

Assessment of Lawful Sourcing and Sustainability: U.S. Hardwood Exports, 2017

Prepared for
American Hardwood Export Council

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KEY FINDINGS & OBSERVATIONS

Overall Conclusion

The Study Team concludes that there is a Low to Negligible Risk of sourcing and exporting illegal and unsustainable hardwoods from the United States. The combination of forest growth exceeding removals in the hardwood forest sector, stable forest area, well-established private timber ownership, robust and effective legal systems, the safety-net of national and state regulations and programs that address unlawful conduct and poor forest practices, the widespread use of trained loggers, the high rates of BMP compliance, the development of state comprehensive forest and wildlife resource assessments, and the proliferation of public/private sector conservation partnerships all contribute to this finding.

Risk Assessment Framework

A Risk Assessment Framework that summarizes this assessment of US hardwood supply in the context of common criteria and indicators of legality and sustainability is included in Appendix A. The framework provides a succinct summary of the most pertinent indicators of legality and sustainability, describes the available evidence for those indicators, references the certification standards for which they align, and details where the evidence is discussed in this 2017 report. The Risk Assessment Framework can also be used by US Hardwood producers to demonstrate Due Diligence and support the conclusion of Low Risk.

Observations/Findings

- (1) This report updates and expands upon data and information examined in an earlier 2008 assessment of US hardwood product exports. The preponderance of evidence compiled for this 2017 update strongly indicates that there is very low or "negligible" risk that US hardwood exports contain wood from illegal and unsustainable sources, based upon programs and requirements currently in place.
- (2) Based on an examination of pertinent data, we conclude that all states in the US hardwood-producing region can be considered Low Risk of sourcing illegal hardwoods per the requirements of the EU Timber Regulation, the Australia Illegal Logging Prohibition, Japan's Goho program, and the due diligence and risk assessment requirements of the certification programs (FSC®/SFI®/PEFC®) operating in the United States. *[Section 2]*
- (3) The United States has, through the US Forest Service Forest Inventory & Analysis (FIA) Program, one of the most comprehensive and continuous inventories of forest resources in the world. The FIA enables annual monitoring and early detection of forest sustainability issues. Growth-to-removals ratios by state range from 1.3 to 12.9, strongly evidencing that there is virtually no risk from a national or state perspective that US hardwoods are being harvested at a rate that is problematic from a sustained yield perspective. *[Section 3]*

- (4) FIA data also show that the area of forestland and timberland in the US Hardwood Region, and for the United States as a whole, has not changed significantly in the past decade. Thus, there is a Low Risk that hardwood forests are undergoing significant conversion to other land uses. *[Section 3]*
- (5) Bottomland hardwoods in wetland areas often have high concentrations of biodiversity and are environmentally sensitive in terms of maintaining water quality and other ecosystem services. Based upon an analysis of four data sets, the Study Team concludes that the extent of these areas has not changed appreciably over the past decade. *[Section 4]*
- (6) We conclude that there is a Low Risk of sourcing and exporting illegal or unsustainable hardwoods pursuant to the current requirements for avoiding uncontrolled or controversial sources outlined in certification and procurement programs operating in the United States. While minor and occasional instances contrary to the controlled/non-controversial sources standards are likely to be found, they are below the risk thresholds of concern for all of the relevant certification standards in effect as of December 2017. *[Section 10]*
- (7) Illegal logging in the US context most commonly involves timber theft and/or trespass on private and public lands. While timber theft is a pernicious crime that can cause serious economic harm to an affected landowner, the amount of stolen timber across the hardwood region is very low relative to total hardwood production. The few academic studies and systematic surveys published since 2008 continue to suggest that stolen wood very likely represents a negligible volume in the mix of hardwood products exported, almost certainly less than one percent. The most commonly reported incidents of timber theft involve poorly marked or disputed property lines leading to timber trespass. *[Section 5]*
- (8) Since 2008, several states have further strengthened enforcement capability and/or increased penalties for crimes involving timber theft. *[Section 5]*
- (9) Since 2008, the amended US Lacey Act has strengthened US law and regulation with respect to illegal sourcing of wood materials. The Lacey Act amendments, the EU Timber Regulation and the Australia Illegal Logging Prohibition, among other international developments, have brought greater attention to and monitoring of supply chains of US hardwood producers. Compared to before these statutes came into effect, more foreign buyers are asking for information and/or written commitments regarding legal sourcing of US hardwood products. *[Section 2]*
- (10) The data indicate that federal, state, and local laws governing various aspects of forest management are effective and enforced. International governance indicators, including

those compiled and updated by the World Bank, indicate that the US is within the top quartile of countries in the world when it comes to the rule of law, government effectiveness, regulatory quality, and low level of corruption. We are highly confident that national and state laws that apply to the hardwood sector are effective and enforced. *[Sections 6, 7, 11; Appendix D]*

