

Chair
Cabinet Policy Committee

New Zealand Policy to Address Illegal Logging and Associated Trade

Proposal

1. I seek Cabinet's approval to implement a package of actions as part of a New Zealand approach to help address illegal logging and associated trade. In February 2006, Cabinet approved the release of a public consultation discussion document [CBC Min (06) 3/10]. Officials were invited to report back on the outcomes of that consultation. This paper fulfils the requirements of that report back, and proposes recommendations for a comprehensive New Zealand policy on illegal logging and associated trade.

Executive Summary

2. Illegal logging (including associated trade in timber and wood products from illegal logging) has attracted increasing international attention over the last ten years and is now a key area of dialogue in international forestry and environmental forums. There is widespread concern about its linkages to ineffective governance, social conflict, violence and its negative impacts on forest ecosystems and biodiversity. Illegal logging is also a significant economic and trade issue.
3. This paper builds on public consultation carried out in the first half of 2006 and subsequent analysis carried out by officials on potential action points and key themes raised by stakeholders. It aims to present a cohesive New Zealand policy to help address illegal logging.
4. The proposed five overarching goals of the policy represent the long-term aspirational direction of the policy. They are:
 - Appropriate and effective mechanisms at the global level which support practical solutions to the problem of illegal logging and associated trade.
 - Coordinated and effective approaches at a regional level to combat illegal logging and associated trade.
 - Effective bilateral engagement, including appropriate assistance with the development of accountable environmental governance and sustainable management of forest resources, which addresses illegal logging.
 - Government demonstrates a leadership role in buying legal and sustainably produced timber and wood products.
 - Awareness and action amongst New Zealand producers, suppliers and consumers contributes to addressing illegal logging.
5. The following objectives underpin the proposed goals of the policy:

- Champion the issue of illegal logging as a key focus point for international discussion and action.
 - Increase Pacific country engagement on, and awareness of, illegal logging issues.
 - Support regional cooperation on monitoring and tracking of timber and wood products to address illegal logging.
 - Develop bilateral arrangements that seek to address illegal logging.
 - Provide strong Government leadership through a credible and enforced procurement policy that makes it mandatory for government departments to seek legally produced timber and wood products, including paper, and where available, sustainably produced products.
 - Encourage stronger public and private sector awareness and action through enhanced communication; development of identification mechanisms for legal products; and increased understanding of environmental, economic and social effects of the problem.
6. A variety of operational actions are included in this paper under each objective. These focus on practical efforts. A number of short-term and long-term actions have been selected to ensure continued momentum in the implementation of policy actions.
7. The complex nature of the problem of illegal logging means that effectively combating the problem is a long-term and difficult goal. However, the rewards for New Zealand from both an environmental and economic view are considerable. It is also apparent that achieving international sustainable forest management is dependent on being able to first develop, implement and enforce forestry and related trade laws.
8. I recommend instructing officials to report to Cabinet by June 2007 on practicalities and feasibility of a regulatory requirement for supplier's declaration of conformity with legality on the sale of timber and wood products. I recommend officials report to the Minister of Forestry, Minister of Conservation, Minister of Foreign Affairs and the Minister of Trade by June 2007 on a New Zealand strategy for international, regional and bilateral engagement to address illegal logging and associated trade based on the goals and objectives of this policy.

Background

9. In 2004 the Minister of Conservation highlighted New Zealand's concern about illegal logging in bilateral talks and in the high level segment of the Seventh Conference of the Parties of the Convention on Biological Diversity. The Minister of Forestry agreed to the development of a comprehensive illegal logging policy in May 2005.
10. Illegal logging takes place when timber is harvested, transported, bought or sold in violation of national laws. Reasons for New Zealand to be engaged actively in helping to address this problem include significant trade, environment, economic and social interests, both from domestic and wider regional and international perspectives. These were outlined to Cabinet in February 2006 [CAB(06)23].
11. Globally, illegal forestry practices are said to depress world timber prices on average by 7% to 16%.¹ In Australia, estimates show that each year illegal logging impacts on around AUD400 million of Australia's forest products and wooden furniture imports (9% of the total imports). Estimates for illegal logging in the Asia-Pacific region amount to as much 120 million cubic

¹ "Illegal" Logging and Global Wood Markets: The Competitive Impacts on the U.S. Wood Products Industry (2004).

metres (m³) or about 45% of the recorded total production per year². New Zealand producers have to compete in this uneven playing field, both overseas and in New Zealand. In key markets, such as China, New Zealand log exporters compete in a market in which up to 35% of log imports are considered suspect³.

