

Research Paper

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# Promoting Legal and Sustainable Timber: Using Public Procurement Policy

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# Summary

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Governments are increasingly using public procurement policy to promote the use of legal and sustainable timber, thereby helping to reduce deforestation and illegal logging and encouraging sustainable forestry.

At least 26 countries, mostly in the EU, currently possess some form of timber procurement policy at central government level. Although some have been implemented more recently than others and all tend to vary in their design, the evidence suggests that they are having a positive effect on increasing market share for verified legal and sustainable timber. Although government purchasing accounts for only a limited share of the market, the evidence also suggests that these timber procurement policies are having a broader impact on consumer markets, partly through their impact on suppliers and partly through the signals they send to the market.

These policies are also relatively straightforward to introduce: many countries already possess some form of green procurement policy, and criteria for legal and sustainable timber can easily be tailored to fit. In general no new legislation is needed, though the more comprehensive policies benefit from training and advice to government purchasers.

The gradual spread of the EU Green Procurement Policy programme, and commitments by an increasing number of private companies to eliminate deforestation from their supply chains are likely to encourage further uptake of procurement policies for sustainable timber. Timber procurement can also provide valuable lessons to governments when developing sustainable procurement policies for other products associated with deforestation, such as palm oil.

## Introduction

This paper examines governments' efforts to use public procurement policy to promote the use of legal and sustainable timber, with the aims of reducing deforestation and illegal logging and encouraging sustainable forestry. More than 20 countries now have such policies in place, either as stand-alone commitments or as part of wider green or sustainable procurement strategies.

This general approach has a long history; governments have used their purchasing power in the market as a tool to achieve public policy objectives since at least the nineteenth century.<sup>1</sup> Early objectives tended to focus on labour issues, such as the prevention of child or prison labour, the hiring of unemployed people or demobilized soldiers, or non-discrimination. Environmental objectives grew in importance with the gradual rise in concern over pollution and resource depletion from the 1960s. Purchasing requirements such as recycled paper, ozone-friendly refrigerators and air-conditioners, and energy-efficient office equipment, became commonplace. To pick one example, the US federal government's decision to purchase Energy Star-compliant office machinery helped to change the entire global market for computers and other appliances because of the huge scale of US government purchasing.

More recently attempts have been made to develop consistent sustainable procurement policies across all areas of public purchasing. One of the seven task forces established under the UN's Marrakech Process on Sustainable Consumption and Production (set up in response to the World Summit on Sustainable Development in 2002) focused on sustainable public procurement, with the objective of supporting the development and implementation of national policies. The proposed Sustainable Development Goals currently under discussion contains an objective to 'promote public procurement practices that are sustainable in accordance with national policies and priorities'.<sup>2</sup> Environmental or green procurement policies are now relatively widespread in developed countries, and more comprehensive sustainable procurement approaches, including social objectives, are beginning to emerge.

## Scale

Public procurement is the acquisition of goods and services from a third party on behalf of a public agency, such as a government department or local authority. It can cover an enormous range of items, from military hardware to office stationery to school meals to consultancy services. In developed countries, purchasing of goods and services by public authorities – central, regional and local government and their agencies – is estimated to account for an average of about 12 per cent of GDP.<sup>3</sup> (Higher figures often quoted for procurement – 16–20 per cent or sometimes even higher – usually relate to total government consumption, which includes spending on employee costs such as salaries and pensions, which are not relevant to procurement spend.)

Government purchasing varies significantly across product sectors, from very high proportions (e.g. defence, road-building) to very low (e.g. consumer goods). Comparative data on government purchasing across product types is almost non-existent, but some detailed studies have been made of specific sectors. For example, in the United Kingdom the public sector is thought to account for

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<sup>1</sup> See Christopher McCrudden, *Buying Social Justice: Equality, Government Procurement and Legal Change* (OUP, 2007).

<sup>2</sup> Proposal for Sustainable Development Goals (July 2014) para 12.7, at <http://sustainabledevelopment.un.org/focussdgs.html>.

<sup>3</sup> OECD, 'Size of public procurement market', in *Government at a Glance 2011* (OECD Publishing), [http://dx.doi.org/10.1787/gov\\_glance-2011-46-en](http://dx.doi.org/10.1787/gov_glance-2011-46-en).

30–50 per cent of demand for office furniture,<sup>4</sup> and in most countries public-sector buyers are particularly important for timber for specialist uses such as harbour defences.

It should be remembered that these figures relate to the full public sector, which includes central, regional and local government and often many quasi-independent agencies. Across the OECD as a whole, central governments account for about 30–35 per cent of total public-sector expenditure, though this varies substantially between countries, from relatively centralized states such as the United Kingdom, where central government accounts for about 70 per cent of public sector expenditure, to highly decentralized ones such as Canada, where the corresponding figure is about 15 per cent.<sup>5</sup>

Even where public procurement accounts for only a small proportion of the market, however, the evidence suggests that procurement policies can have a broader impact on consumer markets. Suppliers' preferences for relatively simple supply chains magnify the effect of public-sector preferences; if they need to supply sustainable timber for public purchasers, for example, they tend to prefer to supply the same products to their other customers too. One estimate suggested that government procurement could achieve market leverage of up to 25 per cent of the market (compared with about 10–12 per cent for direct purchases) when knock-on effects such as these were included.<sup>6</sup> Another study, looking at the UK market, concluded that somewhere between 20 and 40 per cent of timber sales were affected, directly or indirectly, by central government policy.<sup>7</sup>

## Timber procurement policies

As far back as the 1970s, the West German government legislated to require tropical timber used in federal building projects to be sustainably produced. More recently, action was stimulated by the 1998–2002 G8 Action Programme on Forests, with its focus on illegal logging and the international trade in illegally logged timber. The EU's Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan, adopted in 2003, discusses the issue of government procurement and 'draws the attention of Member State governments to the fact that illegal logging can be addressed through the adoption of procurement policies' (within the EU procurement is a matter of member state competence).<sup>8</sup> Although in recent years the debate around measures designed to combat illegal logging has focused on broad economy-wide measures such as the EU Timber Regulation and the US Lacey Act, the use of public procurement policy to source legal and sustainable timber was one of the first measures adopted by several consumer-country governments attempting to exclude illegal timber from their markets. Procurement policy usually has the advantage of being adjustable without the need for new legislation, and governments can be more ambitious in setting targets for their own purchasing behaviour than they can in regulating entire national markets.

As of July 2014, 19 countries in the EU (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Slovenia, Spain, Sweden and the United Kingdom) and at least seven outside the EU (Australia,

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<sup>4</sup> Efeca, *An Assessment of the Impacts of the UK Government's Timber Procurement Policy* (2010), p. 65.

<sup>5</sup> Donald Marron, 'Greener Public Purchasing as an Environmental Policy Instrument', in OECD, *The Environmental Performance of Public Purchasing: Issues of Policy Coherence* (OECD, 2003), p. 43.

<sup>6</sup> Markku Simula, 'Public procurement policies for forest products – impacts', presentation at UN Economic Commission for Europe/Food and Agriculture Organization policy forum on public procurement policies for wood and paper products and their impacts on sustainable forest management and timber markets, 5 October 2006.

