



Submission No 5

Inquiry into Illegal Logging Prohibition Bill 2011

Name: Mr Murray Parish
Environment Manager

Organisation: Carter Holt Harvey
173 Captain Springs Road
Onehunga Auckland 1142
New Zealand

1 May 2012

Committee Secretary
Joint Standing Committee on Foreign Affairs, Defence and Trade
Department of House of Representatives
PO Box 6021
Parliament House
Canberra Act 2600
AUSTRALIA

By email to: jscfadt@aph.gov.au

ILLEGAL LOGGING PROHIBITION BILL 2011

Carter Holt Harvey Ltd (CHH) is an Australasian wood and paper products manufacturer, including waste paper and recycling.

Our interests in this Bill are those of a manufacturer of wood and paper products derived from well managed plantation forests in New Zealand (NZ) and Australia, and from recycled paper including household waste paper collections. Some of our products are imported to Australia as finished goods in their own right, or as packaging materials used in the export / import of other goods. Our understanding is that all forms of wood and paper products including from recycled sources and or as 'in use' packaging will be subject to the provisions of the proposed Bill.

CHH have contributed to work on this issue by the New Zealand Wood Processors Association (WPA) and the NZ Institute of Forestry (NZIF), including the preparation of submissions on the Bill. We are aware of the considerable detail included in some submission and have therefore chosen to emphasise those matters of specific concern to CHH in the following submissions.

In summary CHH's position is:

We fully support the overarching intent of the Bill, to reduce the trade in illegally harvested natural forests, in the expectation that that acts as an impediment to the undesirable loss of natural rain forest and other valued natural forest habitat.

The very broad definition of the Bill's purpose and the proposed resolution of matters of interpretation and application through development of regulations create significant uncertainty. There is the potential for a significant increase in regulatory and compliance cost on importers and their suppliers in seeking to meet the full requirements of the proposed Bill.

The Bill as drafted is capable of being interpreted as applicable to future illegal actions and inactions which is clearly problematic in terms of a declaration by and to importers. For example, New Zealand's Climate Change Response Act (CCRA) requires payment for 'deforestation' where plantations are not replanted within a 4-5 year period. The wood derived from the clearing and subsequent breach of CCRA obligations would have most likely been fully utilised (including any exports to Australia) before the period needed to determine the legality or otherwise of forest management had passed.

CHH's presumption is that the Bill is only intended to address 'legality' in the limited sense of current compliance today with laws related to local forest management and perhaps land tenure law. It is not intended to cover all possible aspects of 'the law'. That said, we have been informally advised by New Zealand's Ministry of Agriculture and Forestry that they are unable to verify the 'legality' of NZ sourced wood and paper products because of the very broad scope of 'the law'. They suggest that compliance with tax, transport, employment etc laws may be relevant considerations under the Bill as drafted, making the efficiency of a 'country to country' assurance problematic.

CHH would appreciate your clarification on this issue and in particular that the 'law' relevant to the Bill is limited to specific aspects of forest management.

We base the assumed limited scope of the Bill on the assumption that a very broad interpretation of legal compliance could apply to all imports to Australia whereas the Bill is specifically restricted to wood products. Additional indications that the Bill is not intended to unreasonably constrain the trade in wood and paper products including paper packaging derives from the DAFF-commissioned expert review that concluded that wood and paper products from NZ are extremely low risk. Presumably this review was able to define those legal matters, the specific target of the Bill, and find evidence of adherence to those matters by NZ forest managers.

The Bill as drafted is capable of interpretation as constraining the import of goods to Australia packaged in paper-based packaging. Notwithstanding DAFF's expert assessment that wood products from NZ are low risk, we were advised by some of those Australian based organisations contributing to the Bill's regulation that there may be a reluctance to limit the scope of the Bill by, for example, defining wood products to exclude paper and paper packaging, including paper manufactured from kerbside and other recycled sources.

NZ's production forests are almost entirely exotic plantations and are in private ownership. NZ forest managers do not have access to a Government-backed forest management certification scheme comparable to the Australian Forestry Standard, as a means of 'third party' verification of legality. NZ does however have established systems for the enforcement of law.

Approximately 50% of NZ plantations have achieved certification to the ENGO-backed FSC certification, with one (of many) criteria for eligibility being that the wood is 'legally' sourced. CHH consider an ENGO-backed certification system a wholly unsatisfactory basis for compliance with the proposed Australian wood products imports requirements, recognising that compliance with all FSC's principles and criteria is required, including those that impose requirements in excess of 'the law'. FSC is itself a substantial cost and risk which many forest managers consider uneconomic and impractical. FSC (reasonably in our view) does not attempt to assess the origins of recycled fibre or require proof of compliance with future legal obligations. We are concerned that an indirect regulatory presumption in favour of the use of a third party certification could unreasonably impose compliance with costly obligations including unknown future requirements.

CHH and this company's customers exporting to / importing from NZ could be significantly adversely affected if the Bill were to proceed in its current form. We recognise that the underlying intent of the Bill is reasonable and that intent could be achieved with a modification in approach, such as those outlined in the NZIF draft submission, including that:

- Australia work bilaterally with NZ (and individually with other wood exporting countries) to define those laws of relevance to the Australian objective and cost effective means of demonstrating compliance. In NZ this may be limited to the Resource Management Act and the Forests Act.
- The definition of 'wood products' captured within the preview of the proposed Bill strikes a realistic balance between the objective of discouraging trade in illegal natural forest destruction and the practical enforcement of the Bill. Imported paper and paper packaging including from recycled sources may be an appropriate target for this Bill but if identified as such, should be defined as of secondary importance and therefore subject to review for inclusion in the Bills obligations in 5 years.
- Australia and NZ work bilaterally to provide assurance that the systems of legal compliance and enforcement operating in NZ are sufficient to justify the expert finding that NZ wood products are extremely low risk. This bilateral assessment could be framed to consider the need for Australia and NZ to adopt a joint approach to the issue of trade in illegal wood products in recognition of:
 1. The CER relationship as an assurance to each country that wood products from the other are responsibly sourced, and;
 2. To avoid the risk of perverse diversion of trade in undesirable wood products to the country with lesser import restrictions.

We would appreciate any opportunity to provide further clarification of our position. Options could include the preparation of written responses to questions posed or oral submissions if your committee's processes provide for that.

Yours sincerely



Murray Parrish
Environment Manager