



MAKING PUBLIC PROCUREMENT WORK FOR SUSTAINABLE FOREST USE

Excluding Illegal Timber from Uganda's Market



**Godber Tumushabe
Dan Ngabirano
Sophie Kutegeka**

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Authors: Godber Tumushabe, Dan Ngabirano & Sophie Kutegeka

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List of Acronyms

ACODE	Advocates Coalition for Development and Environment.
AU	African Union
CAO	Chief Administrative Officer
CAR	Central African Republic
CBD	Convention on Biological Diversity
CER	Certified Emission Requirements
CFR	Central Forest Reserve
CoC	Chain of Custody
COMESA	Common Market for Eastern and Southern Africa
CSO	Civil Society Organisation
DFO	District Forest Officer
DFS	District Forest Services
DRC	Democratic Republic of Congo
EAC	East African Community
FLEGT	Forest Law Enforcement, Governance and Trade
FSC	Forest Stewardship Council
FSSD	Forest Sector Support Department
GATT	General Agreement on Tariffs and Trade
GPP	Green Public Procurement
IUCN	International Union for Conservation of Nature
LFR	Local Forest Reserve
MCPFE	Ministerial Conference on the Protection of Forests in Europe
NDP	National Development Plan
NEMA	National Environment Management Authority
NEPAD	New Partnership for African Development
NFA	National Forest Authority
PDE	Public Disposal Entity(s)
PDU	Public Disposal Unit
PPDA	Public Procurement and Disposal of Public Assets
REDD	Reducing Emissions from Deforestation and Forest Degradation
SFM	Sustainable Forest Management
UN	United Nations
UNBS	Uganda National Bureau of Standards
UNCED	United Nations Convention on Environment and Development
UNFCCC	United Nations Framework Convention on Climate Change
UNEP	United Nations Environmental Program

URA	Uganda Revenue Authority
UWA	Uganda Wildlife Authority
WSSD	World Summit on Sustainable Development
WTO	World Trade Organization
WWF	World Wide Fund for Nature

Acknowledgement

Uganda is losing its forest cover at alarming rates. This is partly attributed to illegal harvest of forest products including timber. It is reported that 80% of the timber on the Uganda Market is illegally harvested and traded. This phenomenon causes loss of revenue to government, exacerbates global warming and undermines sustainable forest management. This paper explores the opportunities for exclusion of illegal timber from the market. The Advocates Coalition for Development and Environment is grateful to World Wide Fund for Nature (WWF) Uganda Country Office for providing financial support to carry out research and publication of this paper.

During the process of research for this study, the researchers interacted with and interviewed different stakeholders who provided invaluable information that enriched the paper. The authors do

acknowledge and appreciate this support. The researchers also reviewed both published and unpublished literature and all these materials have been referenced to the extent possible.

The authors take responsibility for any misstatements in this report. Any views expressed herein are those of the authors and do not necessarily represent the views of ACODE funders.

Executive Summary

Uganda's forest cover is diminishing at a fast rate. In 1990, the country's total forest cover was estimated at 24%. This had reduced to 18% by 2009 representing a 27% loss in forest cover. Despite deliberate attempts to conserve forests through, among others things, the establishment of institutions and putting in place a fairly favorable policy and legal framework, the worrying trend of depletion is still highly evident. Much of the timber on the market is harvested and sold in total disregard for procedures set under the law. This suggests that both the law and forest institutions have not yielded the much desired goal of forest conservation for the benefit of present and future generations. Forests remain under attack as sources of timber, construction materials, furniture, charcoal, firewood and many other products and services. If not jealously guarded, it is estimated that the country's forest cover will be fully wiped out in the next seventeen years.

Globally, there is a shift from focusing purely on the use of legal avenues to promote forest conservation. Amidst this reality, market based incentives for forest conservation are emerging as credible alternatives. The hunger for profit is the number one reason for the fast depletion of forests across the globe. Therefore, a strategy that aims at increasing profits for those who manage their forests responsibly encourages forest conservation. Through the process of forest certification, for example, products from responsibly managed forests are identified and preferred over those from poorly managed forests. As the market narrows, poorly managed forests are forced to improve their standards in order to

comply with the desired certification goals and principles which, for the most part, promote responsible forest management.

Uganda is currently working towards achieving its own certification standard modeled along the Forest Stewardship Council (FSC) standard. The FSC represents an independent global standard for responsible forest management. Although these efforts are still in their formative stages, a few forest companies and stakeholders have already embraced the FSC standard and more are reported to be working towards achieving the same standard.

This notwithstanding, forest certification, although highly commended for promoting forest conservation, has one major challenge; it increases the cost of production which pushes prices higher than those of products from un-certified forests. With a market that prefers low cost products, it is very important to encourage consumption of products from well managed forests notwithstanding the price difference.

In addition to market based incentives, public procurement can be a great device for sustainable forest management. A pro forest conservation procurement regime makes it mandatory for all public bodies to purchase forest products from responsibly managed forests. This is largely because government is among the largest consumers of timber and related products. Presently, the Government of Uganda purchases an estimated 20% of all timber on the market. Insisting on aspects of forest conservation

in public procurement undoubtedly promotes sustainable forest management.

This research paper advances a two stage approach Uganda should adopt if it is to manage its forests for the benefit of its present and future generations. First, public procurement laws and systems must outrightly prohibit illegal timber. Secondly there must be a gradual development of a procurement system that encourages purchase of timber from sustainably managed forests, especially as timber demand and supply increase. The present public procurement regime, while not expressly incorporating legality and sustainable forest management in timber procurement, presents a good opportunity for inclusion of these aspects.

The main objective of this research paper was to explore these opportunities and recommend reforms essential for their realization. In particular, the research paper explores Uganda's procurement systems as well as legal and policy frameworks in order to identify available opportunities for promoting forest conservation using procurement. Part I of the paper gives a general introduction to the forestry sector in Uganda; Part II looks at current forest conservation efforts which include both legal and non-legal approaches. Part III provides an overview of opportunities to use public procurement systems. This section also emphasizes the complementary roles of new initiatives, like forest certification and public procurement, and traditional approaches that involve legal compliance. Part IV summarizes international law and practices of public procurement and forest conservation. Part V includes a number

of conclusions and recommendations on procurement and forest conservation. The recommendations include the following;

1. The current legal and policy framework on public procurement should be reviewed to incorporate environmental aspects. In particular, environmental conservation efforts such as sustainable forest management should be included among the key principles of public procurement. Such a step would compel timber dealers to supply timber from well managed forests which in turn would promote sustainable forest management.
2. Illegal timber should be completely excluded from the public procurement system. This would include timber not harvested in accordance with the law. Public procurement of timber accounts for 20% of the market share of all timber on the Ugandan market and exclusion of illicit timber would force dealers to comply with the law to tap into this market.
3. Uganda should adopt a forest certification standard for all its forests. This will not only increase the marketability of the country's forest products but also promote sustainable forest management.
4. Disseminate timber procurement guidelines among all key stakeholders and convert these guidelines into legally enforceable obligations. This can be achieved by enacting them as Regulations under the National Forestry and Tree Planting Act.

5. Illegal timber constitutes over 80% of timber on the Ugandan market. Strict procurement laws must be complemented by strict enforcement mechanisms that punish heavily those found in possession of illegal timber and related forest products.
6. Strengthen coordination among key institutions involved in regulation of timber trade and public procurement such as NFA, URA and PPDA in order to curb illegal timber.
7. Illegal timber trade has been escalated by the growing cross-border demand. This can only be eliminated by the joint effort of countries in the region. As part of its regional and international obligations, Uganda is under duty to cooperate with countries within the region such as Kenya, Tanzania, Rwanda, South Sudan and the Democratic Republic of Congo.



