AUSTRALIA AND NEW ZEALAND JOINT SUBMISSION TO THE DRAFT FSC PESTICIDES POLICY

Background

The following companies and organizations (referred to hereafter In 2004/5 The Forest Stewardship Council (FSC) embarked on a process of reviewing their Pesticides policy. This process included a review by the Pesticides Action Network UK. The apparent direction of the existing policy led certified companies in Australia and New Zealand to make submissions to the process motivated by the fact that the proposed changes would make FSC certification untenable.

This was followed by a meeting of certified companies from Australia and New Zealand with the FSC in Australia in September 2005 where a draft policy was initially discussed. Since then FSC have finalized their discussion document FSC_DIS_O1-006

It is this draft that is now being considered.

in this submission as “the companies”) have been involved with and endorse this submission:

Albany Plantation Forest Company Ltd, Australia

Rewards Group Ltd, Australia

Integrated Tree Cropping Ltd, Australia

Great Southern Plantations Ltd, Australia

Plantations International Ltd, Australia

Hancock Victorian Plantations Pty Ltd,

Timbercorp Forestry Ltd, Australia

Carter Holt Harvey Ltd, New Zealand

Ernslaw-One Ltd, New Zealand

PF Olsen Ltd, New Zealand

Lake Taupo Forest Trust, New Zealand

Pan Pac Forest Products Ltd, New Zealand

Rayonier New Zealand Ltd, New Zealand

Kaingaroa Timberlands Management Ltd, New Zealand

Southwood Export Ltd, New Zealand

New Zealand Forest Owners Association

New Zealand Farm Forestry Association

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Introduction

The September meeting was a culmination of frustrations that the Australian and New Zealand companies have had with the lack of focus on economic realities in the existing pesticides policy and with the FSC national initiative process.

The companies involved represented 100% of Australian FSC Certified companies and 90% of New Zealand certified companies.

The companies welcome the new draft pesticides policy and would like to congratulate FSC for so obviously listening to the comments made by economic chamber representatives in the submissions to the PAN UK review.

We make the following submissions to the draft.

Submissions

1. Underlying Philosophy

The companies would like to reiterate their underlying philosophy in support of this policy.

1. The company's share the goal of a reduction in chemical use.

2. The company's stress that elimination of all chemicals for forestry is not currently a realistic goal and that without responsible and appropriate use of chemicals forestry companies would not be economically viable.

3. However with a process of continual improvement chemical use can be reduced and some chemicals can be replaced by non-chemical controls. There is clear evidence that this is already happening in well-managed plantations in Australia and New Zealand.

4. This policy could be the framework to achieve the goal of reduced chemical use but the timeframe has to be realistic and balanced with the economic reality of running commercial forestry operations[1].

2. The term 'Highly Hazardous'

The companies welcome the move away from the term 'prohibited'. However the use of the term "Highly Hazardous" is likely to cause confusion since "Highly Hazardous" is a term used by WHO for some of the most dangerous chemicals.. Most of the chemicals on the FSC list are not in this category. This in turn leads into a confusing gradation of 'Hazardous', 'Moderately Hazardous' and 'Highly Hazardous'.

[1] This includes the point that forestry are relatively small users of chemicals and therefore R and D by the chemical companies is rarely done with forestry in mind.

We would suggest that a single terminology like Prescribed, Environmentally Hazardous or just Hazardous better suits the purpose of the draft policy, meaning chemical that exceeds a threshold, requires caution and therefore needs a derogation for use. “Prescribed’ is a term commonly used in statute law to refer to scheduled matters or items, and appears the term best suited to the proposed FSC use.

Although it in not mentioned in the draft policy, we would submit that there is no need for a ‘permitted list’ especially where a competent and recognized regulatory body exists[2]. The list of registered chemicals would therefore be the permitted list excepting those that are included, now or in the future, on the FSC ighly Hazardous list.

NB: To avoid confusion this submission will use the term “Highly Hazardous” and “Highly Hazardous list” in the same context as they are used in the draft policy, notwithstanding our reservations about the term.