<sup>7</sup> R. Michael Martin and Baharuddin Haji Ghazali, *Draft Report on Analysis of the Economic Impact of Governmental Procurement Policies on Tropical Timber Markets* (International Tropical Timber Organisation, November 2013), pp. 46–47.

<sup>8</sup> *Communication from the Commission to the Council and the European Parliament: Forest Law Enforcement, Governance and Trade (FLEGT) – Proposal for an EU Action Plan* (May 2003), Section 4.3.

China, Japan, Mexico, New Zealand, Norway and Switzerland) have central government procurement policies in place aimed at ensuring that public purchasers source only legal and/or sustainable timber and wood products, or at least some categories of them.<sup>9</sup> In Australia, the Czech Republic, Finland, Latvia and Sweden these are voluntary guidelines, which public purchasers are encouraged, though not obliged, to follow; in all the other countries, the policies are mandatory – though their product coverage and criteria vary, sometimes significantly. Several other countries, including Ghana, Hungary, Portugal and Romania, are all reportedly developing similar policies.

In addition, many countries possess public procurement policies requiring the use of recycled paper and sometimes paper products such as packaging and occasionally recycled or reused furniture. Only countries with timber procurement policies including criteria based on legality and/or sustainability (and generally recycled as well) are considered here.

The Annex summarizes the timber procurement policies described in more detail in the rest of this paper.

In most cases these policies apply only to central government, though sometimes their coverage is wider (for example in Bulgaria). However, many local and regional governments in these and other countries also possess some kind of timber procurement policy, often, though not always, modelled on their central government’s policy. Data on these experiences are not collected systematically, but some examples are listed in Table 1.

**Table 1: Examples of regional and local government timber procurement policies**

Country	Regional/local government	Policy
Australia	Queensland	Office furniture <sup>a</sup>
Brazil	São Paulo	Aimed at excluding illegal timber <sup>b</sup>
France	Cognac	Originally street furniture, later all wood products <sup>c</sup>
Germany	Baden-Württemberg	German federal government policy <sup>d</sup>
Germany	Hamburg	German federal government policy <sup>e</sup>
Spain	Barcelona	All products <sup>f</sup>
Spain	Basque region	Office furniture <sup>g</sup>
UK	Durham County Council	All products <sup>h</sup>
UK	London Borough of Lewisham	All products <sup>i</sup>
US	New York state	Prohibits the purchase of any tropical hardwoods other than from a ‘sustained managed forest’; currently debating a proposal to establish principles of sustainable management and require chain-of-custody verification. <sup>j</sup>
US	Massachusetts	State legislature debating a bill to prohibit the purchasing of tropical wood unless it originates from second-growth forests and is FSC-certified. <sup>k</sup>

<sup>a</sup> *Sustainable Product Procurement Guide: Office Furniture* (Queensland Government Chief Procurement Office, 2009).

<sup>b</sup> For more information, see [http://www.illegal-logging.info/sites/default/files/uploads/1\\_Beduschi200110.pdf](http://www.illegal-logging.info/sites/default/files/uploads/1_Beduschi200110.pdf).

<sup>c</sup> Summary available at [http://ec.europa.eu/environment/gpp/pdf/news\\_alert/Issue11\\_Case\\_Study28\\_Cognac\\_wood.pdf](http://ec.europa.eu/environment/gpp/pdf/news_alert/Issue11_Case_Study28_Cognac_wood.pdf).

<sup>d</sup> Markku Simula et al., *The Pros and Cons of Procurement: Developments and Progress in Timber Procurement Policies as Tools to Promote Sustainable Management of Tropical Forests* (ITTO Technical Series 34, 2010), p. 53..

<sup>e</sup> Ibid.

<sup>f</sup> Summary available at <http://ec.europa.eu/environment/gpp/pdf/casestudy7.pdf>.

<sup>g</sup> Summary available at [http://ec.europa.eu/environment/gpp/pdf/news\\_alert/Issue6\\_GPP\\_Example16\\_Basque\\_Furniture.pdf](http://ec.europa.eu/environment/gpp/pdf/news_alert/Issue6_GPP_Example16_Basque_Furniture.pdf)

<sup>h</sup> *Sustainable Timber Procurement Policy* (Durham County Council, undated).

<sup>i</sup> *Guide to Green Procurement for Lewisham Staff, Contractors and Suppliers* (London Borough of Lewisham, 2006, revised 2008).

<sup>j</sup> New York State Finance Law Section 165 (Use of Tropical Hardwoods) and Bill S302, available at [http://assembly.state.ny.us/leg/?default\\_fld=&bn=So0302&Summary=Y&Actions=Y&Text=Y&Votes=Y](http://assembly.state.ny.us/leg/?default_fld=&bn=So0302&Summary=Y&Actions=Y&Text=Y&Votes=Y).

<sup>k</sup> See <https://malegislature.gov/Bills/188/House/H2871>.

<sup>9</sup> The country lists in the Annex may not be exhaustive, but are based on an extensive documentary and web search, and email contacts with all EU member states.

There are no doubt many more examples: a survey of local authorities in the United Kingdom in 2011–12, for example, found that 57 per cent of those responding (16 per cent of the total surveyed, 124 out of 433) had some kind of timber procurement policy in place.<sup>10</sup> Detailed case studies of twelve local authorities in England in 2007 found that two had a full and four a partial timber procurement policy in place.<sup>11</sup> In many countries regional and local governments are encouraged and assisted, though not required, to follow central government policy. In the Netherlands, local government has been set a target of achieving 75 per cent sustainable products by 2010 and regional governments 50 per cent (the central government target is 100 per cent), with both aiming for 100 per cent by 2015. A survey of Dutch local authorities in 2013 found that 60 per cent aimed to procure FSC-certified products, 17 per cent to procure certified (not necessarily FSC) products, and the remainder had no policy.<sup>12</sup>

Major publicly sponsored projects have also sometimes adopted targets for sustainable timber, which has helped both grow the market and raise awareness of the issue. A recent example is the 2012 London Olympics, which achieved 100 per cent sustainable sourcing of the 12,500 m<sup>3</sup> of timber procured.<sup>13</sup>

## Demonstrating compliance

Whatever criteria governments choose for their timber procurement policies – legal, sustainable, recycled, etc. – they must make it easy for their procurement officers to apply them; it cannot be expected that hundreds (or in a large country, thousands) of government buyers will have the knowledge or the capacity to research the background of every timber product they might buy.

In practice, the simplest way to achieve this has been to rely on existing means of demonstrating timber legality and sustainability. This means primarily the private timber certification schemes which have developed since the mid-1990s in response to the growing demand for environmentally friendly timber: those of the Forest Stewardship Council (FSC) and the Programme for the Endorsement of Forest Certification (PEFC; essentially a mutual recognition arrangement for national certification schemes).

