



House of Commons
Environmental Audit
Committee

**Buying Time for
Forests: Timber Trade
and Public
Procurement –
Government Response
to the Committee's
Sixth Report, Session
2001–02**

Sixth Report



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Report, together with formal minutes

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The Environmental Audit Committee

The Environmental Audit Committee is appointed by the House of Commons to consider to what extent the policies and programmes of government departments and non-departmental public bodies contribute to environmental protection and sustainable development; to audit their performance against such targets as may be set for them by Her Majesty's Ministers; and to report thereon to the House.

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A list of Reports of the Committee in the present Parliament is at the back of this volume.

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BUYING TIME FOR FORESTS: TIMBER TRADE AND PUBLIC PROCUREMENT – GOVERNMENT RESPONSE

1. The Environmental Audit Committee published its Report on *Buying Time for Forests: Timber Trade and Public Procurement* on 24th July 2002. The Government's response to the Committee's Report was received on 1st July 2003 in the form of a memorandum to the Committee. It is reproduced as an Appendix to this Report.

2. We welcome the Government's broadly positive response to our Report and in particular the clarification that it has provided on the interpretation of EU procurement rules and their application to sustainable procurement issues.

3. We are dismayed however at the length of time it has taken for the Government to respond to our Report. The Government is obliged to provide a response to all Select Committee Reports within two months of publication. In November 2002, the then Minister for the Environment wrote to the Committee apologising for the delay and assuring us that a response was imminent. It was not. We highlighted our concerns over the length of time the Government was taking to respond to our reports in our Annual Report for 2002. In May 2003, the Environment Minister, in response to a written question tabled by the Chairman of the Committee, again stated that the response was not ready, apologised for the delay and promised an explanation. Despite subsequent requests, we have yet to receive any explanation for the delay.

4. The Government has taken almost a full year to respond to our Report on a policy which the Government itself has described as an absolute priority. We would be grateful to receive an explanation of the delay and an assurance that in future Government responses to our Reports will be delivered in a more timely manner.

5. The timing of the arrival of the Government's response is not without significance. Our initial inquiry was in part stimulated by suggestions from Greenpeace that some of the timber being used in the refurbishment of the Cabinet Office had not come from legal and sustainable sources. The Government's response arrived the day before we took evidence from the Home Office following similar concerns over the construction of the new Home Office Headquarters.

6. We intend to consider the issues in the Government response in conjunction with our examination of the Home Office.

Government Response

GOVERNMENT RESPONSE TO ENVIRONMENTAL AUDIT COMMITTEE REPORT: "BUYING TIME FOR FORESTS: TIMBER TRADE AND PUBLIC PROCUREMENT" (Sixth Report of Session 2001-02)

1. The Government welcomes the Sixth Report of the Environmental Audit Committee and congratulates the Committee for succinctly covering the key issues pertinent to our commitment actively to seek to procure timber and timber products from legal and sustainably managed sources. The Government is grateful to the Committee for recognising its ground breaking agreement on timber with Indonesia, efforts to pursue similar agreements with other timber producing countries and the work done both at home and internationally to help protect the world's forests from illegal logging and unsustainable exploitation.

2. The Government realises that more must be done and, in particular, recognises the importance of its influence as a major purchaser of timber and timber products in helping to prevent illegal logging and encourage the sustainable management of forests and plantations. In this respect, the report makes a valuable contribution in helping us to implement fully our commitment on timber procurement by raising awareness of the importance of the subject and recommending ways forward.

3. These recommendations endorse many of the proposals made in the consultant's report on the timber scoping study commissioned that was published on the Tropical Forest Forum's web site in August and discussed with stakeholders at an open meeting on 2 September. <http://www.forestforum.org.uk/docs/scopingstudyreport6-8-02.pdf> . The intention is to implement the study's findings.

4. In focussing attention on the sustainable procurement of timber the Government is recognising the enormous environmental and social importance of sustainably managed forests. Wood products from sustainable forests have a generally favourable environmental profile and it is our intention that the special care required in their procurement should not become a disadvantage in comparison with procurement of alternative materials.

5. The Government's responses to the Committee's specific conclusions and recommendations are set out below. The EAC's recommendations are marked in bold; EAC paragraph numbers refer to the body of the report rather than its conclusions and recommendations.

THE GOVERNMENT'S STATEMENTS

EAC 6. Not only does the Government have a responsibility to lead by example in environmentally sound timber procurement practices; it also has, through its buying power, the potential to change the nature of timber markets through the procurement decisions that it makes.

6. The Government recognises that it has a responsibility to lead by example in using its purchasing power generally to support its policy and objectives for sustainable development and specifically in procuring timber that has been legally logged from sustainably managed forests to stimulate further supplies from such sources. The guidance, “Timber: Buyers Questions Answered”, that was disseminated to Departments and published on the Greening Government web site, now replaced by the “Sustainable Development in Government” web site, made the following points:

“The [timber procurement] policy also recognises that destruction is not just confined to tropical forests. Temperate forests in places are also under threat from less scrupulous forests products companies and, without the added value given to “good wood”, there would be no incentive for them to embrace sustainable management practices”.

7. The Government is determined to secure full implementation of the commitment to buy timber and timber products from legal and sustainably managed sources. We will, as confirmed in the Cabinet Office’s report to Parliament on the findings of its investigation into timber procurement for 22 Whitehall, endeavour to improve our guidance, ensure all future contracts comply with Government policy and review terms of reference for our consultant project managers.