12. This paper builds on public consultation undertaken in the first half of 2006. Feedback on the 2006 discussion paper revealed a range of responses to the challenges of addressing illegal logging. There was widespread support for action. Five common themes emerged from stakeholder consultation. These were:
 - A need for Government to lead by example through an effective and visible Timber Procurement Policy, requiring Government to purchase only legal and sustainable timber and wood products;
 - The desire for New Zealand to take a leadership role in developing mechanisms to address illegal logging, including introducing a unilateral ban on all imports of illegal timber and wood products entering the country;
 - The belief that New Zealand producers could not compete fairly with cheaply produced and possibly illegally-harvested timber and wood products because of strict domestic environmental regulations;
 - The need for action-orientated engagement, both domestically and internationally;
 - A desire for stakeholders to be involved and consulted in policy development and implementation.
13. A significant issue also raised in consultations was the relationship between sustainable forest management (SFM) and legality. There was much discussion on whether the overall goal of any policy should be focused on SFM rather than legality. This policy focuses on goals, objectives and action points that help to address illegal logging. This is a deliberate attempt to separate legality and sustainability issues. This does not replace a wider need to engage on progressing SFM outcomes. There is a realisation, however, that gaining practical action on SFM internationally is difficult in the face of an inability to develop and enforce forestry laws and successfully exclude illegal production and trade from the marketplace.
14. Stakeholders voiced strongly their desire for something tangible to be implemented which identified and excluded illegally-sourced timber and wood products. Many, but not all stakeholders called for the Government to impose an import ban on all timber and wood products entering the country which could not be proved to be legally-sourced. Some stakeholders also wanted this to extend to products that could not satisfy criteria for sustainability.
15. After stakeholder consultations, the Minister of Forestry and the Minister of Trade were briefed in further detail on this particular issue. Analysis showed that implementing a unilateral ban, from an operational perspective, would be very difficult. It would also be likely to be looked upon unfavourably by trading partners and be potentially non-compliant with WTO obligations. This policy does provide opportunities for addressing imports of illegally-sourced timber and wood products through multilateral, regional and bilateral approaches to addressing illegal logging. Also, officials will report back on the practicality and feasibility of introducing a supplier's declaration of conformity with legality on timber and wood products sold in New Zealand.

² Mir J Fraser A Illegal logging in the Asia-Pacific region: an ADB perspective In International Forestry Review 5 (3), 2003: 279

³ "Illegal" Logging and Global Wood Markets: The Competitive Impacts on the U.S. Wood Products Industry (2004).

16. The following principles have been used to guide the development of the package:

- A focus on legality, with legality defined as the laws of the country of origin;
- Action-orientated approaches to address illegal logging;
- Maximising synergies with existing foreign and domestic policy;
- Feasibility, including consistency with international obligations; and
- Practicality, taking into account resources and costs.

Proposed implementation package

17. We have identified six objectives for addressing illegal logging and associated trade:

(A) Champion the issue of illegal logging as a key focus point for international discussion and action.

18. This is a key objective of the policy. The actions to support this objective are ambitious and seek to position New Zealand as one of the leading countries in supporting multilateral approaches to resolving illegal logging. It requires New Zealand to build partnerships with other countries to find practical and action-orientated methods to address this global problem at a multilateral level.

19. The key action is to support discussion on the potential for a multilateral framework to address illegal logging and centres on willingness to explore multilateral approaches to addressing the problem. Officials will also assess the level of international interest in such a mechanism and its likely efficacy. This will require high-level government support and would be a key feature of New Zealand's international forestry and environmental policy dialogues.

