

BRIDGING THE GAPS



'Near Threatened'¹ African iroko used in the refurbishment of the footbridge over the Grand Canal, Tullamore, Ireland.

Supporting background to Just Forests' formal complaint to the EU Commission for Consumer Affairs on the continued (and verifiable) use of Illegally-logged timber in Ireland originating in tropical and other regions outside the EU.

Thursday 16 July 2009



Irish Woodworkers for Africa (T/A) Just Forests

www.justforests.org

¹ <http://www.iucnredlist.org/details/33903/0>

“Consumers are the key players in the European economy.”

‘There are now more than 490 million consumers in Europe and their expenditure represents over half of the EU’s gross domestic product (GDP). Consumers are essential to economic growth and job creation. Yet there is an EU-wide lack of consumer confidence when it comes to cross-border shopping. I believe that consumers should be as confident about making purchases in other countries as they are at home.’

Meglana Kuneva, EU Commissioner for Consumer Affairs

Introduction

For two decades Just Forests has endeavored to highlight the urgent need for Irish society to source their timber need from responsibly-managed forests worldwide. We have brought the matter of *‘responsible timber sourcing’* to numerous government departments, state agencies, local authorities and professional bodies. We have also provided development education (DE) and education for sustainable development (ESD) to the Irish public and schools through our travelling exhibition –Wood of Life.

Ireland has a particular responsibility for deforestation and illegal logging. Economic development and consumption in this country is very much dependent upon natural resources from other parts of the world, in particular some of the poorest countries of Africa, Latin America and S.E. Asia. This is particularly true for timber. Most of the logging in tropical and boreal regions focuses on high-value trees that are exported for consumption in Europe and Asia.

While China’s imports of tropical timber is skyrocketing, only half of it is actually consumed in China, the other half is re-exported to EU countries, like Ireland, and US markets in the form of wood products (plywood for hoarding, flooring, furniture, etc). As a global consumer, trade partner and investor, Ireland has an obligation to consider the impact of its policies and actions on sustainable development. It also has the responsibility to promote equity in the use of forest resources.

All observers are in agreement that China has become a major player in the international timber trade during recent years. EU imports of products from wood and paper from the People’s Republic almost tripled between 2003 and 2006 (from 4 million m³ to 11.5 million m³). China itself imports the greater proportion of the wood used to manufacture these products from so-called high-risk regions such as the Far East of Russia, South-East Asia and Africa, with a high probability of illegal origin. China's imports of red canarium and bintangor tend to be supplied from Papua New Guinea (PNG) and therefore warrant classification as Illegal Timber (as per the advice of the UK’s Timber Trade Federation and others).¹

Consumer Protection

China –like Ireland, is a signatory to CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora). It is Just Forests strong belief that both China and Ireland are grossly violating the spirit of CITES. While maybe staying within the ‘legally established’ parameters of the Convention, common sense and moral judgement would say that both countries are acting irresponsibly by having no regard what-so-ever for **consumer protection and environmental protection**.

Irish consumers of wood-based products have a right under EU law to guarantee that the furniture they buy is not contributing to species extinction. Milieudefensie (Friends of the Earth, Netherlands) commissioned a report² in 2007, which explores the potential of CITES as a tool, to combat trade in either wood products which derive from unsustainably managed forests or illegal timber. In this regard we have made a formal complaint to EU DG-Environment imploring them to use CITES as a means to stop this practice of timber species decline and make it an offence for Ireland and all EU member states to import illegal Timber.

We now ask you to do likewise and make it an offence for Ireland to import illegal Timber products as a means of meeting national, regional and international responsibilities as outlined in your policies on your websites.

Trade and the Consumer

*The European Union is the third largest Union in the world after China and India. The EU generates the majority of world trade and creates one quarter of the world's wealth.

The European Union is the world's biggest trader, accounting for nearly 20 % of global exports and imports. The United States is the EU's largest trading partner, followed by China and Russia. Two way trade in goods and services across the Atlantic is worth more than €700 billion annually.

The single European market gives freedom of movement for people, goods, services and capital. The European Commission represents all the member states at meetings of the World Trade Organization. The EU strives to promote global trade liberalisation to benefit rich and poor countries alike.

