
Combating the Illegal Timber Trade—Is There a Role for ITTO?

Clare Barden

Introduction

Illegal activities are rife within the international timber trade. Excessive profits are being made throughout the world by companies and individuals who openly violate or surreptitiously evade the laws of the country in which they are operating. These profits do not come cheaply. In financial terms costs are felt by governments which lose important revenue from the forest sector and sometimes also by traditional forest owners. But the costs cannot be measured solely in financial terms. Illegal logging can undermine efforts to manage forests and can lead directly to catastrophic environmental disruption. The impact of *any* logging can be severe for people who depend on the forests for their continued survival. When logging is practised illegally, these social consequences can be even more serious.

What Constitutes the Illegal Timber Trade?

Illegal practices follow similar patterns throughout the world, but the exact nature of illegalities will vary from country to country and even from region to region within the same country, depending on the legislation governing the timber trade in different areas. To understand the problems of illegal trade it is necessary to examine the type of legislative framework in which the timber trade should operate.

International laws or restrictions have some influence on the trade, particularly the Convention on Trade in Endangered Species of Wild Fauna and Flora (CITES). At the moment a number of tree species are listed in the CITES Appendices and there are moves to increase this number. But by far the greatest potential to control the trade resides within national legislation and forest policies.

The exploitation and trade of timber is governed by a complex set of rules that are enshrined in national legislation. The general aims of these rules are to ensure that the government benefits from the timber trade through royalties, taxes, export duties, and other fees, to avoid unnecessary environmental damage, and often to increase value-adding processing of timber products within the country.

In industrialized countries forest ownership is split between private and public ownership, whereas in developing countries much of the forest area is under public ownership. However in some countries, for example Papua New Guinea, forest ownership and timber rights are accorded to the customary owners, and they are able to negotiate contracts directly with logging companies.¹

Governments can exercise some control over the harvesting

of trees and the subsequent trade in timber, whether this takes place on government, private, or traditionally owned land. In private forests logging may be carried out by the resource owners but the logging will probably be subject to government guide-lines. Public forests are usually logged by commercial companies which obtain concessions from the government and are obliged to pay the government a variety of charges in exchange for access to timber stands. These charges may be related to the size of the concession, the volume and/or value of timber removed, or to other variables.

Concession agreements will include a number of stipulations which should cover the size and location of the area to be logged, the duration of the agreement, the minimum diameter of trees to be felled, species which can or cannot be taken, environmental safeguards such as maintaining buffer strips along streams, and royalty rates and other fees.

Once timber has been felled it may be processed into sawn timber or other products within the country and then sold either on national markets or exported. Alternatively it can be exported as raw logs, to be processed overseas. In some countries, usually but not exclusively developing countries, the predominance of log exports has reduced the value received from in-country processing. Governments have attempted to alter this situation through a variety of incentives and restrictions. They may subsidize local industries, set quotas for the export of certain commodities such as logs or rough sawn timber, or completely ban their export. Restrictions imposed by exporting-country governments are not necessarily reciprocated by importers, thus enabling the import of timber which has been illegally exported.

Details of all timber shipments should be made available to government officials as all timber which is exported, whether it be from public or private forests, may be subject to taxes and these may differ according to species and the degree of processing.

There are few, if any, restrictions on the import of timber which have a legislative basis. In many countries concerns over unsustainable timber supplies have prompted voluntary boycotts of tropical timber, and in time these may be backed up by a legally enforceable selective ban.

Illegal and Unsustainable Timber—Are they One and the Same?

The concept of sustainability is central to the timber trade. The necessity of sustainable forest management, which not only ensures a continuous supply of timber but also protects

wildlife and benefits local people, is widely recognized both within and outside the timber trade. However, despite this recognition sustainable forest management is more a question of theory than practice at the moment. A survey commissioned by the International Tropical Timber Organization (ITTO) revealed that the amount of tropical moist forests being managed sustainably was 'negligible', being less than one-tenth of 1 per cent of the total area being exploited.² In the temperate forests of the world, where it is often assumed forest mismanagement is less of a problem, forest degradation is widespread.³

Whilst it is fair to say that illegally produced timber can be considered unsustainable, the reverse is not the case, and legally produced timber is not necessarily sustainable. The elements which are essential for forest management to be sustainable are complex, and although adhering to legal requirements may fulfil some of these elements it is unlikely that legislation will be tight enough to ensure sustainability.

As mentioned previously, national legislation governing logging varies from country to country. In some countries the forest laws provide a comprehensive framework of social and environmental safeguards, and if enforced would give a good base for controlling logging. In other countries, laws are less comprehensive; for example, in many African countries 'quite a few of the elements that need to be part of the logging process, if forest management is to be sustainable, are not even mentioned in the present concession agreements'.⁴ In other countries the present legislation actually makes sustainable forest management illegal.

The Main Problems

Illegalities can occur at any stage along the timber-trade chain (see Table 1), from before an agreement is signed to the import and sale of timber in an importing country. Generally the aims behind illegal activities will be to either fell and/or export a greater volume (or value) of timber than authorized, pay less charges to the government or other forest owner, and to circumvent harvest or export restrictions.

