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Harming PNG: Australia's Illegal Logging Prohibition Bill

*A PNGFIA Submission to the Australian Senate's exposure draft and
explanatory memorandum of the Illegal Logging Prohibition Bill 2011*

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Recommendations

The Papua New Guinea Forest Industries Association (PNGFIA) welcomes effective measures to combat trade in illegally logged timber. Illegal logging undermines the productivity, sustainability and reputation of legitimate forestry industries.

However the draft legislation tabled before the Australian Senate Committee has a number of significant shortfalls: in its current form, it is not an effective measure.

Proportionality should be the basis of sound government regulation. In this case, the legislation does not stand up to principle - the risks of illegal timber entering Australia simply do not warrant the costs involved in imposing heavy handed regulation.

In its draft form, the legislation has the potential to cause a number of perverse effects with harmful repercussions. Papua New Guinea (PNG) relies significantly on the economic contribution of the forestry sector. Restricting imports from PNG and raising the costs for legitimate operators will cause significant harm to PNG's economic development. It penalises legitimate operators, meanwhile doing little to combat illegal loggers.

The PNG forestry industry already acts responsibly under robust domestic legislation and export monitoring procedures. Accusations of rampant illegal logging in PNG are part of a misleading campaign against PNG's forest industry by environmental campaign groups.

The PNGFIA notes with disappointment a lack of local consultation throughout the development of this legislation. This submission is intended to breach such shortcomings. In response to the Senate's call for submissions, the PNGFIA recommends:

- 1. That final legislation reflect the findings of the report 'A Final Report to inform a Regulation Impact Statement for the proposed new policy on illegally logged timber' produced by the Centre for International Economics for Department of Agriculture, Fisheries and Forestry (DAFF). This assessment effectively shows that the risk of illegal wood products entering Australian markets is not proportional to the costs of implementing current draft legislation and recommends implementing a 'quasi-regulatory' approach.*
- 2. That any final legislation should recognise the International Tropical Timber Organization's definition of illegal logging: "harvesting, transporting, processing, and trading of forest products in violation of national laws", and that any final legislation recognise the legal sovereignty of partner countries such as PNG, and respect partner country legal and regulatory frameworks.*
- 3. That Australian efforts to reduce illegal logging focus on developing on-the-ground capacity in targeted forestry industries rather than disproportionate trade regulation. It further*

recommends an approach that integrates Australian aid policy and the development goals of Australia's development partners such as PNG is required.

The current draft legislation will do little to reduce global rates of illegal logging as i) little illegal timber currently enters Australian markets and ii) under the draft legislation, that which does enter would simply be re-directed to alternative markets. Instead it will cause significant harm to the economic development of countries such as PNG, whose legitimate forest producers are penalised; along with the significant population that relies on the industry's economic contribution.

- 4. That if Australia decides to continue with this heavy handed regulatory approach, independent third party verification schemes should be officially recognised as an effective method of demonstrating legality. The PNGFIA further recommends that such schemes, especially SGS's timber legality traceability and verification (TLTV) standard for PNG, be recognised in the legislation. It is also important that any legislation recognise the range of credible schemes in existence; and that choosing from amongst credible schemes is a commercial decision best left to the discretion of the forest operator.*

Acronyms

CIE	Centre for International Economics
COC	Chain of Custody
DAFF	Department of Agriculture, Fisheries and Forestry
FAO	Food and Agricultural Organisation of the United Nations
FSC	Forest Stewardship Council
GDP	Gross Domestic Product
ITTO	International Tropical Timber Organisation
PNG	Papua New Guinea
PNGFIA	Papua New Guinea Forest Industries Association
RIS	Regulatory Impact Statement
SGS	Société Générale de Surveillance
TLTV	Timber Legality Traceability Verification
VLC	Verification of Legal Compliance
VLO	Verification of Legal Origin

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Introduction

The Australian Government has introduced draft legislation that aims to ban illegal timber imports into the country. The following submission outlines the PNGFIA's concerns relating to the draft legislation.