The most visible way to encourage free trade is to reduce, or remove, import duties or quotas on the movement of goods. Domestic or foreign suppliers can then compete openly on price and quality. But there are also hidden or 'technical' barriers to trade that governments and companies can use to get an unfair advantage. These unfair trade practices include:

- selling goods on foreign markets below cost or domestic price to force producers in these countries out of their home market — so called 'dumping',
- paying subsidies from the state budget to companies to give them an unfair advantage in foreign or home markets,
- reserving public contracts for local firms, even though foreign bidders submit better offers,
- disregarding intellectual property rights (trade marks and copyrights) by selling counterfeit goods to undercut the original manufacturer.

While trade is commercially important, the EU believes that trade agreements should not just be based around commercial interests. Trade sanctions can be used as tools of foreign policy when the Union finds itself dealing with a partner who is in breach of human rights or other international standards of behaviour.

The EU is particularly sensitive to the needs and interests of developing countries and has long believed that trade can boost their economic growth and their productivity. Accordingly developing countries enjoy duty-free access or cut-rate tariffs on exports to the EU market for the 7,200 products covered by the EU's generalised system of preferences (GSP). This is a one-way concession

which does not require any return from the beneficiary countries. Under the programme informally called “Everything But Arms” the world’s fifty least developed countries have virtually totally free access to the EU market for all their products, except exports of weapons and ammunition.’

*Taken from EU-Matters [website](#)

Lost livelihoods

Illegal logging, criminal exploitation and trade in forest resources are destroying forest ecosystems, undermining the livelihoods of local communities and depriving governments in transition of much-needed revenue. Illegal logging causes environmental damage, promotes corruption, undermines the rule of law and good governance and funds armed conflict. It retards sustainable development in some of the poorest countries of the world. Consumer countries like Ireland contribute to these problems by importing timber and wood products without ensuring that they are legally sourced through credible third-party verification. Irish consumers need to be re-assured they are not contributing to any criminal activities by innocently purchasing timber and wood-based products resulting from such activities.

The use of plywood containing illegal Timber in a number of high-profile construction sites in Ireland such as the European Union Office, Dublin: the Irish Aid Information Centre, Dublin and the new Civic Offices in Mullingar, County Westmeath is also responsible for layoffs in the Irish Panelboard Industry according to Mr Neil Foot, Managing Director of Waterford-based SmartPly Europe.

EU FLEGT Action Plan

In 2003 the EU adopted an action plan to combat illegal logging and the associated trade (FLEGT –Forest Law Enforcement, Governance and Trade). Licensing regulations in the framework of Voluntary Partnership Agreements (VPAs) with producer countries seek to exclude illegal timber from being imported into the EU. Negotiations to reach these agreements are being undertaken or prepared with Indonesia and Malaysia as well as with a number of timber exporting countries in Africa. VPAs were recently signed with Ghana and Congo Brazzaville. However, the findings of Just Forests’ research show that, even if all foreseen FLEGT partnerships are agreed and successfully implemented, more than 90% of the overall imports of illegally logged wood will still enter the EU.

This is due to a number of shortcomings in the regulation. No negotiations are planned with the most relevant producer and transit countries (e.g. Russia, Brazil, China, Eastern European countries) and many products that are manufactured from illegal wood are not covered by FLEGT regulation (e.g. furniture and other ready processed wood products or paper which account for a substantial proportion of some candidate countries’ wood-based product exports to the EU).

Using the simplest of devices, e.g. milling a groove in a piece of wood, it is possible to re-declare sawnwood as ‘profiled’ wood and thereby circumvent FLEGT regulation. This practice is widespread and unsuspecting timber and wood-based product consumers by default contribute to illegal logging.

Additional legislation needed: EU-wide ban on trading in illegal wood

While traceability systems to reduce illegal timber imports are already in place by some of the major forest industry companies in Europe, e.g. in Finland, additional legislation at EU level is urgently required to ensure that only wood and paper products from legal sources are traded – with an

obligation to provide proof for processors as well as traders. This is the only way to exclude illegal timber sources with processing and import through transit countries and to stop commercial illegal logging in EU Member States. A legal origin is only a first step towards sustainable provenance from ecologically and socially responsible forestry management. Consumers and companies already have the option today of using the Forest Stewardship Council (FSC) certification, which guarantees both the legality and sustainability of products. Under its (very open ended) Forest Law Enforcement Governance and Trade initiative, the European Commission has started to negotiate bilateral voluntary partnership agreements “VPAs” with a handful of the countries which account for a substantial proportion of the EU’s imports of Illegal Timber.³ The legality licensing schemes which are being developed under this initiative could become models for other importing countries (and producer countries) to adopt – particularly if they are simple, have sustainability as their primary focus, and involve local stakeholders. More importantly, the initiative will encourage the laundering of Illegal timber through third countries – especially China - until such third countries also have comparable agreements with the EU.