Sometimes activities may not be strictly illegal but may be 'better described as fraudulent; trying to get around government restrictions and certainly going against the spirit of government policy and objectives. Another problem is that these types of activities seem to provide fertile ground for bribery and corruption, at all levels, both within and outside government'.⁵

The Scale of the Problem

Given the underground nature of the illegal trade, its true scale can only be estimated. Most information on the illegal trade is available from countries which have taken the greatest action to stamp it out. Illegal trade spans the globe, but much of the international attention has focused on the big timber-producing

Table 1. The main types of illegal activities, showing at which stage in the timber trade these occur.

During Logging	
•	Logging without authorization.
•	Logging outside permitted areas.
•	Logging in Protected Areas.
•	Felling protected species.
•	Breaking conditions of logging contract or logging guide-lines, e.g. logging in stream buffer zones; logging on steep slopes; unsatisfactory roading; felling of undersized trees; felling only some of mandatory species (high-grading).
•	Non-payment or underpayment of royalties or other charges.
•	Illegal re-entry into logged areas.
During Export	
•	Unauthorized export.
•	Export of illegally felled timber.
•	Export in defiance of trade ban or quota.
•	Misdeclaration of shipments to reduce taxes, e.g. under-grading of timber; under-declaration of volume/quantity; under-valuing price of timber;
•	Export of CITES Appendix I species.
•	Misclassification of species (to avoid higher taxes etc., to circumvent species-specific harvest, to gain market access for lesser-known species).
During export and import	
•	Transfer pricing.*
During Import	
•	Import of illegally exported timber.
During Retail	
•	Retail of illegal timber.
•	Advertising of timber using false claims.

Note: *Transfer pricing is a widespread practice that occurs when colluding companies control the export and import of timber. At export the timber is priced at less than the market price, it is sold to a company in an intermediary country, and then sold on to the importing country at the full value. This practice of transferring pricing may have several aims, including tax-evasion or to transfer profits out of a developing country to a developed one, but ultimately the aim is to maximize profits which are shared amongst all participants but which may be retained in the intermediary country.

Source: Debra J. Callister (1992). *Illegal Tropical Timber Trade: Asia-Pacific* (TRAFFIC International—Headquarters of the TRAFFIC Network, the wildlife trade monitoring programme of WWF and IUCN).

countries of South-East Asia, as they have dominated the tropical timber industry over the last few decades. Both national governments and national and international non-governmental organizations (NGOs) have investigated the illegal trade in many of the countries in this area.

A recent report by TRAFFIC International, the wildlife monitoring arm of the World Wide Fund for Nature (WWF)

and the World Conservation Union (IUCN), has collected information on illegal trade in the Asia-Pacific region.⁶ This report concluded that 'reliable figures on the scale of the illegal trade are neither widely available nor easy to obtain', but that the results of the investigation pointed to illegal activities on a 'massive scale'.⁷ The report found evidence of illegal trade in all countries in the region heavily involved in the timber trade. The estimated costs of the illegal trade, though extremely difficult to measure, run into millions and even billions of US dollars over the last decade. In Indonesia the World Bank estimates that US\$1.2 billion were lost between 1980 and 1985 in forestry taxes that were not paid. Here the Ministry of Forestry reported that 55 per cent of concession-holders were breaking forestry regulations in 1989 and 37 per cent in 1990, though the true figure may be higher.⁸

The literature on illegal trade is dominated by accounts of malpractices in both exporting and importing countries involved in the timber trade in South-East Asia. A wide range of malpractices have occurred and continue in the region, with some countries being particularly prone to certain activities. In the Philippines, though there have been examples of nearly all illegal forestry activities, the most prevalent problems are log smuggling and illegal logging. The scale of the illegal trade has been reported as 'quite staggering'.⁹ Even though forestry charges were very low, illegal felling and corruption in the Bureau of Forestry Department was rife during the early 1980s.¹⁰ The extent of the violations was revealed following the downfall of the corrupt Marcos regime. Subsequently the government has cancelled concessions and introduced a log-export ban, but illegal logging continues.¹¹

In Papua New Guinea, a government-instigated inquiry has provided some of the best-documented accounts of timber-trade malpractices. Started in 1987, the final report produced two years later revealed a forestry industry out of control, in which illegal activities were routine practice. Transfer pricing (see note to Table 1) was shown to be endemic and costing the government millions of dollars. The dealings of twenty companies were examined in detail and this showed that not one of the companies investigated by the Commission has a satisfactory record.¹² Judge Barnett, the chair of the Inquiry, provided many recommendations to stem the illegal trade, but many have not been followed and it is reported that the situation may now be worse than before.¹³

There is also substantial information on the illegal trade in Africa, especially in the countries of West Africa, which have been major timber exporters. As yet there have been no comprehensive accounts of the situation, though TRAFFIC is planning to release a report on the illegal timber trade in Africa. A Friends of the Earth report details the extent of

malpractices on the Ghanaian timber trade in the 1980s. It describes the effects of a Structural Adjustment Programme which was intended to boost the flagging economy through a revitalization of the export timber industry. In 1987 an investigation of all aspects of the industry and trade was undertaken by the Timber Sub-Committee of the National Investigation Committee in response to reports of irregularities within the timber trade. It has been found that 'corruption, fraud and malpractice took place on the back of a massive injection of aid and credit from international development agencies'.¹⁴ An estimated \$59 million left the country illegally, with transfer pricing being a popular method through which illicit profits could be exported from the country.

