

## *Chapter 10*

### **Sustainability Labels for Wood and Wood Products**

This chapter describes a Dutch bill to make registration of the origin and production process of wood and wood products compulsory. It reflects the Dutch government's and the country's "green" party's wish to reduce the pressures on forests, and particularly tropical forests.

## Introduction

The Netherlands is the world's tenth-largest importer of wood and wood products. More than 90% of its total apparent consumption of sawn wood is imported, and about 12% of these imports come from tropical forests (Institute of Forestry and Forest Products *et al.*, 2004). Important developing-country suppliers from outside the EU include Malaysia, Indonesia, China, Brazil and Cameroon (UN Commodity Trade Statistics Database, <http://unstats.un.org/unsd/comtrade/>).

In 1994, legislation was proposed in the Netherlands, by a member of the political party Groen Links, to make registration of the origin and production process of wood and wooden products compulsory. It would also have required the labelling of imported products and restricted trade in wood and wooden products produced in a non-sustainable way. Following notification to the European Commission, sponsors of the bill revised their proposal, stripping it of the import ban on non-sustainable wood. The 1998 version of the bill would have obliged sellers of wood products to keep records of the origin of those products and, later, mark them either with a positive label ("sustainable forest management guaranteed") or a negative one ("sustainable forest management not guaranteed"). The certification needed to obtain the positive label would have used criteria very similar to that of the Forest Stewardship Council (FSC).

In 1998, the revised proposal was re-notified to the European Commission and newly notified to the WTO, prompting many negative responses from EU member states and several members of the WTO. The sponsor of the bill subsequently revised the bill in 2003. The bill now omits the previous requirement of a mark on wood products for which it cannot be demonstrated that they originate from an area that produces wood using sustainable methods and calls instead for the creation of a voluntary certification and labelling scheme.

## Development of the environmental measure

Since the early 1990s the Dutch government has been trying to reduce the pressure on forests, particularly tropical forests, created by its consumers' imports of wood and wood products. (The Netherlands' domestic production of forestry products is less than 10%.) The government is particularly concerned about the links between forest management practices and biodiversity, deforestation and climate change.

Initially the government pursued its policies through a combination of voluntary initiatives, financial support for improving reforestation strategies, and active participation in international negotiations. However, voluntary measures and the various national programmes to stimulate the demand for and supply of sustainable wood appeared to be having minimal effect.<sup>1</sup> In 1999, only 1% of the timber used in the Netherlands was certified as having come from forests that had been certified as sustainable. Moreover, the Dutch consumer market for wood and wooden products suffers from a lack of transparency and inadequate or even at times incorrect consumer information, such as misleading sustainability claims.

Responding to what it saw as the failure of existing measures, in 1994 a Dutch political party, *Groen Links* (Green Left), proposed legislation on the labelling of wood

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1. For example, the International Tropical Timber Organisations (ITTO) goal to limit timber trade to sustainable timber by the year 2000 has not yet been reached.

and wood products. The bill was initially based on a ban which was to enter into force on 1 January 2000, and which was aimed at the import, placing on the market and further trade in non-sustainably produced wood. This ban was to be preceded by a regime that would become progressively more stringent: until 1 January 1998, the import or placing on the market of wood would require a declaration of its origin; after this date, there would be an obligation to keep records; with effect from 1 January 1999, an approved management plan for the area would also be obligatory and, finally, with effect from 1 January 2000, an obligatory certificate for the wood would be required. Wood that could not be shown to have been produced sustainably would from that date have been banned. This date was not unintentional: it was meant to support a goal of the International Tropical Timber Organisation (ITTO) that all trade in tropical timber by the year 2000 should come only from sustainably managed forests.