Although research into additional legislative options has been carried out, there is little to show that any new legislation will follow. A variant on the USA’s Lacey Act seems to offer most potential. In the mean time, importers can import Illegal Timber almost without fear of conviction.⁴

Forest/Chain-of-Custody (CoC) Certification

Perhaps the best way at present to ensure that one’s timber purchases derive legally from sustainably managed forest is to ensure that they are credibly certified as such. In some countries, certification does not rely on improved governance, enhanced administrative capacity, new laws or law enforcement. It merely reflects sound long term management and compliance with relevant law. Elsewhere however, vested interests might be so powerful or the law might be so inequitable⁵ that establishing credible certification is problematic. Further, even the most established certification schemes are still evolving and are not immune from criticism.

Due Negligence - The case for stronger EU legislation on illegal timber⁶

Nearly five years after the launch of the Forest Law Enforcement Governance and Trade (FLEGT) Action Plan, the European Commission (EC) in October 2008 finally issued a proposal for a regulation “*laying down the obligations of operators who place timber and timber products on the market*”. Just Forests supports the Environmental Investigation Agency (EIA) belief and the strongly held belief of many other reputable international NGOs that, in its current form, the proposal is seriously flawed. It fails to prohibit the import and sale of illegally-logged timber, resulting in wood products made from stolen timber remaining available on the market.

Main Flaws at a Glance

1. Failure to prohibit illegal timber in the EU market.

Instead of prohibiting it, the EC proposal permits continued trade in illegally-logged wood within the EU market – failing to address the “*weak rules to prevent trade in illegally harvested timber*” cited in the proposal as the key driver for illegal logging.

2. Proposed due diligence systems are vague, limited in coverage, and lack common and dissuasive penalties.

- a) Uncertain legal obligations: the proposal fails to adequately define or lay down clear and common rules on systems and monitoring of “due diligence” that will be applied equally across member states.
- b) Limited company coverage: the due diligence systems proposed are restricted to only the first company to place timber on the EC market – effectively exempting the majority of the EU timber trade.
- c) No clear and common sanctions: the proposal fails to define any EU-wide deterrent penalties.

3. Unacceptable product exemptions and implementation delays.

The proposal exempts wood used for energy production and also states that the regulation will not be applied for a full two years following passage into law.

Solutions at a Glance

The proposed regulation should be amended, by:

- 1. Including a general prohibition on the placement of illegal timber in the EU market, with EU-wide sanctions for infringement.**
- 2. Strengthen the requirement for due diligence measures applicable to all EU companies in the supply chain**
- 3. Remove unjustified product category exemptions, and ensure the regulation applies from the date of final agreement by the Council of Ministers**

¹ Email from Globaltimber .org.uk -26/06/2009

² An assessment of tree species which warrant listing in CITES-Friends of the Earth – Netherlands – January 2007

³ Cameroon, Gabon, Ghana, Indonesia and Malaysia (– but not China, Russia or Brazil, which, together, probably supply the EU with a greater quantity of Illegal Timber).

⁴ http://www.illegal-logging.info/papers/RIIA_EU_control_of_imports.doc and

http://www.illegal-logging.info/papers/Illegal_logging_legal_opinion_March_06.doc

⁵ http://www.illegal-logging.info/papers/CIFOR_Justice_in_the_Forest.pdf

⁶ Due Negligence – An EIA Report - http://www.illegal-logging.info/item_single.php?item=document&item_id=702&approach_id=26

Example

A Greenpeace exposé of the use of Illegal Timber for a prestigious public building project highlighted the failure of the UK to implement its central government policy concerning the responsible procurement of wood-based products.ⁱ The UK's Timber Trade Federation has since advised its members against importing plywood from China if this is made even partly from species which are likely to have grown in either Papua New Guinea or the Solomon Islands.ⁱⁱ



photo credit: Tom Roche, Just Forests

Exhibit 3 Illegal Timber used during construction of civic offices in Ireland

The image opposite shows a pack of red canarium plywood supplied from China under the YiXing Lion-King brandⁱⁱⁱ for use during the recent construction of new civic offices in Mullingar, Ireland.^{iv}

Although a very small amount of red canarium plywood made in China is FSC-certified (as controlled wood)^v – at a price 20%-30% greater than the norm for such plywood normally, it is very unlikely that any of this would have been used in Mullingar without FSC paperwork or branding.

