

Part II Discussion Paper: Public procurement policies for forest products and their impacts

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1. Summary

SUMMARY

Context. As part of internalizing environmental aspects in all government purchasing, several countries have developed, or are in the process of, developing public procurement policies or rules related to forest products. These policies are potential instruments to promote sustainable forest management (SFM) and improved governance in producing countries. In some European countries, product-specific public procurement policies, together with corporate social responsibility, are presently the main market driver of forest products. Emergence of these policies has raised the need to define methodologies for assessing forest certification standards and systems, as well as verification systems of legality.

Objectives. The discussion paper attempts to synthesize the available information on the public “timber procurement policies”, to present a comparative analysis, to assess their potential impacts, and to identify key issues for further discussion.

General GPP. Policies for “green” public purchasing (GPP) have already been applied in many countries well before specific policies for timber started to evolve. They reflect the values of society as a whole. GPPs are administrative instruments developed with political support and the purpose is to ensure that these values are also adhered to. Their emergence reflect a change in moral values that some practices are no more considered acceptable (illegal operations, money laundering, social injustice, etc.). General GPPs offer important lessons learnt for timber procurement emphasizing education, training, communication, voluntary implementation, participation of stakeholders, networking, clear criteria and procedures, need for monitoring and evaluation, etc.

Current situation. Seven countries currently have operational timber procurement policies, including five in Europe, Japan and New Zealand, but there are several others, which are in the process or planning action in this field. In addition, many regional and local governments have established their own, often more restrictive rules for their procurement contracts.

Commonalties and differences. Most countries have gone through an extensive inclusive process engaging stakeholder groups in the development work. There are many commonalties between national policies but there are also differences, many of them minor, but some of them significant. These concern (i) objectives (usually related to promotion of SFM and legal compliance), (ii) targets and implementation strategy (often through a phased approach), (iii) level of obligation (often voluntary but sometimes mandatory), (iii) actors concerned (typically central government purchasing agents), (iv) product scope (sometimes excluding pulp and paper), (v) definitions for sustainability and legality, (vi) criteria applied in the procurement process, (vii) use of certification schemes as a reference, (viii) documentary

evidence required, and (ix) implementation and institutional aspects. The most contentious issue has been which certification schemes can be considered to deliver adequate assurances on the policies' requirements. Governments have come to different conclusions on this due to differences in their assessment criteria.

Legal framework. The WTO Agreements provide the framework for the operation of timber purchasing policies. In the EU it is further developed through a series of directives and guidance documents. The key issues are related to (a) how non-product related PPMs should be interpreted ensuring non-discrimination, (b) whether social criteria can be included, (c) how to use eco-labeling schemes as a reference, and (d) how the criteria could be applied in awarding contracts. Case law has had, and will continue to have so, an important role in clarifying these issues.

Demand. The data on public sector consumption of wood and derived wood products is scanty and only fairly rough estimates are available for few countries. However, the size of the public sector market for forest products could be in the range of 10 to 25% of the total forest product consumption varying by country, product and end-use segment. The public sector is a significant market factor and decision making on procurement appears to be mainly at the level of regional and local governments.

Impact on buyers. The potential impact of the public procurement on the behavior of market actors is larger than its relative share would indicate as public purchasing can act as a standard setter and example for the private sector. In many countries government timber procurement policies are implemented in parallel with private sector initiatives and therefore their market impacts are difficult to separate. The broad engagement of the industry (not only in Europe but also in Japan, North America and other countries) is important for the leverage effect and can be interpreted as a true recognition of the problem of illegal and unsustainable practices, which must not be continued in the future.

Supply. The only available information on potential supply of wood meeting the requirements of the public procurement policies refers to certified forests. Their estimated potential supply (789 million m³ per year) could be theoretically sufficient to meet the needs of the public sector procurement in those countries with respective policies but in practice a shortage can be predicted for a variety of reasons. Some certification schemes in some countries qualify only for proof of legality. In addition, there will continue to be pressures from a group of NGOs to disqualify certain schemes. Assessment criteria of certification schemes will be reviewed periodically and the result can have a significant impact on the potential supply. On the other hand, when most of the potential supply has been certified, procurement policies may lose their kick-off role as market incentive.

Cost impacts. Verification of legality and certification will increase the cost of production in exporting countries, which will create pressure for price increases. However, the buyers in importing countries have refused to pay a premium for certified product even though such premiums are being actually paid in some products and markets where demand exceeds supply.

Trade diversion. As long as there is a strong alternative market where similar requirements are not imposed, producers will always find it attractive to divert (part of) their sales to such outlets. The Asian market has served such a role during the last ten years for tropical timber producers. This trade has sometimes become "wood laundering" in the sense that illegal wood

from Russia or the tropics is imported in rough and re-exported as further processed products to the world markets.

Substitution impacts. Public procurement policies appear to favor (i) temperate producers, (ii) large-scale and integrated operators, and (iii) plantation wood. In addition, making timber buying more difficult than in the case of substitutes, the purchasers and specifiers may start avoiding wood in the procurement, particularly if they are burdened with direct and indirect transaction costs (work input and costs of verification of claims, special monitoring and reporting obligations, and risk of undue extensions in project implementation periods due to complaints). This may lead to a preference for substituting materials on which similar requirements are not imposed.

Impact on forest management. Due to the limited role of public purchasing in total consumption of wood and derived products and the preponderance of domestic supply, the direct impact of the timber purchasing policies is likely to be rather limited in the four producing regions where problems are perceived to be more serious than elsewhere (Africa, Asia, Latin America and Russia). The countries that are important exporters of sawnwood and plywood are likely to be more impacted than others are. Were more consuming countries to embark on the implementation of procurement policies, the impact on exporting countries could apparently be enhanced. However, in the end, the impact on forest management in exporting countries will largely depend on the leverage effect on the private sector of the public procurement policies in the importing countries.

Governance impacts. Verification measures to prove that timber comes from legal sources can help reduce illegal logging for those operators who are involved in export trade. However, the industry's dependency on export markets is generally fairly low as most of sales go to the domestic markets with the exception of a small number of countries and products (mainly sawn hardwood and plywood). Whether problems in these countries could be addressed through less wide ranging trade-related measures than public timber procurement policies which deal with all types of timber from all types of sources is a relevant question as such measures have legal problems and the cost of their implementation is significant.

Supporting tools. Certification is making a relatively rapid progress in the export-oriented tropical countries that have been lagging behind in the development. The public timber procurement policies have probably strengthened these efforts and will continue to do so. In spite of several studies, there is still on-going debate on what the impact of forest certification is in improving the quality of forest management on the ground. Information is improving gradually but it is sometimes yielding results that are interpreted selectively.

Equity. It is important that the public timber procurement policies provide designated market access to legal timber as in many developing countries certification is facing major barriers. For instance, in Africa the formal requirements of land tenure establishment and management systems have ruled out the entry of community forests to certification. Public procurement is likely to be a useful instrument in encouraging large-scale operators to improve their practices but, without special measures, it is unlikely to help small and medium-sized actors or community forests which cannot implement market requirements for reasons which tend to be often beyond their control. Trade promotion measures and other assistance would be needed to ensure that the market position of these disadvantaged producers is not further weakened by increasing market requirements in importing countries.

Complementarity as policy instrument. Market instruments in importing countries cannot alone eliminate illegal logging in producing countries. Public procurement is a complementary instrument rather than a fundamental measure to change behavior of actors (although its compulsory nature for a well defined group – purchasing officials – sets it apart from voluntary measures such as certification). Although GPPs have been applied in many countries for years, timber procurement policies are new instruments. The international community is still in the early phases of the learning curve on how they could be devised to best serve their main goal, i.e. promoting sustainable consumption and production. These policies are complementary to other measures that need to address underlying governance and economic constraints.

Role of governments. Governments have a double role in promoting sustainable forest management and improving enforcement. They define the overall policy framework and, through purchasing of goods and services, they are also actors. This represents an additional source of complexity for the implementation of timber procurement policies, which are also targeted at changing the behavior of other market actors through the exemplary behavior of public agencies. The kick-off impact of public timber procurement policies is potentially important depending on their leverage effect on these other actors, including governmental agencies at different sub-national and local levels. The impact is likely to be strongest in the early phases of expanding demand for legal and sustainable wood and derived products. Later on, the respective requirements are likely to often become baseline conditions for the access of public sector markets for forest products. In exporting countries, the role of governments may be to create positive enabling conditions for their exporters.

Need for additional measures. The public sector procurement policies are measures straddling all types of timber and all sources of supply. This may be inevitable for the reasons of international trade rules in spite of the fact that trade-related problems of unsustainable and illegal practices are probably largely confined to a handful of exporting countries. Therefore, additional targeted measures (e.g. the EU FLEGT voluntary partnership agreements) to combat illegal logging and illegal trade in endangered species are useful complementary measures.

Issues for further discussion. There are a number of key issues which need to be clarified in order to facilitate implementation of appropriate public timber procurement policies: (a) the use of internationally agreed vs. nationally developed definitions and requirements, (b) possible measures to increase commonality between national requirements, (c) requirements for other means of verification than certification, (d) clarification of the compatibility with the international legal framework, (e) measures to increase effectiveness of the procurement policies to contribute to the intended goals (SFM and legality), (f) possible trade distortion and equity, (g) undue promotion of substitution, (h) lack of market information on potential demand and supply, and associated monitoring, and (i) need for exchange of information.

2. Introduction

BACKGROUND

As part of internalizing environmental aspects in all government purchasing, several countries have developed, or are in the process of, developing public procurement policies or rules related to forest products. These policies are potential instruments to promote sustainable forest management (SFM) and improved governance in producing countries (often in the purchasing countries as well). Importing country concerns related to forest products are currently strongly focused on the issue of illegal logging and trade, and sustainability of forest management.

In some European countries, public procurement policies, together with corporate social responsibility, are presently the main market driver of forest products. These policies are being implemented within the framework of broader public sector efforts to promote environmental conservation through “green” procurement. Public procurement policies on forest products are complemented by action taken by the private sector. Both sector and company-level initiatives are being implemented in many countries to integrate resource management issues in supplying and purchasing of forest products. However, there are various concerns on the effectiveness of these initiatives in contributing to sustainability and on how they may influence market access, particularly for tropical timber producers.

The emerging policies share many common elements (e.g. reference to legality and sustainability) but there are also differences in relation to the degree of obligation, detailed requirements and type of acceptable evidence. Legality is usually defined as a basic requirement for government procurement while proof of sustainability tends to lead to preferential treatment.

Public procurement is one of the policy instruments that governments may apply to promote environmental conservation and sustainable consumption. It may be assumed to have a stronger impact on the market than purely voluntary instruments such as forest certification⁴. Voluntary certification, typically implemented by the private sector, is different from public procurement policies which are governments’ own instruments to be applied by public agencies. Forest certification has been implemented for already thirteen years but with mixed success and there are concerns related to *i.a.* equity, market access and substitution. The impacts of certification on forests have been questioned by many stakeholders (e.g. Ozinga, 2004). In practice, the two instruments have been linked to each other and can lever their impacts on forest management.

Governments with public procurement policies related to forest products are rapidly developing their own guidelines and minimum criteria for certification, verification systems and documentary proofs, detailing how suppliers could meet these requirements. Emergence of these policies has raised the need to define methodologies for assessing forest certification standards and systems, as well as verification systems of legality. This paper focuses on the “timber procurement policies” which refer to legality and sustainability. There are also other important procurement issues which concern forest products such as recycling or renewable energy but they are not analyzed in this paper.

⁴ Forest certification is here used in the broad sense covering certification of sustainable forest management and chain-of custody.

Public procurement is presently one of the most dynamic topics in the international discussions related to market access of forest products. The linkage with the control of illegal logging and associated trade, and forest certification makes public procurement policies particularly complex. Experience on implementation is still limited. The first policies were issued less than ten years ago and governments are still on a very early stage of learning curve of implementation. The development of procurement policies still remains to adequately address the particular difficulties which developing country producers and especially SMEs are faced with in meeting the public sector market requirements. From an NGO perspective the difficulty is how to design a policy that does lead to improve forest management on the ground (Ozinga, pers. comm.).

In the ITTO Workshop on Phased Approaches to Forest Certification (April 2005) it was noted that it would be desirable to have commonality between national public procurement policies. The policies should be fair, realistic, consistent, transparent and geared toward providing incentives for tropical timber suppliers to move towards SFM that will allow for certification. Procurement policies should also recognize evidence that can be provided through phased approaches to certification.

The UNECE Timber Committee and FAO (UNECE/FAO 2005) identified public procurement policies as an important issue during the 2005 Policy Forum on the role of governments in forest certification (UNECE/FAO 2006). The double role of governments as regulators and purchasers of forest products was discussed. The Committee suggested that the next UNECE/FAO Policy Forum address the issue of public procurement policies with emphasis on market aspects. A number of issues was identified for further discussion including the use of public procurement policies to promote sustainable forest management (domestic and in other countries), the principles and practice of public procurement, avoiding discrimination and market distortion, while achieving policy objectives. The Forum will be organized on October 5, 2006 in connection with the sixty-fourth UNECE Timber Committee session in cooperation with FAO. This discussion paper is aimed at serving as a basis of deliberations of the Policy Forum.

OBJECTIVES, DATA AND METHODOLOGY

The objectives of the paper are:

1. Synthesize the available information on the importance of the public sector as buyer of forest products and the existing and planned procurement policies.
2. Assess the possible market impacts of procurement policies.
3. Assess the potential impact of wider use of “green” public procurement policies on wood and wood products markets and what lessons can be learnt as regards public timber procurement policies.
4. Assess the potential effectiveness of the public procurement policies as tools to promote SFM and legal compliance, and reduction of illegally harvested and traded timber in producing countries.
5. Present a comparative analysis of the existing and planned policies with regard to terms, definitions, and requirements as well as the application of the purchasing criteria with the purpose of identifying commonalities and differences.

6. Review the current initiatives by the private and public sectors, which are related to the implementation of procurement policies, as well as implementation measures (verification systems, SFM certification, alternative evidence, etc.).
7. Identify key issues for further discussion.

There is a rapidly expanding range of studies and reports on public procurement policies and other measures to control imports of illegally harvested wood and wood products. After the review of available documentation, data was collected on the existing and planned procurement policies through a structured list of questions. Interviews were carried out with selected representatives of government agencies, producers, buyers and traders of forest products. Information was also collected on broader “green procurement” policies and possible lessons learnt from their application.

Assessment of the market impacts and effectiveness of the public procurement policies in contributing to SFM and sustainable consumption was constrained by the availability of data on public sector consumption of forest products. Only two countries implementing procurement policies (Denmark and France) appear to have reasonable estimates on the volume of public sector wood consumption but this information is limited to tropical timber. This is surprising in view of the vigor with which the procurement policies are being put into practice.

Trade analysis drawing on FAO’s trade flow data was carried out to assess possible market impacts. The supply and demand for certified forest products was assessed using data bases of existing certification systems as certification is a key tool to demonstrate compliance with the requirements of procurement policies. Only anecdotal information is available on the extent of production coming from sources which are independently verified to be legal and therefore no quantitative assessment was possible.

In order to provide a general framework, the report first reviews the lessons learnt from broader green procurement policies based on available studies and selected examples (chapter 3). The current situation in the development of national policies is then reviewed and a general comparative analysis of their scope, contents and implementation aspects is presented (chapter 4). As the legal aspects related to the timber procurement policies have been a course of uncertainty, they are reviewed in chapter 5. A market assessment discusses the role of public procurement as a market driver based on data on certified products. A short review of private sector measures is also included (chapter 6). The potential effectiveness of public procurement policies is assessed in view of possible impacts on forest management and improved enforcement in supplying countries (chapter 7). Finally, chapter 8 identifies selected key issues for the attention of the Policy Forum.

3. Green procurement policies

INTERNATIONAL AND NATIONAL INITIATIVES

Public procurement has been used for decades to promote various policy goals (e.g. national industrialization and employment) but linking it with environmental goals is a recent phenomenon. “Green” public purchasing (GPP)⁵ encompasses all activities that aim to integrate environmental considerations into the purchasing process, from the identification of the need, through the selection of an alternative, to the provision to the user⁶. Green purchasing tries to avoid unnecessary purchases⁷ and it seeks to purchase a greener variant that supplies the same (or better) quality and functionality as the conventional choice⁸ (Erdmenger 2003).

