

Chapter 3

Regulation Impact Statement

3.1 This chapter considers the Regulation Impact Statement (RIS) and the options put forward to meet the government's policy on illegal logging. It focuses primarily on the co-regulatory option which the government seeks to realise through an Illegal Logging Prohibition Bill 2011.

National framework

3.2 The national policy framework in relation to Australia's forest and timber industry is provided by the *Environmental Protection and Biodiversity Conservation Act (1999)*, *Regional Forest Agreements Act (2002)*, and *National Forest Policy Statement (1992)*. This framework is underpinned by relevant state and territory legislation. Each state and territory is responsible for defining and regulating legal timber harvesting within their jurisdictions. Compliance with the laws requires that domestic timber products are derived from legally-harvested sources.

3.3 According to the explanatory memorandum, voluntary forest certification standards including those of the Forest Stewardship Council or Australian Forestry Certification Scheme can be used to provide an assurance that domestic timber is legally (and sustainably) produced. Under these arrangements, approximately 90 per cent of timber produced in Australia is sourced from certified forests. The remaining 10 per cent of timber product that is not certified comes from wood supplied by small forest growers who are, regardless, required to comply with the relevant state and territory regulations for growing and harvesting wood.¹

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3.4 The RIS assesses the potential costs and benefits for domestic business, individuals and the Australian economy of regulatory options designed to restrict the importation of illegally logged timber into Australia. It outlines three options and identifies a preferred option. Whilst five measures were identified in the December 2010 policy announcement, the RIS focuses on measures 3 and 4 which are to:

- identify illegal logged timber and restrict its import into Australia;

1 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft– 23 March 2011, pp. 10–11.

- require disclosure at point of sale of species, country of origin and any certification.²

3.5 The initial assessment of the costs and benefits of the potential regulatory approaches were taken by the CIE using:

- CIE assumptions for estimating compliance costs for developed countries, developing countries and Australia; and
- four levels of legality verification – Self-declared legal (SDL), Verified Legal Origin (VLO), Verified Legal Compliance (VLC) and full certification (FC).

3.6 In terms of modelling, the Global Trade Analysis Project (GTAP) model was initially used by the CIE to analyse the costs and benefits to the global and Australian economies of stopping illegal logging. This analysis was supplemented with modelling undertaken by ABARE using the Global Trade and Environment Model (GTEM). According to the explanatory memorandum, the differences between the CIE and Australian Bureau of Agricultural and Resource Economics (ABARE) analytical approaches and assumptions used for the assessment of costs and benefits 'reveals major differences in the economic outcomes for Australia from combating illegal logging'.³

3.7 The timber products to be covered by the policy options fall into three groups:

- Category I solid timber and wood products and some paper products (12 per cent of Australia's timber imports);
- Category II partially processed/processed timber and wood products plus category I products (39 per cent of Australia's timber imports); and
- Category III highly processed/composite timber and wood products from multiple sources plus category II products (70 per cent of Australia's timber imports).⁴

Concerns regarding the draft Regulation Impact Statement

3.8 According to the explanatory memorandum, the response of stakeholders to the draft RIS was one of 'significant support for moral reasons for change and an

2 The others include 1. Build capacity within regional governments to prevent illegal harvesting; 2. Develop and support certification schemes for timber and timber products sold in Australia; 5. Argue that market-based incentives aimed at reducing emissions from deforestation and forest degradation should be included in a future international climate change agreement (*Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*– 23 March 2011, p. 4).

3 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*– 23 March 2011, p. 15.

4 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*– 23 March 2011, p. 15.

acceptance of small costs for Australia from removing illegally sourced products from Australia's market'.⁵

3.9 There were, however, four key issues of concern raised in relation to the draft RIS. The primary concern amongst stakeholders was that illegal timber production should not be seen as an economic benefit. Greenpeace Australia Pacific, for example argued:

The Draft RIS also fails to acknowledge that consumers of illegally derived timber products are effectively the end recipients of stolen goods and it is perverse to describe the reduced costs of illegal timber as a 'benefit' to the economy and consumers without recognizing this aspect.⁶

