

ITTO Tropical Forest UPDATE

A newsletter from the International Tropical Timber Organization to promote the conservation and sustainable development of tropical forests

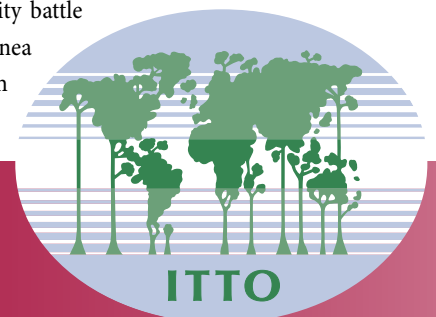


A legal matter

FOR MOST OF ITTO's first two decades, the Organization has been occupied with defining what is meant by sustainable forest management (SFM), figuring out ways to measure progress towards it, and taking measures to overcome obstacles to achieving it. One of the most serious obstacles to SFM in many ITTO member countries is illegality in the extraction of forest resources and the trade of forest products. With the international community as close to consensus on the meaning of SFM as it is ever likely to be (all active SFM criteria-and-indicators processes now use the same seven thematic areas), attention has shifted to defining an equally contentious concept: the legality of forestry operations. The rapid

evolution of timber procurement policies by several major importers and other schemes to ensure that wood products are sourced legally has moved this issue from the academic to the commercial arena. Unfortunately, it has not been spared the often shrill rhetoric and shaky statistics that have characterized many recent debates in international forestry.

The latest front in the legality battle appears to be Papua New Guinea (PNG), a country blessed with more than 60% forest cover,



Inside ▶ *monitoring PNG's log exports* ▶
Thailand's mission ▶ *log tracking* ▶ *and more ...*

Contents ▶

... Editorial continued

Papua New Guinea – the other side of the story 3

Thailand's mission 6

Partnership for good forest management 10

Tracking the wood 14

Regular features

ITTO's recently funded projects 18

Market trends 20

Fellowship report 22

On the conference circuit 26

Recent editions 28

Courses 30

Meetings 31

Vacancy announcements 32



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almost all of which is held as communal or clan commons. As the article by Asumadu (page 3) points out, PNG has come a long way since the Bartlett report found evidence of significant transfer pricing and other illegalities in the export log trade of the 1980s. The country has, at significant expense, retained a private company to oversee log exports and ensure that smuggling, under-invoicing and other problems are stamped out. The response to this article from a group of PNG non-governmental organizations (page 5) indicates, however, that focusing on the export log trade has not resolved all concerns regarding legality in the country's forest sector. Specifically, community rights over forest resources and community involvement in decisions regarding the exploitation of their resources are still major issues in PNG, as they are in many other countries—articles by Simula *et al.* (page 6) and Silva *et al.* (page 10), for example, identify a lack of local community involvement as impediments to SFM in Thailand and Brazil, respectively.

So what can be done? Forest laws, like any legislation, are a compact between a country's government and its citizens. It is therefore essential that such laws take into account the concerns and needs of those living closest to the resource. They should also prescribe the minimum level of bureaucracy necessary to ensure efficient and sustainable resource use; dispense too much red tape and forest operators will seek (sometimes illegal) ways of side-stepping it. And forest law enforcement must be adequately resourced and backed by appropriate technology, so that operators are properly monitored and held to account for breaches of the law.

ITTO can assist member countries to put in place some of these elements, through, for example, support for the establishment of log-tracking systems (see page 14) and the review and revision of forest legislation. Country missions (such as that undertaken recently in Thailand—page 6) can also assist in identifying problems and catalyzing change. The very act of requesting such an independent mission to investigate obstacles to SFM is an indication of a country's willingness to accept constructive criticism and undertake required changes.

The next such independent mission will be dispatched by ITTO to PNG in early 2007.

Despite these and many other avenues of international assistance, most conflicts over forest resources will be resolved domestically. While it can be difficult and frustrating, one of the key messages arising from the work of ITTO and others in this field is the necessity of involving all stakeholders, including local community groups, in decisions over forest resources. Conflicts will be best resolved by processes that give equal access to all stakeholders, even to the extent of assisting marginalized parties to make their cases.

One of the other prerequisites for effective conflict resolution is transparency. We know from experience how difficult it can be to obtain reliable information on what is happening in the forest, the mill and the market, yet it is imperative that the claims and counter-claims of all stakeholders should be backed as much as possible by primary data. All stakeholders can contribute to the pool of information, and such contributions will always be more credible when they are made in a transparent way.

Any international process for defining legality in the context of the international timber trade is unlikely to fare well: sovereign nations are understandably touchy about the involvement of outsiders in domestic law. Each nation must provide its own definition—through its legislative processes—and convince markets that its laws are being adhered to.

Countries that undertake wide-ranging, all-inclusive and well-informed consultations on issues of forest legality are most likely to find, if not consensus, at least solutions that are equally acceptable (or unacceptable) to all. And, ultimately, they are most likely to gain purchase in the rapidly evolving international timber market.

**Steven Johnson
and
Alastair Sarre**

Cover image Logs marked for export in PNG. *Photo: SGS*