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SOURCING LEGALLY PRODUCED WOOD

A Guide for Businesses

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FOREST LEGALITY
ALLIANCE

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This guide is an excerpt from a more comprehensive publication, Sustainable Procurement of Wood and Paper-based Products: Guide and Resource Kit, which provides an overview of ten key issues and related resources to consider when procuring wood and paper-based products. This guide was developed for users with particular interest in understanding the legality requirements for sustainable procurement. To view the Sustainable Procurement of Wood and Paper-based Products Guide, please visit www.SustainableForestProducts.org.

INTRODUCTION

Almost half of the Earth's original forest cover has been converted to other land uses (Bryant et al., 1997). Although estimated rates of net loss seem to indicate a slowdown, the total forest area continues to decrease; today forests extend over an estimated 30% of the total land area (FAO, 2006).

The supply chains that bring products to end users can start at far-away places and end in many countries. More and more often, the trade of these products affects local economies, local environments, and local peoples. Over the past years, there has been a growing interest among concerned consumers, retailers, investors, communities and

governments to know that their purchases and consumption of wood-based products are making positive social and environmental contributions to the local environments and peoples. At the core of this trend is the issue of illegal logging and the associated trade.

ILLEGAL LOGGING AND ASSOCIATED TRADE

There is no universally accepted definition of illegal logging and associated trade. Strictly speaking, illegality is anything that occurs in violation of the legal framework of a country (Box 1).

A serious matter

Illegal logging results from a complex set of legal, historical, political, social, and economic issues. Illegal logging is a fundamental problem in certain nations suffering from corruption and/or weak governance. Poverty, limited education, financial issues, economic instability and population growth are enabling factors for illegal activity as well.

BOX 1 | EXAMPLES OF ILLEGAL LOGGING

Illegal origin (ownership, title, or origin):

- Logging trees in protected areas without proper permission (e.g. in national parks).
- Logging protected species.
- Logging in prohibited areas such as steep slopes, riverbanks and water catchments.
- Logging in non-compliance with specifications of the concession permit or harvesting license (e.g. harvesting volumes below or above the specifications, or before or after the period authorized for logging).
- Harvesting wood of a size or species not covered by the concession permit.
- Trespass or theft, logging in forests without the legal right to do so.
- Violations, bribes and deception in the bidding process to acquire rights to a forest concession.
- Illegal documentation (including trade documents).
- Lack of compliance throughout the supply chain (harvesting, manufacturing, and trade):
 - Violations of workers' rights (e.g. illegal labor, underpaying workers, etc.), labor laws and international standards, and violation of traditional rights of local populations and indigenous groups.
 - Violation of international human rights treaties.
 - Wood transported or processed in defiance of local and national laws.
- Violations of international trade agreements (e.g., CITES species, see Appendix 1).
- Failure to pay legally prescribed taxes, fees and royalties.
- Logging and trading logs and forest products in spite of logging and trade bans (See Appendix 2).
- Illegal transfer pricing (e.g. when it is to avoid duties and taxes), timber theft, and smuggling.
- Money laundering.
- Failure to fully report volumes harvested or reporting different species for tax evasion purposes.

Sources: Contreras-Hermosilla, 2002; Miller et al., 2006; GFTN, 2005.

Illegal activity has many drivers that make it challenging to address. Government officials at local and national levels, companies, and local people can all have a role to play in illegal forest activities.

- Government officials, often with very modest official salaries, may receive additional income in bribes to allow illegal logging.
- Companies trading illegally logged wood may have a market advantage over their competitors because illegally logged wood can be sold at lower prices, depressing the profitability of legally harvested wood (Tacconi et al., 2004; Seneca Creek and Wood Resources International, 2004).
- Local people may derive direct income from illegal forest activities (Tacconi et al., 2004).

Illegal logging and illegal trade can create serious problems:

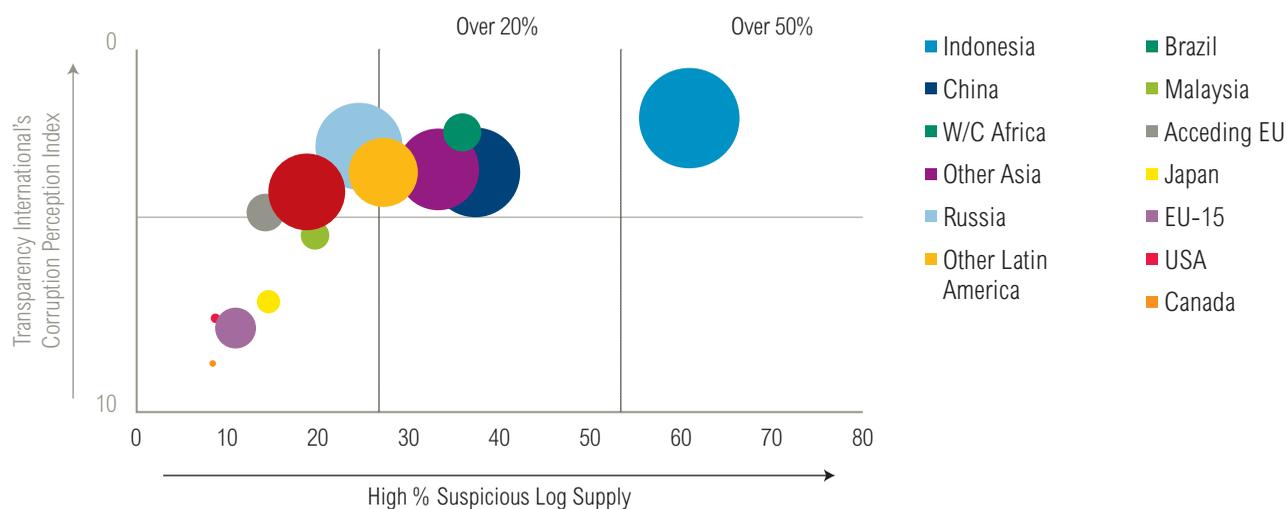
- **Illegal logging and organized crime:** organized crime syndicates are largely responsible for illegal logging in many countries (Nellemann, INTERPOL, 2012).
- **Government revenue losses:** it is estimated that organized crime groups launder \$30-100 billion worth of illegal timber annually (Nellemann, INTERPOL, 2012).