At international level, public procurement has been recognized as one of the instruments to promote sustainable development since UNCED in 1992. Chapter 4 of Agenda 21 highlighted unsustainable patterns of consumption and production and focused on developing national policies and strategies to remove such patterns. In 1995, CSD adopted an International Work Programme on Changing Consumption and Production Patterns including policy measures. The World Summit on Sustainable Development (WSSD) in 2002 called for decoupling economic growth and environmental degradation, and integrating consumption and production patterns into sustainable development policies as cross-cutting issues.⁹ The international level action has been seen mainly as coordination of activities to support regional and national initiatives¹⁰.

In 2002, the Council of OECD made a series of recommendations on improving environmental performance of public procurement, including development of greener public purchasing policies and incorporating environmental criteria into public procurement of products and services¹¹. UNEP is promoting sustainable public procurement by facilitating global consensus on the integration of sustainable development considerations in procurement at all levels and developing practical tools (product criteria data base, training packages, etc.)¹². In the European Union, GPP has been recognized as one of the important tools of the Integrated Product Policy (IPP). The main aim of the Policy is to reduce the environmental impacts of products throughout their life-cycle, harnessing, where possible, a market driven approach within which competitiveness concerns are integrated (CEC 2003).¹³

These international and regional initiatives are based on the view that environmental problems could not be solved through ‘environmental policy’ alone (Erdmenger 2003). By shifting consumption towards more environmentally friendly products and services GPP could therefore reduce harmful impacts on the environment.

⁵ "Green" public procurement stands for public purchasers who take into account environmental elements when buying products, services or works. (CEC 2003).

⁶ 21 other definitions of GPPs are reviewed in Bouwer et al. 2005

⁷ Not needed to meet the purchaser's needs

⁸ Based on e.g. cost-performance or best-price criteria.

⁹ The Johannesburg Plan of Implementation

¹⁰ Report of the International Expert Meeting on a 10-year Framework of Programmes for Sustainable Consumption held in Marrakech from June 13-19, 2003

¹¹ OECD Recommendation of the Council on Improving Environmental Performance of Public Procurement. Environment. 23 January 2002 – C(2002)3

¹² www.unep.org

¹³ Commission Communication on IPP (add ref)

Green public purchasing is also about setting the example and influencing the market place. In establishing a green procurement policy and communicating the actions taken and the results of that action, the authority demonstrates that purchasing can have influence, and that it can lead to visible results. Further, by promoting green procurement, public authorities may give important incentives to industry to develop new technologies with reduced negative environmental impacts. It is claimed that green public procurement will often lead to savings both for the public authorities making the purchases and society in general, when considering the life-cycle cost of the product (Erdmenger 2003). There are also many other benefits which can be expected from the implementation of GPP. The US EPA Guidance mentions the following additional four benefits: (i) improved ability to meet existing environmental goals, (ii) improved worker safety and health, (iii) reduced liabilities, and (iv) reduced health and disposal costs¹⁴. Despite these potential benefits and the general common acceptance of the idea, progress has been slow, perhaps because most market actors felt these measures would raise costs to an excessive extent. Only during the last five years ideas have been put into action with a new vigor,

One of the key hurdles has been legal uncertainties about how GPPs could be implemented. It has also become clear that greening of public procurement is a major task which requires a holistic approach to address all the various constraints; indeed as Erdmenger (2003) points out that a system change is needed to achieve sustainable production and consumption. New kinds of infrastructure, transport systems, production technologies, and alternative resources are needed to solve the environmental problems of the world. Local authorities have often played the leading role as national-level policies have been more demanding to develop.

GPP has been applied in different countries for the last 10 to 15 years. GPP has usually been developed in the context of national eco-labeling schemes. Many of these schemes specifically deal with forest products such as hygienic paper, copy paper and furniture. The assessment framework of eco-labeling schemes is usually life-cycle-based and resource management is sometimes included. E.g. in the EU Flower criteria sustainability of forest management is referred to. Denmark and Japan have been spearheading the GPP development but many other countries are also involved. These include, *inter alia*, Australia, Austria, Canada, Finland, France, Germany, Hungary, the Netherlands, New Zealand, Norway, the Republic of South Africa, Sweden, the UK and the USA.

The European Commission encourages member States to draw up publicly available action plans for greening their public procurement and 12 Member States have developed them (or are in the process). Seven Member States are already in the implementation phase. These plans contain an assessment of the present situation and ambitious targets with clear statements on which measures will be taken by the end of 2006. Plans are to be revised every three years (CEC 2003). The new EU Directives on public procurement¹⁵ became into force in April 2004 and the respective interpretative document (“Buying Green! A Handbook on Environmental Public Procurement”) was issued in August in the same year (CEC 2004)¹⁶. These were important milestones as they also attempted to clarify the inclusion of environmental, social and consumer protection aspects in public procurement. The legal status

¹⁴ www.epa.gov/epp. The list shows that social criteria tend to be combined with the environmental ones in GPPs.

¹⁵ 92/50/EEC, 93/37/EEC, 93/36/EEC, 93/38/EEC, 97/52/EC, 98/3/EC, 2004/17/EC and 2004/18/EC

¹⁶ See chapter 5 for detailed discussion on EU rules

of GPP is now more clearly defined than before¹⁷ and the situation will improve when the EU countries have completed amending their national laws to correspond to the EU directives.

LESSON LEARNT

Only limited information is available on the assessment of broad GPPs as policy instruments. More information has been accumulated on some implementation aspects (e.g. Bouwer et al. 2005; Kippo-Edlund et al. 2005). A number of lessons learnt with relevance to procurement policies of forest products can be singled out:

- The role of green public procurement should not be seen as the everlasting market force, but as an indication for market change (Kippo-Edlund et al. 2005).
- GPPs are part of a policy package and their effectiveness depends on how the supporting measures have been implemented; these may include environmental information to purchasers, standardization of products and environmental requirements, life-cycle assessment, measurement indicators, environmental labelling and reporting, economic instruments, etc.
- The most important barriers are high perceived costs of green products, lack of knowledge, unclear legal framework, lack of management support, lack of information and tools, difficulties in analysis of on indirect costs and benefits, and lack of training (Bouwer et al. 2005; Günther 2003; Erdmerger 2003).
- Training of purchasers is necessary on the preparation of tender documents and justifying award decisions from the environmental point of view. Guidelines, instructions, model tender and contract documents are important in facilitating the procurement process. The need for these supporting measures has been identified in most countries applying GPP (Bouwer et al. 2005). GPP tools should be made readily available for purchasers. If there is a charge, it easily becomes a hurdle for implementation. (Kippo-Edlund et al. 2005).
- Dissemination of the information is needed to facilitate and encourage GPP decisions as well as the results and benefits derived from their adoption (OECD 2002).
- If GPP is promoted only as a voluntary measure among public sector purchasers, it is unlikely to become effective. A degree of mandatory implementation appears therefore necessary to make public procurement a significant tool for promoting sustainable production and consumption. Without obligation the share of tender documents specifying environmental criteria often remains low (Kippo-Edlund et al. 2005).
- The obligation for public agencies to establish their own green public procurement policies (as is the case in Denmark and Japan) has probably been more effective and easier to guide and supervise than a mandatory requirement to apply green purchasing criteria (e.g. Austria and Germany) (Ochoa et al. 2003). However, the information on the implementation suggests that having a policy is just the first step towards greener procurement but full implementation is much more demanding (Gade 2001).
- Procedures are needed for the identification of products and services which meet the objectives of GPP which implies identification of their environmental aspects (cf. OECD 2002; Erdmerger 2003).
- Most GPP policies have a broad view on environmental aspects which are often straddling many different aspects. Attention needs to be paid to how relevant product-specific

¹⁷ Relevant earlier regulations are 92/50/EEC, 93/37/EEC, 93/36/EEC, 93/38/EEC, 97/52/EC, 98/3/EC

environmental aspects are defined and the respective criteria formulated (Kippo-Edlund et al. 2005). There are also more narrowly focused policies. E.g., the Environmental Purchasing Program (EPP) of the US Environmental Protection Agency is targeting at selected specific environmental impacts within a framework of pollution prevention and waste reduction (www.epa.gov/epp). Too broad a scope in criteria may become a barrier to implementation.

- The experience suggests that implementation of environmental criteria tends to be more common in larger than smaller purchasers. Large tenders are usually well prepared and environmental aspects are therefore more often considered. In smaller purchasers (typical of many forest products), simple criteria would facilitate integration of environmental aspects (Kippo-Edlund et al. 2005). Thresholds are used to separate large and small purchases and GPP policies tend to allow less stringent or more flexible approach to the latter.
- GPPs should be assessed and evaluated in order to ensure that they are economically efficient and environmentally effective (OECD 2002).
- The past GPPs have focused on environmental aspects but some industries and NGOs have been calling for inclusion of social aspects. Legal debates continue on whether or how they can be linked with GPP (cf. chapter 5).
- Construction of new buildings and civil works, including renovation, is the most important potential area for GPP to have an impact on the environment, in spite of the complexities involved (Clement et al. 2003). This is especially the case with wood and wood products.
- Strategic market analysis should be carried out in the design and implementation of GPP (cf. Günther et al. 2003). This appears to be a weakness in many countries.
- Countries have chosen different environmental procurement criteria even in situations where they have close cooperation in this field (e.g. the Nordic countries). There is, however, potential for common approaches which could avoid GPP to become an unnecessary obstacle to trade which is increasingly international. Harmonization of criteria should not, however, be seen as the first priority in the early phases of the learning curve. However, from an industry and purchasers' point of view, it would certainly make things easier, were the criteria harmonized on a regional or international level, although the latter is probably a difficult task. Co-operation with or through environmental labelling schemes is one option worth consideration (Kippo-Edlund et al. 2005; Naess 2005).
- No analysis appears to have been made on the direct and indirect transaction costs of green purchasing. This may act as a barrier for GPP implementation and would merit further analysis.
- GPP implementation is complex which slows down the progress at individual agency level. External private services have emerged to help government agencies implement GPP (e.g. preparation of environmental policies and criteria, identification of environmental opportunities, elaboration of green operating manuals, preparation of model tender dossiers and contracts, etc.).
- The administration of the GPP process or parts of it can be outsourced. In Sweden, the responsibility for GPP has been assigned to the national Environmental Management Council which is a company jointly owned by the state, association of local authorities, national federation of country councils and the confederation of Swedish enterprises

(www.eku.nu). This is assumed to widen the use of the instrument towards the private sector.¹⁸

- Green procurement networks are promoted in many countries as sources of information on criteria, product profiles, green suppliers, green products, etc. (e.g. www.publiservice.gc.ca/partners/green, www.terrachoice.com). In order to improve sharing of experience, the Danish Competition Authority has initiated the set-up of the International Public Procurement Network¹⁹ with 14 participating countries aimed at improving the use of GPP in national situations.

¹⁸ See also chapter 4. where outsourcing of some services related to the UK timber procurement policy are discussed.

¹⁹ www.ks.dk/english/procurement/network

4. Public procurement policies for forest products

OVERVIEW OF CURRENT STATION

Seven countries currently have operational timber procurement policies, including five in Europe, Japan and New Zealand (Table 4.1). All of them are crafted within broader policies on green government procurement. All are relatively recent, as most policy decisions are no more than two years old. The pioneering countries have been The Netherlands and the United Kingdom where strong political debates have surrounded forestry issues, particularly forest certification, and government actions to intervene in tropical timber imports were called for already in the early 1990s. The activist NGOs' actions targeted at the use of timber in high profile government projects has increased the reputational risk which can be assumed to have accelerated the development in the UK.

In addition to the seven countries, there are others, which are in the process or planning action in this field. It can be foreseen that public procurement policies will be adopted by more countries in the future. In addition to concerns related to sustainability, the driving force is the fact that it is considered politically unacceptable that governments could be buying illegally harvested wood products, or otherwise contributing to deforestation. Their exemplary role in purchasing is also seen as important to encourage the private sector to adopt similar principles.

The process of policy development tends to involve three steps, (i) identification of the problem and public procurement as a possible solution, (ii) the general policy statement focusing on the objective, and (iii) provision of guidance and other supportive actions to facilitate the implementation. Only in a few cases, the fourth step or evaluation has been achieved but annual monitoring is already carried out in some countries. The policy development process appears to take a few years and it has sometimes involved more steps where the contents of the policy and the instruments have been adjusted for various reasons.

Some early efforts focused on tropical timber only but it is now a generally accepted principle that all types of wood and wood products will have to be covered, not least because governance and sustainability of forest management are global issues. It is, however, noteworthy that net importing countries (particularly of tropical timber) have been most active in the development of specific procurement policies for wood and wood-based products²⁰. The environmental or social aspects related to domestic supplies have not been a major concern in these countries.

Table 4.1 does not include countries, which are relying on other instruments for greening their public procurement of forest products such as eco-labeling. Many eco-labeling schemes have developed specific requirements for wood and paper products, which sometimes include sustainability requirements for resource management²¹. As discussed in *International and national initiatives* in chapter 3 and chapter 4 eco-labeling schemes can be related to public procurement but they have a different scope and role than specific policies on procurement of wood and wood-based products.

²⁰ With the exception of New Zealand

²¹ E.g. the European Union Flower eco-label

Table 4.1 Development and status of public procurement policies related to forest products (May 2006)

<i>Country</i>	<i>Status</i>
Belgium	<ul style="list-style-type: none"> - The Federal Plans for Sustainable Development (2000-2004 and 2004-2008) identified environment-friendly and selected social aspects (particularly employment conditions) to be considered in public purchasing. - Ministerial Circular P&O/DD/1 (27 January 2005) identified a number of forest products for consideration in public tenders. Paper is included in these products. The products have to be in line with ecological and ethical guidelines. - Guidance by the Federal Council for Sustainable Development on the proposed federal procurement policy for timber (8 July 2005). - Ministerial Circular P&O/DD/2 (4 November 2005) defined the purchasing policy to promote procurement of timber from sustainably managed forests - Methodological guide for purchasing authorities was issued in July 2006.
Denmark	<ul style="list-style-type: none"> - Parliament decision in 2001 was made on central government to adjust public procurement policies to ensure that purchases of tropical timber would be based on legal and sustainable sources. - In 2003 Ministry of Environment issued a tropical timber procurement policy to promote public purchasing from legal and sustainable sources followed by an information campaign in 2004. - The policy implementation was evaluated in 2005 (user survey, comparative analysis with national policies in four other countries, and legal study). - The policy was revised in 2006 to cover all types of timber and a 9-point action plan was approved to make faster progress.
European Union	<ul style="list-style-type: none"> - The FLEGT Action Plan (COM(2003)251) required that national governments develop public purchasing policies to ensure no illegal wood can be procured and called for trade associations to develop codes of conduct on environment timber procurement. - Issuance of a new Directive (2004/18/EC) on public procurement to clarify the legal basis of consideration of environment aspects. - In the interpretative document "A handbook on environmental public procurement" (SEC(2004)1050) specific guidance for timber purchase is provided.
France	<ul style="list-style-type: none"> - Sustainable development national strategy (2003) made a recommendation to develop sustainable public procurement. - Governmental Action plan in favor of tropical forests (April 2004) included a project to prepare Prime Minister's advice note ("circulaire") to public buyers. The objectives were set as 50% in 2007 and 100% in 2010 of timber and wood products bought by public buyers should come from legal and sustainably managed forests - Advice note was approved and published in the Official Journal April 8, 2005 - Evaluation of the objective of 50% in 2007 with a first assessment in 2006 (currently work in process to elaborate the evaluation methodology).
Germany	<ul style="list-style-type: none"> - An administrative regulation was issued in 1996 which states that tropical timber should come from sustainable forestry, attended with a credible certification. - The previous Government prepared draft procurement policy but a consensus was not reached. - The present Government's coalition agreement (11 November 2005) states that the Federal Government will use only timber from certified forests. - A new draft policy is under preparation including procedural requirements and requirements for sustainability. This is part of the new government's commitment to support certification of sustainable forest management and procurement of timber only from certified forests in the future. The first evaluation of existing certification schemes was launched in March 2005 and the second was issued in March 2006 - Government departments agreed upon the wording of public procurement arrangement (6. July 2006). The implementation and administrative instructions are under preparation..
Japan	<ul style="list-style-type: none"> - Law concerning the Promotion of Eco-friendly Goods and Services by the State and Other Entities (2001) was complemented with an explanatory policy document with listing of products concerned (Designated procurement items). - Guideline for verification on Legality and Sustainability of Wood and Wood Products - Government Procurement Policy for Global Sustainable Forest Management took effect 1st April 2006 through the amendments of the Basic Policy on Promoting Green Purchasing.
The Netherlands	<ul style="list-style-type: none"> - Minimum requirements for forest certification were issued in 1997. - Proposal for a law on mandatory labeling of all timber (red and green) was made but withdrawn in 2002. - Government Decision on Sustainable and Legal Timber Procurement (2 July 2004) requiring all national public institutions to procure verifiably sustainable timber, when possible, and

