

Chapter 1

Background and Context

Introduction

1.1 On 25 November 2011 the Senate referred the Illegal Logging Prohibition Bill (the bill) 2011 for inquiry and report.

1.2 This chapter provides a background to the bill and its development, and considers contextual issues raised by submitters that are pertinent to the bill. These issues include the rapidly changing global and Australian market for wood products, and the potential impacts of the bill on timber exporting countries.

Conduct of the inquiry

1.3 The committee sought submissions from interested organisations, agencies and individuals. Notice of the inquiry was also posted on the committee's website. The committee received 18 submissions, including five supplementary submissions. A list of submissions is provided at Appendix 1.

1.4 On 14 December 2011, the committee conducted a public hearing in Canberra. A list of the witnesses who attended the hearing is provided at Appendix 2.

Acknowledgements

1.5 The committee appreciates the time and effort of all those who provided submissions and attended public hearings. Their work has assisted the committee considerably.

A note on references

1.6 References in this report are to individual submissions as received by the committee, not to a bound volume. The Hansard transcripts of the committee's hearings are available on the Parliament's website at www.aph.gov.au. References to the Hansard throughout the report are to the proof transcript. Page numbers may vary between the proof and the official transcript.

Background to the bill

1.7 At the 2010 election the Government committed 'to encourage the sourcing of timber products from sustainable forest practices and to seek to ban the sale of illegally logged timber products' through the following five measures:

- build capacity within regional governments to prevent illegal harvesting;
- develop and support certification schemes for timber and timber products sold in Australia;

- identify illegally logged timber and restrict its import into Australia;
- require disclosure at point of sale of species, country of origin and any certification; and
- argue that market-based incentives aimed at reducing emissions from deforestation and forest degradation should be included in a future international climate change agreement.¹

1.8 The bill represents the regulatory elements of the Government's illegal logging policy, focussing on measures 3 and 4 of the policy. These regulatory controls will be complemented by Government investment in capacity building and bilateral and multilateral engagement.²

1.9 Extensive consultation has been carried out with stakeholders during the course of developing this bill. As the Explanatory Memorandum explains:

Peak industry bodies have been widely consulted, including timber importers, trade union representatives, domestic forest industry representatives, environmental non-government organisations, social justice groups, timber manufacturers and retailers of wood products. Consultation across the Commonwealth and state and territory governments took place with an emphasis on establishing the legal basis and the operational and administrative requirements of the policy. The European Union and the United States were consulted in relation to future international forestry policy directions.

1.10 In order to determine the most effective policy approach to implementing the regulatory aspects of this election commitment, a regulation impact statement (RIS) was undertaken by the Department of Agriculture, Fisheries and Forestry (DAFF). The RIS outlined three options that may achieve the objective of 'changing the behaviour of timber producers by directly limiting opportunities for the production and trade of illegal timber'. These options were:

- 1) quasi-regulation—codes of conduct enforced by industry;
- 2) co-regulation using a prohibition element and a requirement for due diligence; and
- 3) explicit regulation requiring a minimum standard for legality verification.³

1.11 The bill reflects the due diligence co-regulation approach identified in Option 2 of the RIS. The key regulatory elements of the bill are:

1 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, p. 38.

2 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, pp 38–9.

3 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, pp 36, 47–50.

- a prohibition on illegally logged and timber and wood products (with an additional prohibition on the processing of illegally processed raw logs) and
- a requirement for industry to carry out due diligence to mitigate the risk of importing illegal logged timber into Australia.⁴

1.12 Previously, an exposure draft and Explanatory Memorandum of the Illegal Logging Prohibition Bill 2011 was referred on 23 March 2011 by the Senate to the Senate Rural Affairs and Transport Legislation Committee (the Legislation Committee) for inquiry and report by 27 March May 2011. The reporting date was extended twice and the report was tabled on 23 June 2011.⁵

1.13 The Legislation Committee's June report on the exposure draft of the bill discussed broadly the scope and impact of illegal logging; including its severe social, economic and environmental costs, and the deleterious effect that illegal logging has on the Australian industry.⁶ Although these issues remain material they will not be discussed in detail again in this report.

1.14 The report also examined global and Australian initiatives designed to combat illegal logging, considered the RIS; definitions and penalties; and issues surrounding timber industry certifiers, certification and legal logging requirements. The majority report made seven recommendations.⁷ Importantly, the committee recommended the government reconsider the role of the timber industry certifiers and the inclusion of a requirement for a mandatory and explicit declaration at the border.⁸ An Australian Greens Dissenting Report also made seven recommendations.⁹

1.15 In November 2011 the Government responded to stakeholder feedback and the Legislation Committee's report and recommendations on the Exposure Draft and Explanatory Memorandum of the bill.¹⁰ The Government agreed with five of the committee's recommendations, and agreed in principle with two further committee recommendations. The Government also responded to the Australian Greens' Dissenting Report. The Legislation Committee's recommendations and the Australian

4 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, p. 37.

