

# Chapter 1

## Introduction

### Inquiry terms of reference

1.1 On 23 March 2011, the Senate referred the exposure draft and explanatory memorandum on the Illegal Logging Prohibition Bill 2011 to the Senate Rural Affairs and Transport Legislation Committee for inquiry and report by 27 May 2011. On 25 May, the Senate granted an extension of the time to report to 15 June 2011 and on that date, the Senate granted a further extension to 21 June 2011.

### Purpose

1.2 The exposure draft of the Illegal Logging Prohibition Bill 2011 (the bill) addresses the issue of illegal logging and unfair competition on domestic timber producers by restricting the importation and sale of illegally-logged timber products in Australia.

1.3 The explanatory memorandum consultation draft notes that the bill will:

- introduce a prohibition on the importation of timber products containing illegally logged timber;
- require importers of regulated products and domestic processors of raw logs to meet legal logging requirements and be approved by a timber industry certifier or the Minister to place timber projects on the market;
- introduce a requirement for the accurate description of legally logged timber products placed onto the Australian market; and
- establish adequate monitoring and enforcement powers to ensure compliance with the bill, including the appointment of officers to undertake necessary duties.<sup>1</sup>

1.4 The bill will provide a high level framework to prohibit the sale of illegally logged timber on the Australian market and establish a framework for the introduction of legal logging requirements which will be set out in regulations. Under this provision, those responsible for the entry of timber products onto the Australian market, importers and Australian domestic processors of raw logs, will have to meet the requirements relating to the legality and description of those products. Adherence to the requirements will ensure that importers will avoid breaching the prohibition on the importation of illegally logged timber whilst domestic processors of raw logs will avoid breaching relevant state and territory legislation in relation to the harvesting of

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1 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*– 23 March 2011, p. 2.

timber within Australia.<sup>2</sup> Timber industry certifiers will be responsible, alongside the Minister, for administering the requirements by way of approving importers and domestic processors who adhere to the legal logging requirements. The regulations will list regulated timber products and any administrative and operational requirement that a prospective timber industry certifier must comply with.

## Definitions

1.5 Illegal logging and associated trade is traditionally defined within a 'criminal' context. The government defines illegal logging as occurring when:

- timber is stolen;
- timber is harvested without the required approvals or in breach of a harvesting licence or law;
- timber is bought, sold, exported or imported and processed in breach of law; and/or
- timber is harvested or trade is authorised through corrupt practices.<sup>3</sup>

1.6 The explanatory memorandum notes that the workable definition of legally sourced timber products that can be assessed using legality verification systems are those where timber suppliers have:

- right of access to the forest;
- complied with the legal right to harvest; and
- paid all taxes and royalties.<sup>4</sup>

## New policy to combat illegal logging

1.7 The exposure draft represents the regulatory elements of the government's new illegal logging policy. The policy, announced in December 2010, is expected to be implemented through a combination of co-regulation, continued bilateral cooperation with countries in the region, and multilateral engagement on forestry through existing forums. It derives from the government's 2010 election commitment to restrict the sale of illegally logged wood in Australia by introducing legislation to make the import of any timber products that have not been legally harvested an

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2 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*—23 March 2011, p. 2.

3 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*—23 March 2011, p. 5.

4 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*—23 March 2011, p. 11.

offence.<sup>5</sup> The policy comprises five measures of which the bill addresses the third and fourth measure:

- (i) build capacity within regional governments to prevent illegal harvesting;
- (ii) develop and support certification schemes for timber and timber products sold in Australia;
- (iii) identify illegally logged timber and restrict its import into Australia;
- (iv) require disclosure at point of sale of species, country of origin and any certification; and
- (v) argue that market-based incentives aimed at reducing emissions from deforestation and forest degradation should be included in a future international climate change agreement.<sup>6</sup>

## Consultation process

1.8 The exposure draft follows from a consultation process with industry and involved stakeholders. Consultation took place with industry during the development of the Regulation Impact Statement (RIS), which assesses the costs and benefits of policy options. Officials from the Department of Agriculture, Fisheries and Forestry (DAFF) met with peak industry bodies and representatives in the development of the new policy on illegal logging.<sup>7</sup> The Minister for Agriculture, Fisheries and Forestry, Senator the Hon. Joe Ludwig noted that the government consulted widely with forest industry stakeholders, manufacturers and retailers of wood products. He also highlighted the research undertaken under commission by the government including a proposed framework for assessing and managing the risk of sourcing illegally logged timber products, a generic code of conduct and regulatory and small business impact statements.<sup>8</sup>

1.9 The Centre for International Economics (CIE) was commissioned to produce a series of reports used to inform the final RIS. In this context, the CIE consulted with stakeholders representing forest, wood products, paper and construction industries,

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5 Department of Agriculture, Fisheries and Forestry, *Illegal Logging Questions and Answers*, <http://www.daff.gov.au/forestry/international/illegal-logging/q-and-a> (accessed 30 March 2011).

6 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft—23 March 2011, p. 4.

7 Department of Agriculture, Fisheries and Forestry, *Illegal Logging Questions and Answers*, <http://www.daff.gov.au/forestry/international/illegal-logging/q-and-a> (accessed 30 March 2011).

8 Senator the Hon Joe Ludwig, Minister for Agriculture, Fisheries and Forestry, *Senate Hansard*, 23 March 2011, p. 66, [http://parlinfo.parlInfo/genpdf/chamber/hansards/2011-03-23/0124/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.parlInfo/genpdf/chamber/hansards/2011-03-23/0124/hansard_frag.pdf;fileType=application%2Fpdf) (accessed 30 March 2011).

retailers, non-government organisations, academic institutions, certifiers, consultants, and both federal and state government agencies. In all, three rounds of consultation were conducted and included individual meetings with stakeholders, group meetings to test the initial CIE estimates, and a submission process in response to the CIE's draft report.<sup>9</sup>

1.10 Twenty-one submissions were received in relation to the findings and methodology of the Regulation Impact Statement (RIS) and 12,251 postcards were received demanding that the government fulfil its election promise of banning illegally logged timber imports. Three options are detailed in the RIS (which are considered in chapter 3 of this report) with stakeholder support weighted in favour of option 2 or a co-regulation approach.<sup>10</sup>

### **Submissions**

1.11 The committee advertised the inquiry on its website and in *The Australian* on 30 March 2011. The committee wrote to the Department of Agriculture, Fisheries and Forestry as well as a range of industry stakeholders and interested organisations. The committee received 31 submissions, which are listed at Appendix 1.

### **Acknowledgements**

1.12 The committee thanks those who assisted with the inquiry.

### **Note on references**

1.13 References in this report to individual submissions are to those submissions as received by the committee, not a bound volume.

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9 Department of Agriculture, Fisheries and Forestry, Background on the Australian Government's work to combat illegal logging, <http://www.daff.gov.au/forestry/international/illegal-logging> (accessed 23 May 2011).

10 Option 2 was favoured by 8 organisations whereas a quasi-regulation approach or option 1 was supported by six stakeholders of whom four offered qualified support for option 2. Option 3 or explicit regulation received the support of four stakeholders of whom three indicated support for option 2. See further, *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft–23 March 2011, p. 21.