

Reconciling international accountability with national interests: Verification of legality in the tropical timber trade

Forest Policy and Environment Programme

Illegal logging is currently the central policy preoccupation of development assistance to tropical forestry. It is easy to see why. It is all too symptomatic of the poor state of governance in many forest-rich societies, and the low levels of accountability in public affairs. Typically, between 50 and 95% of tropical hardwoods are estimated to be harvested illegally. This implies huge losses to national revenues. It retards the attainment of the millennium development goals, and undermines the efforts of responsible enterprises to improve forest management. In a country such as Cameroon, the losses to the treasury have been estimated at about \$100 million (equivalent to almost 1% of annual tax revenues). At the same time, illegal logging in the tropics impacts negatively on non-tropical producers and the global trade in wood products – for example, a recent study suggests that the losses to US industry from the unfair competition with illegal tropical timbers are of the order of half a billion dollars per year. Thus, it affects some powerful interest groups.

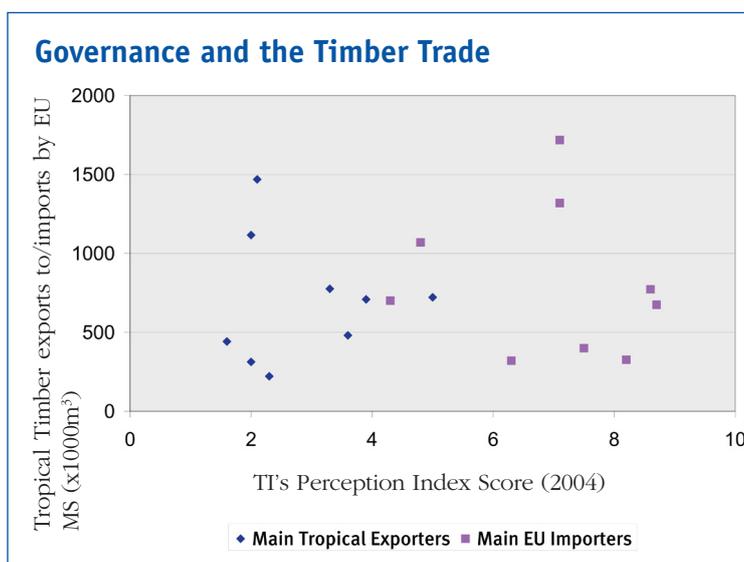
Development policy interest in the issue of illegal logging relates to:

- its relevance to debates about poverty alleviation and sustainable, pro-poor development in natural resource-based economies.
- its value as an entry point for wider governance reform.

Tropical timber is among the extractive industries that tend to be associated with weak states. The graph opposite provides one basic indicator of this. The graph plots governance scores on the x axis (using, as a rather crude and non-sectoral indicator, Transparency International's Perception Index for 2004) and timber volumes traded on European markets on the y axis. The tropical timber producers exporting to EU markets (blue diamonds) are grouped on the left hand side of the graph (low governance scores) while the main importers among the EU member states (purple squares) are grouped further

to the right (in the main, higher governance scores). The hope is that improved management of the timber trade will have a major influence not just on the environment but also on the quality of governance.

By and large, attempts to reform tropical forest governance by means of conditionalities linked to adjustment lending can be judged as only a limited success. What aid conditionalities cannot deliver is national ownership, and their effects tend to be superficial and short-term. An alternative route to reform is through demand-side pressures, and in this context, the European Union's 'Action Plan for Forest Law Enforcement, Governance and Trade' is of particular interest. Under the Action Plan, the EU is encouraging its tropical partners to sign up to 'voluntary partnership agreements' (VPAs), where the legality of their timber exported to EU markets will be attested by the relevant government, and endorsed by key stakeholder groups. Such trade incentives are not applicable universally – at present only some European and North American markets are notably 'green', and even there,



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consumers have proven reluctant to pay the levels of price premium that would have a lasting effect on production practices. However, as a complement to more supply-side approaches, VPAs may have a useful role to play.

Implementing VPAs in the producer states is not without problems, particularly in a pro-poor frame of reference. Illegality may well be a reflection of forest crime – but this is not always the case, and account also has to be taken of obstacles to legality. The legal and regulatory frameworks inherited from the colonial period tend to be complex and contradictory, for example, and the courts have often struggled to cope. In many cases, the poor depend on ‘illegal’ access to resources which they could well stand to lose were the regulations to be rigorously enforced. Mere application of the law (or at least, those aspects of it that appeal to political elites) is likely, in many cases, to prove profoundly anti-poor. The issue is therefore not just one of ‘legality’ of timber products but also how to create equitable frameworks for resource use and increase the broader responsiveness of government to the citizenry. Thus, matters that may, at one level, appear specific to the forest sector raise bigger questions about political structures and transformations, and the pathways to enduring democratic reform.

One of the main requirements for establishing VPAs is to set up systems of verification which firmly establish that timber has been legally sourced and processed, and that the industry operates in a transparent way. ODI has launched a collaborative research project – VERIFOR – to explore the implications. Working with partners in South America, Africa and Asia, VERIFOR will assist the development of verification systems that have broad national and international legitimacy.

This is new territory for tropical forestry though some important pointers are already starting to emerge on how to build verification systems that take better account of national ownership, accountability and poverty impacts. These include:

- The need for a clear understanding from the outset of the purposes that verification is intended to serve; these vary from case to case, and may include: international policing and public protection (as in the case of nuclear inspection); ensuring efficiency and value-for-money (as with non-marketed public services, where the emphasis is on creating competition surrogates); quasi-judicial functions (as with ombudsmen); building market confidence (one of the main aims of timber verification); support to law enforcement; or some combination of these.

- the importance of locating the drive to legality and verification firmly within national policy processes which have already gained support in the society;
- the importance of building in a pro-poor perspective from the start – both as regards research instruments (poverty assessments and impact studies) and remedial measures (actions to compensate poor forest users for opportunities foregone, particularly where they have no easy alternative subsistence and/or income-generating strategies);
- the need to ensure that the development of verification systems runs in tandem with efforts to address anti-poor dimensions of forest law, including the lack of tenurial rights and the generally high transaction costs of legal compliance by small-scale forest producers;
- the need to balance northern and southern interests, and to ensure that the controls that are put in place to satisfy northern environmental concerns also contribute to improved accountability in the south, and do not disadvantage the forest-dependent poor;
- the need to adopt a perspective on verification which goes beyond the more internationally attractive and high-publicity aspects (for example, the work of international rights monitors), and builds in broad public accountability and legitimacy;
- the importance of safeguarding the independence and integrity of the system of verification, given the variety of national and international actors with an interest in the sector, and the wide disparities in their wealth, voice and influence.

Among the challenges to be faced is the highly variable governance situation in producer states. Some effective verification systems already exist, but these tend to be the product of social forces which largely originate outside the forest sector. They may not lend themselves readily to policy transfer. Particularly problematic are those societies in which low levels of environmental governance are manifest not only in the way in which timber is integrated into the patronage circuits which underpin national politics, but also in the absence of strong civil society structures with which reformers can easily engage. Rationalising the timber trade is demanding in itself, but doing so in ways that both promote good governance and secure the wellbeing of the poor is even more challenging. Two questions are fundamental: can governance reform be pursued on a sectoral basis, and if so, what are the chances that the forest sector can emerge as the champion of wider governance reform?

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