The Illegal Logging Prohibition Bill 2011

The Australian Government's Department for Agriculture, Fisheries and Forestry (DAFF) placed before the Senate Standing Committee an Exposure Draft of the *Illegal Logging Prohibition Bill* on 23 March 2011.

The purpose of the Bill is to *"reduce the harmful environmental, social and economic impacts of illegal logging by prohibiting the importation and sale of illegally logged timber products in Australia."*

The Bill prohibits the importation of illegally logged timber and timber products that contain illegally logged timber. It aims to achieve this by:

- Restricting importation of products to those approved by the Minister, or a timber industry certifier.
- Requiring importers of regulated products and domestic processors of raw logs to meet legal logging requirements.
- Requiring accurate information to confirm the legality of logged timber products being placed into the Australian market; and
- Introducing monitoring and enforcement powers to ensure compliance with the legislation, including the appointment of officers to undertake necessary duties.

The draft Bill has not yet been finalised and may be altered before being tabled in Parliament for consideration. The following submission serves to inform these considerations.

The PNGFIA

The Papua New Guinea Forest Industries Association (inc.) is an incorporated association of companies involved in all levels of operation in the PNG forestry industry. The PNGFIA is PNG's peak forestry industry association, representing the general interests of the forest industries sector. The PNGFIA is committed to the responsible use of forest resources for the benefit of PNG, and supports efforts to encourage sustained forest industries in PNG.

1. Proportionality in Regulation

Sound government regulation should be based on a principle of proportionality – in this case, that the risks of illegal timber entering Australia are weighed against the costs involved in imposing regulation. The current draft legislation does not conform to this principle.

Overstated Rates of Illegal Logging

The draft legislation mistakenly presumes high global levels of illegal logging and related trade. This is based on obsolete data with a high margin of error. The dominant source informing the draft legislation is a study produced by consultants Seneca Creek and commissioned by the American Forest Product Association.¹ This study suffers from a number of limitations, yet it is being used as a justification for Australia to regulate trade in illegally logged timber.²

Seneca Creek (2004) is based on out-dated, unrepresentative and often biased data sources, which leads to overestimated rates of illegal logging. More recent research indicates that global rates of illegal logging are less significant. Chatham House, a respected UK research institute, has found rates of illegal logging have fallen by as much as 75% over the last decade.³ The reasons for this are somewhat unclear: it may be as a result of poverty reduction and increasing affluence in a number of tropical forested countries; improved enforcement measures; or recent advancements in remote sensor technology that allow more accurate assessments and monitoring of forest resources. Alternatively, there is a high likelihood that the initial benchmark data used by Seneca Creek was inaccurate. Whatever the case, it appears that the issue of illegal logging figures disproportionately in policymaking circles.

Heavy Handed Regulation

This was effectively the conclusion drawn by a report commissioned by the Australian Government to inform a Regulatory Impact Statement (RIS).⁴ The report, undertaken by consultants - Centre for International Economics (CIE) - found that trade restrictions would be ineffective, expensive, and largely unwarranted.

The CIE found that Australia's imports account for around 2.5% of world timber trade; and only 0.034% of global timber production. Using the Seneca Creek estimates of global illegal logging rates, the CIE calculated Australian imports may account for 0.34% of products incorporating illegally logged timber.

Simply put, any measure to restrict importation of illegal timber imports - no matter how stringent or costly - has the potential to reduce global illegal logging by only 0.34%. In reality, even this figure is overstated as unilateral steps would likely divert illegally sourced products to other markets rather than eliminate it altogether.