2. Thresholds

The companies continue to feel strongly that the Radosevich et al thresholds remain questionable and that the issue of scientific justification for thresholds has to be resolved as a priority. Therefore the companies welcome and encourage the proposed later review of the basis for the thresholds and anticipate that this will address some of the existing anomalies. The companies’ caution that these must be robustly addressed and be subjected to review otherwise this issue will; remain an intractable sticking point. For the record these include but are not restricted to the following questions:

- What is the rationale for calling chemicals like haloxyfop 'Highly Hazardous' simply because they contain a chlorine substituent?
- Why ignore the question of soil fastness for e.g. Pendimethalin and Oxyfluorfen?
- Why not take into account the pH dependency of the Hansch coefficient (log Kow) and ensure that for comparison of values for different chemicals, the parameter must be measured under a standard set of conditions?
- How is the use of threshold for toxicity aimed at food industry appropriate for Forestry?
- Does carcogenicity consider modes of uptake like ingestion, which are not applicable in the forestry situation?

[2] Such as the Environmental Risk Management Authority (ERMA) in New Zealand and the Agricultural Pesticides and Veterinary Medicines Authority (APVMA) in Australia.

The issues surrounding thresholds have been well aired and the debate has at times been spirited and passionate. However, in the meantime the companies have come to realise that the FSC process involves compromise. In this spirit and for the sake of progress we suggest that we agree to disagree on the scientific basis of the FSC thresholds and in the mean time accept that a threshold (determined by FSC) for the purposes of the pesticides policy is simply seen as a point beyond which the 3 chambers can agree that caution is required and derogation must be in place.

The companies agree with the move to make the Highly Hazardous list definitive and with a process for a 12 month lead in should new chemicals be assessed as highly hazardous and added to the list.

3. Bench marking and target setting

The companies still believe that international standards, like WHO should be accepted and FSC should concentrate on appropriate use of those listed chemicals. As a minimum the FSC Highly Hazardous list in Annexure 1 should be benchmarked wherever possible against similar international lists such as the WHO list. While the companies understand that the intention of the FSC standard is to go beyond international standards and norms or national regulatory minima these standards remain well based and widely accepted. By matching the FSC lists with other such standards, companies will be able to see the height of the 'FSC bar' vis a vis other international standards. This will create a point of reference and a benchmark for continuous improvement. For example, we may set a goal of targeting all chemicals in categories II or above for replacement. Similarly, we would expect the chemicals benchmarked in this way to remain set at that benchmark, and the standard not 'creep' up or become more restrictive unless this is accepted by the stakeholders and justified scientifically.

There may be other international benchmarks, for example for persistence, for which the same comparison could be made.

4. Monitoring

Companies already keep records of the pesticides that they use and the justification for their use. There are two concerns with this section of the draft policy as it stands.

Firstly information on pesticide use will not give accurate trends. Pest controls may be seen to be dropping over a number of seasons and then suddenly increase. This is more a function of the environmental conditions being conducive (or not) to the growth of pest. In Australia and in New Zealand there are times when pesticide use is regulated, for example for noxious plant or animal control or to control out breaks. This would be seen as an increase in pesticide use that may not be reflective of long-term trends for pesticide use in forestry.

Secondly, because of the inherent inaccuracy of the data we are concerned that the interpretation of the data could easily be used by groups to 'demonstrate' that the forestry industry is backsliding on its goal to reduce pesticide use. The companies are therefore opposed to any suggestion that the data is publicly available. We would therefore like input into how the data may be interpreted and used and the confidentiality surrounding the data.

5 2 step or 3-step process?

The discussion paper recognizes that the conditions surrounding the derogated chemical would include the need for review of the chemical under regional conditions. Such a review would satisfy the test of scientific review.

It goes on to recognize that in some conditions certain thresholds may not be exceeded due to mitigating circumstances such as regional conditions, mode of application or formulation.

The draft policy does not seem to anticipate what would happen if such testing results in a chemical being deemed acceptable (no longer Highly Hazardous) under certain condition. Our suggestion is that there are in fact 3 steps.

1. A chemical does not exceed the threshold and is not Highly Hazardous.

2. A chemical initially exceeds the threshold but under derogation the chemical is found not to exceed the threshold under defined regional conditions or due to application method or the formulation used.

