislation
Importers and domestic producers undertake risk assessments of illegal source and apply a legality verification scheme commensurate with the assessed risk
Cost to Australia US\$20- 236m/year depending on schemes applied
Benefit US\$5-34 m/year Net benefit is negative”*

I hope this assists the Inquiry.

Regards

Rod Holesgrove
Biodiversity and Climate Change Policy Adviser
Humane Society International
23 May 2011

**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE**

**Inquiry into the exposure draft and explanatory memorandum
of the Illegal Logging Prohibition Bill 2011**

Public Hearing Monday, 16 May 2011

Questions Taken on Notice – Greenpeace

HANSARD, PG 52

Senator O'BRIEN: At what level—at what point—should the forfeiture end, given that a number of the products containing timber are sold to industry for installation? Does it end at the point of installation, or how does it work?

Mr Turner: To be honest, I had not thought that far down the track, but you could apply the EU approach, which is on the sale on the open market, which is very short.

Senator O'BRIEN: A contract of building might not be an open market sale, for example, where there is an individual contract for construction of the building. It might not be open market.

Mr Turner: Or it could be at the point of wholesaler.

Senator O'BRIEN: It could be, yes, that is why I am testing you on this.

Mr Turner: I have not thought that far ahead.

Senator O'BRIEN: Do you want to take that on notice and give us a more considered response?

Mr Turner: Sure.

Greenpeace Response

Ideally a full and proper review of the law as it relates to forfeiture under State and Commonwealth laws should be undertaken to inform the Illegal Logging Prohibition Bill.

Greenpeace directs the Committee to a review undertaken by the Australian Institute of Criminology of confiscation schemes in Australia:

<http://www.aic.gov.au/documents/1/6/E/%7B16E448C6-C50B-487A-A68E-A1E89A7EB28F%7Dtbp036.pdf>

Forfeiture of goods occurs in law in a range of different situations under both criminal and civil law.

All states and territories in Australia with the exception of Tasmania have legislation allowing for both civil and conviction-based recovery. Under Federal legislation the Proceeds of Crime Act 2002 and its predecessor, the Proceeds of Crime Act 1987 and the Customs Act 1901 all have provisions dealing with forfeiture.

Greenpeace recommends that the Senate Committee make recommendations that the Proceeds of Crime Act 2002 apply to offences under the Illegal Logging Prohibition Bill.

On a fairly quick interpretation, under the Proceeds of Crime Act 2002 Cth it would appear that property ceases to be proceeds of an offence or an instrument of an offence in a range of circumstances (see s330(4)). The most relevant is when it "is acquired by a third party for sufficient consideration without knowing and in circumstances which would not arise a reasonable suspicion, that the property was proceeds of an offence or an instrument of an offence" s330(4)(a).

So in the case of products derived from illegal logging, certainly, where a person has knowledge that the timber product in question was illegally sourced then the product should be forfeited.

Where the person has no knowledge that the timber product was illegally sourced but by any objective, reasonable analysis, should have known or suspected it was illegal then in such cases forfeiture should also apply. Factors critical to whether the person should have suspected the product may have originated from illegal logging include whether the person is involved in the trade of timber regularly and whether the person is an end user or an on-seller.

In all other instances forfeiture should not apply.

In simple terms, the law should be constructed so that all traders along the supply chain are made to think about whether they are trading in illegal timber by being exposed to forfeiture claims. End users, particularly small-scale end users (Mum's and Dad's purchasing outdoor furniture) should not be expected to undertake the same analysis.

**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE**

**Inquiry into the exposure draft and explanatory memorandum
of the Illegal Logging Prohibition Bill 2011**

Public Hearing Monday, 16 May 2011

Questions Taken on Notice – New Zealand High Commission

HANSARD, PG 55

Senator O'BRIEN: Are any of the native New Zealand timbers exported as board rather than as finished product?

High Commissioner Dunne: No, not that I am aware of. It is so rare and well protected. As Charlotte said, it comes under the Resource Management Act. To fell native timber, as we call it, is a problematic process. It is felled and you can buy it, but it is generally for finishing and not for, for instance, veneers. You can get some veneers but I am not aware that it is actually exported in veneer just because of the quantity of it.

Senator O'BRIEN: And what about products made from those timbers?

High Commissioner Dunne: That are exported?

Senator O'BRIEN: Yes.

High Commissioner Dunne: There may well be; I am not sure. We should actually see if we can give you a bit more information on that. There would be some, for instance, for the boatbuilding industry. There may well be some finished timbers that are legally logged, such as kauri finish, which could be either New Zealand kauri or Pacific kauri from the islands. Some of that may well be used, but I would imagine it is a very, very, very small amount—if there is any at all.

Senator O'BRIEN: Perhaps you could get that information. I was going to follow up with a question about New Zealand government certification in all cases of such export—would that be a possibility? Perhaps you could take that on notice as well.

High Commissioner Dunne: Yes.

**Submission by New Zealand to the Senate Rural Affairs and Transport
Legislation Committee**

**Inquiry into the exposure draft and explanatory memorandum of the
Australian Illegal Logging Prohibition Bill 2011**

Supplementary briefing

**Following on from questions raised by the Committee
Monday 16th May 2011**

The Committee asked for further information on the following aspects of forestry management in New Zealand:

- How the process of harvesting plantation forestry in New Zealand operates under the Resource Management Act 1991 and how this ensures the legality of timber harvested?
- Whether timber from New Zealand's indigenous species is exported and, if so, in what form?
- Whether the New Zealand Government would certify exports of indigenous timber?

Information is provided to answer these questions and to address other issues raised by the Committee. These other issues include: statistics on New Zealand's kwhi imports and its uses, the main species of planted forests in New Zealand, along with the main forestry products New Zealand produces and our main export markets.

Resource Management Act 1991 (the RMA) and legality

New Zealand considers that the determination of the legality of timber sourced from New Zealand's planted forests rests primarily on the compliance of forestry operations with the Resource Management Act 1991.

The principles embodied in the RMA are the sustainable management and use of natural and physical resources. This is determined through the local and regional council process. The forestry operations covered by the RMA include activities such as road making, timber harvesting or timber transport all of which affect sustainability.

The RMA compliance process involves:

- The district or regional council as administrator of any applicable standards, rules or objectives under its current regional or district plan and
- the forest owner or agent applying to the council to undertake the activity. (It is worth noting that the forest owner may also have to establish and report, under the New Zealand Emissions Trading Scheme (ETS), that the harvesting operation and subsequent land use plans, meets all the accounting requirements in terms of carbon losses from harvesting. These requirements provide further evidence of the legality of forestry products harvested in New Zealand.)

In New Zealand the District Councils administer the operational rules under their operative district plans. These will generally state what activity is permitted and what

is restricted and the reasons, or standards required. These include, for example, engineering or other standards for roads or other structural work or specific restrictions/ on certain types of land.

Regional Councils have responsibility for the broader environmental requirements; such as water and soil protection, air quality or landscape. In support of RMA processes and decision making MAF has sponsored a number of best management practice (BMP) guidelines to assist land managers be aware of and avoid, remedy or mitigate adverse environmental impacts such as deforestation and forest degradation. They include such publications as “Harvesting Contractor Environmental Management System” and “Indigenous Forestry Best Management Practices”. The New Zealand Forest Code of Practice also describes how to avoid adverse environmental impacts.

Harvesting requirements under the RMA

A forest owner wanting to harvest trees will make contact with the planning officer in the district or regional council to discuss what is needed to be submitted to comply with the RMA requirements. The Council will be able to inform the forest owner of their relevant plan requirements. The procedure varies from council to council depending on the level of compliance needed or what the existing plan may permit as of right.

For example in order for a plantation forest owner to harvest trees they may need to build roads and landings for logging and transport. So the owner has to check with the local council about the resource consent required for these activities.

The council may allow the construction of roads as a right, although this is not usually the case. In most cases the harvest works will need a resource consent for earthmoving, proposed water and soil protection works to comply with threshold and standards stated in the district or regional plan.

The owner submits a consent application to the council stating how the roads and landings etc, meet the plan standards etc. This transaction would usually involve an inspection of the site by a council officer and a check against the district or regional plan. Normally during the process of reviewing the consent application the Council will seek land title information. In some cases the council may decide to notify the application to affected parties (neighbours and other affected persons).