- (11) The United States is a proactive participant in international fora and processes to strengthen legal wood products trade and has included provisions prescribing stronger compliance to environmental laws and international conventions in free trade agreements. The international engagement by the United States, and its strong domestic legal framework for enforcing and prosecuting against illegally traded wood products (made stronger since 2008), further mitigates the risk of US hardwood products originating from illegal sources. *[Section 2]*
- (12) The sourcing of US hardwoods is almost entirely from privately-owned forestland. Private lands account for approximately 92 percent of US hardwood production. Of the land in private ownership in the hardwood region, 65 percent is owned and managed by approximately 9.4 million family forest owners (nearly 11 million for the US as a whole). The average holding is just over 9 hectares. *[Section 3]*
- (13) The rights of timber ownership are well-established and protected in the United States. Landowners can make independent decisions about how their land is managed and used. Most US forest landowners own and manage their forestland for reasons other than timber production. *[Section 3]*
- (14) The predominant sourcing of US hardwoods from small, family forest ownerships underscores both the reliability of supply and the challenge of addressing forest sustainability issues over the wider landscape. These landowners are also highly independent and present a significant challenge to coordinating land management planning and broad scale independent forest certification. *[Section 10]*
- (15) Owners of the hardwood forest resource are unlikely to adopt certification for a number of reasons including: (1) there is generally no premium or up-charge for certified forest content at the landowner level; (2) the costs of certification are perceived by landowners to be prohibitively high; (3) landowners own forestland for non-timber objectives and infrequently conduct harvesting activities; (4) family forest owners have a culture of independence; (5) only a small number of landowners (10 percent) have formal forest management plans as required by certification standards; and (6) family forest owners generally lack the capacity to develop and maintain sufficient programs and procedures to achieve independent certification. *[Section 10]*
- (16) Adoption of voluntary forest management certification programs remains a significant challenge in the hardwood sector. Generally, forest management certification does not

work well where supply chains are non-integrated and the majority of the forest resource is owned and managed by small, private family forest owners. While the export market, particularly in the EU, has encouraged more US hardwood mills to participate in certification programs, the availability of certified forest content remains limited and will likely remain so in the near term. *[Section 10]*

- (17) The number of chain of custody (CoC) certifications by hardwood sawmills has increased over the past several years, particularly among exporting companies, but is not widespread in the overall hardwood industry. Among the constraints for wider use of CoC certification are: (1) the lack of availability of certified forest content; (2) lack of demand-pull; (3) the cost of achieving initial certification along with annual surveillance audits; and, (4) the difficulties posed by complex and multi-level supply chains. Small companies typically also do not have sufficient procurement staff to keep up with the requirements and changes to chain of custody and controlled wood standards. *[Section 10]*
- (18) Traceability to the original harvest site is often not possible for US hardwood producers given the complex supply chain typically involving many small landowners and indirect purchases (e.g., through dealers, brokers, and concentration yards). *[Section 10]*
- (19) A risk assessment approach for establishing legality and sustainability, as presented in this report, can be referenced for meeting CPET Category B evidence (“all forms of credible evidence other than certification schemes”) and other similar procurement guidelines for sourcing US hardwoods. However, in several EU countries, certification is mandated for government purchases. *[Section 13]*
- (20) A safety-net of federal and state laws and regulations, resource assessments and forest and wildlife action plans, Best Management Practices (BMPs), professional logger training, forest health monitoring and protection, conservation programs, technical assistance, outreach and cost-share incentive programs, are effective in assisting family forest owners in achieving legal and regulatory compliance, broadening the professionalism of forest workers and promoting sustainable forestry practices. Overall, federal and state forest programs contribute to ensuring sustainable and legal hardwood supplies. *[Sections 8, 9]*
- (21) FSC US is continuing to develop a National Risk Assessment (FSC-US-NRA) for use in implementing the revised Controlled Wood standard (FSC-STD-40-005 V3-1). The 2nd draft for public consultation was issued in December, 2017. Company-developed Risk Assessments will remain acceptable for Controlled Wood certification until the FSC-US-NRA takes full effect, but not after December 31, 2018. *[Section 11]*