In 1995 the Dutch government, pursuant to its EU obligations, notified the proposed legislation to the European Commission. The Commission and other EU member countries objected to the import ban, and The Netherlands Government withdrew its notification. The sponsors of the bill then considerably amended it. In addition to making the various obligations effective at a later date, they also made them less stringent. For example, the obligatory management plan was replaced by an obligation to apply a label to the product, showing whether an approved management plan was in place. And, most importantly, the ban on importing or trading in wooden products if they originated from an area where production did not take place in a sustainable manner was removed.<sup>2</sup>

Under the revised proposal, with effect from 1 July 1999, somebody placing a wooden product on the market for the first time in The Netherlands would have had to keep a record of the origin of the products. Six months from that date (*i.e.* with effect from 1 January 2000), all wooden products placed on the Dutch market would have had to bear a mark indicating either that the product originated from an area subject to an approved management plan or that it did not. This management plan would have had to be approved by a body recognised by the Council for Accreditation, which itself would be responsible to the Minister for Housing, Spatial Planning and the Environment; producers would not have been restricted to using only Dutch certification organisations, however.<sup>3</sup>

The proposal based its certification criteria on those of the FSC, and even included the FSC's criteria in it in a way that allows regional or location-specific characteristics to be taken into account. Existing initiatives, of which the FSC certification is the best known, are of a voluntary nature. The FSC is considered (by the author of the Dutch proposal) to be the most widely supported certification initiative for sustainable forest management, enjoying support from companies, governments and NGOs. In this way, it was hoped, the Dutch initiative could be linked to all FSC initiatives around the world.

In 1998 the amended bill was then re-notified to the European Commission and to the WTO's Committee on Technical Barriers to Trade. Following further reactions to the

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2. Apparently, the possibility of banning non-sustainable wood in future was not ruled out entirely. According to Bercken (2000), the 1998 version of the bill contained a clause that required the Minister of Housing, Planning and Environment to undertake an assessment of the measure a few years after its implementation; should the measure prove to be ineffective, the government would be authorised to consider instituting a ban on sales of non-sustainable wood.
  3. A few exceptions to the rules would have been allowed where labelling would be impossible or would lead to unwanted environmental effects. It would not be required for products with a minor wood content (so-called "complex products"), for example, for products like toothpicks and matches, or for recycled wood and recycled paper.

proposal, the bill was further amended and discussed in the Lower House (*Tweede Kamer*) of Parliament. The newly revised bill was passed by the Lower House in April 1998. In February 2000 the bill's deadline for the obligation to keep records concerning the origin of the products was changed to 1 July 2001, and the deadline for the obligation for wooden products placed on the Dutch market to bear a mark indicating either that the product originated from an area subject to an approved management plan or not was changed to 1 January 2002.

### Trade issues and developing-country responses

Although the measure had not yet been implemented, early versions of the bill attracted much criticism from developed and developing countries alike.<sup>4</sup> Countries argued that the initiative is a violation of The Netherlands' obligations under international trade law, notably the General Agreement on Tariffs and Trade (GATT) of 1994 and the Technical Barriers to Trade (TBT) Agreement. The European Commission also stated that the bill would contravene EU regulations. The objections relevant to developing countries may be summarised as follows:

- The measure was disproportional, considering its trade impact and environmental benefits.
- Costs of certification would be too high for many small businesses and developing countries; small-scale wood producers in particular would face disproportional costs of certification.
- Countries which do not yet have a system for FSC labelling would be at a disadvantage once the measure is implemented.
- Obligatory labelling would hinder self-regulation and developing countries' own labelling initiatives.
- The measure could have a significant negative impact on people in forest-dependent, rural and indigenous communities.

Malaysia, in its comments, was quite clear in its view that the proposed draft legislation, if implemented, would create a barrier to trade as it would unfairly impede the import of "red" labelled timber and timber products. Including a red (*i.e.* negative) label on wood that has not been certified as being sustainable creates an additional problem: lack of proof of sustainability does not necessarily mean that the wood was not produced in a sustainable way. It means only that the wood has not been *certified* as being sustainable, perhaps only because of lack of awareness of the scheme. Others argued that if encouragement of sustainable forest management is the goal, there is little to be gained from excluding products certified to other credible forest certifications (*i.e.* non-FSC), or indeed non-certified product produced in accordance with sustainable forest management principles and practices.

