Asia-Pacific Economic Cooperation

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RAFT Responsible Asia Forestry and Trade

Illegal Logging Best Practices Resource Guide

APEC EGILAT and SCCP Workshop on Customs Best Practices to Identify Illegal Timber and Wood Products

Ho Chi Minh City, Viet Nam August 18-19, 2017

Advancing Free Trade for Asia-Pacific **Prosperity**

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All presentation materials can be downloaded from the workshop website through this **link**.

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ACRONYMS AND OTHER INITIALS

APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
CBP	Customs and Border Control
CEN	Customs Enforcement Network
CMAAs	Customs Mutual Assistant Agreements
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
COC	Chain of Custody
EGILAT	APEC Expert Group on Illegal Logging and Associated Trade
FIU	Finance Intelligence Units
FSC	Forest Stewardship Council
GDP	Gross Domestic Product
ILAT	Illegal Logging and Associated Trade
INTERPOL	International Police Organization
JPCUs	Joint Port Control Units
LEAF	INTERPOL's Law Enforcement Assistance for Forests Initiative
MBA	Model Bilateral Agreement
MOU	Memorandum of Understanding
NGO	Non-governmental Organizations
PEFC	Programme for the Endorsement of Forest Certification
RAFT	Responsible Asia Forestry and Trade Partnership
RILO	Regional Intelligence Liaison Office
SCCP	APEC Sub-committee on Customs Procedures
U.S.	The United States
UNODC	United Nations Office on Drugs and Crime
WCO	World Customs Organization
WTO	World Trade Organization

1. INTRODUCTION

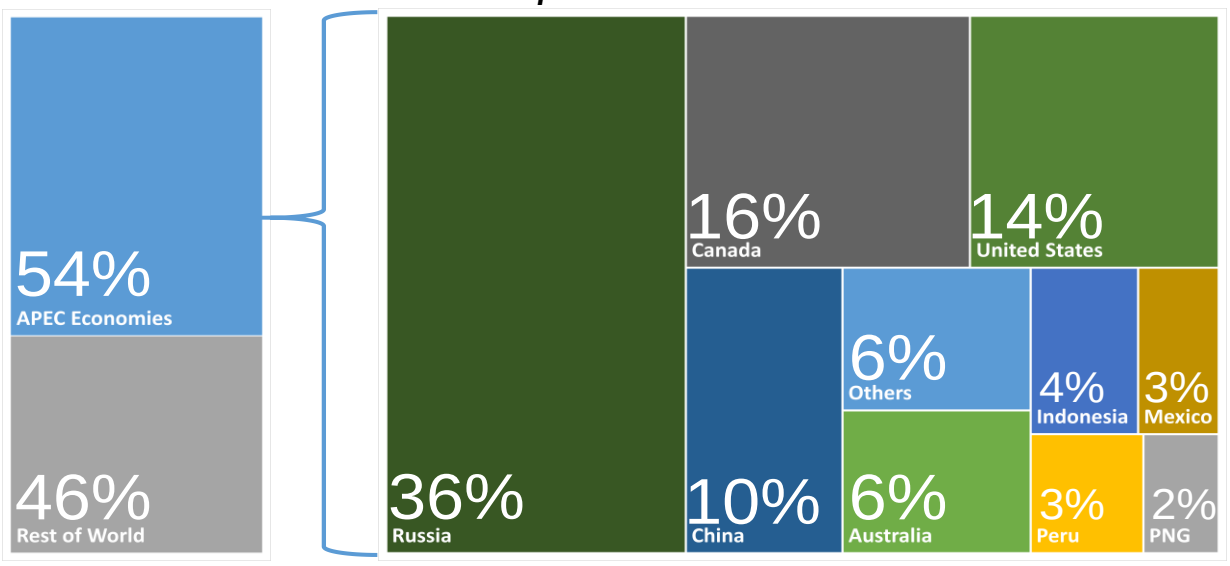
OVERVIEW OF ILLEGAL LOGGING AND ASSOCIATED TRADE

The 21 member economies of the Asia-Pacific Economic Cooperation (APEC) forum represent nearly 40 percent of the world's total population, 53 percent of global Gross Domestic Product (GDP) and 48 percent of all total trade flows of goods and services worldwide. As a regional bloc, APEC is well positioned to advance multilateral cooperation on a range of critical global issues.

APEC economies account for 2.19 billion hectares of forest cover or over 50 percent of the world's forests and approximately 80 percent of global trade in wood products. Given the scale of the trade flows and relative geographic concentration of forest resources, working to combat illegal logging and associated trade (ILAT) necessitates the strengthening of customs institutions across the region to better facilitate trade in legally produced wood products in APEC.

In 2007, APEC adopted the Sydney Declaration on Climate Change, Energy Security and Clean Development at the 15th APEC Economic Leaders' Meeting, setting a goal of increasing forest cover in the APEC region by at least 20 million hectares by 2020. Supporting this goal, APEC Leaders pledged to enhance cooperation to address concerns with illegal logging and associated trade in 2010, and in 2011, APEC established the Expert Group on Illegal Logging and Associated Trade (EGILAT) to combat the international trade in illegal wood products.

Forest Cover of APEC Economies 2015



Source: Assessment of Progress towards the APEC 2020 Forest Cover Goal, 2015/AMM/002 Session 2

MAIN WORKSHOP RESULTS AND OUTCOMES

In August 2017, 112 public sector, academia, and international organization representatives from 18 APEC member economies, as well as representatives from Cambodia, Colombia, Laos, Myanmar, Ecuador, and Germany attended the APEC Workshop on Customs Best Practices to Identify Illegal Timber and Wood Products. The workshop aimed to share best customs practices in responding to trade in illegal wood products, and to strengthen

attendees' abilities to identify legally and illegally traded wood products and take appropriate action when necessary.

