

# **Part I Report on the UNECE/FAO Policy Forum**

## **1. Introduction**

### **THE POLICY FORUM 2006**

The Policy Forum on “Public procurement policies for wood and paper products and their impacts on sustainable forest management and timber markets” was held in Geneva on 5 October 2006, jointly organized by the Food and Agriculture Organization of the United Nations and the Timber Section of the United Nations Economic Commission for Europe.

The UNECE/FAO Policy Forum provided a neutral meeting place to discuss actual forestry and forest policy related topics. The Forum addressed governments, forestry and timber professionals and non-governmental organizations. Its objective was to enhance communication among UNECE region member states, exchange experiences amongst them and facilitate contact with stakeholders concerned.

The discussion was attended by<sup>1</sup> delegates from Austria, Australia, Azerbaijan, Belgium, Brazil, Bulgaria, Canada, Czech Republic, Denmark, Estonia, European Commission, Finland, France, Germany, Ireland, Italy, Latvia, Malaysia, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, United Kingdom and the United States of America.

A representative of the UN Forum on Forests Secretariat (UNFF), the United Nations Industrial Development Organization (UNIDO), the World Bank, the World Trade Organization (WTO) and the International Tropical Timber Organization (ITTO) were attended.

Representatives from the following non-governmental organizations also attended the session: American Forest and Paper Association (AFPA), CEI-Bois, Confederation of European Paper Industries (CEPI), European Forest Institute (EFI), European Network of Forest Entrepreneurs (ENFE), European Panel Federation (EPF), European State Forest Association, Forest Stewardship Council (FSC), European Timber Trade Association (FEBO), International Council of Forest and Paper Associations (ICFPA), OASIS, Programme for the Endorsement of Forest Certification Schemes (PEFC), Tropical Forest Trust (TFT), World Business Council on Sustainable Development (WBCSD), WWF International.

### **Purpose of the report**

The purpose of the Report is to make available for wider distribution the main points of the discussions of the UNECE/FAO Policy Forum. The presentations made during the sessions are available on the homepage of the UNECE/FAO Timber Section

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<sup>1</sup> The complete list of participants can be found in Annex 2

([www.unece.org/trade/timber](http://www.unece.org/trade/timber)). The Report begins with the presentations and the main points made by the speakers and some of the questions raised. It then details all the questions and comments arising from the participants during the discussion session, so as to present a complete picture of the positions of national governments and other stakeholders.

## **2. Summary of the presentations**

### **WELCOME NOTE**

Wulf Killmann, Director of FAO Forest Products and Economics Division, welcomed the participants on behalf of the FAO and UNECE. He referred to the Policy Forum 2006 as a follow up to a meeting held in 2005 at which the topic “Forest certification – Do governments have a role?” was discussed, and where public procurement policy directly emerged as a follow-up issue.

Since last year, the developments have moved fast, public procurement policy rules on sustainability of forest management and legal origin of timber products have been put in place in a number of countries and suppliers are responding to the demands. Yet the basic concepts are still unclear to many players and it is difficult to anticipate implications and consequences of the resulting policy choices. This is not surprising, given the complexity of public procurement policies as a market-based instrument and in view of the globalization of the forest products markets. FAO commissioned a 50-page background paper on the issue reflecting the state of play of the issue under discussion.

The Policy Forum was held to provide a neutral space for discussion of public procurement policies for forest products and their impacts. In particular, the following issues were to be addressed:

- The effectiveness of public procurement policy in helping forest products industries in achieving their goals;
- The impacts of these policies and their implications for the forest products markets;
- How can public procurement policy avoid giving rise to market barriers?
- How can we improve the implementation of public procurement policies?
- Are harmonized approaches to public procurement policies necessary or possible?

The conclusions of the Forum will be formally reported to the Timber Committee and will be reflected in its report.

### **FRAMEWORK AND BACKGROUND PRESENTATIONS**

#### **Public procurement policies for forest products and their impacts - FAO background study**

Mr Markku Simula, FAO consultant, presented an overview in the FAO background paper of the Policy Forum “Public procurement policies for forest products and their impacts” as a snapshot of the state of public procurement policies today. The paper contains detailed information on the existing international legal frameworks, a description of national approaches and a preliminary assessment of the impacts of already existing policies.

Green public procurement policies attempt to provide a response to civil society criticism and activist campaigns. There is a consensus that it is morally unacceptable to use illegal timber in public projects. The two substantive goals of public procurement policies on timber are: (i) to promote sustainable forest management and good forest governance; and (ii) sustainable use. More specifically, public procurement policies try to ensure that only

forest products of legal origin and from sustainably managed forests are used by public services.

The link between public procurement policies and deforestation is tenuous at best. The specific objectives of the policies may not be achieved overnight meaning that often a phased implementation is required. The overall trend is that legality is becoming a baseline requirement of public purchasing.

Public procurement policies for wood and paper products imply a double role for governments, as regulators and buyers. The total market share of public purchasing in forest products is estimated to be in the range of 10% to 25%, varying between countries and products. Governments have a standard-setting role and should avoid creating unnecessary barriers to trade when they are applying public procurement policies on timber. Policies should be seen as a market catalyst and not as everlasting instruments. Governments can kick off the mainstreaming process of green purchasing in the private sector. The final market impact depends on the leverage effect of public procurement policies on the private sector. Private companies in many countries are developing their own purchasing policies and, in general, they appear to welcome governments' initiative to define broadly-agreed criteria for purchasing of timber, which they can also use.