These two schemes now dominate the global market. In 2013 the proportion of global forest area certified under either of them reached 10 per cent for the first time (417 million ha).<sup>14</sup> Between May 2012 and May 2013 certified industrial roundwood produced amounted to 501 million m<sup>3</sup>, around 28 per cent of global industrial roundwood production.<sup>15</sup> The regional distribution of certified forest area is, however, highly uneven. North America and Europe between them produced more than 95 per cent of certified roundwood supply in 2012–13.<sup>16</sup> Although Brazil, Malaysia and China all possess significant areas of certified forest, the penetration of certification in the developing world is low; in 2010 only 2 per cent of tropical forest was certified. Several developing countries have,

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<sup>10</sup> *Barking up the Right Tree? A Scorecard of UK Local Authorities' Responsible Wood and Paper Procurement* (WWF and Proforest, 2012).

<sup>11</sup> Duncan Brack, *Local Government Timber Procurement Policies: Case studies from the North East and Yorkshire & the Humber* (Chatham House, 2007).

<sup>12</sup> *FSC-Scorecard 2013* (WWF Netherlands, 2013).

<sup>13</sup> 'London Olympic Park receives FSC and PEFC certification', *Timber Design and Technology*, 1 June 2012.

<sup>14</sup> *Forest Products Annual Market Review 2012–2013* (Food and Agriculture Organization and United Nations Economic Commission for Europe, 2013), p. 19.

<sup>15</sup> *Ibid.*, p. 20.

<sup>16</sup> *Ibid.*

however, seen very rapid recent growth in recent years; by February 2014, 20 per cent of FSC-certified forests were in tropical or sub-tropical areas (much in plantations).<sup>17</sup>

Both FSC and PEFC are complex schemes with a wide range of criteria, demonstrating that products have been produced in accordance with the principles of sustainable forest management (which include compliance with national laws), and are traceable throughout their entire supply chain. As noted, they have been particularly difficult to apply in developing countries, and as a result a number of simpler legality verification schemes have been developed to help meet demand for legal (though not sustainable) products from both public and private sectors; examples include the Smartwood, Bureau Veritas and SGS schemes.<sup>18</sup>

A number of timber procurement policies in EU member states now also reference the FLEGT licences which will be issued by timber-producing countries which have agreed voluntary partnership agreements (VPAs) with the EU; six VPAs have been agreed to date, and a further nine are in negotiation. Each VPA establishes a legality assurance system designed to identify legal timber products and license them for export to the EU; unlicensed products from VPA countries will be denied entry at the EU border. (All the countries which have agreed VPAs so far intend to license all their exports regardless of destination, so the option will be open to other importing countries to recognize FLEGT licences as an indication of legality; the Australian Illegal Logging Prohibition Act will do that.) No licensing system has yet been established, however, partly owing to the complexity of establishing robust legality assurance systems that apply across an entire country, though some VPA countries are quite close to implementation, particularly Indonesia, which from January 2013 has required all timber exports to be accompanied by a 'V-Legal Document', assuring the legality of the products from the point of harvesting to transporting, trading and processing.

The EU Timber Regulation, agreed in 2010 and applying in full from 3 March 2013, prohibits the placing of illegally harvested timber and timber products on the EU market, and requires timber operators to put in place systems of 'due diligence' to minimize the risk of their handling illegal timber. It defines 'legality' in relation to existing national legislation in the country of harvest, including rights to harvest timber, payments for harvest rights and timber, laws related to timber harvesting, including environmental and forest legislation, third parties' legal rights of use and tenure, and trade and customs regulations.

Since products accompanied by a FLEGT licence (or a permit issued under the Convention on International Trade in Endangered Species, CITES) are considered to have been legally harvested for the purposes of the regulation, the EUTR should provide an additional incentive to finalize the VPA legality assurance systems and start issuing FLEGT licences. It also means that any EU member state's timber procurement policy aimed only at sourcing legal products is almost redundant, as products entering that country's market should be legal anyway – though there are a number of product categories which are not covered by the EUTR: post-consumer recycled material, chairs, printed matter, packaging and a range of tools, instruments and handicrafts (a review of the regulation due in 2015 may extend its coverage), so the procurement policy would be somewhat wider.

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<sup>17</sup> *Global FSC Certificates: Type and Distribution, March 2014* (Forest Stewardship Council, 2014).

<sup>18</sup> For a summary, see Central Point of Expertise on Timber, 'Voluntary legality verification systems' at <http://www.cpet.org.uk/uk-government-timber-procurement-policy/evidence-of-compliance/other-evidence-as-assurance/verification-systems/voluntary-legality-verification-systems>.

## Coverage

Almost all the timber and wood products procured by the public sector falls into three broad categories: paper products (printer and copier paper, envelopes, files, notebooks, etc.), furniture (desks, chairs and filing cabinets, and park, street and garden furniture, etc.), and timber used in construction, refurbishment or maintenance (including site hoarding, fencing, roofing, flooring, window frames, doors, panelling, etc.), including specialist uses such as harbour or flood defences. Public purchasers may buy the products directly themselves, or use the services of a central government procurement office, or the products may be supplied as part of broader contracts (e.g. for construction or maintenance, or office supplies) agreed with private-sector companies.

In all cases, the purchasers have the opportunity to specify criteria for the products they pay for – for example, that they must be recycled, legal, sustainable or any combination. Most of the policies listed in the Annex apply these criteria to all these categories of wood products, but some policies apply only to one or two categories. Paper is sometimes not included on the basis that there is a general requirement in the procurement policy for recycled paper. Some EU member states are beginning to use the product categories specified in the EU Timber Regulation, which covers all these major categories, with the exceptions noted above.

Timber procurement policies may also be applied, or adapted, to the supply of wood for biomass power and heat. The demand for wood for these uses is increasing substantially, in particular within the EU, where several member states are rapidly expanding capacity in order to meet their 2020 renewable energy targets. There is increasing concern about the impact of this policy on forests, both within the EU and outside. Most analyses suggest that increased demand for biomass cannot be met by increased production within the EU, and imports of woodfuel, mostly in the form of wood pellets from the United States and Canada, are already rapidly growing, particularly to Belgium, the Netherlands and the United Kingdom.

In the wake of the failure of the EU to agree sustainability criteria for solid biomass (draft proposals were debated in 2013 but not agreed), some member states are developing their own. In the case of the UK, the criteria, which are still under development, will include limits on carbon emissions per unit of electricity and requirements for sustainable forest management, based on the government's timber procurement policy. This is of course different in application from the procurement policy itself; UK power generation is not state-owned, so the criteria will apply as conditions on the subsidies available for biomass power generation, not to direct government purchasing. In Denmark, the current timber procurement policy, which is voluntary, includes public purchasing of wood for energy. As noted below, the Danish criteria were revised radically in 2014; the mandatory policy for central government does not include bioenergy, but the voluntary guidelines for the rest of the public sector do.

## Definitions and criteria: comprehensive policies

The timber procurement policies analysed here fall into three broad groups. The first, which could be termed 'comprehensive', comprises the policies of those governments that draw up their own criteria for what they mean by 'legality' and 'sustainability': Belgium, Denmark, Luxembourg, the Netherlands and the United Kingdom. The criteria derive from a variety of sources and inputs, including, generally, a multi-stakeholder consultation process, and they can be subject to revision in

the light of developments. All the countries above have learned from one another's experiences, and, sometimes, adapted their definitions accordingly.<sup>19</sup>

In fact Denmark's policy has moved through several stages. In 2007 the government published its own comprehensive criteria (though at this stage the policy was voluntary), but eventually concluded that in practice opting for FSC or PEFC-certified timber (or equivalent) was a simpler process for both buyers and policy-makers, and had much the same impact; in 2010 it therefore adopted a much simpler policy, similar to the German one (see below). In 2013 it decided to revise it once again, and a new set of comprehensive criteria, modelled closely on the UK criteria, took effect in July 2014.