3.10 The explanatory memorandum responds to this concern by noting that in the final RIS in the exposure draft, illegal timber production is not viewed as providing an economic benefit. Indeed, the RIS recognises that illegal logging can have a significant impact on industry structure, employment, investment and profitability.⁷

3.11 Submitters to the draft RIS in 2009 were also concerned that the 'intangible' and social impacts and costs in the cost-benefit analysis should be given greater emphasis. The Uniting Church in Australia–Synod of Victoria and Tasmania, for example, argued that the analysis produced by the CIE and reflected in the draft RIS was 'highly deficient in its social analysis' and adopted what it termed an 'amoral approach of including criminal activity within the logging industry as a net economic positive without any comment on the social or human rights dimensions of such criminal activity'.⁸ Similarly, Humane Society International (HSI) argued that the cost-benefit analysis was of limited use to the government because of its dismissive treatment of intangible benefits which included Australia providing a role model to other trading partners and 'Australia sending a message to trading partners that they should also invest in measures to curb illegal logging', and that the initiative should

5 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft–23 March 2011, p. 25.

6 Greenpeace Australia Pacific, Submission to Draft Regulatory Impact Statement, November 2009, Submission 14, p. 4, <http://www.thecie.com.au/RIS%20illegal%20logging/14%20-%20Greenpeace.pdf> (accessed 2 May 2011).

7 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft–23 March 2011, p. 21.

8 Uniting Church in Australia–Synod of Victoria and Tasmania, Submission to Proposed new policy on illegally logged timber, Submission 4, p. 1. See also, 'Illegal logging assessment counts corruption as a benefit', Media Release, Uniting Church in Australia–Synod of Victoria and Tasmania, undated, http://blogs.victas.uca.org.au/mediaroom/?page_id=541 (accessed 30 March 2011). This position was also held by Humane Society International, Submission to Proposed new policy on illegally logged timber, 30 November 2009, Submission 6, p. 1, <http://www.thecie.com.au/RIS%20illegal%20logging/6%20-%20Humane%20Society%20International.pdf> (accessed 2 May 2011).

serve as a 'step towards more effective national and multilateral moves to improve the sustainability of all logging, legal or illegal'.⁹

3.12 The government responded to these concerns, noting that the Department of Agriculture, Fisheries and Forestry (DAFF) has undertaken a more detailed social assessment to support the completion of the RIS which highlighted the social impacts associated with illegal logging. According to the explanatory memorandum, as part of the assessment, significant tangible and intangible costs were noted and in particular, the loss of human, resource and other forms of capital for forest-dependent communities, loss of payments for timber and the lack of social services supplied by industry and government where there are illegal forestry operations.¹⁰

3.13 There was also support amongst a number of submitters for the inclusion of moral and treaty obligations for Australia in the cost-benefit analysis. The government noted, however, that given its strategic geographical location in the Asia-Pacific, if Australia is able to influence governments to take action to combat illegal logging through the domestic measures it employs to identify and restrict illegally-logged timber imports, there may be some justification for claiming a greater proportion of the benefits than 0.034 per cent. That is, the benefits might be greater than US\$21 million per annum.¹¹

3.14 A number of submitters to the draft RIS also held the view that a comprehensive assessment of the policy options available to the government for combating illegal logging requires an examination of both the tangible and intangible costs and benefits. In relation to the option of a co-regulatory approach which is realised in the bill, the government responded that an assessment of the range of intangible benefits adds weight to the benefits component of the benefit to cost ratio, although they remain similar in size.¹²

Identified options and stakeholders response

3.15 The RIS considers three options to change the behaviour of timber producers by directly limiting opportunities for the production and trade of illegal timber. Such options, which are based on the outputs of CIE and ABARE analysis, seek to

9 Humane Society International, Proposed new policy on illegally logged timber, 30 November 2009, Submission 6, p. 2, <http://www.thecie.com.au/RIS%20illegal%20logging/6%20-%20Humane%20Society%20International.pdf> (accessed 2 May 2011). See also Greenpeace Australia Pacific, Response to the Draft Regulatory Impact Statement, November 2009, p. 3, <http://www.thecie.com.au/RIS%20illegal%20logging/14%20-%20Greenpeace.pdf> (accessed 2 May 2011).