5 Senate Rural Affairs and Transport Committee, *Exposure draft and Explanatory Memorandum of the Illegal Logging Prohibition Bill 2011*, June 2011.

6 Senate Rural Affairs and Transport Committee, *Exposure draft and Explanatory Memorandum of the Illegal Logging Prohibition Bill 2011*, June 2011.

7 Senate Rural Affairs and Transport Committee, *Exposure draft and Explanatory Memorandum of the Illegal Logging Prohibition Bill 2011*, June 2011.

8 The Hon. Dr Mike Kelly, Parliamentary Secretary for Agriculture, Fisheries and Forestry, Second Reading Speech, *House of Representatives Hansard*, 23 November 2011, p. 13569.

9 Senate Rural Affairs and Transport Committee, *Exposure draft and Explanatory Memorandum of the Illegal Logging Prohibition Bill 2011*, June 2011.

10 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, p. 37.

Greens' Dissenting Report recommendations, together with the Government response are set out at Appendix 3.

1.16 The bill in its current form represents the outcome of further consultation processes. The bill was redrafted by DAFF 'to address the recommendations of the Senate Committee and subsequent comments and advice from stakeholders on the implementation of those recommendations'.¹¹ The revised bill was introduced to the House of Representatives on 23 November 2011.

1.17 The bill is significant as it is 'the first bill in the world that is tailor made to address illegal logging'. Mr John Halkett, Technical Manager Australian Timber Importers Federation Incorporated (ATIF) explained further:

The Lacey Act's origins are over 100 years old, and it was initially brought in to restrict the import of crayfish, lobsters, parrots and so on from South America. The amendment which included plants and which addresses timber is relatively recent. Whilst legislation has been debated in the EU parliament, it has not been through the 27 signatories to the EU. So there is no legislation in any European Union country yet. This will be the first tailor made illegal logging legislation to pass in any country in the world. Therefore, people are very interested in how it is faring and how it has been structured'.¹²

Overview of the bill

Objective

At the present time, illegal harvesting of timber in Australia is controlled by a suite of laws, regulations and policies. However, the ability to control the importation of illegally logged timber is severely limited. The only regulation that exists in Australia to control importation of illegally logged timber is the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES 'targets only a limited number of timber products that have been derived from an endangered species and, therefore, large amounts of timber continue to be imported into Australia without any requirement for verifying its legality, other than through voluntary industry measures'.¹³

1.18 The Explanatory Memorandum notes that the objective of the Illegal Logging Prohibition Bill 2011 is:

...to reduce the harmful environmental, social and economic impacts of illegal logging by restricting the importation and sale of illegally logged timber products in Australia. The Bill represents a major step by Australia

11 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, p. 5.

12 Mr John Halkett, Technical Manager, Australian Timber Importers Federation Incorporated, *Committee Hansard*, 14 December 2011, p. 7.

13 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, p. 3.

to prevent the trade of illegal timber products both nationally and internationally.¹⁴

1.19 The bill addresses the environmental and social costs of illegal logging through making 'it a criminal offence to import regulated timber products or process raw logs without undertaking due diligence'.¹⁵

Provisions

1.20 The Explanatory Memorandum notes that the bill will:

- provide the Commonwealth with the authority to develop subordinate legislative instruments, including regulations, in order to restrict the import and sale of illegally logged timber;¹⁶
- establish offences that impose substantial criminal penalties on importers or domestic processors of raw logs in relation to importing illegally logged timber (clause 8), processing illegally logged raw logs (clause 15), importing illegally logged timber in regulated timber products (clause 9), importing regulated timber products without complying with the due diligence requirements (clause 12), processing raw logs without complying with the due diligence requirements (clause 17), importing regulated timber products without making a Customs declaration (clause 13);¹⁷
- establish administrative sanctions and civil penalties for minor breaches of the Bill;¹⁸
- establish penalties including:
 - a maximum penalty of five years imprisonment, or 500 penalty units, or both for importing illegally logged timber, processing illegally logged raw logs, and importing illegally logged regulated timber products (equivalent to a maximum fine of \$55,000 for an individual and \$275,000 for a corporation or body corporate);
 - a maximum penalty of 300 penalty units for importing regulated timber products without complying with the due diligence requirements for importing these products, and processing raw logs without complying with the due diligence requirements for processing the raw logs (equivalent to \$33,000 for an individual and \$165,000 for a corporation or body corporate);

14 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011*, p. 2.

15 The Hon. Dr Mike Kelly, Parliamentary Secretary for Agriculture, Fisheries and Forestry, Second Reading Speech, *House of Representatives Hansard*, 23 November 2011, p. 26.

16 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011*, p. 5.

17 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011*, p. 6.

18 *Explanatory Memorandum, Illegal Logging Prohibition Bill 2011*, p. 6.