Introduction

Uganda is a natural resource driven country and the majority of its people's livelihoods depend on forests, wetlands, water, and soils. Forests are particularly important because they provide disproportionately high value in terms of forest products, environmental services and biodiversity.¹ As a matter of fact, the Government of Uganda has earmarked the forestry sector as one of the priority sectors for national development in its five-year National Development Plan.²

Despite the value of forestry to individual livelihoods and the national economy, the forest cover continues to decline at an alarming rate. By 2005, the national forest cover stood at 18% down from 24% in 1990, representing an annual deforestation rate of 1.86%.³ The increasing decline is largely attributed to the heightened rush for agricultural and industrial lands as well as the increase in demand for forest products.

The Forestry Policy 2001 recommended a national forest cover for Uganda of 30% of the total land area.⁴ Presently Uganda's

forest cover stands at 3,604,176 hectares.⁵ Of this, 17% are Central Forest Reserves (CFRs) managed by the National Forestry Authority (NFA) and 18% consists of National Parks and Wildlife Reserves under the management of Uganda Wildlife Authority (UWA).⁶ Local Forest Reserves (LFRs) constitute 0.03% and are managed by the District Forest Services (DFS).⁷ About 0.85% of the forests are jointly managed by NFA and UWA. The remaining 64% represents private and communal forests that are under the management of private and community forest owners.⁸ This 64% is the most degraded, even though it is under the direct supervision of District Forest Services (DFS). The rate of forest loss on both public and private plantations is alarming and, if not checked very soon, the country's forest resources will be completely depleted.

Illegal logging is one of the biggest drivers of increased forest loss. While there are a number of legal controls on illegal timber harvesting and trade, these have not effectively salvaged forests from destruction. For this reason there is a shift from purely legal approaches in forest conservation to use of market based incentives. These are believed to be more effective as they affect the profit margins of timber dealers. Some of the

1 Arvydas Lebedys, Trends and Current Status of the Contribution of the Forestry Sector to National Economies, Working Paper No. FSFM/ACC/07, FAO 2004.

2 See Uganda National Development Plan, 2010/11- 2014/15. Available on <http://npa.ug/development-plans>. See also the Uganda National Forest Plan 2013, available on <http://www.mwe.go.ug>

3 See National Environment Management Report 2011.

4 See National State of the Environment Report, NEMA 2009/2010.

5 *Supra*, National Forest Plan

6 *Ibid.*

7 *Ibid.*

8 *Ibid.*



Illegal logging has had a toll on the environment. Use of appropriate tools and equipment is therefore necessary if we are to wipe out illegal timber.

market based incentives include forest certification and strict procurement policies that exclude illegally harvested timber from the market.

Forest certification is a process by which forests and/or forest products are inspected and tracked to ensure that they are harvested in accordance with strict principles and guidelines.⁹ Uganda is on its way to adopting a suitable certification framework and so far, a number of private and public forest owners are implementing the Forest Stewardship Council (FSC) standard.¹⁰ This is a step in the right direction particularly for Uganda where trade in illegal timber is rampant and the country loses UGX23 billion in unpaid taxes every year.¹¹

9 See What is Certification?, WWF Available on http://wwf.panda.org/what_we_do/footprint/forestry/certification/

10 See Draft Uganda Forest Stewardship Standard, May 2013.

11 See National Timber Trade and FLEGT solutions, WWF-UCO, Kampala, Uganda. November 2012. Available on http://awsassets.wwfdk.panda.org/downloads/national_timber_study_final_report.pdf WWF Report . See also Gerald Tenywa, Timber Tax Evaders Undermine

In addition to illegal logging, Uganda is a destination and transit area for illegally harvested timber from mainly the neighboring eastern DRC.¹² Illegal timber not only out-competes and depresses the price of genuinely harvested timber but also denies the government much needed revenue in the form of taxes.¹³ This is not to mention the disastrous consequences of illegal logging on the environment. Exclusion of illegal timber procurement and timber certification will go a long way in conserving the environment while at the same time guaranteeing the government taxes.

For these to work well, a number of steps must be taken. First and foremost the market base for legally harvested timber and gradually certified products must be widened beyond the traditional green

Sustainable Trade, November 13, 2012. See also Martin Ssebuyira, Uganda Loses Sh. 23 Billion in Illegal Timber Trade, Daily Monitor, November 15, 2012.

12 Mari-Lisedu Preez & Romy Chevallier, The Timber Trade in Africa's Great Lakes: Implications for Uganda and the Region, SAIIA, Policy Briefing 52 , July 2012.

13 *Ibid*

customers. Compliance with the law and certification often increases the cost of production which pushes the final prices high. If there is no deliberate policy to promote consumption of these products they can easily be out-competed by cheaper products at the expense of the environment.

The public and other entities that derive funding from public funds must therefore strictly purchase legally harvested timber. As timber supply grows and certification becomes more feasible, such entities should also insist on products from sustainably managed forests.

This paper explores the opportunities for exclusion of illegal timber from the market. In particular the paper reviews existing public procurement laws, policies, guidelines and practices while assessing the extent to which they incorporate aspects of forest conservation. The paper also highlights the link between public procurement and sustainable forest management.

The paper concludes with a number of recommendations for reform of Uganda's procurement laws and policies in order to achieve sustainable forest management.

1.1. Methodology

A research methodology comprising of both qualitative and quantitative approaches was applied to this study to examine whether the available legal, policy and institutional frameworks effectively link public procurement and sustainable forest management. The research methods

used enabled elicitation of perceptions, beliefs and views of strategic stakeholders in the forestry sector.

The study was informed by a review and analysis of published as well as grey (unpublished) literature on sustainable forest management and public procurement of timber. Sources included; legal and policy documents, Uganda's policy frameworks on forests and natural resource conservation, procurement documents, and relevant Uganda-specific and international publications.

The study also relied on interviews with key informants. The spectrum of key informants included key strategic actors in sustainable forest management like traders, administrators and conservationists. These were "natural observers" who were deemed to have knowledge and interest in the study subject. The criteria for their selection was the ability to make inferences about the relationship between forest conservation and public procurement systems.

Data collection was based on interview guides developed through literature review, field experience, and research objectives. The researchers used the interview guide to collect data using traditional methods of probing and paraphrasing questions to elicit valid information.

Finally, the research was characterized by observation of ethical imperatives associated with undertaking studies of this nature. Key informants gave verbal informed consent to participate. They were assured and accorded privacy, anonymity, and confidentiality.

