

STATEMENT TO SENATE RURAL AFFAIRS AND TRANSPORT COMMITTEE

ON BEHALF OF HUMANE SOCIETY INTERNATIONAL I WOULD LIKE TO THANK THE COMMITTEE FOR THE OPPORTUNITY, TO SPEAK TO YOU ON OUR SUBMISSION ON THE ILLEGAL LOGGING PROHIBITION BILL 2011.

HUMANE SOCIETY INTERNATIONAL (HSI) IS THE GLOBAL ARM OF THE HUMANE SOCIETY OF THE UNITED STATES (HSUS). HSI WORKS WITH NATIONAL AND JURISDICTIONAL GOVERNMENTS, TO PROMOTE THE PROTECTION OF WILDLIFE AND HABITATS ACROSS THE GLOBE. THE HSUS/HSI HAS APPROXIMATELY 10 MILLION MEMBERS. THE AUSTRALIAN OFFICE WAS ESTABLISHED IN 1994 AND WITH 40,000 SUPPORTERS, CONCENTRATES ON NATIONAL AND REGIONAL BIODIVERSITY CONSERVATION ISSUES.

HSI HAS BEEN ACTIVELY INVOLVED IN INTERNATIONAL FOREST ISSUES IN NUMBER OF WAYS.

WE SUPPORT NGO ON-GROUND FOREST PROTECTION PROGRAMS IN SUMATRA (BUKIT TIGAPULUH NATIONAL PARK – WITH THE AUSTRALIAN ORANGUTAN PROJECT) AND KALIMANTAN (TANJUNG PUTING NATIONAL PARK – WITH THE FRIENDS OF THE NATIONAL PARKS FOUNDATION) – TO WHICH WE HAVE CONTRIBUTED HUNDREDS OF THOUSANDS OF DOLLARS OVER A 10 YEAR PERIOD.

WE HAVE BEEN AN ACTIVE PARTICIPANT IN THE INTERNATIONAL CLIMATE CHANGE NEGOTIATIONS

(ESTABLISHING THE GLOBAL ECOSYSTEM CLIMATE ALLIANCE- AN ALLIANCE OF LIKE –MINDED INTERNATIONAL NGOS) IN RELATION TO REDUCED EMISSIONS FROM DEFORESTATION AND FOREST DEGRADATION IN DEVELOPING COUNTRIES, OR REDD +. THAT IS DEVELOPING AN INTERNATIONAL AGREEMENT ON MEASURES TO REDUCE TROPICAL DEFORESTATION AND FOREST DEGRADATION IN ORDER TO PROTECT THE GREAT NATURAL CARBON STORES CONTAINED IN THE WORLD'S NATURAL FORESTS.

WE PLAYED A SIGNIFICANT ROLE THROUGH THEN ENVIRONMENT MINISTER MALCOLM TURNBULL IN ESTABLISHING INTERNATIONAL FOREST AND CARBON INITIATIVE WHICH HAS RECEIVED ON-GOING BI –PARTISAN SUPPORT.

A KEY POINT THAT HSI HAS BEEN MAKING IN THE REDD + NEGOTIATION IS THE NEED TO ADDRESS DEMAND FOR FOREST PRODUCTS. ONE ASPECT OF THIS IS TO CUT TRADE IN ILLEGALLY AND UNSUSTAINABLY PRODUCED FOREST PRODUCTS. HSI ACKNOWLEDGES THAT ONLY A SMALL PROPORTION OF THE WORLD'S TRADE IN ILLEGALLY LOGGED IS IMPORTED INTO AUSTRALIA. NEVERTHELESS IT HAS BEEN INCONSISTENT FOR AUSTRALIA TO BE VIGOROUSLY PURSUING AN INTERNATIONAL REDD+ AGREEMENT AND TO HAVE SPENT UNDER BOTH COALITION AND LABOR GOVERNMENTS 100S OF MILLIONS OF DOLLARS UNDER THE INTERNATIONAL FOREST CARBON

INITIATIVE SUPPORTING DEVELOPING COUNTRIES EFFORTS TO CURB DEFORESTATION AND TO NOT BAN ENTRY INTO AUSTRALIA OF ILLEGALLY LOGGED TIMBER.

WE THEREFORE SUPPORT THE GOVERNMENT'S INITIATIVE TO INTRODUCE LEGISLATION THAT WILL BAN IMPORT OF ILLEGALLY LOGGED TIMBER, EVEN THOUGH IT HAS TAKEN A NUMBER OF YEARS TO REACH THIS POINT FROM LABOR'S ORIGINAL COMMITMENT.

I SHOULD ALSO MENTION THAT HSI HAS FOR A NUMBER OF YEARS BEEN ACTIVELY LOBBYING BOTH THEN HOWARD GOVERNMENT AND SUBSEQUENTLY THE LABOR GOVERNMENT TO INTRODUCE SUCH LEGISLATION.