10 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft—23 March 2011, p. 22.

11 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft—23 March 2011, p. 22.

12 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft—23 March 2011, p. 22.

complement the government's broader suite of non-regulatory measures outlined in its election commitment and include:

- Option 1: a quasi-regulation regime whereby codes of conduct would be enforced by industry;
- Option 2: a co-regulatory regime using a prohibited element and a requirement for due diligence, and ;
- Option 3: an explicit regulation requiring a minimum standard for legality verification.¹³

3.16 The CIE recommended that the government implement option 1 or a quasi-regulatory approach. However, the government decided upon a co-regulatory regime or due diligence approach. The co-regulation option would include targeted investment in capacity building and maintaining Australia's bilateral and multilateral engagement with other countries in the Asia-Pacific region.

Option 1

3.17 The RIS provided an impact analysis of the costs, benefits and risks in relation to each option, all of which include a capacity building investment requirement as well as relevant estimates of the government enforcement costs. The RIS emphasises that in the absence of any multilateral agreement, 'utilising the available processes for legality verification and forest certification provides an enabling environment which will allow producers to benefit from being part of the legal timber market'.¹⁴ It concluded that because Australia has a limited share in the international timber trade, the government should consider only non-regulatory policy options to combat illegal logging.

3.18 The CIE recommended option 1 which it assumed would have no cost for the Australian economy and minimal impact on industry as the small and large companies currently using legality verification would see no incentive for taking on the extra cost. It argued that as Australia's imports account for such a small share of illegally logged timber and restricting imports has limited effect in reducing illegal logging, Australia would incur all the costs of restricting imports without achieving commensurate benefits of reducing the damaging effects of illegal logging. The CIE conceded, however, that this conclusion is heavily dependent upon no other country taking action.¹⁵

13 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*–23 March 2011, pp. 12–14.

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

15 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*–23 March 2011, p. 25.

3.19 Alternatively, the CIE recognised that under this option, it was possible that a greater volume of illegally logged timber products could be diverted to Australia as the regulatory requirements imposed by the EU and US came into effect. Therefore, such a policy response by Australia might 'undermine the effectiveness of other global approaches to combating illegal logging'.¹⁶ This argument was taken up by Humane Society International in its 2009 submission on the draft RIS:

As a first point, we note that the Government has rejected similar arguments in relation to Australia's unilateral commitment to reduce our greenhouse gas emissions. Secondly, it is obviously the case that a prohibition on imports of illegal timber needs to be part of a broader policy package to be pursued by the Government, including continued pursuit of bi and multi-lateral measures.¹⁷

3.20 The explanatory memorandum notes that option 1 maintains the status quo and does not meet the government policy objective given its voluntary nature. It highlights that the policy objective would only be met through this option if other governments similarly contributed 'on a proportional basis to the substantive capacity building requirements for verifying the legal origins of timber products'.¹⁸ Even so, there would remain 'long lead times before acceptable legality verification schemes would be available in all producer countries'.¹⁹ Whilst quasi regulation provides a low cost option to industry and government, the explanatory memorandum concluded that substantial investment in overseas capacity building would be required to provide credible systems of legality verification in producer countries.

3.21 In terms of costs, this option would require government to maintain the existing level of bilateral and multilateral engagement (approximately \$1 million per annum) and investment in capacity building. There would be no requirement for increased costs to any of the regulatory or enforcement agencies.²⁰

3.22 Responses to the draft RIS in 2009 indicate industry support for Option 1 on the grounds that it is a low-cost approach for industry compliance where many

16 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft–23 March 2011, p. 17.

17 Humane Society International, Submission to Proposed new policy on illegally logged timber, 30 November 2009, Submission 6, p. 2, <http://www.thecie.com.au/RIS%20illegal%20logging/6%20-%20Humane%20Society%20International.pdf> (accessed 2 May 2011).

18 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft–23 March 2011, p. 12.

19 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft–23 March 2011, p. 26.

