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INFORMATION ABOUT NAMIBIA'S LAW

Sustainable Forest Management & Responsible Logging

Members of a community forest have the legal responsibility to manage and utilize natural resources sustainably and for the benefit of the community. But persistent illegal harvesting of timber undermines sustainable management, causing resource shortages and serious community conflicts.

What is logging?

Logging refers to the process of cutting down trees with the aim of getting timber or pulp that can be sold. The timber is used to build homes and furniture, or to supply fuel for cooking and heating. The pulp is used to make paper and paper products.

Logging may also be connected to the clearing of land for a variety of economic and developmental reasons, such as growing crops, developing infrastructure or and making space for mining activities.

In Namibia, the legal framework on the management and use of forests and other woodlands includes the Namibian Constitution and legislation passed by Parliament. The Constitution, as the supreme law of the country, makes it incumbent upon the State to ensure the sustainable use of forests and their resources, which includes trees.

In addition, the *Forest Act 12 of 2001* regulates various activities, including logging, to ensure that forest resources in Namibia are sustainably used and managed. This law also provides a procedure to ensure that forestry-related activities are controlled through various permits, such as harvesting permits that are usually valid for a period of 3 months.

Another important piece of legislation in forest resources management is the *Environmental Management Act 7 of 2007*, which sets conditions for timber or bush harvesting activities as well as land clearing.

These laws have been put in place by the Government to protect natural resources, promote sustainable management and develop a process for assessing and controlling activities that have a significant impact on the environment.

But, despite this legal framework, illegal logging is frequently reported. According to media reports, local rosewood forests – particularly in the Kavango regions – are being plundered and exported for the Chinese furniture market.

This propelled the Government to introduce a moratorium on timber harvesting in 2018. This moratorium is still in place – although there is scope for exceptions where an applicant can show locally-added value to a raw timber product.

When does logging become illegal?

Illegal logging covers practices associated with timber harvesting, processing, and trade. In other words, when laws are broken at any point along the timber supply chain, the logging is considered illegal. For instance, it is illegal to engage in logging with an illegally acquired license or in a protected area; to harvest more than the permitted quotas; to process logs without the necessary licenses; to employ workers illegally; to fail to pay taxes on the enterprise; or to export timber products without paying export duties.

Illegal logging has a variety of causes, but it is usually a symptom of larger governance issues, such as some combination of ineffective legislation, weak institutions, unclear forest tenure, corruption or a lack of law enforcement.

Impacts of illegal logging

Illegal logging has negative economic, social and environmental impacts.

When trees are cut without the proper permits and smuggled abroad, the Government suffers economic losses such as lost tax and duty revenues. Illegal logging also distorts markets and drives down market prices for timber, creating unfair competition and impeding long-term efforts to implement sustainable forest management.

The social impacts of illegal logging include the fact that it undermines respect for the rule of law and is often associated with corruption.

The environmental effects of illegal logging include forest degradation, the loss of biodiversity and the emission of greenhouse gases which contributes to global climate change.

Steps towards responsible logging

Responsible logging, also known as sustainable logging, achieves a balance between utilizing forests for timber while maintaining the unique environmental and social benefits of the forests. There are many practical steps that a community can take to protect the health and longevity of a forest while still profiting from the production and sale of timber and other forest products.

1. Establishing protected areas and conserving biodiversity. It should be incumbent upon forest managers to conserve native tree species and genetic diversity on their land; as well as to designate a portion of their land as a protected area where logging is prohibited.

2. Having a forest management plan and harvesting accordingly. The goal must be to harvest in a way that allows certain tree species to regenerate while also ensuring that the overall ecological health of a forest is maintained, restored or even improved. This can be achieved by selective logging.

3. Planting trees. The planting of trees on deforested or degraded land can improve the health of an ecosystem and help to meet some of the demand for forest products, taking pressure off natural forests.

4. Using reduced-impact logging techniques. Timber can be harvested with equipment that minimizes erosion, waste, and carbon emissions – such as by using axes instead of bulldozers.

5. Using substitute materials. Local communities can opt to use substitute material (such as corrugated iron) to build houses, instead of relying on only wood.

6. Improving laws and law enforcement. There are several aspect of Namibia's current legal framework that could be strengthened.

Under the current law, the maximum fine for illegal timber harvesting is N\$8000 or imprisonment for up to 24 months, or both. Yet in most cases, the value of the illegally harvested timber exceeds the maximum fine by far. The current penalties do not serve as real deterrents or punishments. This situation shows a lack of political will to combat illegal logging and encourages culprits to continue. There is an

urgent need to expand the penalty clauses to make them correspond more closely to the value of the illegally-harvested product.

Given that local communities suffer the most from illegal harvesting, returns of auctions of illegal harvested timber could be forwarded to the source of the timber – which is typically community forests. This would be a positive step to assist those communities who suffer most from timber-related crimes as well as the moratorium that is now in place. There is legal provision for this in the Forest Act, but it is not being applied in practice.

Illegal timber harvesting is often part of organized crime, which means that the *Prevention of Organised Crime Act 29 of 2004* is also relevant to combating illegal deforestation. This law gives the State more effective tools to combat illegal timber harvesting by providing for seizure of the proceeds of this crime. This mechanism has been applied to wildlife crime, and should be also be applied to illegal logging so that the State can show its teeth here as well.

Successful action against illegal logging also requires better cooperation between law enforcement agencies. In October 2022, the Government reported to the National Stakeholder Forum on Combating Wildlife Crime that there is a need to clearly identify the roles of the responsible agencies, including NamPol & the Ministry of Environment, Forestry and Tourism, and to provide training and capacity-building for these agencies in relation to the investigation of timber-related crimes.

One step in the right direction could be to appropriately staff the Environmental Crime Unit at the Office of the Prosecutor General, and to fast-track timber cases across the country. This would send out a clear message that the State is seriously combating illegal timber harvesting and championing sustainable forest management.

Future court proceedings will indicate if the State is making a meaningful commitment to the utilisation of Namibia's forest resources in a way that also preserves them for future generations.

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