The Council may impose certain other requirements which are also provided for in the district/regional plan. These could include noise levels limits, retaining tree screens, special set asides for biodiversity protection or for cultural or historic sites special erosion works and road engineering specifications (e.g. allowing for larger culverts etc).

All this information is provided to the forest owner when the consent is granted.

In some cases timber harvesting may be continuous and on going activity (say like farming, or cropping) and all necessary infrastructure is already in place. In these instances the consent process may be quite simple, but contact between owner and council will generally still be required.

Currently a National Environmental Standard for plantation forestry is being developed. The aim of the National Environmental Standard is to create

standardised rules making the requirements on forestry operations more consistently applied by councils across New Zealand.

Attached for illustration are some examples of consents provided by the MAF Crown Forestry.

Once logs are felled they are tracked through the chain of custody via the electronic log docketing system.

In our view the robustness of the New Zealand regulatory system ensures the legality of New Zealand harvested timber. As noted in the submission approximately 100% of New Zealand's forestry exports come from privately owned exotic plantation forests established specifically to be harvested and as such all these low risk forestry products should be recognised as complying with Australia's legality requirements.

Natural Indigenous Forests and legality

New Zealand's indigenous forest estate includes Crown-owned conservation forests and forests on private lands.

In 1987 substantial administrative changes in natural resource management resulted in most Government-owned indigenous forests (the Conservation Estate) being fully reserved and placed under the control and administration of the Department of Conservation (DoC). These indigenous forest areas – covering an area of approximately 5 million hectares - cover approximately twenty-four percent of New Zealand's total land area and are subject to various plans and strategies relating to biodiversity and conservation administered by DoC.

All indigenous forests are subject to the overall sustainability provisions on the Resource Management Act 1991.

Forests in the Conservation Estate are subject to the Conservation Act 1987 under which no timber harvesting is permitted. Any illegal extraction of timber or other forest products from the conservation estate is rare. Prosecutions when they do occur receive extensive publicity and the penalties are high.

Indigenous forests in private ownership cover approximately 1 million hectares. These forests are subject to the sustainable management provisions (Part IIIA) of the Forest Act 1949. The Forests Act 1949 (Forests Act) was amended in 1993 to bring an end to the unsustainable harvesting and clearfelling of indigenous forests. The amendment, Part IIIA, covers the sustainable management of private indigenous forests. It provides owners options for managing their forests in order to harvest and mill timber, and it places controls on the milling and exporting of timber from indigenous forests.

Requirements for harvesting privately owned indigenous timber include the need for the forests to be covered by a sustainable forest management plan and permit, personal use harvesting and milling approvals and milling statements for one-off situations such as wind-thrown trees, naturally dead trees or salvaged timber. Plans and permits must be obtained from MAF and require forest land to be managed in a way that maintains the ability of the forest growing on that land to continue to provide a full range of products and amenities in perpetuity while retaining the forest's natural values. All sawmills used for milling indigenous timber must also be registered with the MAF. MAF has produced national guidelines on the process. Again, harvesting

in violation of these laws is exceptionally rare due to both monitoring by the MAF and public criticism of those caught.

The Sustainable Programme directorate of MAF approves the sustainable management plans for all indigenous production forest. More specifically it:

- approves forest management plans and permits;
- approves annual logging plans;
- registers sawmills to mill indigenous timber;
- issues milling statements for timber not sourced from plans or permits;
- approves indigenous timber notified for export; and
- monitors and enforces compliance with the Forests Act.

Export controls and government certification of exports of indigenous timber

The Forest Act limits the indigenous species and the types of timber products which can be exported. It also sets requirements on exports (for further information see Annex 1).

For example the Act prohibits the export of indigenous logs and wood chips.

Under the Act, rimu and beech sawn timber can be exported provided it is sourced under a MAF registered sustainable forest management plan or permit. Exporting sawn timber of any other indigenous species is prohibited.

Tree stumps and roots can be exported provided that these are sourced under a MAF registered sustainable forest management plan or permit or where MAF is given assurance and is satisfied that these do not come from an area of indigenous forest land.

Under the Act manufactured indigenous timber products, such as furniture, can also be exported regardless of the source of timber used in the products.

The New Zealand government does certify exports of sawn timber rimu or beech timber. However it does not certify exports of manufactured indigenous timber products.

Actual exports of indigenous timber year ending 31st December 2010

There is very little indigenous timber harvested with the annual volume estimated as being 10,000 m³. Most of this is consumed domestically and with only 10% of milled indigenous sawn timber exported.

During the year ending 31st December exports of indigenous timber were as follows:

Total consignments - 49
Total volume exported – 737 m³

Of this volume exported 400 m³ was beech and rimu (sawn timber and veneer) sourced from forests managed under registered Sustainable Forest Management Plans and registered Sustainable Forest Management Permits approved under the Forests Act.

The remaining 337 m³ was sawn timber milled under other provisions of the Forests Act 1949, e.g. salvage and wind thrown timber for which consent was granted for milling.

The above level of exports has been relatively consistent for the past 2 years.

Finished/manufactured indigenous timber products (e.g. furniture whether assembled or in kitset form) do not require approval to be exported. Figures on the volume of such exports are not known however export volumes can be assumed to be small given the low annual harvest of indigenous timber and the fact that most indigenous timber is consumed domestically. Furthermore it should be noted that the milling of the timber for such finished products must be done in accordance with milling controls laid down by the Forests Act.

Imports of kwila into New Zealand

Another issue that was raised with the High Commissioner of New Zealand was the volumes of kwila imported into New Zealand.

Table 1 Value of kwila imports for the calendar years 2007 - 2010

Kwila product (cif NZ\$ 000)	2007	2008	2009	2010 Q1 and Q2***	Main source of imports in 2009
Timber	5,163*	13,504	18,254	5,699	Indonesia (94%) Solomon Islands (2%) Malaysia (1%) Papua New Guinea (1%)
Furniture (indoor and outdoor)		6,895**	5,602	1,515	Indonesia (50%) China (28%) Vietnam (11%) Malaysia (3%)

Note:

Information from NZ Statistics Infostats

* Values of imports of kwila timber in 2007 are only for the 2 month period October until December 2007

** Values of imports of kwila furniture in 2008 are only for the 7 month period April until December 2008

*** Values of imports of kwila timber and furniture in 2010 are only for the 6 month period January to end of June 2010.

As noted in the New Zealand submission from 6th May 2011, New Zealand imports only a small percent of its domestic sawn timber consumption. In the year ending 31st March 2009, total sawn timber imports represented only about 2 percent of domestic sawn timber consumption i.e. 42,000 m³.

In the New Zealand context kwila is the main species of concern with regard to its legality. As an extremely durable hard wood kwila is mainly used in decking or imported as solid pre fabricated outdoor furniture.

To monitor the volumes of kwila entering the country kwila specific tariff codes for timber and furniture have been included in the Tariff of New Zealand.

From the import statistics above the value of kwila timber imports has increased from \$13.5 million in 2008 to \$18.3 million in 2009 while the value of imports of kwila furniture has been declining. Indonesia is the largest source of imports for both kwila timber and furniture products.

The voluntary decision by the New Zealand Imported Tropical Timber Group (NZITTG) to stop importing and selling timber from Indonesia that does not come with credible verification of its legality from 1st September 2011 is an important step in addressing imports of illegally harvested kwila timber from Indonesia.

New Zealand's forestry facts

Another issue raised with the High Commissioner was the species of planted forests in New Zealand.

Planted forests in New Zealand by species

Area by species (ha)	1 April '10	%
Radiata pine	1,556,000	90
Douglas fir	110,000	6
Crypress species	10,000	1
Other exotic softwoods	25,000	1
Eucalyptus species	24,000	1
Other exotic hardwoods	13,000	1
Total planted forest area (ha)	1,738,000	100%

In the year ending 31st March 2010 the total log production in round wood equivalents was 22,563,000 m³ (10,000 m³ came from indigenous forest the rest was from plantation forests).