- **Poverty—indirectly.** Governments deprived of revenue by illegal logging have fewer resources to invest in social and public policies.
- **Unfair competition:** illegal logging and illegal trade can distort the market and reduce the profitability of legal goods; the World Bank puts this cost at more than US\$ 10 billion per year (World Bank, 2002).
- **Conflict:** the proceeds of illegal logging may be used to support and fund conflict (Thomson and Kanaan, 2004).
- **Unplanned, uncontrolled and unsustainable forest management; forest destruction.**

Between 8-10 percent of global wood production is estimated to be illegal, although it is acknowledged that there is uncertainty in these estimates (Seneca Creek and Wood Resources International, 2004). Estimates of illegal logging in specific countries and regions vary, depending on the nature of the activity, and the variability of laws and regulations (Figure 1). Most of the illegally produced wood is used domestically, although a significant portion enters the international market, either as finished products or raw materials (Seneca Creek and Wood Resources International, 2004).



Figure 1 | **Corruption and illegal logging activity (2004)**



In a widely accepted, in-depth multi-country study, Seneca Creek Associates and Wood Resources International compared corruption and illegal logging activity. In the above graph, the y-axis displays Transparency International's Corruption Perception Index (CPI), where corruption tends to be higher (i.e., having lower CPI) in countries with lower per capita incomes. The x-axis displays the proportion of the total supply of suspicious logs, while the size of a bubble shows the absolute volume of suspicious logs that reach the market in a country or region, including imported logs.

EU-15 refers to the 15 countries in the European Union before May 2004: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Republic of Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and the United Kingdom. EU countries include EU-15 countries plus Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, and Slovenia.

Source: Seneca Creek and Wood Resources International (2004).

DEFINING ILLEGALITY

Since laws vary between countries, so does what is legal and what is illegal. Many countries also have highly complex laws with contradictions between different regulations. One approach to define what constitutes illegal logging in a country is to conduct a national review to identify and develop agreement between key stakeholders about which laws are most relevant and should be included in a definition of legality.

Over the past few years several countries have defined illegal logging in terms of the legality requirements in public procurement policies and

trade regulations. Overall, legality definitions and requirements cover themes such as authorized access to the resources, compliance with laws that protect the resources, compliance with laws that regulate the harvesting operations, payment of appropriate fees and taxes, compliance with trade regulations such as CITES species (See Appendix 1 for a full list of CITES timber protected species) or logging/export bans (See Appendix 2 for a list of logging and export bans).

LEGALITY REQUIREMENTS IN THE GLOBAL MARKETPLACE

Demand for legally sourced wood and paper-based products in global markets has increased, as a result of changes in public and private procurement policies and trade regulations.

Public procurement policies

Public procurement policies to address legality and/or sustainability began to emerge in the early 2000s, becoming more prominent in Europe, but now expanding to other countries in Asia and Latin America. Most policies seek to ensure that products come from legal and sustainable sources. In some instances, processes are defined and/or entities are established to help inform and implement the policy itself. Many policies include step-wise implementation approaches. See Table 1 for a compilation of selected public procurement policies.

Private procurement policies

Since the late 90's the private sector has been taking steps to ensure that they exclude unsustainable and illegal wood from their supply chains. Corporate procurement policies are now more prominent in developed countries and among companies with global reach. With time, these purchasing practices are becoming more and more integrated in corporate business practices, and contained within a larger sustainability and/or corporate responsibility policy covering several other aspects. See Table 2 for a compilation of selected private procurement policies.

Industry associations encourage their members to exclude unsustainable and illegal wood from their supply chains through members' code of conduct, industry statements, or associations' purchasing policies. One drawback, however, is that trade association policies and guidelines are often voluntary. See Table 3 for examples of trade association policies.

Trade regulations

Trade regulations such as the 2008 amendment to the U.S. Lacey Act, the European Union Illegal Timber Regulation, and the Australian Illegal Logging Prohibition are recent instruments that address illegal logging. Table 4 includes a general comparison of these regulations.

Another trade regulation is the Ordinance on Declaring Wood and Wood Products (Ordonnance sur la Declaration Concernant le Bois et les Produits en Bois) in Switzerland. Since 2010, any party selling timber or timber products to consumers must disclose information about the species used in the regulated products, including whether or not the species is listed in CITES, and the place of harvest (Federal Department of Economic Affairs, 2010).



Table 1 | **Selected public procurement policies (Chronological order)**

COUNTRY	YEAR PASSED	DEFINITION OF LEGALITY / LEGALITY REQUIREMENTS	REQUIREMENTS AND APPLICABILITY
United Kingdom	2000 (reviewed in 2009)	Forest owner/manager holds legal use rights to the forests; compliance with local and national laws, including forest management, environment, labor and welfare, health and safety, other parties' tenure and use rights laws; payment of relevant fees and taxes; compliance with CITES.	Mandatory to central government. Recommended to sub-national governments.
Denmark	2003 (reviewed 2010)	Forest owner/manager holds legal use rights to forests; compliance with relevant laws, including forestry, environmental and labor laws; payment of taxes and fees; compliance with CITES.	Voluntary guidelines
France	2005 (reviewed in 2008)	Does not include specific definition of legality but requires compliance with CITES. Procurement managers are required to refer to resources to define relevant legislation.	Mandatory to central government. Recommended to sub-national governments.
México	2005	Wood of verified legal origin and in compliance with environmental regulations.	Mandatory to central government
Netherlands	2005	Forest owner/manager holds legal use rights to the forest; compliance with laws relevant to forest management, environment, labor and welfare, health and safety, other parties' tenure and use rights; payment of fees and taxes; compliance with CITES.	Mandatory to central government. Recommended to sub-national governments.
Japan	2006	Timber or wood products from a forest that has been legally harvested; the entity that harvested the trees has legal rights to use the forest.	Mandatory to central government.
New Zealand	2007 (reviewed in 2011)	Sustainability, including legality, as defined by FSC and PEFC, is the minimum requirement.	Mandatory to central government. Recommended to sub-national governments.
Germany	2007 (reviewed in 2011)	Sustainability, including legality, as defined by FSC and PEFC, is the minimum requirement.	Mandatory to central government.
São Paulo State, Brazil	2008	No definition of legality. Businesses must be legal and comply with environmental laws; products must be traceable and have the government-issued Document of Legal Origin (DOF in Portuguese).	Applicable to state government agencies. It is relevant to both, Brazilian timber and timber of foreign origin.
Finland	2010	Forest owner/manager has the legal right to harvest; harvesting and forest management operations comply with local forest and environmental laws; compliance with CITES regulations.	Central government currently.