The continued importation of such plywood into the EU (notably bintangor and red canarium - which have subsequently been the subject of anti-dumping proposals)^{vi} indicates that due diligence is not being applied uniformly across the EU. This reinforces the need for the import of Illegal Timber to be made an offence.

See brief historic background and pictures of *other exhibits of illegal timber use in Ireland* in accompanying document –

A Timber Policy for Everyone - Just Forests May 2009.

This document also contains Just Forests recent Presentation to a Joint Oireachtas Committee on Environment Heritage and Local Government on the urgent need for Ireland to adopt a **National Timber Procurement Policy** on 13th May 2009.

[Official Dail Report available here](#)

ⁱ "Alternatives to unsustainable plywood in the UK construction industry" Greenpeace (April 2008)

<http://www.greenpeace.org.uk/files/pdfs/forests/plywood-report-august08.pdf> §2 p5

ⁱⁱ "Repeat Offender: How Tony Blair's Government Continues To Trash The World's Rainforests" Greenpeace (July 2006)

<http://www.greenpeace.org.uk/files/pdfs/migrated/MultimediaFiles/Live/FullReport/7828.pdf> §§4 & 5 p3

ⁱⁱⁱ <http://www.ttf.co.uk/news/releases/2006/june.asp>

^{iv} The government of Papua New Guinea's own forestry review process concludes that the majority of the large logging operations which have been active during recent years cannot credibly be described as lawful – "Logging, Legality, and Livelihoods in Papua New Guinea: Synthesis of Official Assessments of the Large-Scale Logging Industry, Volume 1" Forest Trends (2006) <http://www.forest-trends.org/documents/publications/PNG%20Volume%201%20Final%20v2%20Feb%2016%202006.pdf> §2 p2

^v <http://www.lionkingtimber.com/ejianjie.html> (as indicated by the corporate logo)

^{vi} http://www.justforests.org/whats_new.php

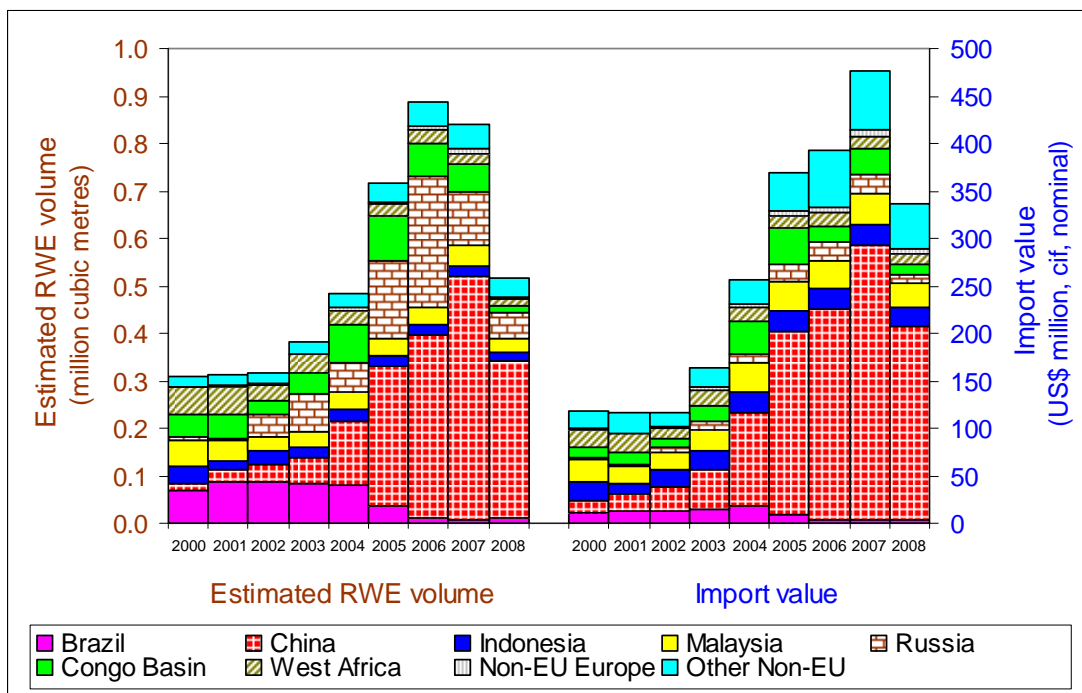
^{vii} "UK market conditions for "legal" and "legal and sustainable" wood products" Forest Industries Intelligence (2007)