Of this 42% was exported as logs and 58% was processed in New Zealand. Of the logs processed in New Zealand 1% was exported as chip, 2% was made into poles, 36% was sawlogs and peelers (going to make plywood and be further processed at sawmills), 15% was pulp and 3% was reconstituted panels.

For the year ending 31st March 2010, New Zealand's main export markets and main forestry products in order of importance are China (mainly logs), Australia (mainly processed products), Japan (mainly panel products), Korea (mainly logs), the US (mainly sawn timber), Indonesia (mainly pulp) and India (mainly logs).

23rd May 2011

MAF Policy, Science and Economics
Ministry of Agriculture and Forestry

Annex 1

More information on the Forest Act and the export requirements

Export Products

The following sawn indigenous timber products may be exported from New Zealand:

- Any grade of sawn beech or sawn rimu, if the timber has been taken from and area managed in accordance with a registered sustainable forest management plan or permit
- Any finished or manufactured indigenous timber product, regardless of the source of the timber. This is defined as any indigenous timber product in its final shape ready to be installed or used without further processing. It may include a complete item or a component of an item (whether assembled or in kitset form) such as joinery, furniture, toys, tools, and household utensils. It does not include dressed or rough sawn timber, mouldings, panelling, furniture blanks, joinery blanks, building blanks or similar items.
- Any personal effects.
- Any stump or root whether whole or sawn, if the timber has been taken from and area managed in accordance with a registered sustainable forest management plan.
- Any salvaged stump or root, whether whole or sawn where the timber has been taken from an area that is not indigenous forest land. Salvaged stump or root is defined as a stump or root remaining from any timber felled before 3 July 1989 on land that is not indigenous forest land, for example, farmland or planted forest.
- Any tree fern trunk (or part thereof) or fibres from a tree fern trunk taken with the Ministry of Forestry's permission from indigenous forest land which can supply tree fern trunks sustainably.
- Any tree fern trunk (or part thereof) or fibres from a tree fern trunk taken from an area managed in accordance with a registered sustainable forest management plan.
- Any tree fern trunk (or part thereof) or fibres from a tree fern trunk from an area that is not indigenous forest land, for example, farmland or planted forest.

<http://www.legislation.govt.nz/act/public/1949/0019/latest/DLM256602.html>

PO Box 4010
Hamilton East
Hamilton 3247
New Zealand

ph +64 7 859 0999
fax +64 7 859 0998

www.ew.govt.nz

Resource Consent Certificate

Resource Consent: 121654

File Number: 60 02 09A

Pursuant to the Resource Management Act 1991, the Waikato Regional Council hereby grants consent to:

Ministry of Agriculture & Forestry (Crown Forestry) (Wellington)
PO Box 2526
Wellington 6140

(hereinafter referred to as the Consent Holder)

Consent Type: Land use consent

Consent Subtype: Land - disturbance

Activity authorised: Undertake plantation harvesting in a high risk erosion area

Location: Wilson Rd - Otua (Waiuku Forest)

Map Reference: NZMS 260 R13:631-257

Consent Duration: This consent will commence on the date of decision notification, unless otherwise stated in the consent's conditions, and expire on 30 June 2016

Subject to the conditions overleaf:

General

1. The harvesting of 21.5 hectares of plantation forestry within Waiuku State Forest shall be undertaken in general accordance with the application for resource consent dated 23 August 2010 subject to the following conditions.
2. The works authorised by this consent shall be undertaken in accordance with :
 - (a) The Principles for Commercial Plantation Forest Management in New Zealand (December 1995),
 - (b) New Zealand Forest Code of Practice (LIRO ; 2nd Edition, June 1993),
 - (c) New Zealand Forest Accord (August, 1991),
 - (d) Agrichemical Users Code of Practice (Joint Primary Industry Working Party 1992),
 - (e) "Erosion & Sediment Control Guidelines for Soil Disturbing Activities January 2009" (Environment Waikato Technical Report No. 2009/02).

Notification of Works

3. The consent holder shall inform the Waikato Regional Council in writing at least one week prior to the activity commencing of the start date of the works authorised by this resource consent.

Contractors

4. The consent holder shall ensure contractors are made aware of the conditions of this resource consent and ensure compliance with those conditions.

Hazardous Substances Spillages

5. All machinery shall be operated in a manner, which ensures that spillages of fuel, oil and similar contaminants are prevented, particularly during refuelling and machinery servicing and maintenance. Refuelling and lubrication activities shall be carried out at such a location and in such a manner that any spillage can be contained so it does not enter the stream either directly or indirectly.

Archaeological remains

6. In the event that any archaeological remains are discovered, the works shall cease immediately in the vicinity of the discovery, and Tangata Whenua and the Waikato Regional Council shall be notified as soon as practicable. Works may recommence with the written approval of the Waikato Regional Council. Such approval shall only be given after the Waikato Regional Council has considered:
 - (a) Tangata Whenua interests and values,
 - (b) the consent holder's interests, and
 - (c) any archaeological or scientific evidence.
7. Any sites of cultural significance that have been identified or that are discovered during the proposed works shall be managed in accordance with Appendix 2 "Protocols for Protecting Archaeological Sites" recommended in 2003 Clough & Associates Report.

Administration

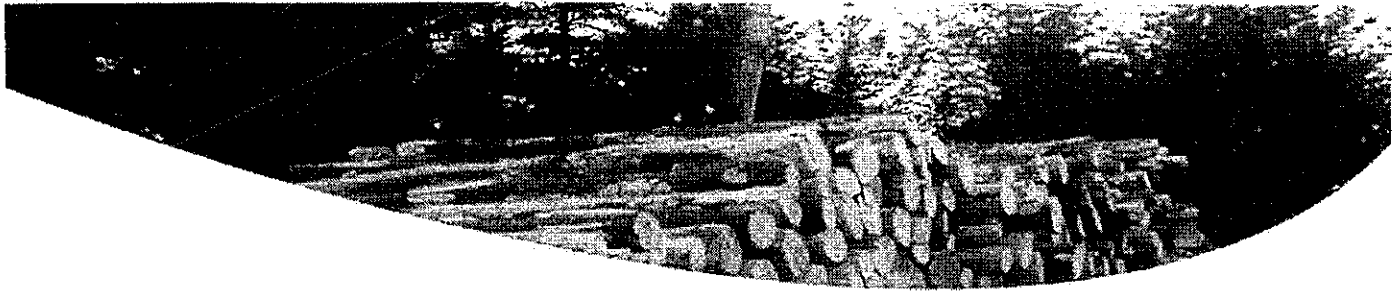
8. The consent holder shall pay to the Waikato Regional Council any administrative charge fixed in accordance with section 36 of the Resource Management Act 1991, or any charge prescribed in accordance with regulations made under section 360 of the Resource Management Act.

*For and on behalf of the
Waikato Regional Council*



Advice notes

1. In accordance with section 125 RMA, this consent shall lapse five (5) years after the date on which it was granted unless it has been given effect to before the end of that period.
2. Where a resource consent has been issued in relation to any type of construction (e.g. dam, bridge, jetty) this consent does not constitute authority to build and it may be necessary to apply for a Building Consent from the relevant territorial authority.
3. This resource consent does not give any right of access over private or public property. Arrangements for access must be made between the consent holder and the property owner.
4. This resource consent is transferable to another owner or occupier of the land concerned, upon application, on the same conditions and for the same use as originally granted (s.134-137 RMA).
5. The consent holder may apply to change the conditions of the resource consent under s.127 RMA.
6. The reasonable costs incurred by Waikato Regional Council arising from supervision and monitoring of this/these consents will be charged to the consent holder. This may include but not be limited to routine inspection of the site by Waikato Regional Council officers or agents, liaison with the consent holder, responding to complaints or enquiries relating to the site, and review and assessment of compliance with the conditions of consents.
7. Note that pursuant to s332 of the RMA 1991, enforcement officers may at all reasonable times go onto the property that is the subject of this consent, for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples.
8. If you intend to replace this consent upon its expiry, please note that an application for a new consent made at least 6 months prior to this consent's expiry gives you the right to continue exercising this consent after it expires in the event that your application is not processed prior to this consent's expiry.