20. New Zealand will also work in key international organisations to continue to highlight the problem and seek to address illegal logging problems within current mechanisms. Examples of organisations include the International Tropical Timber Organisation (ITTO), the Food and Agriculture Organisation (FAO), the Convention on Biological Diversity, Convention on Illegal Trade in Endangered Species and the Organisation for Economic Cooperation and Development.

21. Recommended actions include:

- Support discussion on the potential for a multilateral framework or mechanism to address illegal logging, including assessment of the level of international interest in such an approach and its likely efficacy;
- Encourage work programmes within existing key international organisations, in accordance with their mandate, to continue to highlight the problem and support action in these forums to help address illegal logging; and
- Report back to the Minister of Forestry and the Minister of Foreign Affairs by June 2007 with a strategy for international, regional and bilateral engagement on illegal logging and associated trade.

(B) Increase Pacific country engagement on, and awareness of, illegal logging issues; and

(C) Support regional cooperation on monitoring and tracking of timber and wood products to address illegal logging.

22. Fostering consistent approaches to addressing illegal logging across the Asia-Pacific region can help to maximise resources and avoid a fragmented approach to addressing the issue.

Encouraging a coordinated Pacific approach into regional discussions on illegal logging would also help to bring a stronger Pacific voice to regional work.

23. As a sustainable and legal producer of timber and wood products New Zealand has an opportunity to lead by example in providing overseas markets with clearly identified legal products. The ultimate goal, however, is to ensure that any regional mechanisms will efficiently identify and track legally and illegally harvested timber and wood products, and work to exclude illegal products from the marketplace. Working in existing organisations in regional activities that focus on achieving such mechanisms will be important. Examples of such organisations include the FAO, ITTO and Association of South-East Asian Nations (ASEAN).
24. The Asia Forest Law Enforcement and Governance Process (Asia-FLEG) was established to focus predominantly on illegal logging. Whilst progress in this forum has been slow it seems there is some appetite to make progress in 2006-2007. Other FLEG processes also offer potential avenues for regional cooperation and should be examined for potential inclusion in the strategy on international, regional and bilateral engagement.
25. Recommended actions include:
 - Encourage regional activities in existing organisations, in accordance with their mandates, to address illegal logging and associated trade, with particular focus on programmes led by the ITTO, FAO and established processes that have forestry programmes such as ASEAN;
 - Monitoring the Asia FLEG process and other FLEG processes, and assessing our further engagement within the future strategy for international, regional and bilateral work; and
 - Encourage a coordinated Pacific approach on illegal logging issues.

(D) Develop bilateral arrangements to address illegal logging.

26. There are a number of bilateral arrangements between countries to address illegal logging. Indonesia, for example, has a Memorandum of Understanding (MoU) with several countries. Bilateral agreements are also an important feature of the European Union Forest Law Enforcement Governance and Trade process (EU FLEGT).
27. New Zealand has an opportunity to build relationships with other countries to tackle illegal logging and trade issues. Whilst we do not have the resources for an EU FLEGT approach there are other ways that we can effectively work with countries to tackle illegal logging.
28. Given the important role of forests globally there is potential to link illegal logging objectives into broader sustainable forestry management and development work. The NZAID environment policy recognises the importance of effective governance in preventing unsustainable and/or inappropriate utilisation of scarce natural resources.
29. There is also scope to explore opportunities for bilateral arrangements which include working with other donor partners to undertake illegal logging-related work.

30. Recommendations include:

- Favourably considering requests for SFM assistance by Pacific Island countries and other development partners where they fall within agreed programmes, demonstrate sound development planning, and help to address illegal logging;
- Working bilaterally to develop arrangements with key countries to address illegal logging; and
- Actively highlighting the important role of forests in development and environment contexts.

(E) Provide strong Government leadership through a credible and enforced procurement policy that makes it mandatory for Government departments to seek legally produced timber and wood products, including paper, and where available, sustainably produced products.