2 The evolution and practice of sustainable forest management in Uganda

The first steps towards recognition of sustainable forest management can be traced to the work of the World Commission on Environment and Development (WCED).¹⁴ In its report to the United Nations General Assembly (UNGA), the Commission acknowledged the vital role of forests in improving the productivity of agricultural lands.¹⁵ At the 1992 United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro, States had the opportunity to widely debate and formulate consensus on sustainable forest management.¹⁶ The result was what is now recognized as the Rio Forest Principles which, although not legally binding, have assumed the status of soft law to the extent that they greatly define many countries approaches to sustainable forest management.¹⁷

There are a number of definitions for the term sustainable forest management. The most widely, agreed definition can be found in the Convention on Biodiversity (CBD), a global agreement that addresses biodiversity and to which Uganda is party. Under the Convention, the General Assembly of the United Nations defined Sustainable Forest Management (SFM) as “a dynamic and evolving concept which aims to maintain and enhance the economic, social and environmental value of all types of forests for the benefit of present and future generations.”¹⁸

Characteristics of SFM as outlined by the UN General Assembly, December 2007

- Extent of forest resources.
- Forest Biological diversity
- Forest Health and Vitality
- Productive functions of forest resources
- Protective functions of forest resources
- Social- economic functions of forests
- Legal, Policy and Institutional framework

14 See Our common future: World Commission on Environment and Development. See also Godber W. Tumushabe, Country Experiences in the Implementation of the Rio Forest Principles: A Case Study of the East African Community States, 32 Golden Gate U. L. Rev. (2002).

15 *Ibid.*

16 *Ibid.*

17 See Non- Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable

The Ministerial Conference on the Protection of Forests in Europe (MCPFE) defines sustainable forest management as

Development of All Types of Forests, UNCED, 1992.

18 See UN Resolution 62/98, Secretariat of the Convention on Biological Diversity, 2009, Sustainable Forest Management, Biodiversity and Livelihoods; A good Practice Guide, Montreal.

the “stewardship and use of forests and forest lands in a way, and at a rate, that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfill, now and in the future, relevant ecological, economic and social functions, at local, national, and global levels, and that does not cause damage to other ecosystems.”¹⁹

Sustainable forest management is thus generally aimed at creating a win-win situation where the increasing demands for forest products do not compromise the health and diversity of the forest. As earlier observed, Uganda's forests are fast disappearing and if no serious intervention is made, the country's forest cover will be no more in a few years.²⁰ Sustainable forest management is paramount if this situation is to be averted and the country's forest cover maintained.

Uganda developed its first forestry policy in 1929 and for a long time was hailed for its tropical forestry practices on permanent forest estates across the globe.²¹ These practices, however, over emphasized timber production at the expense of social and ecological concerns.²² Even then,

this little semblance of responsible forest management was eroded during the political instabilities of the 1970's.²³ It was not until the early 1990's that efforts to promote the sustainable management of forests were revived.

In 1990, the government developed the Forest Nature Conservation Master Plan that emphasizes the need to include biodiversity conservation and environmental protection into forestry sector programmes and sets a firm foundation for future forest conservation efforts.²⁴ Following the master plan and in a bid to respond to the dwindling performance of the forest sector, the Government of Uganda undertook a comprehensive forestry sector reform process between 1999 and 2004.²⁵ This was a government led and donor supported initiative under the Forest Sector Umbrella Programme. The process yielded various policies, legal and institutional reforms aimed at promoting sustainable forest management in Uganda. Some of these include the Uganda Forestry Policy 2001, the National Forest Plan 2002, and the National Forestry and Tree Planting Act 2003. With the policy and legal framework in place, it was expected that the country would rapidly restore its forest cover and eliminate further degradation through strengthened sustainable forest management. Eight years later, this was far from achieved, prompting a

19 See Sustainable Forest Management Criteria and Indicators, Ministerial Conference on the Protection of Forests in Europe.

20 See Joyce Namutebi, 'Uganda Soon Turn into a Desert, Auditor General Warns', New vision, July 14, 2012

21 See Plumtre A.J. 1996. Changes following 60 years of selective timber harvesting in the Budungo Forest Reserve, Uganda. *Forest Ecology and Management*. 89: 101-113. See also Draft Uganda Forest Stewardship Standard.

22 *Ibid.* See also Mupada, E., 1997. Towards collaborative forest management in the conservation of Uganda's rain forests. In: Sean Doolan (ed.), *African Rain Forests*

and the Conservation of Biodiversity. Proceedings of the Limbe conference. Royal Botanical Gardens Kew and Mount Cameroon Project.

23 *Supra*, See Draft Uganda Forest Stewardship Standard pg. 2

24 *Supra*, National Forest Plan, pg 46.

25 *Ibid.*

government review of the National Forest Plan of 2002. In response, government launched a revised Plan in January 2013.²⁶ Under the new plan the government recognizes a number of challenges in the forest sector that inhibited the realization of sector targets set in 2002.²⁷ Some of these include: institutional failures, deteriorating forest cover, population growth, increased demand for forest products; bad governance, and the poor enforcement of forest laws.²⁸

The formulation and eventual launch of the National Development Plan (NDP) 2010 also necessitated the revision of a number of government plans including the NFP of 2002.²⁹ The NDP now recognizes forestry as a primary growth sector alongside agriculture, tourism, industry, oil and gas, among others.³⁰ The NDP for this reason recommends a number of interventions in the forestry sector, including: the restoration of forest cover by 2015, restoration of degraded forests, reduction of pressure on forest cover, and promotion of trade and forest based industries.³¹

Following the government restructuring exercise in 1998, the Forestry Department was replaced³² in 2004 by the National Forestry Authority (NFA). The NFA

is responsible for managing all Central Forest Reserves (CFRs)³³ while the District Forestry Services (DFS) manages local governments controlled forests.³⁴ As part of the reform process, the forestry sector became more open to contributions from other sectors and stakeholders to ensure that the reforms were all inclusive. To date, the sector is one of the few that have had a lot of influence from civil society, largely through joint ventures to undertake studies and use the findings to formulate relevant laws, regulation, and programmes. In addition, the partnerships enhanced an inclusive process which ensured that all the relevant members of society, starting from the lowest village representatives had a contribution to the reform process. In this way the reform process was highly participatory and ensured ownership of the reform outcomes by all the relevant stakeholders.

Despite the thorough and participatory process of developing the relevant forestry laws, policies and institutions to support sustainable forestry management, enforcement has remained a challenge to-date.³⁵ Indeed, the challenges within the forestry sector have remained a paradox. The Forest Sector Support Department (FSSD), which is supposed to provide overall supervision and coordination of the sector, is inadequately funded and lacks the institutional capacity to perform its required functions.³⁶

26 See National Forest Plan 2011/12-2021/22.

27 *Ibid.*

28 *Ibid*, Pg. ix

29 See Uganda National Development Plan 2010. pg. Available on <http://npa.ug/development-plans>

30 *Ibid.*

31 *Ibid.*

32 See Genesis of National Forest Authority, Available on <http://www.nfa.org.ug/About/origin.php>

33 *Ibid.*

34 *Ibid.*

35 See Interview with a Professor of Law, School of Law, Makerere University. Held on October 4, 2013.

36 *Supra*, See WWF Uganda Report 2011.

In the past, FSSD provided guidance on sustainable timber harvesting based on resource information generated on a regular basis. This is no longer carried out and FSSD staff, admit that it has been quite a long time since the resource information was generated. They attribute this to inadequate resources.

Under the law, District Forest Officers are required to assist local forests users and private forest owners in management of their forests. The fact that these two categories of forests suffer the highest deforestation rate means that this role has not been effectively performed. This is mainly due to limited human and financial resources to supervise the local and privately owned forest reserves under their jurisdiction.³⁷ In some of the districts, the department only has two staff who are not able to effectively supervise all reserves.³⁸

In addition, the subdivision of the districts has brought on board recent graduates who are not well experienced, and no resources have been provided to train them on good forestry practices.³⁹ This has affected their ability to understand the official processes and procedures for sustainable management of forests.⁴⁰ In addition, there is limited follow up and

supervision of the officers and it is not surprising that forests continue to be degraded at local government level.

