

Assessment of Lawful Harvesting & Sustainability of US Hardwood Exports

Prepared for
American Hardwood Export Council

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EXECUTIVE SUMMARY

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EXECUTIVE SUMMARY AND KEY FINDINGS

Background

In certain export markets, most notably in Europe and Japan, government procurement policies and private purchasers are requiring that wood products be shown to be from legal and sustainable sources. The US hardwood sector is characterized by a dispersed supply chain involving millions of mostly small individual landowners and a complex network of timber buyers, processors, wood dealers, concentration yards, harvesting contractors and traders that makes chain of custody tracking for certification challenging if not extremely difficult. In lieu of certification, this report evaluates the risk of US hardwood products from illegally (and unsustainably) sourced timber entering this supply chain and being included in the mix of US exports.

Commercial production of US hardwoods is concentrated in states along and east of the Mississippi River with some additional production in the Pacific Northwest. In preparing this assessment, the collaborating analysts reviewed available information regarding the legal frameworks governing timber ownership, forest management and harvests in the thirty-three states that represent the major hardwood producing regions of the US. In aggregate, these 33 states account for 96% of US hardwood production.

Objectives

The main purpose of this study was to review and evaluate data useful in determining the level of risk associated with US hardwood production with respect to its legality and sustainability. In the context of today's global trading environment, it is important for exporters and importers to have access to information that can respond to questions about legal and sustainable sourcing of wood products. Specifically, the objectives of the study were to:

- (1) describe and assess the legal frameworks that ensure clear ownership and contractual rights to sell timber in the US hardwood regions;
- (2) describe and assess the legal and policy frameworks designed to ensure sustainability in the states where US hardwoods are produced;
- (3) evaluate the US hardwood supply situation within the context of:
 - (a) UK government procurement guidelines for legal and sustainable wood products developed by the Central Point of Expertise on Timber (CPET);
 - (b) Forest Stewardship Council (FSC) Controlled Wood Standard; and,
 - (c) Programme for the Endorsement of Forest Certification (PEFC) requirements for the avoidance of the procurement of raw material from controversial sources.

Study Team

Seneca Creek Associates, LLC coordinated the preparation of this study with a team comprised of well-regarded and independent analysts and experts in the field of US forest policy and forest certification. The following individuals collaborated on this project:

Alberto Goetzl	Mr. Goetzl is the founder and president of <i>Seneca Creek Associates, LLC</i> , a consulting firm that specializes in resource economics and policy. He has authored widely-regarded studies on US and global forest and forest products trade issues.
Paul V. Ellefson	Dr. Ellefson is one of the most recognized authorities on regulations and voluntary programs that affect forest management at the national and state levels. He teaches and researches at the <i>University of Minnesota</i> .
Phil Guillery	Mr. Guillery is currently with the <i>Tropical Forest Trust</i> . Mr. Guillery has worked with the Forest Stewardship Council and with private sector clients on certification and controlled wood assessments.
Gary Dodge	Dr. Dodge is an ecologist with <i>Trailhead Associates</i> . He has consulted with the Forest Stewardship Council on the FSC Controlled Wood Standard.
Scott Berg	Mr. Berg is President of <i>R.S. Berg & Associates, Inc.</i> , a consulting firm that works with forest landowners and timber purchasers in preparing for FSC, SFI, PEFC, ISO 14001 and Tree Farm land management and chain of custody certification.

Key Findings and Observations

- (1) Based on the data compiled and analyzed, the weight of evidence strongly indicates that there is very low risk that US hardwood exports contain wood from illegal sources.
- (2) There can be high confidence that rights of timber ownership are well-established and respected. Approximately 92% of hardwood produced in the US is sourced from private lands. The vast majority of private landowners own small family forests that average less than 10 hectares in size. Numerous legal processes are available to landowners to resolve disputes involving proper title and/or the unauthorized taking or sale of timber property.
- (3) While timber theft occurs and is of concern to private landowners, it not believed to be a pervasive or systemic problem, especially with regards to US hardwood exports. The extent of unlawful timber harvesting across the hardwood producing region is not easily determined and many cases go unreported, although most appear to involve a relatively small numbers of trees. The most commonly reported incidents of timber theft and trespass involve poorly marked or disputed boundary lines. The experience of states with the most detailed information allows an estimate that on the order of 800 to 1,000 significant timber theft cases occur annually in the hardwood region, involving an estimated 20,000 to 25,000 cubic meters (including both softwood and hardwood). Even if half or more were hardwood trees, stolen timber would represent a very small portion of total US hardwood production – very likely less than 1%.

(4) The legal frameworks governing timber ownership, its management and sale vary widely by state. Every state has both regulatory and non-regulatory authorities and programs addressing different aspects of forest management. While resources are limited, and efficiencies and effectiveness can be improved, state programs are responsive in promoting and ensuring sustainable forest practices. When considered in their totality, national and state forest programs contribute to ensuring sustainable and legal hardwood supplies.

(5) Comparisons of international governance indicators, such as those compiled by the World Bank, strongly indicate that the US is perceived as a country with a high regard for the rule of law, an effective environmental, labor and public welfare regulatory environment, and a low level of corruption.

(6) Based on published data, as available, and information compiled from state officials and the wood products trade, there can be high confidence regarding adherence to national and state laws in the hardwood sector.

(7) The US re-exports very little imported temperate hardwood products. Most hardwood imports are from Canada, a country with similarly robust governance as the US. With very few exceptions, and involving very low quantities, US temperate hardwood imports from China, Russia and South America are generally not re-exported.