31. A key theme of stakeholder discussions was the need for Government to have a credible and effective timber and wood products procurement policy which would take the lead in promoting responsible purchasing. Whilst the 2005 Review of the Interim Timber Procurement Policy made recommendations that go some way to addressing stakeholder concerns there is potential to further strengthen the policy within the broader government procurement policy framework, including the guiding principle of value for money⁴.
32. Paper and paper-based products are not currently included in the interim policy. This is inconsistent with an illegal logging policy that relates to all timber and wood products, including paper. Paper and paper products make up at least 49% of all forestry product imports into New Zealand and represent a significant part of Government procurement. Analysis of timber procurement schemes in other countries shows that New Zealand is unique in not including paper in its procurement policy.
33. The Ministry for the Environment's Govt3 programme⁵ has undertaken significant work in paper procurement and believes that there is no longer any reason on availability grounds for paper and paper products to be excluded from the interim policy. Legal paper and paper products are available at comparable costs to other options.
34. Introduction of a mandatory requirement to seek legality (with a preference for sustainability) in government procurement of timber and wood products would need to be tailored so as not to be overly burdensome on procurement practice. New Zealand government departments are already under an obligation to "take all reasonable steps to ensure that timber and timber products procured...are from legally logged and sustainably managed sources."
35. The existing requirement for a preference for timber and wood products from sustainably managed sources, where reasonably available and consistent with the principles of the government procurement policy framework, remains. This recognises that where forestry practices are legal, but still unsustainable, negative impacts on forest ecosystems and

⁴Under the government procurement policy adopted by Cabinet in April 2001, the Government expects its departments, and encourages other public sector agencies, to be guided by the principles of: best value for money over whole of life; open and effective competition; full and fair opportunity for domestic suppliers; improving business capabilities; and recognition of international trade obligations and trade policy interests. The Mandatory Rules for Procurement by Departments, endorsed by Cabinet in April 2006, are set within the framework of these principles.

⁵ Govt3 is a voluntary programme, led by the Ministry for the Environment (MfE), which encourages government agencies to improve the environmental sustainability of their workplaces. Govt3 has received strong buy-in from government agencies, with more than 47 agencies participating actively.

biodiversity will continue. Further work on the feasibility of making this a mandatory provision of the policy will be completed and reported back to Cabinet in 2008, as part of the review of the Interim Timber Procurement Policy, as agreed by Cabinet in February 2006.

36. To support implementation of this requirement the Ministry of Agriculture and Forestry (MAF) in conjunction with the Ministry of Economic Development and Govt3 will provide enhanced support and guidance.
37. Along with implementation of the recommendations of the 2005 review, the following actions to strengthen the procurement policy are recommended:
 - Inclusion of paper under the policy;
 - Change the name from the Interim Timber Procurement Policy to the Timber and Wood Products Procurement Policy;
 - A mandatory requirement for Government departments to seek legally sourced timber and wood products, including paper; and
 - A mandatory requirement for Government Departments to document for audit their verification of the legality of timber and timber products purchased;

(F) Encourage stronger public and private sector awareness and action through enhanced communication; development of identification mechanisms for legal products; and increased understanding of environmental, economic and social effects of the problem.

38. To fulfil this outcome the Government will need to engage actively with stakeholders, including providing appropriate information on policy development and gaining ongoing input and action from the wider forestry sector to help address illegal logging.
39. Information tools are critical in underpinning approaches to address both the causes of illegal logging and in designing effective mechanisms to monitor and track illegal trade. Effective communication ensures this information is understood, is effective and is influential in helping to make change. Further research is needed into the effects of illegal logging on New Zealand producers in international and domestic markets.
40. Many stakeholders wanted a unilateral trade ban on all timber and wood imports that could not be proven to be legal. In some cases, they felt this should also extend to products that could not satisfy criteria for sustainability. Officials do not consider that such a measure would be a feasible or effective way of dealing with illegal logging. It would also be vulnerable to legal challenge under the WTO and create potential risks for New Zealand's wider trading interests.
41. An alternative proposal worth consideration is a regulatory requirement for timber or wood products suppliers to produce a suppliers' declaration of conformity with the laws or regulations of the country of origin. This would apply to both New Zealand producers and importers of timber and wood products. Officials recommend further analysis of this option to be reported back to Cabinet by June 2007.
42. Action points to achieve this policy objective are:
 - Creating a central website of information on illegal logging issues, policy development and implementation, updates on progress and opportunities for stakeholder input;