3. A chemical does exceed the threshold, is deemed Highly Hazardous and requires derogation for its use.

In Step 2 a derogation (reviewed after 5 years with no presumption of renewal) is not appropriate. We suggest this chemical has effectively been "re-graded[3]" out of the Highly Hazardous category and should be treated the same way as chemicals that are not on the list. In certain cases there may be enough existing evidence to move directly to this status rather than go through investigations under the auspices of a derogation. In any event there would need to be conditions around this if the circumstances require it e.g. only in defined regional areas, only for a particular formulation, only if applied in this way etc. For transparency these conditions would need to be monitored by the certification agencies.

We would further submit that any 're-graded' chemicals are best dealt with under the auspices of a national initiative where the agreement of the 3 chambers is a pre requisite to 're-grading'.

6. Derogation process

The proposed process to achieve derogation is not clear. The companies are concerned that such a critical part of the new policy is not presented in detail at the same time as the rest of the draft policy. We are potentially in the situation of agreeing to a policy that is then made unworkable by an unacceptable derogations process.

Of particular concern is that the continued use of an economically crucial chemical could be held up if the derogation process takes longer than can reasonably be expected. Under the current arrangement, if any stakeholder wants to block any chemical unreasonably all they have to do is filibuster the process until the allotted 12 months runs out. FSC must provide advice on what constitutes safe use of

[3] The companies use this term only to illustrate a concept and are not necessarily suggesting that "re grading" is the term used in these circumstances.

hazardous chemicals to avoid unfettered ability to veto[4] or override the derogation process where there is clear evidence that the chemicals have and will continue to be used appropriately. If there is no inappropriate use then the policy needs to allow for continued use until the outcome of the derogation is known.

The proposed 5-year period is an improvement. However the companies want to point out that the presumption that a chemical derogation will not be renewed after 5 years does not reflect a reality that is easily achievable in an industry that does not "drive" chemical research & development due to its already recognised low volume usage.

Therefore there are going to be situations where, despite best efforts, a replacement is just not available. This will simply present us with the same sort of impasse that we are now facing with the 2-year derogations. A case in point is 1080. This is the only effective tool to control the Australasian Brush Tailed Possum in New Zealand where it is considered to be the Worlds 5th worst noxious animal pest. To date there is nothing that has been proven to be anything like as effective. Removal of 1080 would lead to an economic and ecological disaster.

We submit that there is a need to have a policy that renewal will be unopposed if no alternative is available or registered and if economic loss or environmental damage would be caused is that chemical control was not allowed. This would need to be tempered with an onus on the companies to demonstrate that they have sought an alternative within the derogation period.

The companies would also like some consideration of what happens for chemicals under trial. The situation arises where Australia is using Simazine under derogation and at the same time is trialing Terbuthylazine as the only alternative. Now Terbuthylazine requires derogation and it would seem pointless to continue trial work or to go to the effort of seeking a derogation. However it may be that by mixing and matching Simazine and Terbuthylazine in establishment spraying the perceived environmentally harmful effects of both can be moderated

7. Emergencies

The draft policy for emergencies (4.6) is not workable. Emergencies by their nature happen quickly and the action has to be immediate. There will be no time to inform FSC. In some cases action may be taken by a third party under legislative authority. In all cases Biosecurity emergencies will be subject to the laws of the jurisdiction, and that must be recognised in the policy. For example in Australia the powers under the Commonwealth Act are far-reaching - they allow the Commonwealth Minister to do whatever he or she sees fit to address a proclaimed matter, including on private property. As an illustration, it would be ridiculous for a company to make a rapid response against an infestation of Asian Gypsy Moth, thereby averting a national biosecurity disaster, only to lose FSC certification. Emergencies should sit as a special case in the policy and emergency responses should be justifiable after the fact not before

8 Other Legal Requirements

[4] New Zealand's inability after 5 years to develop a national initiative is testament to the power of veto that one chamber can yield without FSC rules of engagement being in place **and enforced by FSC.**

The issue of declared pests does not appear to be addressed by the policy at all. There needs to be recognition of the legal requirements placed upon all landholders and appropriate means of ensuring these requirements are met. For example Lantana[5] in New South Wales state forests, Bridal Creeper and Glory Vine to name a few. The ecological impact of these weeds is greater than the short-term impact of chemicals needed to remove them.

[5] http://www.weeds.crc.org.au/documents/wmg_lantana.pdf