The criteria for legality in all these timber procurement policies are very similar, covering issues such as legal use rights to the forest, payment of all relevant fees and taxes, compliance with all relevant local and national laws (including those covering forestry, environmental protection, labour and welfare, health and safety and other parties' tenure and use rights) and with the requirements of CITES. In almost all cases they have been adjusted slightly to ensure consistency with the definition used in the EUTR.

The criteria for sustainability have generally been drawn up with reference to the various intergovernmental processes which have defined principles and criteria for sustainable forest management (SFM), including in particular those of the Pan-European Forest Process on Criteria and Indicators for Sustainable Forest Management (the Helsinki Process of the Ministerial Conference on the Protection of Forests in Europe, now called Forest Europe). These are much more extensive and more varied than the legality definitions; the Belgian policy, for example, contains 11 criteria, the British 12 main and 19 sub-criteria, and the Dutch 8 main and 35 sub-criteria (though this is a simplified version of the original Dutch criteria, which were even longer). The issues covered include forest health and vitality, the production and protective functions of forest resources, biodiversity conservation, the extent of forest resources and social requirements such as respect for legal, customary and traditional tenure rights and mechanisms for consultation and dispute resolution.

Products which contain 70 per cent or more sustainable timber qualify as 'sustainable', as long as the remainder is legal. Also used in certification schemes, this threshold is used partly in recognition that many products contain several different types of wood.

The policies of Denmark, Luxembourg and the United Kingdom also accept FLEGT-licensed timber as meeting government requirements, with the aim of encouraging the development of VPAs and the adoption of legality assurance systems.<sup>20</sup> Although the FLEGT process aims only at guaranteeing the legality of the timber products, it can be argued that it represents a different way of ensuring sustainability, applying at a national level as opposed to the forest management unit level of a certification-scheme approach. Belgium and the Netherlands, however, have not followed this line of argument, regarding FLEGT licences as adequate proof of legality but not of sustainability.

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<sup>19</sup> For a helpful comparison of the Belgian, Danish, Dutch and British definitions, and recommendations for Luxembourg's policy (which were subsequently adopted), see Proforest, *Support for the Development of Luxembourg's Public Procurement Policy for Timber* (March 2012).

<sup>20</sup> In fact the UK government's commitment in 2009 was to consider FLEGT-licensed products as meeting the criteria for 'legal and sustainable' only until April 2015. Given slow progress with the emergence of FLEGT licenses, in July 2014 this deadline was extended indefinitely, subject to a review once FLEGT timber from at least three countries has been on the market for three years.

## Applying the criteria

As discussed above, these policies' criteria are set out in detailed and sometimes lengthy documents, and governments have had to develop means of ensuring that they can be applied reasonably straightforwardly. Both the Netherlands and the United Kingdom have established independent advisory bodies to carry out assessments of whether certification schemes meet their criteria for legality and sustainability: the Timber Procurement Assessment Committee (TPAC) (Netherlands) and the Central Point of Expertise on Timber (CPET) (UK). These assessments are conducted, at regular intervals, against the procurement policies' criteria and additional criteria that the certification systems' procedures themselves must meet. In each case, the FSC and PEFC schemes have been found to meet the criteria.<sup>21</sup> CPET also provides a helpline and practical guidance and training to government purchasers. In the Netherlands the NGO Probos, with funding from the government, has similarly assisted procurement officers with guidance, a website, training and a helpdesk.

Since EU procurement rules require that procurement policies must rest on criteria, not on whether a product has been certified by any particular scheme (see further below), these policies also require systems for assessing claims by suppliers that their products meet the sustainability and legality criteria even if they are not certified by any recognized scheme. In the United Kingdom, CPET carries out these assessments (of the so-called 'Category B' evidence – 'Category A' is the certification schemes). In the Netherlands, this procedure is left to the procurement officer concerned; as TPAC observed, 'this may be a challenging task',<sup>22</sup> but the Committee does provide a user manual and offers advice in complicated cases.

In practice, however, these assessments of 'equivalent evidence' are relatively little used by suppliers. As a rough approximation, in 2010 CPET estimated that in the United Kingdom, in 60–70 per cent of cases buyers were able to source products supported by Category A evidence. The vast majority of the remaining 30–40 per cent were instances of 'broken chains of custody', where the suppliers were not themselves certified, but could nevertheless show that the products derived from certified sources. Only in about 2–5 per cent of cases did products originate from non-certified sources; generally these were tropical timber products, often for specialist uses such as harbour defences.<sup>23</sup>

The certification systems themselves have been affected by this process of assessment against the criteria. The first assessment by CPET of the PEFC scheme found that it failed to meet the criteria for sustainability (specifically, the requirements for balanced influence over decision-making in the standard-setting process, and consultation and transparency in the certification process). PEFC modified its scheme in response, and the revised version was found to be adequate. Although the FSC scheme met the legality and sustainability criteria from the beginning, the FSC also subsequently made some modifications on issues where it had only achieved a partial score (the CPET assessment uses a points-based system), such as its use of interim standards.

The other three countries with these types of policies have not established separate bodies like CPET or TPAC. The Belgian procurement policy from the beginning explained that the criteria

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<sup>21</sup> With the exception of the Malaysian Timber Certification Scheme, one of the PEFC national schemes, which has not entirely satisfied the Dutch criteria and is currently accepted (by the government, which makes the final decision after considering TPAC's recommendation) only temporarily, pending a review in 2016.

<sup>22</sup> *Dutch Timber Procurement Policy: Framework for Evaluating Evidence of Compliance with Timber Procurement Requirements* (February 2010), p. 4.

<sup>23</sup> UK CPET, pers. comm., March 2010.

would be met by FSC, PEFC-Belgium and PEFC certification from other countries where it was considered that the rights of indigenous peoples were respected. An expert committee was established to decide which PEFC-recognized national schemes met this requirement, but was unable to reach agreement on all of them; in the end it divided PEFC schemes into two categories: list 1, where a consensus had been reached, and list 2, where no consensus had been reached. Products certified under any of the schemes on either list are acceptable, but when tenders are evaluated, preference must be given to products certified by FSC, PEFC-Belgium or the PEFC schemes in list 1.<sup>24</sup>

The Danish policy has gone through three different versions; the latest took effect in July 2014 (see above). Luxembourg's policy came into operation in January 2014, based heavily on the experience of the other four countries analysed here; no independent advisory body has yet been established, but this remains a possibility.

## Definitions and criteria: simpler policies

A larger group of countries has adopted simpler systems, requiring purchasers simply to acquire 'legal' or 'sustainable' timber without setting out detailed definitions of exactly what these terms mean (see Annex). A few of them do contain relatively short definitions; Finland, for example, uses the EUTR definition of legal, and also refers to international SFM principles in relation to sustainability, while Sweden uses the term 'acceptable' (requiring no violations of human rights or traditional rights, no threats to high conservation value areas and no conversion of natural ecosystems) instead of 'sustainable'. Australia simply refers to minimizing environmental and social risks.