PRODUCT SCOPE	ACCEPTED MEANS OF VERIFICATION OR COMPLIANCE	
	SFM CERTIFICATION SYSTEMS	ALTERNATIVE INSTRUMENTS
Wood and paper-based products.	FSC, PEFC.	FLEGT-licenses. Legality verification systems determined to comply with the requirements.
Wood and paper-based.	FSC, PEFC.	Legality verification systems. FLEGT-licenses.
All wood and paper-based products.	FSC, PEFC, CSA, SFI, MTCS, LEI, Kerhout.	Ecolabels; processes involving third-party verification.
Furniture and office supplies.	Third-party verification systems registered with the Ministry of Environment and Natural Resources.	Lamps, luminaires, household air conditioners, televisions, tumble driers, washing machines, dish washers, household refrigerating appliances, wine storage appliances.
Wood and paper-based products.	FSC, PEFC International, but excluding MTCS.	FLEGT-licensed timber. Credible, documentary evidence. Evidence is assessed on a case-by-case basis, based on the Timber Procurement Assessment Commitment guidelines.
Solid wood and paper-based products.	Green Ecosystem Council. FSC, PEFC, SFI, CSA, LEI.	Wood industry associations' code of conduct, and self-verification mechanisms.
Paper and solid wood, and wood-based products.	ATFS, CSA, FSC, MTCS, PEFC, SFI.	Step-wise programs towards certification and legality-verification systems. Third-party certified ecolabels.
Wood in the rough, finished and semi-finished products.	FSC, PEFC.	Certificates comparable to FSC or PEFC, if demonstrated that FSC or PEFC criteria are met. Still to be determined if FLEGT-licenses comply.
Timber to be used in construction.	Suppliers registered in the Cadmadeira system (Cadastro de Comerciantes de Madeira no Estado de São Paulo) are allowed to bid for government contracts.	Lamps, luminaires, household air conditioners, televisions, tumble driers, washing machines, dish washers, household refrigerating appliances, wine storage appliances.
Wood and paper-based products.	PEFC, FSC.	Due diligence systems by producers, FLEGT licenses, CITES licenses and other legality verification systems.

Table 2 | **Examples of legality requirements in the private sector**

COMPANY, POLICY YEAR	SCOPE	LEGALITY REQUIREMENTS	COMPLIANCE
B&Q (home improvement and garden retailer, Europe, 1991)	Timber and paper	All wood bought by B&Q is to come from forests of known location where the supplier provides sufficient reassurance that the production is legal, well-managed and independently certified or verified as such.	The policy accepts FSC and PEFC certification as means of compliance. Products from sources engaged in step-wise processes towards certification, if there is an independently verifiable action plan, are also accepted. There are exceptions to the policy on a case-by-case basis where fully-compliant products are not available. In these cases, suppliers might get grace period to meet the policy requirements.
IKEA (furnishings, worldwide, 2006)	Solid wood, veneer, plywood and layer glued wood	Known origin of the wood; compliance with national and regional forest legislation; wood must not originate from protected areas unless harvested according to the management plan.	Suppliers to have processes and systems in place to ensure that the wood meets the requirements. Suppliers are required to report the origin, volume and species of the wood used in the products on an annual basis, and they must accept auditing at various steps in the supply chain. Wood from certain areas undergoes audits all the way back to the forest. Audit is conducted by company forester or an independent auditor.
Kimberly-Clark Corporation (personal care, paper products, worldwide, 2007)	Tissue hard rolls or finished tissue products	The company will not knowingly use illegally harvested wood fiber or conflict wood. Illegally harvested wood fiber is defined as fiber obtained in violation of applicable government forest management requirements or other applicable laws and regulations. Conflict wood is defined as wood traded in way that drives violent armed conflict or threatens political stability.	The company has a goal of purchasing 100% of its wood fiber from suppliers which their forestry operations or wood fiber procurement are certified to FSC (preferred), SFI, CSA, CERFLOR (in Brazil) and PEFC. Other certification systems might be accepted. Kimberly-Clark tracks and reports annually the amount of wood fiber purchased under each forest certification system. The company audits and verifies suppliers' procurement practices.
Staples (office products, worldwide, reviewed 2010)	Paper products of any grade of paper	One of the long term goals of the policy is to source and trade paper products certified under the FSC system.	The policy is being implemented in a step-wise approach to increase the proportion of products certified under the FSC standard. Where FSC products are not available, PEFC, SFI and CSA certification is accepted. Suppliers are required to comply with all environmental and forestry laws, confirm the sources of fiber, and indicate if the fiber has been legally harvested and traded. Staples audits suppliers, and uses has a third party to assess randomly product supply chains.

Table 3 | **Examples of trade association’s demand for legal wood products**

TRADE ASSOCIATION	LEGALITY REQUIREMENTS AND/OR ACTIONS
IN PRODUCING COUNTRIES	
<p>Brazil, Federation of Timber Export Industries (AIMEX): Represents 40 businesses that produce and manufacture and export wood products in the State of Pará.</p>	<p>Through the Pact for Legal and Sustainable Timber, AIMEX members commit to ban sales of illegally harvested timber from the Amazon. Membership is suspended if a member is found guilty of trading illegal wood.</p>
<p>Cameroon, <i>Groupement Filière Bois du Cameroun (GFBC)</i>: Represents 18 organizations that are wood producers and exporters.</p>	<p>Through the association’s code of conduct, members commit to respect the relevant legislation in Cameroon, including laws related to forest management, environmental laws, payment of taxes and social/labor legislation. GFBC works with other groups to build its members capacity in a number of areas, including legality.</p>
<p>Canada, Quebec Wood Export Bureau (Q-WEB): Represents more than 200 wood products manufacturers and exporters in Quebec.</p>	<p>Through the association’s code of conduct, members commit to source wood from companies that know their suppliers and can demonstrate that those suppliers are legal; it also requires that suppliers provide evidence that the operations are law compliant.</p>
IN BUYING AND PRODUCING COUNTRIES	
<p>China, China Timber and Wood Product Distribution Association (CTWPDA): represents 1577 members, mostly manufacturers that buy and export wood products.</p>	<p>In 2010 CTWPDA established a special committee to, among other things, help set up a responsible procurement system for timber imports.</p>
<p>United States, National Wood Flooring Association (NWFA): represents all segments of the hardwood flooring industry.</p>	<p>A voluntary program for members, the NWFA Responsible Procurement Program is designed to help companies transition over time to products certified against the FSC standard and provide options for exercising due care under the U.S. Lacey Act.</p>
<p>United Kingdom, Timber Trade Federation (UK TTF): Represents about 180 members that cover about 60% of all timber imports to the UK.</p>	<p>Through the association’s code of conduct and procurement policy, members commit to purchase timber from legal sources, seek evidence of compliance from suppliers to ensure that the wood meets the legal requirements of the country of origin, and establish a due diligence system. The Federation operates a Responsible Purchasing Policy management system, which provides support to assess and implement legality and sustainability requirements.</p>