8. As officials explained in their evidence to the Committee (Minutes of Evidence, Wednesday 12 June 2002 – para 147) the Government’s commitment on timber procurement has provided a real wake-up call to the industry with the people involved recognising the need to get their act together to develop chain of custody procedures. We expect this to become increasingly the norm as news of the Government’s commitment spreads and work begins to implement the recommendations made by the consultants commissioned to help us improve our performance in this important area

9. The Government has been advised to set up a Central Point of Expertise on Timber (CPET) to facilitate implementation of the actions recommended by consultants and officials. We accept that a CPET would be sensible and have been considering how this could be taken forward. A stand alone unit operating at arms length from Government has certain advantages but is likely to be more costly than an in-house operation supported by external expertise as appropriate. Defra faces a challenging agenda across a broad front with competing demands for limited resources and the Government may decide that an in-house approach would be sufficiently effective in addressing the urgent issues in the short term. We would review progress early next year and consider whether a different option could be pursued.

EAC 8. Public sector demand for sustainable timber would stimulate additional supply in the long term. Where requirements cannot be met from legal and sustainable sources, Government should be able to demonstrate that it has considered alternatives to virgin timber. Recycling and reuse of timber, or use of alternative species or domestic supplies, could be valuable tools in the drive to halt the wanton destruction of forests and endangered species.

10. The Government is taking action to encourage the public sector to act as one in using its purchasing power to increase the supply of timber from legal and sustainably managed sources. The Minister for the Environment, Mr Meacher, wrote in July 2002 to his opposite numbers in the devolved administrations to seek their full endorsement to the Government's commitment on timber. In September 2002 Mr Meacher wrote to the chief executives of English local authorities. Many local authorities have not responded to date but those that did are already taking action or propose to. The Government will seek to establish the complete picture and continue to promote the adoption of timber procurement policies.

11. The Government agrees that if more domestic sources of timber were utilised then there would be a corresponding reduction in demand for imported timber and that could have a beneficial effect on overseas forests that are not being well managed. The UK imports 85% of its wood product requirements. Domestic production of wood is set to increase significantly in the coming years. Currently over 60% of the wood produced from forests in the UK is now certified. The Government is working with partners to increase the area of forests independently certified in the UK, and to tackle the problem whereby certified wood is losing its certified status at some point in the chain between forest and the final consumer. These improvements should encourage suppliers to offer more wood products from domestic sources that are sustainable.

12. Government policy is to require timber and wood products from any type of forest to be sustainably sourced, which is an approach that also provides an important economic incentive for improved forest management in developing countries. It helps them see their forests as an investment worth nurturing to provide a steady income rather than as an asset to be stripped for a quick financial gain, e.g. the burning of forests to make way for ranching or palm oil plantations.

13. The Government recognises that there are a number of environmental benefits in buying reclaimed and recycled timber. The possibilities for re-use and recycling are extremely valuable attributes of wood and improve, still further, the environmental profile of sustainably produced virgin wood products. This makes more efficient use of timber resources – not least high value tropical hardwood timbers that have been associated with the destruction of tropical rainforests. Another benefit of specifying reclaimed or recycled timber and timber products is that it helps to reduce the amount of waste going to landfill.

14. The Government's policy on timber procurement already contains a commitment to buy reclaimed timber or products made from recycled timber where this is feasible and offers value for money. This has been developed by the consultants commissioned to undertake the timber scoping study. They have recommended the inclusion of a chain of custody requirement for reclaimed/recycled timber. Otherwise, without such evidence, a loophole could be created whereby suppliers could avoid sustainability requirements by claiming that the timber is reclaimed or recycled.

EAC12. While Government rhetoric has been laudable, we see no systematic or even anecdotal evidence of any significant change in the pattern of timber procurement since July 2000. The permissive wording of the policy has left those not committed to implementation free to pay it little more than lip service.

15. There is some evidence of changes in the pattern of timber procurement since July 2000. Several of our furniture suppliers are switching to certified timber sources. They have been influenced by the Government's policy on timber procurement, the inclusion of these requirements in contracts and the work of active bodies such as NHS Purchasing and Supply Agency. This Agency for example has been working with its furniture suppliers to help them meet the Government's requirements.

16. There should be no doubt about the seriousness of the commitment. The advice given in the document "*Timber: buyers' questions answered*" that was disseminated to Departments and published on the Greening Government web site in August 2000 said that there would:

"be hard cases where Government bodies have overriding operational reasons which dictate the use of timber where there is no firm evidence that it comes from a sustainably managed source, because there is no viable alternative. This is because many countries - developed as well as developing - have not yet been able to implement verification schemes for sustainably managed forests. Government bodies are however expected to have procedures in place for ensuring that such decisions are taken only when there really is no alternative and to be able to justify such purchases".

17. This reinforced the advice given in the "Green Guide for Buyers" that, among other things, called for "procedures to be put in place for considering any purchases which could not be substantiated as coming from sustainable sources" and explained what they should cover.

18. The Government does however recognise that there were inadequacies in implementing its policy, as confirmed by Mr Meacher in his evidence to the Committee. We are actively seeking ways to remedy this through the timber scoping study commissioned by Defra. The consultant's report contains a number of recommendations for improving performance in this area, which received approval in principle from the Cabinet Sub Committee of Green Ministers in November 2002. One such recommendation was the application of model variant contract specifications. This would ensure that Government contracts require timber from legal sources as a minimum standard. Suppliers would also be able to offer timber from sustainable sources as the highest standard variant or alternatively an interim standard of progressing towards sustainable sources. An acceptable offer for legal and sustainable timber would take precedence over offers based on the two lower standards.

19. Further recommendations for improving policy implementation will come from the high level Sustainable Procurement Group, which was established by the Secretary of State for Environment, Food and Rural Affairs to look at how the Government's sustainable development objectives can be more rigorously pursued through procurement.

EAC 18. The greater resistance to green procurement appears to come not from the European Union and its procurement rules, but HM Treasury's traditional hard line "of not using procurement to achieve other policy ends".