- Working with stakeholders, including forest owners, timber trade and building associations, architects, and NGOs to develop information for consumers, importers and retailers on sustainable and legal wood products;
- Continue to support and publicise enforcement activity in New Zealand to address domestic illegal logging;
- Undertake research to understand further the effects of illegal logging and associated trade on New Zealand; and
- Report back to Cabinet by June 2007 on the feasibility and practicality of introducing a regulatory requirement for a supplier's declaration of conformity on all timber and wood products sold in New Zealand.

Linkages with other government programmes

43. The Government has policies covering the sustainable management of New Zealand forests, including statutory standards for timber production from private indigenous forests, and is participating in efforts to set international standards for sustainable forest management.
44. The policy described in this paper links with:
- the Government's broader international forestry work, led by MAF and the Ministry of Foreign Affairs and Trade's (MFAT);
 - NZAID's programmes, including its environmental programme with its focus on good governance and environmental sustainability; and
 - multilateral environmental negotiations led by the Department of Conservation and MFAT;
 - MfE's Govt3 programme; and
 - Government procurement led by the Ministry of Economic Development.
45. This policy also links with international discussion on climate change. Some of the countries where illegal logging is occurring, for example, Papua New Guinea ("Rainbow Coalition"), are arguing that "avoided deforestation" should be eligible to earn carbon credits. New Zealand has participated in regional-level discussions and has indicated that such proposals have merit and should be developed further.

Consultation with stakeholders

46. Involving New Zealand stakeholders in the implementation of the policy will be essential in ensuring it is supported domestically. Stakeholders will be encouraged to participate in the further development and implementation of the illegal logging policy.
47. Delivery of this policy also relies on building strong relationships with other countries. Tackling illegal logging relies on producer and consumer countries working in partnership to address the problem from both production and demand perspectives. Consultation with other countries will therefore be a key part of future action and be based on the goals and objectives of this policy.

Consultation with other departments

48. The following departments and agencies have been consulted during the preparation of this paper: Ministry of Foreign Affairs and Trade, Department of Conservation, New Zealand Customs, Ministry for the Environment, Treasury, New Zealand Agency for International Development, New Zealand Trade and Enterprise, and Te Puni Kokiri.

49. The Ministry for Economic Development (MED) agrees with the paper, including the mandatory requirement to specify legally logged timber and wood products. MED also comments that it is working with agencies across government to promote best practice and strategic approaches in procurement which deliver long-term value for money, and foster a sustainable competitive supply base in New Zealand.
50. Procurement professionals themselves are seeking recognition of their profession through the value they bring to their organisation and the government, and by making informed and balanced decisions which take account of the government's wider policies (including environmental policy). In this context, mandatory prescriptive requirements, if shown to be necessary, should be used sparingly, as they tend to distract from the exercise of professional judgment and encourage a primary focus on compliance rather than holistic value for money outcomes.
51. The Ministry for the Environment agrees with the paper and supports the recommendations as far as they go, but would prefer to see greater emphasis on effective implementation of the existing policy on procurement of timber and wood products from sustainably managed sources. If forestry practices are legal but still unsustainable, negative impacts on forest ecosystems and biodiversity will continue. Legally and sustainably grown timber and timber products including paper can already be procured in New Zealand without significant price penalty.

Financial implications

52. Funding to implement this policy could initially be covered by departments' baseline funding. It is likely that introduction of a regulatory requirement for a supplier's declaration of conformity on timber and wood products would require additional funding. Officials will detail any financial implications in the analysis on the practicality and feasibility of such a scheme in the Cabinet report-back in June 2007. The strategy on international, regional and bilateral engagement will also address any funding implications in its report back to Ministers in June 2007. Recommendations for Ministers to consider additional funding would be included as part of the 2008/09 Budget process.