Table 4 | **General overview of the U.S. Lacey Act, the EU Illegal Timber Regulation and the Australian Illegal Logging Prohibition**

	U.S. LACEY ACT
Definition of legality	Unlawful to trade, receive, or acquire plants taken, harvested, possessed, transported, sold or exported in violation of underlying laws in a foreign country or in the U.S. The scope of laws is limited to plant protection laws, or laws that regulate: plant theft; taking plants from officially protected areas; taking plants from an officially designated area; taking plants without, or contrary to, required authorizations; failure to pay appropriate taxes or fees associated with the plant's harvest, transport, or trade; laws governing export or transshipment.
Requirements and applicability	Makes it illegal to trade illegally-sourced wood products in the U.S. Importers are required to declare country of harvest, genus and species, product's volume and value in a phased-in schedule. The law is applicable to anybody involved in the supply chains of wood products. Prohibition in effect since May 2008. Declaration requirements are being implemented in a phased-schedule.
Product scope	All plants and plant-derived products.
Compliance	A fact-based statute and not a process-based statute. No specific documentation/system is needed to demonstrate legality/compliance. The first major enforcement occurred in 2012 against Gibson Guitar, setting precedent on exercising due care systems to comply with Lacey (see Penalties).
Penalties	Penalties include forfeiture of goods and vessels, fines and prison terms. Penalties vary depending on the level of "due care" exercised by the importer. The highest penalty—a criminal felony fine for up to \$500,000 USD, possible jail time for up to five years, and forfeiture of goods—is for companies trading illegally-sourced products that did not exercise "due care". Due care means "that degree of care which a reasonably prudent person would exercise under the same or similar circumstances. As a result, it is applied differently to different categories of persons with varying degrees of knowledge and responsibility" (Senate Report 97-123).

Sources: EC Timber Regulation website; EIA, 2009; European Forest Institute, 2012; Official Journal of the European Union, 2010; CPET, 2011; U.S. Department of Justice, 2012; Mitchell, S. 2013; EU FLEGT Facility. 2012.

MEETING LEGALITY REQUIREMENTS

There are a number of resources available or emerging, for businesses to help comply with voluntary and mandatory legality requirements in the global marketplace. Resources include certification and verification systems, and supply chain management resources.

Forest certification and legality verification systems

Legality is covered in forest management certification standards; thus, certificates from the Forest Stewardship Council (FSC) and the Programme for the Endorsement of Forest Certification Systems (PEFC) and associated systems are often recognized as means to comply with legality requirements.

EUTR	AUSTRALIAN ILLEGAL LOGGING PROHIBITION ACT 2012 AND REGULATION (IN PROGRESS)*
<p>Timber logged illegally under the laws of the country of origin. Relevant legislation includes: legal rights to harvest; taxes and fees related to harvesting; compliance with timber harvesting laws, including forest management and biodiversity conservation laws; respect for third parties' legal rights and tenure; compliance with relevant trade and customs laws.</p>	<p>Timber logged illegally under the laws of the country of origin. Relevant legislation includes: legal rights to harvest; taxes and fees related to harvesting; compliance with timber harvesting laws, including forest management and biodiversity conservation laws; respect for third parties' legal rights and tenure; compliance with relevant trade and customs laws.</p>
<p>Prohibits placing on the EU market timber and timber products harvested illegally under the laws of the country of origin. It requires those who first place timber on the EU market to employ a due diligence system to ensure that the timber was harvested legally. Business along the supply chain must keep records to facilitate trace-ability of the products. The legislation entered in force in March 2013.</p>	<p>Prohibits import or processing of wood harvested in violation of laws in the country of origin. As of November 2012, the law applies to all importers of timber products and domestic processors of raw logs. Effective November 2014, the law will apply to importers of regulated timber products and domestic processors of raw logs. The regulation (in drafting) will require business along the supply chain to exercise due diligence.</p>
<p>Specifies a number of products that are covered under the EUTR.</p>	<p>Specifies a number of products. Applies to both Australian-grown and imported timber.</p>
<p>Economic operators are required to assess risk and employ adequate and proportionate measures and systems to minimize risk of sourcing illegal timber. Timber and timber product covered by FLEGT and CITES licenses are considered to be legally harvested.</p>	<p>Importers of regulated timber products and domestic processors of raw logs must assess risks and take measures to reduce risk of trading illegally-sourced wood products. Due diligence requirements vary by product.</p>
<p>Penalties are defined by member states.</p>	<p>Penalties of up to 5 years in jail, fines of up to \$85,000 AUD for individuals and \$425,000 AUD for companies, forfeiture of goods. Effective November 30, 2014, proof of negligence is needed to be deemed in violation of prohibition law. Penalties: Up to 5 years in jail, fines of up to \$85,000 AUD for individuals and \$425,000 AUD for companies, forfeiture of goods. Effective November 30, 2014: Penalty for violating due diligence requirements will be a fine of up to \$51,000 AUD for individuals and \$255,000 AUD for companies.</p>

* Some of the products covered include: fuel wood, wood in the rough, sawn wood, veneers, particleboard, fiberboard, plywood, frames, flooring, boxes, crates, caskets, barrels, pulp and paper, furniture, prefabricated buildings and others. The Regulation does not cover timber products or components of timber or timber products that have completed their lifecycle and would otherwise be disposed of as waste. It also excludes material used exclusively as packaging to support, protect or carry another product being placed on the market.