20. The Government disagrees with this statement. It is not a matter of using procurement to pursue other unrelated policy ends. The issues being pursued by the Government, e.g. timber from legal and sustainable sources, recycled paper, green electricity, are specification issues that are relevant to the subject of the contract. There is no inconsistency between the scope to take account of such issues under the EC rules and the scope available under the Government's own procurement policy. Indeed, the Office of Government Commerce (OGC) and Defra helped ensure that the EC interpretative communication on environmental issues fully recognised the scope, under the EC rules, for buyers to take account of relevant environmental issues. Of particular relevance to timber procurement was the confirmation, fought for by OGC, that environmental criteria can form part of the specified production and process methods. We are in fact already engaged in a process of helping to protect forests by demanding legal and sustainable timber. This general policy is being pursued through specified requirements that are directly relevant to the subject matter of each contract awarded.

21. Despite the interpretative communication and other guidance given in the Green Guide and the Treasury/DETR Joint Note there remains a misconception that public procurement policy and the legal framework within which buyers operate prevent them taking relevant sustainable development considerations into account when purchasing goods, services and works. The Government is taking further action to address this. The Sustainable Procurement Group, for example, will recommend how Government bodies should procure goods and services in a manner that supports the Government's policy and objectives for sustainable development. A major driver for this work has been the recognition that outside audiences (NGOs and business) increasingly see Government procurement as a barometer of its commitment to sustainable development.

22. For clarification, the Government's public procurement policy requires all purchases of goods and services to be based on value for money, having due regard to propriety and regularity. Public bodies are also required to comply with the EC Treaty, the EC procurement directives and the UK Regulations that implement them. These are designed to ensure that public procurement is fair, transparent and not used to discriminate by setting up barriers to free trade.

23. Value for money is defined as "the optimum combination of whole life cost and quality (or fitness for purpose) to meet the customer's requirement". The emphasis on whole life costs and quality means that Departments are required to take account of all relevant aspects of the product or service - including running and disposal costs, delivery, aesthetic characteristics, as well as the initial purchase price. The reference to meet the customer's requirement enables public sector buyers to specify what they want to meet their own operational and policy objectives while contributing to Government objectives on sustainable development, provided the specifications are fair, transparent and non-discriminatory and that the Department has considered the affordability and cost-effectiveness of the proposed solution.

24. In short, the policy and legal framework for public procurement provides the scope to take account of relevant environmental considerations in Government contracts, especially during the specification and selection stages - as confirmed by the EC interpretative document and the new directive.

25. At the specification stage, green production processes and relevant eco-label criteria can be taken into account, providing they are non-discriminatory. At selection stage – which looks back at the status and previous performance of the bidder - relevant aspects of a company’s environmental management system can be taken into account, and companies convicted of an offence or guilty of grave misconduct in the course of their business can be excluded from the procurement. Furthermore, suppliers could be excluded at this stage, if they have a poor record on managing environmental requirements, which has affected their performance on previous contracts.

26. At the award stage – which looks forward at the proposals for the specific contract - issues such as energy savings, recyclability and disposal costs can be reflected in criteria for establishing the best value for money bid for the contracting authority.

27. The joint OGC/Defra note on environmental issues in purchasing makes it clear that there is plenty of scope to take into account environmental considerations (e.g. through appropriate “green” specifications), in ways that are consistent with EC Procurement rules, and Value for Money policy. There are plans to revise the joint note to make it more positive and, for example, to take account of the Commission’s interpretative communication, which contains more detailed guidance.

28. For timber, this means that public sector buyers can define their sustainable forest management criteria and indicate certification schemes that would be acceptable evidence of meeting those criteria, but not to the general exclusion of other evidence as tenderers must be allowed to provide other forms of proof to illustrate that they have met the specified requirements/criteria.

29. The Committee has noted that these issues can be difficult for procurement officers. We agree and this is why we consider the consultant’s recommendation for a Central Point of Expertise on Timber, with expert input, as crucial in providing them with objective and consistent advice. Otherwise there is a risk that specifiers and buyers will decide that it is easier to specify alternative materials to wood products and timber structures when in fact the use of wood might be the best option to minimise environmental impacts. More demanding monitoring and reporting requirements could also discourage some buyers from specifying timber.

EAC 20. The Government has failed to provide officials with adequate guidance on legal and sustainable timber procurement or the regulatory framework.

30. The Government does not agree that the advice given to date has been completely inadequate. It depends what the EAC would accept as “adequate”. The Green Guide for Buyers has basic guidance on purchasing sustainable and legal timber and the Joint Note on Environmental Issues in Purchasing has basic guidance on the regulatory framework. Both documents were available to buyers before the timber procurement policy became a binding commitment. In 2002 a model specification clause was issued by the Treasury’s Office of Government Commerce to central departments. That document has provided buyers and suppliers with some clarification on the Government’s requirements for timber. The Government accepts that further improvements to the current guidance are required. Work is underway to further define acceptable standards and to determine how suppliers’

claims for compliance may be assessed efficiently and effectively. The Government is in the process of creating a central point of expertise to complete this work.

EAC 21. Lethargy in the provision of guidance on certification demonstrates a lack of commitment on the part of the Government.

31. The delay in providing advice on certification does not arise from lethargy on the part of the Government. On the contrary, a great deal of effort has gone not just into the timber scoping study, but also into preliminary work of determining what should be covered in the specification for that study - necessary because of the complexity of the subject. During the initial stages of that process officials met Dr Alan Knight to take advantage of his expertise.

32. The consultants have drafted an initial guidance note to help buyers implement the Government's commitment on timber procurement. However, the intention is not to complete and publish the note until the new machinery to which it will need to refer is in place. Further work is also required to develop it into a more user-friendly, possibly web-based document, with links to tools and case studies to help buyers understand more fully this particularly complex area of procurement and what is required of them. They are, in the meantime, able to use the interim model specification clause in their contracts that sets out the Government's requirements for the supply of timber and wood products from legal and sustainably managed sources.

EAC 24. That the Department for the Environment, Food and Rural Affairs lacks the capacity to deliver in any policy areas other than the most immediately essential areas must have undermined its ability to commit fully to providing the required leadership and guidance on timber procurement just as much as its lack of authority has prevented it enforcing the policy across Government.

