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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

### **Written statement\* submitted by Human Rights Now, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 May 2016]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## The Japanese Governments, Corporations, and the Organizing Committee for the 2020 Tokyo Olympics Must Take Effective Measures Against Illegal Logging

Illegal logging—which accounts for over 20% of the global timber trade and between 50 to 90% of logging in tropical countries and powers international crime over \$30 billion USD a year—devastates forests and the people who depend on them in developing countries, leading to poverty, displacement, biodiversity loss, and deforestation, undermining sustainable development.<sup>1</sup>

In January 2016, Human Rights Now published a report on illegal logging in Sarawak, Malaysia, explaining how illegal logging occurs and is exploited by Japanese companies to negatively impact developing countries and indigenous peoples who depend on the forests for their livelihoods.<sup>2</sup> It discussed how the previous local Sarawak government, in collusion with major Malaysian logging companies, ignored the land rights of indigenous and other groups to issue illegal logging licenses and certificates improperly verifying the legality of the logging for foreign importers, including Japan.<sup>3</sup> Japanese corporations purchasing the illegally-logged timber played a critical role in supporting and financing the apparatus allowing such illegal logging by serving as a lucrative export market, as Japanese business sectors, from trading to construction, exploited the illegally logged timber from their supply chains to their own benefit. They could do this because there is no requirement in Japanese law for companies to conduct due diligence ensuring the absence of abuses and the legality of logging practices by timber suppliers in their supply chains independently of source-country certifications, which are vulnerable to corruption.

In 2012, private companies in Japan imported 38% of Sarawak exported timber by value, around US \$900 million, led by ten Japanese companies (seven trading and three construction).<sup>4</sup> A Global Witness report documented two Japanese companies, Sojitz and Itochu, purchasing timber from the concessions of two Malaysian companies, Samling Group and Shin Yang Group, where illegal logging occurs.<sup>5</sup> Illegally logged timber was also traced to use in major Tokyo construction sites by Shimizu, Taisei, Kajima, and other Japanese corporations.<sup>6</sup> The corporations responded with intentions to prevent future procurements of timber from supply chain sources illegally logging.<sup>7</sup> However, such responses at best can prevent individual cases, not the practice. The data point to purchases of illegally logged timber being prevalent in Japan and not limited to a few cases.

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<sup>1</sup> INTERPOL/UNEP, Green Carbon, Black Trade: Illegal Logging, Tax Fraud and Laundering in the Worlds' Tropical Forests. A Rapid Response Assessment, 2012.

<sup>2</sup> Infringement of the Rights of Indigenous People by Continuous Illegal Logging Practices, [http://hrn.or.jp/wpHN/wp-content/uploads/2016/01/MalaysiaSarawakReport\\_20160114.pdf](http://hrn.or.jp/wpHN/wp-content/uploads/2016/01/MalaysiaSarawakReport_20160114.pdf) (Japanese).

<sup>3</sup> Development of Global Timber Tycoons in Sarawak, East Malaysia,' Bruno Manser Fonds, February 2011, [http://stop-timber-corruption.org/resources/bmf\\_report\\_sarawak\\_timber\\_tycoons.pdf](http://stop-timber-corruption.org/resources/bmf_report_sarawak_timber_tycoons.pdf), 16. Cf. Functions of Forest Department,' Forest Department Sarawak, <http://www.forestry.sarawak.gov.my/>; 'How Forestry Staff Write Their 'Ground Reports' From Seaside Hotels in KK,' Sarawak Report, FEB 18, 2014, <http://www.sarawakreport.org/2014/02/forestry-department-write-ground-reports-from-seaside-hotels-in-kk-exclusive-expose/>

<sup>4</sup> STIDC, 'Export Statistics of Timber and Timber Products Sarawak 2012,' [http://www.sarawaktimber.org/timber\\_statistic/Export\\_Statistics\\_Timber\\_Products\\_Sarawak\\_2012.pdf](http://www.sarawaktimber.org/timber_statistic/Export_Statistics_Timber_Products_Sarawak_2012.pdf), 3.

<sup>5</sup> 'Global Witness: Nobanashi-Sangyo', *supra*, n. 3.

<sup>6</sup> 'Global Witness, Shototsu-suru-futatsuno-sekai' (Dec. 2014), <https://www.globalwitness.org/olympicsjp/>, 138.

<sup>7</sup> Id. Responses to HRN inquiries.

Japan is the fourth largest timber consumer state following the US, EU, and China, and a major market for illegal timber. Recent estimates indicate 12% of Japan's timber imports are at high risk of being illegal.<sup>8</sup> Japan's lenient laws on the import, distribution, and procurement of timber contribute to the widespread use in Japan of illegally procured wood. Japan's "Green Purchasing Law" prohibits procurement of illegally logged timber, but it only applies to government procurement, accounting for only 5% of Japan's timber consumption.

No law prohibits the import of illegally logged timber by the private sector.