Land Use Consent - 105088

CONSENT GRANTED

SUBJECT TO THE ATTACHED CONSENT CONDITIONS

New Zealand Forest Managers Ltd

To

harvest production forest in the Waikune Forest

Location

Address of site:

Waikune Forest, State Highway 4 north of Erua
near Mount Ruapehu

Legal description:

Sec 1-3 SO 37436

Valuation number:

06090/038/00

Map reference:

NZMS260 S20:166-109
NZTopo50 BJ34:065-576

Details of Resource Consent

Granted:

17 December 2009

Expiry:

1 July 2014

Consent Conditions for Land Use Consent 105088
New Zealand Forest Managers Ltd

1. The location, design, implementation and operation of the proposed logging and works shall be in general accordance with the consent application and its associated plans and documents first lodged with the Manawatu-Wanganui Regional Council on 30 September 2009, and further information received being:
 - a. Updated maps showing the harvesting area and the location of wetlands, detail of the harvesting methods including water quality protection measures and an assessment of environmental effects, received on 20 November 2009.

Where there may be contradiction or inconsistencies between the application and further information provided by the applicant, the most recent information applies. In addition, where there may be inconsistencies between information provided by the applicant and conditions of the resource consent, the conditions of the resource consent apply.

2. The activities authorised by this Land Use Consent shall be restricted to the vegetation clearance (clearfelling and logging) of *Pinus radiata* and associated construction and upgrading of tracking and roading within Waikune Forest on State Highway 4, at approximate map reference NZMS260 S20:166-109 / NZTopo50 BJ34:065-576 on land described as Sec 1-3 SO 37436 in general accordance with the application submitted except where otherwise required by conditions of this consent.
3. The consent holder shall ensure that all trees that are felled within 10 metres of any wetland or permanently flowing or ephemeral waterbodies are felled away from the waterbodies.
4. The consent holder shall ensure that no machinery enters any wetland or permanently flowing or ephemeral waterbody.
5. After the logging process is completed, no replanting of production tree species shall occur closer than 10 metres to the wetlands identified in the black hashed area on Plan C105088 A, attached to and forming part of this resource consent.
6. The consent holder shall ensure that all significant slash / logging debris is immediately collected from the wetlands or permanently flowing or ephemeral waterbodies if it enters these areas during felling, to prevent damming / flooding issues downstream. This does not include debris already present in the creek pre-logging.
Advice note: significant slash / logging is described for the purpose of this consent as any branches with a small end diameter of more than 100 millimetres.
7. The consent holder shall ensure that all processing of logs is done in a position where no slash can be carried away by flooding of the stream, and that no slash is left where it can be carried away by flooding.
8. The consent holder shall ensure that all road and track construction will be designed so that no sediment enters any wetland or permanently flowing or ephemeral waterbody and is directed to sediment traps designed and constructed to minimise soil erosion.
9. The consent holder shall take all measures to minimise sediment and other contaminants entering surface water as a result of the activities authorised by this consent. This may include but is not limited to measures such installing sediment traps, water bars and cut-offs.
10. The consent holder shall ensure that:
 - a. no machinery leaking fuel, lubricants, hydraulic fluids or solvents shall work within a watercourse or near a watercourse where runoff may enter water;
 - b. no refuelling of any vehicles, machinery or equipment shall take place within the bed of a watercourse, or in a position where spills may enter water;

- c. the storage of fuel or contaminants adjacent to a watercourse does not result in any fuel or contaminants entering water; and
 - d. contaminants, including but not limited to, oil, hydraulic fluid, petrol, diesel and other fuels and lubricants, but excluding sediment, are not released to water in a watercourse.
11. All machinery relocating within the forest or entering the forest for the first time shall be cleaned with suitable chemicals or agents to kill didymo and pest plants. A record of pest plant species present at the previous location shall be maintained and made available at to Manawatu-Wanganui Regional Council staff upon request.

Advice note: The consent holder shall comply with all notices and guidelines issued by Bio security New Zealand in relation to avoiding spreading the Pest Organism *Didymosphenia geminata*, known as "Didymo" (refer to www.biosecurity.govt.nz/didymo).

12. In the event of an archaeological site, waahi tapu or koiwi being discovered or disturbed during the activities authorised by these consents, the consent holder shall immediately cease further work and inform the local iwi, Ngati Rangī, and the Manawatu-Wanganui Regional Council's Environmental Protection Manager. Further work at the site shall be suspended while iwi carry out their procedures for removal of taonga. The Manawatu-Wanganui Regional Council's Environmental Protection Manager will advise the consent holder when work at the site may recommence.

Advice note: In the event that human remains are found the police should be contacted immediately and all works shall cease until advice is given that works can recommence.

Advice note: Ngati Rangī representatives can be contacted, at the time of granting of these consents, on the following number: 06 385 9500.

Advice note: At the time of granting this consent the Manawatu-Wanganui Regional Council's Environmental Protection Manager can be contacted on 0508 800 800.

13. The consent holder shall contact the Manawatu-Wanganui Regional Council's Environmental Coordinator (Whanganui Catchment Strategy) and Environmental Protection Manager five working days prior to the commencement of any land disturbance and vegetation clearance works authorised by this consent and at the end of any work season to allow an inspection to be undertaken to ensure compliance with consent conditions.

Advice note: At the time of granting this consent the Manawatu-Wanganui Regional Council's Environmental Protection Manager and Environmental Coordinator (Whanganui Catchment Strategy) can be contacted on 0508 800 800.

Advice note:

1. The applicant will require a resource consent for the installation of culverts if they are unable to comply with the Permitted Activity standards of the Regional Plan for the Beds of Rivers and Lakes and Associated Activities BRL Rule 11 or the Proposed One Plan Rule 16-11.

**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE**

**Inquiry into the exposure draft and explanatory memorandum
of the Illegal Logging Prohibition Bill 2011**

Public Hearing Monday, 16 May 2011

Questions Taken on Notice – DAFF

1. HANSARD, PG 58

Senator COLBECK: With the products to be covered, how much variance are you finding with what is listed in the Lacey Act and the EU provisions?

Mr Talbot: There is some variance between the RIS that we did and the EU provisions and the Lacey Act. There are about four categories. I will have to take that on notice to give you a specific answer but, for example, in the EU and the US firewood is mentioned in their product categories. It is not mentioned in our product categories. We may not import that or it may be simply recorded under another HS code. So there is some variance at the moment and we would like to explore it. I should say that there is also variance between the EU and the US too. I actually have the product categories and I can table them. Just to give you some idea, the US one is a lot longer and more extensive than the EU one.

2. HANSARD, PG 59

Mr Talbot: We can table this. It only includes the wooden timber categories.

Senator COLBECK: I was interested to know, looking through those categories and some of the stuff that is in there particularly around packaging, how is that managed in those other jurisdictions and how do you look at that?

Mr Talbot: I would have to take that on notice. We are having a hook-up with the EU next week. Some of the questions you have just asked are some of the things we are working through in how they might apply them. I am not aware, off the top of my head, sorry.

3. HANSARD, PG 59-60

Senator COLBECK: Perhaps it has been lost in the language. I think the concept of a risk management framework as opposed to a code of conduct or a code of management will have different connotations for different people. Perhaps it has been lost in the communication or in the language to a certain extent, because certainly we have had representations about risk management profiles and risk management processes quite consistently here today. Yet the concept of a code of conduct or a code of management has not necessarily, in my view, been

received all that well because it perhaps has cost connotations that might apply to it, particularly when you apply the industry certifier process, which certainly has cost connotations attached to it as part of that overall process.

Your submission refers to about nine per cent of what comes into the country as being illegal product. In your investigations, what forms of timber, from sawn through to highly manufactured, fall within that nine per cent? Where are the high-risk elements of that profile?

Mr Talbot: I will have to take that on notice. I cannot remember where the risks are. I believe the nine per cent comes out of a number of studies that have been done both overseas and also taken up by the CIE in its report. It is best that I take that on notice because I am not sure which products in particular it would be.

4. HANSARD, PG 60

Senator COLBECK: I think we had one submission in particular that I looked at that was critical of that data. So, if you could give us that information but also annotate the sourcing of it, that would assist. You have taken us through a rough time line for different elements. How does our commencement date align with current processes in other jurisdictions? The Lacey Act has already had, perhaps, some actions, and the EU one is not necessarily in form yet. It is probably closer in the UK than in any of the other countries.