A number of systems and projects have emerged in response to market demands for legally-sourced products. These resources often involve an independent third-party that verifies the legality of the product against a pre-determined standard or set of criteria and indicators. The legality of the products can be verified at two levels: legality of the origin of the timber (e.g. the place where the timber

was cut is legally designated for such use), and the compliance of the harvesting operation with laws and regulations. Legality-verification systems and projects often include chain-of-custody criteria to trace the flow of products through the supply chain and to ensure that verified products are handled separately from non-legally verified products. Appendix 3 shows a brief compilation of existing legality verification standards.

In addition to legality verification systems, organizations like the World Wildlife Fund for Nature's Global Forest and Trade Network (GFTN) and The Forest Trust (TFT) have developed forest legality frameworks and legality checklists respectively, to help identify the relevant laws producers must comply with to meet the requirements of the global marketplace.

Supply chain management resources

Understanding the origin of the products, and their supply chains is critical for a procurement manager to assess whether the products originate from operations in compliance with relevant laws, or whether the wood comes from sustainably managed forests. Several technological approaches are emerging to help trace and verify the origin of the raw materials in products, including DNA tracing, fiber analysis and barcoding. There are also new technological applications that seek to help businesses exercise control over their supply chains, and increase the overall transparency of the supply chains regarding the origin of the raw materials.

Bilateral cooperation

Bilateral cooperation between consumer and producer markets and free trade agreements are additional efforts to address illegal logging through cooperation and dialogue. Examples include the U.S.-China and U.S.-Indonesia Memorandums of Understanding on Combating Illegal Logging and Associated Trade; the Japan-Indonesia Cooperation Agreement in Combating Illegal Logging and the Trade in Illegally Logged Timber and Wood Products; and the U.S.-Perú Free Trade Agreement. Some of the outcomes of this cooperation could result in control systems or overall improvements in the governance of the forest sector that would, in theory, reduce illegal logging in producing countries and help producers meet the demand for legal forest products.

Another example of bilateral cooperation targeting illegal logging is the Voluntary Partnership Agreements (VPA) under the European Forest Law Enforcement and Governance Plan (FLEGT) (Box 2). Under this arrangement, the European Union

BOX 2 | THE EUROPEAN UNION FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE (FLEGT) PROCESS AND THE VOLUNTARY PARTNERSHIP AGREEMENTS (VPAs)

The Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan is the European Union response to concerns about illegal logging and deforestation. FLEGT started in 2001, the Action Plan was completed in 2003.

The FLEGT Action Plan recognizes that consumer countries contribute to illegal logging through the demand for timber and wood-based products. The Plan encompasses seven measures, including the establishment of bilateral

partnerships (Voluntary Partnership Agreements, VPAs) with producing countries to build their capacity and support reforms in governance in the forest sectors to reduce the production of illegally harvested timber.

The VPAs also seek to establish and implement tracking and licensing systems, called Legality Assurance Systems (LAS), to ensure that only legally produced products enter the European Union.

As of April 2013, six countries have signed and/or ratified a VPA agreement and are developing their LAS (Cameroon, Central African Republic, Ghana, Indonesia, Liberia, and the Republic of Congo); six countries are in the negotiation phase (Democratic Republic of Congo, Gabon, Guyana, Honduras, Malaysia, and Vietnam); and 13 countries are in the pre-negotiation phase (Bolivia, Cambodia, Colombia, Côte d'Ivoire, Ecuador, Guatemala, Laos, Myanmar/Burma, Papua New Guinea, Perú, Sierra Leone, the Solomon Islands, and Thailand).

Sources: EC, 2003; Falconer, 2011; EFI FLEGT website.

works with select countries to build their capacity and support reforms in the governance of their forest sectors to reduce the production of illegally harvested timber. It is expected in many cases that FLEGT licenses and the Legality Assurance Systems established under a VPA could help businesses meet the legality requirements from, for example, European public procurement policies.

Other resources

A number of organizations have developed materials on forest legality requirements and the contextual situation in producing countries; these materials are a good source of information and updates on latest developments. Some of these resources include:

- The **Central Point of Expertise on Timber Procurement (CPET)**: Among other things, it provides information about the UK government's Timber Procurement Policy, EU Timber Regulation and FLEGT.
- The **Forest Legality Alliance's (FLA) Risk Information Tool (beta)**: Provides country- and species-focused information to help buyers and importers understand the legal context of the products they buy. The tool helps save time and money in the process of conducting due care and due diligence.
- Tropenbos International: The report "**Enhancing the Trade of Legally Produced Timber: A Guide to Initiatives**" provides a general overview of 127 government, private sector, NGO, and knowledge and capacity building initiatives related to illegal logging.
- **Illegal Logging Portal** (www.illegal-logging.info): Provides information (news, documents, events, etc) about illegal logging and illegal timber trade.
- WWF's **Global Forest Trade Network (GFTN)**: Provides tools and resources for a range of stakeholders, including a *Guide to Legal and Responsible Purchasing of Forest Products*.

CONCLUSION

Governments, civil society organizations and the private sector may be having a significant impact on illegal logging. A 2010 study of producer, processing and consumer countries suggests that illegal logging might have decreased significantly in Cameroon, the Brazilian Amazon and Indonesia over the last decade (Lawson and MacFaul, 2010). However, estimates of illegality are wide-ranging, rendering it difficult to decisively determine change in trends. The amount of illegal logging is still significant in many countries.

Legality requirements in the global marketplace are here to stay. Recognizing the detrimental effects of illegal logging and the illegal timber trade, including loss of biodiversity and ecosystem services provided by forests and significant economic losses, governments are taking steps to promote the trade of legal wood. Companies must respond to the growing demand for legal forest products and take appropriate measures to ensure their forest products are coming from legal sources, but there is a number of resources available to help businesses understand and meet these legality requirements.

To be clear, legality is not synonymous with sustainable procurement. What is "sustainable" may not always be legal and what is "legal" may not always be sustainable. Some countries may not have laws in place to protect their forests from unsustainable rates of harvest. Therefore, additional considerations are necessary to ensure wood and paper-based products are coming from sustainable sources. For further guidance, refer to the publication, *Sustainable Procurement of Wood and Paper-based Products: Guide and Resource Kit*.