http://www.ttf.co.uk/TTF_market_report_Legal&Sustainable_07.pdf §3 p14

^{viii} "Tropical Timber Market Report" ITTO (1-15 September 2008) penultimate § left p13 and §1 right p10

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:291:0019:0020:EN:PDF> §1 right p1

Estimates of Ireland’s direct imports of wood-based products from outside the EU



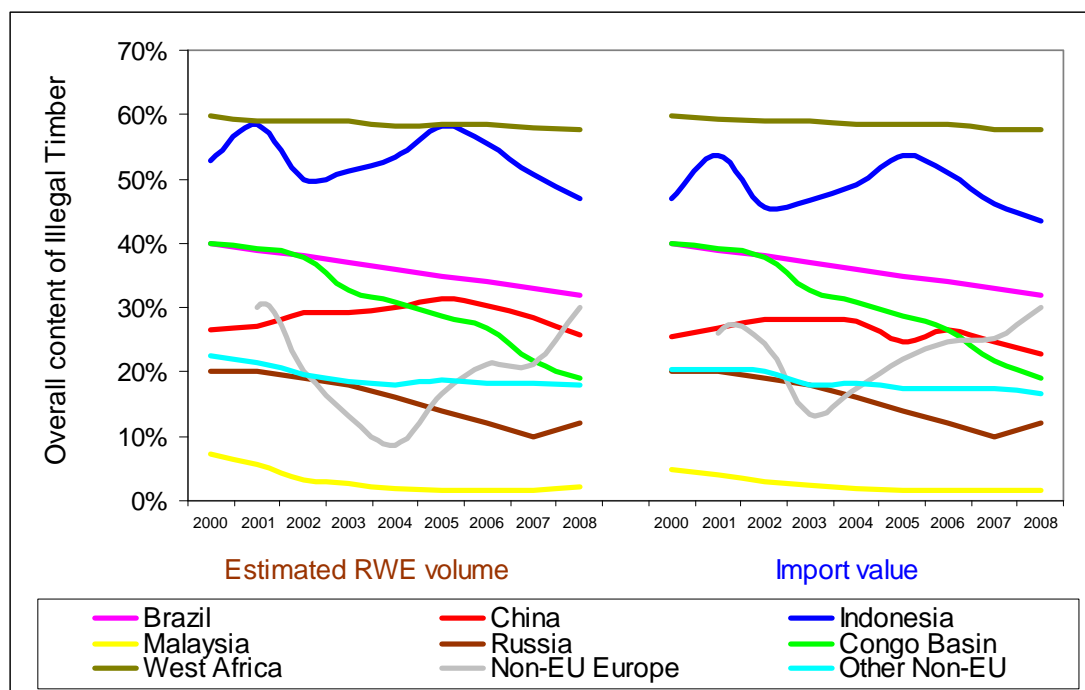
Ireland’s imports of wood-based products from outside the EU expanded rapidly during mid-decade. Most of the increase was supplied from China and, to lesser extent, Russia. Imports from West Africa decreased and seem to have been replaced by imports from the Congo Basin. Imports from Indonesia and Malaysia changed little. Supplies from Brazil fell to almost zero.

During 2007, the total RWE volume¹ decreased (but supplies from China continued to increase). The decline accelerated during 2008. China supplied roughly two thirds of the total during 2008.

The following charts concerning Illegal Timber are necessarily somewhat notional (i.e. reasonable but not necessarily robust).

¹Roundwood equivalent “RWE” volume is measure of the volume of logs required to make a given quantity of wood-based product.