Human rights

53. There are no human rights implications associated with this paper.

Regulatory impact and compliance cost statement

54. A regulatory impact and compliance cost statement will accompany the report to Cabinet in June 2007 on a potential regulatory requirement for a supplier's declaration of conformity on all timber and wood products sold in New Zealand if this option is recommended.

Publicity

55. A communications plan for public release of the policy and implementation plan will be developed in consultation with my office.

Recommendations

56. I recommend that the Committee:

- a. **note** that Cabinet approved consultation on a public consultation discussion document in February 2006 [CBC Min (06) 3/10] based on draft goals, objectives and actions of a potential policy;
- b. **note** that a key issue identified by stakeholders was the desire for a unilateral ban on all illegally produced timber and wood products entering New Zealand;
- c. **note** that officials do not support a unilateral ban described in (b) or similar trade restrictions as such measures would not be practical, would create potential risks for New Zealand's wider trading interests and be vulnerable to legal challenge under the WTO;
- d. **invite** the Minister of Forestry to report to POL by June 2007 on the feasibility and practicality of introducing a regulatory requirement for suppliers of timber and wood products in New Zealand to produce a declaration of conformity with the laws and regulations of the country of origin (including New Zealand) as an alternative to a unilateral ban on suspected illegally produced timber and wood imports;
- e. **agree** that New Zealand's policy on addressing illegal logging and associated trade be based on the following goals:
 - Appropriate and effective mechanisms at the global level which support practical solutions to the problem of illegal logging and associated trade.
 - Coordinated and effective approaches exist at a regional level to combat illegal logging and associated trade.
 - Effective bilateral engagement, including appropriate assistance with the development of accountable environmental governance and sustainable management of forest resources, which addresses illegal logging.
 - Government demonstrates a leadership role in buying legal and sustainably produced timber and wood products.
 - Awareness and action amongst New Zealand producers, suppliers and consumers contributes to addressing illegal logging.
- f. **agree** that the following objectives are used to achieve those goals:
 - Champion the issue of illegal logging as a key focus point for international discussion and action;
 - Increase Pacific country engagement on, and awareness of, illegal logging issues.
 - Support regional cooperation on monitoring and tracking of timber and wood products to address illegal logging.
 - Develop bilateral arrangements that seek to address illegal logging.
 - Provide strong Government leadership through a credible and enforced procurement policy that makes it mandatory for Government departments to seek legally produced timber and wood products, including paper, and where available, sustainably produced products.
 - Encourage stronger public and private sector awareness and action through enhanced communication; development of identification mechanisms for legal products; and increased understanding of environmental, economic and social effects of the problem.

- g. **agree** to officials reporting to the Minister of Forestry, Minister of Conservation, Minister of Foreign Affairs and Minister of Trade by June 2007 with a strategy for international, regional and bilateral engagement on illegal logging and associated trade;
- h. **agree** to New Zealand supporting discussion on the potential for a multilateral framework or mechanism to address illegal logging, including assessment of the level of international interest in such an approach and its likely efficacy;
- i. **agree** to a change in name from the Interim Timber Procurement Policy to the Timber and Wood Products Procurement Policy;
- j. **agree** to introduce a mandatory requirement for Government Departments to seek legally produced timber and wood products, including paper, when purchasing these products;
- k. **agree** to introduce a mandatory requirement for Government Departments to document for audit their verification of the legality of timber and timber products purchased;
- l. **note** that the existing requirement for a preference for timber and wood products from sustainably managed sources, where reasonably available, and consistent with the value-for-money and other principles of the government procurement policy framework remains;
- m. **direct** officials from the Ministry of Agriculture and Forestry (MAF), Ministry of Economic Development and the Govt3 programme to continue to work together to provide enhanced support and guidance to help implement the Timber Procurement Policy;
- n. **direct** officials to undertake research on the effects of illegal logging and associated trade on New Zealand timber and wood products in domestic and in export markets;
- o. **invite** the Minister of Forestry and the Minister for Foreign Affairs to report to POL by June 2008 on the progress of the policy; and
- p. **agree** to the public release of this Cabinet paper.

Hon Jim Anderton
Minister of Forestry