20 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft–23 March 2011, p. 26.

involved sectors comprise a substantial number of small businesses.²¹ The Australian Timber Importers Federation Inc (ATIF), for example, supported this option on the basis that there would be 'no net benefit to Australian consumers from introducing regulatory measures' given Australia's small share of international trade in potentially illegal timber products and the capacity of producers to divert such products to less discerning markets.²² In 2009, ATIF argued in favour of continuing with the process of developing a robust industry code of conduct, noting that its preferred policy option was that of a mandatory code of conduct for timber product (veneer, plywood, panels, engineered wood products, timber components and solid timber products) importers into Australia. ATIF suggested that an industry body administer the code with a third-party audit and verification process.²³

3.23 The Decorative Wood Veneers Association (DWVA) held that Australia is a small importer in the overall world timber/veneers production industry and that its impact on the world scene is greatly overrated.²⁴ It also argued that the most cost effective approach in reducing or eliminating illegal logging without imposing unnecessary costs on the Australian economy was that of self-regulation combined with a bilateral approach.²⁵ Others supported the view that the current regime was adequate. The Department of Infrastructure, Energy and Resources of Tasmania, for example, argued that Tasmania has a 'comprehensive regulatory system and enforcement provisions to provide certainty of legality'.²⁶ Australian Forest Growers (AFG) also argued that the current compliance requirements under existing legislative framework in various jurisdictions within Australia are both 'substantial and well implemented'. It raised concerns that private forest growers in Australia should not be

21 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft– 23 March 2011, p. 26.

22 Australian Timber Importers Federation Inc, Submission to Submission to Proposed new policy on illegally logged timber, Submission 1, p. 1, <http://www.thecie.com.au/RIS%20illegal%20logging/1%20-%20Australian%20Timber%20Importers%20Federation.pdf> (accessed 27 April 2011).

23 Australian Timber Importers Federation Inc, Submission to Proposed new policy on illegally logged timber, Submission 1, p. 7, <http://www.thecie.com.au/RIS%20illegal%20logging/1%20-%20Australian%20Timber%20Importers%20Federation.pdf> (accessed 27 April 2011).

24 Decorative Wood Veneers Association, Submission to Proposed new policy on illegally logged timber, 27 November 2009, Submission 13, p. 1, <http://www.thecie.com.au/RIS%20illegal%20logging/13%20-%20Decorative%20Wood%20Veneers%20Association.pdf> (accessed 2 May 2011).

25 Decorative Wood Veneers Association, Submission to Proposed new policy on illegally logged timber, 27 November 2009, Submission 13, p. 2, <http://www.thecie.com.au/RIS%20illegal%20logging/13%20-%20Decorative%20Wood%20Veneers%20Association.pdf> (accessed 2 May 2011).

26 Department of Infrastructure, Energy and Resources, Tasmania, Submission to Proposed new policy on illegally logged timber, Submission 11, p. 2, <http://www.thecie.com.au/RIS%20illegal%20logging/11%20-%20Dept%20of%20Infrastructure,%20Energy%20and%20Resources,%20Tas.pdf> (accessed 2 May 2011).

the subject of increased regulatory burdens in order to address illegal logging that takes place elsewhere and noted that it does not support application of certification standards as 'surrogates for existing domestic legislation and codes of practice'.²⁷ It concluded that:

AFG would seek that any measures imposed on Australian growers as part of an Australian policy to address illegal logging are simplistic and are not costly to comply with in time nor fiscally, e.g. a statutory declaration stating that the timber is legally grown and sourced would be a maximum measure support by AFG.²⁸

Option 2

3.24 Option 2 proposes a co-regulatory regime comprising two elements – a prohibition on illegal timber imports and a requirement for due diligence. The second element comprises a requirement for companies or other organisations placing timber on the market in Australia to be signatories to Commonwealth-accredited codes of conduct for undertaking due diligence in verifying the legal origins of timber products.²⁹

3.25 The government supports this option as the most effective of the three options for reasons including the fact that it is consistent with actions of the EU and US.³⁰ A co-regulatory approach is also expected to minimise disruption to trade by:

...allowing importers and domestic suppliers to determine the most effective means for verifying the legality of products from potentially multiple sources based risk assessment of the potential illegality of timber using a framework for due diligence system developed by industry.³¹

3.26 The RIS also highlights that the cost-benefit analysis indicates that the costs and benefits of such an approach would be of similar size. However, it also noted that:

When the intangible costs and benefits of stopping illegal logging and Australia's capacity for encouraging action by foreign governments are

27 Australian Forest Growers, Submission to Proposed new policy on illegally logged timber, 30 November 2009, Submission 5, pp. 1–2, <http://www.thecie.com.au/RIS%20illegal%20logging/5%20-%20Australian%20Forest%20Growers.pdf> (accessed 27 April 2011).