¹ Seneca Creek Associates, LLC & Wood Resource International, *"Illegal" Logging and Global Wood Markets: The Competitive Impacts on the U.S. Wood Products Industry*, (2004)

² The Parliament of the Commonwealth of Australia, *Illegal logging Prohibition Bill 2011 Explanatory Memorandum*, (2011)

³ Chatham House, *Illegal Logging and Related Trade: Indicators of the Global Response*, (2010)

⁴ Centre for International Economics, *A Final Report to inform a Regulatory Impact Statement for the proposed new policy on illegal logged timber*, (2010)

CIE advised against implementing heavy handed trade restrictions as the implementation costs and benefits of taking action were not proportional to the risk that illegal products would enter Australia. In what appears to be an unusual legislative development process, DAFF chose to disregard these findings and commissioned a second study to inform the RIS.

This was undertaken by the Australian Government's research facility, Australian Bureau of Agricultural and Resource Economics (ABARE). The report claimed to "supplement" the initial RIS analysis performed by the CIE. The ABARE report justifies many of the recommendations made in the final RIS that conflicted with the CIE's findings.

The final RIS recommended that the Government utilise a due diligence approach despite findings by CIE recommending a 'quasi-regulatory' or voluntary approach.

RECOMMENDATION: The PNGFIA recommends that final legislation reflect the findings of the report 'A Final Report to inform a Regulation Impact Statement for the proposed new policy on illegally logged timber' produced by the Centre for International Economics for Department of Agriculture, Fisheries and Forestry (DAFF). This assessment effectively shows that the risk of illegal wood products entering Australian markets is not proportional to the costs of implementing current draft legislation and recommends implementing a 'quasi-regulatory' approach.

2. Respect for Legal Sovereignty

The PNG forestry industry already acts responsibly under robust legislation and export monitoring procedures. Accusations of rampant illegal logging in PNG are part of a misleading campaign against PNG's forest industry that does not reflect the facts. Australia must recognise the sovereignty of PNG existing legislation through an appropriate definition of illegal logging.

PNG Industry Regulations

The draft legislation outlines provisions for potentially costly systems. It is unlikely these costs can be passed onto the consumer. Despite the high costs involved in the Australian Government's regulatory approach, there is currently little risk of illegal timber from PNG entering Australia.

PNG industry is governed by robust forestry legislation. PNG's current legislative forestry framework has the main elements required to ensure that forestry operations in the country are conducted legally. Under this framework, forestry operations must conform to a stringent system that includes:

- The Forestry Act 1991 (as amended);
- The National Forest Policy of 1991 (as amended);
- The National Forest Plan (as amended);
- Forestry Regulations 1998 (as amended);
- Logging Code of Practice; and

Furthermore, PNG has a comprehensive set of conservation and environment protection laws, including the Environmental Planning Act. Any application for a timber permit under the Forestry Act must be accompanied by an environmental plan approved under this Act.

The United Nations Food and Agricultural Organisation (FAO) commissioned an assessment of PNG's forest legality framework in 2002. The consultant involved in the assessment found PNG's forestry and environment protection laws to be "comprehensive".⁵

PNG Industry Monitoring

PNG's legal requirements are monitored through an independent, third-party export monitoring system. This system demonstrates that accusations of widespread illegality in PNG's timber exports are baseless.

Under the monitoring system, all log exports are independently checked for species, measurement, volume, taxes and royalties, validity of harvesting permit and validity of export permits and licences. The system is carried out by Société Générale de Surveillance (SGS), a respected provider of inspection, verification, testing and certification services. SGS is contracted to the Government, making PNG one of the few tropical countries in the world to adopt an arms-length log export monitoring system.

Since its implementation in 1994, the independent monitor has not uncovered any large-scale log smuggling in the PNG's log export trade. Though the monitoring system does not provide a

⁵ Jim Fingleton *Regional Study of Pacific Islands Forestry Legislation*, FAO Legal Papers Online, (2002)

guarantee that all forestry activities in PNG are legal, it does provide verifiable proof that allegations of widespread illegality and log export smuggling are spurious.