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ABBREVIATIONS AND ACRONYMS

ATFS	American Tree Farm System	MTCS	Malaysian Timber Certification System
AIMEX	Federation of Timber Export Industries	NWFA	National Wood Flooring Association
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora	PEFC	Programme for the Endorsement of Forest Certification
CoC	Chain-of-Custody	PEOLG	Pan-European Operational Level Guidelines
CPET	Central Point of Expertise on Timber Procurement (UK)	Q-WEB	Quebec Wood Export Bureau
CPI	Corruption Perception Index	SFI, Inc.	Sustainable Forestry Initiative, Inc.
CSA	Canadian Standards Association	SFM	Sustainable Forest Management
CTWPDA	China Timber and Wood Products Distribution Association	TFT	The Forest Trust
FAO	Food and Agriculture Organization	TLTV	Timber Legality and Traceability
FLEGT	Forest Law Enforcement, Governance and Trade	TTAP	Timber Trade Action Plan
FSC	Forest Stewardship Council	TTF	Timber Trade Federation
GFBC	Groupement Filière Bois du Cameroun	UK TTF	UK Timber Trade Federation
GFTN	Global Forest and Trade Network	UNEP	United Nations Environment Programme
ITTO	International Tropical Timber Organization	VLC	Verification of Legal Compliance
IUCN	World Conservation Union,	VLO	Verification of Legal Origin
LAS	Legality Assurance System	VPA	Voluntary Partnership Agreement
LEI	Lembaga Ekolabel Indonesia (Indonesian Ecolabeling Institute)	WB	World Bank
		WBCSD	World Business Council for Sustainable Development
		WCMC	World Conservation Monitoring Centre
		WRI	World Resources Institute
		WWF	World Wide Fund for Nature

APPENDIX 1. THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (CITES)

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) was established in 1963 to limit and regulate the trade of endangered species. CITES is an international, legally binding agreement to ensure that international trade of certain animals and plants does not threaten their survival. All import, export, and introduction of species covered by CITES must be

authorized through a licensing system established by member countries. Each country designates one or more Management Authorities to administer the licensing system, advised by one or more Scientific Authorities. Based on the degree of protection needed, species covered by CITES are listed in three appendices.

Timber Species Listed in CITES by Appendix (as of 8/12; excluding species used for medicinal, traditional or ornamental purposes)

SCIENTIFIC NAME	LISTING APPLIES TO	NATURAL DISTRIBUTION
APPENDIX I: TIMBER SPECIES THAT ARE THREATENED WITH EXTINCTION. TRADE IS PERMITTED, BUT UNDER VERY RESTRICTED CIRCUMSTANCES.		
<i>Abies guatemalensis</i>	All parts and derivatives, including manufactured and finished products ¹ from any country of origin.	Guatemala, Honduras, Mexico and El Salvador
<i>Araucaria araucana</i>	All parts and derivatives, including manufactured and finished products ² from any country of origin.	Argentina, Chile
<i>Balmea stormiae</i>	All parts and derivatives.	Mexico, Guatemala, El Salvador, Honduras
<i>Dalbergia nigra</i>	All parts and derivatives, including manufactured and finished products, ³ from any country of origin.	Brazil
<i>Fitzroya cupressoides</i> (Molina) I. M. Johnston	All parts and derivatives, including manufactured and finished products. ⁴ Logging ban in Chile since 1976.	Argentina, Chile
<i>Pilgerodendron uviferum</i>	All parts and derivatives, including manufactured and finished products ⁵ from any country of origin.	Argentina, Chile
<i>Podocarpus parlatorei</i>	All parts and derivatives, including manufactured and finished products ⁶ from any country of origin.	Argentina, Bolivia, Peru
APPENDIX II: TRADE OF THESE SPECIES IS CONTROLLED AND REGULATED TO ENSURE THEIR SURVIVAL.		
<i>Aniba rosaeodora</i>	Logs, lumber, plywood and veneer, from any country of origin.	Brazil, Colombia, Ecuador, Guyana, French Guiana, Peru, Surinam and Venezuela
<i>Bulnesia sarmientoi</i>	Logs, lumber, plywood, and veneer from any country of origin.	Argentina, Bolivia, Paraguay

Timber Species Listed in CITES by Appendix (as of 8/12; excluding species used for medicinal, traditional or ornamental purposes), continued

SCIENTIFIC NAME	LISTING APPLIES TO	NATURAL DISTRIBUTION
APPENDIX II: TRADE OF THESE SPECIES IS CONTROLLED AND REGULATED TO ENSURE THEIR SURVIVAL.		
<i>Caesalpinia echinata</i>	Logs, lumber, veneer, and unfinished wood articles from any country of origin.	Brazil
<i>Caryocar costaricense</i>	All parts and derivatives, including manufactured and finished products ⁷ from any country of origin.	Colombia, Costa Rica, Panama, Venezuela
<i>Gonystylus spp</i>	All <i>Gonystylus</i> species, and to all parts and derivatives, including manufactured and finished products ⁸ from any country of origin.	Brunei, Darussalam, Fiji, Indonesia, Malaysia, Singapore, Solomon Islands, the Philippines
<i>Guaiacum spp.</i>	All <i>Guaiacum</i> species; all parts and derivatives from any country of origin except finished products packaged and ready for retail trade. ⁹	Anguilla, Antigua, Barbuda, Bahamas, Barbados, Colombia, Cuba, Dominican Republic, Haiti, Jamaica, Puerto Rico, Venezuela
<i>Oreomunnea pterocarpa</i>	All parts and derivatives, including manufactured and finished products ¹⁰ from any country of origin.	Costa Rica, possibly other Mesoamerican countries
<i>Pericopsis elata</i>	Logs, lumber and veneer.	Cameroon, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Ghana, Nigeria
<i>Platymiscium pleiostachyum</i>	All parts and derivatives including manufactured and finished products. ¹¹	Costa Rica, El Salvador, Honduras, Nicaragua
<i>Prunus africana</i>	All parts and derivatives, except finished products packaged and ready for retail and trade.	Angola, Burundi, Cameroon, Democratic Republic of the Congo, Equatorial Guinea, Ethiopia, Kenya, Madagascar, Mozambique, Rwanda, South Africa, Sudan, Swaziland, Uganda, Tanzania, Zambia, Zimbabwe
<i>Swietenia humilis</i>	All parts and derivatives, including manufactured and finished products ⁹ from any country of origin.	Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama
<i>Swietenia macrophylla</i>	Logs, lumber, plywood and veneer that originate in Latin America and the Caribbean a exception of Brazil or Nicaragua. There is, however, an export ban in Brazil and Nicaragua.	Belize, Bolivia, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Guyana, French Guyana, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, Venezuela
<i>Swietenia mahagoni</i>	Logs, lumber and veneer from any country of origin.	Anguilla, Antigua and Barbuda, Bahamas, Barbados, Cayman Islands, Colombia, Cuba, Dominican Republic, Grenada, Guadeloupe, Jamaica, Martinique, Montserrat, Peru, Trinidad and Tobago, United States, Venezuela