As South America is becoming a more important timber exporter so the spotlight of international concern is falling on trade practices within the continent. In Brazil, an exposé on the mahogany trade has alleged that timber cutters are illegally infringing on Indian reserves. Companies use a variety of tactics to access the stands of mahogany, which due to overcutting in other areas are amongst the few remnants of commercially exploitable forest. Sometimes deals are struck with Indians after various forms of persuasion, coercion, or blackmail; at other times the cutters just take the timber without any permission.¹⁵

The illegal trade in temperate countries has attracted much less interest than in tropical countries. This is because illegal trade is less prevalent, or at least less blatant. Control over forestry operations is generally much greater in industrialized countries than in developing ones, and illegalities, when discovered, are usually stopped. However, timber companies use bribes or sweeteners to secure logging deals with favourable conditions in temperate forest areas. This is thought to be particularly widespread in the former Soviet Union. In Russia, which has 95 per cent of the former USSR forest reserves, there has been a dramatic upsurge in timber exports, 'often through the use of bribes'.¹⁶ Here the situation resembles that found in many developing countries, with poorly paid government officials trying to police a large public forest estate which is being logged by multinational corporations.

Illegalities in importing countries are less well documented, although in the United Kingdom there have been several allegations, and even a seizure, of timber believed to be illegally imported. One of these allegations concerned the import of sawn timber from the Philippines. Though banned from export there are no reciprocal arrangements in the United Kingdom, and so the import can be considered legal.¹⁷ The seizure was of a timber from Chile known as *Alerce (Fitz-Roya cupressoides)*, which is listed on CITES Appendix 1 and hence banned from international trade but which was being openly sold in the United Kingdom.

It is impossible to quantify the scale of the illegal timber

trade or to determine the extent to which different malpractices are conducted. However, it is clearly an immense problem which is costing governments and other forest owners millions of dollars and which is undermining efforts to manage forests sustainably.

Factors Which Are Conducive to the Illegal Timber Trade

In many countries there are physical, legal, economic, and political reasons why the illegal timber trade continues to flourish. Illegal activities may continue unchecked because they are undetected, ignored, condoned, or covered up by governments or individuals within government.

The exploitation of timber is spread over vast areas. Large tracts of forest are opened up, often in very remote areas. In public forests control of logging has to be done by the government, but poor access and communications mean that effective control is virtually impossible without substantial investment in the enforcement capabilities of the forestry service.

Throughout the world, especially in tropical countries, forestry departments are accorded a low priority and are under-staffed and under-resourced. As a result, they are incapable of adequately checking logging operations in the field. Field staff positions are often considered to be low-ranking jobs and field officers may be poorly paid and without transport. They may have to rely on logging companies to take them to the forest, and this reliance may jeopardize their impartiality, especially when there are inducements from a company to turn a blind eye to certain activities.

In many countries the timber trade makes a significant contribution to the national economy. However, forests may be seen as a source of standing capital which can be liquidated to provide short-term financial gain rather than as a potentially renewable resource. This short-term view is often reflected within legislation and policies. Logging agreements are usually issued for a number of years, long enough to harvest all the standing timber but not long enough to allow a second or third cut. A company which has a licence, which lasts just a few years, has no security of tenure and no interest in the future of the forests. Economic pressures encourage rapid exploitation, with a minimum of restrictions to maximize the return on the up-front costs which precede logging.

The economic imperative is, of course, very important to companies involved in the timber trade. For many companies this does not mean that they operate illegally, but the desire to increase profit margins can encourage the bending or breaking of laws which reduce financial return. The stricter the legislation, the greater the incentive to try to overcome the regulations. Where companies control

many stages within the timber-trade chain the opportunities for illegalities are increased.

Where timber constitutes a major proportion of foreign-exchange earnings or gross domestic product then governments may be unwilling to impose tough sanctions on companies which are known to be breaking the law. This reluctance to rock the boat in order to safeguard economic and political stability may result in the loss of significant income. All too often the political will needed really to crack down on the illegal trade is absent. Additionally, there are often individuals within government who stand to gain personally from continued illegal operations. In many cases politicians hold positions of influence within logging companies, often sitting on company boards. Forestry staff may find that they are unable to examine logging operations closely because of this political influence.¹⁸

The illegal timber trade continues because too many people stand to gain from maintaining the *status quo*. Timber companies can make windfall profits, and as long as some of these profits are distributed to the right people, then they have little to fear in terms of fines or suspension of licences. Complicity on the part of government officials at all stages of the chain can be achieved through well-placed unofficial payments or other benefits. Reluctance to take action by the government can be partly attributed to inertia, partly to lack of resources, but mainly to a fear of clamping down too severely on a vital source of income, either national or private. The driving force behind the illegal trade is the international timber market, where price is all-important. At present there is little transparency in the timber trade and consumers have no way of knowing whether they are purchasing legally produced timber or are, in effect, buying illicit goods.

Responsibilities for Action—A National or International Issue?

Ultimately, responsibility for halting the illegal timber trade falls on national governments in timber-producing countries. Only through changes in legislation, or through better enforcement of existing legislation, will the situation improve. But to lay sole responsibility at the feet of producer countries is to overlook the responsibilities and potential contribution of other interest groups.

Importing countries and consumers have a responsibility to ensure that their demand for timber is not fuelling the illegal trade. At the moment import regulations tend to be lax, and once timber has left its country of origin, it is extremely difficult to know if it has come from a legal or an illegal source. More reliable information on the origin and legality of timber imports would allow consumers to choose timber from a legal source. Additionally, developed countries could assist less developed countries through bilateral aid

programmes to enhance the efficiency of their policing of the timber trade.