Almost all of these countries accept a wide range of certificates, legality verification schemes, ecolabels or simple industry self-declarations as acceptable indicators of legality and/or sustainability. As part of this range, almost all of the policies specifically mention FSC and PEFC certification as possible means of compliance, and several also mention FLEGT licences. Germany accepts only FSC or PEFC, or equivalent, assigning responsibility to the Federal Research Centre for Forestry and Forest Products or the Federal Agency for Nature Conservation for assessing the equivalence of any uncertified products. Mexico's policy requires certificates issued by competent bodies registered by the Mexican government; it is not clear whether the policy is therefore aimed only at domestic and not imported products.

Norway's policy is unlike that of any other country in simply banning the use of tropical timber in public sector buildings and construction works. Although this is unlikely to be consistent with WTO procurement rules (see below), it has never been challenged, possibly because it has had limited impact.

## EU green procurement policy criteria

Within the EU, public procurement policy is a matter of member state competence, although general procurement rules are set at EU level (see below). Nevertheless, the European Commission has tried to encourage member states to adopt broad green procurement policies. In 2008, its

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<sup>24</sup> Government of Belgium, 'Outcome relating to the PEFC certification systems that may be taken into account in the context of circular letter P&O/DD/2'; [http://www.gidsvoorduurzameaankopen.be/bs\\_mb/compromis%20def\\_FR.doc](http://www.gidsvoorduurzameaankopen.be/bs_mb/compromis%20def_FR.doc).

Communication *Public Procurement for a Better Environment* provided guidance on developing green public procurement strategies and set an indicative target that by 2010, 50 per cent of all public tendering procedures should be green.<sup>25</sup> (A report in 2012 suggested that this target had been missed, with only 26 per cent of contracts meeting all core green criteria; there was considerable variation between countries and products.)<sup>26</sup>

The Commission also began a programme of developing common green procurement policy (GPP) criteria, with the aim of opening up procurement contracts to companies across the EU. As at July 2014, criteria had been agreed for 22 product groups, including copying and graphic paper, construction, wall panels and furniture.<sup>27</sup> Their adoption is voluntary for EU member states. In each case they include core criteria, which are recommended for use by all public authorities, and comprehensive criteria, recommended for authorities wishing to purchase the best environmental products.

The legality and sustainability requirement for timber in the four relevant product group criteria are the same, and are also the same in the core and the comprehensive criteria. They include the requirement that any virgin timber used must be legal; acceptable forms of proof include FSC or PEFC or equivalent, FLEGT licences, or a declaration of legality accompanied by a chain-of-custody tracking system. There is no absolute requirement for sustainability, but extra points are awarded for evidence of sustainable forest management, as defined by various international SFM processes; FSC, PEFC or equivalent, or 'other appropriate means of proof', are accepted as evidence.

Given that the EUTR now requires legality of all timber products on the EU market, the GPP criteria are not exactly ambitious (though they are not quite the same – as noted, the EUTR excludes a number of product categories, such as wooden chairs, which would be covered by the GPP criteria). The criteria are subject to regular revision, however, and the latest proposal for furniture (April 2014) adopts the EUTR definition of legality. It specifies a minimum of 50 per cent sustainable (or recycled) timber in the final product for the core criteria and 70 per cent for the comprehensive criteria; the definition and means of proof of 'sustainable' have yet to be agreed.<sup>28</sup> The criteria for construction are due to be replaced with new criteria for office buildings in 2014, but there is no revision scheduled for paper or wall panels, and the process of agreeing criteria for external doors and windows has been put on hold.

The GPP criteria are steadily being taken up across the EU, and five EU member states – Bulgaria, Cyprus, the Czech Republic, Malta and Slovenia – have so far adopted the GPP criteria for one or more of the four timber product categories. Others seem likely to adopt them in the future. Some member states, such as Estonia, encourage public purchasers to use the GPP criteria without making them a requirement.

In addition to this process, a Commission working group was established in 2009 to encourage member states to exchange experiences on their approaches specifically to timber procurement. It analysed many of the policies summarized here, and reported in November 2010 with a series of recommendations, including calling on the Commission to clarify various issues relating to procurement rules and develop guidance on the means of proof of criteria for legality and sustainability, encouraging member states to adopt consistent definitions, and proposing work

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<sup>25</sup> *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Public Procurement for a Better Environment* (COM (2008) 400, 16 July 2008).

<sup>26</sup> *The Uptake of Green Public Procurement in the EU*<sup>27</sup> (Centre for European Policy Studies and College of Europe, 2012).

<sup>27</sup> For the latest criteria and background papers, see [http://ec.europa.eu/environment/gpp/eu\\_gpp\\_criteria\\_en.htm](http://ec.europa.eu/environment/gpp/eu_gpp_criteria_en.htm).

<sup>28</sup> See latest documents at <http://susproc.jrc.ec.europa.eu/furniture/whatsnew.html>.

towards the use of the same sustainability criteria regardless of the end-use of wood, including as biomass for energy.<sup>29</sup>

## Impacts

Do the timber procurement policies described here actually have an impact? In general, their implementation – along with the implementation of green procurement policies more generally – is not closely monitored.

In 2011 the United Kingdom introduced reporting requirements for its ‘Greening Government Commitments’ actions, which include public procurement (though only contracts above the EU procurement threshold (currently €134,000) are included, and smaller public bodies are excluded entirely). Reporting was carried out against contracts’ compliance with Government Buying Standards (GBS), which set out all the environmental criteria the government requires, including the timber procurement policy. In 2012–13, for paper, seven out of 21 central departments reported 100 per cent compliance, while five reported less than 50 per cent (by value). For construction, only 11 departments reported procurement spend, though five of those did not record data on GBS-compliant contracts (two of them because their projects were too small); of the remaining six, five reported 100 per cent compliance and the other one 85 per cent. A separate question was asked about the extent to which construction contracts included clauses to ensure compliance with the TPP: eight out of the 11 reported that this was present for all contracts, one for some of them and two for none of them. For furniture, 10 departments reported 100 per cent compliance, while two reported less than 50 per cent.<sup>30</sup> Given that the United Kingdom was one of the first countries to introduce a timber procurement policy, and given that it is generally regarded as a well-designed one, this is not as good a result as should be expected.

The Netherlands possesses a generic monitoring process for the government’s broad green procurement policy, but this does not include any specific information on timber. In 2011 evaluations by Probos and Friends of the Earth Netherlands (Milieudedefensie) of a sample of various contracts in which timber was specified showed that not all government departments met the policy; in general sustainably sourced timber was specified, but in practice often the requirements were not met or, at least, there was no proof of whether they had been met.<sup>31</sup> The Probos evaluations will be repeated in 2014 and 2015.

In Denmark, there is no mandatory regular reporting on timber procurement specifically, though public bodies do regularly report on compliance with conditions in government procurement contracts. Some evaluations of the impacts of the timber procurement policy have, however, been carried out. The most recent, in July 2013, suggested that while compliance with the (then voluntary) guidance was high (up to 75–80 per cent) in contracts for furniture and paper, it was much lower for construction; these conclusions helped the government to decide to move to a mandatory policy.