- a maximum fine of 100 penalty points for importing regulated timber products without making a Customs declaration of compliance with the due diligence requirements for importing these products (equivalent to \$11,000 for an individual and \$55,000 for a corporation or body corporate);
- seizure of timber products reasonably suspected of being in breach of the Bill and direct forfeiture of timber products proved to be in breach of relevant provisions of the Bill; and¹⁹
- establish enforcement powers, including the authority to appoint inspectors, to monitor the operation of the Bill, and to investigate offences to enforce compliance with the Bill.²⁰

Definitions

1.21 Clause 7 of the bill provides definitions of key terms included in the bill. The Explanatory Memorandum states that:

- *due diligence requirements* for importing regulated timber products and for processing raw logs into something other than raw logs are defined by referring to clauses 14 and 18, respectively. They are to be prescribed by regulations in consultation with key stakeholders to develop a cost effective, efficient and adaptable risk management framework for undertaking due diligence.
- *illegally logged* is a high level definition that provides scope and flexibility for importers and processors of raw logs to undertake due diligence in relation to the applicable laws in place where the timber is harvested, which may be prescribed by regulations, without the limitations of a prescriptive set of legislative requirements. The challenge of prescribing individual requirements in a definition is complicated by the range of legislation given the number of countries—85 in total—from which Australia imports timber products. An unintended consequence of a prescriptive definition of illegally logged may result in some elements of applicable legislation being overlooked or excluded through omission.
- *regulated timber product* will be products that the Commonwealth seeks to regulate for the purpose of minimising the risk of containing illegally logged timber. The selection of timber products for regulation will be undertaken in consultation with key stakeholders based on an economic analysis of the coverage, value and volume of timber products imported into Australia and an analysis of their risk profile using appropriate criteria and indicators. The results of this work will be provided by the

19 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, p. 7.

20 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, p. 7.

Australian Bureau of Agricultural and Resource Economics and Sciences in the development of regulations.²¹

Revisions to the bill based on recommendations of the Legislation Committee's Inquiry

- 1.22 The key revisions to the bill set out in the Explanatory Memorandum are:
- removal of timber industry certifiers, codes of conduct and related industry certifier and Ministerial approvals processes;
 - legal logging requirements are to be replaced with due diligence requirements for the importation of regulated timber products and processing of domestically grown raw logs, the manner and form of which is to be prescribed in regulations;
 - an explicit and mandatory declaration at the border for imports of regulated timber products, similar to the United States Lacey Act requirement;
 - new reporting and publishing requirements; and
 - broadening of the offences to include non-compliance with due diligence requirements and increased penalties to ensure compliance of importers and processors in the absence of timber industry certifier and ministerial approval processes that would have provided additional levels of intervention to ensure compliance.²²

Contextual issues

Changing market dynamics

1.23 Although around 27 million cubic metres of logs are harvested in Australia each year, Australia still imports a large amount of wood products. In 2010, Australia imported \$4.2 billion worth of wood products and exported \$2.3 billion worth, with a net deficit in wood products totalling \$1.9 billion. It is expected that continued and increased imports of wood will be necessary to meet Australia's future demand for timber and wood products.²³

1.24 ATIF told the committee that dealing with Australia's housing shortage will require a focus on the importance of a strong timber importing sector. ATIF stated that:

21 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, p. 11.

22 *Explanatory Memorandum*, Illegal Logging Prohibition Bill 2011, p. 38.

23 House of Representatives Standing Committee on Agriculture, Resources, Fisheries and Forestry, *Seeing the forest through the trees: Inquiry into the future of the Australian Forestry Industry*, November 2011, pp. 18, 125.

...imported timber products are growing in significance and will be central to the performance of the Australian building and construction industries in the future... keeping housing affordability under check and supporting thousands of building and construction industry jobs.²⁴

1.25 Submitters explained to the committee that a variety of factors contributed to Australia's increasing dependence on imported timber products. Although these factors included insufficient availability of suitable timbers grown and processed within Australia, a variety of economic and labour market factors were also contributing to Australia's increasing dependence on imported timber and wood products.

1.26 Mr Halkett, ATIF, explained that economies of scale in other countries are considerably better than in Australia, with sawmilling and wood processing costs in Australia the highest in the world. Mr Halkett noted that the costs in Australia are three times the costs of the Czech Republic and they are three times the costs of Chile'.²⁵

1.27 Mr Halkett elaborated the reasons for the higher costs in Australia:

The mills here are too small. Import costs are too high. There is too much fracturing, restructuring and reorganisation of the industry. Therefore the products that they produce are more expensive. For example, a cubic metre of framing from an Australian sawmill is about \$700 at the mill gate. That same product can come into Australia from Lithuania for \$500, and there is still a profit in that. It comes all the way across the world and so on. So I think there are some issues for the Australian industry to address'.²⁶