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4. Ten EU member states (Germany, Sweden, Belgium, France, Spain, Italy, Austria, Finland, Portugal, United Kingdom) and the European Free Trade Association (EFTA) responded to the Netherlands' second notification to the European Commission, and six WTO members (Canada, Indonesia, Malaysia, Norway, Poland and Thailand) responded to its WTO notification.

## Responses to developing-country concerns

The main sponsor of the Dutch proposal, Marijhe Vos, MP, has responded in writing to these critics by pointing out that the costs of certification would be low compared with the revenues from timber earned by the producing companies. However, she acknowledged that very small-scale wood producers might be disadvantaged. In response, Ms. Vos revised the bill to include an explicit measure to help defray the costs for small-scale wood producers: group certification, a system whereby one certificate is obtained for all members of a group. By means of group certification, the producers would be able to pool costs, logistics and administrative burdens. The system of group certification is also allowed by the FSC and has been applied successfully in several countries, including Germany, Switzerland, the Solomon Islands and the United Kingdom (England and Wales).

The Dutch upper house discussed the Vos bill at its plenary sessions in April and July 2002. It considered that the bill, and in particular the obligation on negative labelling, would very likely be in violation of EU and WTO legislation, and thus decided that the bill would not be acceptable. Ms. Vos announced that the bill would be amended, as it eventually was. In 2003, the bill was amended yet again (Parliamentary documents II, parliamentary term 2002-03, 28 631, nrs. 4, 5 and 7), and the impact the measure would have on the internal market was considerably reduced. In April and June 2004 the main elements of its proposed measures (<http://alpha.lsd.lt/lt/doc/20040087.EN.txt>) were notified, respectively, to the WTO (G/TBT/N/NLD/62) and the European Commission.

In the meantime, the Minister for Housing, Spatial Planning and the Environment began work on drawing up a model for a certificate for sustainably managed forests, for a certificate for tracing systems for sustainably produced wood and for a mark indicating that the wood to which it has been applied has been produced by sustainable methods (for details see the aforementioned notifications). A broad variety of environmental organisations and organisations for indigenous people were consulted, as well as organisations representing the forestry and the forest-based products industry (Institute of Forestry and Forest Products *et al.*, 2004). A draft set of assessment guidelines and an assessment protocol were produced in 2003, and in 2004 these were evaluated in different pilots. The results of these trials were discussed with various stakeholders before the documents were finalised in late 2004. The measure is expected to be adopted early in 2005.

## Concluding observations

It is clear that early versions of the draft legislation on the labelling of wood and wood products proposed by the Dutch Parliament raised a number of issues, including proportionality, the consistency of the measure with the Netherlands' international trade obligations, and the possibility that the proposal would undermine its own environmental objectives by encouraging consumers to move towards non-renewable building materials. However, the Dutch government duly notified the WTO of this proposed measure and responded to many of the comments and criticisms by amending the bill, not just once but twice. In this case, in other words, the process seems to have worked as intended.

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- Information from *Milieudefensie*, Mrs. Hilde Stroot, September 2001.

## Acronyms

APHIS	Animal and Plant Health Inspection Service (US)
AQIS	Australian Quarantine and Inspection Service
ASEAN	Association of South-East Asian Nations
BAuA	Federal Institute for Occupational Safety and Health (Germany)
BGA	Federal Health Office (Germany)
BMZ	Ministry of Economic Co-operation and Development (Germany)
CAA	Clean Air Act (US)
CASCO	Committee on Conformity Assessment (ISO)
CBI	Centre for the Promotion of Imports from Developing Countries (Netherlands)
CFC	Common Fund for Commodities
CFC	Chlorofluorocarbons
COLEACP	Europe-Africa-Caribbean-Pacific Liaison Committee
CREM	Consultancy and Research for Environmental Management (Netherlands)
CsC	Commonwealth Science Council
CSE	Centre for Science and Environment (India)
CTE	Committee on Trade and Environment (WTO)
CTF	Consultative Task Force (UNCTAD)
DSB	durian seed borer
EEA	European Economic Area
EFTA	European Free Trade Association
EIA	environmental impact assessment
EPA	Environmental Protection Agency (US)
EPE	European Partners for the Environment
ESA	Endangered Species Act (US)
FAO	Food and Agriculture Organization (UN)
FDA	Food and Drug Administration (US)
FDI	foreign direct investment
FSC	Forest Stewardship Council
GAA	Global Aquaculture Alliance
GATS	General Agreement on Trade in Services