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<sup>29</sup> European Commission, *Public Procurement of Wood and Wood-Based Products*, Report to the Standing Forestry Committee by the Standing Forestry Committee Ad Hoc Working Group IV on Public Procurement of Wood and Wood-Based Products’ (November 2010).

<sup>30</sup> *The Greening Government Commitments: Annual Report on Government Departments’ Progress against 2015 Targets in 2012–13* (HM Government, December 2013), Tables 1 and 2, and see note on MoJ contracts on p. 48.

<sup>31</sup> See <https://www.milieudedefensie.nl/publicaties/rapporten/van-oerwoud-naar-overheid/view>; and <http://www.probos.nl/rapporten-2011/126-eindverslag-projectevaluatie-overheden-in-de-bouw?highlight=WyJwcm9qZWNoZXZhbHVhdGllcyJd>.

A number of studies have been undertaken on the penetration of certified sustainable timber into particular national markets more widely. It is of course impossible to disentangle the impacts of government procurement policies from the general pressures on purchasers, both private and public, to source legal and sustainable timber, but it seems likely that procurement policies do have a broader impact on consumer markets than simply the direct effects of government purchasing. As noted above, in the UK market, 20–40 per cent of timber sales are estimated to be affected, directly or indirectly, by central government policy.<sup>32</sup>

Such market research studies as have been undertaken tend to support the conclusion that timber procurement policy has had a positive impact. In the United Kingdom, growth in the volume of certified timber has been particularly rapid; in 2008 certified timber and panel products (domestic production and imports) accounted for over 80 per cent of the market, having grown from 55 per cent in 2005.<sup>33</sup> As one study concluded:

There is an undeniable shift in the behaviour of the timber trade, in particular the leading more progressive companies, and the UK government's timber procurement policy has had a significant impact and been one of the drivers for this change, along with NGO pressure and corporate social responsibility (CSR) policies aimed at managing risk.<sup>34</sup>

Similarly, in the Netherlands, the share of certified timber and panel products grew from 13 per cent in 2005 to 34 per cent in 2008 and 68 per cent in 2011, while the share of certified paper and paperboard reached 33 per cent in 2011.<sup>35</sup> In 2011 a survey of the timber markets in six EU countries (Denmark, France, Germany, Italy, the Netherlands and the United Kingdom) concluded that 'the public sector and commercial big buyers – DIY, wholesaler, retailer and other large enterprises – are the main drivers generating demand for SFM-certified timber'.<sup>36</sup>

In contrast, a study conducted for the ITTO concluded that the impacts of timber procurement policy in Belgium had been much more limited.<sup>37</sup> This is somewhat contradicted, however, by a Probos study in 2014, which concluded that the share of certified products on the Belgian market had climbed from 15 per cent in 2008 to over 40 per cent in 2012, after the signing, in 2011, of a multi-sector agreement by several federal organizations to increase market share to at least 35 per cent by the end of 2018.<sup>38</sup> Belgium, of course, is a highly decentralized country where most procurement spend takes place at the regional and local level; in general, the impact of timber procurement policies will obviously be affected by the size of the central government procurement spend and the extent to which the policy is emulated by regional and local government and the private sector.

What about countries with simpler timber procurement policies? Germany's policy is much simpler than those of the countries mentioned above, but in practice its outcome should be much the same, as almost all timber purchased by government buyers in those countries is FSC- or PEFC-certified in any case; as noted, certified timber is far and away the easiest means of demonstrating

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<sup>32</sup> Martin and Ghazali, *Draft Report on Analysis of the Economic Impact of Governmental Procurement Policies on Tropical Timber Markets*, pp. 46–47.

<sup>33</sup> Nick Moore, *UK Timber Industry Certification* (UK Timber Trade Federation, 2009).

<sup>34</sup> Efecsa, *An Assessment of the Impacts of the UK Government's Timber Procurement Policy*, p. iii.

<sup>35</sup> Probos, 'Market share of sustainably produced timber doubled in three years: government target exceeded', <http://www.probos.nl/images/pdf/bosberichten/bosberichten2013-02English.pdf>.

<sup>36</sup> André de Boer and Gunther Hentschel, *European Timber Trade Federation Annual Survey: The European Market for Verified Legal and Sustainable Timber* (April 2011), p. 6.

<sup>37</sup> Martin and Ghazali, *Draft Report on Analysis of the Economic Impact of Governmental Procurement Policies on Tropical Timber Markets*, pp. 44–46.

<sup>38</sup> Casper de Groot et al., *Aantoonbaar duurzaam geproduceerd hout op de Belgische markt in 2012* (Probos, March 2014).

compliance with the criteria. (There is an important difference between these approaches, however, in that the simpler policies accept whatever criteria are in the certification schemes, whereas the comprehensive policies set their own criteria, which can, as has been seen above, lead to changes in the certification schemes themselves.) As discussed above, in 2010 Denmark abandoned its previous comprehensive criteria in favour of a German-style policy requiring FSC or PEFC-certified timber, or equivalent, but subsequently revised it once again.

The impacts of policies that rely on a much wider range of evidence are not known. In practice the simpler legality verification schemes have not had much take-up, so the policies may simply encourage adoption of FSC and PEFC certification – like the comprehensive policies. Similarly, there is no evidence available on whether the voluntary policies adopted by Australia, the Czech Republic, Finland, Latvia and Sweden have had any impact; in their cases it will depend on awareness of the policy among procurement officers and their willingness to follow it. The fact that one timber industry specialist in Australia, contacted for this study, was not aware of his own government’s timber procurement policy does not give a high degree of confidence in its impact.

## **International procurement rules: WTO and EU**

Measures taken by consumer countries to discriminate in trade between sustainable and other products potentially interact with World Trade Organization disciplines. WTO members are not permitted to discriminate between traded ‘like products’ produced by other WTO members, or between domestic and international like products, though exceptions are permitted to these general principles under certain circumstances.<sup>39</sup> However, public procurement was explicitly excluded from the 1947 General Agreement on Tariffs and Trade (GATT) – the core of the WTO system – largely because of its widespread use as a means of supporting national suppliers and as an element of industrial policy.

Although government procurement measures are now subject to the WTO Government Procurement Agreement (GPA), this is significantly different from the GATT and other WTO agreements. It is a plurilateral agreement, to which not all WTO members are parties; in fact, as at July 2014, only the EU and all its member states and fourteen other countries are parties. This includes Canada and the United States, but no other major timber exporter. In addition, GPA rules do not apply automatically to all procurement contracts; GPA parties specify the government entities and services they decide to have covered, and also minimum threshold values, and can also specify exclusions. So timber products do not necessarily have to be covered, and could be subject to exemptions even if they are.