Rather, these spurious allegations are based on dubious data. For instance, Seneca Creek estimated that 70% of PNG timber was illegally logged based on an assumption that PNG and Indonesia have identical rates of illegal logging. The researchers ignored the fact that PNG is a separate country with individual forest legislation and a distinct forestry sector. Even if one were to assume identical illegal logging rates, the Indonesian estimate is likely to be grossly overstated (itself being based on data sourced from environmental campaign groups). These overstated estimates have allowed campaigners to make grandiose statements about illegality in PNG's forestry sector. They have been effectively critiqued, and are quite plainly inaccurate.⁶

Defining Illegal Logging

Environmental campaigners have also arrived at overstated estimates of illegal logging rates in PNG by applying unreasonable definitions of illegal logging. By using broad definitions that encompass areas of responsibility which are beyond the mandate of the forestry industry and the appropriate regulatory authorities, campaigners have attempted to discredit the industry. Based on these definitions, commercial harvesting activities in almost all countries in the world could be considered 'illegal' in one way or another.

The PNG Forest Authority (PNGFA) defines illegal logging as "harvesting, transporting, processing and trading of forest products in violation of national laws". This is based on the definition accepted by the FAO and ITTO and reflects inter-governmental consensus. Australia is a member of the ITTO, and as such, should endorse this definition. This approach - assessing legality against the legislation existing in the country of origin - is also consistent with the European Union's proposed timber import regulations.

Commercial forest activities should be assessed against this definition, rather than that of environmental campaigners. Currently the Bill adequately defines "illegally logged" as that which is "harvested in contravention of laws in force in the place (whether or not in Australia) where the timber was harvested."⁷

It is important that the Bill does not expand the definition to impose foreign requirements beyond the scope of PNG's legislation. In a democratic country such as PNG, legislation and policy is developed to reflect national interests. Australia must recognise PNG's national sovereignty and laws, and not seek to impose their own requirements.

Until now, the PNG forestry industry has operated responsibly under these legislative requirements. The annual sustainable log harvest has never been exceeded, while the most accurate studies of deforestation rates indicate that forest resources are being utilised at sustainable rates.⁸ At the same time PNG has established effective forest conservation measures and has allocated significant

⁶ See for instance: Tim Curtin, 'What Constitutes Illegal Logging?', *Pacific Economic Bulletin* vol. 22, pp. 125-134 (2007)

⁷ The Parliament of the Commonwealth of Australia, *Illegal Logging Prohibition Bill 2011 Exposure Draft*, (2011)

⁸ Colin Filer, Rodney Keenan, Bryant Allen and John McAlpine, 'Deforestation and Forest Degradation in Papua New Guinea', *Annals of Forest Science* vol.66, pp.813-826 (2009)

forest resources as protected areas.⁹ PNG's environmental indicators reflect a sustainable industry that contributes significantly to the PNG economy and national development.

RECOMMENDATION: The PNGFIA recommends that any final legislation should recognise the International Tropical Timber Organization's definition of illegal logging: "harvesting, transporting, processing, and trading of forest products in violation of national laws", and that any final legislation recognise the legal sovereignty of partner countries such as PNG, and respect partner country legal and regulatory frameworks.

⁹ Department of Environment and Conservation, *Papua New Guinea's Fourth National Report to the Convention on Biological Diversity* (2010)

3. Harm to PNG Development

PNG relies significantly on the economic contribution of the forestry sector. Australian legislation restricting PNG imports will cause significant harm to PNG's economic development. Furthermore, legislation will do little to achieve its intended goals of reducing illegal logging.

Illegal logging in PNG

The effect of Australian legislation regulating timber imports has significant consequences for PNG. Australia is a significant market for PNG timber exports, accounting for over half of all processed timber exports (including plywood, sawn timber, mouldings, and furniture components). But by restricting imports from legitimate forest operators, Australian legislation has the potential to harm PNG development.