<i>Country</i>	Status
	<ul style="list-style-type: none"> public buyers to ensure legality of timber purchased. - Cabinet Decision on Public Procurement of Timber was made in June 2005. - National Assessment Guideline for the Certification of Sustainable Forest Management and Chain of Custody for Timber from Sustainably Managed Forests was approved 12 October 2005 (an earlier version was elaborated in 2003 and in 2004 there was pilot testing).
New Zealand	<ul style="list-style-type: none"> - Government sustainable procurement policy was issued 1 July 2001. - Policy Guide for Public Purchasers was published by the Ministry of Economic Development in July 2002 which identified timber procurement from legal and sustainably managed sources as policy objective. - Timber and Timber Products Procurement Policy Guidelines were issued in March 2004.
Spain	<ul style="list-style-type: none"> - Proposal for the revision of the Forest Act to include provision on public procurement of timber
Sweden	<ul style="list-style-type: none"> - Coordination of green purchasing initiatives by the establishment of EKV tool (internet-based data base for environmental procurement criteria) as a joint public-private owner company. - The EKV criteria for paper products are under development (to be completed in May 2006); the draft requirements include provisions for forest management.
United Kingdom	<ul style="list-style-type: none"> - In 1996 voluntary guidance was issued to advise government departments to purchase timber and timber products from sustainable and legal sources. - The Minister for the Environment made in 2000 a Statement to the Parliament which defined a policy on the obligation of public agencies to actively seek to buy timber products from legal and sustainable sources. - The Office of Government Commerce Department for Environment, Food and Rural Affairs (DEFRA) issued Joint Note on Environmental Issues in Purchasing (October 2003). - Procurement Framework for Sustainable Development on the Government Estate in October 2004 established obligation to integrate environmental and sustainable development considerations. - Timber Procurement Advice Note was issued in January 2004. - Criteria for Evaluating Certification Schemes was issued 15 September 2004; second edition in February 2006. - Central Point of Expertise on Timber (CPET) was established in August 2005 to give advice to public sector bodies and their suppliers on how to purchase legal and sustainable timber. - The first assessment of five certification schemes was made by CPET in 2004-05 and CPET helpline/website became operational in the second half of 2005. - Definitions of legal and sustainable were finalized in November 2005.

Source: National policy documents

In addition to national level procurement policies, many regional and local governments have established their own, often more restrictive rules for their procurement contracts. These kinds of initiatives focusing on tropical timber were particularly active in 1990s in the United States and some European countries. They were driven by civil society and media based on the public perception that such restrictions would be effective in combating deforestation in developing countries. In the US there is now less interest in developing new local government policies and the attention has shifted to other instruments like green building codes (Virga, pers. comm.; see also chapter 6). In Europe, local government initiatives continue to be taken to ensure that in their procurement wood and paper come from sustainably managed forests. Examples include two regions (Piemonte and Tuscany) in Italy, cities of Barcelona and Valencia²² in Spain, the regional governments of Ile-de-France and Nord-Pas-de-Calais in France, and a large number of local governments in the Netherlands (RIIA 2006; Forest Industries... 2006; Joucla, pers.comm.).

Procurement policies related to wood and derived products are also being considered or under development elsewhere in the world. In Brazil general procurement policies include

²² A general one by Brack & Saunders (2004) and a more detailed analysis by Proforest (2005) as part of the Danish Ministry of Environment project on Evaluation of the Danish Guidelines on Public Purchase of Tropical Timber.

environmental criteria but there are several practical and legal constraints to include legality and sustainability requirements at the federal level. However, some states and municipalities have started to include legal source and wood from managed forests in their requirements (Azevedo, pers. comm.). In Mexico, the Ministry of Environment and Natural Resources has recently taken an initiative to incorporate forest certification in the criteria of public procurement at federal and state levels (ITTO 2005).

At international level the G8 summit of heads of state and government has since 1987 addressed some forestry issues, particularly illegal timber trade. Demand-side measures have been discussed in this context but no common action plan has been agreed upon. However, in 2005 G8 ministers of environment and development agreed to encourage, adopt or extend public procurement policies timber that favor legal timber²³.

Most countries with specific public procurement policies on forest products have gone through an extensive inclusive process engaging stakeholder groups in the development work. There are many commonalities between national policies but there are also differences, many of them minor but some of them significant. In the following the timber procurement policies are compared in view of the following aspects: (i) objectives, (ii) targets and implementation strategy, (iii) level of obligation, (iii) actors concerned, (iv) product scope, (v) key definitions, (vi) criteria applied in the procurement process, (vii) use of certification schemes as a reference, (viii) documentary evidence required, and (ix) implementation and institutional aspects. Some aspects of the existing policies are summarized in Annex Table 1.

POLICY OBJECTIVES

The overall general objective which is underlying all the public procurement policies related to wood and wood-based products is to contribute to environmental protection. This has been translated to using public promotion of sustainable management of forests (e.g., Denmark, France, Netherlands, and UK)²⁴. The Danish, Dutch, Japanese, New Zealand and UK policies aim explicitly at ensuring that wood and wood products purchased have been produced legally. This can be taken as implied in the sustainability objective of other countries (e.g. France) as well. In the UK policy sustainability is considered as a variant and in the Japanese policy as a factor for consideration. These differences in the goal statement and modalities are important and they are also reflected in detailed provisions of national policies and, to some extent, in their implementation arrangements.

In Belgium the opinion of the Federal Council on Sustainable Development states that the procurement policy is understood to serve as an instrument to stimulate sustainable harvesting of forests in the world as well as to contribute to combating deforestation. It is, however, recognized that a broad-based strategy is needed to solve these problems. The linkage with deforestation and forest degradation is also referred to in some other countries (France, UK). Special attention to tropical forests is mentioned in the French policy and was the focus of the original Danish policy. It is highlighted in the context of the UK policy (House of Commons 2006) but also in other countries when the legality of wood supplies is elaborated.

The Danish and French policies mention specifically as an additional purpose to assist private institutions and individuals to apply similar requirements. In view of the exemplary role of the

²³ G8 Environment and Development Ministerial. 18 March 2005.

²⁴ This is also the case in Belgium even though not explicitly mentioned (van Orshoven, pers. comm.).

government, this may be taken implicit in the other countries as well even though encouragement of the private sector is not separately mentioned.

TARGETS AND IMPLEMENTATION STRATEGY

The generally adopted target of most countries is to have all the wood and wood-based products coming from legal/sustainable sources. It is also generally recognized that this cannot be achieved in a short run (e.g. the Dutch policy). France has established two time-bound targets for the implementation of their procurement policy: in 2007, 50% of total public purchasing of wood coming from sustainable sources and in case of tropical timber from guaranteed legal sources and where harvesting takes place in the context of sustainable forest management process. By 2010 all the public procurement should be complying with these requirements. According the Dutch policy statement all public procurement would have to be green by 2010.²⁵

Phasing has also been adopted in the level of the requirements. The Danish policy recognizes three levels of achievement by suppliers which all can be recognized: “legal”, “progressing towards sustainable” and “sustainable”. These three phases have also been identified for possible steps in implementing certification by phases (ITTO 2005, Pinto de Abreu & Simula 2005).

Phased approach is implied also by the Japanese Government policy as the current policy is taken as the first step which intends to ensure the minimum level of legality and sustainability. Necessary amendments in the provisions will be made in due course. New Zealand takes the same approach where the current policy guideline is only an interim measure. The government has recognized the limited availability of supply of third-party certified timber as a constraint for implementation and therefore a strict requirement for agencies to procure only certified timber and timber products would have been inappropriate.

LEVEL OF OBLIGATION

The degree of obligation of the current policies varies. The UK policy is mandatory for central government departments, which must seek to buy timber from sustainable and legal sources and legal timber is a condition of contract. The Belgian federal government circular makes it clear that no other than sustainable wood is going to be purchased by the contracting authorities of the federal agencies as well as planning public services and public interest bodies that are under the authority, control or supervision of the federal government... The same approach is adopted by the Netherlands where the policy is mandatory for national-level institutions which are required to purchase from verifiable sustainable sources, if possible, with a view to achieve 100% in time.

In France the policy is mandatory for central government departments and the buyers are obliged to implement the policy but there are two important preconditions: if their needs justify it and if the market situation allows it. In New Zealand the government “expects agencies to take all reasonable steps to ensure that the objective of legal logging and sustainable forest management is achieved”.

²⁵ Statement of Ministry for Housing, Spatial Planning and the Environment in the Dutch Parliament (Tweede Kamer) 30 June 2005.

In Germany timber and timber products for federal purchase will have to demonstrably come from legal and sustainable sources. The bidders will be obliged to provide a FSC, PEFC or a comparable certificate or equal documentation.

The Danish policy is voluntary for central and local governments but the recent action plan calls for relevant agencies to develop green procurement policies, which also include timber. The Danish Environmental Protection Act provides the framework within which all public authorities have a general obligation to pursue environmental protection objective through, *inter alia*, procurement and consumption. The user survey carried out concluded that introduction of binding rules may contribute to an increase in the share of public procurement. It was also pointed out that differentiation might be needed as the rules can have different consequences for various types of procurement depending on the market situation and other factors. In addition, there are likely to be added costs involved (Ministry of Environment, 2005A).

As a conclusion, there are differences between countries as to how the level of legal obligation in timber procurement policies is defined. This is also reflected through which kind of legal instrument the policy is put in place (law, prime minister's circular, ministerial policy statement, etc.). In most cases ministerial circulars or similar means have been used. In Japan the Basic Policy on Promoting Green Purchasing was amended to include the specific provisions for wood and wood products. Spain is planning also to address the subject in legislation. As a whole, there appears to be a gradual tendency towards mandatory implementation of timber procurement policies but this becomes realistic only when adequate capacity to implement them has been built up and the availability of respective supply is ensured.

ACTORS CONCERNED

Typically the public procurement policies on wood and wood products refer to central government departments (or "national-level institutions" as in the Dutch policy). Several policies encourage local governments to apply the same principles. As an example, the French policy makes a specific reference to encouragement of local authorities (*collectivités locales*) to implement the same procedures. In Denmark the federations of regional and local governments have entered an agreement with the Ministry of Environment to develop green procurement policies and to collaborate in their implementation. These also concern timber procurement. In Belgium the involved parties include federal public services, federal programming services and public interest organizations. The Federal Council on Sustainable Development (CFDD) has also called for imposing the policy on parastatal companies (autonomous public enterprises) to extend effectiveness and to ensure internal coherence among requirements by all federal agencies²⁶. Such a broader approach may be considered in the future by other countries as well. A practical example is the Hanseatic City of Hamburg in Germany, which has issued a timber procurement policy for tropical timber use in construction purposes and the intention is to harmonize the national and municipal-level sets of criteria in due course²⁷.

²⁶ CFDD is only an advisory body and its conclusions are not binding. In this case there was anonymous conclusion by all the participating stakeholders which gave weight to the advice (van Orshoven, pers. comm.).

²⁷ The BMELV will cover all types of timber. The City of Hamburg presently recognizes FSC and MTCC certified timber in their projects (Glauner, pers. comm.).

PRODUCT SCOPE

In France, Japan, the Netherlands and the UK all wood-based products (including pulp and paper) are covered by the procurement policies. The Dutch and French policies specify two categories of products. The first group is identical covering “wood in the rough (logs and roundwood), sawnwood, veneer, plywood”²⁸. The second group of the Dutch definition covers “products of secondary processing, pulp, paper and other products” while the French definition is “all the other products derived from wood”. “Secondary processing” can be assumed to refer to joinery, wooden furniture, and other further processed wood products.

The Japanese policy is also relatively comprehensive covering from wood raw material to primary processed products, secondary processed products, wood pulp and paper products. Five specific categories are identified: (i) paper (printing paper, etc.), (ii) stationery (business envelopes, notebooks, etc.), office furniture (chairs, desks, shelves, etc.), (iv) interior fixtures and beddings (bed frames) and (v) public works projects (lumber, glue laminated timber, plywood, laminated veneer lumber, etc.). These categories are obviously items that are frequently purchased by government agencies in the country.

The scope of the UK policy is comprehensive it applies to “timber and wood derived products”. The term is further elaborated as any timber or timber products whether as solid wood (e.g. planks, plywood) or as part of a product (paper, furniture, printed material). A further explanation states that “such products range from solid wood to those where the manufacturing processes obscure the wood element (e.g. paper)”.

Neither the Danish nor New Zealand policies cover paper and paper products. The latter covers “timber and timber products” which comprise “rough, sawn and dressed timber, plywood and veneers, fabricated wood, wooden structural components, fittings and joinery, and wooden furniture”

The Belgian policy makes reference only to “wood” in the context of wood consumed by the government and wood produced within the framework of sustainable forest management. As in Denmark and New Zealand, paper is not covered by the circular which is dealt with elsewhere in the government’s procurement policy (P&O/DD/1, see Table 4.1).

Recycled wood is excluded in the Danish and British policies. The UK definition of recycled wood is as follows: “timber and wood derived products that have been reclaimed or re-used. The terms “recycled”, “reclaimed” and “reused” are used interchangeably and cover the following categories: pre consumer recycled wood and wood fibre or industrial by products but excluding sawmill co-products (sawmill co-products are deemed to fall within the category of virgin timber), post consumer recycled wood and wood fibre and drift wood”. What is not recycled wood is called “virgin wood”. It is somewhat surprising that veneer and plywood mill by-products²⁹ are (implicitly) considered recycled wood while similar by-

²⁸ Incidentally this corresponds to the definition of tropical timber in the International Tropical Timber Agreement.

²⁹ These by-products include bark, log cores, veneer waste, and plywood waste from sawing to size. Log cores are often sawn into lumber and other residues are typically used after chipping for particle board, fibreboard or pulp, or they are used for energy generation.

products from sawmills³⁰ are excluded from the definition (i.e. they are considered virgin wood).

Only the UK policy makes explicit reference to printed matter representing the broadest product scope among the existing policies.

None of the policies explicitly refer to wood or timber of tropical species or origin. The first version of the Danish policy covered only tropical timber but was expanded to cover all timber in 2006.

As a conclusion, there are major differences in the product coverage of national policies, mainly in terms of whether pulp and paper are included or not. Not all policies give adequate guidance for buyers which individual products are covered. Another issue is how to classify further processed products, which are made of mixed raw materials, including wood. In the UK policy an inclusive but challenging approach has been adopted, as any piece of wood or wood fibre in a product makes it eligible for the provisions of the UK Timber Procurement Policy.

DEFINITIONS OF LEGALITY AND SUSTAINABILITY

Legal compliance is a baseline requirement in all the existing forest certification standards (de Abreu & Simula 2005) and referred to in all public procurement policies. There is, however, no internationally agreed definition of legality in spite of a large number of working definitions by various authors and organizations³¹.

In public purchasing policies it is important to have clearly defined criteria to make them operable by purchasers who are not experts on forestry issues. The EU-level guidance on legality and sustainability is for the time being not adequate for this purpose, and countries have therefore developed their own national definitions. The generic definition of legality in the EU FLEGT Regulation³² was crafted within the framework of the Voluntary Partnership Agreements (VPA). Countries are recognized to have sovereign rights to define legality but guidance is provided for processes to identify which national laws should be included in the definition in each case. It is suggested that the following elements are likely to be included in the practical working definition³³, legal harvesting rights, regulations on permitted harvest levels, environmental and labor legislation, and respect for other parties' tenure rights that may be affected (FLEGT 2005)³⁴. Some countries (e.g. France) have left the task of elaborating definition of legality and sustainability of forest management to certification systems or to the supplying countries which could define which legislation is relevant (e.g. Japan). However, some countries have defined legality and in Box 3.1 the UK definition is given. The Danish definition of legality has many of the same elements as the UK version

³⁰ The Policy uses the term 'co-product' for sawmill by-products (often called as residues) including bark, sawdust, slabs and other by-products which are typically used as raw material for reconstituted panels or pulp, or energy generation.

³¹ E.g. FAO/ITTO (2005) and Proforest (2005) contain a review of existing definitions.

³² The EU definition of legally produced timber means timber products produced from domestic timber that was legally imported into a partner country in accordance with national laws determined by that partner country as set out in the Partnership Agreement (Council Regulation (EC) No 2173/2005).