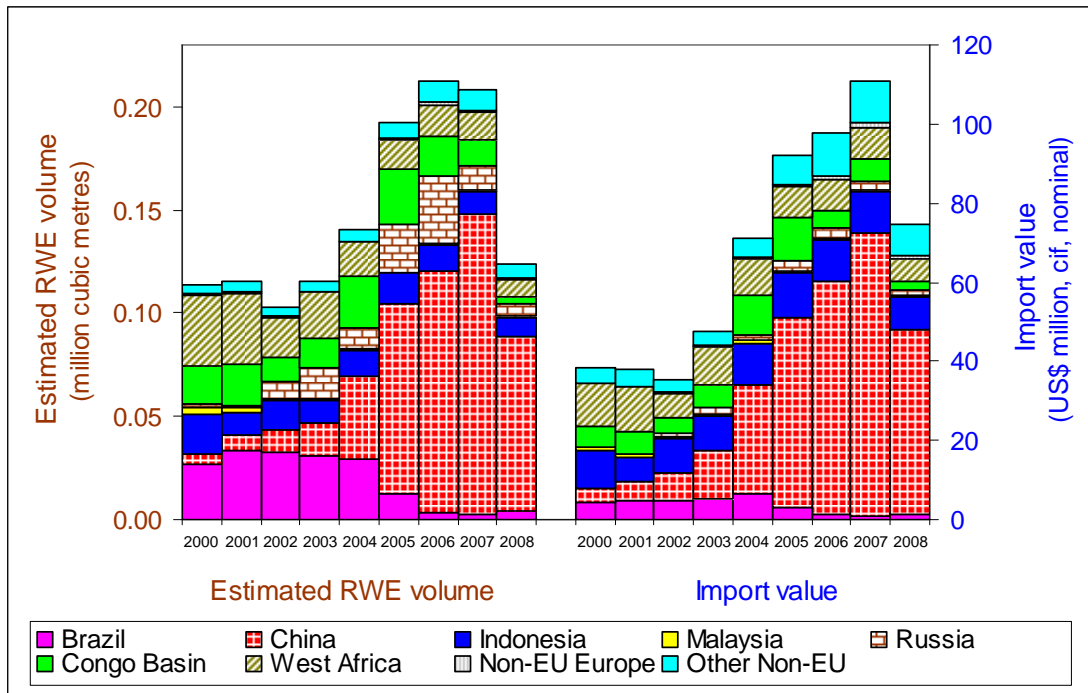
Estimates of the Illegal Timber content of Ireland's imports of wood-based products from outside the EU



The percentages assumed for 2000 are those which are suggested in a seminal study for the American Forest & Paper Association (<http://www.illegal-logging.info/uploads/afandpa.pdf>).

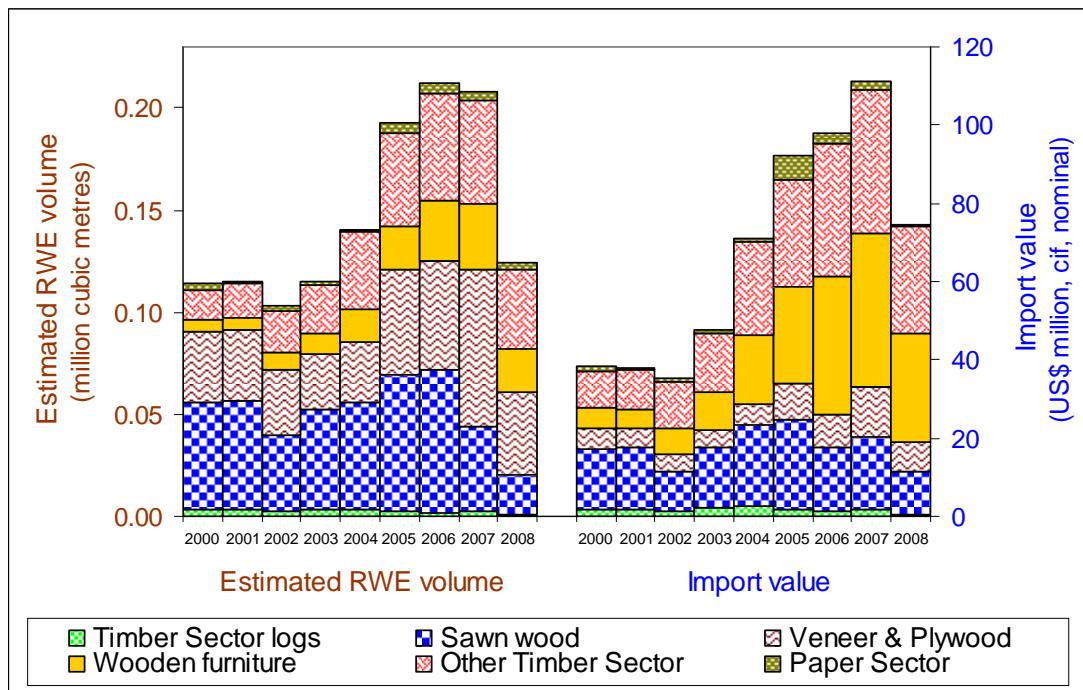
The trends since 2000 take into account changes in the range of products supplied from each country and, for each region, changes in the quantities supplied by each country. They also reflect changes in the choices which importers in Ireland probably made, changes in the availability of certified or legally verified products from each supplying country, and changes in the law and its application.