WE DO HOWEVER HAVE SOME SERIOUS RESERVATIONS OVER THE PATH THE GOVERNMENT HAS CHOSEN.

SOME OF OUR KEY CONCERNS ARE AS FOLLOWS.

FIRST, HSI WOULD ARGUE THAT A PRIME PURPOSE OF THE LEGISLATION IS TO REGULATE TRADE IN AN ACTIVITY CAUSING ENVIRONMENTAL DEGRADATION. THEREFORE THE GOVERNMENT SHOULD USE THE ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT WHICH IS ALREADY USED FOR THIS PURPOSE.

A NEW PART COULD BE INTRODUCED INTO THE EPBC ACT TO DEAL WITH INTERNATIONAL

MOVEMENT OF FOREST PRODUCTS SIMILAR IN FORM TO PART 13 A OF THE ACT WHICH RELATES TO THE INTERNATIONAL MOVEMENT OF WILDLIFE SPECIMENS IN ACCORDANCE WITH THE CONVENTION ON THE INTERNATIONAL TRADE OF ENDANGERED SPECIES (CITES).

ALSO AS NOTED IN THE BILL'S EXPLANATORY MEMORANDUM THE EPBC ACT IS PART OF THE NATIONAL POLICY FRAMEWORK FOR AUSTRALIA'S FOREST AND TIMBER INDUSTRY.

THE GOVERNMENT COULD INTRODUCE SUCH A NEW PART IN THE CONTEXT OF ITS CURRENT CONSIDERATION OF ITS RESPONSE TO THE HAWKE INDEPENDENT REVIEW OF THE ACT.

SECOND HSI CONTENDS THAT THE LEGISLATION SHOULD ALSO BAN THE IMPORTATION OF UNSUSTAINABLY PRODUCED FOREST PRODUCTS AND NOT JUST BE RESTRICTED TO ILLEGALLY PRODUCED PRODUCTS.

THIS IS BECAUSE UNSUSTAINABLY PRODUCED FOREST PRODUCTS CAN CAUSE JUST AS MUCH ADVERSE ECONOMIC, SOCIAL AND ENVIRONMENTAL IMPACT AS ILLEGALLY PRODUCED FOREST PRODUCTS. THE LEGISLATION SHOULD THEREFORE REQUIRE THAT ONLY PRODUCTS MEETING WELL RECOGNIZED SUSTAINABILITY REQUIREMENTS BE ALLOWED INTO AUSTRALIA.

THERE ARE A NUMBER OF WELL RECOGNIZED VOLUNTARY THIRD PARTY CERTIFICATION

SCHEMES. TWO THAT ARE ACCEPTED INTERNATIONALLY ARE THE PROGRAMME FOR THE ENDORSEMENT OF FOREST CERTIFICATION OR PEFC AND THE FOREST STEWARDSHIP COUNCIL OR FSC.

INTRODUCING SUCH A PROVISION WOULD ALSO MAKE IT FAIRER FOR THE AUSTRALIAN TIMBER INDUSTRY INsofar AS 90 PER CENT OF AUSTRALIA'S LARGE PUBLIC AND PRIVATE (NATIVE FOREST HARVESTING AND PLANTATIONS) ARE COVERED BY THE AUSTRALIAN FOREST CERTIFICATION SCHEME.

THIRD, THE LEGISLATION SHOULD BAN THE IMPORT OF NOT ONLY ILLEGALLY AND UNSUSTAINABLY PRODUCED TIMBER BUT ALSO IMPORT OF ILLEGALLY AND UNSUSTAINABLE PRODUCED NON – TIMBER FOREST PRODUCTS SUCH AS RATTAN, NUTS AND PALM OIL. SUCH A PROVISION WOULD BE CONSISTENT WITH THE US LACEY ACT.

THE BILL OF COURSE SHOULD BAN THE IMPORT OF ALL ILLEGALLY OR UNSUSTAINABLY PRODUCED WOOD PRODUCTS IE NOT JUST UNPROCESSED LOGS AND SAWN TIMBER BUT PROCESSED PRODUCTS SUCH AS PAPER

- THIS WOULD APPEAR TO BE COVERED IN THE BILL

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TURNING TO THE BILL ITSELF SOME OF OUR MORE DETAILED CONCERNS ARE AS FOLLOWS.

THE PROHIBITION TO BAN IMPORT OF ILLEGALLY (AND UNSUSTAINABLY) PRODUCED TIMBER (AND OTHER FOREST PRODUCTS) SHOULD COME INTO EFFECT IMMEDIATELY UPON THE PASSING OF THE LEGISLATION.