- (22) Included in draft # 2 of the FSC-US-NRA are large areas in the hardwood region identified as having “specified risk” for High Conservation Value and/or forest conversion, according to criteria established by FSC US. Companies seeking FSC certification will need to either not source from those areas or undertake “control measures” to mitigate potential risks. The draft FSC-US- NRA provides for certain Mandatory Control Measures and anticipates that additional Control Measures will be formulated by FSC in a process involving regional stakeholder meetings. At the current time, the FSC-US-NRA draft is undergoing a comment period that may result in changes before being finalized. *[Section 11]*
- (23) As detailed in this report, there are extant protections, conservation programs, BMP monitoring, and public and private sustainable forestry programs in each hardwood state that address HCV and forest conversion issues. Depending upon the decision criteria used in the final FSC-US-NRA, these various landscape scale initiatives may contribute to viable control measures under the FSC Controlled Wood standard. *[Section 11]*
- (24) The FSC US national risk assessment process has affirmatively determined Low Risk of illegally harvested wood, wood harvested in violation of traditional and human rights, and wood from forests in which genetically modified trees are planted. *[Section 11]*
- (25) Four case studies of Forest Inventory and Analysis (FIA) Survey Units that are among the highest hardwood sawtimber producing areas in the United States highlight and substantiate that the forest land base is stable, forest inventories are increasing, BMP programs are highly effective, a large number of loggers have received sustainable forestry training and State Forest and Wildlife Action Plans are in place to address state-specific sustainability challenges. Among the common challenges identified in state forest assessments are the threat of conversion of forests to development and combating forest health risks, including invasive insects and disease. *[Sections 14, 15, 16, 17, 18]*
- (26) Every state has regulatory, quasi-regulatory and non-regulatory authorities and programs addressing different aspects of forest land management. All BMP programs are reported by the National Association of State Foresters (NASF) as being equally effective, regardless of their regulatory/voluntary approach and emphasis. *[Section 8]*
- (27) Comprehensive state level BMP monitoring evidences a high level of compliance with both regulatory and voluntary Best Management Practices (BMPs) to protect water quality and other beneficial uses of the nation's streams, lakes, waterbodies and wetlands. Virtually all states conduct periodic BMP compliance monitoring that show very high levels of acceptance and compliance by landowners and timber operators.

Where forestland is certified, the forest certification standards (FSC/PEFC/SFI/ATFS) require the use of BMPs, even where they are voluntary. *[Section 8]*

- (28) Studies indicate that forestry accounts for significantly less water quality impairment than any other source of non-point source pollution. On rivers and streams, for example, forestry practices account for only 2.9 percent of all water quality impairment. The Environmental Protection Agency (EPA) has determined that State BMP programs meet the requirements of the federal Clean Water Act and are effective in protecting water quality impacts from non-point source forestry activities. *[Sections 7, 8]*
- (29) Every hardwood-producing state has a logger training and/or independent certification program. These programs have contributed to substantial increases in the levels of logger training and professionalism. *[Sections 8, 10, 11]*
- (30) Pursuant to the 2010 amendments to the US Food Security Act (Farm Bill), each state in the hardwood region has conducted a state-wide forest resource assessment and developed action plans to address forest sustainability challenges. The action plans provide for coordinated implementation of conservation efforts by both the public and private sectors. *[Section 8]*
- (31) Similarly, each state has developed a Wildlife Action Plan to conserve and protect habitat and wildlife species and to keep species of concern from becoming threatened. These Action Plans facilitate coordination between agencies, conservation organizations, landowners and the forest industry for species recovery and habitat protection. *[Section 8]*
- (32) The role played by private sector conservation organizations has grown significantly in importance since 2008. Examples include the creation of The Conservation Fund's Working Forest Fund[®] and The Nature Conservancy's Working Woodlands initiative. Increasingly, private sector conservation organizations are aligning their interests with those of the state and federal agencies that are focused on protecting the most threatened forest types and the species that rely on them. These organizations are providing input to the State Forest Resource Assessments and State Wildlife Action Plans, and many of the traditional public funding sources available for conservation require that projects align with the objectives from these plans. *[Section 9]*
- (33) Purchases of ecologically significant forests and protection through conservation easements increasingly protect important species and habitats. Other cooperative efforts with landowners to conserve critical forest resources, particularly bottomland hardwood forests along streams and in wetlands, have also increased. *[Section 9]*

- (34) The most visible national conflicts involving forests in the United States are on how federal forests should be managed, and on whether timber harvesting in the US South (on private lands) is problematic from a forest sustainability standpoint. Bottomland hardwoods or wetlands are also of environmental and conservation concern. As detailed in this report, very little US hardwood is sourced from public lands. The major focus of environmental groups in the US South involves industrial wood pellet production and export, not hardwood lumber, plywood, and veneer. A section of this report is devoted to an analysis of bottomland hardwoods with the conclusion that the extent and attributes of bottomland hardwoods in the Hardwood Region are relatively stable.
[Section 3,4]
- (35) The US Hardwood Region is not without forest sustainability challenges. The most cited sustainability issues identified in state forest action plans relate to forest health, particularly the impact of invasive pests and wild fire. Hardwood forests located in close proximity to rapidly growing urban areas are also under pressure from development and other land use changes. While these challenges can be formidable, they do not present significant risk to overall sustainable hardwood production and exports. Strong markets for US hardwood products, including exports, provide an incentive to private landowners to maintain their properties in forest cover.
[Sections 8, 9, 10]
- (36) Finally, the data, information, and analysis presented in this report can serve as an alternative to forest management and chain of custody certification for purposes of demonstrating low risk of illegal or unsustainable hardwood sourcing from the United States. Absent availability of certified hardwood products, the data and information compiled for this report provides evidence that US hardwood supply chains meet all current due diligence standards as legal and sustainable.