Public procurement policies on timber products have been introduced in seven countries with United Kingdom/Netherlands/Denmark as pioneers, and Belgium, France Japan and New Zealand with fairly recent policies. In Germany and some other countries, similar policies are under development. Spain included a provision on public procurement policy for forest products in its recently approved forest law. Canada and Sweden and some other countries consider timber procurement policies within eco-labelling or general green public procurement policy. Brazil and Mexico are exploring the use of the instrument, which means that public procurement policies for timber products can now be considered a global issue. In addition to the action by central governments, similar policies are applied at the municipal or other sub-national government levels in several states in Europe and the United States. Furthermore, there are related specific initiatives, such as the green building codes applied in North America.

Defining a policy statement for green procurement is critical but needs to be followed by a structured planning and implementation process. Public procurement policies on timber products alone are usually not effective and require supporting measures. The more targeted and specific the criteria and requirements, the higher will be the risk of creating market barriers. Setting of realistic targets requires adequate information on the amount of available certified and legal timber. The implementation process that follows the policy decision on introducing a public procurement policy is time consuming and complex. Useful tools can be outsourcing of implementation (as applied in the United Kingdom), detailed guidance for buyers and suppliers, elaboration of clear requirements, and effective communication. Information on transaction costs is not available, which is of particular interest as a large share of purchasing takes place through relatively small contracts. Public procurement policy could first focus on those demand segments where the impact of public purchasing is largest, i.e. the building and construction sector.

In specifying the requirements for public procurement policy for timber, the definition of legality is problematic as there is no internationally-agreed definition. On the other hand, the regionally developed Criteria and Indicators for Sustainable Forest Management (SFM) provide a useful common basis for defining sustainability. Only the United Kingdom and

Denmark have established precise definitions of legality in their public procurement policy. The EU FLEGT definition has been used as a reference but it was developed for a different specific purpose. The definition of sustainability can also be expressed through the standards of existing certification schemes. Many countries have set up requirements for acceptable certification schemes and standards and have assessed how forest certification schemes meet these requirements. In addition to SFM certificates, all countries, due to the WTO rules, have to accept alternative documentation for legality and sustainability of supplies. It is not yet clearly defined what that alternative documentation could be. France has provided the most comprehensive list of what alternative documentation may consist of.

Additional transaction costs (due to increased staff time, verification of evidence and eventual price premiums) make buying timber and wood-based products more time consuming and costly for public agencies. This is a critical issue as public procurement policies may lead to undue substitution of wood products by other materials, which could be otherwise less environmentally friendly.

The impacts of public procurement policy on SFM cannot yet be assessed but they are likely to be stronger in a small number of major plywood and sawnwood exporting countries in the tropics. There are also equity concerns as small-scale forest owners, community forests and small and medium-scale enterprises (SME) will have difficulties in meeting the different requirements of import markets. It appears that public procurement policy could give a competitive advantage to northern and domestic producers, products from planted forests, and products coming from large-scale integrated operations.

### **Market effects of public procurement policies for wood and paper products in the UNECE region**

Mr Carl-Eric Guertin, Quebec Wood Export Bureau (Q-WEB) provided an overview on the study<sup>2</sup> conducted by the Team of Specialists (ToS) on Timber Markets and Marketing, a network of over 70 specialists mainly academics and trade associations. The survey focused on possible market impacts of existing public procurement policies on timber. It was based on the replies of the Team members to a questionnaire and therefore the results do not provide scientific evidence.

It is too early to measure any impacts on the market, as the implementation of most of the policies is too recent to influence timber flows. In addition, no detailed information on wood volumes consumed by the central governments is available. Only five countries in the UNECE region have adopted such policies, so far.

Two different approaches are being applied for the promotion of SFM and legal wood. In Europe, public procurement policies are the main driver and in many countries a kind of domino effect can be observed when local governments adopt public procurement policies for timber following the example of the central government. In North America, green building initiatives are seen as the right instrument to promote the use of wood and energy efficiency.

Forest products industries worldwide have been supportive of the competition between certification systems but call for an agreed common set of principles for traceability, legality, sustainability and non-exclusive public procurement. Such a set could avoid unnecessary differences between schemes and facilitate effective and rapid implementation of public procurement policies. Social criteria could come into play later.

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<sup>2</sup> The full report of the ToS is available under: [www.unece.org/trade/timber](http://www.unece.org/trade/timber)

Public procurement policies will give large multinational enterprises a competitive advantage as they are already certified and can easily provide a chain of custody. Soon these large groups will use the proof of origin and the legality of timber as a standard practice. Medium and small-scale companies are faced with the same market requirements but they often lack the human and financial resources to comply with the requirements of certification. Their strategy may therefore focus on specific market niches. Trade associations are investing a lot of time and energy to monitor public procurement policy developments. A formal network for monitoring and lobbying would be useful.

While adopting public procurement policies, governments should in general promote the use of wood and prevent wood products from losing competitiveness and market share to other materials.

### **Public procurement policies – ITTO perspective**

Mr. Steven Johnson from the International Tropical Timber Organization (ITTO) presented the views that had been voiced by exporters<sup>3</sup> and importers during the ITTO Annual Market Discussion on “Timber Markets and Procurement Policies” in Merida, Mexico, May 2006.

Public procurement policies contribute to a stronger demand for certified tropical timber and may have an impact on forest management in exporting countries. Public procurement policies have also potential for improved returns from certification efforts and can reduce unfair competition from illegal wood. They may also promote a wider acceptance of a range of certification schemes and mutual recognition between these schemes.

Importing countries expressed concerns about on-going illegal logging and associated timber trade in the tropics and in some parts of the non-tropical world. They perceived progress towards SFM in the tropics as being too slow due to deficiencies in governance in many countries. A recent ITTO study concluded that only 5% of the permanent forests estates in the ITTO member countries are under provable SFM.