28 Australian Forest Growers, Submission to Proposed new policy on illegally logged timber, 30 November 2009, Submission 5, p. 3, <http://www.thecie.com.au/RIS%20illegal%20logging/5%20-%20Australian%20Forest%20Growers.pdf> (accessed 27 April 2011).

29 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft–23 March 2011, p. 12.

30 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft–23 March 2011, p. 24.

31 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft–23 March 2011, pp. 22–23.

taken into account, this option should generate benefits to industry, the economy and the community that outweigh the costs. Applying similar measures to domestic suppliers and imports would ensure the approach is consistent with Australia's trade law obligations whilst providing a comprehensive policy response at both domestic and global levels.³²

3.27 According to the RIS, a co-regulation approach should:

[M]inimise disruptions to trade, allow a recovery of depressed prices (which will help offset the additional compliance costs), minimise industry compliance costs, limit potential impacts on small businesses (and the industry structure), address the free-rider problem, remove unfair competition and provide assurances to Australian consumers of the legal origins of the timber products they are purchasing. The use of a licensed trademark by industry would assist consumers to identify legally-sourced timber products.³³

3.28 The explanatory memorandum acknowledges that in terms of the financial impact of this approach on consumers, businesses and the Australian economy, costs are expected to increase as a consequence given that importers and domestic producers will be required to verify the legal origins of timber products at the first point of sale or entry onto the market in Australia.³⁴ However, the explanatory memorandum also notes that compliance costs may be at least partially offset by the recovery in prices if products derived from illegally-logged sources are prevented from entering the country.³⁵ It acknowledges the argument of stakeholders that prices are depressed because of the availability of illegally-logged products. The explanatory memorandum notes in this regard that if illegal logging was stopped, the prices for timber products would be expected to rise by an estimated 3 per cent.³⁶ However, it was also argued that when the intangible costs and benefits of stopping illegal logging as well as Australia's capacity to encourage action by foreign governments are taken into account, 'this option should generate benefits to industry, the economy and the community that outweigh the costs'.³⁷

32 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*–23 March 2011, p. 26.

33 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*–23 March 2011, p. 26.

34 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*–23 March 2011, p. 18.

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

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

37 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*–23 March 2011, p. 26.

3.29 In terms of costs to it, the department noted that any increased financial burden would be relatively small because whilst it may invest in a targeted capacity building and outreach program, the costs for government enforcement, accreditation of codes and monitoring of compliance would be relatively low (compared to option three) with industry responsible for administering the codes of conduct which are accredited and monitored by the Commonwealth.³⁸ In terms of impact and costs to industry, larger businesses would be in a better position than smaller ones to absorb the additional costs associated with co-regulation, however:

[T]his is not expected to have a significant effect on industry structure, particularly small businesses, as the rebound in market prices for legal timber products that would occur if the sale of illegal-sourced product was severely restricted in Australia, would be expected to cover at least part of the due diligence costs.³⁹

3.30 The explanatory memorandum responds to the argument of the CIE and some industry stakeholders that as Australia's imports account for a small share of illegally logged timber, Australia would incur costs of restricting imports without achieving commensurable benefits. Whilst conceding that Australia's share of the global trade in illegally logged timber is small, the explanatory memorandum emphasises that this conclusion is totally dependent on a lack of action on the part of other countries. Moreover, Australia's 'strategic location and regional engagement in combating illegal logging and associated trade should add to the process of change'.⁴⁰

Option 3

3.31 Option three comprises an explicit regulation requiring a minimum standard for legality verification. As part of the explicit regulation, the government would:

- (a) create an offence for importing or supplying illegal logged timber products in Australia;
- (b) specify a minimum standard of legality verification with Commonwealth accreditation of acceptable schemes; and
- (c) establish a separate system for disclosure of species, country of harvest and any certification of imported and domestic timber products.⁴¹

3.32 Whilst the explanatory memorandum recognises that the option of explicit regulation would offer certainty in meeting its policy objective, a minimum standard

38 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*—23 March 2011, p. 27.