The PNGFIA is strongly committed to combatting illegal logging. Illegal logging undermines the financial viability of the legal forest products industry; it raises consumer aversion - which is further compounded by misleading environmental campaigns - to the use of tropical timbers; it impedes efforts to achieve rural based growth, employment and poverty alleviation. It is often associated with odorous labour conditions and environmental degradation. Where illegal logging is allowed to prosper, legal forest operations often face declining returns as they are unable to compete with the lower cost illegal activities. As legal forest operators and activities are restricted, a perverse incentive for forest owners to seek higher returns from alternate land use activities – such as agriculture - is created. This can drive permanent forest conversion.

Illegal logging works against the goals of PNG's forest industry. There is a need to eradicate the phenomenon. However, Australian legislation serves to harm PNG development without combating incidences of illegal logging.

The Economic Contribution of PNG's Forest Industry

The forest industry is a significant contributor to PNG's economic development. Export taxes on logs account for 3% to 6% of all tax. Between 1990 and 2005 such taxes represented an average of around 30% of all development expenditure by the national government. It is estimated that PNG's forestry industry contributes between 5% and 9% to national GDP.¹⁰

Furthermore, the forestry industry is one of the few industries that operate in - and directly support - remote rural areas. The industry creates one of the few opportunities for rural communities to enter the formal workforce. Employment benefits, such as income, are further supplemented by royalties paid to land owners for access to the natural resources located on their land. Forest companies create basic infrastructure such as roads, housing, medical facilities and schools, that often form the only infrastructure spending in remote communities.¹¹ This contribution is particularly significant given PNG's failing development indicators.

¹⁰ ITS Global, *The Economic Importance of the Forest Industry to Papua New Guinea*, (2006)

¹¹ PriceWaterhouseCooper, *Economic Analysis and Potential of PNG Forestry Industry*, (2006)

Effects on the PNG Industry

Rather than assisting PNG development, the proposed legislation will harm the significant number of people that rely on PNG's forestry sector. In effect the proposed legislation will close the Australian market to those most deserving of a 'jump start': small-scale forest operators operating legally in developing countries such as PNG.

The draft legislation places the onus to verify legality on the forest operator. The costs of verifying legality can be high regardless of the legality of the forestry operations. These costs are often considerably higher for forestry operators in developing countries, due to high implementation costs, weaker local infrastructure and a lack of demand for legality verification by domestic consumers.¹² Depending on the scale of the operation, these costs can render legality verification economically implausible.

There are examples in PNG where forestry operations have managed to absorb the costs of certification. However, these tend to be large-scale operations run by dominant industry actors with access to capital, high levels of forestry expertise and advanced business infrastructure.

Forestry smallholders - such as family or village forest operators - are unlikely to be able to absorb such costs and lack the technical capability and manpower to implement certification. These, rather than the isolated operations of illegal loggers, are the individuals who will most suffer from the legislation. PNG's small number of illegal operators - already restricted by PNG's export monitoring scheme - are linked to domestic markets and are already unlikely to export produce to Australia from the outset.

Lack of Local Consultation

The negative consequences to small forestry operators in developing countries resulting from the draft legislation may have been noted and avoided, had adequate consultation taken place during its preparation. The PNGFIA believe this legislation has been developed in a method inconsistent with Australian government guidelines and best practice. The PNGFIA is disappointed to note lack of local consultation throughout the process.

The Australian Government is committed to "meaningful consultation with key stakeholders" as outlined in the Government's *Best Practice Regulation Handbook*.¹³ These guidelines outline provisions for effective consultation, specifically referring to industry associations as a target for consultation.

Despite this guidance, DAFF did not consult the PNGFIA during the development of the draft legislation. More so, at no point was PNG's supreme policy advisory to the forestry Minister – PNG's National Forest Board - consulted. The oversight is alarming; if PNG's dominant industry association and policy advisory body were not consulted, one can reasonably assume smaller organisations and individuals were given insufficient opportunity to express their positions.