A main concern for the ITTO members is that large forest owners and companies in developed countries would be the major beneficiaries of public procurement policies on timber. Most certified forests are found in these countries, which makes it easier to meet the respective market requirements. However, inconsistent policies and different requirements in importing countries could constitute a trade barrier. The threat of substitution has been expressed if similar requirements are not imposed on other materials.

Public procurement policies have a significant potential for trade diversion – particularly encouraging exports to countries without such restrictions, such as China. The main objective of the Chinese government is to create jobs for the millions of the poor migrating from rural to urban areas. Therefore, China will keep importing as much wood and other commodities as possible to meet its own needs and to expand exports. Origin of products from sustainably managed sources would be a secondary consideration.

ITTO’s C&I for SFM provide a useful framework for defining in practice what is sustainability, as do other regional C&I sets which have been developed subsequently. The new requirements of public procurement policies for timber, however, now imply that importing countries are shifting the goalposts on their own which is a major cause for

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<sup>3</sup> ITTO nomenclature producer and consumer countries

concern. Exporting countries will need assistance in implementing these new requirements to ensure that they do not completely lose access to markets and thereby an important source of financing their development. Exporting countries expressed the need for some kind of phased implementation. In addition, those countries that are considering measures to meet the new requirements expressed concerns about missing price premiums.

ITTO calls for better statistics as a key element in planning and setting up realistic public procurement policies and assessing if certified activities are sustainable. Policy makers must know how much certified wood is available to the markets and how much wood is being produced from certified forests. Implementation of public procurement policy systems should be accompanied by mechanisms to track their impacts. MTCC is the only scheme that ITTO is aware of that regularly provides information on the volume of wood traded under its certificate.

### **Understanding the WTO Agreement on Governmental Procurement**

Mr Robert Anderson from the World Trade Organization (WTO) explained that the Agreement on Government Procurement (GPA) is an enforceable, plurilateral agreement with a subset of 37 member countries that are bound by this agreement. Nine further countries are in the pipeline for the accession process and China and Saudi Arabia have made commitments that they will sign the agreement in the context of their WTO accession protocol.

The GPA is built around principles of national treatment and promotion of non-discriminatory conditions of trade in relation to procurement markets. Each country that is a party to the GPA indicates which specific entities, which government departments, which public utilities, which sub-national government entities etc, are subject to the requirements of the Agreement. GPA covers public procurement policy processes and procedural rules, such as tendering procedures, qualification of suppliers, invitations to participate, selection procedures, etc. The procedural rules allow differences in national approaches and do not impose a single standardized approach to public procurement policies.

Specific jurisprudence, i.e. WTO case decisions, has developed in the broader context of the WTO rules, not under the GPA directly. In the ongoing re-negotiations on GPA, a number of the members have expressed a need for more clarity and certainty regarding the acceptability of sustainable development criteria in public procurement.

More generally, GPA and WTO ensure that environmental and health protection measures are not used as a disguised means of arbitrary or unjustifiable discrimination or as a disguised trade restriction (GPA §23).

The emerging new GPA text, which the members are committed to complete by the end of 2006, will spell out explicitly that environmental characteristics themselves are a legitimate criterion and may be contained in technical specifications.

## REVIEW OF EXISTING PUBLIC PROCUREMENT SCHEMES

### Public procurement policies for timber in Denmark, Netherlands and the United Kingdom

Mr Christian Lundmark Jensen from the Danish Ministry of the Environment, Mr Robert Andrew from the United Kingdom Department for Environment, Food and Rural Affairs and Ms Ruth Nussbaum from ProForest, operating the United Kingdom Central Point of Expertise (CPET), jointly presented the state of development of public procurement policies for timber and paper products in Denmark, the United Kingdom and the Netherlands.

The three countries aim to promote SFM through public procurement policy on timber products and build these policies within the framework of international consensus and the existing international criteria. However, the common view of the three countries may not be a general solution that applies to all importing countries.

Despite similar overall objectives, each country has defined a different coverage and scope of its public procurement policy. Also the degree of obligation varies: in Denmark, all public institutions have a general obligation to implement the national public procurement policy and public buyers *should* buy legal and sustainable timber. In the Netherlands, the central government *shall* buy legal and sustainable timber whenever possible. In the United Kingdom, central government departments *shall seek* to buy legal and sustainable timber. Public procurement policies in all the three countries cover wood and paper. Only the Dutch and the United Kingdom policies address wood and paper being used by contractors too. Wood-based electricity and energy consumption are not addressed in the Danish and Dutch policies, whereas in the United Kingdom they are under consideration.

Legality is a key requirement for public procurement policy. The definitions in all three countries are similar and they go beyond the EU FLEGT Briefing Note No. 9 that provides the key components for legality definition in the context of Voluntary Partnership Agreements. All three countries consider legal harvesting rights, compliance with national and local laws on forest management, environment, labour and tenure rights. Payment of relevant royalties and taxes is also included. The CITES compliance is explicitly included in the national definitions of legality.

In defining sustainability, all three countries agree in principle on the seven common criteria that have been crystallized through the international forest dialogue. The United Kingdom's definition makes no specific reference to the extent of the forest resource (conversion) but this criterion is, to some extent, covered by the UK's criteria for the production functions and protection of forests. The United Kingdom believes that criteria dealing specifically with the economic and social interests of forest dependent peoples are not permitted in public sector contracts due to the WTO rules and EU procurement directives. There is however strong NGO and parliamentary pressure for the United Kingdom to adopt the NL and DK positions in the interests of harmonization and also in the interests of SFM. The UK is reviewing its position.

All three countries base their requirements for standards setting process on standards of the International Organization for Standardisation (ISO), and equivalent requirements.



All three countries accept certificates and certification schemes that contain consultation as part of the certification process; Denmark does not require a balanced representation for the economic, social and environmental interest groups, whilst the other two countries do. Certification bodies must be accredited to demonstrate that they meet the defined requirements. Chain of custody must undergo a robust and rigorous certification.