Mr Talbot: In terms of the Lacey Act, I think there are four phases. I have a sheet on that that I can give you, Senator. They have introduced phase I, which was introduced in March 2009. This does not have the products on it. I am looking for the products. I might take that on notice, because I think we are only up to phase I. Sorry, we are up to phase III. Phase I was that they introduced the declaration. Phase II, from April to September 2009, was wooden articles of wood categories. That was solid timber products including timber sheets for veneering. Then phase III was from October 2009 to March 2010, when additional articles of wood plus wood pulp categories were introduced. There is phase IV still to be introduced, which would include additional wood articles plus paper and articles of paper plus furniture. I will give you those bits.

In terms of the EU, I think that, by the time they have finished their process, it would be pretty closely aligned with ours if it went through. Say, for example, we had legislation to start a process later this year—I am not saying it will or it will not. If my recollection is correct, they are due to complete their process within 27 months from this month, but I will take that on notice. One of the things that I thought were very useful was that the EU processes seem to be marching to similar times to a number of our processes, so I thought there was a lot of opportunity to work with the EU.

5. HANSARD, PG 61

Senator COLBECK: The issue of capacity building is an important one and it has been discussed here today a number of times. That brings me to the 'certification at the border' concept that has

been discussed and raised by a number of submitters from a number of different perspectives, whether it be from an environmental group or whether it be in New Zealand or even the local industry—so that you have a certification at the border that this product has been provided legally. That certification, or declaration, if you like, can then work its way down the line. There would have to be a due diligence process behind that, and a risk management framework is obviously appreciated as a part of that process, but why haven't we had, as the EU and the US systems have, a 'declaration at the border' process which then drives some of that requirement back down into the supply chain and therefore contributes to capacity building?

Mr Talbot: Part of the matters we are working on at the moment is to have something included in the customs declaration when the material comes into the country. So there is something planned. I think we were going to put it into the regulations, but I will take that on notice. I know we have had discussions with Customs, and I know that there is something of that format.

6. HANSARD, PG 64-65

Senator COLBECK: We have had some submissions today, most specifically from the ENGOs, talking about declaration requirements at each point of sale down the supply chain. What has been your interaction and discussion in relation to that? You probably heard what our reaction to it was.

Mr Talbot: We had a look at this from the 2007 election commitment in terms of what was the best place to apply this. It is thought for a number of reasons that were stated in the interaction today that the most cost effective place to introduce this was at the first point into the market, or into Australia. The reason for this was that it was the most cost effective point. If you left it until the retail end you would increase costs significantly. Also, if you applied it to each stage of the process you would also increase costs significantly. Again, we were trying to keep costs down and we saw it as first point of entry.

Senator COLBECK: What about the concept of civil penalties and allowing anybody in the system to take up a complaint?

Mr Talbot: I would have to take that one on notice. I would need some legal advice. I know it is something that has been discussed. I also know that there is a standard for the Commonwealth. So I would be best taking that on notice.

Senator COLBECK: I would be very interested in that because the ENGOs, in particular, have raised that with us today. If there is some sort of formal standard that we are conforming to as part of this process I would be more than interested in that.

Mr Talbot: I am not 100 per cent sure so I would like to take it on notice.

7. HANSARD, PG 65-66

Senator O'BRIEN: There have been submissions which question the explanatory memoranda, particularly in relation to the business impact of the system proposed in this legislation,

particularly from small manufacturing groups in relation to the importation of timber for the manufacture of products like windows, joinery products, kitchens and the like. A suggestion in their submission was that those compliance costs will make timber products in their businesses—and, perhaps, their businesses—less competitive than non-regulated products such as metals polymers, ceramics et cetera. What is the basis of the suggestion in the regulatory impact statement for the cost assertions—or lack of cost assertions?

Mr Talbot: On option 2, which is the one that was taken up in the regulatory impact statement, I think what we said was the cost to the community as a whole was—I will check this—\$8 million to \$23 million. I think that what we said for small businesses or businesses in one of the reports that we did—I think it was the small business impact statement, although they could not get down to costs—was that if this policy were introduced, there would be a rise in price for the consumer. There would be some compliance costs and they would be partly offset by the price rises that people would get for domestic product. It did not go into any more detail than that, so I would have to take that on notice, but I know getting those costs was quite difficult.

8. HANSARD, PG 67

Senator O'BRIEN: Does the government have the capacity to create a series of what you might call lists, for want a of a better word, of countries separated by the likelihood that there is a risk of imported timber being illegally sourced? In other words, can you say that in the European Union it may be very low, in Indonesia it might be moderate and in the Congo it might be high?

Mr Talbot: In the lead-up to the illegal logging policy we did a range of studies. One of the studies looked at things like the risks from a number of countries. One of the other studies we did looked at the rigour of various certification schemes across South-East Asia. I cannot remember the names of those reports, so I will take them on notice and give you those.

Senate Rural Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Public Hearing Monday, 16 May 2011

Agriculture, Fisheries and Forestry

Question: 1

Division/Agency: Climate Change

Topic: Inquiry into the exposure draft and explanatory memorandum of the Illegal Logging Prohibition Bill 2011

Hansard Page: 58

Senator Colbeck asked: With the products to be covered, how much variance are you finding with what is listed in the Lacey Act and the EU provisions?

Answer: The three schemes broadly cover the same range of products with some variation between the implementation schedules for classes of product.

The timber and wood products to be regulated under the draft Bill will be prescribed in regulations to coincide with the enforcement of the prohibition which will occur upon proclamation of the legislation. A list of product categories that may be regulated has been identified in the RIS. Further work is being undertaken with ABARES and stakeholders to identify timber and wood products that may be effectively regulated, taking into account the complexity of the product.

The following table describes the type and range of timber products, based on World Trade Organization Harmonised Tariff Codes, within each of the three product categories considered in the economic analysis for each of the policy options within the Regulatory Impact Statement.

<i>Category I</i>	<i>Category II</i>	<i>Category III</i>
Solid timber and wood products	Partially processed/processed timber and wood products	Complex products – e.g. highly processed/composite timber and wood products/from multiple sources
Wood in rough	Particleboard	Household and sanitary
Sawn wood	Fibreboard	Packaging & industry
Plywood	Mechanical pulp	Paper manufactures
Newsprint	Semi-chemical	Furniture
Printing & writing	Chemical pulp (Veneer
		Continuously shaped wood




Under the amendments to the US Lacey Act, the prohibition applies to all plants and plant products¹. The products which require the import declaration are being phased in, and currently include sawn wood, chipped wood, shaped wood, sheets for veneers, wood for joinery or carpentry, plywood, wooden frames and seats with wood frames (Attachment A).

¹ US Government (2008), Amendments to the Lacey Act from H.R.2419, Sec. 8204, http://www.aphis.usda.gov/plant_health/lacey_act/downloads/background--redlinedLaceyamndmnt--forests--may08.pdf

Products which have not yet been phased in and do not currently require the import declaration include particle board, fibreboard, packing cases and pulp and paper products².

The Annex to Regulation (EU) No 995/2010 includes the Customs Harmonised Codes for the range of products to be covered by the Regulations once they come into force on 3 March 2013 (Attachment B).

