



Illegally Logged Timber: EU and UK legislation

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Some 13 million hectares of forest, an area the size of England, are thought to be cut down globally each year. Deforestation is a critical issue as it contributes around 17% of global greenhouse gas emissions—failure to halt deforestation may lead to dangerous climate change even if industrial emissions were reduced to zero. Halting deforestation will also dramatically reduce the costs associated with avoiding dangerous climate change.

The trade in illegally logged timber undermines the effective management of forest resources in developing countries and thereby contributes to deforestation. Some 2.6% of timber and timber products imported into the UK in 2008 were illegally sourced. This trade was worth over \$1 billion.

The EU legislated in 2010 to ban the placing on the EU market of illegally logged timber from 2013. This will only apply to timber at the point when it is placed on the market. If illegal timber is on the EU market it will be legal to buy or sell it, although traders will have to keep records of their suppliers and customers. The EU is also agreeing Voluntary Partnership Agreements with timber exporting countries that seek to promote effective forest governance.

There is no domestic legislation on illegal logging. The previous Government, alongside working at an EU level, set up the Central Point for Expertise for Timber Procurement in the public sector and placed an obligation on Government bodies to purchase legal and sustainable timber.

The Coalition Government initially indicated that it would go further than the EU by legislating to make it a criminal offence for anyone to buy or sell illegal timber in the UK. However, it currently believes that the EU regulations will be successful at stopping imports of illegal timber.

In 2010 Caroline Lucas MP introduced a Private Members Bill, supported by Members from a number of parties, which sought to extend illegal timber controls beyond those required by the EU. The Bill started its Second Reading on 4 February 2011, but ran out of time. Although another Second Reading date of 10 June 2011 has been scheduled, it is unlikely to proceed due to a lack Government support.

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1 EU Legislation

The EU has taken two approaches to tackling illegal logging. Firstly it set up the Forest Law Enforcement, Governance and Trade Programme (FLEGT). This works to set up bilateral Voluntary Partnership Agreements (VPAs) with timber producing developing countries, in which they agree only to export legally sourced timber to the EU. A list of countries involved in this process can be found [here](#).

The EU also introduced a Regulation in October 2010, which will come into force in 2013. This will ban the placing of illegal timber onto the EU market “for the first time”, and introduce “due diligence”. Critics argue that this will allow illegally logged timber to be sold in the EU, should border controls fail to prevent it entering the market. The Commission website summarised the legislation as follows:

Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market – also known as the (Illegal) Timber Regulation counters the trade in illegally harvested timber and timber products through three key obligations:

1. It prohibits the placing on the EU market for the first time of illegally harvested timber and products derived from such timber;
2. It requires EU traders who place timber products on the EU market for the first time to exercise 'due diligence';

Once on the market, the timber and timber products may be sold on and/or transformed before they reach the final consumer. To facilitate the traceability of timber products economic operators in this part of the supply chain (referred to as traders in the regulation) have an obligation to

3. Keep records of their suppliers and customers.

The Regulation covers a wide range of timber products listed in its Annex using EU Customs code nomenclature.

The application of the Regulation will start from 3rd March 2013 to allow sufficient time for EU operators, timber producers and Member States, as well as trading partners, to prepare. During this period the Commission will adopt more detailed rules.¹

¹ [Timber regulation](#), European Commission, viewed 3 March 2011

2 Illegal timber in the UK

The Environmental Audit Committee (EAC) published a forestry report in 2009. This summarised the UK's role in the illegal timber trade:

The UK has a large impact on the global timber trade—it is the world's fifth largest importer of crude wood products, and the third largest importer of paper products... We found that illegal logging and the international trade in illegally logged timber leads to environmental damage and undermines efforts to manage forests sustainably. It also undermines the work done on improving governance in rainforest nations.