¹² Axel Marx and Dieter Cuypers, 'Forest Certification as a Global Environmental Governance Tool. What is the Macro-impact of the Forest Stewardship Council?', *Regulation & Governance* vol.4, pp. 108-434 (2010)

¹³ Australian Government, *Best Practice Regulation Handbook*, (2010)

Australian Government Engagement with PNG Forest Industries

From the industry's perspective, it appears as though the Australian Government has avoided engaging with the forest industry in Papua New Guinea, despite potentially positive outcomes for both groups.

In 2008 the PNG forestry industry – through the PNGFIA – commenced negotiations with the DAFF and AusAID to implement internationally recognised legality verification systems for PNG's timber exports.

The objective was to have this activity placed under the auspices of Phase I of the Asia-Pacific Forestry Skills and Capacity Building Program (APFSCB), which specifically addressed the need for improvements to forest governance and illegal forest activity.

The concept for proposed activity would have directly addressed the issue that the proposed legislation seeks to address: illegal harvesting of timber.

While the PNGFIA and other stakeholders in PNG's forest industry - including PNG government agencies and regulatory bodies - were keen for these negotiations to continue, DAFF and AusAID had an abrupt change of heart, and negotiations ceased.

It should also be noted Phase II of APFSCB effectively removed any attempts to address illegal logging or legal verification of harvested timber.

Any such work under the APFSCB would have proved an invaluable addition to work undertaken jointly between the PNGFIA and the International Tropical Timber Organisation (ITTO), which developed and implemented pilot chain-of-custody and Timber Legality Traceability and Verification (TLTV) schemes for Papua New Guinea. Much of this work utilised the expertise of Australian forestry professionals.

In 2009, Australia and PNG signed a Memorandum of Understanding (MoU) on forestry. The document has never been released publicly by either the PNG nor Australian governments.

However, the PNGFIA understands that Parties agreed to:

- identify the capacity building needs for the industry in Papua New Guinea to expand;
- facilitate processes to develop certification schemes; and
- pursue further ways to collaborate through intergovernmental bodies, such as the ITTO;
- improve knowledge sharing between forestry professionals in both countries.

It should be noted that in developing its pilot CoC and TLTV schemes, the industry in PNG and the ITTO:

- identified a capacity shortage within the country, i.e. legality verification;
- facilitated the development of certification of legality;
- sought this opportunity through an intergovernmental body; and
- utilised Australian professional forestry expertise in PNG.

The PNGFIA considers it most disappointing that the Australian Government chose not to engage with the industry further, which would have assisted both the PNG forest industry and the Australian Government in their attempts to address illegal logging.

RECOMMENDATION: The PNGFIA recommends that Australian efforts to reduce illegal logging focus on developing on-the-ground capacity in targeted forestry industries rather than disproportionate trade regulation. It further recommends an approach that integrates Australian aid policy and the development goals of Australia's development partners such as PNG is required

The current draft legislation will do little to reduce global rates of illegal logging as i) little illegal timber currently enters Australian markets and ii) under the draft legislation, that which does enter would simply be re-directed to alternative markets. Instead it will cause significant harm to the economic development of countries such as PNG, whose legitimate forest producers are penalised; along with the significant population that relies on the industry's economic contribution.

4. Third Party Audit Systems

Independent third party audit systems are the most effective way of demonstrating timber legality. Any final legislation should therefore recognise credible legality verification schemes. Legislation must also recognise that a range of credible legality schemes operate; and that choosing between credible schemes is ultimately the forest operator's commercial decision.

Timber Legality Schemes

The PNGFIA believe the best way of ensuring that timber imports are legal is through creditable and independent third party audits. This view has itself been publically supported by high level Australian officials such as the Australian Minister for Forestry, Senator Ludwig.¹⁴

There are a number of robust schemes that operate globally. The variety of credible schemes reflects the specific conditions of national forestry industries, and the unique national interests of forested countries.