The trade itself also has an important role to play. Though much of the timber industry is law-abiding, there are many companies which are caught up in the illegal trade, and the track record of the timber trade has so far shown it to be incapable of self-regulation. More openness within the trade and a greater scrutiny of timber suppliers from importers and retailers could help reduce breaches of the law.

International agencies could also have a strong influence. Their role could be multi-faceted: by providing a forum for exchange of information on trade restrictions and timber prices, supporting national efforts to investigate illegalities or to reform the trade, increasing international restrictions on the timber trade, or by providing a market-led incentive scheme which would encourage a law-abiding trade. The current success and future prospects for fulfilling these possibilities will be discussed in the rest of this chapter.

International Response

To date, there has not been an international response specifically to tackle the problem of the illegal international timber trade. However, there are many international organizations and agreements which have a bearing on forests and the timber trade. These include the Tropical Forestry Action Plan (TFAP), the International Tropical Timber Organization (ITTO), the UNCED Forest Principles, and CITES. From this list, the latter two apply to forests in both tropical and temperate countries, whilst ITTO and TFAP are both restricted to tropical forests, reflecting the greater international concern that has surrounded the demise of the world's tropical forests and the implications for people and the environment.

The International Tropical Timber Organization

ITTO is the only body which is directly and solely concerned with the international tropical timber trade. The organization was set up to administer the International Tropical Timber Agreement (ITTA), which after lengthy negotiation came into force in 1985, fifteen years after the first formal suggestion of an agreement. The ITTA is a commodity agreement negotiated under the United Nations Conference on Trade and Development, and which aims to promote and diversify the international trade in tropical timber and also to increase producer countries' share of the benefits.¹⁹ In this respect the agreement was much like any other commodity agreement, such as those concerning jute or coffee, but unlike the others the bulk of the raw material was obtained not from managed plantations but from natural ecosystems, which were rapidly declining in extent.²⁰

The central importance of conservation of the natural

resource was recognized and incorporated into the Agreement's objectives. Objective 1*h*, the unique clause, spelt out the need for the development of national policies aimed at sustainable utilization and conservation of tropical forests.²¹ This commitment has been further elaborated by the adoption of Target 2000 by the members of ITTO, which is a statement of intent that by the year 2000 all international trade in tropical timber should be based on supplies from sustainably managed forests.

The ITTA does not explicitly address the question of the legality of the trade, but if the commitment to the promotion of sustainable timber production is to become more than a paper promise, the thorny issue of the illegal timber trade must be tackled. Additionally, another of the objectives of the ITTA is to 'improve market intelligence with a view to ensuring greater transparency in the international tropical timber market'.²² Clearly if the ITTO is to fulfil the mandate laid out in the ITTA then it must gather and disseminate information on the illegal trade, and it must encourage action to overcome the hurdles to Target 2000 presented by the illegalities within the trade.

In its six years of life ITTO has failed to take the illegal-trade problem seriously. This may seem surprising considering that attainment of Target 2000 will be impossible without significant reforms in the tropical timber trade throughout the world. But it is less surprising when the political nature of the issue, the consensual form of decision-making at ITTO's biannual meetings, and the lack of power wielded by the organization are considered.

Politics, Projects, and Policy

The tropical timber trade is central to the concerns over the fate of the world's tropical rainforests. The trade is one of the causes of tropical-forest degradation, but conversely is a potential means to conserve the forests (if good forest management is practised). Calls for boycotts or bans by NGOs in developed countries have encouraged tropical-timber exporting countries to become protective of their timber industries. Attempts to impose standards of forest management and conservation on tropical countries have been interpreted as a throwback to imperialism, which is all the more intolerable considering that many developed countries have cleared most of their own forests and mismanaged much of what is left.

The potential role of ITTO has been perceived in different ways by tropical-timber producing and consuming countries.

On the one hand, producer countries want to encourage greater in-country processing and to improve terms of trade and the structural conditions of the trade, so that they receive a fairer price for their timber. In contrast, the consumer countries tend to want to ensure their future tropical-timber supplies and to improve the management of the tropical

forests in order to conserve forest biodiversity and benefit local people. This dichotomy has produced in ITTO an organization that is torn between two somewhat conflicting aspirations. The result has been the creation of an organization which has two functions: to debate policies and to fund projects.²³

The fifty members of ITTO meet twice a year to approve project proposals and discuss policy issues. Projects, although processed through an international organization, are usually bilateral arrangements and should directly contribute to ITTO's objectives. Discussion of projects has come to dominate the meetings, marginalizing the more politically charged policy debates. But even within the project side of the organization, political rather than technical, social, or environmental aspects are often paramount, and there has been growing disillusionment and criticisms from NGOs on the project cycle. Many projects have been approved which have little if any relevance to the overall objectives of the organization and have not helped the attainment of Target 2000. Some projects have been approved which do not even relate to the tropical-timber trade.²⁴

The scope for ITTO to make a meaningful contribution to policy issues and to achieve real change on the ground has always been constrained by the organization's mode of operation. Although complex voting structures exist, in which votes are weighted to reflect the importance of countries as producers or consumers of timber, in practice voting has never taken place and decisions have always been reached through consensus. Continuing dialogue between producers and consumers, a main aim of ITTO, has been achieved only at the expense of avoiding many of the contentious issues which must be dealt with if the trade is to become sustainable. 'The wider problems facing the trade in tropical timber—such as intra-regional competition, inequitable prices, as well as rampant corruption and other malpractices—have been totally ignored.'²⁵