[I]llegal timber remains an unacceptable part of the UK timber trade; it is possible that the UK is one of the world's largest importers of illegal timber and illegal timber products. This failure to ban illegal timber means that the UK is undermining efforts to improve forest governance and [is] contributing to deforestation and its associated emissions.²

An earlier EAC report on [Sustainable Timber](#) included further background and set out in detail the argument for and against legislation.³

Chatham House estimated that in 2008 UK imports of illegal wood and timber products totalled 1.5 million cubic metres round wood equivalent, or roughly 2.6% of total imports. The total had been increasing gradually up to 2007 before a fall of 21% in 2008. The estimated value of these illegal imports in 2008 was over \$1 billion. This figure is above the figures for France and the Netherlands (both at 1.9%) but below Japan (9.0%) and the US (3.8%).⁴

Chatham House produced a country report in 2010 providing further details:

Imports of Illegally Sourced Wood Products [into the UK]

- While UK imports of illegally sourced wood products from Indonesia rapidly declined during 2000–07, this was largely offset by increased imports of illegally sourced wood products from China.
- Estimated imports of illegally sourced wood products into the UK increased between 2000 and 2007, but fell back by 21% in 2008.
- Illegally sourced wood-product imports per capita and as a percentage of total imports also declined in 2008.
- The UK imports more illegally sourced wood products per capita than the US, France, China or Vietnam.
- 59% of the UK's imports of illegally sourced wood now arrive indirectly via third party processing countries, up from 8% in 2000. This makes cleaning up supplies challenging.⁵

2.1 Domestic policy

There is no specific domestic legislation on illegal timber imports. The Labour Government instead focused at the EU level, established an advisory body called the Central Point for Expertise for Timber Procurement (CPET) in the public sector and placed an obligation on

² EAC , [Reducing greenhouse gas emissions from deforestation: No hope without forests](#), 29 June 2009

³ EAC, [Sustainable Timber](#), 16 January 2006

⁴ Chatham House, [Illegal Logging and Related Trade. Indicators of the Global Response](#), July 2010

⁵ *ibid*

Government bodies to purchase legal and sustainable timber. In July 2010 Chatham House commended the Government for its work:

The UK scored highest of the five consumer countries studied in an assessment of laws, regulations and policies necessary to tackle illegal logging and related trade. The UK was often the first of the five countries to take relevant steps.

The UK has been a strong supporter of additional legislation at the EU level to prevent the import and sale of illegal wood; it has also been actively involved in developing voluntary partnership agreements between the EU and producer countries. However, the agreements currently in place or under negotiation will cover only 20% of the UK's estimated imports of illegally sourced wood.

The UK was the first country to implement a government wood procurement policy; its policy is the best designed and implemented of the five countries studied. The policy has had a major impact on the response of the private sector and the level of illegal wood consumption.⁶

Chatham House also indicated that there needed to be improvements:

Systems are required for monitoring implementation of the UK government's wood procurement policy, and while the policy is good it could still be improved.

UK buyers need to take additional action to clean up supply chains for wood products imported from China.

If new EU legislation designed to prevent the consumption of illegal wood is to be effective, it is important that the UK, like all EU member states, includes strong penalties and puts the necessary resources into enforcement.⁷

3 The Coalition Position

William Hague as Shadow Foreign Secretary made a speech setting out Conservative policy on climate change. During this he made a commitment to make it a criminal offence in the UK to import or possess illegal timber:

We will introduce new criminal offences under UK law for the import and possession of illegal timber. Last year the US made 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.

The Environment Secretary Hilary Benn has said himself that "illegal timber should be just that-illegal." But the actual position of his department is that "The UK Government cannot institute legal proceedings in the UK relating to a breach or breaches of sovereign laws in another country". There is no reason why it should not be possible to create an offence of selling or distributing imported wood illegally harvested in its country of origin, or, indeed, of importing such wood into the UK. We will legislate to this effect and send a message to the rest of Europe that we are ready to lead on closing the market to illegally harvested timber.⁸

Following the General Election, the Coalition Agreement included a commitment to implement "measures to make the import or possession of illegal timber a criminal offence".⁹

⁶ *Illegal Logging and Related Trade*, Chatham House, July 2010

⁷ *ibid*

⁸ *William Hague: The Challenge of Climate Change*, The Conservatives, 25 November 2009

⁹ *The Coalition Agreement*, 12 May 2010

However, by September 2010, the Government concluded that the EU Regulations would be sufficient to meet this commitment:

Barry Gardiner (Brent North) (Lab): The coalition agreement stipulates that the Government will legislate to ban both the import and possession of illegal timber. The Secretary of State has recently made it clear that that commitment has been dropped in favour of the lesser European proposals. Has she discussed that with her coalition partners, and if so, with whom and when?