SCIENTIFIC NAME	LISTING APPLIES TO	NATURAL DISTRIBUTION
APPENDIX III: SPECIES SUBJECT TO SPECIAL MANAGEMENT WITHIN A COUNTRY		
<i>Cedrela fissilis</i>	Logs, lumber and veneer from any country of origin.	Argentina, Bolivia, Brazil, Colombia, Costa Rica, Ecuador, Panamá, Paraguay, Peru, Venezuela
<i>Cedrela lilloi</i>	Logs, lumber and veneer from any country of origin.	Argentina, Bolivia, Brazil, Paraguay, Peru
<i>Cedrela odorata</i>	Logs, lumber and veneer from any country of origin.	Antigua and Barbuda, Argentina, Barbados, Belize, Bolivia, Brazil, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, French Guyana, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Peru, Surinam, Venezuela
<i>Dalbergia retusa</i>	Logs, lumber and veneer that originate from Guatemala.	Pacific seaboard from Mexico to Panama
<i>Dalbergia darienensis</i>	Applies to products that originate from Panama. Applies to all parts and derivatives, except finished products ready for retail trade.	Colombia, Panama
<i>Dalbergia louvelii</i>	Logs, lumber, veneer. Applies to articles originating in any country.	Madagascar
<i>Dalbergia monticola</i>	Logs, lumber and veneer.	Madagascar
<i>Dalbergia normandii</i>	Logs, lumber and veneer.	Madagascar
<i>Dalbergia purpurascens</i>	Logs, lumber and veneer.	Madagascar
<i>Dalbergia stevensonii</i>	Logs, lumber and veneer that originate from Guatemala.	Southern Belize, Guatemala and Mexico
<i>Dalbergia xerophila</i>	Logs, lumber and veneer.	Madagascar
<i>Diospyros spp.</i>	All species of Diospyros. Logs, sawn wood and veneer sheets from any country.	Madagascar
<i>Dipteryx panamensis</i>	All parts and derivatives, including manufactured and finished products from any country of origin.	Nicaragua, Costa Rica, Panama and Colombia

¹ Including building materials, cabinetmaking materials, charcoal, firewood, flooring, containers, fuel wood, furniture, joinery, matches, particleboard, plywood, pulp/paper products, roof shingles and veneer among other products.

² Including construction material, flooring, furniture, joinery, plywood, pulp/paper products and railroad trails among other products.

³ Including bedroom furniture, billiard-cue butts, boat building, bobbins, boxes and crates, brush backs and handles, cabinetmaking materials, chairs, chests, decorative plywood, musical instruments, parts of musical instruments and veneer among other products.

⁴ Including agricultural implements, boat building materials, boxes, crates, containers, cabinetmaking materials, carvings, cigar boxes, construction materials, cooperages, flooring, fuel wood, furniture and furniture components, joinery, musical instruments, particleboard, pencils, piling, plywood, poles, pulp/paper products, shakes, shingles, sporting goods and toys among other products.

⁵ Including flooring, furniture, posts and timber.

⁶ Including timber.

⁷ Including railroad ties.

⁸ Including brush backs, building materials, ceilings, counter tops, door frames, dowels, flooring, furniture, joinery, moldings, handles (e.g. brooms and umbrellas), paneling, picture frames, plywood, pool cues and racks, rulers, shoji screens, stair treads, stringers, tool handles, toys, trays, tripods, turnery, blinds, window frames among other products.

⁹ Including: bearings and bushings, boat building materials, brush backs and handles, bush blocks, furniture, golf club heads, marine construction materials, railroad ties, shade rollers, tables, turnery, and wheels among other products.

¹⁰ Including a variety of products.

¹¹ Including furniture, musical instruments, timber and veneer.

¹² Including bearings and bushings, barge and dock fenders, boat construction articles, chemical derivatives, cogs and shafts, cross ties, fishing rods, flooring, furniture, heavy construction, railroad ties, tool handles, turnery and veneer among other products.

Notes: Logs are defined as all wood in the rough whether or not stripped of bark or sapwood, or roughly squared for processing. Lumber is defined as wood sawn lengthwise or produced by a profile-chipping process; normally exceeds 6mm in thickness. Plywood is defined as three or more sheets of wood glued and pressed one on the other and generally disposed so that the grains of successive layers are at an angle. Veneer is defined as thin layers or sheets of wood of uniform thickness, usually peeled or sliced for use in plywood and furniture among other products.

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APPENDIX 2. LOGGING AND EXPORT BANS

Many countries have instated log export bans to protect their forests, or to bolster the domestic timber industry. Below is a non-exhaustive list of export bans in effect and product scope of the bans:

COUNTRY	PRODUCT AND APPLICABILITY	YEAR ENACTED
AFRICA		
Cameroon	Log export restrictions to progressively increase the share local processing. Export ban that applies to some hardwood species.	1999
Cote d'Ivoire	Unprocessed logs export ban. Log export ban for high-value timber species.	1976
Gabon	Logs, boules and through cut logs.	2010
Ghana	Log export ban.	1994
Madagascar	Export ban of unfinished wood products.	1975
Mozambique	1st class logs cannot be exported; they have to be processed domestically.	2012
Nigeria	Log export ban.	1976
AMERICA		
Belize	Rosewood logging and export ban.	2012
Bolivia	Export of unprocessed forestry products is subject to restrictions and highly regulated.	1996
Brazil	Log export ban; moratorium of mahogany (<i>Swietenia macrophylla</i>) exports. Certain wood exports are subject to specific rules and require prior authorization.	1969
Canada	Restrictions on log exports from British Columbia. There is a variety of Federal and Provincial regulations regarding log exports.	1906
Chile	Logging ban of <i>Araucaria araucana</i> and <i>Fitzroya cupressoides</i> (both CITES Appendix I).	1976
Colombia	There are regulations that restrict log exports from natural forests. Only roundwood from planted forests can be exported.	1997
Costa Rica	Log export ban, and export ban of roughly squared wood from specific species.	1986
Ecuador	Roundwood export ban, except in limited quantities for scientific and experimental purposes. Semi-finished products exports are allowed only when "domestic needs and the minimum levels of industrialization have been met."	2005
Guatemala	Exports of logs of more than 11 cm in diameter are banned, unless they originate from plantations. Ban does not apply to furniture and processed products made from wood.	1996