For wood and paper products claiming to be of “legal sourcing” it is required that 100% of the contained material must be from a proven legal source. Labelling wood and paper products as “sustainable” generally requires that at least 70% of the material derives from known sustainable sources and that the other 30% derive from legal sources.

All three countries want to avoid any restrictions that might arise regarding requirements for certification and accept alternative proofs that timber is from legal or sustainable sources. Countries will accept individual sets of documentation for a particular consignment, or schemes that aim to provide adequate information on legality or sustainability. The United Kingdom decided that the FLEGT Voluntary Partnership Agreements would be an adequate mechanism for providing proof of legality. All three countries reserve the right for independent assessment to ensure that the information provided is acceptable.

As regards phased approaches, somewhat different strategies are applied. The Netherlands has set a target over time and aims to achieve all timber purchase coming from sustainable sources by the year 2010. Denmark has chosen to apply its public procurement policy only on products where the likelihood of a good match is the highest today, and will progressively expand the coverage of the regulations. Tender processes in all three countries generally call for a proof of legality as a basic contract condition. With everything else equal, the contract is awarded to suppliers who can deliver proof of sustainability. The Central Point of Expertise on Timber Procurement (CPET) in the United Kingdom provides a hotline support to buyers and their suppliers.

Cooperation between central and local governments is most developed in Denmark where three major local authorities working together on the timber purchasing policy will become flagships for other local authorities. The United Kingdom is developing a similar strategy with one region. Public-private cooperation is most advanced in the United Kingdom, where the Timber Trade Federation has produced a code of conduct for its members and they participate through parliamentary committees. This kind of cooperation is progressing in Denmark as well and is under consideration in the Netherlands.

In the Netherlands, the National Assessment Guidelines the “BRL” were finalized by the end of last year. Before launching the Dutch public procurement policy, a test to assess six certification schemes between October and March was to be arranged to identify eligible certification schemes.

In the United Kingdom, the current round of assessment of certification schemes was expected to be concluded by the end of October 2006. The future focus will be on improving implementation, developing better evaluation, monitoring and reporting systems, producing guidance for alternative documentation, training for public sector buyers and suppliers and promotion to the wider public sector.

In Denmark, the guidelines for public procurement policy are under revision and the review of criteria for legal, sustainable and alternative documentation are about to be

finalized. It is planned to pursue options for harmonization and improve collaboration with the private sector and local authorities.

### **The French public procurement policy on timber and wood products**

Ms. Veronique Joucla from the French Ministry of Agriculture presented the French public procurement policies for timber. These policies derive from a programme of action for tropical forests in 2004, and are now applied to tropical and temperate timber products equally. In April 2005, the French Prime Minister issued a Decree, which set the objective that in 2007 50%, and by 2010 100%, of timber purchased by public buyers should come from legal and sustainably managed forests. The legal scope of the policy is mandatory to all purchasing on the national level and is recommended to local authorities and covers all types of wood products.

The French public procurement policy requires proof of legality or sustainability of the forest products. France has not yet assessed certification schemes but it requires that there should be a third party audit, a chain of custody (CoC) and clear rules for the use of the label. For proof of SFM or legality through alternative documentation, France accepts ecolabels, approved forest management plans, or proof of implementation according to codes of good practice.

At the moment, the policy is under review involving an assessment of the methods, objectives and impacts. The work will clarify how the CoC for non-certified products could be ensured, including how to track FLEGT licenses even in France. Further, publicly available information on public markets for timber products will be improved.

The launching of the French public procurement policy has encouraged the private sector to commit to an environmental agreement. France is planning to give support to producer countries, private initiatives and public buyers to comply with the procurement rules.

Harmonisation of public procurement policy schemes is seen as necessary and would improve market transparency. It should clarify how voluntary measures that are not certification schemes can be included and how to deal with private initiatives.

### **Market aspects of public procurement policies in the United States**

Mr Thomas Westcot from the U.S. Department of Agriculture (USDA) stated that the promotion of wood and other renewable materials is regulated through minimum content requirements for public building, renovation work and purchasing. The federal procurement market comprises US\$ 7 billion annually, covering 1.6 million federal workers and 1600 communities and owning and leasing a total surface of 31.1 million m<sup>2</sup> of office space with a huge purchasing volume of energy and materials.

The central government in the US has no specific purchasing policy on timber and paper products. A number of Executive Orders (EO) and bills affect public purchasing of renewable products. A key component in the federal purchasing process is EO 13101 that improves waste prevention and increases recycling, purchase and use of recycled content and environmentally preferable products.

All agencies are involved in the implementation of the regulations on procurement matters; USDA updates biannually a list of bio-based products that provide environmental benefits. This list applies to all federal procurement agencies.

A federal task force on procurement policy matters drafted a regulation on procurement of bio-based items with requirements for minimum content requirements of bio-based materials in products (not necessarily wood products). USDA's guidelines require life-cycle assessments for environmental and economic sustainability, and third party assessment.

The Environmental Protection Agency develops guidance on purchasing environmental preferable products and services. All new government service agency constructions and substantial renovations must therefore be certified through the rating system of the Leadership in Energy and Environmental Design (LEED) for green buildings under the US Green Building Council. The LEED includes provisions for certified wood.

The Memorandum of Understanding on "Federal Leadership in High Performance and Sustainable Buildings" signed in 2006 by the Federal Environmental Executive and 17 federal agencies, shall link the national approach with the development on the state level. It promotes bio-based products from renewable resources and certified sustainable wood products.

Procurement policies related to sustainable forest management have developed at sub-national level such as New York State and California State.