Decisions, once agreed, are made in the form of Council Resolutions and Decisions. Far from prompting national action, many of these decisions, once made, are forgotten. As ITTO does not have any powers of enforcement or sanction it cannot take action against countries which do not fulfil the obligations to which they have agreed. For example, at the tenth council meeting in May 1991 countries agreed to report on their proposed progress towards the 2000 target at the next meeting. Only seven of the then forty-seven members produced any response, and most were simple reiterations of existing government policies.²⁶

ITTO's powerlessness in the face of an ever-worsening situation is directly related to the political nature of the tropical-timber trade and the absence of any real influence over national policies. Without powers of sanction it is argued that ITTO is little more than a talking-shop.²⁷ Many governments claim that their response to the problems of

the tropical-timber trade is membership of ITTO, and so not only is ITTO failing to reach its own objectives but it is also providing an excuse for inaction at the national level. A monitoring role has been suggested for ITTO, and the idea of labelling timber was discussed back in 1989, but at the time ITTO rejected the labelling concept without any detailed studies into its feasibility. At the fourteenth meeting in Kuala Lumpur the topic was again raised in response to a report on the links between the international timber trade and sustainable forest management.

So what could ITTO be doing?

Despite the constraints upon ITTO acting in any sort of regulatory fashion, there is a range of actions which ITTO could undertake or facilitate to help limit the illegal trade.

There have been suggestions that the political deadlock between 'producers' and 'consumers' might be alleviated if the organization became truly international, and applied to all of the timber trade, both tropical and temperate. Whether this alone would make the organization any better able to tackle the illegal-trade problem is unclear. But certainly the organization could be seen to be more even-handed.

A clear statement on the need for action and the seriousness of the illegal trade would send a sharp message to producer and consumer countries that action must be taken. Such a statement could be backed up with a series of programmes aimed at the international, bilateral, and national levels.

ITTO can bring attention to the prevalence of the illegal timber trade and its effects on the management of forests in tropical countries. ITTO as a high-profile organization could act to focus attention on this area which has up till now been ignored. The TRAFFIC report on the illegal trade in the Asia-Pacific region was presented to the ITTO meeting in November 1992. The report, which recommended actions which should be taken by ITTO, provoked much discussion and interest, but there has as yet been no follow-up action by ITTO.

Furthermore, ITTO has scope within its remit to collect and disseminate market information, including statistics on timber prices, volumes of traded timber, and production capacity. This aspect of its work has been rather poorly carried out, and even basic data is either unreliable or has not even been collected. Much of the blame for the deficiency must be borne by members who should provide the relevant statistics, rather than by ITTO itself. But ITTO could assist countries to provide more reliable information and could also encourage and assist investigations into the illegal timber trade.

ITTO could also disseminate information on trade bans and restrictions which have been imposed by producer countries. The regulations governing the export of logs and timber products vary from country to country, and there is no

centralized system by which importing countries can find out what restrictions exist. Without reciprocal trade restrictions to match those of exporters, consumer countries can legally (according to their own legislation) import illegally exported timber.

ITTO could not, however, impose trade restrictions itself, as this is something that has to be done at the national level. As well as trade bans to favour in-country processing, there is growing interest in selective trade restrictions which would favour sustainably produced timber. Currently any such restriction would contravene the regulations of the General Agreement on Tariffs and Trade. Exemptions to the GATT regulations can be made by an intergovernmental commodity agreement such as ITTA and it could seek a waiver to GATT regulations for measures which contribute to forest conservation.

At the field level ITTO could, through its project work, promote bilateral aid projects which directly seek to increase the enforcement capabilities of national forest services, or other government departments. Such projects would contribute directly to the promotion of sustainable forest management, to national efforts to monitor the trade, and to increasing the proportion of revenue from the trade retained in producer countries.

A bilateral aid project in the Solomon Islands, although not a member of ITTO, could provide an example to be followed. The Australian-funded Timber Control Unit Project is attempting to train and better equip the existing Timber Control Unit personnel, so that the activities of the mostly foreign-owned logging companies can be controlled. The aims are to reduce the environmental impacts of logging and to ensure that the correct royalties are paid to landowners and that government receive the correct level of taxes and other charges. Under-pricing of export logs by companies has consistently lost the government revenue, and increased vigilance should pay off, both financially and environmentally.

The Tropical Forestry Action Plan

The growing awareness of the scale of tropical forest destruction during the 1980s led not only to an international agreement on the timber trade but also to the joining of forces of a number of prominent international agencies to form the Tropical Forestry Action Plan (TFAP). Co-ordinated by the World Bank, United Nations Development Programme, Food and Agriculture Organization, and the World Resources Institute, the Plan set out to channel aid funds through five main areas, to try to abate the rising rate of forest loss and subsequent environmental degradation and social hardship. These areas (forestry in land use, forest-based industrial development, fuel-wood and energy, conservation of tropical forest ecosystems and institutions) do not relate directly to

the illegal timber trade, but the process through which the TFAP operated, the preparation of country forestry-sector reviews, provided scope for investigation into and recommendations for the mitigation of illegal practices.