33. The Government accepts that until recently the delivery of its commitment on timber procurement has fallen short of its expectations. This was due to genuine practical difficulties in the implementation of the policy and a failure to ensure that the message reached everyone that needed to know to prevent episodes of non compliance such as the Cabinet Office building at 22 Whitehall.

34. The Government is continuing to take steps to ensure that instructions not only reach all those that need to know, but they are acted upon. The development, for example, of the new Framework for Sustainable Development in Government, improved reporting and the growing realisation by senior and middle management that taking account of sustainable development in their activities is a core activity should help to ensure continual improvements in performance.

35. The Committee is right to draw attention to the changes in machinery of Government that took place following the June 2001 General Election. This resulted in resources being temporarily diverted into turning the newly amalgamated Defra into a fully functioning and effective entity at a time when officials were already under a great deal of pressure combating foot and mouth disease. The Department has however emerged from these problems and is exercising leadership and authority on sustainable development both at home and abroad with a number of successes to its credit.

EAC 25. That existing guidance to officials from other sources does not 'tie-in' with the Government's policy on timber procurement is only now becoming apparent, two years after the policy became binding and four years after the introduction of the model framework, is indicative of the malaise that has permeated implementation.

36. As Mr Meacher said in his evidence to the Committee on 4 July 2002 (para 246) there are areas in the Building Research Establishment's Environmental Assessment Method (BREEAM), which are not entirely consistent with the Government's commitment on timber procurement. Though its main thrust is to ensure timber comes from sustainable sources and puts the onus on suppliers to provide proof in the case of tropical hardwoods.

37. This is an area where the Government took the lead and we would expect a little time to elapse before a voluntary standard designed for the construction industry as a whole caught up with us. BREEAM is currently being reviewed. The Government will however review procedures to ensure bodies such as BRE are informed of changes in policy on its own estate that may have a bearing on standards of best practice for which they are responsible. Indeed, in the consultants' timber scoping study report (Chapter 7) there is a recommendation that advice given to procurement officers is integrated into other relevant schemes such as Constructionline.

38. There is a requirement on all Government departments to use BREEAM or similar assessment scheme for new construction and refurbishment projects. However, the guiding principle is that where the Government's own policy goes further than an existing standard that policy takes precedence.

39. Defra has taken action to make this clear. It recently, for example, contacted the National Building Specification (NBS), a trading name of RIBA Enterprises Ltd, on 1 October drawing their attention to the timber scoping study report and asking them to consider reviewing the NBS (Government Works) standard format to reflect Government policy on its own timber procurement.

40. The NBS has agreed to meet officials to discuss the issue once work on establishing the Central Point for Expertise on Timber is underway. In the meantime, Defra has asked Government departments to ensure that anyone employed by them on any construction, maintenance or supplies contract is made aware that the Government's policy on timber procurement should be complied with when drawing up specifications. The Office of Government Commerce issued an Information Note 9/2002 in November reinforcing this message. A copy is on OGC's website under Communities/Property and Construction/Services/Performance Improvement Division/Information. URL: <http://www.ogc.gov.uk>.

EAC 26. As Mr Meacher has acknowledged, "the lack of available data makes it impossible to monitor performance". Had reporting occurred as originally envisaged, Defra may have been alerted to failures to implement the policy earlier. As it was, the department was denied the opportunity to take timely remedial action (para 26).

41. The old adage “if you can’t measure it, you can’t control it” holds true. The disparate nature of data collection systems and limited resources for a new thrust of policy is recognised by the Government as contributing to the failure to provide adequate data.

42. The question of what data to collect and how best to collect that data has been carefully considered as part of the timber scoping study. The recommendation is for a fairly straightforward system for reporting for the annual “Sustainable Development in Government” report and a more comprehensive system for recording and reporting timber spend to a central point where the information would be used to inform resource requirements, determine appropriate targets and shape future policy developments.

43. Defra has drafted a proforma that it is proposed that suppliers will be contractually obliged to complete to provide more comprehensive data on timber spend. Defra is looking at the feasibility of using EMS software - now being introduced by several Government bodies to run their Environmental Management Systems - for collecting the data electronically. However, before a decision is made, it will be necessary to assess whether this approach provides value for money and also to consult other Government departments. EMS software may prove the best solution for Departments already using it or proposing to use it if it meets our requirements, but others should be free to choose another system provided it supplies the data in a format that can be processed centrally.

44. Departments have so far done no development work as they have been waiting for a final decision to be taken on the types of data to be collected. The delay in resolving this issue meant that the data collected for the “Sustainable Development in Government” report published in November was not as complete as Ministers would have wished. Nonetheless, there is a substantial increase this year in reporting of timber purchasing by Departments, including overall spend on certified and other timber products with evidence of sustainable sourcing. The first “Sustainable Development in Government” report (which replaced the annual greening government reports) was published in November 2002. A copy is at: <http://www.sustainable-development.gov.uk/sdig/reports/index.htm>.

EAC 28. It is disappointing that the Government has not taken greater advantage of the experience that exists in the private sector in initiating the required culture change in procurement operations. It should do so in the future.

45. When attempts to organise the timber policy were first made DETR and departments were a little too inward looking. But an attempt to rectify that was made later on when the timber scoping study commenced. The contract for the timber scoping study required the consultants to consult stakeholders. This was done at an open meeting on 25 March 2002 where representatives from the industry and NGOs discussed a consultation paper and at a further meeting on 2 September when they discussed the recommendations proposed in the timber scoping study report. We are grateful for their input and will continue to seek their advice. The consultants also have backgrounds in Government, industry and NGOs and have used their experience, knowledge and contacts to develop the recommendations for improving our performance on timber procurement.

46. It is not just on timber that the Government has sought advice from outside bodies. One of the first initiatives taken by the Sustainable Procurement Group was to organise a

workshop to bring together officials, key practitioners in the private sector and representatives from trade bodies and NGOs to discuss how Government could improve its performance in taking forward its objectives on sustainable procurement through procurement. Among the many findings arising from this workshop was the view that integrating sustainable development into procurement was a big step and would require Departments to embrace the concept of change management.