GATT	General Agreement on Tariffs and Trade
GTZ	Agency for Technical Co-operation (Germany)
HACCP	Hazard Analysis and Critical Control Point
IAF	International Accreditation Forum
ICSF	International Collective in Support of Fishworkers
IDM	integrated disease management
IFC	International Finance Corporation
IFCO	International Fruit Container Organisation
IFOAM	International Federation of Organic Agricultural Movements
IGEP	Indo-German Export Promotion Project
IGG	Intergovernmental Group on Tea (FAO)
IGO	intergovernmental organisation
IIED	International Institute for Environment and Development
ILAC	International Laboratory Accreditation Cooperation
ILO	International Labour Organization
IOAS	International Organic Accreditation Service
IPCS	International Programme on Chemical Safety
IPM	integrated pest management
IPPC	integrated pollution prevention and control
IRA	import risk analysis
ISEAL	International Social and Environmental Accreditation and Labelling Alliance
ISO	International Organization for Standardization
ITF	International Task Force on Harmonisation and Equivalence in Organic Agriculture
ITTO	International Tropical Timber Organization
IUC	International Union Chemical testing
JAS	Japan Agriculture Standards
JETRO	Japan External Trade Organization
JWPTE	Joint Working Party on Trade and Environment (OECD)
LDC	least-developed country
LOD	lower limit of analytical determination (or limit of detection)
MAFF	Ministry of Agriculture, Forestry and Fisheries (Japan)
MAP	Mangrove Action Project
MEA	multilateral environmental agreement
MLV	maximum limit value
MRA	mutual recognition agreement
MRL	maximum residue limit



MSC	Marine Stewardship Council
NGO	non-governmental organisation
NMFS	National Marine Fisheries Service (US)
NOP	National Organic Program (US)
NOSB	National Organic Standards Board (US)
NTAE	non-traditional agricultural export
ODS	ozone-depleting substance
OFPA	Organic Foods Production Act (US)
PCP	pentachlorophenol
ppm	parts per million
PVC	polyvinyl chloride
RCO	Registered Certification Organisation (Japan)
RFCOs	Registered Foreign Certification Organisations (Japan)
RIA	regulatory impact analysis
SCS	Scientific Certification Systems, Inc.
SGS	Société Générale de Surveillance S.A.
SMEs	small and medium-sized enterprises
SPS	(WTO Agreement on) Sanitary and Phytosanitary Measures
STIC	Sustainable Trade and Innovation Centre
TBT	(WTO Agreement on) Technical Barriers to Trade
TEAP	Technology and Economic Assessment Panel (UNEP)
TED	turtle-excluder device
UNCED	United Nations Conference on Environment and Development
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNIDO	United Nations Industrial Development Organization
USAID	US Agency for International Development
USDA	US Department of Agriculture
VOC	volatile organic compound
WHO	World Health Organization
WSSD	World Summit on Sustainable Development
WTO	World Trade Organization
WTTC	World Travel and Tourism Council

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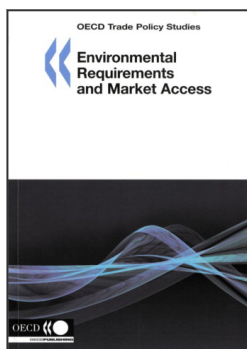
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