

Submission by New Zealand to the Senate Rural Affairs and Transport Legislation Committee

Inquiry into the Australian Illegal Logging Prohibition Bill 2011

New Zealand acknowledges Australia's efforts to address the important global environmental problem of the trade in illegally harvested forest products. We welcome the opportunity to comment on Australia's Illegal Logging Prohibition Bill as modified by recommendations made by the Senate Rural Affairs and Transport Legislation Committee in its report from 23rd June 2011.

Our comments are focused on the need to ensure that countries that present a low risk of exporting illegally-logged forestry products, like New Zealand, are not subject to unnecessary, onerous or costly requirements. With this in mind, New Zealand supports the concept introduced in the Explanatory Memorandum (p.16) that subordinate legislation outline circumstances in which a trade description relating to due diligence may be used.

If trade descriptions are linked to certain species / products from specified countries, it would enable costs and requirements to match the risks posed, reduce compliance costs for Australian importers of products from low-risk countries and, importantly, could provide incentives for high risk countries and / or companies to establish appropriate systems to address illegal harvesting.

We consider that all plantation-derived forestry products from New Zealand and timbers originating from indigenous forests harvested in accordance with Part 3A of the Forests Act 1949 should qualify for a special trade description. Consequently, importers and consumers of forestry products from New Zealand could be assured that these are compliant with the Bill, reducing unnecessary compliance costs for Australian importers for a significant timber source (i.e. imports of timber products from New Zealand made up 40% of Australia's total softwood timber in 2008).

In order to encourage other positive environmental outcomes, wood-based products derived from recycled sources should automatically qualify for the special trade description. The same approach should be extended to paper and packaging made from recycled sources (if the trade in these products is covered under the Bill).

We also comment on need to ensure that the Bill's implementing regulations are outcome-based, not prescriptive, to cater for differences in countries' harvesting laws, the large range of forest products, complex supply chains and future changes in technology and reporting systems.

To conclude, the scope and nature of the regulations to be promulgated under this framework Bill will have significant implications for the trans-Tasman trade. Crucial elements of interest to New Zealand include the product coverage and requirements for importers' due diligence processes. With so much at stake we would like to have the opportunity to make a submission on subsequent draft regulations developed by the Department of Agriculture, Fisheries and Forestry (DAFF) and the Industry Regulatory Working Group.

New Zealand's forestry trade to Australia

The implementation of the Bill has the potential to have a significant negative impact on New Zealand's forestry industry: an industry almost entirely based on privately-owned plantation forests that are established specifically to be harvested. Australia is our second largest market for forestry products and imported NZ\$824 million of these products in the year to December 2010. So it is vital that the Bill and its implementing regulations do not impose unnecessary costs on either the Australian importers of forestry products from low-risk countries, like New Zealand, or on the low-risk countries themselves.

New Zealand's forestry products are legal

New Zealand's comprehensive regulatory framework ensures that exports of New Zealand-grown forest products are legal and as such, we would like to see our low-risk status (as acknowledged in DAFF commissioned research) formally recognised by Australia. This is important to New Zealand because the nature of our regulatory framework means that forest operations are not governed by one law. The prime piece of legislation is compliance with our Resource Management Act 1991 (RMA), which governs the sustainable management of **all** our natural resources. Other Acts are also important including Part 3A of the Forests Act 1949 for controlling exports of timber from indigenous species.

This points to the need for Bill's intended subordinate legislation to be outcome-based, rather than prescriptive, to cater for different systems in different countries.

Due diligence requirements

We recognise that the Bill establishes a framework and that regulations to support its implementation are still to be developed. These will prescribe the products to be covered and the requirements for the importers' audited 3-step due diligence processes.

We are encouraged by comments in the Explanatory Memorandum stating that due diligence requirements will be developed in consultation with key stakeholders to create a cost effective, efficient and adaptable risk management regime. In this respect, New Zealand would like to have the opportunity to make a submission on draft regulations developed by DAFF and the Industry Regulatory Working Group.

Of interest to New Zealand is the suggestion that due diligence requirements might cater for:

- different timber product categories (e.g. solid, composite, manufactured, processed), supply chains of different complexity (e.g. single, multiple, short, long); and
- the applicable laws of different countries.

We would appreciate clarification on how these will be used to cater for imports from countries that present a low-risk of exporting illegally-logged forest products.

The Explanatory Memorandum states that the due diligence requirements for domestic processors may be satisfied by territory licences, permits or other mechanisms as evidence that processed domestic raw logs have been harvested in compliance with state and territory laws. Due diligence will be satisfied by tracing product through a short, and therefore inexpensive, chain of custody, i.e. the harvest of raw logs to a wood processor. This recognises the low-risk of illegal logging occurring in Australia. It may also give the domestic timber processing industry a competitive advantage over imports via reduced compliance costs. New Zealand would like to see that imports from low-risk countries are also subject to inexpensive due diligence requirements.

Requirements should be outcome-based

We appreciate that the Australian government's prohibition on illegal logging will demand that due diligence requirements have the necessary rigour to provide credible legality assurances. However it is important that the due diligence requirements are not overly prescriptive concerning the evidence necessary to substantiate legality. The regulations should be outcome-focused to enable customised approaches exporters may have for providing credible, yet cost effective, legality assurances to meet importers' due diligence processes.

New Zealand forest products exporters would like to have the opportunity to communicate and demonstrate to their importers the effectiveness of their systems and processes. Efforts will be put into providing importers with assurances that New Zealand produced forestry products meet regulatory requirements in a way which matches the risks forestry exports from New Zealand pose. Additionally our forestry industry want to provide assurances of legality consistent with how the New Zealand forestry sector is regulated, which is not through a single forestry law but is covered under a comprehensive and sound regulatory framework focused on resource management principles, enforced land and property rights and an independent and rigorous judicial system.

The legality of imports of different timber products with different supply chain complexities

It is vital that the regulations for due diligence requirements recognise legality for the range of different forestry product categories and different chains of supply complexities.

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