

American hardwoods and the new EU law

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The European Commission's proposed "illegal logging legislation" has been approved by its parliament and, while sending a clear message that the trade in illegal wood is no longer acceptable, it should actually be realistic for the wood industry to implement.

Last month representatives of the European Commission, Council and Parliament agreed the text of legislation designed to remove illegal wood from European trade. An overwhelming vote in support of the text by the European Parliamentary on July 7th means it is a near certainty that the European Council will formally adopt the legislation in September.

A minority of environmental radicals, with perhaps limited knowledge of the timber sector, wanted full legality licensing for all wood products regardless of whether they originate from a low risk source or not. This would have been virtually impossible to implement and has cost implications that would make it even harder for wood to compete with other building materials, such as steel and concrete, both of which have no such pressure to show that they are legal. But the good news is that "due diligence" and "risk assessment" will now form a key part of any timber legislation and, in fact, the new European law will replicate many of the measures contained in the amendment to the Lacey Act passed in the U.S. in 2008.

Interestingly, the Hardwood Federation in the USA played a key role of leading by example - by supporting passage of the U.S. Lacey Act Amendment, a law that the EU has now deliberately copied by making European traders liable for prosecution if found in possession of wood sourced contrary to the laws of any country, including those outside the EU.

Equally important was AHEC's concerted lobbying of European institutions and its initiative in commissioning the Seneca Creek study which demonstrated a risk of less than 1% of any American hardwood being derived from an illegal source. This strongly influenced the EU in favour of a risk-based approach. Earlier drafts of the legislation would have required all wood suppliers, irrespective of the risk of illegal logging, to provide proof of legality based on full traceability to "concession of harvest". At one stage, there were even proposals to introduce mandatory third party "sustainability" certification and labelling of all wood products traded in the EU.

The agreed text now includes a clause acknowledging that no additional measures will be required for those wood products where there is "negligible risk" of illegal logging. In fact, the concept of risk assessment now lies at the very heart of the EU legislation. All operators in the EU that "first place" wood and wood products on the European market will be required to conduct a due diligence process (recycled products are exempt). This process will involve systematic risk assessment combined with procedures that are "adequate and proportionate" to minimise any risks identified. Risk mitigation may include requiring additional documents or third party verification.

The requirement for mandatory traceability has been much reduced and now simply states that each downstream trader in the EU must know from whom wood products are obtained and to whom sold (so-called "one-up-and-one-down" traceability). This is not expected to involve any extra bureaucracy, since the evidence required need only be an invoice or receipt which, in any case, have to be kept for financial records.

Responsibility for enforcement and sanctions will lie with the individual member states, such as UK, Germany, Spain etc. Although the approach may differ between countries, the legislation is likely work in a similar way to the Lacey Act. If the authorities establish that a particular European operator is dealing in an illegally sourced product, the level of sanction imposed will likely depend on a judgement on the effectiveness and level of compliance of that operator's due diligence system.

In a further major development for the U.S. hardwood industry, AHEC has commissioned PE International to undertake what is probably the largest Life Cycle Assessment (LCA) study ever conducted by the international hardwood sector to further ensure appropriate and fair recognition of American hardwoods' environmental profile. This raises the issue of CO2 emissions related to the transport of American hardwoods from the US to Europe and elsewhere. With the largest part of this transport chain being by sea, CO2 emissions are minimal. According to independent consultants Forest Industries Intelligence Ltd, *"Assessment of the carbon footprint of American hardwoods from forest to European distributor indicates that carbon sequestration during forest growth of the tree more than offsets the total carbon emissions resulting from harvesting, processing and transport. In fact, transport is a relatively minor factor in the overall carbon footprint. This is particularly true of ocean transport. For example, recent research by Forest Industries Intelligence Ltd for AHEC suggests that even a complete circumnavigation of the world by sea – a journey of more than 40000 km - would be readily offset by the carbon sequestered in the wood product."*

But, of course, it is necessary to provide the science-based facts and figures to support the case and this LCA will review the "carbon footprint" of American hardwoods in line with emerging international carbon footprint standards.

So, the new EU law will provide European importers both with strong motivation and the necessary procedures to demand only wood products demonstrably derived from low risk sources with respect to illegal logging. Through tools like the AHEC-commissioned Seneca Creek and LCA studies, American hardwoods are already in pole position to satisfy this demand.