There are also a number of private led initiatives to promote sustainable forest management comprised of civil society actors, timber traders and private forest plantation owners. Some of these include; the Uganda Forest Working Group, Uganda Forest Governance Learning Group, Uganda Timber Growers Association and the Sawlog Production Grant Scheme.

In addition to national efforts, Uganda has signed onto a number of international agreements and processes aimed at promoting sustainable forest management. In pursuit of the United Nations Framework Convention on Climate Change (UNFCCC), Uganda signed onto the REDD+ framework and had its preparedness plan approved for funding by the World Bank in 2011.⁴¹ The REDD+ framework is expected to support the implementation of the decentralized governance of forest resources, improve the livelihoods of forest dependent communities, and restore the services and functions of the forest ecosystems there by making a significant contribution to the transformation of the sector.⁴² The REDD discussions have mainly focused on the need to ensure that REDD enhances the development and implementation of an incentive based system that makes it economically more attractive to let a

37 See Interview with an officer, Forest Sector Support Department (FSSD), Held on October 8, 2013.

38 See Interview with the District Forest Officer and Acting Natural Resources Officer, Bududa District. Held on October 10, 2013.

39 See Interview with District Forest Officer Kapchorwa District, Held on October 8, 2013.

40 *Ibid.*

41 See Benefit Sharing in Uganda's Forestry Sector: Issues and Options for REDD+ Implementation in Uganda, IUCN, 2012.

42 *Ibid.*

forest stand than cut it down.⁴³

At regional level, Uganda is a member of the New Partnership for Africa's Development (NEPAD).⁴⁴ Under this arrangement, countries commit to address environmental concerns through among others enhancing forest law enforcement and governance.⁴⁵ This entails addressing illegal production and movement of wood and wood products as well as streamlining the flow of these products across borders.⁴⁶

43 Ibid.

44 NEPAD is an African Union strategic framework for pan-African socio-economic development. See www.nepad.org/about

45 See NEPAD Action Plan of the Environment Initiative 2003, Available on <http://www.nepad.org/system/files/Environment%20Action%20Plan.pdf>

46 These include the Common Market for East and Central African Republic (COMESA). See COMESA strategy and programme on Agriculture, Environment and Natural Resources on <http://programmes.comesa.nt/index>.

3 Exclusion of illegal timber through Forest Certification and influencing the Procurement Cycle

Sustainable forest management can be achieved through a number of ways. The most common include: the application of legal tools, use of market based incentives and application of fiscal tools. In the case of Uganda, the most used of these has been the application of legal tools. Under this arrangement, only timber harvested in accordance with the country's laws and regulations is allowed to access the market. In addition to compliance with forest laws, there must be equal compliance with other laws and regulations of the land. These include the various laws on health and safety, taxation, among others.

While the application of legal tools has great potential to eliminate harmful timber harvesting practices, the implementation and compliance with forest laws is relatively low. This section focuses on certification as a market based incentive for sustainable forest management.

Procurement systems aimed at promoting responsible forest management work best where there are well established certification standards.⁴⁷ This is because

such standards guide procurement entities who may not be well versed with sustainable forest management practices when deciding the most competent suppliers. Forest certification is a key strategy for promoting sustainable forest management. It is a system of inspection and tracking of timber, pulp and other forest products to ensure they have been harvested according to a strict set of guidelines.⁴⁸ The scope of certification has most recently been expanded to include the social and economic wellbeing of forest workers and the communities where these forest products are harvested.⁴⁹ The process of certification involves a formalized procedure in which an approved third party issues a certificate confirming that a forest is being managed according to internationally agreed ecological, economic and social criteria. The products from such a forest are marked with a specific stamp of approval to show that they have been harvested, obtained and transported from a sustainably managed

the Implications for Policy, Law and International Trade, May 2006. Available on http://www.ecologic.eu/download/briefe/2006/933_brief_procurement_forest.pdf

48 Supra, WWF Definition

49 *Ibid.*

47 See Peter Sprang & Nils Meyer-Ohlendorf, Public Procurement and Forest Certification: Assessment of

forest.

The certification process begins in the forest and continues through the entire chain of custody (CoC).⁵⁰ There are many forest certification schemes, but Uganda is adopting the Forest Stewardship Council (FSC) scheme, an independent, non-governmental, not-for-profit organization which welcomes membership from developed and developing economies. It is the most widely used scheme in Africa, it has an African Regional Office (FSC Africa) based in South Africa, and has a sub-regional coordination office in Kenya.⁵¹

forests and labeling of forest products to verify their origin from sustainably managed forests. The Minister is yet to make regulations on certification but draft guidelines modeled along the FSC standard have been developed.⁵²

A study commissioned by WWF Uganda to assess the potential of forest certification in Uganda revealed that forest certification had gone a long way in the country, and an estimated 101,272 hectares have been certified under the FSC scheme.⁵³

These include Mt. Elgon and Kibale National Parks managed by Uganda Wildlife Authority (UWA) and certified



The timber yard at the National Forestry Authority full of illegal timber impounded by the enforcement team. Usually this timber is auctioned to the public.

Ugandan forest law recognizes the role of certification in the promotion of sustainable forest management. Section 92 (2) of the National Forest and Tree Planting Act gives the Minister power to make regulations on certification of

under the FACE project. In addition, there are three privately owned certified forests: the Namwasa Forest Reserve owned by the New Forest Company and Bukaleba and Kachung Forest Reserves,

50 *Ibid.*

51 See Who we Are, Forest Stewardship Council, Available on <https://ic.fsc.org/about-us.1.htm>

52 *Supra*, See Draft Uganda Forest Stewardship Standard. See also Interview with Ruth Kisaakye, Legal Manager, NFA. Held on October 4, 2013.

53 *Supra*, WWF-UCO Report

owned by the Busoga Forest Company.⁵⁴

With support from WWF, the government has worked with various stakeholders to promote awareness and appreciation of forest certification across the country.⁵⁵

As a result, several forest managers have initiated processes to certify forests under their control. Despite all these interventions, the country's forest estate is still poorly managed as indicated by the increasing rates of deforestation and forest degradation. The main concern among



Most of the timber on the market is illegal because most of it is juvenile, under sized and converted using contraband tools. There is need for increased awareness about legal timber

stakeholders revolves around the best approach to ensure enforcement of the key certification principles so that it does not end up as an appendage to the already existing SFM policies and processes that the country has adopted without yielding much positive impact.

Critics of the approach are concerned about the fact that certification focuses on the consumer as the entry point of addressing deforestation and forest degradation. Effective implementation of certification

amidst the already existing challenges in the sector requires an integrated approach, with clarity on the roles and responsibilities. These include the buyers, forest managers, and governments, which have to institutionalize the processes, regulate the market for timber products and ensure enforcement. For example, wood processors, traders and buyers

need to be certain about the ability of the markets to respond with adequate price premiums to recoup the necessary investment.⁵⁶ Most processors and buyers are hesitant to commit themselves to paying prices that are higher than products from un-certified sources, hence the need to identify niche markets in addition to lobbying for government to become the front runner in terms of making legality a binding requirement in public procurement.⁵⁷

The National Forestry Authority is considered as the leading institution for forest certification because of its established framework and the large forest estate under its mandate, covering over 1.2

54 See WWF Uganda, Assessment of the Potential for Forest Certification and Market Demand for Key FSC Commodities in Uganda, WWF Report 2011.