³³ To be elaborated at country level

³⁴ The national VPA processes are expected lead to the development of legality definitions in VPA countries.

with slightly different wording. Reference to CITES compliance is common in both and included also e.g. in the French policy.

Defining sustainability has proved to be somewhat easier thanks to the internationally or regionally agreed Criteria and Indicators for SFM and common elements found in them (Rametsteiner & Simula 2005). The other option used has been to refer to certification schemes. The Danish interpretation of sustainability draws on the principles and criteria developed in international and regional processes identifying the seven common elements in them. In addition, SFM standard development process should meet the requirements of consultative process, open to participation by all interested parties, including economic, environmental and social stakeholders. The Dutch BRL has also a similar approach. The UK definition of sustainability (Box 3.1) covers only the environmental aspects and the same approach has also been adopted by the Swedish EKV-criteria. Belgium has a definition of wood from sustainably managed forests with 11 criteria offering sufficient guarantees that the wood derives from sustainable forest management (Guide méthodologique... 2006).

As a conclusion, there is emerging – at least within the EU – a common view on how legality and sustainability can be defined. However, if this is left to be addressed in national procurement policies, there is a danger that differing definitions will continue to emerge complicating international trade if suppliers have to address differing requirements in different national markets. Detailed comprehensive definitions (as in the UK case) are likely to lead to a situation where the options for demonstration of compliance will in practice be limited to certificates and attestations issued by third parties. Were there an intergovernmental instrument defining standards for sustainable forest management, the respective NPRPPM might be relied upon by national procurement authorities when they set technical specifications or performance or functional requirements. This would remove uncertainties and confusion on how to define and take into account sustainability and legality in public procurement policies of forest procedures.

CRITERIA APPLIED IN THE PROCUREMENT POLICIES

The public procurement process typically involves the following steps which are subject to specific requirements: (i) definition of the requirements of the contract (subject matter, technical specifications or technical and functional requirements including environmental aspects), (ii) selection of potential suppliers and contractors, (iii) awarding the contract, and (iv) specification of contract performance clauses. These will be discussed in detail below.

Definition of contract requirements

When defining the subject matter of a contract, contracting authorities have great freedom to choose what they wish to procure. The “subject matter” is about which product, service or work is procured. The subject matter is translated into measurable technical specifications concerning performance or functional requirements (Commission Staff 2004). This is a critical stage in the procurement process as it is here where the environmental aspects linked to the product or service are defined. Technical specifications and performance and functional requirements may also concern production and processing methods (PPM) which can be product related (PRPPM) or non-product related (NPRPPM). Relevant examples for the PRPPM are specifications related to recycled fibre content in a paper grade or a particular tree species to be used in a wood product, and for NPRPPM legality and sustainability of forest

management. NPRPPMs are typical for all timber procurement policies. The difference between the two types of PPM has legal implications which are discussed in chapter 5.

Box 3.1 The UK definition of legal and sustainability

Definition of Legal

1. The forest owner/manager holds legal use rights to the forest
2. There is compliance by both the forest management organization and any contractors with local and national laws including those relevant to: (i) forest management, (ii) environment and (iii) labor and welfare, and *health & safety*.
3. All relevant royalties and taxes are paid
4. There is compliance with the requirements of CITES

Definition of Sustainable

Sustainable timber and wood products must come from a forest which is managed in accordance with a definition of sustainable³⁵ that meets the requirements set out below

Content of the definition

1. The definition must be based on a widely accepted set of international principles and criteria defining sustainable or responsible forest management at the forest management unit level, such as: (i) inter-governmental processes designed for use at FMU level, (ii) ITTO Criteria and (iii) FSC P&C.
2. The definition should be performance-based.
3. Management of the forest must ensure that harm to ecosystems is minimized. In order to achieve this the definition of sustainable should include requirements for: (i) appropriate assessment of impacts and planning to minimize impacts, (ii) protection of soil, water and biodiversity, (iii) controlled and appropriate use of chemicals and use of Integrated Pest Management wherever possible, and (iv) proper disposal of wastes to minimize any negative impacts.
4. Management of the forest must ensure that productivity of the forest is maintained. In order to achieve this the definition of sustainable should include requirements for: (i) management planning and implementation of management activities to avoid significant negative impacts on forest productivity, (ii) monitoring which is adequate to check compliance with all requirements, together with review and feedback into planning, (iii) operations and operational procedures which minimize impacts on the range of forest resources and services, (iv) adequate training of all personnel, both employees and contractors, and (v) harvest levels that do not exceed the long-term production capacity of the forest, based on adequate inventory and growth and yield data
5. Management of the forest must ensure that forest ecosystem health and vitality is maintained. In order to achieve this the definition of sustainable should include requirements for: (i) management planning which aims to maintain or increase the health and vitality of forest ecosystems, (ii) management of natural processes, fires, pests and diseases, and (iii) adequate protection of the forest from unauthorized activities such as illegal logging, mining and encroachment.
6. Management of the forest must ensure that biodiversity is maintained. In order to achieve this the definition of sustainable should include requirements for (i) implementation of safeguards to protect rare, threatened and endangered species, (ii) the conservation/set-aside of key ecosystems or habitats in their natural state and (iii) the protection of features and species of outstanding or exceptional value.

Process for developing the definition³⁶

The process of defining 'sustainable' must include balanced representation of economic, environmental and social interest categories.

The process of defining 'sustainable' should ensure (i) no individual person or organization can veto the process, (ii) no single interest can dominate the process, and (iii) no decision can be made in the absence of agreement from the majority of an interest category

Source: UK Timber Procurement Policy. Definition of Legal and Sustainable for Timber Procurement. Final Edition 2005. CPET.

The PPM criteria may be expressed as minimum requirements or an environmental variant can be used if there is uncertainty about the available supply which can meet the environmental criteria. The variant (which has to comply with the minimum requirements)

³⁵ It should be noted that this definition has been developed to meet procurement requirements and therefore differs from the full definition of sustainable recognized by the UK government.

³⁶ These provisions are relevant only to certification schemes and not to other verification mechanisms.

may then be considered when the contract is awarded. This method is advisable when public purchasers cannot be sure whether the environmentally sound alternative could be offered at an adequate price (Barth & Fischer 2005). Variants are identified e.g. in the UK timber procurement policy.

Legality³⁷ is identified as a minimum requirement in the procurement policies of Denmark, the Netherlands, Sweden and the United Kingdom. The Swedish EKV-criteria for paper products consider legality as a mandatory requirement for suppliers. In the UK, to qualify for sustainable, 70% of the content of the product must meet the criteria of sustainable. In the Danish policy the whole wood content of product must qualify for sustainable.

Only in Belgium have concerns been expressed in connection with the procurement policy that other than forest-related criteria should be also included. A particular reference is made to transportation as it is possible that, in some cases, certification requirements can lead to unnecessary transportation and thereby additional emissions. Such impacts have been considered important and should be possibly taken into account in the future (CFDD 2005).

Selection of suppliers

Only a few policies provide specific guidance for selection of participants in the tendering process. In case it is necessary to ensure technical and professional capacity of candidates, the French policy makes a reference to professional certificates of the supplier to demonstrate her/his capacity and competence to carry out the assigned tasks and well as to certificates issued by quality control services (for example certificates issued by independent certifiers ensuring the verification of chain of custody of products). The bids have to include documentation to ensure that wood utilized in the manufacturing of the product is complying with the environmental requirements specified in the tender documentation.

According to the UK policy, the authority can notify potential suppliers that their record in supplying timber from legal and sustainable sources will be assessed. The track record of suppliers over the last three years can be considered³⁸. Suppliers cannot be excluded simply because an allegation of illegal conduct has been made. Only if a firm has been convicted of a criminal offence, or is found guilty of grave professional misconduct, can it be rejected. Member of the UK Timber Trade Federation's (TTF) responsible purchasing policy may be ranked higher than non-members for this element of the supplier's track record. However, an authority must not restrict its selection to TTF member companies only.

Awarding the contract

The procurement policies provide guidance how to deal with the specific timber procurement criteria in awarding contracts. Interpretation of pass/fail criteria (like legality) is not problematic for public purchasers but how environmental criteria can or have to be considered together with other (technical and financial) criteria is less obvious.

As an example, the UK policy does not allow consideration of a bid where the condition of supplying legal timber cannot be met as it is a baseline requirement. Variant bids with timber from sustainable sources are submitted as a separate document. The Policy states that where there is a difference in price between variant and non-variant bids the authority must decide whether the premium is affordable and represents an efficient and effective use of resources.

³⁷ The definition is discussed in *definitions of legality and sustainability* in chapter 4

³⁸ For works contracts the time limit is five years.

Where the variant bid does meet the affordability and effectiveness tests the variant options should be preferred. It is then a matter of awarding the contract on the basis of the best value of money within the option (either variant or non variant chosen).

In selecting the economically most advantageous offer weighting of award criteria is a transparent way to seek a balance between the different aspects to be considered. Such an approach is already widely applied in general public procurement to combine the assessment of price and technical aspects in awarding of contracts. Purchasers assign in advance the weight for each criterion and this information is communicated to bidders as part of tender documentation to ensure transparency of the procurement process³⁹.

The New Zealand policy gives a preference for products that have been certified, provided that such products are reasonably available and consistent with value for money. Also the Swedish EKV criteria allow additional points in assessment of bids for those which can demonstrate that wood does not come from illegal harvesting or forests where environment and biological diversity are threatened.⁴⁰

Specification of contract performance clauses

In order to ensure the necessary chain of custody, the French policy makes provision for a contract clause which obliges the bidder, upon request, to provide proof of the products used to be in compliance with the specifications related to sustainable forest management. This obligation is valid for the total duration of the execution of the contract and the period of guarantee provided by the supplier.

In the UK contract conditions require contractors to ensure that the timber and wood they supply to government was legally logged and traded. This means that all bidders must comply with the condition, and any bid that fails to do so, in whole or in part, is non-compliant and will be rejected.. A model contract condition for legality, obligatory for all suppliers, and a variant specification for sustainability, has been prepared to help public purchasers to include necessary provisions in the contracts.

CERTIFICATION SYSTEM AS REFERENCE

Public procurement policies on timber tend to rely on the use of certificates and audit statements issued by independent bodies. Emergence of these policies has raised the need to define methodologies for assessing certification standards and systems, as well as verification systems of legality based on clearly defined minimum requirements. National assessment guidelines or criteria have been developed by governments for assessing certification systems with the vision that they would play a leading role in implementation. These typically cover both procedural criteria and substantive requirements for sustainability and chain-of-custody. The UK, Belgium, Denmark, Germany and Japan have already assessed certification schemes based on their requirements and the Netherlands is in the process of or intending to do it.

The Danish policy is accompanied with comparative matrixes with detailed requirements for assessing certification schemes. Assessed schemes are divided between those which ensure sustainability, progressing to sustainable and legality. It is not however fully clear to what extent the requirements are to be met to qualify for each level (Proforest 2005).

³⁹ See chapter 4 for further discussion.

⁴⁰ This definition refers to environmental aspects of sustainability only.

The UK policy includes detailed criteria for certification systems which allow their rating between those which ensure “legal” wood and those ensuring “sustainable” wood. The Dutch National Assessment Guidelines (BRL) is a comprehensive framework which was designed to establish equivalence in relation to the Dutch national certification system⁴¹. The Dutch criteria for certification systems are comprehensive like the UK and Danish ones covering all the elements of a system⁴². The comparison by Proforest (2005) revealed that there are a number of differences between the three sets of criteria although they are largely similar.

Table 4.2 summarizes how national policies make reference to specific certification schemes. It shows that countries have made differing conclusions about the applicability of individual certification systems as a reference to procurement criteria. However, the assessment of certification schemes is an evolving process and therefore the comparison is likely to change in the future.

Table 4.2 Certification systems referred in national timber procurement policies

Country	FSC	PEFC	SFI	CSA	ATFS	MTCC	LEI	Other
Belgium	X	X	X	X				
Denmark ^h	X					X ^b	X ^c	Swan and EU Flower Eco-label ^d
Germany	X	X	X ^e	X ^e	X ^e			Other Schemes, comparable to FSC & PEFC
Japan	X	X	X	X		X	X	SGEC
New Zealand	X	X	X	X	X	X		Eco-timber
Sweden ^g	X	X	X	X		X		Equivalent system
UK	X ^e	X ^e	X ^e	X	X	X ^f		

a) MTCC is considered adequate guarantee for legal forest management progressing towards sustainability

b) LEI alone cannot be regarded as adequate proof for legal or sustainable

c) Not applicable to tropical timber

d) Certified products containing >70% certified raw material. In the case of FSC this can also include recycled material

e) Legality only

f) Verification of origin of timber (not from illegally harvested forests or forests where environment and biological diversity are threatened)

g) Endorsed by PEFC

h) The Danish assessment concerned only tropical timber and therefore PEFC, SFI, ATFS were not included.

In addition, to the identified schemes, the Belgian policy also makes provision for “equivalent certification” which has been carried out by an independent organization applying internationally recognized criteria which ensure that timber is coming from sustainably managed forests. The equivalence of certification systems is established when all the criteria of the federal government circular are met. The assessment is carried out by an expert committee representing various stakeholder groups making its decisions by consensus. The Belgian policy on equivalence of individual schemes is temporary and an in-depth review is

⁴¹ However, it is likely that the provisions for the Dutch national certification system will be removed making BRL an instrument to assess existing certification schemes (de Jong, pers. comm.).

⁴² Contents of standards, standard setting, certification bodies, certification process and accreditation.

foreseen every two years to assess the criteria and the different certification schemes (van Orshoven, pers. comm.). The German policy will also make a provision for equivalent certification.

The differing criteria set for certification systems at national level is a cause of concern for trade. Several attempts have been made to develop common approaches but they have not been adopted beyond the organizations involved. Examples include CEPI (undated) and more recently the World Bank/WWF Alliance for Forest Conservation and Sustainable Use (2006).

DOCUMENTARY EVIDENCE ON SUSTAINABILITY AND LEGALITY

As stated, in general, timber procurement policies make references to certificates issued by certification schemes but submission of other documentary evidence is also allowed. The Danish policy recognized that categorical requirements for full documentation of both the legality and sustainability of forest management (through forest certification) would be tantamount to a boycott of most tropical timber. Therefore, it is recommended that public purchasers adapt their requirements to the realistic options requiring, whenever possible, adequate documentation without being categorical.

Both Denmark and France have defined what such alternative evidence could be (Box 3.2). A recommendation on independent third party assessment to verify the evidence provided is part of the Danish policy. According to the Japanese policy, documentation on legality and sustainability at exporting stage would vary as national legal systems and commercial customs vary. Reference is made to forest certificates, official documents issues by authorities concerned, industry associations (permission of harvesting, exporting, etc.), or other documents with the same level of reliability. The Netherlands and Belgium have not yet defined what other types of evidence could be acceptable. In Belgium, the alternative documentation must provide proof that all criteria are met but it is not yet defined which documents can be used (van Orshoven, pers. comm.).

The UK policy is stringent as regards documentary evidence on 'legal timber'. If the authority is not satisfied with the proof provided, the bidder shall, on written request, commission independent verification which will produce a report to verify the forest source of the timber or wood and assess that the source meets the criteria for legality.

The proposed Swedish environmental (EKU) criteria allow demonstration through eco-labels (ISO 14024) or self-declaration (ISO 14021). The origin can be verified based on verifiable management system. Certificate of a forest certification system (FSC, PEFC, CSA, SFI, MTCC or equivalent system) can also be used as a proof of legal origin and they can also provide assurance that the product does not come from forest where high conservation values related to environment and biological diversity are not threatened (EKU 2006).

Box 3.2 Specifications of alternative documentation in public procurement policies

Denmark

The requirements have not been defined but the following can support alternative documentation:

- Certificate of verification schemes other than FSC and MTCC, e.g. LEI or Keurhout
- Export permits, certificates of origin, other declarations from the authorities and from suppliers and sub-suppliers
- Concession agreements
- A documented eco-management system in accordance with ISO 14001 or EMAS II or another documented

- eco-management system
- Specification of the standards and guidelines used for forest management, including information about whether they have been developed in a consultative process, open to participation by financial, environmental and social stakeholders
- Specification of the overriding principles and criteria guiding the forest management, indicating who has developed these
- Specification of the method of monitoring compliance with the standard and the entity responsible for such monitoring
- Documentation for legally produced tropical wood in accordance with a bilateral agreement between Denmark or the EU and the supplying country

It is recommended, where possible, that alternative documentation be submitted for assessment to an impartial third party with market insight and knowledge of forestry conditions in the tropics.

