

Environmental Investigation Agency comments on the draft Guidelines for Overseas Sustainable Forest Products Trade and Investment by Chinese Enterprises

July 2014

The Environmental Investigation Agency (EIA) commends the State Forestry Administration of China (SFA) for engaging in a process of consultation on how to address China's imports of illegal timber, and for seeking comments on proposed policy responses from a range of stakeholders, including civil society groups such as EIA. In addition EIA appreciated the opportunity to participate in the International Workshop on Promoting Legal and Sustainable Trade and Investment in Forest Products, held in Shanghai in March 2014.

EIA has been researching the global problem of illegal logging and trade in illegal timber for 15 years. Based on this experience EIA believes that the only effective and principled means of curbing trade in illegal timber is a regulatory regime established on enforceable laws in consumer countries capable of respecting and reciprocating the laws of producer countries and trade partners. Voluntary approaches such as codes of conduct have proven to be ineffective in tackling the problem. These informed positions have been a cornerstone of EIA's advocacy on illegal logging for over a decade, not just in relation to China but also in our constructive engagement with the European Union,ⁱ the United States,ⁱⁱ and timber industry leaders worldwide.

It is EIA's opinion that the guidelines as currently conceived will be ineffective in achieving the stated objective of promoting legitimate utilisation of forest resources and mutually beneficial and normal global timber trade, for the following reasons:

- **Inadequate response to changes in the global timber trade**

A stated purpose of the guidelines is to respond to demands from the international community for legal and sustainable timber trade. Such changes are exemplified by the European Union's Timber Regulation and the United States Lacey Act amendment. Both of these regulations prohibit trade in illegally-logged timber and are backed up by meaningful penalties for non-compliance. Conversely the proposed guidelines adopt a voluntary approach reliant on self-regulation rather than a mandatory approach founded in government regulation. As such the guidelines do not offer any reassurances to importers in the US and EU carrying out due diligence that timber products imported from China can be proven to be legal, or that the Chinese government has any legal recourse to prevent the re-export of illegal timber imported into the Chinese domestic market.

- **Focus on producer countries rather than timber imports into China**

The guidelines are skewed to the operations of Chinese enterprises overseas, and do not regulate importers of illegally-logged timber into China. The Applicable Scope is limited to "Chinese enterprises that engage in forest product trade and investment and related activities in foreign countries". It is imperative that any policy response in this industry is equally applicable to domestic Chinese importers of timber.

- **Weaknesses in previous guidelines not taken into consideration**

These guidelines are the third such set to be issued by the SFA, following on from the 2009 “Guidelines for Sustainable Overseas Forest Resources Management and Utilization by Chinese Enterprises”. The previous guidelines are also based on a voluntary approach, and EIA’s research indicates these have done little to improve the situation on the ground in producer countries, or stem the flow of illegal timber into China. For example Chinese enterprises have expanded greatly into the forest sector in Mozambique over recent years, with Mozambique being China’s biggest African timber supplier by value in 2013 and Quarter 1 of 2014). In May 2013 a training event focussed on the 2009 guidelines was held in Pemba, northern Mozambique, for Chinese enterprises operating in the country. Just one month later one Chinese company which attended the training was caught trying to export illegal logs, in patent violation of the guidelines. No action can be taken by the Chinese government under the voluntary nature of the guidelines. Overall in 2013 trade data reveals that 46 per cent of the logs imported by China from Mozambique were illegally exported. The Mozambique case clearly shows the ineffectiveness of the voluntary guideline approach.

- **Delaying the inevitable**

Ultimately, to keep pace with changes in the global timber market, which is increasingly adopting regulatory measures to exclude illegal timber from supply chains, the Chinese government will have to move away from the inadequate voluntary approach symbolised by the guidelines and adopt measures to prohibit imports of illegally-logged timber. SFA officials have tacitly recognized the necessity of enacting a regulatory prohibition on imports of illegal timber. Yet the pursuit of another round of unenforceable voluntary guidelines, instead of laying out a timeframe for enacting such a prohibition, suggests an intention to allow illegal timber imports for the foreseeable future. It would be ultimately beneficial for the Chinese wood industry for SFA and other government agencies to develop a regulatory approach now, rather than delaying the inevitable with yet another set of guidelines.

- **Maintenance of an un-even playing field for responsible Chinese enterprises**

The perpetuation of voluntary approaches to promote legal timber trade maintains an uneven and uncompetitive playing field for the increasing number of responsible companies in China already working to exclude illegal timber from their supply chains. Such companies will find it increasingly difficult to compete with companies trading products made with illegal timber, in ways that structurally penalize legal timber traders. A prohibition on trade in illegal timber is in the interests of those responsible Chinese businesses.

In summary, EIA commends the SFA’s increased attention to this globally important issue, and its increasingly consultative approach to policy development. However, EIA believes another round of voluntary guidelines of limited scope will undermine China’s stated aims of promoting normal trade in forest products, and in ways that penalise responsible companies and perpetuate negative international perceptions of China’s timber sector.

EIA strongly recommends that the proposed voluntary guidelines be replaced with a principled and legally enforceable prohibition on illegal timber trade into and within China.

ⁱ <http://eia-international.org/eu-environment-committee-proposes-prohibition-on-illegal-timber-2> & <http://eia-international.org/ue-negligence-the-case-for-stronger-eu-legislation-on-illegal-timber> & <http://www.publications.parliament.uk/pa/cm200809/cmselect/cmenvaud/30/30we12.htm>

ⁱⁱ http://issuu.com/eia-global/docs/organizational_support_letter?e=7348194/2521921 & http://issuu.com/eiaintern1/docs/lacey_eia_testimony_final