TFAP has had a relatively short but difficult life, and has run into increasing criticism for its top-down approach, its neglect of conservation issues, and its inability to tackle the underlying causes of forest loss. Various critiques of the activities of TFAP have all pointed towards the need for a radical reshape, but despite some attempts at reform the TFAP, now renamed the Tropical Forestry Action Programme, is still floundering without any apparent direction.²⁸ The preparation of country plans still leaves some room for action to be taken on illegal trade, and in Papua New Guinea the National Forest Action Plan has addressed some of the issues and has led to substantial reforms within the forestry sector. NGOs, though welcoming some of the changes, are suspicious of the Plan and wait to see if it really does improve forest management and reduce logging malpractices.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) came into force in 1975, with the aim of controlling the international trade in wild plants and animals. Regulation through a permit system allows trade to be monitored and controlled. Each of the 120 countries which are parties to the Convention, as of September 1993, is responsible for implementation within its country, although the agreement applies only to international, not domestic, trade.

Species which are or may become threatened by international trade are listed in CITES Appendices, of which I and II are the most important for the control of the timber trade. Appendix I covers species which are threatened by extinction, and within this category international trade is banned in all but exceptional cases. Appendix II covers species which may become endangered by trade and for which monitoring of the international trade is advisable. Trade in these species requires an export permit which should be issued only if it can be proved that the specimen was legally obtained and export will not be detrimental to the survival of that species.

Until 1992 fifteen timber species were listed in CITES Appendices. Most of these are not widely traded, but *Alerce (Fitz-Roya cupressoides)* is sometimes traded, although its listing on Appendix I should prevent export. The March 1992 CITES meeting in Kyoto, Japan, saw the addition of a number of species, including *Dalbergia nigra* (Brazilian Rosewood) on Appendix I and *Pericopsis elata* (Afromosia) on Appendix II.

There is much greater scope for inclusion of more species

on CITES Appendices. A report by the World Conservation Monitoring Centre (WCMC) for ITTO on the conservation status of tropical timbers in trade showed the status of many African and South-East Asian timber species was alarming, with over 300 species endangered or threatened with extinction.²⁹ But the criteria by which to judge timber species is unclear and there are practical problems in the enforcement of control requirements.

Although timber species have been listed since 1975 there has not been much experience of controlling species which have been heavily traded. The inclusion of *Dalbergia nigra* on Appendix I has raised difficult issues such as the granting of certificates for pre-listing supplies.

Identification of timber species can prove very difficult because there are groups of species which are hard to distinguish. It is uncertain whether national CITES Management Authorities will have the expertise to be able to carry out identifications. Also, there is an added complication with timber, as not only can it be processed into a variety of forms but it can also be combined with different species to form composites.³⁰

There has been resistance from the timber trade, which has tended to view CITES listings as a first step towards banning trade. ITTO considered the report by WCMC to contain unreliable information, and has so far failed to take the project any further.

UNCED Forest Principles

During the late 1980s the poor performance of both ITTO and TFAP was coming to light and the need for a new approach was becoming apparent. With the release, in 1990, of figures on tropical deforestation which showed that the deforestation rate had increased by over 50 per cent during the 1980s, the inadequacy of the existing institutional arrangements was underlined.

Meanwhile, there had been a growing awareness of the need for an international approach. This has stemmed partly from political considerations and an attempt to break the North-South divide, but also in response to a growing awareness of the very poor condition of forest management throughout the temperate world.

The idea of a Global Forest Agreement was first put forward during an independent review of the TFAP in 1990, and picked up by the G7 meeting later that year.³¹ Subsequently, the idea was developed by FAO, which produced a first draft of a Forest Convention which it envisaged could be signed at the 1992 Earth Summit.

The evolution of the Convention was plagued with difficulties, with developing countries fearing an assault on their national sovereignty. There were also concerns that the developed countries' desire for a Forest Convention was a thinly veiled attempt to avoid the issue of reducing greenhouse gases.

As a result, the Forest Convention was diluted down into a Non-legally Binding Authoritative Statement. The text of the statement includes principles and elements which refer to the management, conservation, and sustainable development of all types of forests. There are no specific commitments and contentious areas have been side-stepped. The resulting agreement, though a valuable first step, will not by itself make any difference to the problem of the illegal timber trade.

Obstacles to Effective International Solutions—Are They Insurmountable or Is a New Approach Required?

Why, given the desperate need for action, have all the international efforts so far made little difference to the widespread malpractices in the timber trade?

One of the most obvious answers is that none of them have appeared to have taken the need for action seriously. ITTO, the organization with most relevance and scope for action, has consistently shied away from difficult issues such as illegalities. This reluctance is attributable to the politically sensitive and underground nature of the problem. The problem is exacerbated by the fact that ITTO relates only to tropical timber. Interference from outside on such issues can be seen as directly challenging national sovereignty.

Apart from the political undesirability of interference, there are also considerable constraints on the power and influence that international organizations wield. The illegal timber trade is an international problem, but it is the breaking of national laws that constitutes illegalities. International agencies cannot directly enforce national laws, and organizations like ITTO are unable to take any action against governments which do not take sufficient measures to combat malpractices; they cannot even expel them from the organization. Only CITES has any regulatory capabilities and the right to restrict trade, and this applies only to international trade.

Without any powers of enforcement, international organizations are better placed to play a supportive role in which they can help national governments impose stronger controls on their timber industries. But this could be viewed suspiciously by governments which fear interference in national affairs from outside. For this sort of approach to be effective there must be a strong commitment from national governments to eradicate the illegal trade, which must be backed up with an adequate allocation of funds and resources. Help could consist of investigations into illegal trade, reforming forest policies, or supporting enforcement efforts.