55 See note 56 Supra. See also Interview with Martin Asimwe, WWF Uganda Country Office. Held on October 15, 2013.

56 Supra, See WWF Report 2011.

57 *Ibid.*

million hectares of natural and plantation forest. Moreover, the NFA has clear management practices and trained staff compared to the rest of the institutions.

However, the institution's capacity to undertake its roles has in the past been highly affected by political interference and corruption scandals.⁵⁸ There are several reported cases of irregular issuance of timber harvesting concessions and permits by the same institution expected to safeguard and promote lawful activities in forest reserves. The irony is that while NFA has reasonable funds and capacity to perform its duties, the rest of the institutions are less well funded and lack the capacity to monitor and enforce the laws and policies in place.

This calls for a re-alignment of approaches and clear solutions to challenges within the sector that ensure certification delivers the expected results. There is potential to certify and supply forest products including timber, tourism, bee products, charcoal, shea butter, and Certified Emissions Reductions (CERs). This can only happen through an integrated approach involving all actors playing their role, and revision of the existing laws and policies to ensure enforcement, and strengthening of the responsible institutions to perform their roles and responsibilities.⁵⁹

58 See Mubatsi Asinja Habati, Angry Museveni to Swing Axe on Thieving National Forestry Authority Bosses, Independent, April 22, 2011. See also Obed K. Katureebe, 'National Forestry Authority Chocks under Gross Corruption', The Observer, November 25, 2009.

59 Supra, WWF Report 2011.

3.1: Growing the market for certified timber by public sourcing

Forest certification will only be sustainable in the long run if it generates tangible economic benefits for the certified entities. The demand for certified timber from private customers in Uganda and the East Africa may not grow any time soon as dealing in illegal timber remains lucrative.

The opportunity, however, is using public (donor) funding to subsidize certification initiatives and, at the same time, public (donor) funding goes into activities such as building construction, furniture and office supplies. Currently, the timber purchased using public funds is sourced from un-certified timber sources. Public sourcing of certified timber could be a prime tool for supporting sustainable forest management.

The action therefore is to boost public sourcing of certified timber (among state administrations, donor entities, procurement and disposal entities, banks) as a tool to promote sustainable forest management. The challenge is, however, the socio-political setting that seems to favour political patronage and the fact that certification is voluntary in nature.

Specific actions that can encourage public sourcing of certified timber include:

- Leveraging advocacy and lobbying techniques of civil society organisation to bring forest certification on the public agenda.
- Working closely with the media to promote use of certified products.
- Influencing central and local

government and their procurement and disposal entities to embrace certification.

- Work with the East African Legislative Assembly to embrace forest certification at that level.

This approach, however, has no guarantee for immediate success as there are many loopholes in the procurement processes. Using the “power of the crowd” increases the chance that the topic may be given higher attention by the relevant decision makers.

3.2: Establishing FLEGT task force teams

Given that Forestry is a major primary growth sector in the National Development Plan, there should be efforts to manage it sustainably. Illegal timber transactions rank as one of the greatest challenges affecting the sector. The lack of coordination/collaboration among Forestry Law Enforcement Governance and Trade (FLEGT) institutions (at national and sub-national level) has been identified as a factor in exacerbating illegalities. This limited coordination can only be overcome by establishing and strengthening regional task force teams to provide a multi-institutional market based approach to promoting trade and forest conservation.

The teams should be made up of the District Forest Service, the National Forestry Authority, the Environment Protection Police Force (EPPF), Procurement Disposal Entities (PDE), CSOs and Timber Traders Associations.

These teams should be established within ecological systems such as Mt. Elgon Conservation Area, Lake Victoria Basin, the Great Virunga Landscape, Agoro-agu Landscape, and West Nile among others. Alternatively, they could be formed along the traditional divisions of the country (Eastern, Western, Central, South Western and Northern), whichever option is deemed appropriate. The different players on the task force teams would then play different roles of enforcement, advocacy, governance and trade. In doing so, the task force teams would promote institutional collaboration for implementation of the Forest Law Enforcement Governance and Trade (FLEGT) initiatives across the country.

The task force teams would then be charged with:

- Mainstreaming legal procurement of timber into all procurement entities of local governments, CSOs and corporate bodies.
- Strengthen collaboration with CSOs, local communities, government institutions, corporate and private sector to enforce legal timber procurement.
- Advise on matters of policy, legal and institutional issues relating to FLEGT within the region.
- Promote the use of legal timber in the region
- Develop, review and implement quarterly action plans aimed at promotion of use of legal timber in the region.

3.3: Influencing the procurement planning process and cycle

The PPDA Act 2003 provides guidance on “acquisition by purchase, rental, lease, hire purchase, license, tenancy, franchise or any other contractual means of any type of works, services or supplies or any combination”. This presents an opportunity to use the procurement process as a means of acquiring goods and services from the forest sector in order to support sustainable forest management in the country. The approach entails making sure the right timber or forest service is procured, from the right source, with the right quantity (volume and size), right quality (specified species), right time, right price/cost and right place. Once this is achieved, then



The market will soon demand for timber produced from sustainably managed forest, and meets professional standards

it is possible to protect the forest estate, protect the market value of forest products, monitor supply market trends, maintain correct quality/value balance (inventory management), negotiate effectively in order to work with suppliers who will seek mutual benefit through economically supplier performance, and be able to select best suppliers in the market.

To achieve this, the entire procurement planning cycle has to be influenced to be considerate of forest conservation

approaches. This includes planning, documentation, product evaluation, award of contract, administration, inspection and delivery. A number of actions are hereby proposed.

First and foremost, the District Forest Services should be included in all stages of the procurement process (illustrated above) to ensure that issues of responsible procurement of timber are included and catered for in the cycle. Bill of Quantities for timber should be specific and not lumped under Bills of Quantities for

project engineering design. This means that timber should be procured separately from other materials so that the entity certifies the timber, with the DFO as subject matter specialist. This also means enlisting the District Forest Officer on the procurement committees as a Subject Matter Specialist to guide the certification of timber products before payment.

Before timber is utilized, the District Forest Officer should certify that the products and services supplied meet the