1.28 Following the Victorian bushfires in 2009, new building requirements were introduced requiring hardwoods to be at least 650 kilograms per cubic metre in density. Mr Halkett explained that 'there are some Australian species that qualify like spotted gum, blackbutt, jarrah and kauri. The supply of those species into the Australian market is quite quickly diminishing'.²⁷

1.29 Mrs Bronwyn Foord, General Manager, Window and Door Industry Council (WADIC), representing 10 Importer and Processor Associations (10I&PA), told the committee that 'the dependency of Australia's housing and construction, interior fit-out, and secondary wood processing industries on imported timber and wood based

24 Australian Timber Importers Federation Inc, *Submission 2*, [p. 1].

25 Mr John Halkett, Technical Manager, Australian Timber Importers Federation Incorporated, *Committee Hansard*, 14 December 2011, p. 6.

26 Mr John Halkett, Technical Manager, Australian Timber Importers Federation Incorporated, *Committee Hansard*, 14 December 2011, p. 6.

27 Mr John Halkett, Technical Manager, Australian Timber Importers Federation Incorporated, *Committee Hansard*, 14 December 2011, p. 7.

raw materials is often overlooked'. Mrs Foord explained that imported raw materials included basic material such as:

...formply, face veneer, hardwood marine plywood, fire retardant MDF, particle board and plywood in a wide range of thicknesses and densities; coated paper, dyed timber hardwood, furniture carcassing; and of course a long list of hardwood timber species.²⁸

1.30 Mrs Foord went on to explain that Australia's commercially available national forests and plantations are unable to supply 'adequate quantities, dimensions, species and grades of durable and specified hardwood timber and veneer' required by secondary wood processing, building and fit-out industry. In addition, Ms Foord argued that 'Australia's timber and wood products industries are unable to competitively manufacture the wide range of non-commodity wood based products required'. By way of example Mrs Foord noted that 'at least 28 hardwood species are at present readily available and imported into Australia each year, with only approximately five Australian hardwood species in significant quantities available locally'.²⁹

Manufactured products

1.31 A number of submitters emphasised that the highest risk of illegal timber coming into Australia is in the complex manufactured products that are increasingly being imported into Australia. Mr Halkett, from ATIF explained:

... the highest risk of illegal timber coming into Australia is not in building products; it is in manufactured products—complex products, such as furniture from Vietnam, China, India and Korea. In our assessment, we are more likely to see illegal product coming in in that way because the supply chains are more complex and longer and it is very difficult to track the timber back. I think that is the real challenge for this bill. Timber importers of the sort that I represent feel relatively comfortable. Furniture manufacturers have a more difficult challenge in my view because they buy from China. The Chinese manufacturers get it from somewhere, and often they are not sure.³⁰

1.32 Mr Walter Brooks, Executive Officer, Cabinet Makers Association Incorporated, told the committee that the import of manufactured products posed a particular challenge. Mr Brooks elaborated:

28 Mrs Bronwyn Foord, General Manager, Window and Industry Council Incorporated, *Committee Hansard*, 14 December 2011, p. 11.

29 Mrs Bronwyn Foord, General Manager, Window and Door Industry Council Incorporated, *Committee Hansard*, 14 December 2011, p. 11.

30 Mr John Halkett, Technical Manager, Australian Timber Importers Federation Incorporated, *Committee Hansard*, 14 December 2011, p. 6; see also Timber Development Association, *Submission 17*, p. 3.

...I have amongst my membership many micro businesses. A major concern that I and my organisation has is the means by which we are going to be able to assist those people to comply. I had the view that many of them were not involved, for example, in importing. I have discovered recently that some cabinet-makers are now importing, via agents, knock-down kitchens because of skill shortages. They are now importing pre-cut panels and the like, which could in fact have a potential risk.³¹

1.33 Mr Brooks went on to provide an example of the extent of reliance on manufactured products:

...I visited a business in Queensland, quite a large operation, and because of skill shortages, they are now importing about 50 per cent of the boxes, as cabinet makers call them—the base of the cupboard unit—premanufactured from overseas.³²

1.34 Mrs Foord, from WADIC, told the committee that it is not only small businesses that are increasingly reliant on the import of manufactured products. She stated that:

...we have a lot of componentry that is coming in for windows and doors. Where you do duplicated processes for windows and doors, they bring them in from overseas all ready to go; as you said, you just throw them together. Some of the large companies—the larger businesses more so than the small to medium enterprises I represent—will bring in three or four container loads a week'.³³

1.35 A different perspective on manufactured products was provided to the committee by the New Zealand Ministry of Agriculture and Forestry (NZMAF). They told the committee that:

New Zealand's main exports to Australia as a proportion of the total value of the forestry trade to Australia for the year ending December 2010 are as follows: paper and paper board (35%), other (31%), sawn timber (18%), wood pulp (8%) and panel products (8%). These processed products have long and complex chains of supply which can include the use of recycled wood in products and the mixing of timber sourced from different locations within New Zealand and from overseas as is the case for products derived from recycled paper and packaging. This makes tracing the multiple sources of timber or wood fibre contained within a product extremely expensive and virtually impossible to do.³⁴

31 Mr Walter Richard Brooks, Executive Officer, Cabinet Makers Association Incorporated, *Committee Hansard*, 14 December 2011, p. 12.