Nevertheless, the core WTO principles of non-discrimination (between like products from foreign and domestic suppliers) and transparency (of the requirements included in contracts and in the awarding of contracts), which are included in the GPA, may be used more widely than this limited coverage would suggest. The UN Commission on International Trade Law (UNCITRAL), which was established in 1966 with a general mandate ‘to further the progressive harmonisation and unification of the law of international trade’, promotes model procurement laws largely based on GPA rules. Similarly, development assistance, whether from bilateral donors or multilateral agencies such as the World Bank, often incorporates provisions on procurement spend that are

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<sup>39</sup> For a longer discussion, see Duncan Brack, *Combating Illegal Logging: Interaction with WTO Rules* (Chatham House, 2013).

based on GPA rules. And national procurement rules may adopt GPA-type provisions as a default approach.

As discussed above, EU member states develop and apply their own procurement policies, but the EU sets principles to which the individual policies must conform. These aim to ensure that public procurement policies operate in a transparent way, ensure equal treatment of suppliers (e.g. forbid discrimination on the basis of nationality), and achieve best value for taxpayers and consumers of public services.

These EU rules allow significant scope for including environmental criteria. This has on occasion been controversial, particularly in relation to criteria for sustainable products, where it has been argued that some aspects of the way in which the products are produced, grown or harvested are not relevant to the procuring authority, and should therefore not be included in the technical specifications of the procurement tender. In fact for many years the United Kingdom excluded social criteria (such as respect for legal, customary and traditional tenure and use rights, or safeguards for basic labour rights and health and safety conditions) from its definition of sustainability, in the belief that these would not be allowed under EU procurement rules (regardless of the facts that other EU member states were happy to include them and had never been challenged in this respect, and also that in practice this decision made no difference to the outcome, as purchasers still bought FSC and PEFC-certified timber, whose criteria included all these social issues). In 2010 the government changed its mind and included social criteria in its procurement policy.<sup>40</sup>

In May 2012 a ruling from the European Court of Justice confirmed that criteria ‘based on considerations of an environmental or social nature’ were permissible. This was the outcome of a dispute case brought by the European Commission against the Dutch government, for allowing the province of North Holland to apply procurement criteria for automatic coffee machines referring to products bearing the EKO organic and Max Havelaar fair trade labels. While finding that criteria such as these were allowed, the Court reasserted the requirement for specifications not to be described simply in terms of conformity with particular labelling or certification schemes. The revision of the EU procurement directives completed in early 2014 makes it clear that technical specifications may relate to production processes and methods provided these are ‘linked to the subject matter of the contract and proportionate to its value and its objectives’.<sup>41</sup> There should be no doubt, then, that including criteria for legality and sustainability in timber procurement policies is permissible under EU procurement rules.

In common with WTO rules, the previous directive contained the requirement for specifications to be described in the form of general criteria rather than simply in terms of conformity with particular labelling or certification schemes. Member states have until April 2016 to transpose the new directive into their own legislation. It makes clear that such schemes can be specified in procurement policies as an acceptable means of proof of the criteria, subject to various conditions (e.g. our criteria are X, and FSC certification satisfies X). It also seems to imply that the criteria can themselves be described by labels (e.g. our criteria are the FSC scheme), but its wording is not completely clear, and it also allows for tenderers to provide equivalent means of proof that the criteria the government is seeking have been met.<sup>42</sup> This seems to imply that the procurement

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<sup>40</sup> Though they may only be applied at the award stage, rather than included in the technical specification – a curious and in practice probably meaningless approach. For a longer discussion, see Duncan Brack, *Social Issues in Timber Procurement Policies* (Chatham House, 2010).

<sup>41</sup> *Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on Public Procurement and Repealing Directive 2004/18/EC*, Article 42(1).

<sup>42</sup> *Ibid.*, Article 43.

policies resting on comprehensive criteria, or those simpler schemes which clearly allow for equivalent proof (like Germany's) are consistent with the procurement rules, while those which contain no definitions of either legal or sustainable, but simply list possible means of proof, may not be consistent – although, as can be seen from the Annex, there are several of them, and none have ever been challenged.

It also leaves a question mark over Denmark's, Luxembourg's and the United Kingdom's inclusion of FLEGT-licensed timber in their procurement policy (see above). Although this provision clearly makes sense from the point of view of encouraging developing countries to sign VPAs, it is not clear whether FLEGT-licensed timber satisfies the full criteria for sustainability otherwise included in the policies (unlike the certification schemes, which must be assessed against the criteria) and none of these policies provide for products which are 'equivalent' to FLEGT-licensed timber (though in practice there probably are no such products). It seems unlikely, however, that the inclusion of this provision would be challenged in practice.

## Conclusions

Procurement policies aimed at excluding illegal and unsustainable timber products have proved a valuable weapon in the armoury of consumer states committed to using their buying power to affect the international market for timber. They can be developed and implemented more rapidly than most other policy options, and the evidence suggests that they can have a broader impact on consumer markets than simply through the direct effect of government purchases. In those countries which have implemented comprehensive timber procurement policies over several years, the evidence points to a clear impact in terms of the increasing penetration of certified timber into the national market.

When the first version of this paper was written, in 2008, nine countries possessed timber procurement policies. This version has identified 26, with more in preparation. It is likely that this number will continue to grow given the gradual spread of broader green procurement policies, encouraged by processes such as the EU GPP programme and the adoption by an increasing number of private companies of commitments to eliminate deforestation from their supply chains.

On top of this, governments everywhere are displaying increasing interest in the development of sustainable procurement policies, both broadly and for specific products such as, for example, palm oil (which is a major driver of deforestation and on which the United Kingdom is now introducing a public procurement policy). Valuable lessons can be learned from timber procurement, where these approaches have been developed in far more detail than for most other products

## Annex: Summary of timber procurement policies

Country	Product coverage	Criteria	Definition of criteria	Acceptable proof	Dates introduced / revised
<b>Comprehensive criteria</b>					
Belgium	Not paper	Sustainable	Detailed	FSC, PEFC or equivalent; for PEFC, preference for PEFC Belgium or schemes on list 1	2005; reviewed 2007–09
Denmark	All products	Sustainable (includes recycled and FLEGT)	Detailed	Nature Agency assesses certification schemes against criteria (borrowing from UK CPET assessments); FSC and PEFC acceptable	2001 (tropical timber only); revised 2010, 2014
Luxembourg	EUTR categories	Legal and sustainable or FLEGT	Detailed	FSC and PEFC acceptable	2014
Netherlands	All products	Sustainable	Detailed	Timber Procurement Assessment Committee (TPAC) assesses certification schemes against criteria; FSC and PEFC acceptable	2004 (legal and where possible sustainable); 2010 (sustainable-only)
UK	All products	Legal and sustainable (including FLEGT) or recycled; where not available, must be legal	Detailed	Central Point of Expertise (CPET) assesses certification schemes against criteria; FSC and PEFC acceptable	1997 (voluntary); 2000 (mandatory); revised 2009 (sustainable or FLEGT only)
<b>Simpler criteria</b>					
Australia	All products	Environmental and social risks to be minimised	None	Recycled and reclaimed products, composites of wood waste and plastic, timber from certified source (FSC, PEFC and Australian Forestry Standard mentioned)	2007 (Environmental purchasing guidelines date from 2003, but no mention of timber at that stage)