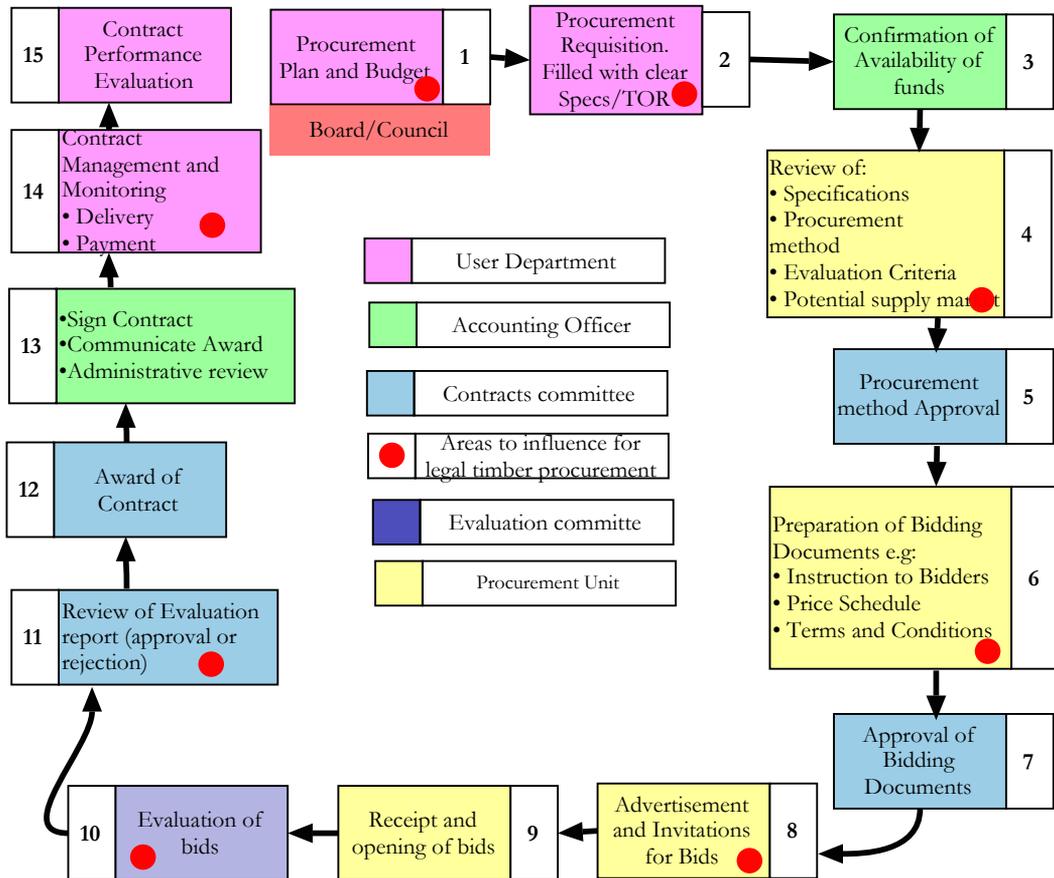
required standards.

Timber dealers and contractors should be checked against standards, raw materials and legality of source as a matter of compliance to environmental standards. This means enlisting the District Forest Officer to verify contractors and audit

teams to accept or reject timber depending on quality and legality.

For all the above to happen, there should be a communication from MWE to PPDA, CAO and PDUs requesting mainstreaming of conservation concerns in the procurement process for timber.

The Procurement Process - roles and responsibilities in the procurement cycle



3.4: Consideration for the unethical issues

While establishing a procurement process that promotes the procurement of legal timber, there is need to address the unethical practices surrounding

procurement processes which can impede its effectiveness:

- Bribery, gifts and gratitude Chapter 14, Article 233 (2) b) of the Ugandan Constitution prohibits compromise.
- Collusion to defraud an organization (where members of the procurement entities collude with companies that

win tenders to supply the desired materials).

- Offers for employment.
- Illegal access to confidential information.
- Conflict of interest.
- Abuse of public office characterized by corruption.
- Making official decisions outside established channels.
- Restrictive specifications.
- Vendor collusion in order to win tenders.
- Improper use of selection/evaluation criteria.
- Unfair trade practices (hiding information from bidders on procedures to follow).
- Issues of the reserve price range during evaluation.
- Allowing shoddy work (absence of monitoring and & evaluation during issuance of certificates).

3.5: Raising awareness about use of legal timber

Before ensuring compliance in procurement and use of legal timber, there is need for a sufficient level of awareness among parties involved along the entire value chain and chain of custody. By enhancing awareness about the benefits associated with adhering to legal trade, one provides an opportunity for quick buy-in.

It is important that dealers know that by engaging in illegalities, the country loses revenue but also perpetuates continued degradation of the forest resource to the detriment of the livelihoods of many

Ugandans. Considering that the literacy level of many dealers is low, an appropriate decision has to be made to design illustrative communication materials, with messages targeting the dealers.

The communication materials should provide visual reminders about the need to legalize timber trade and the desire of the public to engage in utilization of timber from legally acceptable sources. The messages should be crafted in such a way that they address social, economic and environmental consequences of using illegal timber. Suggestions include:

- a) Social marketing messages that give the impression that adhering to legal trade is the best and is the ‘solution’ to the problem: *“Legal timber trade! Will regulate the volume of timber on the market, control prices of timber, improve revenue collection, increase profit margins for traders and control forest degradation. Stop illegal trade immediately.”*
- b) Information, education and communication messages that would provide the procedure for legal timber trade: *“Declare ownership of trees to harvest, seek harvesting permission from NFA or DFS, acquire movement permit, pay associated fees, and display trading licence.”*
- c) Behavior communication change messages that entice timber dealers and traders to change *“Tired of being harassed by NFA/DFS for illegal trade? Legalise your business”*
- d) Social change messages that encourage others to embrace the trade. *“Concerned about illegal timber trade in the country? Talk with others about it”.*

4 Legal and Policy Framework for Timber Procurement

Uganda does not have a forest product-specific public procurement law and policy. There are, however, some general aspects of public procurement law that apply to procurement of forest products. These are contained in the Public Procurement and Disposal of Public Assets Act (PPDA) and the Regulations made there under.⁶⁰ Mainstream environmental and forestry law also contains provisions that lay a strong foundation for a potential forest product procurement regime. These provisions regulate timber harvesting and elaborate on important procedures which, when insisted on by procurement units, would greatly improve forest management.

Finally, to the extent that Uganda is a member of the World Trade Organisation (WTO), some aspects of international trade law as contained in the key WTO agreements and procedures may apply to procurement and regulation of timber harvest. This section explores this rather general legal and policy framework in order to establish opportunities for infusion of sustainable forest management principles in public procurement.

4.1: Public Procurement and Disposal of Public Assets Act and Regulations

The PPDA Act came into force in 2003 and sets out to establish the PPDA Authority, formulate policies, and regulate practices in public procurement and disposal activities.⁶¹ Under Section 2, the Act applies to all public procurement and disposal activities, particularly those involving public finances, joint finances for implementation of national programme and the general government procurement of works, services, supplies or a combination of both by government entities or any other entities that benefit from specific public funds.⁶²

Under the Act, the Public Procurement and Disposal of Assets Authority is established as an autonomous body corporate.⁶³ The Authority is expected to advise government, local governments and statutory bodies on all aspects of public procurement.⁶⁴

The other function of the PPDA Authority is to set training standards, competence levels and certification requirements.⁶⁵ In

60 See Public Procurement and Disposal of Public Assets Act, 2003.

61 *Ibid.* See Long Title.

62 *Ibid.* See Section 2,

63 *Ibid.* See Section 5

64 *Ibid.* See Section 7 (a)

65 *Ibid.* See Section 7 (c)

addition, the Authority is under obligation to prepare, update and issue authorized versions of standardized bidding documents.⁶⁶ The Act also establishes procuring and disposal entities which are responsible for management of all procurement and disposal activities within their areas of operation.⁶⁷ Under the law, these entities should be comprised of an accounting officer, contracts committees, a procurement and disposal unit, and an evaluation committee.⁶⁸

In addition the PPDA Act outlines various methods for procurement and disposal of public goods. These include open bidding, restricted bidding, quotations and proposals, direct procurement, and micro procurement.⁶⁹ These are aimed at promoting fairness and transparency in the procurement of public goods and services.