In PNG, voluntary legality and chain of custody verification schemes have been welcomed by the forestry sector. Currently the dominant operating scheme is SGS' Timber Legality Traceability Verification (TLTV), which includes Verification of Legal Origin (VLO) and Verification of Legal Compliance (VLC) within the standard. At this stage, five member companies of the PNGFIA are TLTV certified or in the process of gaining certification. FSC's 'Controlled Wood' certification also currently functions in PNG as a legality verification scheme.

The TLTV system is an environmental management standard specifically addressing issues of legality in PNG's forest sector.¹⁵ The standard was developed with stakeholder consultation - including environmental NGOs - to address the following issues:

- 1) National laws relating to business conduct
- 2) Necessary approvals and authorizations
- 3) Social obligations towards local communities and workers' rights
- 4) Environmental obligations required by national and international laws and regulations
- 5) Up-to-date payment of taxes and required financial transparency
- 6) Compliance with forest harvesting regulations
- 7) Compliance with processing transport and trade regulations
- 8) Maintenance of registers containing relevant acts, codes of practice and disputes
- 9) Requirements for chain of custody system to monitor products throughout the whole supply chain

A forest product with TLTV certification effectively guarantees operations conform to PNG's legal requirements throughout all stages of production. Certification against this legality standard is performed by a 'third party' in order to provide assurance that the operator is complying with relevant legal requirements. Under TLTV requirements, a certified operator must assume regular auditing, continuous monitoring and verification of their wood production and tracking information.

¹⁴ Timber and Forestry e-News, 'Third party certification market requirement', issue 166, pp. 12, 28 March (2011)

¹⁵ SGS, *Timber Legality and Traceability Verification (TLTV) Standard for Papua New Guinea*, (2008)

The TLTV is a robust legality verification system. It rated highly in the report commissioned by the Australian Government to inform the development of a framework for recognising legality verification and chain of custody schemes. TLTV “ranked highly in terms of rigour and robustness” for chain of custody, and was deemed a highly rigorous scheme in terms of legal verification.¹⁶

The ITTO has also supported the development of TLTV in PNG. In 2007 the ITTO assisted by co-funding the first pilot system of TLTV certification in PNG through their ‘Initiative on Timber Tracking for Private Sector Companies’.¹⁷ Australian retailers have since embraced the scheme, with prominent retailers such as *Bunnings* giving their endorsement.¹⁸ Australian legislation and policy should reflect this consensus.

It is important that the final legislation recognise the existence of a range of credible independent legality audit schemes. The choice of which scheme to utilise – assuming it adheres to adequate technical capability - should be the forest operators, and not the Australian Government’s. This is a decision based on commercial factors and local considerations.

For the forestry operator, the cost of gaining certification often depends on local infrastructure, capacity, and manpower. Depending on the local context, it may simply not be viable to apply a specific audit scheme regardless of operator legality.

Furthermore, there is little consistency between the different approaches taken by national governments to regulate trade in illegal timber. If each national government were to require certification under a specific scheme, the high costs of certification would impose onerous costs upon legitimate forestry operators, effectively reducing access to global markets. The proposed Australian legislation should serve to avoid this scenario by allowing forestry operators flexibility to choose between credible third party audit schemes best suited to intended export markets.

RECOMMENDATION: The PNGFIA recommends that if Australia decides to continue with this heavy handed regulatory approach, independent third party verification schemes should be officially recognised as an effective method of demonstrating legality. The PNGFIA further recommends that such schemes, especially SGS’s timber legality traceability and verification (TLTV) standard for PNG, be recognised in the legislation. It is also important that any legislation recognise the range of credible schemes in existence; and that choosing from amongst credible schemes is a commercial decision best left to the discretion of the forest operator

¹⁶ URS Australia, *Legal Forest Products Assurance: a framework for differentiating legality verification and chain of custody schemes* (2010)

¹⁷ Bob Tate, *Trade in Challenging Times - a role for the ITTO?* (2008)

¹⁸ Bunnings, *Timber and Wood Products Purchasing in Australia Policy Review Update* (2006)

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