Though there have been attempts by national governments to investigate and subsequently reduce the illegal trade, the apparent commitment has not always permeated all layers of

government. The continuance of the illegal trade has been proved to be of financial interest to government employees throughout the world. Whether it is a forest officer receiving a small 'gift' from a logging company or a senior government official who has large interests in the fortunes of timber companies, all along the government chain there are often inducements to allow 'business as usual'. It takes a strong government to stand up effectively to the illegal timber trade, especially when a high proportion of government revenue is derived from the forestry sector.

In Papua New Guinea, a country where malpractices are amongst the most prevalent and serious, the government has taken measures to reduce the illegal trade. The Barnett Inquiry provided substantial documentary evidence of transfer pricing and many other misdemeanours. Yet within this country many believe that the trade carries on as before, with little heed paid to the law. Corruption is still widespread and the rate of logging continues to increase. Many people stand to gain by resisting reform, and without a massive increase in the regulatory capacity of the government there can be no chance of change.

Yet there is another role which international organizations can play. That is to incentivize the legal trade in timber, or rather the trade in sustainably produced timber.

Logging companies which are either evading royalties or taxes or which are not paying the cost of forest management will have lower costs than companies which are dedicated to sustainable (and by definition legal) timber production. Timber from unsustainable, and often illegal, operations is currently flooding the international timber markets, suppressing prices below the level which would reflect the cost of good forest management. It has been suggested that the power of the market which is at present driving the illegal trade can be harnessed to act as an incentive to manage forests well. A labelling system which would allow consumers to choose sustainably produced timber could encourage timber producers to improve forest management if they wish to sell to the 'green' market.

Labelling has been interpreted by many producers as a thinly disguised attempt to impose trade discrimination. Some of the political problems might be avoided if such a scheme applied to all forests, not just those in the tropics, and if it acted at the level of individual forest management and timber enterprises rather than at the national level.

Future Prospects

The international response to the illegal timber trade problem has been extremely limited. As a result, its contribution to eradicating malpractices has been negligible. Nevertheless, in the future there is the potential for this contribution to be greatly expanded. It is unrealistic to believe that the illegal

timber trade can be totally wiped out, but there is much, much more that could be done by the international community. It can ensure that the problem is paid more attention and that governments or companies that really do want to kick the habit are given support.

If the international community is to use its potential, then a combination of regulatory measures, support packages, and incentives will have to be developed. These will have to act at the intergovernmental, national government, and trade levels. The overall effect should be to increase the regulatory power of international agencies, provide support for government enforcement efforts, and to enable consumers to use their buying power to favour legal timber supplies.

Maximizing the international community's effectiveness will require a radical revision of existing international agencies and probably also the creation of new agencies. At the time of writing there is a range of suggestions for the development of existing organizations and also the emergence of a new international organization, the Forest Stewardship Council.

Much talk has surrounded the future of ITTO as the original ITTA expires at the end of March 1994. A successor agreement must be negotiated before this time if the organization is to continue. Opinions vary on the best course of action, from those who want to see the agreement simply rolled over and ITTO to carry on as before, to those who would like to see a major redefinition of the organization's remit. Changes will have to be made if the organization is to make any real difference to forest practices on the ground and if it is to have any impact on illegal logging, timber smuggling, and other illegal practices within the trade. There are three major changes to the functioning and structure of ITTO which would go some way to increasing its effectiveness.

First, widening the scope of ITTO to become the International Timber Trade Organization, which would deal equally with tropical and temperate timber, would go some way to ease the consumer-producer deadlock. Secondly, considering the abject failure of ITTO to deal adequately with social and environmental issues, many NGOs now believe that it should concentrate more on the actual trade of timber, rather than on conservation and forest-management issues which could be more effectively dealt with by a more appropriate organization such as a revamped TFAP.³² It could devote more attention to collecting and disseminating market information and monitoring the international trade through improved statistical analysis. Finally, the regulatory roles of the organization could be increased, giving it 'teeth' with which it could exert some control over the international timber trade, and possibly allow it a role in introducing enforcing trade restrictions, perhaps along similar lines to the International Whaling Commission.

However, the re-negotiation of the ITTA has, so far, been a slow, painful process with little sign of a breakthrough.

There is division amongst the ranks of the temperate countries, and some tropical nations, about whether the organization should become truly global in approach. Voluntary adoption of Target 2000 by temperate countries could go some way to alleviate the deadlock without necessitating a radical change in ITTO. But if ITTO is to deal successfully with issues such as equitable terms of trade, then the ITTA must be extended to all timbers.

It may be seen as a regressive move to restrict the role of ITTO to purely a trade body without responsibility for the social and environmental aspects of sustainable forest management. But given the organization's inability to deal with these issues, and considering that governments use membership of ITTO as an answer to the forest crisis, then removing these areas from ITTO's remit can be seen as a positive step—provided that the wider issues are not forgotten but are clearly the responsibility of another agency.

The slow progress with the re-negotiation and the generally poor performance of ITTO is unlikely to change. There is little hope that in the short-to-medium term ITTO will develop effective solutions to the illegal timber trade and the wider issues facing the world's forests. Clearly the answer will have to be found elsewhere.