The above provisions generally apply to timber procurement by public bodies. Any public body that intends to procure timber and other related products must follow the procedures outlined in the Act. For instance, every bidder must prove that it is legally capacitated to contract and that its tax compliant.⁷⁰ In terms of timber procurement, these stringent requirements help to weed out most illegal timber dealers because they are for the most part unregistered and non-tax compliant. To this extent, therefore,

the procurement regime can be said to promote responsible forest management through exclusion of timber from illegal sources. In practice, the law is mostly used to ensure transparency in the procurement process. From the various inquiries conducted over the course of the study, it appears that for now, all that matters is that a provider meets the various requirements and follows the procedure in the law.⁷¹ Providers are not, for instance, required to show that the timber or related product was harvested from a sustainably managed forest.⁷²

This said, there is potential to include aspects of sustainable forest management in the procurement of timber and related products by public bodies. Under the law, the Public Procurement and Disposal of Assets Authority is obligated to develop certification standards in consultation with competent authorities.⁷³ As has been pointed out above, the forestry sector is embracing certification as a market based incentive for sustainable forest management. The Act, therefore provides an opportunity for the Authority to consult with the Uganda National Bureau of Standards (UNBS) and the National Forest Authority (NFA) in the development of forest certification standards. Once these are in place, providers would be required to strictly comply in order to be considered by public

66 *Ibid*, See Section 7 (d)

67 *Ibid*, See Section 24

68 *Ibid*, See also Section 25. See also The Local Governments (Amendment) Act 2006 which has replaced district tender boards with contracts committees.

69 *Id*, See Sections 79 to 86.

70 See Regulation 186, Public Procurement and Disposal of Public Assets Regulations,

71 Interview with, Esther K. Busingye, Manager Legal and Compliance, PPDA.

Held on October 28, 2013. See also

Interview with Bashir Twesigye, Executive Director Civic Response on Environment and Development, Held on September 20, 2013.

72 *Ibid*.

73 See Section 7

bodies with intentions to procure timber and its related products. Certification would then be included in standard bidding documents developed by the authority under its mandate.

Sustainable forest management can also be included as one of the main principles of procurement under the Act. Presently the PPDA Act prescribes a number of basic procurement principles which must be followed by all public entities in procurement of goods and services.⁷⁴ These include the principle of nondiscrimination, transparency; competition, confidentiality, efficiency, and ethics.⁷⁵ The principles are restated in the Public Procurement and Disposal of Assets Regulations.⁷⁶ Clearly, the principles focus on ridding public procurement of corruption which was a major issue at the time the law was passed.

Climate change has been recognized as one of the most threatening global challenges. Deforestation and forest degradation are a strong catalyst for climate change if not controlled. Illegal logging accelerates deforestation and degradation of forests which in turn results in climate change. Currently, illegally harvested timber constitutes 80% of the timber sold on the Ugandan market. Public bodies account for 20% of the timber market and can greatly influence this trend by insisting on responsibly harvested timber products. In light of this it is important to deliberately include legality and other principles of sustainable forest management and environmental conservation among key

procurement principles contained under Part IV of the Act.

Finally, Section 61 of the Act mandates procuring entities to adopt best practices and evolve standards defined and codified by recognized trade associations and professional fields. Sustainable forest management is globally recognized as a good environmental practice and procuring entities can embrace it in this regard.

4.2: National Forestry and Tree Planting Act, 2003.

The National Forestry and Tree Planting Act came into force in 2003, repealing the Forests Act Cap. 246 and the Timber (Export) Act Cap 247. The law was passed to provide for the conservation, sustainable management and development of forests, and to promote the sustainable use of forest resources.⁷⁷ The Act is also concerned with the development of forests by encouraging tree planting and conservation of resources.⁷⁸

The National Forestry and Tree Planting Act has a number provisions that directly affect timber harvest and trade in timber products. First, the law requires every forest, including private forests to be managed in accordance with a management plan developed by a responsible body and approved by the Minister.⁷⁹ The management plan entails a detailed description of all matters related

74 Ibid, See Section 43

75 Ibid, See Sections 44 to 54

76 See Regulations 85 to 88.

77 National Forestry and Tree Planting Act, 2003.

78 *Ibid*, See also Section 2.

79 *Ibid*, See Section 28

to a particular forest, type of activities permitted to take place in the forest and measures for sustainable management.⁸⁰ Additionally the responsible body is required to issue licenses to cut, take and remove forest products from any forest reserve or community forest in accordance with the management plan.⁸¹ Section 42 similarly requires the responsible body to invite applications for licenses through a fair, open and competitive process. Any person who desires to cut, take or remove timber from any forest reserve or community forest must therefore do so only with a licence.⁸² Short of this, he or she commits an offence and is liable to a fine not exceeding thirty currency points or imprisonment for a term of less than three months or both.⁸³

Licenses are also required for timber export under the Act.⁸⁴ Any person who exports timber without a license commits an offence and is liable to pay a fine or up to three months imprisonment or both.⁸⁵

It was expected that with the coming into force of the law, the Minister would pass regulations necessary for implementation of the provisions of the Act sooner. While a number of regulations especially those governing timber trade and harvest are yet to be passed, in 2004 the Minister issued a Ministerial Notice describing procedures for harvest, trade and chain of custody for timber.⁸⁶ Under the notice, the responsibility to enforce laws and

to monitor timber trade is transferred from the FSSD to the Forest Production Monitoring Unit in NFA.⁸⁷ The latter was deemed to have more capacity at the time. The Notice also bans chain sawing and introduces a monitoring system based on documentation and hammer marks.⁸⁸ All logs and timber are required to bear stamps/ marks. In case these are to leave the district where they are harvested, they should bear a seal and the dealer should be issued with a 'forest produce movement permit.' Above all, the notice requires a license for all activities included in the harvest of timber products.⁸⁹

License fees are determined using the Forest Produce Fees and License Order.⁹⁰ Among the fees provided for in the order are felling fees, saw milling license fees and pit sawyers registration fees. Previously, the Order required timber dealers to pay 15% of the timber value in tax, but following a Ministerial Directive the effective tax rate is now at 30%. The Forest Produce Fees and Licence Order, although issued in 2000 before the coming into force of the National Forest and Tree Planting Act, is still applicable until the Minister passes an alternative law in the form of regulations prescribing fees payable for timber trade and harvest.

Uganda forest laws require all timber traders to obtain a licence before timber harvesting can be allowed. Upon the granted license, timber dealers are required to pay the necessary government fees and taxes. Harvested timber must also go

80 *Ibid*,

81 *Ibid*, See Section 41 (1) (a)

82 *Ibid*, See Section 43

83 *Ibid*, See Section 43 (2)

84 See Section 44 (1)

85 See section 44 (2)

86 See Ministerial Notice, 2004

87 *Ibid*,

88 *Ibid*,

89 *Ibid*,

90 See Statutory Instrument No. 16 of 2000.

through a chain and custody certification system which involves marking and documentation. These different provisions lay a strong foundation for green procurement in public entities. If these are strictly enforced in public procurement of timber and its related products they would contribute a great deal to sustainable forest management. Public entities should be compelled under procurement law to strictly enforce these requirements in procurement of timber and its related products. This would force timber dealers to comply so as not to lose out on profit.

5 International Practices on Combating Trade in Illegal Timber

A number of countries around the world, including Uganda, have enacted laws against illegal logging and illegal trade in timber. The European Union accounts for most of the countries that have taken these steps. EU member countries have adopted the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan to ban illegal timber on the EU market, increase supply of legal timber and increase demand for responsible wood products.⁹¹ As part of FLEGT, the EU has entered into Voluntary Partnership Agreements (VPA) with a number of countries including eight African countries: Cameroon, CAR, Republic of Congo, DRC, Liberia, Gabon, Ghana and Ivory Coast.⁹² Most recently, the European Union passed legislation to exclude illegal timber in the European market.⁹³ Under the Regulations, timber traders are required to exercise due diligence to minimize the risk of placing illegally harvested timber

on the market.⁹⁴ Australia and the USA have also taken similar steps to exclude illegal timber from their markets.