² United States Department of Agriculture, Animal and Plant Health Inspection Service, Phase-In Schedule of Enforcement of the Declaration Requirement for Goods of, or Containing, Plants or Plant Products, http://www.aphis.usda.gov/plant_health/lacey_act/downloads/2009-09ImplementationScheduleLaceyAct.pdf

 EU Due diligence regulation	 US Lacey Act (amendments)	 Australia's Illegal logging policy
<p>4401*—Fuel wood 4403—Wood in the rough 4406—Railway or tramway sleepers 4407—Wood sawn or chipped lengthwise 4408—Sheets for veneering 4409—Wood continuously shaped 4410—Particle board 4411—Fibreboard 4412—Plywood, veneered panels 4413—Densified wood 4414—Wooden frames 4415— Packing cases, boxes, crates, drums 4416— Casks, barrels, vats, tubs 4418—Builders' joinery and carpentry of wood 47 & 48 chapters—Pulp and paper 9403—Wooden furniture (940330,40,50,60 & 90) 94060020—Prefabricated buildings</p> <p>*Customs harmonised tariff code</p>	<p><u>Require an import declaration</u> 4401—Fuel wood 4402—Wood charcoal 4403—Wood in the rough 4404—Hoopwood; poles, piles, stakes 4406—Railway or tramway sleepers 4407—Wood sawn or chipped lengthwise 4408—Sheets for veneering 4409—Wood continuously shaped 4412—Plywood, veneered panels 4414—Wooden frames 4417—Tools, tool handles, broom handles 4418—Builders' joinery and carpentry of wood 4419—Tableware & kitchenware of wood 4420—Wood marquetry, caskets, statuettes 4421—Other articles of wood 6602—Walking sticks, whips, crops 8201—Hand tools 9201—Pianos 9202—Other stringed instruments 9302—Revolvers and pistols 93051020—Parts & accessories for revolvers & pistols 940169—Seats with wood frames 950420—Articles and accessories for billiards 9703—Sculptures</p> <p><u>Do not yet require an import declaration</u> 4405—Wood wool (excelsior) 4410—Particle board 4411—Fiberboard of wood 4413—Densified wood 4415—Packing cases, boxes, crates, drums 4416—Casks, barrels, vats, tubs 47 & 48 chapters—Pulp and paper</p>	<p>4403—Wood in rough 4407—Sawn wood 4408—Veneer 4409—Continuously shaped wood 4412—Plywood 4410—Particleboard 4411—Fibreboard 4701—Mechanical pulp 4705—Semi-chemical 4702-4707—Chemical pulp 4801—Newsprint 4802-03; 4808-11; 4823—Printing & writing 4803,4818—Household and sanitary paper 4804-08, 4810-11, 4823—Packaging & industrial 4811-4823—Paper manufactures 9403—Furniture</p>

Question: 2

Division/Agency: Climate Change

Topic: Inquiry into the exposure draft and explanatory memorandum of the Illegal Logging Prohibition Bill 2011

Hansard Page: 59

Senator Colbeck asked: I was interested to know, looking through those categories and some of the stuff that is in there particularly around packaging, how is that managed in those other jurisdictions and how do you look at that?

Answer:

Lacey Act

Phase III of the schedule of enforcement of the declaration requirements of the Lacey Act includes Customs Harmonised Code (HS Code) 4415 – (Packaging cases, boxes, crates, drums). Phase III was scheduled to be enforced from 1 October 2009 – 31 March 2010. The enforcement of Phase III has been delayed due to the problem of identifying the genus and or species of composite and recycled or reused materials (e.g. medium density fibre board, particle board and scrap wood). Phase III has not yet been implemented due to continued consultation with industry.

Plant and plant products used exclusively as packing material to support, protect, or carry another item including (but not limited to) instruction manuals, labels, pallets and crating are to be excluded from the enforcement of the Lacey Act Amendments. These exclusions will become applicable once Phase III is implemented.

EU Provisions

The Annex to Regulation (EU) No 995/2010 of the European Parliament and the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market states that the regulation applies to HS Code 4415 Packing cases, boxes, crates, drums and similar packings, of wood; cable-drums of wood; pallets, box pallets and other load boards, of wood; pallet collars of wood.

Question: 3

Division/Agency: Climate Change

Topic: Inquiry into the exposure draft and explanatory memorandum of the Illegal Logging Prohibition Bill 2011

Hansard Page: 59-60

Senator Colbeck asked: Your submission refers to about nine per cent of what comes into the country as being illegal product. In your investigations, what forms of timber, from sawn through to highly manufactured, fall within that nine per cent? Where are the high-risk elements of that profile?

Answer: The nine per cent figure came from a report commissioned by DAFF entitled *An Overview of Illegal Logging* by Jaakko Poyry Consulting in 2005. Of that nine per cent, doors, mouldings, roundwood/sawnwood, furniture and plywood were identified as the highest risk imports, with up to 45 per cent of door imports suspected of containing illegally logged timber.

Products (2003/2004 figures)	Per cent Suspect
Doors	45
Mouldings	32
Round wood/Sawn wood	29
Furniture	22
Plywood	19
Veneers	16
Others	11
Household and sanitary	7
Printing and writing	3
Pulp	2
Woodchips	2
Packaging and industrial	1
Soft board and other fibre boards	1
Particleboard	1
Hardboard	0
Recovered paper	0
Medium density fibreboard	0
Newsprint	0

Source: Jaako Poyry (Consulting 2005). *An Overview of Illegal Logging*. Report to DAFF http://www.daff.gov.au/_data/assets/pdf_file/0004/785065/illegal_logging_report.pdf

Question: 4

Division/Agency: Climate Change

Topic: Inquiry into the exposure draft and explanatory memorandum of the Illegal Logging Prohibition Bill 2011

Hansard Page: 60

Senator Colbeck asked: I think we had one submission in particular that I looked at that was critical of that data. So, if you could give us that information but also annotate the sourcing of it that would assist.

Answer: The 9 per cent figure came from a report commissioned by DAFF entitled *An Overview of Illegal Logging* by Jaakko Poyry Consulting in 2005. Estimates of illegal logging were based on the following annotated sources:

Tacconi, L, Obidzinski, K and Agung, F (2004). *Learning lessons to promote forest certification and control illegal logging in Indonesia*, CIFOR, Jakarta.

Gerrar, N and Ozinga, S (2004). *Illegal logging: room for manoeuvre by EU Governments*. Fern report.

Seneca and Associates (2004). *Illegal logging and global wood markets: the competitive impacts on the U.S. wood products industry*. Prepared for the American Forest and Paper Association.

Question: 5

Division/Agency: Climate Change

Topic: Inquiry into the exposure draft and explanatory memorandum of the Illegal Logging Prohibition Bill 2011

Hansard Page: 59-60

Senator Colbeck asked: How does our commencement date align with current processes in other jurisdictions?

Answer:

Draft Illegal logging prohibition Bill

It is intended to introduce the draft Bill to Parliament in 2011. The prohibition of timber imports containing illegally logged timber will enter into force once the legislation is proclaimed, which must occur no later than 6 months after royal assent. Regulations requiring timber importers and processors to be approved by the responsible minister or a timber industry certifier will come into force 2 years after the legislation is proclaimed. Requirements for approval under the regulations are to be developed by the department and industry in sufficient time to enable timber importers and processors of raw logs to establish their due diligence schemes and obtain the necessary approval to import timber and process raw logs once the regulations enter into force.

Lacey Act Amendment

The amendments to the US Lacey Act were enforced on 22 May 2008. Declarations of timber products are being phased in according to the category of timber product³. The first phase-in schedule of the declaration requirement began in March 2009, however, the Federal Government's phase-in schedule for the implementation of the Lacey Act requirement was revised on 2 September 2010 by the Animal and Plant Inspection Service because of the difficulty of identifying composite and recycled or reused material. The implementation of the phase in schedule for the Lacey Act Amendments continues to be delayed as industry is consulted.

EU regulation

The EU regulation was established in October 2010; however, its date of application is 3 March 2013. Requirements for implementing the due diligence aspects of the legislation are to be adopted by 3 June 2012⁴. The 27 month delay in application has been included to allow member states the opportunity to develop their own legislation and systems to meet the overarching requirements contained in the EU regulation.

³ US Government Federal Register 2009, US Department of Agriculture - Animal and Plant Health Inspection Service, Implementation of Revised Lacey Act Provisions Vol. 79, No. 169, September 2 2009.

⁴ European Commission (2011), Illegal Logging Timber Regulation, http://ec.europa.eu/environment/forests/timber_regulation.htm

Question: 6

Division/Agency: Climate Change

Topic: Inquiry into the exposure draft and explanatory memorandum of the Illegal Logging Prohibition Bill 2011

Hansard Page: 61

Senator Colbeck asked: Why haven't we had, as the EU and the US systems have, a 'declaration at the border' process which then drives some of that requirement back down into the supply chain and therefore contributes to capacity building?