## **STAKEHOLDER VIEWS**

### **Tropical exporting country experience - Brazil**

Ms Carolina Graca presented a case study on the market implications of environmental requirements in Orsa Florestal. The forest operations have been 100% FSC certified since 2004. The company cannot meet demand, being able to accept only 2% of orders. Market demand is specific concerning certain species, sizes, delivery time and price, which often cannot be met by the company for variety of reasons. The biological diversity in their natural forests is high and the number of accepted orders could be higher if clients could broaden the range of acceptable species, so that more than 24 of the available over 600 tree species could be commercialised. Demand focusing on few species may threaten those even under FSC certification. Utilization of smaller log dimensions for sawnwood and application of modern technologies could reduce pressure on key species, too. The third reason for losing offers can be the delivery time, which might conflict with the local conditions, particularly harvesting and transportation constraints during the rainy season.

The Orsa Group receives price premiums for certified wood and they do not expect these to diminish in the near future due to higher production costs and higher certified demand than supply. Even if the certified area is increasing at about the same pace as the demand, the distribution of species and the high biodiversity mean that supply for commercial species is insufficient to meet demand. Brazil has recently approved a new forest concession law which is expected to increase the certified forest area.

Because of the introduction of public procurement policies, the Orsa Group is starting partnerships with small and medium-scale producers so that they can maintain access to the international market.

Green public procurement policies are seen as important instruments that need to be improved by harmonisation, and technical support should be provided. Tendering processes should be more flexible in terms of time, sizes and species. Complementary initiatives are required to broaden the range of commercialised species, to develop new technologies for wood use, and to promote sustainability concepts among architects, construction companies, builders and governments.

### **Timber exporting country's experience with public procurement policies**

Mr Roland Palm from the Swedish Forest Industries Federation advised that Sweden has no specific rules on wood products. Forest-based industries are strongly dependent on export opportunities. More than 65% of sawnwood and over 80% of pulp and paper production is exported, mainly to Europe.

Swedish forest owners and the forest industries contributed actively to certifying 13 million ha under FSC and PEFC. Two hundred companies have CoC, evenly distributed between PEFC and FSC. FSC Sweden considers that still too little pulp is being certified under FSC. PEFC Sweden sees an increasing influence from public procurement policies on the market for sustainably produced and sourced timber, in EU and globally. The different national requirements and different rating of individual certification systems by countries may potentially create unnecessary barriers to trade of timber products. PEFC Sweden considers that the European Union should assume responsibility for harmonizing these policies. Harmonization would reduce the costs of legal and sustainable timber products and could strengthen their competitiveness against other materials. It would therefore promote the use of wood products.

The government, the Swedish wood industry and the Trade Union in Wood and Forestry has formed a Wood Construction Council with an ambitious programme to develop and support in particular larger and innovative construction in wood. Wood has so many advantages that the best use of wood products can be developed in fair competition with other materials, or in combination with them - for different purposes, not only in building construction. Therefore, obstacles resulting from public procurement and other policies to fair competition should be reduced to a minimum.

### **Viewpoint of an African producer and trader**

Mr Olof von Gagern, responsible for the African operations of the Danzer Group, a family-owned business which is world's largest producer of decorative hardwood veneers and a large producer of hardwood lumber, provided insight into the production and trade of African timber. The Danzer Group has forestry concessions of 3.2 million ha in Africa. Two sawmills and a veneer mill are situated in the Republic of Congo and Democratic Republic of Congo. All the concessions are verified under the SGS legality audit which indicates that the operations comply with all local law on forestry, labour, etc. All the operations of the Group are certified to ISO 14001 Environmental Management System Standard. They intend to gain FSC certification for the African timber production in the future.

The private forest sector in Africa could become a potential engine of development. In particular, SFM could be a driver for overall development in Central African countries and an important source of foreign exchange. In their operational areas, the Danzer Group has provided infrastructure through building roads, providing river transport, building hospitals and schools, and supplying drinking water and electricity to their workers. Sustainable forest industry could be a major player for sustainable development in developing countries.

Mr von Gagern considered weak governance, corruption, negative investment climate, lack of support to private industry development by local governments, donor countries and Development Banks as limiting factors. These encourage illegal or informal operators to bypass legislation and so create unfair competition. Those adhering to the laws, paying their taxes and managing sustainably their forest resource cannot compete with low-cost, illegal producers.

The Danzer Group is convinced that, as a minimum requirement, public procurement policies should insist on legality proofs such as, for instance, the SGS attestation or other certificates of the same quality from other auditing companies. Donor countries should initiate and finance projects to help local informal forest industry companies to become fully legal in a progressive manner. The existing economic potential which these informal companies have should be channelled into the formal sector.

Governments should support serious and legally operating forestry companies by providing tax incentives. NGOs and donors could provide support in managing social and wildlife projects. Donors and international finance institutions should recognize and support realization of the developmental potential of the timber industries. The focus of the discussion on tropical forestry and related industry should be switched to the enormous sustainable development potential of the sector. Conservation and economic use must go together. The conversion of forests to agricultural use needs to be controlled and duly managed. The private sector should establish its own procurement policies for (tropical) timber, too.

### **Paper industry perspective**

Mr Bernard de Galembert from the Confederation of European Paper (CEPI) stated that the discussion on forest sustainability and certification and the issue of illegal logging have catalysed the debate on public procurement policies on paper products. The EU FLEGT Action Plan has identified public procurement policy as one of the major action areas. CEPI sees four dimensions in green public procurement policies: the policy dimension, the legal dimension, the market dimension and the technical dimension. These dimensions create the need for an integrated approach that covers all fields together.