Mr Paice: We discuss these issues throughout the coalition regularly, so I cannot give a long list of "with whom and when." But it is perfectly correct that we believe that the EU due diligence regulation does fulfil the expectations and desires of the coalition on stopping the trade of illegally forested timber throughout the EU. Once formal agreement is reached in the next few weeks, we expect every country to adopt a very robust implementation process to ensure that it actually has teeth.¹⁰

Greg Barker, Minister of State, Department of Energy and Climate Change, also indicated that the Government would monitor implementation of the EU Regulations to ensure that they achieved its aims:

Caroline Lucas (Brighton, Pavilion) (Green): Is the Minister convinced that the impact of the new EU regulation on illegal logging, which prohibits only the first placing on the market of illegally logged timber, will genuinely reduce emissions from land use changes to the same extent as the promise that the coalition Government now appear to have dropped, to legislate to prohibit also the sale or possession of illegally logged timber here in the UK, would have?

Gregory Barker: We have not dropped a commitment from the coalition agreement, but we will be looking very carefully at the new measures to see whether they can do the job. I remain as committed to ensuring that we are at the forefront of the battle against illegal logging as we were on the day we were elected.¹¹

4 Caroline Lucas MP's Private Member's Bill

Caroline Lucas MP raised concerns about the Government's approach to illegal timber imports in a letter to Caroline Spelman, Secretary of State for Environment, Food and Rural affairs, in July 2010. She argued that the new EU Regulations did not go far enough. She called for the Government to make it an offence to handle illegal timber at any point in the market, not just when it is first placed on the market:

As you mention in your letter, the compromise text agreed with the European Council now makes clear that the placing in the EU market of illegally harvested timber or timber products is prohibited, and will be subject to considerable penalties. However, I remain concerned that despite this advance, it is possible to bypass this incomplete prohibition by setting up shell companies to effect first placement. When allegations of illegality are subsequently pursued the shell company can cease trading and criminals can walk away with impunity.

Therefore, whilst I welcome your commitment to putting in place strong implementation measures, an enforcement regime of the European legislation is only part of what the UK should be doing.

¹⁰ HC Deb 9 Sep 2010 c 458

¹¹ HC Deb 16 Sep 2010 c1011

Following the developments in EU legislation, to bolster this, I am now calling for national legislation in the UK to replicate the United States' Lacey Act. Following the amendment of the US's Lacey Act, prohibition is enforced on all operators at any point within the timber market. The commitment was made by the Conservatives to support such legislation ahead of the general election by both William Hague and by Greg Barker and there is a clear commitment in the coalition agreement to legislate. Ideally we need support for a series of the major European purchasers to go further and introduce similar national legislation but the UK acting alone would still send a strong message.

This legislation must not be delayed on the grounds that we now have a more progressive position within Europe. It is not the case that more time is needed to see the EU measures 'bed in' before we advance to further legislation as it is clear that the "prohibition of first placement on the market" falls far short of the comprehensive prohibition applying to all operators on the supply chain that is needed and that the Conservatives promised before the election.¹²

This approach has been supported by the Environmental Audit Committee in the past.¹³

Caroline Lucas MP subsequently tabled a Private Member's Bill called the *Illegally Logged Timber (Prohibition of Import, Sale or Distribution) Bill*. The Bill was supported by Members of the three largest parties. The aim of the Bill was to make it illegal in the United Kingdom 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 from their country of origin.¹⁴

The Bill set what would be deemed as reasonable enquiries to establish the legality of a timber consignment. It also set out a range of penalties for an offence, which could include prison sentences of up to 5 years and a fine of up to £200,000.¹⁵

The Bill started its Second Reading on 4 February 2011, but ran out of time. Although another Second Reading date of 10 June 2011 has been scheduled, it is unlikely to proceed due to a lack of Government support.

¹² Letter to Rt Hon Caroline Spelman MP - Secretary of State DEFRA - 6 July 2010

¹³ EAC, *Reducing greenhouse gas emissions from deforestation: No hope without forests*, 29 June 2009

¹⁴ *The Illegally Logged Timber (Prohibition of Import, Sale or Distribution) Bill*, Bill 74 2010-11

¹⁵ *ibid*