39 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*—23 March 2011, p. 18.

40 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*—23 March 2011, p. 25.

41 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*—23 March 2011, p. 14.

for legality implies high government administration and industry compliance costs because of the high levels of intervention. The explanatory memorandum also emphasises that the costs involved with this approach are expected to significantly outweigh the potential benefits.⁴² Moreover, such an approach would be 'inconsistent with the approaches of all other producer and consumer countries'.⁴³

3.33 Measures equivalent to those introduced for imported timber would be applied to domestic products in line with Australia's commitments under the World Trade Organization (WTO) and obligations under its free trade agreements.⁴⁴

3.34 The costs associated with verifying the local origins of timber products at the first point of sale or entry onto the Australian market were not directly assessed by the CIE. However, the explanatory memorandum drew on analysis by ABARE and others to estimate the associated costs as follows:

The costs for the Australian economy with category III product coverage were estimated as US\$8.9–17.9 million per annum once the new equilibrium is reached. For category II product coverage costs were estimated as being in the range of US\$4.4–9.8 million per annum, and US\$2.1–5.1 for category I product coverage. It is important to note the size of these net costs compared to the size of the Australian forest industry, independent of whether it is domestic mill production (\$2.5–\$3 billion per annum) or industry turnover (\$23 billion per annum).⁴⁵

3.35 The explanatory memorandum details the costs and considerations in relation to this option:

- The costs to consumers would increase as a result of higher timber prices associated with a reduction in the volume of illegally-logged timber entering Australia.
- Australian industry will gain from higher prices which may off-set increased production costs either partially or fully. Production costs are expected to increase in light of the new legality verification compliance costs.
- Most of the benefits from this action will accrue to overseas countries as the legal timber producers in developing countries will benefit and GDP in developing countries will fall (though offset by those countries receiving a significant share of the social and environment benefits from Australia's actions to stop illegal logging).

42 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*–23 March 2011, p. 27.

43 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*–23 March 2011, p. 27.

44 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*–23 March 2011, p. 17.

45 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*–23 March 2011, p. 18.

- The range of potential benefits arising from this option is US\$0–21 million per annum.
- Large business would be better able to absorb the additional costs associated with a co-regulatory option based on the use of legality verification due diligence systems.⁴⁶
- Option 2 would have a lesser impact on industry structure than Option 3.

3.36 In terms of costs to government of this option, the CIE concluded that the potential costs and benefits are similar in size and that such costs would encompass:

- 'the accreditation of due diligence codes of conduct, the assessment of code administration body compliance with the regulatory requirements, and some post-border surveillance activities (less than US\$1 million per annum)'; and
- capacity building targeted at 'addressing critical gaps in producer countries, assisting industry develop codes of conduct and an outreach program to inform government and industry of Australia's approach (US\$8-14 million over the first four years of the regulation coming into effect)'.⁴⁷

Implementing a co-regulatory approach

3.37 The co-regulatory approach outlined in option 2 is to be implemented through new legislation administered by DAFF and supported by the Australian Customs and Border Protection Service in association with DAFF.

3.38 For its part, industry would be required to develop and implement legality verification codes of conduct through new code administration bodies which describe the processes for assessing the risks of sourcing illegally-logged timber. Individual companies who are signatories to the due diligence codes of conduct would be responsible to undertake third-party independent auditing of compliance with the codes' requirements. This would involve identifying the risks of sourcing illegal products and implementing approaches that are relevant to minimising those risks. The code administration bodies would then report on the findings of the signatory audits, the signatory response to adverse audit reports and complaints against their signatories as the basis for retaining their Commonwealth accreditation.⁴⁸

3.39 Timber suppliers who are legally compliant and who use a range of voluntary legality verification measures for imported and domestic timber would simply formalise their current arrangements to meet the legality verification requirements of

46 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*–23 March 2011, p. 18.