After the issuance of the Directive 2004/18/EC on green public procurement a number of member states have now developed their national action plans as required by the Directive. There is a strong political will to implement green public procurement policies and to buy only sustainably and legally produced products in the future. The main consuming and import-dependent markets have taken the lead in this issue. The different approaches in the member states create challenges for the industry that are not easy to meet. National policies may cause material discrimination to the advantage of non-wood products. CEPI foresees legal difficulty in the event public procurement policies include social as well as environmental criteria. Many of the legal issues are related to the procurement process and they are far from clear. The EU has asked specialists to clarify the legal framework for public

procurement policies. According to CEPI, some of these issues can only become clear after the EU case law has been tried. Public procurement policies on paper products often go beyond the issue of SFM and legal origin of the raw material, specifying requirements for emissions and pollution abatement.

A multitude of different public procurement policy approaches might create market opportunities for some players. To keep the market open and transparent and to reduce necessary investments to a minimum, CEPI has called for clear and harmonized rules at the European level. Procurement policy options have to be assessed in view of their implications for the market of paper makers and the levelled playing field between raw materials. CEPI called for the same sustainability requirements for wood as a source for energy and source for paper products to secure a level playing field and called for a European standpoint on certification.

## **ASSESSMENT TOOLS FOR SUSTAINABLE PURCHASING**

### **Impact of public procurement on illegal logging**

Ms Karin Wessman from WWF International presented the joint WWF, Greenpeace and FERN views on public procurement policies. These ENGOs are pleased to see that many governments have responded to ENGO and public concerns and are promoting transparency by setting up public procurement policies on timber and paper products. For the time being, it is uncertain whether public procurement policies can really address illegal logging. Public procurement policies are not an ultimate (panacea) solution for problems of illegality and unsustainability. They will require supportive measures to promote SFM worldwide. The three ENGOs call, therefore, for implementation and application in practice.

The three ENGOs consider social criteria necessary and important to be included, as only in this way can SFM truly be achieved. Harmonization would facilitate implementation, but if the solution is based on the smallest common denominator approach, it would fail to address their concerns. There is a risk of “green laundering”. A harmonized legislation on the EU-market level could ensure that the supply meets the baseline criteria that would be helpful for implementation of a national public procurement policy. The three ENGOs called for better support and capacity building in the supplying countries and regions to respond to the market pull.

WWF has produced two publications that can assist public buyers (*“Responsible Purchasing Guide”* and *“Keep It Legal Manual”*) The Guide provides recommendations for a four-step assessment of the supply chain and a risk analysis.

### **Forest certification assessment guide**

Mr Gerhard Dieterle from the World Bank, together with Prof Martin Walter from the University of Munich, presented the Forest Certification Assessment Guide (FCAG) on behalf of the WB/WWF Alliance for Forest Conservation and Sustainable Use created in 1997. The Bank estimates losses from illegal logging world wide to be between US\$ 10 to 20 billion per year, which is a large amount compared to the global ODA to forestry of about US\$ 1.7 billion per year.

The Global Forest Alliance had earlier set a target of achieving 200 million ha of production forest under independently certified SFM and, in the second phase, to reach 300 million ha under improved forest management. To facilitate this work, they produced a set of criteria for certification systems which are part of the Bank's Operational Policy on Forests. In the context of project preparation WB staffs have to evaluate certification systems against these criteria, as financial assistance is contingent on successful certification under a system which complies with the World Bank's policy requirements.

FCAG is, above all, an analytical tool, which can help identify strengths and weaknesses of individual certification systems. Results of analysis can be used for decision making in the context of programs supported by both Alliance partners either jointly or individually. The Guide is based on the existing ISO frameworks for quality assurance, conformity assessment and accreditation and both organizations' criteria for SFM. The document can be helpful in assessing certification schemes against public procurement policy criteria. In the next step, the tool will be applied for a generic assessment of the two international systems before it will be used to assess individual national certification systems.

The WB has also been engaged in regional law enforcement and governance (FLEG) processes. Not only do producers have a responsibility to address these issues, but so do consumers. A public procurement policy is one approach that a consumer country can apply. The World Bank believes that public procurement policies have great potential in China and other emerging countries.

## **TOOL FOR HARMONIZATION AND COOPERATION BETWEEN STATES**

### **Public procurement – promotion of “sustainability” or a barrier to trade**

Mr Serguei Kouzmine from the Trade Division of the United Nations Economic Commission for Europe (UNECE) presented the work of the UNECE Working Party on regulatory cooperation and standardisation policies (working Party 6; WP.6). The group of experts on policy advise governments in the area of standards, technical regulations and conformity assessments. The main activity of this group is to bring industry and governments together to find common ground for using international standards for the preparation of harmonized, common regulations. To this end, the group has prepared the recommendation to governments “International Model for Technical Harmonization”, which encourages the use of international and regional standards in national regulations.

Public procurement policies on timber products should carry a clear message from governments to enterprises concerning what they are aiming to achieve, which problems they are trying to address, and what measures are needed to achieve these aims. Governments should not interfere in the certification schemes and should let the market decide which is the best. Governments should only assess compliance of schemes against their requirements. It is also necessary to ensure that the labelling under the schemes is not abused. In order to assure the sustainability impacts of a public procurement policy, it is necessary to define criteria also for other materials. Competing products do not need proof of the sustainable production of their raw materials but their requirements should be developed within the life-cycle context (recyclability etc.).

The countries represented in the Policy Forum have to decide whether they wish to follow up on this issue and whether they want to continue towards possible cooperation on harmonization with other UNECE committees and other organizations. The work of the “WP 6” would be relevant in this context.



### **3. Summary of the discussions**

The objective of the Policy Forum was to facilitate discussion on the topic. It did not seek to come to any consensus or agreement. However, the presentations demonstrated scope for consensus on certain aspects of public procurement policies, such as the overall goal of promoting the use of wood and the general concern that a public procurement policy could facilitate substitution of wood products.