France

For wood in the rough, sawnwood, veneer and plywood (Product Category I):

- For deliveries subject to CITES regulation relevant documentation on the origin of the products and necessary permits are needed.
- Producer statement ensuring legality and sustainability which has been controlled by a independent third party, or if not available, a licence/attestation on the same delivered by the country of origin. This licence/attestation must have been controlled according to the modalities foreseen within the framework of international agreements.
- A certificate stating that wood utilized carries a national or international label ensuring sustainability of forest management. Possession of this label must be subject to regular controls by an independent organization. The certificates of SFM certification systems meeting this requirement provide a good assurance about the tenderer supply products from forests or plantations which are managed sustainably.
- A document stating that wood comes from a forest with a management plan (plan d'aménagement) or a working plan (plan de gestion) approved by competent authorities. The implementation of these plans must be subject to control by an independent organization with experience on forestry.
- A document attesting the commitment of the distributor to a code of conduct or good practices including obligation to procure wood from forest which is legally and sustainably managed. This commitment must be subject to regular third-party controls.

In any case, public purchaser must accept any other type of appropriate proof attesting that products come from sources with guarantees on their legality and sustainable management. Independently from the type of documentation provided, the bidder must provide information related to the country of origin where the wood was harvested, the species and the supplier of roundwood (name, type of enterprise (raison social) and address).

For other wood based products (Product Category II)

- References to an eco-label or trademark issued by a sustainable forest management certification system can be substantiated by a certificate issued by the certifier.
- In case of self-declarations, it is recommended to provide an attestation by an independent control organization.
- Any other means of appropriate proof must be accepted by the public purchaser such as the manufacturer's technical report, test reports by a recognized body, means defined by official eco-labels, etc.

Sources: Ministry of Environment 2000; Circulaire du 5 avril 2005.

Several private sector organizations are providing services for verification of legality. SGS and Eurocertifor are examples of companies carrying out audits of legal origin and legal compliance. SGS provides services in verification of legal timber (legal origin and legal compliance) to the private sector for voluntary verification and to governments for mandatory verification. These services have wider scope than in verification of legality as part of SFM certification (de la Rochefordière 2005). Eurocertifor's requirements include compliance with laws, required documentation, identification and controls in the field, traceability of the roundwood, monitoring of the wood during processing, organization and training, and data registration (www.bvqi.fr). FSC has developed two draft standards for controlled wood⁴³ and

⁴³ Submitted to public consultation (FSC standard for Forest Management Enterprises supplying controlled wood (FSC-STD-30-010) and FSC standard for Company Evaluation of Controlled Wood (FSC-STD-40-005)).

its certification bodies provide respective auditing services. The Netherlands Timber Trade Federation has developed the Keurhout Protocol for the validation of claims of legal timber.

As a conclusion, the private sector is taking initiatives to meet the customer demands for providing verified documentary evidence on the legality of timber. However, there is a lack of common framework for these efforts which could facilitate the implementation of timber procurement policies worldwide. It is envisaged that the FLEGT VPA license will form the basis for a legality certificate in those countries that will enter into a VPA with the EU, which would be accepted by all EU procurement policies as proof of legality.

IMPLEMENTATION ASPECTS AND INSTITUTIONAL ARRANGEMENTS

Evaluation of evidence and monitoring

There are different approaches to evaluating the validity of supporting documents. In the UK, the responsibility for this task rests with the supplier while in Belgium, Denmark and France, is assigned to purchasing agents. This is reflected in the requirements of staff working time and need for central monitoring and supervision function (Ministry of Environment, 2005).

Most policies have provisions for monitoring, reviewing and reporting on the operation of the public procurement policies. For example, public agencies are responsible to report on policy implementation in Denmark. In New Zealand agencies should ensure that they have in place systems for recording, on contract by contract basis, timber and timber product procurements covered by the procurement guidelines, noting supplier claims and documentation of certification or equivalence, and the reasons for sourcing decisions. For verifying of supplier claims the government has provided a list of certification schemes in common use⁴⁴ while the status of any unlisted schemes should be checked with the responsible ministry (cf. Table 4.1).

Institutional arrangements

The institutional arrangements vary by countries and are influenced by how the policy has been designed. In countries where reference is made to specific predetermined criteria which have to be met in order to be considered acceptable, there has been a need to organize assessment work. In most cases it is assigned to a panel of experts which carries out the work (e.g. Belgium, Germany and the Netherlands, or an existing body assigned for this purpose⁴⁵).

The Netherlands has adopted a comprehensive arrangement, the Dutch assessment system for sustainable forestry certification. In addition to detailed provisions on the assessment process, the arrangement would provide the industry and trade and the general public with a means of determining whether timber and timber products actually come from sustainably managed forests. The Dutch government has planned to introduce a special trademark for this purpose. The institutional structure includes, *inter alia*, (i) an Equivalence Assessment Board which carries out assessment of equivalence of certification system with regard to the Dutch requirements. A forest manager in a foreign country which has a national certification system

⁴⁴ FSC, PEFC, ATFS, CSA, SFI, the ECO timber label and MTCC.

⁴⁵ In Germany, the Federal Agency for Nature Conservation and the Federal Research Center for Forestry and Forest Products will check, upon request by procurement, whether a certification system or other individual detailed proof meet the criteria (Kloos, pers. comm).

can request the manager of the system to make an application for equivalence assessment against the Dutch requirements. An objection and appeal can be made against the decision of the Equivalence Assessment Board within six weeks from publication of the decision. The appeal is addressed to (ii) the Central Appeals Board. If a positive decision is made, the Assessment Board will conclude an agreement with the forest manager setting out relevant provisions which may include the use of the “equivalence logo”. This logo is not the same as certification trademark referred above but it indicates conformity with the Dutch certification requirements. Both forest management and CoC certificates must be covered by the equivalence assessment. An agreement is also foreseen between the foreign certification system and the Dutch requirements for the use of the equivalence logo (National Assessment ... 2005). The original plan was to establish a comprehensive Dutch certification system according to the BRL which included also a Central Board of Experts which would have been responsible for the maintenance of the Dutch standard ⁴⁶. This plan is likely to be adjusted in view of the limited potential demand for the Dutch national certification system (de Jong, pers. comm).

Outsourcing

Recognizing the complexity of the task of implementing its Timber Procurement Policy, the UK government decided to outsource a number of activities. An agreement was made with Proforest, a private company, to set up a Central Point of Expertise on Timber (CPET) to carry out assessment of certification schemes against the criteria defined in the policy. In addition, the company provides an updated website on guidance documents, carries out training and maintains a helpline for purchasers and buyers (www.proforest.net). In addition, it is envisaged that the company will audit a sample of departments to assess the quality of information on which the reporting on timber purchasing is based. In general, the government is satisfied with the arrangement even though some criticism has also been raised (House of Commons 2005).

Implementation lessons learnt

Due to the short time period of implementation, only limited evaluations have been carried out on timber procurement policies. Denmark as one of the pioneers has already generated some valuable lessons learnt. About 50 GPP guidelines have been prepared for various products but the tropical timber policy was the only one for a material. A survey among users (public purchasers) was carried out concerning the earlier procurement policy on tropical timber (Ministry of Environment, 2005a). The results suggest that (i) there is a need to increase awareness and understanding of the aims of the policy in spite of extensive communication efforts taken, (ii) tropical timber is bought usually in small amounts and due to the marginality of volumes, purchases are not perceived as important, (iii) guidelines could be better geared to the specific situations of purchasers. A targeted approach could be effective if efforts were concentrated on specific products and respective guidance were provided which different buyer groups find relevant to their particular situation. Such a guidance should include practical examples on contract and tender documentation. (iv) It is difficult to buy legal and sustainable tropical timber if the market supply and verification instruments are not readily available, and therefore buyers need hands-on assistance and advice in implementation (Lundmark Jensen, pers. comm.).

⁴⁶ Chapter 3 in BRL (National Assessment ... 2005)

The UK experience suggests that (i) without political drive, threat and exposure by NGOs and the element of compulsion, progress is bound to be slow. (ii) It is particularly difficult to engage local authorities which need be considered in stakeholder expectations. (iii) Adequate resources need to be put in place to guide and help buyers and suppliers; also a major effort is needed for other public communication. A central advisory point (CPET) has made a major contribution. (iv) Measurement of performance should be part of the policy announcement and data capture systems should be adjusted to allow effective monitoring. (v) Some orientation is needed to purchasers of the range of magnitude of sustainable price premiums. (vi) An incremental implementation approach can work but systematic planning and implementation could have been helpful. (vii) Being transparent and participatory with processes and decision making has helped contain NGO criticism (Andrew, pers. comm.).

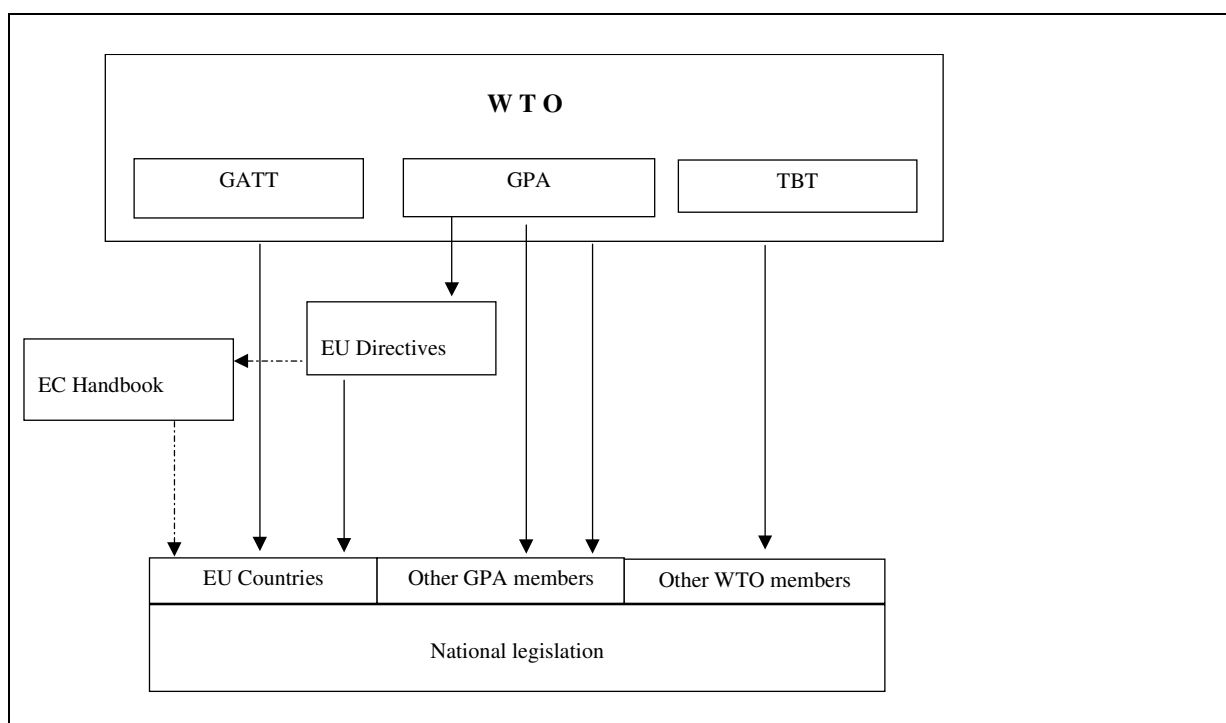
5. Legal aspects related to procurement policies of forest products

WTO FRAMEWORK

Public procurement policies are governed by the principles established in the WTO Agreements (Figure 5.1). The key principles of GATT (1994) are non-discrimination and equal treatment of suppliers (national treatment). The Agreement on Technical Barriers to Trade (TBT) defines the general rules for applying technical regulations and standards for internationally traded products and services. Public procurement is not covered by the TBT Agreement as it is subject to the WTO Plurilateral Agreement on Government Procurement (GPA) which is binding for its signatory countries⁴⁷ only. GPA applies to contracts above a threshold that is specified by each country. The general WTO principles of non-discrimination and national treatment are central for GPA which also builds on the principle of transparency.

The key contentious issue related to trade in forest products in general, and thereby also to public procurement, is how the requirements of legality and sustainability of forest management can be applied within the international framework which are considered in the context of non-product related production and processing methods (NPRPPM).⁴⁸ As these requirements are expressed in technical requirements and standards which are the focus of the TBT Agreement it has been suggested that the TBT Agreement may have some relevance in terms of establishing accepted interpretations of common issues within WTO (CIEL 2006).

Figure 5.1 Institutional legal framework of public procurement policies



⁴⁷ Including the EU, Canada, Hong Kong China, Iceland, Israel, Japan, Korea, Liechtenstein, Norway, Singapore, Switzerland and the USA.

⁴⁸ Other issues subject to debate are e.g. which international and national standards can be referred to, standard setting process and its organization through a “recognized” body, etc. (e.g. CIEL 2006).

The PPM issue has already been debated for years in the context of voluntary eco-labeling and single-issue environmental certification, including of forest products. There appears to be a common view among WTO members that PPM requirements which are product-related (PRPPM) are covered by the TBT Agreement. There are, however, different views on the application of NPRPPM (environmental and social criteria), which are also reflected in the WTO case law. The case law shows that countries are not entitled to lay down regulatory measures that aim at protection of the environment either in another country or in areas beyond their jurisdictions. The issue of extraterritorial and extra-jurisdictional application of domestic environmental legislation and standards has been the cause for a number of trade conflicts among WTO Contracting Parties. The reason is that any extraterritorial application of national law, in the absence of mandatory international standards (i.e. technical regulations), may infringe the general principle of sovereignty of states over their natural resources (e.g. Huglo Lepage 2005).

However, environmental NPRPPM measures might be taken provided that it can be demonstrated that the country makes every effort to reach a multilateral agreement with affected states⁴⁹. Similarly, eco-labeling schemes based on PRPPM appear to be WTO-compatible provided that they are non-discriminatory⁵⁰. The WTO case law suggests that NPRPPM based on eco-labeling schemes may be compatible with GATT if they are not discriminatory and foreign producers are not excluded in the access to these schemes. This may not be the case with mandatory import restrictions for timber without proof of legality or sustainability if there are no internationally accepted standards or mutually agreed definitions for these terms between trading partners (cf. Huglo Lepage 2005).

GPA⁵¹ makes an explicit reference to PPM in the technical specifications of public procurement contracts provided they do not create unnecessary obstacles to trade. In addition, PPM references should be expressed in terms of performance (rather than design or descriptive characteristics) and be based on international standards where they exist, or national technical regulations, recognized national standards or building codes. There is no further provision on whether NPRPPMs are covered or not by GPA but in its obligations GPA provides exceptions for reasons of public morals or protection of human, animal and plant life⁵², which as regards environmental protection is similar to GATT Art. XX. This could support a narrow interpretation of the PPM definition and therefore GPA's relevance to the application of legal and sustainable requirements as part of technical specifications in forest products appears limited (cf. Brack & Saunders 2004). On the other hand, lack of specific reference to the type of PPM has also been interpreted as GPA likely covering both product and non-product related PPM (CIEL 2006).

As regards the contract awarding procedure, GPA⁵³ provides the following criteria to be applied: (i) the tenderer should be fully capable of undertaking the contract, and (ii) the lowest tender or the tender which in terms of specific evaluation criteria set forth in the notices or tender documentation is determined to be the most advantageous should be chosen. These principles are found (or implied) in all the national public procurement policies related to forest products but how they are applied in practice varies between countries (cf. *Specification of contract performance clause* in chapter 4).

⁴⁹ The 1998 Shrimp-Turtle Case

⁵⁰ Proving discrimination is likely to be difficult.

⁵¹ Art. VI, §§ 1 and 2

⁵² Art. XXIII

⁵³ Art. XIII, par. 4(b)

Concerning non-discrimination, some national examples merit attention from the viewpoint of trade rules. The New Zealand policy states that products reliably shown to have been manufactured from wood legally logged from planted or indigenous forests in the producing country may generally be considered to be sustainably produced because of the sustainable management provisions of national forest legislation.

EUROPEAN UNION

Legislation and guidance

The EU wanted to clarify the legal basis of applying environmental criteria in the public procurement when it issued two Directives in 2004⁵⁴ that provide more detailed regulation than the WTO Agreements. These directives are also instrumental for the implementation of the EU Integrated Product Policy (IPP). The Directives have two-fold objectives of ensuring the good functioning of the internal market and to improve environmental protection. The EC has also issued an interpretative document “Buying Green! A Handbook on Environmental Public Procurement” which is a Commission Staff Working Document⁵⁵. The directives are legally binding while the EC Handbook is indicative and not binding. The EC Handbook, however, uses normative language and its interpretations are extended beyond what is stated in the respective directives which has created uncertainty among purchasing agencies and suppliers in Member States (Huglo Lepage 2005).

