



Establishing China's Timber Legality Assurance Regime

From the Legal Perspective

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Roadmap

- The Concepts of “Legally Sourced Timber” (合法木材来源) and “Legality of Imported Timber” (进口木材合法性) in China
- Policy Options for China to Reduce Illegal Timber Trade
- Opportunities and Strategies for Collaborative Promotion of Different Options

Concepts

- “Legally Sourced Timber” (China’s Forestry Law, Article 33) –*document based*
- “Legality of Imported Timber” (No legal basis)
- Due care or due diligence in Chinese Forestry Law to Ensure purchase of legal sourced timber
 - The standard of “Clearly Know”
- Lesson learned from the food safety sector to create due care process

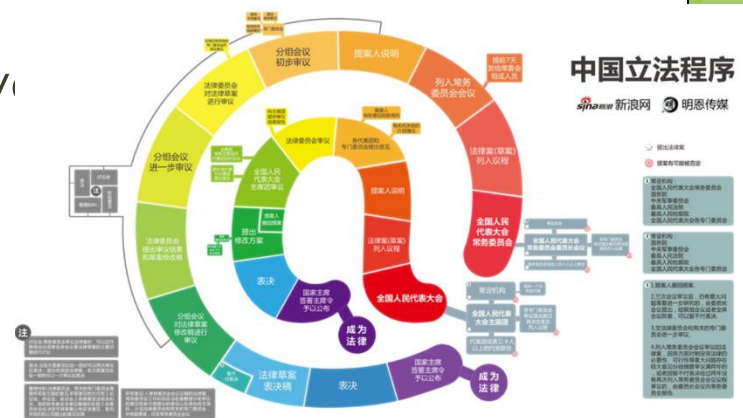
Policy Options for China to Reduce Illegal Timber Trade

- Option 1: Normative Documents SFA's "Administrative Measures for Strengthening the Legality of Imported Wood"
- Normative documents or administrative rules promulgated by administrative authorities to govern specific issues and legally binding.
- **Pros:** relative easy to promulgate; introduce the timber legality regulatory requirement to the Chinese supply chain and lay the foundation
- **Cons:** administrative measures have restriction in creating legal liabilities: warning and/or small amount of monetary penalty in case of violation. Not enough sanctions.



Policy Options for China to Reduce Illegal Timber Trade

- Option 2: NPC enacted Law China's Transnational Timber Legality Assurance Law
- National Law
- Pros: Legal authority; stipulates full range of legal requirements and responsibilities; create supervision institutions; enforceable administrative penalties, civil liability
- Cons: long and difficult legislative process



Policy Options for China to Reduce Illegal Timber Trade

- Option 3: Through the Foreign Trade law, enlisting illegal timber or risky timber to the Catalog of Goods Prohibited from Import
- National law
- Pros: can be jointly issued by involved ministries; trigger criminal liabilities; link to the national standard on “timber legality”
- Cons: need careful technical design; Not easy for ministries to reach consensus

Ministry of Commerce, together with other relevant departments, shall formulate the catalogues.



Policy Options for China to Reduce Illegal Timber Trade

- Option 4: through Criminal Law- expanded the crime of purchase of illegal harvest timber (Art. 345 of Criminal Code) or by enlisting illegal timber as banned imported goods (Art. 151 of Criminal Code)
- National law
- Pros: harsh legal consequences for violation
- Cons: NPC Standing Committee enacted amendments; Forestry Law amendments



Policy Options for China to Reduce Illegal Timber Trade

- Option 5: Provincial and local laws and regulations
- Local rules
- Pros: pilot programs; relatively easy to adopt; can show case the positive impacts
- Cons: limited jurisdiction; restriction on creating legal liabilities (only small fines and warnings)

Policy Options for China to Reduce Illegal Timber Trade

- Option 6: National standards, industry standards; public and private certification schemes; international certification schemes
- Standards
- Pros: introduce the timber legality concept; relatively easy to be adopted
- Cons: without other legal provisions, there is no enforcement mechanisms

Policy Options for China to Reduce Illegal Timber Trade

- Option 7: Bilateral or multilateral agreement and legal cooperation
- International economic law
- Pros: can effectively reduce the overall illegal timber import from high risk region



Opportunities and Strategies for Collaborative Promotion of Different Options

- Planting the seed –Introduction of the Concept– Agenda Setting
- Pilot Projects – Consensus Building – Interagency Review
- Nonlinear Progress – Legislative Arena – Law
- Implementation – Interpretation – Adaptation and Evolution of the Law





Competent Legal Instruments,
but real policy goes before the law

Timber Legality as Trade and Economic Regulation

- “Environmental Issue” for the world and for the West is “Trade and Economic Issue” for China
- Policy Rationale follows Trade and Economic Tracks;
- Decision Making Power in Trade and Economic Agencies and Institutions
- Similar to the US story – where is the leveraging power? (“Fair Trade”)

Incorporating Global Social and Environmental Considerations into the Trade & Economic Relations

- Significant Conceptual, Legal, Institutional and Implementation gaps. (for the international environmental governance in general and for the timber legality regulation in particular)

The Gaps

- China lacks substantial knowledge, experience and incentive
- Silos in governmental agencies have prevented horizontal and integrated policy-making
- “Economic Framing” of U.S.-China Relations will continue to displace social and environmental considerations

Understand the Problem and Bridge the Gaps

- Identify the legal and institutional gaps in the international coordination and partnerships and the role of NGO to bridge these gaps
- Case studies to evaluate any social and environmental benefits that may result from a timber legality regime in China.
- Policy Statements from both countries; inform various policy stakeholders priorities and pressure point so that they can develop means to navigate and advocate for their position on timber legality regimes



Thank you!

We look forward to learning more from everyone.

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