The following summarizes the discussion of the main topics, disregarding the chronological order of the different statements and contributions.

#### **KEEP PUBLIC PROCUREMENT POLICIES SIMPLE AND MEASURABLE**

ProBos from the Netherlands stated that the Dutch approach is very detailed, with definitions based mainly on the FSC principles and criteria. In contrast, the United Kingdom approach appears too global, which makes it difficult to judge about legality or sustainability. Denmark responded that, in their opinion, public procurement policies on timber should be kept as simple as possible with clear criteria based on international consensus. The reason is that, even in a small country like Denmark, about 20 000 people could be in practice involved in applying the public procurement policy rules to wood and paper products. The majority of them do not understand the specificities of SFM, certification and the related criteria and indicators. Germany explained that the public procurement policy regulations on timber products would enter into force soon. Their policy will be a simple approach. Portugal, which has no public procurement policy on timber products at the moment, stated that public procurement policies should be simple and pragmatic.

WWF explained that the Responsible Purchasing Guide is not meant to be used by national purchasing personnel. MTCC requested that the process of simplification is also applied to the producing countries.

The European Timber Trade Federations welcomed the approach aiming at keeping public procurement policy as simple as possible. Governments have a powerful influence on the market due to their public procurement policy; they influence also big buyers. All the measurements should be easy to apply. Procurement policies should be based on measurable and objective criteria, which should be a result of full consultation and objective assessment. They also criticised the splitting up of the PEFC list in Belgium.

#### **STEPWISE APPROACH**

Denmark stated that public procurement policy that did not include competing materials would disadvantage wood to the advantage of non-wood products. Phased approaches can help avoid setting up unrealistic initial requirements. A phased approach would facilitate the buyer's options in buying wood. Unnecessary barriers to trade should not be created through public procurement policies. Germany added that they will introduce public procurement policy first at the federal level before they promote their application at other government levels.

Q-WEB stated that a phased approach is imperative and should comprise tractability, legality and sustainability. MTCC defined the stepwise approach as “progress in meeting the agreed standards with a fixed timeframe towards agreed objectives”. To keep the door open for developing countries like Malaysia, they urged that there should be a phased approach. This should be acceptable for forestry, and tropical forestry in particular, if it is acceptable for climate change and biodiversity. WWF confirmed a large consensus on phased approaches from the ENGO perspective, as there are very few alternative tools other than certification, to demonstrate legal compliance and sustainability.

The World Bank made a distinction between stepwise approaches towards developing standards (e.g. under certification schemes) and those in meeting standards through a phased approach. The Bank’s Policy makes provision for a stepwise approach in client countries. However they do not allow negotiations about the quality or the criteria of certification standards or schemes as such.

## **HARMONIZATION AND COOPERATION**

The European Commission was pleased to see that the three member states with operating schemes are already cooperating without their influence. The EC encourages other countries to get involved in this positive process. In the context of the EU green public procurement, the respective EU Directive provides a lot of scope to the member states in implementation. As part of the EU Forest Action Programme, closer cooperation of national schemes will be promoted. A first, low-profile meeting will launch this process soon. The EU tries to facilitate and keep in touch with the wider community, in view of the need for international transparency and the possibility of defining an international framework.

Portugal, as a producer country, remarked that all the pioneering countries (Netherlands, United Kingdom and Denmark) are net importers. Portugal fears that their small and medium-scale producers would have difficulty in meeting public procurement requirements. Big companies have competitive advantages and are better able to adjust their operations to the changing market requirements. Harmonizing the process at the European level could reduce the risk for unfair market conditions for small and medium size enterprises. Germany stated that, as concerns transparency and harmonization, all countries should follow the example of United Kingdom, Denmark and Netherlands. Norway said that public procurement policies should be based on international standards and agreements to keep purchasing of timber products as simple as possible.

PEFC stated that public procurement policies are currently a major driver for forest certification and demand for certified products. The likelihood that public procurement policies might create obstacles to trade is higher if their objectives, definitions and requirements are developed in a unilateral way by individual governments. PEFC therefore asked the international organizations such as UNECE, FAO or the EU to facilitate the harmonization of public procurement policies. MTCC agreed that public procurement policies as national competence leads to the problem of diversification. Public procurement policies should be a Commission competence because they encompass the issue of international trade. The internationally agreed standards should be adaptable to local conditions. One size does not fit all when it comes to forestry and its certification. MTCC stressed that any new harmonized standards should not exceed the existing goals and requirements which are already high.

The Danzer Group called for the establishment of common standards for public procurement policies. The EU Timber Trade Federations deemed it necessary to harmonize the different public procurement policies due to the threat of trade barriers. The EU Timber Trade Action Plan demonstrated the willingness of the European timber trade associations to find a common approach to the topic through cooperation.

## **CHINA AND VALUE ADDED PRODUCTS**

The United Kingdom confirmed that their procurement policy applies to all wood and paper products. All products (including those with secondary processing) coming from China are therefore covered. The United Kingdom procurement system invariably requires to know whether the forest source was legal and sustainably managed. Many Chinese suppliers are now working to demonstrate that their wood supply comes from legal and sustainable sources.

The World Bank underlined the importance of action in China. A recent study has shown that China imports timber to a value of US\$ 17 billion a year, of which 60 % is re-exported to European and Northern American markets. China acknowledges the situation and is developing its own certification system and regulations. This shows clearly that it does matter, what the consumer market decides and that public procurement policies can have an impact. In the long run, public procurement policies will be a major driver for promoting SFM in producing countries.

MTCC remarked that the Chinese market could be used for “timber laundering” or market circumvention. The Timber Trade Action Plan is working on the Asian market and trying to encourage industry to participate in efforts towards ensuring legality.