Inclusion of PPM requirements

The Directive 2004/18/EC provides a degree of freedom for public purchasers in Member States in applying environmental criteria in timber purchasing during the procurement process provided that the law is not violated. This freedom covers definition of what is procured (the subject matter of the contract), how technical specifications are set in terms of performance and functional requirements, and the possibility of asking for green variants from bidders. This means that requirements should not lead to arbitrary discrimination (e.g. in the case when only national timber producers can provide a specific species without indicating alternatives being accepted as well). The Directive specifies that it should be possible to measure and objectively assess the technical specifications used⁵⁶. In addition, the Directive states that such requirements should be linked to the subject matter of the contract⁵⁷. These two requirements are not necessarily easy to meet in case of the NPRPPM of forest products applying the basic principles of the EU law, including the principle of equal treatment. This provision is important, as it is the source of differences concerning the inclusion of social criteria in the technical specifications and award criteria.⁵⁸

⁵⁴ Directive 2004/18/EC on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts and Directive/2004/17/EC on coordination of procedures of entities operating in the water, energy, transport and postal services sector; the former Directive is applicable to forest products and is discussed in this report. The two directives have replaced the earlier Council Directives 92/50/EEC (1992), 93/36/EEC (1993) and 93/37/EEC (1993).

⁵⁵ In the following referred to as the EC Handbook

⁵⁶ Art. 23 and Annex VI

⁵⁷ Art. 53

⁵⁸ The UK has not included social criteria in its Timber Procurement Policy for this reason.

The EC Handbook attempts to assist in interpreting what the link could be: PPM can only be used as technical specification when they “contribute to the characteristics” of the subject matter of the contract to the exclusion of those on issues which are unrelated to the product in question. This has been interpreted as the EC Handbook specifying both environmental-related PRPPMs and NPRPPMs being operable while non-environmental related (e.g. protection of forest dependent people’s rights) being inoperable apart from those which are defined in the Directive (obligations relating to employment protection provisions and the working conditions which are in place where the works are to be carried out⁵⁹) (cf. Huglo Lepage 2005).

Inclusion of social criteria

Inclusion of social criteria as part of NPRPPM requirements in public procurement policies has become subject to debate and it has legal implications. The UK, after a careful analysis, opted for not including social and ethical criteria in contract specifications if they do not directly relate to the subject matter of the contract but this clause is under re-consideration.⁶⁰ On the contrary, the Danish government has included two social criteria in the definition of legal timber.⁶¹ In addition the criteria for SFM include *i.a.* socio-economic, cultural and spiritual commodities.⁶² The Dutch BRL requirements also include social criteria. In addition, when references in other countries’ policies are made to specific certification schemes which by definition cover social aspects in their standards, there is likelihood that social aspects are also covered. However, the UK approach to exclude them in explicit references has also been taken in the Swedish EKV-criteria.

Guidance on integration of social considerations into public procurement was given in an EC Interpretative Communication already in 2001⁶³ which identified three principles for the inclusion of environmental or social criteria in public procurement. These are: (i) non-discrimination (the tender cannot be formulated in a way that excludes, directly or indirectly, tenders from potential suppliers); (ii) transparency (specifications have to be measurable and objective); and (iii) appropriate technical specifications (the tender can integrate environmental and social elements at the stage when the definition of the subject matter of the contract and technical specifications are established).

Social considerations cover a range of issues “from compliance with fundamental rights, with the principle of equality of treatment and non-discrimination (for example, between men and women, with national legislation on social affairs, and with Community directives applicable in social field)”. The concept also covers “preferential clauses (for example, for the reintegration of disadvantaged persons or of unemployed persons, and positive actions or positive discrimination in particular with a view to combating unemployment and social exclusion)”.

The inclusion of social criteria has been seen by some parties as permissible as long as this is done in a transparent and timely manner and as long as they are framed as objective criteria

⁵⁹ Art. 27. See also Art. 55

⁶⁰ However, it was considered legitimate to require that forests be managed in sustainable ways that may also have consequence for social well-being (DEFRA 2004). CEPT’s criteria for acceptable certification schemes also include some social aspects (criterion 1.1.1).

⁶¹ Lack of compliance with two social provisions lead timber to be considered illegal: The neglect of the rights of forest workers concerning wages and working conditions, and not respecting the traditional rights of the local population. (ref.)

⁶² In the Background Material to the Danish Environmental Guidelines for Tropical Timber.

⁶³ CEC 2001

which satisfy the principles of transparency, non-discrimination and equal treatment, and which guarantee that tenders are assessed in conditions of effective competition when they deal with the fundamental rights identified in relevant international conventions. It has also been suggested that social criteria can be presented as environmental criteria. (van den Biesen 2006). There is clearly a need to clarify the issue of treatment of social aspects in procurement policies as dealing with under environmental criteria is unlikely to be defensible.

Use of eco-labeling schemes as reference

In setting technical requirements the EC Handbook suggests that the criteria of eco-labeling schemes can be used when the performance or functional requirements are defined. However, it is not allowed to require bidders being registered under a specific scheme. “Public, multi-criteria eco-labels” can be referred to despite the fact that such labels are life cycle-based. In this context two observations can be made which have not reserved due attention in the legal analyses carried out. First, eco-labels are life cycle-based while forest certification focuses on the first phase of the life cycle, i.e. raw material production. CoC certification is not applied with the same rigor in eco-labeling schemes as in forest certification with specific standards and auditing of CoC.

Secondly, in eco-labeling criteria should be developed and adopted which clearly distinguish a leadership segment of a product category from the rest of the category. While it can be quite challenging to determine the appropriate "cut-off point", it is essential in order to avoid and/or effectively address potential challenges of arbitrariness and/or irrelevant leadership criteria. However, criteria must also be practical in terms of being attainable (for a leadership market segment initially) and expressed in measurable units that can be verified. In other words, criteria must be acceptable, reasonable and useful to potential program licensees, entities tasked with verifying compliance to the criteria, consumers/procurers, and other interested parties.“ This means that eco-labels set the criteria in a way that only some companies succeed in comply with them, and, therefore, have their products awarded, but they do not limit the access to the label. Every organization that has a product that complies with the criteria shall be awarded. (GEN 2004). This is another principle of eco-labeling (sometimes called equitability, or the selectivity principle as stated in ISO 14024). It is not the situation of a eco-labeling program limiting the number of certified products to only a fraction of the market, but setting the criteria in such a way that will result that only the leaders company will have products awarded. Single-issue forest certification (with the associated CoC certification) cannot be directly compared to eco-labels, as the implicit target of forest certification is to achieve certification of the whole supply .

SFM and CoC certificates of voluntary programs may be used for demonstrating compliance with the requirements on legality and sustainability. However, bidders should also be allowed to use other means including self-documentation and declaration. The Directive 2004/18 EC is not clear on to what extent or in which situations the contracting authorities may require the bidders to submit additional proof in the form of “a test/certification report by a “recognized body” when they consider self-documentation and declaration to be insufficient to show that timber and timber products come from sustainably managed sources. As explained in *Implementation aspects and institutional arrangements* in chapter 4, there is a need for further work in timber procurement policies to use forest certification schemes as reference and to define what alternative proofs are acceptable. In any case, measures like eco-labeling and certification need to be WTO consistent and clearly contribute to forest conservation (Fern 2003).

Awarding the contract

Concerning awarding the contract, the Directive 2004/18/EC allows the procuring authority to opt for awarding the contract to the most economically advantageous proposal in which case they have to assess which tender offers the best value for money. The concept of "economically most advantageous tender" must be considered during public procurement procedures from the perspective of contracting authorities. However, this concept may be interpreted in a manner that each award criterion generates an economic advantage for the contracting authority but the EU case law⁶⁴. suggests that this is not necessarily the case. In conjunction with concerns that the initial cost of environmentally benign products may be greater than other products (cf. *Lesson learnt* in chapter 3), the contracting authorities may also take into account indirect economic benefits. This may include taking into consideration products that are more energy efficient, which will function on a more cost-efficient basis, or which will cost less to dispose of at the end of their life-cycle. These are typical examples of PRPPM and do not influence the choice between forest products.

In the case of NPRPPM a comprehensive assessment of indirect economic benefits would require qualification of externalities in forest management in countries from where timber is supplied. However, the Directive 18/2004/EC has a narrow view on the interpretation of externalities ("for the contracting authorities")⁶⁵. The scope of the assessment of the externalities is likely to remain subject to uncertainty in the future even if the EC Handbook guidance were followed⁶⁶. The definition of "system boundaries" in externality assessment could significantly influence the rating of wood and derived products from different countries of origin.

Specific guidance on legal and sustainable timber

The EC Handbook provides two examples of how NPRPPMs can be addressed, one on renewable energy and the other one on "sustainable and legally logged timber".⁶⁷ The renewable energy procurement policies (e.g. in the Netherlands and the UK specification of minimum thresholds of the share of electricity generated from renewable sources) are linked with the achievement of the Kyoto Protocol commitments without broader assessment of their environmental impacts. However, these policies may also raise similar issues to timber production when renewable energy is generated from wood or other biomass (e.g. land conversion, biodiversity, water, etc.). These aspects are not addressed in the guidance of the EC Handbook.

The guidance provided on how legality and sustainability (explicitly referring to economic, environmental and social aspects) may be taken into account does not make reference to existing definitions but states that both notions refer to social, environmental, as well as economic conditions⁶⁸.

⁶⁴ The Concordia Bus case of the European Court of Justice

⁶⁵ The European Parliament has argued that the authorities should be able to take account of costs and benefits to the wider public, that production methods should be allowed as award criteria, and that authorities should be obliged to list criteria in order of importance but should not be obliged to weight them (FERN 2004)

⁶⁶ Award criteria (i) must have a link to the subject matter of the contract, (ii) must be specific and objectively quantifiable, (iii) must have been advertised previously, and (iv) must respect community law.

⁶⁷ Sections 3.4.3 and 3.4.5

⁶⁸ The example of definition of timber of the EC Handbook is not well integrated

According to the EC Handbook environmental requirements related to sustainability can be taken into account only when setting technical specifications and when they are “appropriate”. As stated above, eco-label information can be used in several ways such as verification of compliance with technical requirements and as a benchmark for deciding upon the award of the tender⁶⁹ This is indeed applied in most national timber procurement policies.

Contracting authorities may rely upon those requirements that are set in public and private eco-labels and certification schemes, such as FSC or PEFC, in order to specify “what sustainable timber means from an environmental point of view, without however the requirement to comply with any particular forest certification scheme”. Only those specifications which are related to the subject matter of the contract can be included, not “specifications of a scheme on, for example, the protection of forest-dependent people”⁷⁰. However, elsewhere it is stated that the concept of sustainable includes *i.a.* “the interests of indigenous or forest dependent people”. It will be difficult for a public procurement agency to directly apply the EC Handbook’s guidance on timber procurement due to ambiguities related to key definitions and therefore the elaboration of national procurement policies is timely.

“Legal and sustainable timber” appears to be a pioneering example of applying NPRPPMs in public procurement policies. It is apparent from the above discussion that public purchasers are facing a complex task when applying the various criteria on legality and environmental (and social) sustainability of wood and derived products during the procurement process. This can be anticipated to encourage them to specify alternative materials where such complexities are not encountered. This is speculation as long as there is no case law (at EU or WTO level) based on an appeal where such undue substitution may have been encouraged by procurement rules. Case law would also be needed to address the differing views on how the link between the subject matter and environmental requirements should be interpreted, how social criteria may be applied, how sustainability and legality could be defined, and other open questions.

⁶⁹ Section 3.3.1

⁷⁰ Section 3.4.5 of the EC Handbook

6. Market and economic impacts of timber procurement policies

PUBLIC PROCUREMENT AS A DEMAND FACTOR AND PRIVATE SECTOR INDICATORS

Public sector procurement is a major force in national economies all over the world. In the EU, expenditure by government (excluding social security funds) represents about 17% of GDP (Table 6.1). In the other industrialized countries, the share is likely to be somewhat less. In the EU, central government expenditure represents about 44% of government expenditure while the rest takes place at the level of state and local governments.

Table 6.1 Public sector expenditure and procurement.2003

	% of GDP
EU-25	
General government	16.9
- Central government	7.5
- State government	2.3
- Local government	7.1
Public procurement value openly advertised	3.6^{b)}
United States^{a)}	15.7
Canada^{a)}	19.0
Japan^{a)}	17.9
a) Includes social security funds which in EU-25 represent 4% of GDP.	
b) EU-15	

Source: www.epp/eurostat/cec/eu/int

In the implementation of timber procurement policies, local authorities are probably a more important market force than central government agencies. To influence their buying behavior is however a major task. In the EU there are about 200 000 such authorities. Their decision making tends to be driven more by public pre-conceptions and views reported in the media than by objective analysis of environmental information. Media campaigns and grassroots activism have played a key role influencing policy at local authority level, not only in Europe but also in the USA. (cf. Forest Industries Intelligence 2006).

As described in *Certification system as reference* in chapter 4 timber procurement rules are crafted with public tendering processes as the target. However, e.g. in the EU-15 the value of public tendering which is openly advertised represents only 3.6% of GDP or about a fifth of the total government expenditure⁷¹. Country shares vary in this indicator (as with public procurement in general) and the high end is found in the UK while in the four other countries⁷² with operational public timber procurement policies the share is in the range of 1.8 to 3.7%, or below the EU average. These low percentage figures amount to very large absolute numbers but only a small share of them is used for purchasing forest products.

The data on public sector consumption of wood and derived wood products is scanty and available only as fairly rough estimates for few countries. The situation in the UK is well

⁷¹ Excluding social security funds

⁷² Belgium, Denmark, France and the Netherlands

illustrated in the House of Commons (2006) report on Sustainable Timber: “It seems incredible to us that the complete lack of data, clearly identified as a fundamental hurdle to improving sustainable timber procurement at least four years ago, and recognized as such by the Government, has yet to be properly addressed.” Only Denmark and France appear to have taken measures to generate quantitative estimates on public sector timber consumption which are summarized below as they can serve as indications for the situation in other countries. Belgium has done a qualitative survey to identify main wood products subject to public procurement.

In Denmark, the total market for wood, wood products, furniture and paper is estimated at USD 4.5 bill. of which nine per cent is consumed by the public sector. The share is highest in paper and low in wood (Table 6.2). It is also noteworthy that in tropical timber the public sector plays a much stronger role. This is due to the demand for tropical species in marine construction and public works. The central government share is only 17% of the total public timber consumption, or significantly less than the respective figure in general government expenditure (28%) which cautions against uncritical use of the macro-level figures on public procurement for forest products.

In France the situation is somewhat different. The role of the central government as an economic agent is almost twice as large as that of local government, i.e. 63% of the total government expenditure. According to the study carried out by CIRAD (2004), 35% of the construction activity in the country is carried out by public administrations or social housing companies⁷³. The value of the public sector market is EUR 121 billion of which two thirds is in building construction and one third in civil works. A large majority of the total is investment by local, regional and departmental level authorities. The value added in the construction sector is 46% leaving 54% for materials, supplies and services. The share of wood of all the construction materials in France is ten per cent is construction. This would suggest that the public sector market for wood used in the construction could roughly be in the range of EUR 3-5 billion.

The value of the French wooden office furniture market is EUR 493 million (CIRAD 2004). The share of public sector procurement is not known but most of the products are manufactured based on particle board, fibreboard while solidwood furniture is estimated to occupy a small share of the total. Tropical timber has an established position in many construction and civil works uses (e.g. sleepers, structural and visible applications), but its share in public sector office furniture is marginal.

Table 6.2 Public sector as market for forest products in Denmark, 2003/2004.

