Australian Illegal Logging Prohibition Legislation

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Timber Development Association

- Established: 1938
- Status: A non-profit industry association
- Objective: Develop markets for timber products in construction
- Represent: Supply chain – forest growers, manufactures, wholesalers (inc. importers) and merchants
- Focus: Technical and market research projects and education to specifiers
- Work with: Other industry associations (e.g. ATIF), timber companies, governments
Why legislation?

• Action supported by all major political parties
• Compliment action by USA and EU
• Illegal trade undercuts legitimate trade
• Contributes to environmental and social degradation
• Importers wanted mandatory due diligence for legality for all importers
• Government comply with WTO rules
Australian Legislation

• **Illegal Logging Prohibition Act 2012 (ILPA)**
  – Prohibition, penalties, inspection regime
  – Implemented in two stages
  – Nov. 2012 / Nov. 2014

• **Illegal Logging Prohibition Regulation**
  – Detailed due diligence requirements
  – **Timetable:**
    • Final draft May 2013
    • Pass parliament Nov. 2013
    • Effective 30th Nov. 2014

Australian Legislation
ILPA - from 29 Nov 2012

• Importers of all timber products and domestic processors of raw logs
• Prohibited to
  – Import illegally logged timber products
  – Process logs that have been illegally logged
• Penalties
  – Up to 5 years jail
  – Fines ($85k for individual, $425k for company)
  – Forfeiture
• Level of proof
  – Knowingly, intentionally or recklessly
ILPA - from 30 Nov 2014

- Importers of *regulated timber products*
- Prohibited to
  - Import illegally logged *regulated timber products*
- Penalties
  - Up to 5 years jail
  - Fine ($85k for individual, $425k for company)
  - Forfeiture
- Level of proof
  - Negligence
ILPA - Definition of illegally logged

“means harvested in contravention of laws in force in the place (whether or not in Australia) where the timber was harvested.”
Due Diligence - from 30 Nov 2014

- Importers of *regulated timber products* & domestic processors
- Must undertake *due diligence*
  1. Gather information
  2. Identify and assess risk
  3. Mitigate (if risk other than low)
- Penalties
  - Fine ($51k for individual, $255k for company)
Due Diligence – who must do?

- *Regulated Timber Products*
- Based on Harmonised Tariff System codes
- Basically same as EU:
  - Sawn timber, plywood, mouldings
  - Veneer, doors, window joinery
  - Most pulp and paper products
  - More wood furniture
Due diligence
1. Gather information

- As much as is “reasonably practicable”:
  - Type of product
  - Common name, or scientific name
  - Country, region and or FMU of harvest and country of manufacture
  - Name and address of supplier
  - Quantity/volume
  - Evidence of compliance with
  - Any evidence of compliance with laws that cover ....

- Fines
  - $17k for individuals
  - $55k for companies
Due diligence

1. Gather information / Scope of laws

• Need some boundaries to focus DD
• Basically “legal origin” plus one:
  – Legal right to harvest
  – Harvested within legally gazetted boundaries
  – Payment of royalties
  – Person with legal rights of use/tenure not affected
Due Diligence:
2. Risk assessment and identification

• Consider
  – Illegal logging in the area in which the timber was harvested
  – Illegal logging in the area of the species
  – Complexity of the product.

• If risk low – all OK

• Fines
  – $17k for individuals
  – $55k for companies
Due diligence
3. Risk mitigation

• If risk anything other than low
• Adequate and proportionate to risk include:
  – Further information (i.e. certification, third party assessment)
  – Reassess risk
  – Not import the product
• Fines
  – $17k for individuals
  – $55k for companies
Customs Declaration

• Required for all importers of *regulated timber products*
• Requires importers to declare they have undertaken *due diligence requirements* in accordance with the Regulation
• Consignment / periodic TBD
• Fines
  – $17k for individuals
  – $55k for companies
Due diligence
Risk ID and mitigation shortcut

• Evidence that timber:
  – Complies with requirements of *recognised Timber Legality Frameworks*
    • Propose to recognise – FLEGT LAS or from FSC and PEFC certified forest
  – Or, complies with *Country / State specific guidance*
    • Australian states each have comprehensive laws and compliance regimes
    • PNG, Indonesia, Malaysia, Canada, New Zealand
  – Timber is no risk/low risk. No more action needed.
Due diligence
Timber Legality Frameworks

Assessment scoring for selected timber legality frameworks
(legal origin)

Source: URS 2010 & URS 2013 reports for DAFF

Compliance & Enforcement

- Responsible agency – Department of Agriculture Fisheries & Forestry (DAFF)
- Australian Customs has no role
- First 2 years - education / training
- Then compliance audits - random and targeted
Compliance – a big job

Number of importers into Australia - 2010

<table>
<thead>
<tr>
<th>Chapter 44 - Wood and wood article</th>
<th>Chapter 47 - Pulp of wood</th>
<th>Chapter 48 - Paper and paperboard</th>
<th>Chapter 94 - Furniture</th>
</tr>
</thead>
<tbody>
<tr>
<td>Semi-regular</td>
<td>3,264</td>
<td>7</td>
<td>2,475</td>
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<tr>
<td>Regular</td>
<td>271</td>
<td>8</td>
<td>301</td>
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<tr>
<td>One-off</td>
<td>2,489</td>
<td>2</td>
<td>1,607</td>
</tr>
</tbody>
</table>

Australian domestic timber

- FSC™ Controlled wood risk assessment for Australia
- Six independent members
- Assessed Australia low risk for all four indicators for illegal harvesting
- Vast majority of volume also certified against PEFC/AFS or FSC™ FM standards or both.

Current and future work - TDA

• Next week
  – Due diligence fact finding mission to USA and European Union
  – Looking for US companies to talk to.

• Over next 6 months
  – Developing industry tools and guidance for importers and domestic processors
  – www.timberduediligence.com.au
Thank you

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