Answer: The amendments to the US Lacey Act make it an offence to import certain plants and plant products without an import declaration. The products requiring the import declaration are being phased-in. The import declaration must include the scientific name of any plant, value, quantity, and the name of the country from which the plant was taken⁵. There is no requirement to declare the legality of the imported product. The Lacey Act Amendment requires a declaration which is completed by the importer (Attachment C). Therefore, the declaration is not based on the presentation of certification by the exporting country.

The EU regulation requires measures and procedures to be in place to allow access to information on the timber or timber products placed on the market, this information must be made available throughout the supply chain, and include⁶:

- description, including trade name, type of product and tree species
- country of harvest, and where applicable sub-national region and concession of harvest
- quantity
- documents or other information indicating compliance of the timber and timber products with the applicable legislation
- details of the supplier to the operator
- details of the trader to whom the timber or timber products have been supplied.

The draft Bill prepares the way for the introduction of a requirement for the accurate description of imported timber products. Importers and processors who are approved by the responsible minister or certifier would be given an approval number verifying that their due diligence system has been assessed as complying with the legal logging requirements. The approval number would be registered with the Australian Customs and Border Protection Service (Customs). Importers of regulated timber products would be required to declare at the time of lodging their import declaration that they are compliant with the requirements of the Act. Customs officers would monitor incoming shipments of timber and wood products at the border based on approval numbers and provide DAFF with regular reports of compliance and non-compliance for monitoring and enforcement purposes.

⁵ United States Department of Agriculture, Animal and Plant Health Inspection Service (2010), Lacey Act Primer, http://www.aphis.usda.gov/plant_health/lacey_act/downloads/LaceyActPrimer.pdf

⁶ Office Journal of the European Union (2010), Regulation (EU) No 995/2010 of the European Parliament and of the Council, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:295:0023:0034:EN:PDF>

Details of the border control measure are yet to be finalised, but Customs has proposed the inclusion of a reporting requirement for importers of timber and timber products, to satisfy the illegal logging provisions relating to the sourcing of timber. The final mechanism for this reporting has not yet been agreed. However it is the intention to introduce a Community Protection Question (CPQ) which must be answered at the time of lodging an import declaration for timber-related consignments. This would require importers to declare that their goods are compliant with the requirements of the Act. Declaration information would then be passed onto DAFF as part of an information exchange arrangement. Unlike the Lacey Act, the intention of the draft Bill is to ensure importers establish the legality of the timber product prior to importation using an approved due diligence system which will be monitored by the Timber Industry Certifiers and DAFF.

Any non-compliance matters would be followed up by DAFF post-border thereby avoiding the need to check shipments at the border and disrupting the flow of imports. DAFF would enforce the requirements of the legislation through its investigations and compliance unit based on Customs and timber industry certifier reports.

Question: 7

Division/Agency: Climate Change

Topic: Inquiry into the exposure draft and explanatory memorandum of the Illegal Logging Prohibition Bill 2011

Hansard Page: 64-65

Senator Colbeck asked: We have had some submissions today, most specifically from the ENGOs, talking about declaration requirements at each point of sale down the supply chain. What has been your interaction and discussion in relation to that?

Answer: A number of options were considered in the drafting process for the draft Bill, these included a system which would require certification along the entire supply chain for timber products. It was determined that the most cost effective method of certification would be targeted at two key points of entry where the legality of timber products could be effectively and efficiently screened for compliance with the legislation:

- At the border - for Australian importers bringing timber and wood products into the country, and
- At timber processing mills - for domestic processors of raw logs.

This approach provides an assurance that timber products further down the timber supply chain have been verified as legally logged, thereby removing the need for full timber supply chain traceability and reducing overall business compliance costs.

Question: 8

Division/Agency: Climate Change

Topic: Inquiry into the exposure draft and explanatory memorandum of the Illegal Logging Prohibition Bill 2011

Hansard Page: 64-65

Senator Colbeck asked: What about the concept of civil penalties and allowing anybody in the system to take up a complaint?

Answer: The penalty regime contained in the draft Bill is consistent with the guidance provided in the *Legislation Handbook*. The Bill includes a number of strong administrative sanctions under the co-regulatory approach of the government which complement the criminal penalty regime and adds to its enforceability. Administrative sanctions include the responsible minister having the power to cancel the approval of an importer, processor or timber industry certifier provided the responsible minister is satisfied that they have not complied with, or is not able to comply with the applicable legal logging requirements and/or timber certifier requirements. This provision provides a strong incentive for importers, processors and timber industry certifiers to comply with the timber certifier and legal logging requirements. The decision to cancel approval may be based on a major breach of these requirements or on a series of minor non-compliance instances, as identified through independent third party audits of compliance. The intent of the government was to promote compliance of industry with the legislative requirements through a continuous improvement process backed by strong administrative sanctions rather through a civil penalty regime. The criminal penalty regime will provide support to the strong administrative sanctions as a “last resort” when the administrative sanctions are not sufficient.

It was not the intention of the government to include open standing. It is intended that the department will oversee compliance with the Bill and make determinations where necessary.

Question: 9

Division/Agency: Climate Change

Topic: Inquiry into the exposure draft and explanatory memorandum of the Illegal Logging Prohibition Bill 2011

Hansard Page: 64-65

Senator Colbeck asked: If there is some sort of formal standard that we are conforming to as part of this process I would be more than interested in that. (Regarding civil penalties and open standing)

Answer: The draft Bill aligns with the Australian Government's approach to developing contemporary legislation. The draft Bill provides a high-level legislative framework to effectively implement the government's policy to combat illegal logging and as part of that the normal Commonwealth approach to offences has been used. It is intended that the offences be prosecuted by the DPP.

Question: 10

Division/Agency: Climate Change

Topic: Inquiry into the exposure draft and explanatory memorandum of the Illegal Logging Prohibition Bill 2011

Hansard Page: 65-66

Senator O'Brien asked: What is the basis of the suggestion in the regulatory impact statement for the cost assertions—or lack of cost assertions?

Answer: Including detailed cost assertions in the RIS was difficult because of the absence of specific requirements which will determine those costs. A number of broad costings were undertaken in the process of drafting the Bill.

Legality verification compliance costs for industry were based on the following estimates assessed for full certification (FC), verified legal compliance (VLC), verified legal origin (VLO) and due diligence. The requirements for VLC are more stringent than for VLO but less than for FC. The sources of these estimates are provided below. Compliance costs for different businesses would depend on the level of certification used and regional level of risk for timber and wood products sourced.

	Lower	Upper
	<i>% export tax equivalent</i>	<i>% export tax equivalent</i>
<i>Low risk regions (including Australia*)</i>	0.025 (Due Diligence**)	0.1 (Full Certification)
<i>High risk regions</i>	0.9 (Verified Legal Origin)	1.5 (Verified Legal Compliance **)

Note: Compliance costs are calculated as an export tax for the purposes of modelling economic impacts.*For Australia, compliance costs are modelled as production tax. **In terms of compliance requirements, SDL is the minimum of the four different regulatory schemes; see text and CIE (2010) for details. The requirements for VLC are more stringent than for VLO but less than for FC.

Sources:

Development and Protection, Chapter 5, pp. 155-183. ABARES (2010). The economic consequences of restricting the import of illegally logged timber. Report for the Department of Agriculture Fisheries and Forestry.

Cubbage, F., Moore, S., Henderson, T., and Araujo, M. 2009, *Costs and Benefits of Forest Certification in the Americas*, Natural Resources: Management, Economic Development and Protection, Chapter 5, pp. 155-183.

INDUFOR 2008, *Assessment of the Impact of Potential Further Measures to Prevent the Importation or Placing on the Market of Illegally Harvested Timber or Products Derived from Such Timber*, Final Report, Helsinki.

ITTO (International Tropical Timber Organisation) 2004, *Report on Financial Cost-Benefit Analysis of Forest Certification and Implementation of Phased Approaches*, Thirty-seventh session, Yokohama, Japan.

Question: 11

Division/Agency: Climate Change

Topic: Inquiry into the exposure draft and explanatory memorandum of the Illegal Logging Prohibition Bill 2011

Hansard Page: 67

Senator O'Brien asked: Does the government have the capacity to create a series of what you might call lists, for want a of a better word, of countries separated by the likelihood that there is a risk of imported timber being illegally sourced?