Product group	Total public sector	Central government	Market size
	Share of total consumption ^{a)}		% of total
Wood	5.2	0.0	17
of which			
- tropical wood ^{b)}	15-27	4.9 – 9.5	..
- furniture	6.3	0.8	32
Paper	13.0	2.5	50
Total	9.4	1.6	100.0 ^{c)}

⁷³ HLM (habitation à loyer modéré) (housing with reasonable rent)

- | |
|--|
| a) Based on value
b) Based on volume
c) The total value of the market is about USD 4.5 bill. (at 2006 exchange rate) |
|--|

Source: Rambøll, 2006

In Belgium the market share of public procurement in forest based products is estimated at 18% (van Orshoven, pers. comm.). A survey carried out among public procurement agencies (WWF 2005) revealed that the most typical products purchased are as follows⁷⁴:

- building construction: interior doors, windows and window frames, exterior doors, shelters
- furniture and fittings: tables and table tops, office furniture, benches, chairs, ceiling, paneling and frames
- park, garden and municipal infrastructure, billboards, garden structures, stairs (exterior), and children's playground equipment
- civil works: border protection (roads, terraces, etc.).

In the Belgian market certified products are already available but in specific applications like marine construction the supply is insufficient, but there are also limitations in other end uses of tropical timber (WWF 2005).

It is not possible to reliably estimate the size of the public sector market for forest products in the countries applying procurement policies based on the available information but it could be in the range of 10 to 25% of the total forest product consumption varying by product and end use segment. The public sector is therefore a significant market factor and decision making on procurement appears to be mainly at the levels of regional and local governments. The priority area is building construction and civil works, particularly application where timber has an established position like marine construction.

The potential impact of public procurement on the behavior of market actors is larger than its relative share would indicate as public purchasing can act as a standard setter and example for the private sector (cf. *Lesson learnt* in chapter 3). Most of the wood for the public sector would be in fact purchased by contractors, furniture manufacturers, etc. who would engage themselves in buying products which comply with the legality and sustainability requirements (cf. CIRAD 2004). This could be expected to change their broader purchasing pattern provided that such products would be available at competitive prices. There are however no hard facts on such potential leverage effect of the public procurement on the market as a whole which would be applicable to wood and derived products.

Experience suggests that more time is needed for making policies effective. E.g. in the UK the process of filtering of the public procurement policy through to procurement officers and building contractors appears to be a slow process and the level of understanding of the issues and guidelines amongst them still remains low. Forward planning is not adequate and it happens that only at the end of the project contractors realize that they were obligated to supply certified (or verified) products. On the other hand, there are positive examples in some market segments. For example, the demand for certified products has increased due to the UK government procurement policy and the BREEAM/Ecohomes program which has adopted the

⁷⁴ These are typical applications of tropical timber.

CPET guidance on certification schemes as qualifier for wood products meeting sustainability goals⁷⁵. (Oliver 2006).

Another example of similar initiatives is found in the USA where the LEED (Leadership in Energy and Environmental Design) Green Building Rating System has been developed under the US Green Building Council as a voluntary, consensus-based national standard for developing high-performance, sustainable buildings. LEED provides a complete framework for assessing building performance and meeting sustainability goals. Resource management is assessed as part of the product's life-cycle and forest certification is used as a tool to assess wood and wood products (www.usgbc.org). This kind of initiative can have a major impact on the market as they are targeted at professional builders rather than homeowners. They also show an example of how public and private sectors can work together to promote green purchasing.

In parallel with public procurement policies, individual larger companies in the forest products industry and industry and trade associations have also worked to develop their purchasing policies and codes of conduct specifying legality and sustainability (Saunders 2006). Their importance has been growing during the last few years. The European Confederation of Timber Importing Associations (FEBO) has made a commitment to support sustainable forestry condemning illegal logging and associated trade and recognizing that certification is the most feasible way to prove sustainability. The UK Timber Trade Federation has finalized a Responsible Procurement Policy backed by independent audits including commitment to favor certified products. In the Netherlands, the Timber Trade Association code of conduct has strict requirements for members to demonstrate commitment to legal sourcing. The French timber trade association, Le Commerce du Bois (LCB) has issued a Charter, which is closely aligned with the government's procurement policy, requiring verified legal timber as a minimum specification for all timber products. (Forest Industries Intelligence 2006). CEPI also has approved a Code of Conduct which includes six principles for legal logging.

As a conclusion, in many countries government timber procurement policies are implemented in parallel with private sector initiatives and therefore their market impacts are difficult to separate. The broad engagement of the industry (not only in Europe but also in Japan and North America) is important and can be interpreted as a true recognition of the problem of illegal and unsustainable practices which cannot be continued in the future.

SUPPLY

In 2005 about 279 million hectares of forest were certified. The rate of expansion has been rapid during the last four years thanks to the increasing market demand, expansion of the existing certification schemes, and emergence of new ones. Capacity to manage forests sustainably has increased as well as capacity to certify. The potential supply of certified

⁷⁵ BREEAM (BRE Environmental Assessment Method) is the world's most widely used means of reviewing and improving the environmental performance of buildings. Since its launch in 1990, BREEAM has been increasingly accepted in the UK construction and property sectors as offering best practice in environmental design and management. Some 600 major office buildings have been assessed and there are also schemes for industrial units, retail developments, schools, hospitals, prisons and homes. The homes version of BREEAM is called EcoHomes. It provides an authoritative rating for new and converted or renovated homes, and covers houses, apartments and sheltered accommodation. (www.bre.co.uk/services/BREEAM)

forests has been estimated at 789 million m³ per year. This supply could be theoretically sufficient to meet the needs of public sector procurement in countries with respective policies.

In Europe, about 45% of the region's forests have been certified (UNECE/FAO 2005). By and large, domestic supply in the region does not represent a constraint for policy implementation although the situation varies by countries. There are however critical elements in the wood supply which have been met by tropical timber and temperate timber imported from countries which have not yet made much progress in certification, notably the Russian Federation. This situation is more acute in Japan where about 40% per cent of industrial wood and wood products are imported and the dependence on tropical and Russian timber is higher than in Europe.

In import markets for tropical timber from natural forests the demand for certified timber appears to exceed supply. E.g. in Denmark it has been difficult to find enough certified supply for e.g. marine construction (Rambøll 2006). The situation is, however, improving as new large concessions are getting certified in the tropics, sometimes with buyer or other support⁷⁶. With plantation timbers the situation is not so difficult even though temporary problems may arise.

In the UK indications from the market suggest that the government procurement policy is now being applied with rigor for supply of forest products to central government departments and there are increasing difficulty supplying non-certified products in this sector. On the other hand, implementation is still very patchy at local authority level. (Forest Industries Intelligence, 2006).

The above assessment is based on the assumption that all the existing certification schemes will be able to provide acceptable proofs of sustainability for public purchasers. This is not yet the case as some certification schemes in some countries qualify only for proof of legality (cf. Table 4.2). In addition, there will continue to be pressures from a group of NGOs to disqualify other schemes than FSC which they support as the only option. Assessment criteria of certification schemes will be reviewed periodically and they are likely to remain subject to debate for some time to come. The revision of national criteria for certification schemes can therefore have a significant impact on the supply. On the other hand, when most of the potential supply has been certified, procurement policies may lose their kick-off role as market incentive.

There is no quantitative information on the additional volume of wood and wood products which have been independently verified as "legal"⁷⁷. Even the instruments of verification are still under development and assessment criteria for their validation have not been developed. Only limited guidance is currently available what kind of proofs could be acceptable (cf. *Implementation aspects and institutional arrangements* in chapter 4). Even the scope of basic definitions is still subject to debate (cf. *Criteria applied in the procurement process* in chapter 4). Through many parallel initiatives, including governmental efforts and private verification schemes, broadly accepted principles and procedures are likely to emerge. The scope of forest certification audits is also likely to be strengthened as regard verification of legal compliance. After a transition period of say about five more years, it is likely that neither certification of sustainability nor verification of legality will represent a constraint for the supply of wood and derived products to public procurement.

⁷⁶ E.g. the EU funded projects of RACEWOOD with ATIBT

⁷⁷ Apart from certified areas under those certification schemes which are qualified as proofs of 'legal'.

This overall picture is likely to hide regional and national variations. Some countries in the tropics will continue to have difficulties to strengthen their governance systems and are less exposed to export market pressures, or will find other options. Particularly many African countries are likely to experience difficulties to have access to their traditional markets in Europe due to inherent difficulties in improving forest governance and getting their forests certified in spite of some positive examples (Roda et al. 2006).

PRICE

Verification of legality and certification will increase the cost of production in exporting countries in comparison with the present situation. These costs will create pressure for price increases. However, in general the buyer in importing countries have refused to pay a premium for certified product even though such premiums are being actually paid in some products and markets where demand exceeds supply.

In Denmark and the UK, some price premiums have been paid for “sustainable” timber⁷⁸. This is expected as long as sustainability is asked for as a variant in tenders where awarding of the contract is based on the economically most advantageous offer. This approach is appropriate when there is no guarantee about the available supply of ‘sustainable’ timber. As an example, 10 to 30 per cent higher prices have been paid for certified tropical timber used for marine construction (Rambøll 2006). The purchasers have no idea what an acceptable premium could be and guidance has been asked for on this difficult question (cf. *Implementation lesson learnt* in chapter 4). Some case studies have been made in different parts of the world⁷⁹) but may not be directly applicable in specific decision-making situations.

Expanding certified supply will increase competition between bidders and ‘excessive’ premiums are likely to disappear. If sustainability becomes a baseline requirement with expanding supply, the public procurement policies may be revised to specify sustainability as a minimum criterion which may raise legal concerns (cf. chapter 5).

On the other hand, the additional costs are not likely to be excessive and can be absorbed by export oriented producers with large-scale operations which are also generally better managed than the average. This was found in the case of natural tropical forest management where such additional costs are likely to be higher than in temperate forests. However, SMEs do not have similar advantages and in their case the additional costs will be, in relative terms, larger than in the case of large operators (Simula et al. 2004).

In the special case of Africa, public procurement policies may strengthen trade deviation from Europe to Asia. The impact on prices may be negative because of the increased targeted supply to this market. On the other hand, a majority of the Asian-owned operations in Africa are financially integrated with the buying companies and therefore the impact on transfer prices is likely to be limited. (Roda et al. 2006).

⁷⁸ Premium is not supposed to be paid for legal timber which is a baseline requirement; however suppliers may add the costs of additional verification to their bid prices.

⁷⁹ See e.g. Simula et al. 2005 for review of existing studies and three country case studies

ECONOMIC IMPACTS

According to the impact assessment of the EU FLEGT Action Plan (Indufor 2004), the main problems of illegal practices are related to excessive harvesting levels in the concessions and harvesting outside designated areas. (Seneca Creek & WRI 2005). Improved control will reduce the volume of production which will have social, economic and environmental consequences, both positive and negative. These impacts will be proportionally largest in Africa, Indonesia and Brazil but they will vary in accordance with the intensity of forest use, demographic pressure and the socio-political situation. The assessment concluded that market instruments in importing countries cannot alone eliminate illegal logging in producing countries.

Public procurement is a complementary instrument rather than a fundamental measure to change behavior of actors. In addition, its impact may be temporary if the same requirements are adopted by the private sector at large. As long as there is a strong alternative market where similar requirements are not imposed, producers will always find it attractive to divert (part of) their sales to such outlets. The Asian market has served such a role during the last ten years for tropical timber producers.

In the exporting countries international market requirements related to legality and certification can be expected to favor integrated operations (wood production, processing and exports) in addition to large-scale units in general. SMEs, which have to buy their raw material in the open market and have little or no individual market power (particularly in the tropics), are clearly disadvantaged as they cannot effectively control their chain of supply.

The economic impacts of public procurement policies are not confined to supplying countries alone. The same impacts can also be expected in the importing countries. In some products small-scale enterprises which use imported raw materials and generate significant local employment are in a similar position. For instance in France, these enterprises represent 40% of the total tropical timber use. However, they are generally better placed to implement CoC certification than their counterparts in exporting countries.

As procurement requirements concern all timber, the forest owners in importing countries may strengthen their position as in relative terms they have less difficulties to meet the public sector market requirements than most exporting countries. This is also implied in some national policy statements (e.g. New Zealand).

COMPETITION BETWEEN SUPPLIERS AND MATERIALS

In view of the difficulties of developing countries to meet the market requirements for legal and sustainable timber, public procurement policies tend to favor substitution of natural tropical timbers by temperate timbers. Plantations will be easier to certify and they have less legal problem than natural forests and therefore solid-wood products from plantation timber are likely to benefit from public procurement policies.

Similar requirements to timber are not imposed on alternative materials which tend to be assessed within a broader life-cycle framework in green procurement. No specific requirements have been defined for their legality and the CoC requirements for LCA-based eco-labels are less stringent than in the case of verification of the specific origin of wood and derived products. Additional costs are therefore likely to be lower than in wood products.

In this situation a shadow of doubt is cast on the image of wood and derived products in the eyes of consumers undermining the inherent environmental strengths of forest products (renewability of the resource, carbon sequestration, potential of wood biomass-based energy to compensate fossil fuels, contribution to local socio-economic development in rural areas, etc.). In order to avoid undue negative impacts on consumption patterns governments should continue to support the promotion of wood use in construction, particularly when it can be shown that the products come from sustainable and legal sources

As a conclusion, the market and economic impacts of public procurement policies appear to favor (i) temperate producers⁸⁰, (ii) large-scale and integrated operators, and (iii) plantation wood. In addition, making timber buying more difficult than in the case of substitutes, the purchasers and specifiers may start avoiding wood in the procurement, particularly if they are burdened with direct and indirect transaction costs (work input and costs of verification of claims, special monitoring and reporting obligations, and risk of undue extensions in project implementation periods due to complaints. This may also lead preference to substituting materials on which similar requirements are not imposed..

⁸⁰ Often domestic producers

7. Impact on forest management and enforcement

IMPACT ON EXPORTING COUNTRIES

The general objective of public timber procurement policies is to promote environmental conservation and sustainable forest management. Assessment of possible impacts on reduction of illegal logging and associated trade and extension of sustainable practices can be explored focusing on what are perceived to be main problem sources of supply, i.e. the tropical timber producers and the Russian Federation (Seneca Creek & WRI 2005).

The trade flow analysis concerning the main importers (EU-25, North America and Japan) reveals the following situation (Annex Table 2):

- In the case of tropical timber the concerned segment of the public procurement market is building construction (mostly external uses) and public works. In government office furniture, tropical timber has only limited uses. Russian sawnwood is mainly used for structural and utility purposes in the building construction and civil works. Also plywood (independently from the origin) goes mainly for the same end uses.
- The import share in wood and derived products is highest in EU-25 and lowest in North America but this varies by products.
- The share of tropical regions and the Russian Federation in the total imports in Japan is two thirds or more in industrial roundwood, sawn hardwood, and plywood and veneer. In fiberboard and pulp and paper the share is 38-39% suggesting that the Japanese policy can in relative terms have a significant impact on producers. In EU-25 almost 40% of plywood comes from these same sources and in industrial roundwood and sawn hardwood the share is about 30%. In other products the share is below 15%. Were the North American governments implementing public timber procurement policies the impact would come mainly through plywood and fiberboard imports.
- Among the producing regions, export dependency is highest in Russia being more than half of the total production in sawnwood, plywood, and a third in pulp and paper. Latin American producers are also highly dependent on export of plywood, pulp and paper, and fibreboard. Similarly in Africa, exports are highly significant in plywood and pulp and paper (more than 40%) but also in sawn hardwood and fiberboard exports are significant. In Asia export dependency is less pronounced but in sawn hardwood and plywood the share is about a quarter of the total production.
- Dependency on the major import markets has somewhat different pattern: Russia, Latin America and Africa being more exposed to market requirements in the three major importing regions while in Asia the dependency rates are generally low and typically in the range of 10 to 20% suggesting high dependency on regional markets. (Appendix 4). However, in the exports of further processed products, Asia's dependency on the three import markets is higher but these products are not typically large items in public procurement.

The impact of procurement policies will be larger than the export figures and public market shares suggest. Particularly in tropical timber, but also in sawn softwood, only part of the production is exportable in different forms and grades. This share depends on the composition of species and log quality as well as the target markets. Some producers work exclusively for the domestic or export markets while others serve both domestic and export markets and these sectors usually interact through sales of raw material and intermediate products. In the

tropical countries where exports to traditional markets (Europe, North America and Japan) have been selective in terms of species and grades, it can be estimated that the exported volume mobilizes a minimum of 20 to 30% of additional production of non-exportable grades as this part of output is associated with the production of export deliveries.

Bearing in mind that the public procurement may generally be estimated to account for 10 to 25% of the total wood and wood products consumption (depending on the product group and country), the direct impact of the timber purchasing policies is likely to be rather limited in the four producing regions discussed above.⁸¹ The countries which are important exporters of sawnwood and plywood are likely to be more impacted than others. The implementation of public timber procurement policies is now confined to some EU countries, Japan and New Zealand. Were more countries to embark on their application, the impact on exporting countries could apparently be enhanced.