Alternatively, greater regulatory powers could be enacted through a legally binding Global Forest Convention, which could commit countries to specific targets regarding the sustainability and legality of the timber trade. But considering the political difficulties faced during the negotiation of the Forest Principles, it may be more fruitful to push for greater controls to be exerted through existing agencies. The only agency with any regulatory role at the moment is CITES, and this role could be enhanced through better implementation of existing listings and further additions of other threatened species. It may also be possible to use CITES as a mechanism through which record-keeping of all international timber trade is tightened, but this could not be achieved unless national customs controls become much tighter.

Pursuing a path of greater external regulation on the timber trade is fraught with difficulties. Deciding on the boundary between international and national control is a grey area which can be seen to conflict with ideas of national sovereignty. Trying to develop legally binding commitments is likely to lead to intractable political stand-offs, as demonstrated during the lead-up to the Earth Summit, let alone trying to develop processes whereby governments can be held to the commitments that countries have made. A far more productive approach will be to support national governments which are dedicated to tackling the illegal-trade issue, and to encourage greater action amongst those countries which have so far taken fewer mitigative steps.

Support for national governments could come through a number of channels, bilateral aid being one of them. But

international organizations are able to direct support packages to countries where enforcement efforts are being stepped up. ITTO, to some extent, could fulfil this role, but other agencies, especially TFAP (if significantly reformed), could provide a more suitable mechanism through which to deliver assistance. The development of country plans could directly deal with illegal trade by analysing the existing forestry-sector legislation and its enforcement, and providing recommendations and support for the needed reforms.

Support could also come through other international organizations such as the Global Environment Facility and the World Bank. The success of support packages will, of course, depend on the political commitment within countries really to overcome the illegal-trade problem.

In terms of providing incentives for improving logging practices there have been suggestions of national-level incentive systems. Countries with demonstrable commitment to improving logging could have debt burdens reduced or be offered other benefits. Any such system would be extremely difficult to develop and administer, and would of course be politically sensitive.

An alternative approach is being developed by a new, international, non-profit organization, the Forest Stewardship Council (FSC). The FSC is aiming to set a world-wide standard for good forest management and to offer incentives to individual forest-management enterprises through a labelling system. This would allow consumers to distinguish timber from well-managed and legal sources.

Such an approach could avoid some of the seemingly intractable problems which are generated through national-level initiatives. The ideas behind the FSC have emerged from a series of meetings between timber-traders, environmental organizations, human-rights groups, indigenous peoples' organizations, and certification companies. At a meeting in March 1992 an Interim Board was elected which was to direct the FSC through its preliminary consultative phases until the first General Assembly of the FSC in Toronto in October 1993.

The FSC will offer an opportunity for consumers and producers who wish to buy or sell sustainably produced timber. Growing concern over forest loss has been accompanied by consumer awareness of the part played by the unsustainable timber trade in forest degradation. More and more consumers wish to buy timber which can be shown to have come from a well-managed source. Though at the moment many timber products carry labels of environmental acceptability, there is no international or national monitoring to ensure that the claims are reliable. A study commissioned by WWF UK showed that over half of all tropical timber retailers in the United Kingdom were willing to make some reassurance of the environmental acceptability of their tropical timber products. Further investigations into a number of

claims showed that the vast majority of companies were unwilling or unable to substantiate the claims that had been made.³³ The result of this proliferation of eco-labels has been to confuse consumers who may wish to buy sustainably produced timbers.

The FSC may provide a solution to this confusion by providing a world-wide standard for good forest management, in the form of *Principles of Good Forest Management*. The FSC will promote improved forest management through the development of an independent monitoring system. Such a system must have the capacity both to assess forest-management operations in the field and to trace timber from the forest, through any processing operations, and on to the final retail outlet, where it would be labelled with an internationally recognized symbol. Both the forest-management assessment and timber-tracing aspects relate to the question of the illegal timber trade. The issue of the legality of the trade is clearly addressed in the FSC Principles. In Draft 6: 'Management and harvesting activities must operate within all national and international laws, treaties and agreements which apply, including the payment of all legally prescribed fees, royalties, taxes and other charges.'³⁴

The FSC will not be monitoring forest management itself, but will accredit certification programmes which voluntarily apply to use the FSC name in their labels. In order to qualify for the use of the FSC name they will have to show that their assessment procedures adhere to national and international laws and to the FSC Principles. In effect, more-detailed, locally specific standards will be developed throughout the world, all of which are based on the founding Principles. Exact details of monitoring systems are being developed, but it is intended, at least initially, that they will operate independently from national enforcement efforts. However, the intent of the FSC is to 'complement, not supplant, those initiatives which support the pursuit of "sustainable" forest management on a world wide basis'.³⁵ The FSC will not replace existing national forestry or environmental laws, but it will establish a system which monitors whether existing national legislation as well as international principles and criteria of good forest management are being implemented on the ground.³⁶

At the time of writing a number of certification companies are actively involved in certifying timber sources. In the United States there is the Smartwood Program of the Rainforest Alliance, and in the United Kingdom a number of systems are being developed, one by the Soil Association which has considerable experience in certifying organically produced food. As these schemes develop, an international standard is essential so that they do not use incompatible or conflicting criteria of good forest management.

The evolution of the FSC is a process which is intended to encompass the views of a wide range of interest groups. As yet the exact nature of the organization has not been formalized and the Principles of good forest management are still being refined. However, it is clear that the FSC provides a ray of hope in the otherwise gloomy situation facing the world's forests.

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