32 Mr Walter Richard Brooks, Executive Officer, Cabinet Makers Association Incorporated, *Committee Hansard*, 14 December 2011, p. 13.

33 Mrs Bronwyn Foord, General Manager, Window and Door Industry Council Incorporated, *Committee Hansard*, p. 13.

34 Ministry of Agriculture and Forestry, New Zealand, *Submission 16*, [p. 2]

1.36 Professor William Laurance, Distinguished Research Professor, Centre for Tropical Environmental and Sustainability Science (TESS) and School of Marine and Tropical Biology, James Cook University (JCU) provided some context and background to the rise in importation of manufactured products into Australia. He provided the committee with his recently published article on the emerging position of China as the biggest global consumer of tropical timber. Professor Laurence noted that China now consumes more than 400 million cubic metres of timber annually both for its growing export markets and to meet domestic demand.³⁵

1.37 Professor Laurance highlighted a number of issues in China's market strategies that need to be taken into account in determining any regulatory response to the problem of illegal logging. He argued that China exhibits aggressive pursuit of global timber supplies, not matched by social equity or environmental sustainability concerns; seeks almost exclusively raw logs with little economic and social benefit for developing nations; and has done little to combat illegal logging with no national action plan or legislation to prevent import of illegally sourced timber, including no formal trade arrangements with timber-producing countries.³⁶

1.38 Professor Laurance went on to note that China is developing an immense export industry for wood and paper products, with one third of timber imports ultimately exported as furniture, plywood, flooring, disposable chopsticks and other wood products. These products are then imported by European countries, Japan and the United States with consumers unaware of the illicit origin of many wood products from China.³⁷

1.39 Professor Laurance stated that influential environmental organisations, together with World Bank, Interpol and Chatham House are becoming increasingly focussed on this issue. This has resulted in a number of global brands changing their purchasing of paper and wood products to recycled and certified options.³⁸

35 William Laurance, *China's Appetite for Wood Takes a Heavy Toll on Forests*, Yale Environment 360, 17 November 2011, appended to William Laurance, Centre for Tropical Environmental and Sustainability Science and School of Marine and Tropical Biology, James Cook University, *Submission 1*.

36 William Laurance, *China's Appetite for Wood Takes a Heavy Toll on Forests*, Yale Environment 360, 17 November 2011, appended to William Laurance, Centre for Tropical Environmental and Sustainability Science and School of Marine and Tropical Biology, James Cook University, *Submission 1*.

37 William Laurance, *China's Appetite for Wood Takes a Heavy Toll on Forests*, Yale Environment 360, 17 November 2011, appended to William Laurance, Centre for Tropical Environmental and Sustainability Science and School of Marine and Tropical Biology, James Cook University, *Submission 1*.

38 William Laurance, *China's Appetite for Wood Takes a Heavy Toll on Forests*, Yale Environment 360, 17 November 2011, appended to William Laurance, Centre for Tropical Environmental and Sustainability Science and School of Marine and Tropical Biology, James Cook University, *Submission 1*.

1.40 Mr John Talbot, General Manager, Forestry Branch, DAFF, confirmed to the committee that Australia now imports wood and wood products including sawlogs, pulp and paper products, and complex products from about 85 countries.³⁹

1.41 NZMAF argued that consideration needed to be given to recycled wood-based products, through a special trade description. It noted that the Explanatory Memorandum foreshadows that 'subordinate legislation outline circumstances in which a trade description relating to due diligence may be used'.⁴⁰

Potential impacts of the bill on timber-exporting countries

1.42 The committee received information from representatives of the Government of Malaysia, the Government of Canada, the Minister of Trade of the Republic of Indonesia, the Papua New Guinea Forestry Industry Association (PNGFIA), and NZMAF on the possible impacts of the bill on timber-exporting countries.

1.43 Mr Robert Tate, Executive Officer, PNGFIA, told the committee that Papua New Guinea exports around \$20 million of timber product to Australia every year, with small producers accounting for an estimated \$5 million of that total.⁴¹ Mr Tate told the committee that:

Australia would account for roughly 30 to 40 per cent of our sawn timber exports. It accounts for a growing percentage of our plywood exports out of PNG. Probably now in excess of 50 per cent of our plywood exports are coming to Australia.⁴²

1.44 Mr Tate explained further the significant role that small producers play in the Papua New Guinea economy:

While this may seem small, the association estimates that these exports support around 10,000 low-income forest producers in PNG, most of whom exercise their rights to harvest up to 500 cubic metres of forest product annually.⁴³

1.45 Dr Jalaluddin Harun, Director-General, Malaysian Timber Industry Board, Government of Malaysia also emphasised to the committee the importance of Malaysia's export timber industry for their economy. He stated that:

39 Mr John Talbot, General Manager, Forestry Branch, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 14 December 2011, p. 61.