Estimates of Ireland's direct imports of Illegal Timber from outside the EU (by supplier)



The above chart indicates that China probably supplied much more Illegal Timber directly to Ireland than any other non-EU country did during 2008.

Estimates of Ireland's direct imports of Illegal Timber from outside the EU (by product)



Plywood is likely to have accounted for roughly one third of the Illegal Timber which Ireland imported directly from outside the EU during 2008. Sawnwood, joinery and furniture each probably accounted for a further 15%-20%.

China supplied almost all that plywood, most of that joinery (e.g. flooring) and half of that furniture. Most of these supplies from China will have been composites of wood grown in China (probably but not necessarily legally) and imported wood (probably illegal and used in the product's exterior). In addition to illegality in relation to such wood, there might also have been illegality during the manufacture and sale of the products.

Illegal Timber

In some cases it will be easy to reduce trade in "illegal timber" (for example in Gabon if key concessionaires paid all taxes due) in other cases it will be impossible (for example Indonesian pulp mills whose financing tended to be grossly fraudulent - and whose output one should not to purchase, either directly or indirectly, e.g. after it has been processed in China, until restitution has been made).

Activities that do not conform to national law but which are connected with the extraction of timber from forest (or plantations) and the subsequent processing and trade in wood-based products render those products illegal. Such activities include the financing and acquisition of mills and concessions - the former might be fraudulent; the entity which allocated the concession might not have had authority to make that allocation; the allocation process might have been corrupt.

The profitability of trade in illegal timber grossly inflates apparent demand for timber and fuels unsustainable development. The likelihood of being both convicted and actually obliged to suffer a penalty is generally too low to serve as a disincentive - particularly when compared with the option of corrupting the legal process.

Efforts to combat the economic crime component of "illegal timber" should take into account that such crime might well be widespread outside the timber and paper industries, including in countries which do not export large quantities of illegal timber

Depending on their remit, Independent Forest Observers can play a valuable, but necessarily temporary, role in assisting host countries address the improper allocation of concessions, illegal logging operations, and tax evasion. However, until they are able too investigate the concessions of the most powerful families in the countries/regions concerned and their associates (including the law enforcement authorities) - and until infractions thus exposed are seen to have been equitably dealt with, their impact will be limited - and the output of those concessions should be considered illegal.

"Illegal timber" should only refer to wood-based products whose *raison d'être* is commerce - it should not refer to timber that has been extracted in order to meet the domestic needs of people living in and native to the forest area concerned

Generally, precedence over legality should be given to the sustainability of forest management. The constitution of most countries specifically demands the sustainable management of natural resources.

With some commendable exceptions, bi-lateral and multi-lateral initiatives to combat trade in "illegal timber" have been little more than political rhetoric (continuing to favour lack of transparency). Probably the best way forward is to insist that the chain of supply of one's imports is credibly certified (in accordance with the FSC scheme - or equivalent) as legal and from a sustainably managed forest (or plantation). It is likely that powerful vested interests will endeavour to minimise the penetration of such schemes - not least because they fear that such schemes will reduce their private income. However, others and the countries/regions concerned are likely to benefit - both politically and economically.

There is an increasing body of evidence to suggest that individual politicians, senior government, military and police officers, and the directors of enterprises (including corporate groups) should be convicted of actively facilitating trade in "illegal timber" - and/or other commodities. Until they are actually convicted, these individuals should have their foreign assets frozen in (and should be refused entry visas by) importing countries (if lawyers outside the country demonstrate a sufficiently compelling case).