Answer: A number of approaches may be used by government and industry to establish the risk of importing illegally logged timber by source country. An initial assessment has been documented in a report by Jaakko Poyry Consulting entitled *Legal Forest Products Assurance – a risk assessment framework for assessing the legality of timber and wood products imported into Australia*.

[http://www.daff.gov.au/data/assets/pdf_file/0003/1871733/Poyry_Report -
Risk assessment framework for assessing legality of timber and wood products imported into Australia.pdf](http://www.daff.gov.au/data/assets/pdf_file/0003/1871733/Poyry_Report_-_Risk_assessment_framework_for_assessing_legality_of_timber_and_wood_products_imported_into_Australia.pdf)

Please provide an estimation of hours spent on QON response for each officer involved.

Officer	DAFF Level	Hours spent on QON response
A	EL1	.75
B	APS5	2
C	APS3	1

Phase-In Schedule of Enforcement of the Declaration Requirement for Goods of, or Containing, Plants or Plant Products*

II April 1, 2009	III October 1, 2009	IV April 1, 2010
<p>HTS Chapters:</p> <p>Ch. 44 Headings (wood & articles of wood) 4401—(Fuel wood) 4403—(Wood in the rough) 4404—(Hoopwood; poles, piles, stakes) 4406—(Railway or tramway sleepers) 4407—(Wood sawn or chipped lengthwise) 4408—(Sheets for veneering) 4409—(Wood continuously shaped) 4417—(Tools, tool handles, broom handles) 4418—(Builders' joinery and carpentry of wood)</p>	<p>HTS Chapters:</p> <p>Ch. 44 Headings (wood & articles of wood) 4402—Wood charcoal 4412—Plywood, veneered panels, except 44129906 and 44129957 4414—Wooden frames 4419—Tableware & kitchenware of wood 4420—Wood marquetry, caskets, statuettes</p> <p align="center">PLUS PHASE II</p>	<p>HTS Chapters:</p> <p>Ch. 44 Headings (wood & articles of wood) 4421—Other articles of wood</p> <p>Ch. 66 Headings (umbrellas, walking sticks, riding crops) 6602—Walking sticks, whips, crops</p> <p>Ch. 82 Headings (tools, implements) 8201—Hand tools</p> <p>Ch. 92 Headings (musical instruments) 9201—Pianos 9202—Other stringed instruments</p> <p>Ch. 93 Headings (arms and ammunition) 9302—Revolvers and pistols 93051020—Parts and accessories for revolvers and pistols</p> <p>Ch. 94 Headings (furniture, etc.) 940169—Seats with wood frames</p> <p>Ch. 95 Headings (toys, games, & sporting equipment) 950420—Articles and accessories for billiards</p> <p>Ch. 97 Headings (works of art) 9703—Sculptures</p> <p align="center">PLUS PHASES II & III</p>

* Declaration requirements were effective as of December 15, 2008. All declarations submitted must be accurate; false statements may be referred for enforcement. Failure to submit a declaration will not be prosecuted, and customs clearance will not be denied for lack of a declaration until after the phase-in date above.

ANNEX

Timber and timber products as classified in the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87⁽¹⁾, to which this Regulation applies

- 4401 Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms; wood in chips or particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms
- 4403 Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared
- 4406 Railway or tramway sleepers (cross-ties) of wood
- 4407 Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
- 4408 Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for other similar laminated wood and other wood, sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm
- 4409 Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed
- 4410 Particle board, oriented strand board (OSB) and similar board (for example, waferboard) of wood or other ligneous materials, whether or not agglomerated with resins or other organic binding substances
- 4411 Fibreboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances
- 4412 Plywood, veneered panels and similar laminated wood
- 4413 00 00 Densified wood, in blocks, plates, strips or profile shapes
- 4414 00 Wooden frames for paintings, photographs, mirrors or similar objects
- 4415 Packing cases, boxes, crates, drums and similar packings, of wood; cable-drums of wood; pallets, box pallets and other load boards, of wood; pallet collars of wood

(Not packing material used exclusively as packing material to support, protect or carry another product placed on the market.)
- 4416 00 00 Casks, barrels, vats, tubs and other cooper's products and parts thereof, of wood, including staves
- 4418 Builders' joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes

⁽¹⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

-
- Pulp and paper of Chapters 47 and 48 of the Combined Nomenclature, with the exception of bamboo-based and recovered (waste and scrap) products
 - 9403 30, 9403 40, 9403 50 00, 9403 60 and 9403 90 30 Wooden furniture
 - 9406 00 20 Prefabricated buildings
-

Plant and Plant Product Declaration Form



U.S. DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Section 3: Lacey Act Amendment (16 U.S.C. 3372)

Applicability of Declaration:

You are required to complete this form if you are importing any of the following:
Any wild member of the plant kingdom, including roots, seeds, parts, or products thereof, and including trees from either natural or planted forest stands, except:

1. Common cultivars, except trees, and common food crops (including roots, seeds, parts, or products thereof);
2. * Scientific specimens of plant genetic material (including roots, seeds, germplasm, parts, or products thereof) that are to be used only for laboratory or field research;
3. * Plants that are to remain planted or to be planted or replanted; or
4. Plants used exclusively as packaging material to support, protect, or carry another item, unless the packaging material itself is the item being imported.

* You must still complete this form if you are importing plants described under 3. and 4. that are listed:

- In an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);
- As an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or
- Pursuant to any State law that provides for the conservation of species that are indigenous to the State and are threatened with extinction.

SECTION 1 - Shipment Information

1. ESTIMATED DATE OF ARRIVAL: (MM/DD/YYYY)	
2. ENTRY NUMBER:	3. CONTAINER NUMBER: <input type="checkbox"/> See Attachment
4. BILL OF LADING:	5. MID:
6. IMPORTER NAME:	8. CONSIGNEE NAME:
7. IMPORTER ADDRESS:	9. CONSIGNEE ADDRESS:

I certify under penalty of perjury that, to the best of my knowledge and belief, the information furnished is true and correct:

Preparer's Phone Number and Area Code	Signature	Type or Print Name	Date

1. **Estimated Date of Arrival:** Enter the date (MM/DD/YYYY) that the product is expected to enter the United States of America.
2. **Entry Number:** Enter the U. S. Customs entry number assigned to this shipment.
(Format: xxx-xxxxxxx-x)
3. **Container Number:** Enter the number of the shipping container in which the product is being shipped - available from your shipping company. If you have more than container number in your shipment, check the "see attachment" box, and list all of the containers on a separate sheet. Attach the container list to the PPQ 505. If there is no container number, please leave this section blank.
4. **Bill of Lading:** Enter the Bill of Lading (BOL) number assigned to this shipment - available from the shipping company. If there is no Bill of Lading number, please leave this section blank.
5. **MID:** Manufacturer Identification Code - available from the manufacturer or customs broker (19 CFR Appendix to Part 102).
6. **Importer Name:** Enter the name of the import company or individual for the product.
7. **Importer Address:** Enter the address of the import company or individual in #6.
8. **Consignee Name:** Name of the individual or company who ordered and will ultimately receive the shipment.
9. ~~**Consignee Address:** Enter the address of the individual or company in #8.~~
10. **Description of the Merchandise:** Enter the name of the plant or plant product, and its use (example: wooden spoons for kitchenware). If the use is unknown, enter only the name of the product (example: lumber).
11. **HTSUS Number:** Enter the Harmonized Tariff Code for the merchandise described in #10 - available at <http://www.usitc.gov/tata/hts/>. If you have more than one HTSUS number for your shipment, check the "see attachment" box, and list all of the HTSUS numbers on a separate sheet. Attach the HTSUS number list to the PPQ 505.
12. **Entered Value (in U.S. Dollars):** Write the entered value of the imported merchandise described in #10 in U.S. Dollars.
13. **Article/Component of Article:** Enter a brief description of each article, or component of an article, that is manufactured from plants or plant parts. (Example: A decorative item including a wood frame and 100 % recycled paperboard - enter the frame as a line item, and record the percent recycled material in the paperboard in section #13.)
14. **Plant Scientific Name:** For each article/component in #14 enter the scientific name (example: See next page). If the species of plant used to produce the product varies, and the species used to produce the product is unknown, enter each species that may have been used to produce the product.