40 Ministry of Agriculture and Forestry, New Zealand, *Submission 16*, [p. 2]

41 Mr Robert Tate, Executive Officer, Papua New Guinea Forest Industries Association, *Committee Hansard*, 14 December 2011, p. 42.

42 Mr Robert Tate, Executive Officer, Papua New Guinea Forest Industries Association, *Committee Hansard*, 14 December 2011, p. 44.

43 Mr Robert Tate, Executive Officer, Papua New Guinea Forest Industries Association, *Committee Hansard*, 14 December 2011, p. 42.

... in 2010, timber and timber products contributed, in Australian dollars, to over A\$6 billion in revenue generated from export. The timber industry also provides a significant amount of employment; it is to the tune of 300,000 workers. Malaysia is one of the largest exporters of tropical timber and has established itself as a major producer and exporter of sawn timber and panel products—that is: plywood; medium density fibre board, or MDF; particle board; flooring; doors; and other joinery products—and also furniture.

Australia was the eighth largest export market for Malaysia's timber industry in the year 2010. It continues to be an important market for Malaysia's timber and timber products.

...With regard to wooden furniture, Australia was Malaysia's fourth largest export destination in 2010, after the USA, Japan and the United Kingdom. Wooden furniture has remained Malaysia's largest export item to Australia; it accounts for 48 per cent of the total timber exports to the country.⁴⁴

1.46 A number of submitters raised concerns that the due diligence requirements, once introduced, will impose additional compliance requirements that will act as a deterrent to those producers seeking to export to Australia.⁴⁵ Both Mr Tate from the PNGFIA and Ms Mustapha, from the Malaysian Government raised concerns that this would have a particular impact on small producers. Ms Mustapha provided the example of the production of wooden furniture made from rubber wood. She explained that rubber wood:

...is actually a residue from rubber wood plantations, from rubber production. It is owned by smallholders, basically village people. They do not have the capacity to get their small areas of rubber plantation certified. So this is one of the areas that we would like to look into so you do not impose additional requirements that the smallholders would not be able meet. They would not be able to verify or have third-party certification in these areas.⁴⁶

1.47 Similarly, Mr Tate, PNGFIA, argued that additional due diligence requirements will 'severely impair the capacity of these people to support families in rural areas of Papua New Guinea...Overall the bill as currently framed will significantly harm the welfare of a large number of semi-subsistence Papua New Guinean nationals'.⁴⁷

44 Dr Jalaluddin Harun, Director-General, Malaysian Timber Industry Board, Government of Malaysia, *Committee Hansard*, 14 December 2011, p. 51.

45 Ms Siti Syaliza Mustapha, Director, Public and Corporate Affairs Division, Malaysian Timber Council, Government of Malaysia, *Committee Hansard*, 14 December 2011, p. 54; and Government of Canada, *Submission 20*, pp 1–3.

46 Ms Siti Syaliza Mustapha, Director, Public and Corporate Affairs Division, Malaysian Timber Council, Government of Malaysia, *Committee Hansard*, 14 December 2011, p. 54.

47 Mr Robert Tate, Executive Officer, Papua New Guinea Forest Industries Association, *Committee Hansard*, 14 December 2011, p. 42.

1.48 Mr Tate explained that most small timber producers in Papua New Guinea sell their timber through a larger producer, with costs of obtaining legality certification prohibitive for small producers. Representatives from both PNGFIA and the Malaysian Government submitted that this problem could be ameliorated by the recognition of national and third-party certifications schemes.⁴⁸ Mr Tate noted that during the consultations on the exposure draft:

... members of the committee seemed receptive to the idea of recognising national and third-party schemes to verify legality in producer economies. However, this same sentiment is not expressed in the latest draft. It merely notes that they may be considered among a range of options in the two-year period.⁴⁹

1.49 Both NZMAF and the Government of Canada argued that countries that represent a low risk of exporting illegal timber, due to their effective legislative supervision, should not be required to undergo the same level of scrutiny as countries or regions posing a higher level of risk.⁵⁰ NZMAF submitted that the implementation of the bill 'has the potential to have a significant negative impact on New Zealand's forestry industry, an industry almost entirely based on privately-owned plantation forests that are established specifically to be harvested'. It went on to submit that there needed to be assurance that 'countries that present a low risk of exporting illegally-logged forestry products, like New Zealand, are not subject to unnecessary, onerous or costly requirements'.⁵¹

1.50 Similarly, the Government of Canada submitted that:

Due diligence resources should be used in a way that ensures the contribution to the fight against illegal logging is maximized, while avoiding unnecessary restrictions on trade, the imposition of unnecessary burdens on the forest products industry, or unnecessary costs for consumers.⁵²

1.51 Representatives of the Malaysian Government, the Minister of Trade of the Republic of Indonesia, and the PNGFIA provided the committee with information about national initiatives to promote good forestry management. Dr Harun detailed certification by third-party certification bodies under the Malaysian Timber

48 Mr Robert Tate, Executive Officer, Papua New Guinea Forest Industries Association, *Committee Hansard*, 14 December 2011, p. 42 and Ms Siti Syaliza Mustapha, Director, Public and Corporate Affairs Division, Malaysian Timber Council, Government of Malaysia, *Committee Hansard*, 14 December 2011, p. 54.