47. The Sustainable Procurement Group has been looking at a whole range of mechanisms for effectively taking forward sustainable development in procurement, including change management techniques for changing the culture within Government organisations. However, such techniques cannot work in isolation. It is also important to have the right structure in place for achieving continuous improvement and measuring progress and Departments are already working towards extending their environmental management systems to cover procurement.

48. As the Committee will know, the Government set a target for all Departments to implement environmental management systems based, or modelled upon, a recognised standard (such as ISO14001, EMAS 2 or similar). For mainly office based estates, to cover: (1) all main offices by 31 March 2004; and (2) all other offices/sites by 31 March 2006. For mixed or mainly non-office estates, to cover: (1) 40% of estate by 31 March 2004; and (2) 80% of estate by 31 March 2006.

EAC 30. The Government failed to undertake adequate research or preparatory work prior to or immediately after its July 2000 commitments on timber procurement. As a result it hugely underestimated the scale and complexity of the challenge it was facing and failed to commit adequate priority or resources to implementation. This in turn led to an abject failure to deliver on the promises made.

49. The Government accepts that implementing its timber procurement policy has presented more of a challenge than initially anticipated, although it was recognised from the outset that it was a complex area. However, as explained in the evidence given by officials on 12 June 2002 (para 93), the policy did kick start the whole process and if a decision had not been taken to go ahead with the policy we might still be discussing whether to implement it or not.

EAC 35. We warmly welcome the Government's recent efforts to reinvigorate implementation of the timber procurement policy and in particular the work now being undertaken by consultants. We acknowledge the valuable role that Greenpeace have played in stimulating recent Government activity.

50. The Government appreciates the Committee's recognition of its recent efforts to implement its commitment on timber procurement. Work however was well underway before the Greenpeace demonstration at 22 Whitehall in April 2002 drew attention to the non-conformity with Government policy.

51. This is not to undervalue the role of Greenpeace. The ensuing media interest arising from their demonstration undoubtedly gave a big impetus to the policy and, as Mr Meacher accepted in his evidence (para 240), “certainly produced a change in tempo”. The Government is grateful to NGOs such as Greenpeace, Friends of the Earth and WWF in advising Ministers and officials on timber and other areas of procurement, particularly where this has been done in a structured way.

52. Defra is continuing to look at how to involve key stakeholders such as trade bodies and NGOs to take greater advantage of their expertise and experience.

EAC 36. Concerted action needs to be taken not only right the way through the supply chain but also through the layers of civil service decision-making and operations. In order to produce a real step change towards sustainable and legal timber procurement we recommend that Government, by the end of the year:

- a) **Establish permanent and demonstrable commitment to the policy from Ministers across Government.**
- b) **Set Timber Procurement policy as a priority for implementation that is not put aside as other priorities emerge.**
- c) **Ensure that every department has effective data capture and reporting mechanisms in place and a means by which inadequate reporting can be dealt with swiftly and efficiently. It is totally unsatisfactory for departments to be let off the hook for failing to report adequately and in a timely manner;**
- d) **Establish clear criteria for the assessment of certification schemes, drawing on the expertise of NGOs where appropriate;**
- e) **Establish clear and progressive targets, in line with the expected ERM report, on the basis of the data provided this year, which reflect the potential to make significant progress immediately but also the incremental improvements which can only be made in the longer term; and**
- f) **Provide definitive guidance to procurement officials on the application of public procurement rules in the light of the Commission's interpretative communication and on terminology.**

53. The need for concerted action was recognised by the Secretary of State for Environment, Food and Rural Affairs when she set up the Sustainable Procurement Group last year to see how Departments can better reflect the Government's policies on sustainable development in public procurement and encourage innovation within the supply market for environmental goods and services. The Group's findings should help to ensure a more joined-up approach is taken within Government and in the management of supply chains.

(a) Establish permanent and demonstrable commitment to the policy from Ministers across Government.

54. Mr Meacher drew the importance of the policy to Green Ministers' attention in his letter of 13 May 2002 requesting them to review compliance with the timber procurement policy within their Departments. He has asked them since then to ensure that their Departments, Executive Agencies and Non-Departmental Public Bodies are fully involved in meeting the Government's commitment on timber. He has also obtained their agreement in principle to implementing the recommendations arising from the timber study.

(b) Set Timber Procurement policy as a priority for implementation which is not put aside as other priorities emerge.

55. The Government is giving the matter priority. It has begun implementing some of the key recommendations from the timber scoping study. Some of these developments are mentioned above, for example - the proposed Central Point of Expertise on Timber (CPET). Another piece of work underway is the development of new model specification clauses for use in Government contracts.

56. All new contracts involving the procurement of timber or wood products will, once the necessary mechanisms are in place, be drawn up to implement two key recommendations arising from the scoping study report: (1) introduction of a stepwise approach towards achieving the Government's goal of procuring all timber and wood products from legal and sustainably managed sources; and (2) a requirement for independent verification of timber and wood products.

57. The proposed approach is based on 3 different levels of sustainability criteria: (i) Legal and Sustainable; (ii) Legal and Progressing to Sustainable and (iii) Legal. The proposal is that buyers would be instructed to disregard bids based on the variants for "*legal and progressing towards sustainable*" and "*legal*" timber when an acceptable bid based on the variant for legal and sustainable timber is received and offers value for money. Value for money in this context means the best offer against the top variant for "*legal and sustainable*" in terms of whole life costs and quality of the product or service. An acceptable bid means that the terms offered must be fair and reasonable. Provided such conditions are met buyers would not be permitted to consider any lower variant bids even if the price were lower or some other aspects of quality appeared to be higher.