Instead, there is the so called "Goho-wood system", a voluntary system to certify the timber imports are not related to illegal logging based on the guideline established by the government. Two critical breakdowns with this system are (1) a company which chooses not to participate in the system is not sanctioned and may continue to deal in illegal timber with impunity and (2) the system relies on certification originating from the sourcing country, which as the Sarawak example demonstrates, allows for fraudulent certification by collusive governments, effectively sanctioning illegally logged timber. Furthermore, the Goho-wood system does not require further review of other important potential violations, such as the rights of local indigenous peoples.

To address such problems, G7 Agriculture Ministers made a commitment last month in Niigata to eliminate illegal logging and its trade. However, Japan's response has lagged behind its G7 partners.

On May 20, the Japanese government passed the "Law to Promote the Distribution and Use of Legally Logged Wood." However, the new law still falls well short of the standards of other developed timber importing countries such as the US, EU, and Australia. The law only requires companies which have voluntarily registered with the Japanese government to check the legality of their timber supply, and it does not provide sufficient standards for the check. The law will not be effective unless it requires the participation of all companies buying timber from countries with a risk of illegal logging, sets up robust due diligence standards for verifying legality, monitors the situation, and issues effective sanctions for violations.

As the Tokyo Olympics 2020 is approaching, the demand for timber products is likely to increase significantly in Japan, which would exacerbate the illegal timber trade.

On May 17, 2016, the Organizing Committee for the 2020 Tokyo Olympics ("TOCOG") published for public comment a draft sourcing code for sustainable wood procurement.<sup>9</sup> The discussion among members of the working group for sustainable sourcing codes was not open to the public, and the minutes of the discussion were concise and only available in Japanese.

The public was only given one week to submit comments, and the draft sourcing code was available only in Japanese. Although the draft sourcing code requires that woods procured by the TOCOG should be harvested in compliance with the laws of the country/area of harvest origin, it allows purchasers of the woods to rely on the Goho-wood system for legality verification. Given the flaws of Goho-wood system described above, the draft sourcing code cannot be called a "sustainable" sourcing code.

## **Recommendations**

HRN submits the following recommendations to facilitate the elimination of illegal logging and to ensure the legality of procured timber in Japan.

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<sup>8</sup> Momii M., Chatham House, Trade in Illegal Timber: The Response in Japan, November 2014.

<sup>9</sup> <https://tokyo2020.jp/jp/games/sustainability/opinion-wood-procurement/> (Japanese).

To the Japanese government:

- (1) Revise laws and regulations to ban all imports and procurements of illegally logged timber and sanction offenders;
- (2) Revise laws and regulations to ensure that the logging of purchased timber is compatible with a wide range of international obligations and standards, including environmental and human rights, such as the land rights of indigenous and other affected peoples;
- (3) Obligate private and public timber importers to conduct effective due diligence on the legality of procured timber;

To governments of timber source states vulnerable to illegal logging:

- A) Pass and reinforce laws and regulations prohibiting illegal logging; ensure effective enforcement; and prevent corruption in relation to illegal logging.
- B) Ensure the recognition and protection of land rights of indigenous and other affected peoples, and ensure their free, prior, and informed consent at the occasion of the issuance of a timber license;
- C) Ensure effective oversight over logging companies activities in traditional indigenous lands and other areas vulnerable to illegal logging;

To logging companies in states vulnerable to illegal logging:

- (1) Refrain from or immediately stop illegal logging;
- (2) Regardless of the issuance of a timber license, conduct due diligence confirming the absence of inconsistent land rights and ensure the free, prior, and informed consent of affected local communities;
- (3) Establish compliance mechanisms to prevent illegal logging;

To Japanese corporations procuring timber:

- (1) Immediately stop trading with logging companies reportedly engaging in illegal logging, unless obtaining an internationally recognized forest certification such as Forest Stewardship Council certification;<sup>10</sup>
- (2) Conduct thorough due diligence on the supply chain of imported timber and products, and establish a self-inspection system on illegal logging, aside from current laws and regulations;

To all relevant companies:

- (1) Amend or implement a company CSR policy to incorporate environment and human rights concerns, as well as inform suppliers, management, and employees of the policy;
- (2) Have continual dialogues with NGOs and indigenous communities to obtain accurate information regarding illegal logging.

To the Organizing Committee for the 2020 Tokyo Olympics:

- (1) Make the drafting process of the sourcing code more transparent and engaged with civil society

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<sup>10</sup> <https://ic.fsc.org>

- groups;
- (2) Open public comment to the sourcing code for at least a month for civil society groups to carefully review the draft and meaningfully contribute; and release an English translation;
  - (3) Establish a sourcing code for wood products which require purchasers of timber or wood products to conduct thorough due diligence on the supply chain of imported timber and products, and establish a self-inspection system on illegal logging, aside from current laws and regulations;
  - (4) Ensure that purchasers of timber or wood products have continual dialogues with NGOs and indigenous communities to obtain accurate information regarding illegal logging.
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