Appendix 2: Logging and Export Bans, continued

COUNTRY	PRODUCT AND APPLICABILITY	YEAR ENACTED
AMERICA		
Guyana	2009 national log export policy introduced phased-in commission rates to exports of key species. Only companies holding forest concessions are permitted to export logs.	2009
Honduras	Export ban of wood from certain forests unless it is in finished products.	1998
Nicaragua	Precious hardwoods export ban. Mahogany exports are allowed only in the form of sawn wood, plywood or veneered wood. Sawn wood exports require a license.	1997
Panama	Export ban of logs, stumps, roundwood or sawn wood of any species from natural forests, as well as from wood submerged in water.	2002
Paraguay	Log export ban	1970
Peru	Log export ban. Export of forest products “in their natural state” is prohibited except when they originate from nurseries, forest plantations, and if they do not require processing for final consumption.	1972
US	Ban of exports of unprocessed roundwood harvested from federal lands in Alaska; export ban on logs from state and other public lands (except Indian lands) west of the 100th meridian.	1926; 1990
Venezuela	Log export ban for five species: caoba, cedro, mijao, pardillo, pau d'arco.	2001
ASIA & PACIFIC		
Cambodia	Log export ban.	1992
Fiji	Log export ban.	1994
Indonesia	Log export ban. Ban amended in 2009 to allow plantation grown logs can be exported due to low returns from domestic consumption.	1980
Laos	Export ban on logs, roundwood, sawn wood and semi-finished products sourced from natural forests.	1991
Malaysia	Quota on export logs from Sarawak and Sabah; Peninsular Malaysia has a total ban of round logs exports; Sabah allows the export of only 40% of the total volume of harvested logs.	1992
New Zealand	Export ban on most logs, chips, and sawn timber from natural forests, along with harvesting restrictions to areas with approved sustainable forest management plans.	1993
Papua New Guinea	Quotas on allowable logs for export, now replaced by log export duties.	1994

COUNTRY	PRODUCT AND APPLICABILITY	YEAR ENACTED
ASIA & PACIFIC		
Philippines	Export ban on all native wood products except value added products; log export ban on logs from natural forests, but allows export of logs from plantation forests.	1983
Sri Lanka	Logging ban.	1990
Thailand	Logging ban.	1986
Vietnam	Log export ban; export ban on sawn timber from wood harvested from natural forests.	1992

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APPENDIX 3. LEGALITY VERIFICATION SYSTEMS

ORGANIZATION	SYSTEM/YEAR	OVERVIEW
Bureau Veritas	Timber Origin and Legality (OLB in French) (2004, updated in 2005).	Verifies the geographic origin of the forest products and the legal compliance of the forest company.
CertiSource	Legality Assessment for Verified Legal Timber (2007, updated in 2007).	Verifies origin and legality of the products. System is a first step towards FSC certification.
Keurhout	Keurhout Legal System (Validation of the Legal Origin of Timber; 2004, updated 2009).	Validates the legality of the origin of timber. The standard is part of the Keurhout Protocol. The validation is considered a first step towards SFM certification.
Rainforest Alliance	SmartWood Verified Legal Origin (VLO) (2007, updated 2010).	Verifies that timber originates from forest sources that have documented legal rights to harvest. VLO is considered a first step towards FSC certification.
	SmartWood Verified Legal Compliance (VLC) (2007, updated in 2010).	Verifies that the harvesting operation complies with applicable and relevant forestry laws and regulation. VLC is considered a first step towards FSC certification.
SCS Global Systems	Legal Harvest TM Verification (LHV) (2010).	Verifies the legality of the source of forest products focusing on the organization's legal right to harvest and the Chain of Custody system.
The Soil Association's Woodmark	Verification of origin and legal tenure (2010).	Verifies the legal origin of wood and the rights to harvest it. The system supports companies in achieving FSC certification.

Sources: CPET, 2011; Donovan, 2010; CertiSource, 2010; CertiSource, 2011; Keurhout Management Authority, 2009; Keurhout Management Authority, 2010; Rainforest Alliance, 2010 A; Rainforest Alliance, 2010 B; SCS 2010 A; SCS 2010 B; SCS 2010 C; BVG 2004; BVG 2010; BVG 2009; BVG, 2010.

SCOPE						
GEOGRAPHIC COVERAGE	THEMATIC					
	LEGAL RIGHT TO HARVEST ¹	LA COMPLIANCE ²	TAXES/FEEES ³	TENURE/USE RIGHTS OF RESOURCES ⁴	TRADE REGULATION ⁵	OTHER CRITERIA ⁶
Global	X	X	X	X	X	X
Indonesia	X	X	X	X	X	X
Global	X	X	X	X	X	X
South East Asia, China, Democratic Republic of Congo.	X	*	X	X	X	X
	X	X	X	X	X	X
Global	X	X	X	X	X	
Global	X	*		X		

¹ Including: legal tenure, legal rights and authorization to access and harvest the resources.

² Compliance with laws, regulations and administrative requirements related to forest management, labor, transportation, and health and safety.

³ Compliance with tax/royalties laws and regulations.

⁴ Respect for tenure or use rights of land and resources that might be affected by timber harvesting rights.

⁵ Compliance with trade and export laws and regulations.

⁶ Compliance with international laws and agreements including CITES, International Labor Organization, the Convention of Biological Diversity, etc.

* partially covered

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Natural resources are at the foundation of economic opportunity and human well-being. But today, we are depleting Earth's resources at rates that are not sustainable, endangering economies and people's lives. People depend on clean water, fertile land, healthy forests, and a stable climate. Livable cities and clean energy are essential for a sustainable planet. We must address these urgent, global challenges this decade.

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