Country	Product coverage	Criteria	Definition of criteria	Acceptable proof	Dates introduced / revised
Austria	All products	Legal and (except for furniture) if possible sustainable; for paper, preference for recycled	None	FSC or PEFC or equivalent; FLEGT licences; other voluntary legality traceability schemes or declaration of legality and traceability	2010; revision due in light of EUTR
China	Furniture, panels and floors, paper	Sustainable (imports) or in compliance with Chinese law (domestic)	None	Chinese ecolabel; certification, legality verification, other documentary evidence <sup>43</sup>	2010
Finland	<i>All products</i>	<i>Legal and sustainable</i>	<i>Legal based on FLEGT, CITES; sustainable based on Forest Europe process</i>	<i>FSC, PEFC, FLEGT licenses, eco-labels such as Nordic Swan, 'other reliable indicators of sustainable origin' complying with the criteria</i>	<i>2009 (general sustainable procurement policy); 2010 (specific timber procurement policy)</i>
France	All products	Legal and sustainable; recycled for paper and packaging	None	Any product or chain-of-custody certification, management plan, eco-label or industry code of conduct (self-declaration acceptable for products other than round wood, sawn timber, veneer and plywood)	2005; advice note 2008
Germany	Not paper; only applicable to products made wholly or partly of virgin wood (general procurement policy preference for recycled)	Legal and sustainable	FSC, PEFC or equivalent	FSC, PEFC or equivalent	1970s (only for tropical timber for construction); 2007 (full policy); reviewed 2010; review in respect of VPA licenses forthcoming

<sup>43</sup> The Chinese environmental labelling scheme, on which government procurement policy is based, originally included specifications only for issues such as the maximum permitted content of chemicals in wood-based products such as furniture. It has recently been extended to include the sustainability of the timber, but it is not clear to what extent this new provision is being implemented.

## Promoting Legal and Sustainable Timber: Using Public Procurement Policy

Country	Product coverage	Criteria	Definition of criteria	Acceptable proof	Dates introduced / revised
Italy	Copying and graphic paper	Sustainable or recycled	None	FSC, PEFC or equivalent, European eco-label or Nordic Swan, self-declaration (verifiable)	2009, revised 2013
	Office furniture	Legal; sustainable encouraged	None	Legal: certificates of legality or sustainability (FSC, PEFC, etc.), government claims, FLEGT licenses, self-declaration (verifiable) Sustainable: FSC, PEFC or equivalent	2011
Japan	All products	Legal; sustainable desirable	Legal: brief definition; sustainable: none	Certification or chain-of-custody verification; self-declaration under industry associations' codes of conduct; company-determined methods; state-approved export permits	2006
Latvia	<i>All products</i>	<i>Legal</i>	<i>None</i>	<i>Certification, supply chain certification, FLEGT</i>	<i>2008</i>
Lithuania	All products	Legal and sustainable	None	FSC, PEFC, FLEGT, third-party verified or other equivalent forms of proof	2007, revised 2010, 2013
Mexico	All products	Legal and sustainable	None	Certificates of legal origin and sustainable forest management issued by organizations registered by the government	2007
New Zealand	All products	Legal; sustainable encouraged but not required	None	Certification or legality verification scheme or supplier's declaration	2006; review to examine feasibility of making sustainability mandatory due 2008, postponed to 2011, no information available
Norway	Timber in buildings and construction	Use of tropical timber banned	n/a	n/a	2007; to be reviewed 2011, but no information available
Spain	Paper, furniture	Recycled or sustainable	None	EU Eco-label, Nordic Swan, FSC, PEFC	2008; targets for paper: 50% recycled or sustainable by end 2010, 90% by end 2015

Country	Product coverage	Criteria	Definition of criteria	Acceptable proof	Dates introduced / revised
Sweden	<i>All products</i>	<i>Legal and acceptable</i>	<i>Legal: detailed definition; acceptable: no violations of human rights or traditional rights, no threats to high conservation value areas, no conversion of natural ecosystems</i>	<i>Legal: FSC or PEFC or equivalent or FLEGT Acceptable: FSC or PEFC supplemented with FSC Controlled Wood or equivalent</i>	<i>2011</i>
Switzerland	All products	Legal and sustainable	None	FSC, PEFC or HSH/COBS (certificate of Swiss origin – since Swiss legislation guarantees legal and sustainable forest management)	2004, revised 2012
<b><i>EU member states: GPP-based criteria</i></b>					
EU GPP criteria	Criteria developed for construction, copying and graphic paper, furniture, wall panels	Legal (or, for paper, recycled); sustainable encouraged	Legal: none; sustainable: reference to international SFM principles	Legal: FSC, PEFC, FLEGT, other third-party verified, supplier's declaration with details of supply chain Sustainable: verified as sustainably managed (no scheme mentioned)	
Bulgaria	Paper	As above	As above	As above	2012; targets – central govt: 60% 2012, 80% 2013, 90% 2014; local govt: 40% 2012, 50% 2013, 60% 2014
Cyprus	As above	As above	As above	As above	2007, revised 2012
Czech Republic	<i>Furniture</i>	<i>As above</i>	<i>As above</i>	<i>As above</i>	<i>2010</i>
Malta	As above	As above	As above	As above	2011; targets – construction products and furniture: 2012 10%; 2013 20%; 2014 30%; paper: 100%

## Promoting Legal and Sustainable Timber: Using Public Procurement Policy

Country	Product coverage	Criteria	Definition of criteria	Acceptable proof	Dates introduced / revised
Slovenia	Paper, furniture	As above	Legal: EUTR definition; sustainable: as above	As above	2011

Sources: Dorothy Jackson, *Buying a Sustainable future? Timber Procurement Policies in Europe and Japan* (FERN, 2009); Markku Simula et al., *The Pros and Cons of Procurement: Developments and Progress in Timber Procurement Policies as Tools to Promote Sustainable Management of Tropical Forests* (ITTO Technical Series 34, 2010); European Commission, *Public Procurement of Wood and Wood-Based Products*; Danish Ministry of the Environment, *Promotion of Public Procurement of Legal and Sustainable Timber* (2013); Sustainable Timber Action website (<http://www.sustainable-timber-action.org/resource-database>); government websites and personal communications.

### Notes:

Mandatory policies in plain text; voluntary policies in italics.

'All products' = paper, furniture and construction products.

All EU member states where information was not available online were contacted in the process of writing this paper. Eight confirmed that they do not have a timber procurement policy: Croatia, Estonia, Greece, Hungary, Ireland, Poland, Portugal, and Romania. The Slovakian government did not respond, but NGOs confirm that no timber procurement policy is in place. Nineteen EU member states have some kind of policy and are included in the Annex.

## About the author

Duncan Brack is an independent environmental policy analyst, an Associate Fellow of Chatham House and an Associate of Forest Trends. From 2010 to 2012 he was special adviser at the UK Department of Energy and Climate Change; before that he worked for Chatham House, and from 1998 to 2003 was head of its Sustainable Development Programme. His areas of expertise include international forestry policy, forest governance and the timber trade, climate policy, low-carbon investment, bioenergy, public procurement, the interaction between environmental regulation and trade rules, ozone depletion and the Montreal Protocol, and international environmental crime, particularly illegal logging and the trade in illegal timber.

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