49 Mr Robert Tate, Executive Officer, Papua New Guinea Forest Industries Association, *Committee Hansard*, 14 December 2011, p. 42.

50 Government of Canada, *Submission 20*, pp 1–2; and Ministry of Agriculture and Forestry, New Zealand, *Submission 16*, [p. 1]

51 Ministry of Agriculture and Forestry, New Zealand, *Submission 16*, [p. 1]

52 Government of Canada, *Submission 20*, p. 2.

Certification Scheme (MTCS) and the Forest Stewardship Council (FSC). He also told the committee that:

Malaysia is also currently in negotiation with the European Union on a forest law enforcement, governance and trade, voluntary partnership agreement, or FLEGT VPA and, further, strongly suggests that Malaysian wood products suppliers and exporters comply with the United States' Lacey Act.⁵³

1.52 Dr Harun went on to submit that:

These are strong indications that Malaysia is committed to ensuring the legal trade in timber and timber products is able to supply legally sourced timber and timber products to the Australian market.⁵⁴

1.53 The Minister of Trade of the Republic of Indonesia proposed that the Australian Government should recognize Indonesia's Timber Legality and Assurance System – the SVLK (*Sistem Verifikasi Legalitas Kayu*) certification. The Minister explained that:

The SVLK is a well-established national system that has been specifically designed to provide legal verification required for regulations such as the proposed Australian law, as well as those of the United States and the European Union.⁵⁵

The National Forestry Act is also currently in the parliament and is being reviewed and revised to give harsher penalties for illegal logging occurrences.⁵⁶

1.54 Similarly, Mr Tate provided details of Papua New Guinea Government export controls as well as initiatives undertaken by the PNGFIA, including promoting third-party certification. He told the committee that:

... currently we have six major exporters independently certified, three by FSC and three under an SGS timber legality and traceability standard,⁵⁷ which makes six. One of those six companies has had a bet each way. He has been certified by both.⁵⁸

53 Dr Jalaluddin Harun, Director-General, Malaysian Timber Industry Board, Government of Malaysia, *Committee Hansard*, 14 December 2011, p. 51.

54 Dr Jalaluddin Harun, Director-General, Malaysian Timber Industry Board, Government of Malaysia, *Committee Hansard*, 14 December 2011, p. 51.

55 Minister of Trade of the Republic of Indonesia, *Submission 19*, [p. 2].

56 Ms Siti Syaliza Mustapha, Director, Public and Corporate Affairs Division, Malaysian Timber Council, Government of Malaysia, *Committee Hansard*, 14 December 2011, p. 53.

57 SGS is a European-based inspection and quality control company.

58 Mr Robert Tate, Executive Officer, Papua New Guinea Forest Industries Association, *Committee Hansard*, 14 December 2011, p. 43.

1.55 NZMAF informed the committee that they 'would like to see our low-risk status (as acknowledged in DAFF commissioned research) formally recognised by Australia' as 'New Zealand's comprehensive regulatory framework ensures that exports of New Zealand-grown forest products are legal'.⁵⁹

Corruption

1.56 A number of submitters raised concerns that corruption continues to facilitate illegal logging in timber exporting countries.⁶⁰ A wide range of views were expressed by submitters regarding the extent of corruption in the logging industries of exporting countries.

1.57 Mr Tate, from PNGFIA, when questioned about previously identified issues of corruption in Papua New Guinea's forest industry told the committee that these had been 'significantly addressed', in particular by responsible industry embracing third-party compliance certification.⁶¹

1.58 The Uniting Church did not share the view of Mr Tate that illegal logging in Papua New Guinea has been addressed. It cited a number of reports about the character and nature of illegal logging in Papua New Guinea including the UN Office on Drugs and Crime 2010 report, *The Globalisation of Crime, A Transnational Organized Crime Threat Assessment*, 'which formed the view illegal logging was possibly increasing in PNG'.⁶²

1.59 Dr Mark Zirnsak, from the Uniting Church, emphasised that it is important to 'assist source countries to address both the direct violations of law in relation to harvesting and the facilitating crimes'.⁶³ This view was supported by Mr Jeremy Tager, from GAP, who submitted that although Papua New Guinea had some of the best forestry laws in the world, corruption was still a problem.⁶⁴ Dr Zirnsak elaborated on this theme:

Bribery is the facilitating crime that basically allows a lot of the illegal logging to occur. That is the analysis of the World Bank. The World Bank says most illegally logged timber has legitimate documentation attached to

59 Ministry of Agriculture and Forestry, New Zealand, *Submission 16*, [p. 1].

60 Uniting Church in Australia–Synod of Victoria and Tasmania, *Submission 9*, pp 1–3; and Mr Jeremy Tager, Team Leader, Political and Projects Unit, Greenpeace Australia Pacific, *Committee Hansard*, 14 December 2011, p. 19.