58. Similarly, when a competition results in no bid based on the top standard variant, buyers would be instructed to disregard bids for "*legal*" timber when an acceptable bid for "*legal and progressing towards sustainable*" timber was received and offered value for money. The Government is confident that this use of variants would be legitimate within the current and proposed EU public procurement directives.

59. These three levels have been incorporated as variants in the proposed new model specification clauses that Defra is drafting in consultation with the Timber Buyers Group. The specifications, once finalised, will also cover recycled/-reclaimed wood and set minimum percentages for verified wood content. *More information on the proposed variants is given in section 3 of the timber scoping study.*

Independent Verification

60. The requirement for independent verification will require suppliers to provide proof in two forms:

- Group A evidence – i.e. third party certification schemes such as the FSC label;
- Group B evidence – i.e. other evidence as proof against the three variants that has been independently verified by a body conforming to ISO Guide 65:1996 and accredited by a national or international body conforming to ISO Guide 61 as proof of compliance.

61. The reason for allowing suppliers the option of providing Group B evidence is to ensure compliance with the public procurement rules. These allow public sector buyers to define their sustainable forest management criteria and indicate certification schemes that would be acceptable evidence of meeting those criteria, but not to the general exclusion of other evidence. This is because tenderers must be allowed to provide other forms of proof to illustrate that they have met the specified requirements/criteria. This is explained in greater depth in Section 2 of the timber scoping study report. Section 4 deals with Group A and Group B evidence.

(c) Ensure that every department has effective data capture and reporting mechanisms in place and a means by which inadequate reporting can be dealt with swiftly and efficiently. It is totally unsatisfactory for departments to be let off the hook for failing to report adequately and in a timely manner.

62. The Government recognises that it is crucial that proper systems for collecting timber spend data are established if the Government is effectively to monitor performance and report on progress. Section 6 of the timber scoping study report proposes a fairly straightforward system for reporting annually to Green Ministers (Option 3 – para 6.3) and a more comprehensive system to record and report timber spend to a central point (Option 2 – para 6.2.2).

Officials have drafted a proforma that it is proposed suppliers will be contractually obliged to complete to provide the data on timber spend and, as explained at EAC 26 above, are looking at the feasibility of using EMS software for collecting the data electronically.

(d) Establish clear criteria for the assessment of certification schemes, drawing on the expertise of NGOs where appropriate .

63. The consultants employed on the timber scoping study have developed preliminary criteria. These were presented in a consultation paper that was discussed by stakeholders at an open meeting in March 2002 and which included representatives from trade associations and NGOs. Revised criteria were presented in the Scoping Study Report published on 6 August 2002, which was discussed with stakeholders at a second consultation event on 2 September that year. The criteria are presented in section 4.3 of the scoping study report, which is available on the internet at: <http://www.forestforum.org.uk/docs/scopingstudyreport6-8-02.pdf>

64. It is proposed to take this work forward through the Central Point of Expertise on Timber – see EAC 6 above. It is envisaged that its objectives will include:

- developing further the criteria for assessing third party certification schemes against the three contract variants, i.e. Group A schemes;
- undertaking an initial assessment (and reassessments) of Group A schemes against the three agreed contract variants and providing a list of approved schemes to Departments;
- developing criteria by which to evaluate the suitability of Group B evidence as well as clear guidelines for both procurement officers (and others, e.g. facilities managers, estate managers, architects) and suppliers;
- providing guidelines for officials and suppliers;
- facilitating guidance, training and education for officials and suppliers; and

(e) Establish clear and progressive targets, in line with the expected ERM report, on the basis of the data provided this year, which reflect the potential to make significant progress immediately but also the incremental improvements which can only be made in the longer term.

65. The Government is committed to introducing progressive targets to take it to a position where all timber and timber products are obtained from sources independently validated as legal and sustainably managed. The scoping study report proposes several different types of target – *see section 5 of the timber scoping study report*. However, the view is that better data will need to be collected before officials are in a position to determine how best to proceed, taking account of constraints such as availability, cost and special needs. The priority is to get proper data collecting systems in place.

(f) Provide definitive guidance to procurement officials on the application of public procurement rules in the light of the Commission's interpretative communication and on terminology.

66. It is expected that Part F of the new Framework for Sustainable Development on the Government Estate covering procurement (<http://www.sustainable-development.gov.uk/sdig/improving/contextf.htm>) will be rolled out in 2003 after Ministers have considered advice based on the Sustainable Procurement Group's findings. One element of the new strategy is likely to be the provision of clearer advice tailored to the requirements of procurement officials. OGC and Defra have already agreed to revise their joint note on "Environmental issues in procurement" to reflect the Commission's interpretative communications on environmental and social issues and other developments such as the new EC procurement directive.

EAC 37. Medium term objectives should include:

- a) Constant and multi-level engagement between Defra, Office of Government Commerce and procurement officials in departments and agencies;**
- b) Greater involvement on the part of OGC (on the behalf of departments) with the supply chain at every level. This will necessitate the commitment of significant resources;**
- c) When the required infrastructure is in place, a change in the onus of proof so that procurement officials are prepared to defend their decisions to purchase from non-certified sources rather than having to demonstrate that they sought not to do so; and**
- d) Encourage further development of public procurement policy in a direction, which facilitates rather than hampers green procurement.**

(a) Constant and multi-level engagement between Defra, Office of Government Commerce and procurement officials in departments and agencies.

67. The Government accepts the need for multi level engagement between Defra, OGC and procurement officials in Departments and their agencies and this is one of issues that the Sustainable Procurement Group will address in its advice to Ministers.

(b) Greater involvement on the part of OGC (on the behalf of departments) with the supply chain at every level. This will necessitate the commitment of significant resources.

68. OGC has had a leading role in Brussels in securing clarification, in the Commission's Interpretative Communication, and in the draft new public procurement directives, on the scope to take account of environmental issues in public procurement. It has also worked closely with Defra on a range of environmental issues, such as sustainable timber and recycled paper. Furthermore, the Sustainable Procurement Group, mentioned above, will be considering the roles of Defra and OGC, including OGC Buying Solutions – its commercial arm, whilst taking account of departmental responsibilities for their own procurement decisions, and the overriding need to deliver value for money for the taxpayer.