47 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*–23 March 2011, pp. 18–19.

48 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011, Consultation Draft*–23 March 2011, p. 28.

the relevant codes of conduct.⁴⁹ It is the free-riders or enterprises that don't have such systems in place that will need to implement due diligence procedures.

3.40 The prohibition elements of the due diligence approach would apply from the date the legislation comes into effect and in order to minimise impacts on stakeholders in relation to the code of conduct elements of due diligence, transitional arrangements would be put in place for two years prior to such requirements being fully enforced. After that time, timber products could only be placed on the domestic market by code of conduct signatories.⁵⁰

Support for and concerns regarding a co-regulatory approach

3.41 Most stakeholders who responded to the draft RIS supported the government's intention to combat illegal logging and the capacity development initiatives undertaken by the government in countries including Indonesia and Papua New Guinea. Timber Queensland recognised that Australia has a significant role to play in developing capacity in high-risk supply countries to help reduce illegal logging and to assist in developing legality and compliance systems that can be used for verification purposes in Australia and elsewhere.⁵¹ Similarly, the Australian Plantation Products and Paper Industry Council (A3P) expressed its support for what it called 'continued complementary action' by the government to support other countries individually or collectively to improve forest law enforcement, governance and management.⁵²

3.42 Many such stakeholders were mindful of the need for Australia to act as consumers 'simply expect that timber and timber products will be sourced from legally logged origins' and as Timber Queensland noted, 'delivering on these expectations will be essential to maintaining the reputation and standing of timber as being the premier environmental choice'.⁵³

3.43 In terms of the co-regulatory approach, A3P voiced support for a policy response that incorporates mandatory application of the principles of due diligence

49 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft–23 March 2011, p. 28.

50 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, Consultation Draft–23 March 2011, p. 28.

51 Timber Queensland, Proposed new policy on illegally logged timber, 30 November 2009, Submission 8, p. 4, <http://www.thecie.com.au/RIS%20illegal%20logging/8%20-%20Timber%20Queensland.pdf> (accessed 2 May 2011).

52 Australian Plantation Products and Paper Industry Council, Proposed new policy on illegally logged timber, Submission 9, p. 2, <http://www.thecie.com.au/RIS%20illegal%20logging/9%20-%20Australian%20Plantation%20Products%20and%20Paper%20Industry%20Council.pdf> (accessed 2 May 2011).

53 Timber Queensland, Proposed new policy on illegally logged timber, 30 November 2009, Submission 8, p. 4, <http://www.thecie.com.au/RIS%20illegal%20logging/8%20-%20Timber%20Queensland.pdf> (accessed 2 May 2011).

within a risk assessment framework'.⁵⁴ Timber Queensland acknowledged that a staged introduction of more comprehensive verification requirements and a phasing in over a wider range of products would more likely be the most effective way of addressing the issues surrounding capacity to verify legality.⁵⁵ It noted, moreover, that many timber importing businesses had already started work on addressing the legality and sustainability of their imported timber and timber products where they were being sourced from high risk countries and that:

[T]he majority of Category I and Category II products produced in Queensland already have full certification or come from businesses that are working towards certification.⁵⁶

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- 54 Australian Plantation Products and Paper Industry Council, Proposed new policy on illegally logged timber, Submission 9, p. 2, <http://www.thecie.com.au/RIS%20illegal%20logging/9%20-%20Australian%20Plantation%20Products%20and%20Paper%20Industry%20Council.pdf> (accessed 2 May 2011).
- 55 Timber Queensland, Proposed new policy on illegally logged timber, 30 November 2009, Submission 8, p. 3, <http://www.thecie.com.au/RIS%20illegal%20logging/8%20-%20Timber%20Queensland.pdf> (accessed 2 May 2011).
- 56 Timber Queensland, Proposed new policy on illegally logged timber, 30 November 2009, Submission 8, p. 3, <http://www.thecie.com.au/RIS%20illegal%20logging/8%20-%20Timber%20Queensland.pdf> (accessed 2 May 2011).