## **SUPPORT FOR IMPLEMENTING REQUIREMENTS**

Denmark explained that their import statistics showed a decline in imported tropical wood by about 25 % when they started implementing their public procurement policy. There may be different reasons for that, but after the Danish Government developed the guidelines, imports recovered to their original level. However, implementation needs accompanying explanatory guidelines for importers, sellers and buyers. Germany plans to accompany its new public procurement policy with intensive public information to send clear signals which will raise consumer awareness and encourage private companies to adopt the regulations, too. The German Government deemed it important to assess the implementation of the regulations by scientific institutes. To further improve cooperation, the City of Hamburg launched a partnership on public procurement policy together with MTCC.

The Tropical Forest Trust presented the EU Timber Trade Action Plan (TTAP) which is being developed by the timber trade federations of United Kingdom, Netherlands and Belgium in response to increasing public procurement policy pressure on the market. One of the main results of public procurement policies is that the private sector has developed their own policies. The objective is to improve supply chain management, to give financial support to suppliers to assure the legality of their supply chain, and to link the buyers with their suppliers. TTAP is a buyer-driven project, which avoids confusion by sending a uniform market message to producers. Buyers have a built-in incentive as they guarantee the market for participating suppliers. The project aims to have 20% of the tropical timber coming into the EU market from verified legal sources by 2010. A forthcoming TTAP workshop will

explore “Issues of legality and assessing bio market requirements and producer countries’ definitions of legality”. FSC stated that they are about to launch a public-private partnership project between the German government and private companies concerning phased approaches and risk management. The main objective “is to develop a unique framework for the current stepwise approach under the FSC controlled wood and phased approach towards forest certification”. The project is focused on Asia, Latin America and Africa. MTCC stated that effective public procurement policies need the industries’ cooperation and collaboration. Industry needs incentives to shoulder the burden of higher costs. The international market for tropical timber is changing: The EU used to pay higher prices for quality timber products in the past but, during the last 12 months, the emerging markets without environmental requirements, such as China, India and the Middle East, pay the same or even higher prices. MTCC reminded the Forum that the bulk of the population in the developing world has other priorities to address, i.e. poverty. SFM is one element that may help improve livelihoods but does not get rid of the basic issue of poverty, which is the priority. Development aid is therefore necessary.

The Danzer Group called for the private banking sector, the World Bank and the bilateral development aid agencies to provide better investment support and to improve the investment climate in Africa. Compliance with public procurement policy requirements means heavy investment and consequently important transaction costs to the producers. The Danzer Group further called for a better control of legal exports and imports from these countries. Private investments cannot be made, if illegal timber continues to enter the world market, unfairly competing with legal and sustainable wood.

The World Bank proposed that other potential partners or interest groups should be duly consulted. The banking sector has an enormous role in decision-making processes in the field e.g. the Equator Principles Banks could have a huge impact in promoting SFM through purchasing standards.

## **FOLLOW-UP ACTION**

FAO and UNECE will continue to monitor developments on public procurement policies, and will keep countries informed. An update on changes and developments in public procurement policies will be included in the Timber Committee country market statements. Denmark requested that a presentation on the subject be made at the International Softwood Conference in 2007. Norway expressed the wish to continue the discussion a later stage in the coming years. Canada called for an analysis of green building codes.

## 4. Conclusions

The Chairman summarized the main conclusions of the policy forum as follows:

- There is strong political momentum driving the move towards public procurement policies for forest products;
- Only a few countries are really applying a public procurement policy in practice;
- Governments have a dual role, being both regulator and purchaser;
- The “lead countries” are already working together;
- The international legal environment is complex;
- There are many difficulties with implementation, including the complexity of assessing certification schemes;
- Market players expressed strong concerns about certain aspects of public procurement policies, including the procedures required, the diversity of approaches between countries, the risk of creating unnecessary trade barriers. In particular they felt that the market conditions in which they had to operate are being changed too often;
- It was proposed that public procurement policies take into account a phased approach to achieving sustainable forest management;
- A realistic approach to designing and implementing public procurement policy was essential;
- Public procurement policies cannot solve all problems immediately: expectations should not be set too high;
- Public procurement can be a role model for private sector;
- “Legality” is increasingly accepted as minimum standard;
- It has proved challenging for designers of public procurement policies to allow for evidence of sustainability from certification schemes and from “alternative documentation”;
- Public procurement policies could make it possible to avoid giving an advantage to illegal loggers and traders;
- Unsustainably or illegally produced wood is reaching markets in the form of value added products, thus circumventing public procurement policies which only cover primary products. Notwithstanding the technical difficulties, public procurement policies should also consider addressing value added products. Some countries are already doing this;
- At present, only wood products are subject to public procurement policy requirements on sustainability. This fact, as well as possible excessive transaction costs, may lead to substitution by less environmentally friendly competing materials, such as plastics;
- The positive effects of public procurement policies on SFM are difficult to prove;
- Public procurement policies can discriminate against small-scale or community run forest enterprises, and less developed countries;
- There is a lack of information and statistics, as well as a need for transparency and inclusiveness;
- Precision and simplicity should be balanced in a pragmatic way;
- Public procurement policies should promote the use of sustainably produced wood. Because of the complexity of the issues and the dynamic development, it is important for countries and stakeholders to exchange information and to cooperate and coordinate actions.

The meeting agreed that public procurement policies are important and are developing rapidly. There is a need to monitor them at regular intervals. The meeting welcomed the work of FAO and UNECE on monitoring forest sector policies and institutions and asked them to include public procurement policies and their market impacts in this regular monitoring. In particular, countries should be requested to include the latest public procurement policy developments in their national market statements from 2007 onwards.