61 Mr Robert Tate, Executive Officer, Papua New Guinea Forest Industries Association, *Committee Hansard*, 14 December 2011, p. 46.

62 Uniting Church in Australia–Synod of Victoria and Tasmania, *Second Supplementary Submission 9*, pp 1–3.

63 Dr Mark Zirnsak, Director, Justice and International Mission Unit, Uniting Church in Australia–Synod of Victoria and Tasmania, *Committee Hansard*, 14 December 2011, p. 25.

64 Mr Jeremy Tager, Greenpeace Australia Pacific, *Committee Hansard*, 14 December 2011, p. 19.

it because bribes are paid to ensure you get the legitimate documentation. You need to address the violations at the harvesting law end and provide assistance to deal with the broader corruption issues. I think the Australian government is already making some efforts in those areas. We welcome those efforts.

1.60 The committee heard from a number of submitters about initiatives to address illegal logging in the region. By way of example, Mr Halkett, from ATIF informed the committee that the Australian Government has undertaken 'significant work through the Asia-Pacific Forestry Skills and Capacity Building Program to improve forest governance in Papua New Guinea and Indonesia'.⁶⁵

1.61 Ms Siti Mustapha described some of the initiatives being taken by the Malaysian Government to address illegal logging, She told the committee that:

Currently there is monitoring of forests by Forest Watch, where the forestry department is working closely with Transparency International to monitor the forest areas and how the enforcement of forestry is being conducted. There is also a close relationship with NGOs assisting the government to enforce the forestry legislation in Malaysia. The government realised it needed help because the forested land is huge and it needs as much help as possible from the public as well to help monitor any instances of illegal logging. There is ongoing work being conducted to improve enforcement and to reduce corruption in the forestry sector.

The National Forestry Act is also currently in the parliament and is being reviewed and revised to give harsher penalties for illegal logging occurrences.⁶⁶

1.62 The Uniting Church and GAP noted Australia's treaty obligations include the UN Convention Against Corruption; OECD Convention on Combating Bribery of Foreign Public Officials in International Business; and UN Convention against Transnational Organised Crime.⁶⁷ The Uniting Church expressed support for the Government's policy commitment to ban the importation and sale of illegally logged timber into Australia, noting that this 'is consistent with Australia's obligations under international treaties to assist in the global efforts to eliminate corruption'.⁶⁸

65 Mr John Halkett, Technical Manager, Australian Timber Importers Federation Incorporated, *Committee Hansard*, 14 December 2011, p. 4.

66 Ms Siti Syaliza Mustapha, Director, Public and Corporate Affairs Division, Malaysian Timber Council, Government of Malaysia, *Committee Hansard*, 14 December 2011, p. 53.

67 Uniting Church in Australia–Synod of Victoria and Tasmania, *Submission 9*, pp 1–3; and Greenpeace Australia Pacific, *Submission 3*, p. 4.

68 Uniting Church in Australia–Synod of Victoria and Tasmania, *Submission 9*, p. 1.

Committee comment

1.63 The committee notes that Australia's housing and construction, interior fit-out, and secondary wood processing industries are increasingly dependent on imported timber and wood-based raw materials, including an increase in the import of manufactured products of uncertain origin. The committee recognises that this poses a significant challenge for importers and regulators alike, as ascertaining the sometimes diverse origins and legality of some of the more complex material will prove difficult. It is hoped that this issue will receive due consideration during consultations regarding the due diligence requirements of the regulations.

1.64 The committee appreciates that there are particular challenges for timber exporting countries in ensuring the legality of exported timber. It will be essential that consultations on the regulations prescribing due diligence be undertaken through continued bilateral cooperation with timber exporting countries in the region, and through multilateral engagement on forestry through existing forums. This will be complemented by Australia's non-regulatory capacity building programs aimed at combating illegal logging.

1.65 The committee notes that Australia has significant obligations to combat corruption under various treaties including the UN Convention Against Corruption; OECD Convention on Combating Bribery of Foreign Public Officials in International Business; and the UN Convention against Transnational Organised Crime. The committee is of the view that, as part of these obligations, there is a significant role that Australia can continue to play in assisting timber exporting countries to improve their forest governance, as well as assisting law enforcement agencies in those countries to develop data systems and strategies to combat corruption.