(c) When the required infrastructure is in place, a change in the onus of proof so that procurement officials are prepared to defend their decisions to purchase from non-certified sources rather than having to demonstrate that they sought not to do so.

69. The Committee's recommendation is in line with the findings made by the consultants in their timber scoping study report. The Consultants suggest accepting as evidence: (1) a label or declaration authorised by third party certification schemes and third party eco-labels to specific criteria for forest management and with chain of custody – Group A evidence; or (2) documentary evidence provided as proof of compliance with relevant

sustainability criteria and chain of custody to source independently verified at the supplier's expense – Group B evidence. The Independent verification to be undertaken by a body conforming to ISO Guide 65:1996 and accredited by a national or international body conforming to ISO Guide 61.

d) Encourage further development of public procurement policy in a direction, which facilitates rather than hampers green procurement.

70. The Government does not accept that its procurement policy hampers green procurement. As explained in the answer to recommendation 18, the legal and policy framework for public procurement provides the scope for relevant environmental considerations to be taken into account at the appropriate stage of the procurement process. A revised public procurement directive, agreed politically with other EU States at the Internal Market Council on 21 May 2002, makes the scope to take account of environmental consideration clear. It is likely to have its second reading in the European Parliament during the first half of 2003, with adoption most likely to be early 2004. Member States will then have 21 months in which to implement it.

71. The Government is however aware that the scope offered by the public procurement rules for incorporating environmental and social considerations is not being fully utilised. We will continue to look for ways of better reflecting the Government's policies on sustainable development in public procurement through the work of bodies such as the Sustainable Procurement Group.

EAC38. Lessons learnt from experiences in the last two years should be applied in other areas of greening procurement. Most important, adequate and thorough research should be undertaken prior to the announcement of policy changes and a clear indication of timescales for implementation given or the Government risks eroding support and fostering cynicism over its commitment to green procurement.

72. The Government is in a better position today to ensure its policies and best practice are applied across the civil and military estates. This follows the rolling out of the new Framework for Sustainable Development on the Government Estate (<http://www.sustainable-development.gov.uk/sdig/improving/contexta.htm>), which began in July and should be completed by mid 2003. Progress by departments will be posted on the Framework website and monitored through annual Sustainable Development in Government Reports.

73. A key element of the new framework is recognition that targets have an important role to play in delivering improvements in performance and that when agreed they must be backed up by monitoring to ensure they are delivered. As explained in Part A to the framework its overarching aim is to increase the contribution that all Departments make to sustainable development by:

- Setting challenging cross-government targets in all key operational areas
- Gaining clear and tangible commitments from all Departments to deliver targets
- Allowing Departments flexibility in terms of the mechanisms they use to deliver targets

- Providing support to Departments through guidance and up to date examples of best practice on the Framework website.

74. The Framework and associated targets and reporting requirements apply to all central Government Departments and their Executive Agencies, including buildings and land managed. It does not cover Non-Departmental Public Bodies (NDPBs) and other associate bodies, or the devolved administrations. However, Departments are responsible for the promotion of sustainable development to NDPBs and in July 2002 Michael Meacher asked Green Ministers to ensure they were fully involved in meeting the Government's commitment on timber procurement. The Departments are also consulted through inter-departmental sub-groups on proposed targets to ensure that they are practicable and to consider if additional guidance is required to help implement them.

EAC 48. Inconsistent interpretation of CITES undermines the Convention's credibility, as well as the UK's profile as a leading force against illegal logging. If the UK were to come to be seen as the weak link in the EU chain of CITES controls, there is a risk of an even higher proportion of illegally logged timber entering the EU through UK ports.

75. The Government notes that the Committee's conclusions here were drawn up before the Appeal delivered its judgement on the judicial review brought by Greenpeace on this issue. A copy of this judgement has since been sent to the Committee, who may care to note that it ruled by a 2:1 majority in favour of the Department's interpretation of its powers in this respect. The Government therefore does not accept that it has been inconsistent in its interpretation of the CITES controls, or that the UK could become the weak link within in the EU in this respect. Adequate powers are available to seize specimens imported without valid CITES documentation and Customs have successfully applied these powers on numerous occasions.

76. The Committee may also be interested to note that the Brazilian management Authority has since carried out a review of the origin of the mahogany exported. This confirmed that all the mahogany shipped to the UK in March was lawfully acquired but that up to 20% of the timber exported to other countries could not be accounted for. Of those countries that detained cargoes of Brazilian mahogany, the US Management Authority has released 10 shipments over the past 2 months and is being sued for the release of the remaining cargoes. We understand that the cargoes detained by Holland and Germany have now also been released.

EAC49. We welcome the Government's proposal to consider with other EU Member States whether the CITES Regulations should be amended to impose a requirement of prior presentation of export documentation for certain Appendix III species.

77. The Government is grateful for the Committee's endorsement of its proposals in this respect. Changes will need to be made to existing EU legislation to take account of changes arising out of the recent Conference of CITES Parties in November and we will look to raise this issue with the EU Member States at that time.

EAC 50. We welcome the Government's proposal to pursue greater protection for big leaf mahogany through its transference from Appendix III to Appendix II.

78. The Government is grateful for the Committee's support on this issue and they will be pleased to hear that the proposal to uplist mahogany to Appendix II was successful. Under the current EU Regulations this will mean that all member states will be required to have prior sight of the export permit before they can issue a permit for the import of future shipments of this species. They will also have to be satisfied that such trade will not be detrimental to the conservation of the species as a whole. Hopefully this welcome decision by the CITES Parties will encourage range states to list other species threatened by the illegal trade in timber.