- WE BELIEVE SUFFICIENT WORK AND CONSULTATION, ON SUCH ISSUES AS TO WHAT PRODUCTS WILL BE REGULATED, HAS BEEN UNDERTAKEN BY THE GOVERNMENT OVER THE LAST 3 YEARS FOR THE PROHIBITION TO COME INTO EFFECT IMMEDIATELY ON ROYAL ASSENT, THUS MEETING LABOR'S POLICY COMMITMENTS

THE LEGISLATION SHOULD CONTAIN A DECLARATION REQUIREMENT FOR PERSONS IN ALL PARTS OF THE SUPPLY CHAIN (IMPORTERS, PROCESSORS, DISTRIBUTORS AND SELLERS) WITHIN AUSTRALIA TO PROVIDE INFORMATION ON THE IMPORTED FOREST PRODUCTS. THE LEGISLATION SHOULD ALSO REQUIRE ALL DEFINED ELEMENTS OF THE DOMESTIC SUPPLY CHAIN TO CONDUCT DUE DILIGENCE ASSESSMENTS.

THE DEFINITION OF ILLEGALITY SHOULD ENCOMPASS ALL PARTS OF THE PRODUCTION SUPPLY CHAIN, AND NOT JUST 'HARVEST' AS CURRENTLY COVERED IN THE BILL. ILLEGAL ACTIONS SHOULD BE DEFINED IN THE BILL IN A SIMILAR MANNER TO THE US LACEY ACT.

THERE A SIGNIFICANT DEFICIENCIES IN THE PROCESSES SET OUT IN THE BILL FOR APPROVING CERTIFIERS AND THE LEGISLATION SHOULD

REQUIRE THAT CERTIFIERS ACT IN RELATION TO ALL DEFINED PARTS OF THE SUPPLY CHAIN IE IMPORTERS DISTRIBUTORS ETC AND NOT JUST IN RELATION TO IMPORTERS AND PROCESSORS.

PENALTIES NEED TO BE STRENGTHENED (EG SIMILAR TO THOSE IN THE LACEY ACT) AND GOODS SHOULD BE FORFEITED REGARDLESS OF THE OFFENCE.

WHILE THE BILL HAS CREATED A PROHIBITION ON THE IMPORT OF ILLEGALLY LOGGED TIMBER THERE IS NO CLEAR PROVISIONS FOR MONITORING OR ENFORCEMENT.

THE BILL SHOULD ALLOW STANDING FOR PRIVATE CITIZENS TO TAKE UP CIVIL CASES AGAINST INDIVIDUALS AND CORPORATIONS THAT CAN SHOWN TO HAVE COMMITTED AN OFFENCE UNDER THE LEGISLATION. THERE A NUMBER OF PIECES OF AUSTRALIAN LEGISLATION THAT PROVIDE FOR OPEN STANDING.

THE BILL MAKES NO PROVISION FOR TRANSPARENCY OR ACCOUNTABILITY.
THE BILL SHOULD CONTAIN A PROVISION REQUIRING A REVIEW OF THE EFFECTIVENESS WITHIN 5 YEARS AFTER ROYAL ASSENT.

I WOULD LIKE TO EMPHASISE THAT A MAJOR CONCERN OF HSI IS THAT THE BILL AS CURRENTLY DRAFTED IS NO MORE THAN A 'SHELL' LEAVING ALMOST ALL SUBSTANTIVE MATTERS TO BE DEALT WITH BY SUBSEQUENT REGULATIONS. THIS IS

UNACCEPTABLE. IF THE LEGISLATION IS TO BE FIT FOR PURPOSE, THE FULL RANGE OF OFFENCES AND PENALTIES NEED TO BE SET OUT IN THE LEGISLATION ITSELF. IF LEFT TO REGULATIONS, THE CHANCES OF THE FULL RANGE OF OFFENCES BEING APPROPRIATELY IDENTIFIED AND EFFECTIVELY PENALISED ARE REMOTE.

FINALLY, AS THE EXPLANATORY MEMORANDUM MAKES CLEAR, THE EU AND THE UNITED STATES ALREADY HAS LEGISLATION IN PLACE BUT MORE NEEDS TO BE DONE TO ADDRESS THE GLOBAL PROBLEM OF TRADE IN ILLEGALLY AND UNSUSTAINABLY PRODUCED FOREST PRODUCTS.

THEREFORE THERE SHOULD BE A FIRM COMMITMENT BY GOVERNMENT, AND THE DEVELOPMENT OF ASSOCIATED POLICY AND PROGRAMS, TO WORK INTERNATIONALLY AND REGIONALLY BOTH WITH SOURCE AND IMPORTING COUNTRIES TO BRING ABOUT GLOBAL LEGISLATIVE ACTION TO BAN TRADE IN ILLEGALLY AND UNSUSTAINABLY PRODUCED FOREST PRODUCTS.