(8) We have addressed each of the five risk categories of wood that should be avoided according to the FSC Controlled Wood standard (FSC-STD-40-005) that applies to the non-certified portion of mixed products. These categories are:

- (1) illegally harvested wood;
- (2) wood harvested in violation of traditional or civil rights;
- (3) wood harvested in forests where high conservation values are threatened by management activities;
- (4) wood harvested in forests being converted to plantations or non-forest use; and
- (5) wood harvested from forests where genetically modified trees are planted.

We can conclude that hardwood procured from anywhere in the Hardwood States could be considered Low Risk in all five risk categories of the standard. Minor and occasional instances contrary to this finding are present in one or more of the risk categories, and where they do occur, they should be further evaluated by companies procuring wood in those areas. However, we determine the level to be within the threshold for being low risk through our interpretation of the FSC standard and its requirements.

(9) Based on a review of media reports, concerns expressed by stakeholder groups, and other sources examined for this report, there exists a low risk that US hardwoods are produced from controversial sources as defined in the Chain of Custody standard of the Programme for the Endorsement of Forest Certification (PEFC).

(10) We have compiled comprehensive information on federal and state programs, both regulatory and non-regulatory, that describe the frameworks and effectiveness of programs that

relate to timber theft and sustainable forest management. This evidence, when considered in its totality, should qualify under the Central Committee of Expertise (CPET) Category “B” criteria as evidence from “programmes and initiatives other than recognised certification schemes.”

(11) In assessing the breadth and effectiveness of various regulatory and non-regulatory programs that bear on the issues of legality and sustainability (and thus relate to the CPET criteria), all states in the US hardwood-producing region can be considered low risk for illegal and non-sustainable hardwood sourcing.

(12) Finally, given the safety-net of national and state regulations and programs that address unlawful conduct and faulty forest practices, the need for traceability, independent chain of custody and/or controlled wood certification to demonstrate legality should not be a crucial consideration for US sourcing of hardwood products.

Opportunities/Recommendations

The study team has arrived at a series of recommendations for the US hardwood industry to consider based upon the findings of the report. These recommendations are advisory only. *The following recommendations are directed at AHEC and affiliated associations:*

- (1) Develop and publish (or post) a procurement/environmental policy that would apply to all members or require that members develop a procurement/environmental policy. The policy should describe business practices that ensure hardwood supplies are from legal sources.
- (2) Encourage or support a policy that requires exported wood shipments to include a clear indication of the country of origin (i.e. the United States unless the product is a re-export) and, if practical, the state or region in the United States where the timber was produced. This can be accomplished with a stamp or addendum on the shipment’s invoice, with a phytosanitary certificate issued by an APHIS authorized certification official in the originating state, or with documentation similar to what will be required of importers if the Lacey Act amendments are enacted.
- (3) Participate in public and private sector initiatives at the state and local level to work collaboratively to address timber theft and sustainable forestry challenges in the following ways:
 - (a) In cooperation with state forestry organizations and/or universities, developing and implementing an information system for tracking reported incidences of illegal activities involving the harvest of hardwood timber.
 - (b) Where such programs are being considered at the state level, consider supporting licensing or certification of timber harvesters and timber buyers.
 - (c) At the state level, encourage state forestry organizations to provide clear and concise information to landowners, timber operators and timber buyers as to the legal requirements for selling timber.

- (d) At the state level, and where it is not currently provided, encourage state forestry organizations to publish (post) recommendations to landowners on how to minimize risk of being victimized by timber theft and trespass.
- (e) At the state level, encourage state forestry organizations to foster cooperative relationships with enforcement agencies to deter timber theft.
- (f) Where state agencies may have overlapping responsibilities, encourage state forestry organizations to examine timber and forestry enforcement programs to prevent widespread inconsistencies.
- (g) In cooperation with the US Forest Service, state forestry organizations and universities, periodically review the extent of illegal timber harvesting activities occurring nationally and assess the effectiveness of programs used to respond to such activities.
- (h) Promote research (nationally and globally) to improve the effectiveness of institutions and programs focused on unlawful timber harvesting and marketing activities.

Additional recommendations for consideration by firms engaged in hardwood exporting:

- (1) Develop and publish (or post) a procurement/environmental policy that includes (among its provisions) a description of business practices that ensure hardwood supplies are from legal sources.
- (2) Evaluate the feasibility of tracking the chain of custody of wood and fiber from the forest to the customer to be in a position to demonstrate that all harvested wood is legal and in compliance with applicable laws and regulations. Consider third-party certification for tracking the chain-of-custody of hardwood products.
- (3) For timber purchasers:
 - (a) As relevant to the business, ensure that formal contracts exist with contractors to require compliance with applicable laws and regulations and state BMPs.
 - (b) Consider formalizing BMP monitoring and/or support state efforts for BMP monitoring.
 - (c) Encourage logging contractors to implement the Master Logger Program requirements and consider independent certification.
- (4) For timber owners/managers:
 - (a) Consider conducting security audits where there is a high risk of timber trespass and illegal harvesting.
 - (b) Consider certification through one of the recognized certification systems.

- (5) Coordinate with law enforcement and association timber security task forces to investigate and resolve timber trespass and illegal harvesting.
- (6) Encourage associations and cooperators to conduct sustainable forestry and certification training to increase awareness of the basic requirements of the certification standards.
- (7) Encourage the use of existing mechanisms, including the SFI Implementation Committee Inconsistent Practices provision, to report those that do not adhere to the principles of sustainable forestry.

Assessment and Reporting Tools

Finally, to assist AHEC members in evaluating and documenting practices that demonstrate a high confidence that wood products are at low risk of being produced illegally or from controlled/controversial sources, the study team has developed a forest sustainability self-assessment toolkit for use at their discretion. Intended to serve as a guide for companies desiring to examine and document their supply chain with respect to legal and non-problematic sourcing (as defined in procurement and certification schemes), it is provided as an appendix to the report.