As pointed out earlier, there is a big global emphasis on market based incentives as tool for exclusion of illegally harvested timber and products made there from. Forest certification and adoption of strict procurement rules are some of the incentives that have been adopted by a number of countries around the world. As early as 1992, the United Nations Conference on Environment and Development (UNCED) recognized public procurement as an instrument of sustainable development⁹⁵. In 2002, the World Summit on Sustainable Development (WSSD) also recommended the incorporation of consumption and production patterns into sustainable development. The United Nations Program on Environment (UNEP) also promotes the inclusion of sustainable development considerations in procurement.

The key purpose of these measures is to eliminate illegal timber and increase the market for timber from sustainably managed forests. The question of

91 See FLEGT Voluntary Partnership Agreements, Available on <http://www.euflegt.efi.int/portal/>

92 Ibid

93 See Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market. Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:0023:0034:EN:PDF>.

94 *Ibid.*

what constitutes illegal timber is often controversial as what is illegal in one country may not be expressly illegal in other countries. The bigger question is then whether such measures aimed at excluding illegal timber contravene the World Trade Organisation objectives and provisions contained in the General Agreement on Tariffs and Trade (GATT). The GATT aims at promoting free trade by among others discouraging member countries from discriminating against products from other WTO members. Trade restrictions are, however, permissible in a number of situations. Those relevant to this study include where the adopted measures are aimed at protecting human, animal or plant life or health and for conservation of exhaustible natural resources.

There is strong opinion that restrictions on illegal timber and preference for timber harvested from sustainably managed forests are permissible under the WTO to the extent that they promote forest conservation. Until the WTO decides otherwise, member countries can exclude illegal timber from their markets for purposes of promoting sustainable management of forests. This can be achieved through strict enforcement of forest laws, certification and public procurement policies that discourage purchase of illegal timber. Uganda would therefore not be in breach of WTO rules in designing and implementing public procurement systems that eliminate illegally harvested and marketed timber.

6 Conclusions and Recommendations

Uganda's forest cover is rapidly disappearing amidst challenges of population growth, industrialization and growing demands for forest products such as timber. Although there is a relatively strong legal and policy framework aimed at conserving forests and other biodiversity, these have for the most part gone unenforced for a number of reasons. Illegal logging and timber trade are on the rise, exposing forests to even greater danger of degradation a situation that could worsen the climate change challenges experienced so far. On the side of the government, huge amounts of revenue in form of taxes are lost from these illicit activities.

For now it appears that beyond the legal and policy frameworks, the country should seriously think about incorporation of market based incentives into its conservation efforts for sustainable forest management. Profit is at the center of almost all degradation and if such incentives are provided for timber dealers in responsibly harvested timber products, it will encourage sustainable forest management. Current initiatives to adopt a Uganda Forest Stewardship Council (FSC) standard should therefore be strengthened and the process expedited to have the standard universally recognized and accepted. Importantly, the country's procurement laws and systems should incorporate environmental aspects such as forest conservation as one of the key

principles for public procurement. The draft Public Procurement and Disposal of Public Assets Policy lays a good foundation to the extent that it includes environmental standards in procurement. This, however, needs to be included in the procurement law as well. In the same vein the recent Draft Guidelines for Securing timber developed by the Forest Sector Support Department are a good starting point in ridding the country of illegal timber through good procurement practices that promote sustainable forest management. Just like the PPDA Policy, however, they also lack the power of law and it is recommended that they should be enacted as regulations under the National Forestry and Tree Planting Act.

Government is a key funder and procurer of most timber products and this would mean that any timber dealer wishing to supply government would have to demonstrate that the forest from where the timber is harvested is responsibly managed. Forest certification helps to assess whether a particular forest is being sustainably managed and would, in this case, provide strong proof for compliance with environmental conservation as a principle of procurement. As it is now procurement law and policy is general and does not specifically promote forest conservation as highlighted above. Nonetheless it provides a number of opportunities for forest conservation

through public procurement policies. The recommendations include the following;

1. The current legal and policy framework on public procurement should be reviewed to incorporate environmental aspects. In particular, environmental conservation efforts such as sustainable forest management should be included among the key principles of public procurement. Such a step would compel timber dealers to supply timber from well managed forests which in turn would promote sustainable forest management.
2. Illegal timber should be completely excluded from the public procurement system. This would include timber not harvested in accordance with the law. Public procurement of timber accounts for 20% of the market share of all timber on the Ugandan market and exclusion of illicit timber would force dealers to comply with the law to tap into this market.
3. Uganda should adopt a forest certification standard for all its forests. This will not only increase the marketability of the country's forest products but also promote sustainable forest management.
4. Disseminate timber procurement guidelines among all key stakeholders and convert these guidelines into legally enforceable obligations. This can be achieved by enacting them as Regulations under the National Forestry and Tree Planting Act.
5. Illegal timber constitutes over 80% of timber on the Ugandan market. Strict procurement laws must be complemented by strict enforcement mechanisms that punish heavily those found in possession of illegal timber and related forest products.
6. Strengthen coordination among key institutions involved in regulation of timber trade and public procurement such as NFA, URA and PPDA in order to curb illegal timber.
7. Illegal timber trade has been escalated by the growing cross-border demand. This can only be eliminated by the joint effort of countries in the region. As part of its regional and international obligations, Uganda is under duty to cooperate with countries within the region such as Kenya, Tanzania, Rwanda, South Sudan and the Democratic Republic of Congo.

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About the Authors

Godber W. Tumushabe is a lawyer, policy analyst and social entrepreneur. He is the former Executive Director of Advocates Coalition for Development and Environment (ACODE), a leading independent public policy research and advocacy think tank based in Uganda. He holds a Bachelor's Degree in Law (LLB) and a Master of Laws Degree (LLM) from Makerere University and a Juridical Science Master (JSM) Degree from Stanford University. He has previously worked with the African Centre for Technology Studies (ACTS) in Kenya where he directed Africa-wide projects on environmental governance. He has published extensively in the area of natural resource governance.

Dan Ngabirano is an Assistant Lecturer in the School of Law, Makerere University and Consulting Partner at Development Law Associates (DLA). He holds a Master of Laws (LLM) Degree from Harvard University USA, Bachelor's Degree in Law (LLB) From Makerere University and a Post Graduate Diploma in Legal Practice from the Law Development Centre, Kampala. Dan is also a member of The Access Initiative (TAI) and the Access to Information Committee of the African Network of Constitutional Lawyers (ANCL). He is admitted to practice law in Uganda and is an active member of the Uganda Law Society and the East African Law Society.

Sophie Kutegeka works for IUCN as a Programme Officer based in Kampala, Uganda. Sophie has experience in sustainable natural resource management with a core focus on climate change, forestry and extractives. She gained a lot of experience in natural resource governance while serving as a Programme Officer at the Advocates Coalition for Development and Environment (ACODE), a policy research and advocacy think tank based in Uganda.

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Advocates Coalition for Development and Environment
Plot 96, Kanjokya Street, Kamwokya
P. O. Box 29836, Kampala
Tel: +256 312 812150
Email: acode@acode-u.org; library@acode-u.org
Website: www.acode-u.org