



Submission No 3

Inquiry into Illegal Logging Prohibition Bill 2011

Name: Ms Nik Fairus Natakhain Binti Rahmat
Assistant Secretary III

Organisation: Timber, Tobacco and Kenaf Industries Development
Division
Ministry of Plantation Industries and Commodities
Malaysia

INQUIRY INTO THE AUSTRALIAN ILLEGAL LOGGING PROHIBITION BILL 2011

1. Introduction

Malaysia likes to thank the Australian Government for the opportunity to make a submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade. Malaysia's present submission is in addition to the previous submission Malaysia already made to the inquiry on 14th December 2011 before the Senate Committee on Rural Affairs and Transport (SCRAT).

Malaysia supported the concerns expressed by Canada, Indonesia, New Zealand and Papua New Guinea when they made their submissions to the inquiry by SCRAT, in particular their concern on the adverse impact on their timber trades, the due diligence process and the need for consultation with Asia Pacific timber exporters when regulations for the Bill are developed subsequently.

2. The adverse impact on timber trade

A likely and far-reaching consequence of the Illegal Logging Prohibition Bill 2011 is its adverse impact on timber trade. It is expected that if the present form of the Bill is enforced, the impact will be far-reaching, affecting all imported timber products. As "timber product" is given a very wide ranging definition of "a thing that is, is made from, or includes, timber", practically capturing anything that contains timber.

Timber trade constitutes an important bilateral business between Malaysia and Australia. The enactment of this Bill in its present form will not encourage further growth of timber trade between the two countries. The vague due diligence process imposed on importers coupled with the heavy penalty for non-compliance will make it onerous on importers of timber products in terms of time, effort and cost. The need to obtain additional information will incur additional costs which when passed to consumers will mean higher price and less competitive timber products, thereby deterring them from using imported timber products.

3. The vague and broad definition of illegal logging

Malaysia concurs with the view of the Australian Timber Importers Federation Inc. (ATIF) that the definition of illegal logging needs further clarification. Malaysia fully supports the assertion that the main focus on timber legality should be defined as the compliance to respective national forest laws. The experiences and lessons learned from the implementation of Lacey Act should be referred to in refining the scope of power to be vested in the Bill. Malaysia is of the view that the definition can be made more precise by confining the definition with reference only to the relevant national forestry legislations.

4. Work within existing legal framework

Malaysia wishes to reiterate that it is finalising the negotiation of the European Union (EU) Malaysia Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreement (VPA). An important element of

FLEGT VPA is the Timber Legality Assurance System (TLAS), a system which provides a reliable means to distinguish legal timber products. Malaysia has developed its own TLAS, and this is a strong indication that Malaysia supplies legally harvested timber and timber products. As such the Malaysian TLAS can be considered as an effective means of legality assurance to Australia. Malaysia would like to suggest that during the implementation stage of the proposed Bill, Australia should consider allowing/giving Malaysian timber a national level endorsement, rather than the individual due diligence approach as stipulated in the proposed Bill.

In addition, Malaysia has its own national timber certification scheme, the Malaysian Timber Certification Scheme (MTCS), operated by the Malaysian Timber Certification Council. The MTCS is endorsed by the PEFC since May 2009. This endorsement under the PEFC framework of mutually recognised timber certification schemes result in the mutual recognition of MTCS and the Australian Forest Certification Scheme (AFCS). As such Malaysia would like to propose that the MTCS-PEFC certified timber to be recognised as fulfilling the due diligence process and there is sufficient to encourage more trade in certified timber products.

5. Overly burdensome for countries with systematic forest management and good forest harvesting practices

Malaysia understands and supports the objectives of the Bill. Just like Canada, Malaysia is equally anxious that the Bill could become potentially burdensome to countries with negligible risk of illegal logging. Malaysia has

been practicing systematic forest management and good forest harvesting practices for more than a century. In the latest report entitled *Status of Tropical Forest Management 2011* published by the International Tropical Timber Organization (ITTO), Malaysia is one of the only five countries lauded as making notable progress in the implementation of sustainable forest management (SFM). As such, Malaysia feels that countries that are managing their forest resources in a sustainable manner in accordance with national laws and regulations, and fulfilling international obligations should be accorded due recognition. In this context, existing mechanisms that facilitate trade of timber and timber products should be recognised and accepted as having fulfilled the requirements of the proposed Bill.

6. Consultations and collaborations with trading partners on the formulation of the proposed regulations

Australia is an important market for Malaysia's exports of timber and timber products. It was the 5th major market for Malaysia in 2011 with an export value of RM868.7 million (AUD289.5 million) with a market share of 4.3%.

As a supply source in 2011, Malaysia was the lead supplier of logs to Australia, and was the:

- 5th largest exporter for sawn timber to Australia;
- 2nd for veneer;
- 3rd for moldings, fiberboard and plywood;
- 2nd major supplier of wooden frames;
- 3rd for BJC; and
- 2nd in the supply of wooden furniture.

As such the timber sector is an important sector in the close bilateral trade relationship. With the coming into force of the Bill, it is incumbent that Malaysia be allowed to work closely with the Australian Government as one of the stakeholders involved in the development of the operational details of the Bill.

7. Conclusion

Malaysia wishes to express our appreciation for the opportunity to make submission to the *Joint Standing Committee on Foreign Affairs, Defence and Trade* on the Illegal Logging Prohibition Bill 2011. While Malaysia fully understands that the objectives of the Bill is laudable, Malaysia would like to see that the implementation of the Bill will not in any way hamper the good bilateral trade relationship particularly in timber products. Malaysia already has put in place a systematic forest management and good forest harvesting practices and will soon have a set of EU recognised timber legality assurance system (TLAS). As such, Malaysia should be allowed national level endorsement, rather than the individual due diligence approach as stipulated in the proposed Bill. In enacting the Bill, the Australian Government ought to be mindful of the adverse impacts of the US Lacey Act and should avoid the unnecessary cumbersome regulations that have proven very troublesome for genuine timber importers.

Malaysia will continue to be in close collaboration with Australia, and is willing to maintain the good working and trading relationships between the two nations. Malaysia appreciates the consideration by the Joint Standing

Committee on our concerns and we welcome any form of discussions on the matter or further opportunities to contribute and participate in the process.

Thank you for your kind attention.

**Ministry of Plantation Industries and Commodities
MALAYSIA**

26 April 2012