



**global witness**

## **PRESS RELEASE**

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### **European Commission timber regulation fails to create offence**

After prevaricating for over five years, the European Commission decided today not to make it illegal to import illegally harvested timber into Europe.<sup>1</sup> The long-awaited proposal for a regulation, '*Laying down the obligations of operators who place timber and timber products on the market*', instead adopts a systems-based approach.<sup>2, 3, 4</sup>

Under the proposed regulation operators<sup>5</sup> have to exercise due diligence to minimise the risk of placing illegally harvested timber and timber products on the market. In turn, it is envisaged that competent authorities in member states will carry out checks to verify if operators are complying with the provisions of the regulation. This is likely to detract from efforts to detect illegal timber imports. In the event of non-compliance operators may be required to carry out corrective measures.

"Assessing whether or not a timber trader has exercised due diligence is inherently subjective. Unless being caught in possession of illegal timber is treated as *de facto* proof of a failure to comply, this legislation is very unlikely to provide a deterrent to the determined illegal operator," said Jon Buckrell of Global Witness.

By way of contrast, legislation recently passed in the U.S. makes it illegal for a person or company to "import, export, transport, sell, receive, acquire, or purchase" timber or timber products" illegally "taken, harvested, possessed, transported, sold or exported."<sup>6</sup>

"The beauty of the U.S. Lacey Act is that it is entirely objective, if you are caught with illegal timber you have committed an offence," said Buckrell.

The Lacey Act creates a number of offences depending on the operator's degree of knowledge at the time of the offence. Knowingly engaging in prohibited conduct could result in a fine of up to \$500,000 for a company, \$250,000 for a person or twice the maximum value of the transaction. In addition they face a possible prison sentence of up to five years and forfeiture of the goods.

"Being required to undertake 'corrective measures' is unlikely to focus the mind as much as the prospect of five years in prison," said Buckrell.

Timber and timber products from partner countries will be considered to have been legally harvested for the purposes of the proposed regulation. Effectively this means that timber illegally logged in a third country can be laundered into the system via a partner country and enter Europe together with a valid legality licence, thereby compounding the problems associated with the Commissions earlier directive on illegal logging.<sup>7</sup>

"As it stands, this legislation is unlikely to have much impact on the illegal timber trade in Europe. In coming months it is essential that the European Parliament and Council of Ministers agree to the changes that are necessary to make this legislation effective. The 1 billion people living in extreme poverty, who depend on forests for some part of their livelihoods, deserve better,"<sup>8</sup> said Jon Buckrell.

**For further information please contact:**

Jon Buckrell – Global Witness Head of Forest Policy + 44 (0)1428 651377  
jbuckrell@globalwitness.org

**Notes for editors:**

<sup>1</sup> Illegal logging is of major and increasing international concern. It results in deforestation and forest-degradation (and associated greenhouse gas emissions leading to climate change), the loss of other ecosystem services, social problems and conflict. Almost one-fifth of wood imported into the EU in 2006 came from illegal or suspected illegal sources

For further information on the illegal timber trade in Europe please see:  
World Wide Fund for Nature: '*Illegal Logging and the EU. An analysis of the EU export and import market of illegal wood and related products*', 2008

<sup>2</sup> The May 2003 'EU Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT)' committed the Commission to: "... *undertake an analysis of the options for, and the impact of, further measures, including, in the absence of multilateral progress, the feasibility of legislation to control imports of illegally harvested timber into the EU, and report back to the Council on this work during 2004*"

<sup>3</sup> In February 2004 the Committee on Industry, External Trade, Research and Energy of the European Parliament wrote a letter to the Commission. Amongst other things the Committee requested "*that the Commission draft legislation to prohibit the import and marketing of all illegally sourced timber and forest products and report back to both the Council and the European Parliament by June 2004.*" The Commission failed to meet either deadline

<sup>4</sup> The Commission conducted an online consultation in March 2007: "Additional Options to Combat Illegal Logging". Four options were outlined, which were all subsequently rejected, despite significant support for Option 4 "Legislation requiring that only legally harvested timber and timber products are placed on the EU market". This proposal, effectively Option 5, was not subject to public consultation

<sup>5</sup> Any natural or legal person that places timber or timber products on the market

<sup>6</sup> On May 22, 2008, the U.S. Congress passed a groundbreaking law banning commerce in illegally sourced plants and their products – including timber and wood products. The new law is an amendment to a 100-year-old statute, named the Lacey Act after the Congressman who first championed it

For further information please see:  
[www.eia-global.org/lacey/P6.EIA.LaceyReport.pdf](http://www.eia-global.org/lacey/P6.EIA.LaceyReport.pdf)

<sup>7</sup> The Commission has encouraged tropical timber producing countries to enter into FLEGT Voluntary Partnership Agreements (VPAs). These agreements include *inter alia* FLEGT licensing schemes whereby timber harvested in the partner country will be issued with a legality licence for export to Europe. (for more information please see Council Regulation 2173/2005)

<sup>8</sup> According to the World Bank's 2002 Forest Strategy 'Sustaining Forests: A Development Strategy: "*Forest resources directly contribute to the livelihoods of 90 percent of the 1.2 billion people living in extreme poverty and indirectly support the natural environment that nourishes agriculture and the food supplies of nearly half the population of the developing world*"

For further information please see:  
<http://siteresources.worldbank.org/INTFORESTS/Resources/SustainingForests.pdf>