The impact on forest management in exporting countries will largely depend on the leverage effect on the private sector of the public procurement policies in the importing countries. The impact will be particularly important in countries which serve specialized end use sectors like marine construction or decking where public procurement has a high market share (Brazil, Cameroon, Guyana, etc.).

A more significant impact can be expected amongst domestic suppliers and, in the case of EU-25, through intra regional trade. The share of certified forests is still fairly low in many importing countries and there is scope for expansion. Timber procurement policies may provide a market advantage for domestic wood and wood products and it is likely to boost certification in importing countries where the share of certified forests is still limited. With regard to tropical countries, it is ironic that the competitiveness of natural tropical forests as a source of timber is likely to be reduced due to increasing cost burden (which in relative terms will be higher than in the temperate zone) working against other efforts to make legal and sustainable forest management more cost-effective (Johnson, pers. comm.).

IMPACT ON THE FOREST

Impact on the forest

Verification measures to prove that timber comes from legal sources can help reduce illegal logging for those operators who are involved in export trade. However, as pointed out above, export dependency is generally fairly low (Appendix 3) with the exception of a small number of countries and products (mainly sawn hardwood and plywood). Whether problems in these countries could be addressed through less wide ranging trade-related measures than public timber procurement policies which deal with all types of timber from all types of sources is a relevant question as such measures have legal problems and the cost of their implementation is significant.

Making progress towards reduced trade in illegal wood is probably constrained by the lack of clarity about the definitions, tools of verification and the type of documentary proof which can be considered reliable or acceptable (cf. ITTO 2005). There is also a need to clarify the roles of government control, forest certification, and comprehensive independent verification systems in providing assurance on the legal compliance of forest management and legal origin

⁸¹ The share of non-exportable grades refers to exports to Europe, Japan and North America only as the Asian markets are less selective in terms of species and grades.

of wood and derived products. This should be considered a priority area of international cooperation in order to provide clarity for exporters what will be required from them.

Certification is making relatively rapid progress in the export oriented tropical countries which have been lagging behind in the development. The public timber procurement policies have probably strengthened these efforts and will continue to do so. In spite of several studies⁸² there is still on-going debate on what the impact of forest certification is in improving the quality of forest management on the ground (cf. e.g. Ozinga 2005). Information is improving gradually but it is sometimes yielding results which are interpreted selectively.

Environmental market requirements can be assumed to have influenced trade flows to some extent. However, demand factors have probably played the key role. China's import demands have diverting part of African exports from Europe to Asia and influenced the intra-Asian trade flows. In the second stage China has emerged as a significant new exporter of plywood, pulp and paper, partly based on imported raw materials, in addition to being the world leader as exporter of further processed products (UNECE/FAO 2005). China will continue to be an important link between the tropical countries and Russia on one hand, and the main import markets in industrialized countries on the other hand, which should be fully engaged in the process of improving legality and promoting SFM worldwide. Public procurement has however a more marginal role in this context than other instruments due to the important role of further processed products in China's exports.

It is important that the public timber procurement policies provide designated market access to legal timber as in many developing countries certification is facing major barriers. For instance, in Africa the formal requirements of land tenure establishment and management systems have ruled out the entry of community forests to FSC certification (Roda et al. 2006). Public procurement is likely to be a useful instrument in encouraging large-scale operators to improve their practices but it will not help the market position of small and medium-sized actors or community forests which cannot implement market requirements for reasons which tend to be often beyond their control. Trade promotion measures and other assistance would be needed to ensure that the market position of these disadvantaged producers is not further weakened by increasing requirements in importing countries.

It has been concluded elsewhere that certification is likely to provide a relative advantage for plantation timber compared to natural forests (ref.). This is likely to hold in the case of verification of legal compliance and legal origin as well. Plantation forests supplying the international markets are usually large management units (or linked to them e.g. through outgrower schemes), land tenure is usually well established, their management systems are adequate and their products are homogenous and easily measurable. Plantation timbers from the tropics play still a limited role in public procurement markets of the importing countries but their uses are broadened to sawnwood and plywood applications and therefore their role is likely to increase in this context.

⁸² See Nussbaum & Simula 2005 for a review of available studies.

8. Key issues for further discussion

Although green procurement policies have been applied in many countries for years, timber procurement policies are new instruments. The international community is still in the early phases of the learning curve on how they could be devised to best serve their main goal, i.e. promoting sustainable consumption and production. These policies are complementary instruments and can constitute part of a broader mix of measures to address illegal logging, unsustainable forest management practices and associated trade. Timber procurement policies are positive measures as they are aimed at demand creation but they can also have negative impacts if implemented in an inappropriate way.

Governments have a double role in promoting sustainable forest management and improving enforcement. They define the overall policy framework and, through *i.a.* purchasing of goods and services, they are also actors. This represents an additional source of complexity for the implementation of timber procurement policies, which are also targeted at changing the behavior of other market actors through the exemplary behavior of public agencies. The kick-off impact of public timber procurement policies is potentially important depending on their leverage effect on these other actors, including governmental agencies at different sub-national and local levels. It is foreseen that the impact will be strongest in the early phases of expanding demand for legal and sustainable wood and derived products. Later on the respective requirements are likely to often become baseline conditions for the access of public sector markets for forest products.

Public sector procurement policies are measures straddling all types of timber and all sources of supply. This may be inevitable for the reasons of international trade rules in spite of the fact that trade-related problems of unsustainable and illegal practices are probably largely confined to a handful of exporting countries. Therefore, additional targeted measures like the EU FLEGT voluntary partnership agreements and the recent talks between the USA and Indonesia to conclude a bilateral agreement to combat illegal logging and illegal trade in endangered species are useful complementary measures.

They are a number of key issues which need to be clarified in order to facilitate implementation of appropriate public timber procurement policies.

- (i) National vs. international frameworks: Several intergovernmental and international processes and international organizations (notably ISO) have developed common definitions and requirements for various aspects related to the public timber procurement policies. National-level development of new definitions and requirements of certification systems has, however, sometimes taken a departure from these internationally agreed frameworks. This raises the issue of legitimacy of importing countries to impose their own specific requirements on exporting countries. There is a need to clarify to what extent some of such national provisions are truly necessary in order to avoid the implication that they may become unnecessary obstacles to trade in stead of facilitating trade from legal and sustainably managed forests.
- (ii) Public procurement and certification: Most of the international and national requirements have been developed for forest certification which raises the issue of to what extent these requirements should be applied to other verification mechanisms and alternative documentation. Equivalence among certification systems and other means of proof is included as a concept in some countries' policies which has the benefit to

deliver the same confidence to purchasing agents. There is a need to explore such an approach to facilitate the implementation of the timber procurement policies at purchasers' level.

- (iii) Need for harmonization: Countries with timber procurement policies have often undergone extensive participative processes in designing their criteria for legal and sustainable supplies and the implementation arrangements. The policies share many common elements but also some important differences. From the suppliers' point of view, differing requirements and procedures represent an additional obstacle to trade. Harmonization or greater commonality between national policies could be an option to address this issue. Concerns have, however, been expressed that harmonization may lead to diluting the requirements, which have already been agreed upon on a national level (Ozinga, pers. comm.). In addition, the appropriate timing of possible efforts towards more commonality between national requirements may be later when more experience has been gained from implementation. Many policies are very recent and there is very little, if any, experience to draw on.
- (iv) The international legal framework: A related issue is the compatibility of existing policies with the international legal framework, which is still subject to debate. Further guidance at international (and EU) level is likely to be needed on the key issues (interpretation of the link between the subject matter and the NPRPPM requirements, inclusion of social criteria, risk for discrimination, etc.). Clarification on legal compliance of the procurement policies would reduce tensions between trading partners.
- (v) How much leverage do PPPs have? The effectiveness of public timber procurement policies in contributing to their key goals is likely to depend on their leverage effect on other market actors, including local government agencies and the private sector. There is a need to clarify possible direct and indirect impacts as this information would assist those countries which intend to use these policies in their design, and those countries which implement them in the revision of their requirements and procedures.
- (vi) How to help the losers? Public timber procurement policies are likely to favor domestic suppliers, temperate timbers, plantation wood, and large-scale and integrated operations. Likely losers could be small and medium-scale enterprises, community forests, producers of tropical timber from natural forests, etc. which experience barriers in implementing legal verification and forest certification and, in particular, in gaining market access to international buyers who are serving public sector markets in importing countries. Some measures have been taken to address this issue but they are far too limited compared to what would be required. There is a need to explore what additional specific actions should be taken to avoid potential negative effects of procurement policies on disadvantaged market actors.
- (vii) Preventing substitution of wood: A related issue is the impact of timber procurement policies on substitution by competing materials due to the fact that purchasing of timber has become more complicated and, when these policies are mandatory, it may even represent risks for purchasing agents. There is probably a need to closely monitor potential substitution effects to avoid that less environmentally friendly materials are unduly replacing wood and wood products due to public purchasing policies.
- (viii) Necessity for monitoring: Lack of data on the extent of public sector procurement of wood and derived products makes it difficult to monitor progress, evaluate policy implementation and assess economic, market and forest impacts. Implementing countries have recognized the importance of this lacuna and some measures are being taken to improve the situation. Similarly, there is a need to improve information on the capacity

of various verification mechanisms and tools to deliver in quantitative terms necessary proofs of sustainability and legality to meet the market demand. Monitoring and market information is crucial both for the supply side actors (including in exporting countries) and public purchasing agencies, and therefore common approaches could be considered an option to generate internationally comparable data.

- (ix) Need for a systematic exchange of information: There appears to be a need for continuous exchanging information among governments and other stakeholders on the development and implementation of public timber procurement policies. For the time being, this exchange has been on an *ad hoc* basis. A more systematic effort may be required during the next few years when implementation is still in an early phase of the learning curve.

Annex Table 1/1

Comparison of some aspects of the public timber procurement policies

Countries	Objectives	Level of obligation	Products covered	Criteria	Verification requirements
Belgium	Not explicitly stated	Compulsory application by federal administrative entities	All type of wood	Minimum criteria for forest certification systems to be recognized by the federal authority	Certificates. Other appropriate means of verification
Denmark	To assist public sector buyers of tropical to ensure that products are produced legally and sustainably. In addition the purpose is to assist private institutions and individuals.	Application of guidelines is voluntary	Tropical timber: finished goods, raw materials and intermediate goods from tropical forests (natural forests and plantations) In 2006 the decision was made to cover all type of timber.	Legality : the producer has the necessary rights and permits for logging, fulfillment of all relevant national legislation regarding forest management and its effects on environmental and people, payment of any due taxes and duties, obtained all statutory declarations and permits from authorities, incl. CITES Sustainability: Forest Principles, ITTO Criteria, etc.	Certificates of forest management and COC (for sustainability and progressing towards sustainability) Alternative evidence (for legality), options : Assessment by an impartial body with adequate knowledge
France	Products are coming from sustainable forest management and processing	Public buyers are obliged to integrate the SFM criteria, if their needs justify it and the market situation allows it	2 categories: I. Wood in the rough (logs and round-wood), sawnwood, veneer, plywood II. All the other products derived from wood	Common requirements (technical performance rather than species, CITES, commitment to provide proof). Each category has criteria I. Criteria defined by SFM certification systems II. Criteria defined by SFM certification systems or ecolabels.	Five options : - Certificate of origin - Certificate of SFM - Attestation of a validated forest management plan - Attestation of the adherence of the producer or owner to a code of conduct - Attestation of the adherence of the trader to a code of conduct.
Japan	Need to have assurance on legality of timber harvesting and sustainability of management	Avoidance of illegality logged wood planned to be legislated	Paper stationery, office furniture, interior fittings and beddings, lumber, plywood, LVL, glue-laminated lumber, etc.	Virgin wood/fiber to be legally logged according to the laws of the country of production.	Forest certification. Official documents issued but authorities or industry associations. Other documents with the same level of reliability.

Annex Table 1/2

Countries	Objectives	Level of obligation	Products covered	Criteria	Verification requirements
Netherlands	Avoidance of illegality and promotion of availability of public procurement	National public institutions are obliged to buy verifiable « sustainable » timber when it is possible and ensure the legality of timber procurement. Effort to implement guidelines has to be demonstrated (all reasonable step are expected)	2 categories 1. Wood in the rough (logs and roundwood), sawnwood, veneer, plywood 2. Products of secondary processing, pulp, paper and other products	Legality has not yet been defined. BRL has criteria for the forest management standard, certification process and accreditation.	SFM certification. Alternative documentation (not yet defined)
New Zealand	Ensure that timber and timber products are from legally logged and sustainably managed sources	Voluntary, agencies are expected to implement guidelines	Timber and timber products (rough, sawn and dressed timber, plywood & veneers, fabricated wood, wooden structural components, fittings and joinery, wooden furniture).	Certification by a government recognized scheme	Third-party certification or equivalent
UK	To guarantee that the wood purchased comes from legal sources and with a preference from sustainable sources	All Government departments and their agencies are required to actively seek to buy timber products from legal and sustainable sources. A new contract condition will require contractors to ensure that the timber and wood they supply to Government was legally logged and traded.	The condition does not apply to any recycled timber/wood but does apply to all virgin timber/wood used by contractors to perform contracts on government premises, e.g. temporary site works	Legally felled timber is now the minimum standard offering sustainable timber as an addition to the minimum specification. The majority of the timber/wood supplied to be either recycled or from forests that are managed to protect their well being and sustain future supplies of timber. This higher quality variant is the preferred choice of the UK Government. No reference to “sustainable” timber criteria in the basic specification. This minimum standard is acceptable as a fallback if a competition is unable to produce an acceptable offer for “sustainable” timber	Category A. An eco-label or a declaration certified by a qualified independent body whose organization, systems and procedures conform to ISO Guide 65: 1996 (EN45011:1998) Category B. may include declarations by the Contractor or his suppliers who need to provide credible evidence on the source of products that has been or can be independently verified as such by an individual or body whose organisation, systems and procedures conform to ISO Guide 65:1996 (EN 45011:1998) and who is accredited to audit against forest management standards by a national or international body whose organisation, systems and procedures conform to ISO Guide 61.

Analysis of trade statistics

Imports share in the consumption of forest products in the major markets in 2003

Products	EU-25	North America	Japan
	- Imports % of consumption		
Industrial roundwood	15.3	1.6	45.5
Sawnwood	44.9	28.1	38.9
- Softwood	43.0	31.8	37.4
- Hardwood	56.6	11.7	67.6
Plywood & veneer	83.2	30.0	58.7
Fibreboard	70.9	34.3	44.9
Particle board	26.2	30.6	25.1
Pulp, paper and paperboard	50.9	15.7	10.2

Source: Based on FAOSTAT

Sources of import supply in the major markets in 2003

Products	EU-25	North America	Japan
	- % of total imports from the tropics and Russia -		
Industrial roundwood	29.1	2.1	62.2
Sawnwood	11.7	3.7	15.1
- Softwood	7.8	3.0	11.0
- Hardwood	30.2	12.3	63.5
Plywood & veneer	39.1	36.1	70.1
Fibreboard	3.0	27.3	37.6
Particle board	0.3	1.9	3.2
Pulp, paper and paperboard	13.2	12.8	39.4

Source: Based on FAOSTAT

Export dependency of selected exporters, 2003

Products	Africa	Asia	Latin America	Russia
	- Exports % of production - -			
Industrial roundwood	6.0	3.9	1.7	29.6
Sawnwood	18.8	11.9	13.4	52.3
- Softwood	3.7	1.5	18.8	57.3
- Hardwood	27.1	24.6	8.3	16.0
Plywood & veneer	43.1	28.8	54.3	57.7
Fibreboard	32.1	14.5	37.7	24.3
Particle board	2.4	10.4	14.9	5.8
Pulp, paper and paperboard	40.6	11.8	43.0	33.3

Source: Based on FAOSTAT

Export dependency on major markets of selected exporters, 2003

Products	Africa	Asia	Latin America	Russia
	- % of total exports to EU-25 and North America and Japan -			
Industrial roundwood	25.5	13.8	36.2	53.5
Sawnwood	61.3	18.0	43.2	30.2
- Softwood	48.9	25.1	41.0	30.2
- Hardwood	62.2	17.5	47.9	28.6
Plywood & veneer	53.0	14.6	78.1	56.3
Fibreboard	16.9	17.6	100.0	6.6
Particle board	40.1	3.2	40.5	0.3
Pulp, paper and paperboard	35.5	20.9	53.7	48.2

Source: Based on FAOSTAT

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