EAC 51. We welcome the preliminary work that is being undertaken through the Commission to consider the possibility of a new EU framework to enable controls on the importation of non-CITES timber species to be put in place and the Minister's support for this development (para 51).

79. The Commission's Communication to the Council and the European Parliament of 13 February 2002 provided that the European Union would develop an action plan by the end 2002 on forest law enforcement, governance and trade (FLEGT) to combat illegal logging and associated illegal trade. The Commission hosted an international workshop on this subject in Brussels in April 2002. The action plan is now in preparation. It is expected that this may call for new legislation to control the importation of timber into the Single Market to ensure that this is legally sourced.

EAC 52. We congratulate the Government for its groundbreaking agreement on timber with Indonesia and for pursuing similar agreements with other timber producing countries. We encourage it to promote the use of such agreements among other EU Member States.

80. The Indonesia-UK MoU is already having an impact. The Indonesian Embassy in London is receiving requests for advice about sources of "legal" timber products. UK companies trading with Indonesia have reported that their suppliers are now much more aware of the need to demonstrate legal compliance. Indonesia has begun negotiations with Malaysia and China about controlling trade in illegally logged timber. Norway has indicated its intention to sign an agreement with the Indonesian Government. Japan has announced a regional Asia Forest Partnership that will include actions to tackle illegal logging and associated trade. The adoption of a new policy and supporting legislation by the EU will allow Member States to develop bilateral and multiparty agreements.

Department for Environment, Food and Rural Affairs

May 2003

Formal minutes

Wednesday 2 July 2003

Members present:

Mr John Horam, in the Chair

Mr Peter Ainsworth
Mr Gregory Barker
Mr Colin Challen
Sue Doughty

Mr Simon Thomas
Joan Walley
Mr David Wright

The Committee deliberated.

Draft Report (Buying Time for Forests: Timber Trade and Public Procurement - The Government Response), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 6 read and agreed to.

Resolved, That the Report be the Sixth Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

Ordered, That the provisions of Standing Order No. 134 (Select Committees (reports)) be applied to the Report.

Ordered, That the Government's Response to the Sixth Report from the Committee in 2001-02 [Buying Time for Forests: Timber Trade and Public Procurement] be appended to the Report.—(*The Chairman.*)

* * *

[Adjourned till Wednesday 9 July at Ten o'clock

Past reports from the Environmental Audit Committee since 1997

2002-03 Session

First	Pesticides: The Voluntary Initiative, HC100 (<i>Reply, HC 443</i>)
Second	Johannesburg and Back: the World Summit on Sustainable Development–Committee delegation report on proceedings, HC 169
Third	Annual Report, HC 262
Fourth	Pre-Budget 2002, HC 167 (<i>Reply, HC 688</i>)
Fifth	Waste – An Audit, HC 99

2001-02 Session

First	Departmental Responsibilities for Sustainable Development, HC 326 (<i>Reply, Cm 5519</i>)
Second	Pre-Budget Report 2001: <i>A New Agenda?</i> , HC 363 (<i>HC 1000</i>)
Third	UK Preparations for the World Summit on Sustainable Development, HC 616 (<i>Reply, Cm 5558</i>)
Fourth	Measuring the Quality of Life: The Sustainable Development Headline Indicators, HC 824 (<i>Reply, Cm 5650</i>)
Fifth	A Sustainable Energy Strategy? Renewables and the PIU Review, HC 582 (<i>Reply, HC 471</i>)
Sixth	Buying Time for Forests: <i>Timber Trade and Public Procurement</i> , HC 792-I, (<i>Reply, HC 909, Session 2002-03</i>)

2000-01 Session

First	Environmental Audit: <i>the first Parliament</i> , HC 67 (<i>Reply, Cm 5098</i>)
Second	The Pre-Budget Report 2000: <i>fuelling the debate</i> , HC 71 (<i>Reply HC 216, Session 2001-02</i>)

1999-2000 Session

First	EU Policy and the Environment: An Agenda for the Helsinki Summit, HC 44 (<i>Reply, HC 68</i>)
Second	World Trade and Sustainable Development: An Agenda for the Seattle Summit, HC 45 (Including the Government response to the First Report 1998-99: Multilateral Agreement on Investment, HC 58) (<i>Reply, HC 69</i>)
Third	Comprehensive Spending Review: Government response and follow-up, HC 233 (<i>Reply, HC 70, Session 2000-01</i>)
Fourth	The Pre-Budget Report 1999: pesticides, aggregates and the Climate Change Levy, HC 76
Fifth	The Greening Government Initiative: first annual report from the Green Ministers Committee 1998/99, HC 341
Sixth	Budget 2000 and the Environment etc., HC 404
Seventh	Water Prices and the Environment, HC 597 (<i>Reply, HC 290, Session 2000-01</i>)

1998-99 Session

First	The Multilateral Agreement on Investment, HC 58 (<i>Reply, HC 45, Session 1999-2000</i>)
Second	Climate Change: Government response and follow-up, HC 88

Third	The Comprehensive Spending Review and Public Service Agreements, HC 92 (<i>Reply, HC 233, Session 1999-2000</i>)
Fourth	The Pre-Budget Report 1998, HC 93
Fifth	GMOs and the Environment: Coordination of Government Policy, HC 384 (<i>Reply Cm 4528</i>)
Sixth	The Greening Government Initiative 1999, HC 426
Seventh	Energy Efficiency, HC 159 (<i>Reply, HC 571, Session 2000-01</i>)
Eighth	The Budget 1999: Environmental Implications, HC 326

1997-98 Session

First	The Pre-Budget Report, HC 547 (<i>Reply, HC 985</i>)
Second	The Greening Government Initiative, HC 517 (<i>Reply, HC 426, Session 1998-99</i>)
Third	The Pre-Budget Report: Government response and follow-up, HC 985
Fourth	Climate Change: UK Emission Reduction Targets and Audit Arrangements, HC 899 (<i>Reply, HC 88, Session 1998-99</i>)