Workshop sessions centered around topics of (1) protocols and methodologies to target illegal timber; (2) best practices for timber identification; (3) legal wood product certification programs; (4) protocols for documentation and data review to monitor compliance legality; (5) utilizing timber traceability systems; and (6) taking appropriate actions on illegal shipments. The workshop served as a platform to bring customs officials together around these issues, and highlighted the high level of interest and need for customs and forestry officials to work on identifying and combatting trade in illegal timber and wood products. The workshop also served as a venue for participants to expand their professional networks for a continued exchange of information and future cooperation.

The workshop was sponsored by the United States and co-sponsored by Australia, Canada, Chile, Malaysia, Papua New Guinea, and The Philippines, and was implemented with support from APEC, INTERPOL, EU FLEGT Facility/European Forest Institute, and The Nature Conservancy through the Responsible Asia Forestry and Trade (RAFT) Program.

Throughout the workshop, participants shared several resonating themes relevant to combatting illegal timber and wood products. Specifically, these themes focused on:

A Need for Capacity Building and Training: Customs officials deal with a multitude of commodities, of which timber is one. In addition, timber can be transformed into thousands of products. As a result, economies face the challenge of improving custom agents' knowledge on timber legality assessment, methods used by smugglers, timber identification technologies and domestic policies/regulations on timber, especially protected species.

Cross-sectoral and Interagency Cooperation: Customs officials are frontline agents in combatting the trade in illegal timber and wood products but the complexity of timber trade necessitates interagency cooperation. Each economy has multiple agencies that are relevant to the timber trade but there is a need for more interagency information exchange and joint action. The private and nonprofit sectors are also critical resources for customs officials in their efforts to determine timber legality.

International Cooperation: Numerous economies now consider illegal timber and wood product trade to be a critical issue; many large APEC economies are in the process of advancing legislation to address illegal wood trade. This presents a challenge for customs agents and traders who need to understand both domestic, foreign, and international laws and agreements on timber. Customs agencies can look at this as an opportunity/incentive for increased cooperation among economies, whether it be through informal dialogue or legal instruments like Customs Mutual Assistance Agreements (CMAAs).

Current Tools and Emerging Resources: Several experts presented on what the private sector, civil sector, and individual economies are doing to combat illegal timber including developing new scientific methods to identify species, the use of e-clearance, second-line/post-release audits, and detailed customs forms.

Icons made by Freepik from www.flaticon.com

2. BEST PRACTICES

Proactive strategies and adaptive procedures were a common theme of the best customs practices highlighted at the workshop. It was widely agreed that economies should institutionalize such practices at their customs agencies and related government bodies, and regional level through international cooperation.

Best practices include designing procedures specifically to target and detect illegal timber (notably those listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora, "CITES"), developing formal customs agreements between agencies and/or economies, participating actively in international databases and efforts, and developing sound relationships with service providers of forensic timber identification.

In 2016, the United Nations Office on Drugs and Crime (UNODC), under the umbrella of ICCWC, released a comprehensive Best Practice Guide for Forensic Timber Identification (available **online**).

The following section draws from this guide and other resources to outline key best practices economies should consider.

Image above: seized container of rosewood courtesy of Sri Lanka Customs, pulled from presentation of Mr Duc Long Nguyen, UNODC

BEST PRACTICE #1

INCORPORATING METHODOLOGIES FOR CUSTOMS TARGETING OF ILLEGAL TIMBER SHIPMENTS

Customs agencies can develop inspection procedures directed at detecting illegal timber through the incorporation of the following methodologies in their daily operations:

METHODOLOGY	WHERE TO FIND MORE INFORMATION
Training for capacity building and expertise Continuous training and capacity building is necessary for customs agents to keep up with new smuggling techniques, and enforcement of international timber-related agreements. In general, combatting ILAT requires some baseline knowledge on protected species and understanding the value of timber and wood products.	☆ International Tropical Timber Organization Training Resources ☆ UNODC e-Learning Center ☆ WCO Asia Pacific Regional Office ☆ UNODC Wildlife and Forest Crime Analytic Toolkit ☆ TRAFFIC (NGO) training ☆ INTERPOL Manuals and Reports
Development of risk assessment strategies, or risk profiles for suspect shipments Risk assessment strategies or the use of risk profiles assist customs agencies in pre-determining if a shipment has a high probability of transporting illegal timber or wood products. For example, the creation of risk profiles for traders dealing in high risk items for certain industries such as antiques, furniture, and flooring, or the tagging of goods coming from high risk economies of origin or transit. Using risk profiles reduces the time and costs associated with inspecting all cargo for illegal timber, but these are only effective if the risk assessment strategy is properly developed.	The following resources provide guidance and tools for risk assessments or using risk profiles: ☆ UNODC Best Practice Guide for Forensic Timber Identification ☆ European Commission Guide to Risk Analysis and Customs Controls ☆ European Timber Trade Portal ☆ Forest Legality Initiative Risk Tool ☆ INTERPOL Purple Notices ☆ CITES Species Database
Establishment of protocols and a legal framework for intelligence sharing between customs and forest, natural resource and environmental regulatory agencies, and the creation of specialized units As front-line law enforcement officers, customs agents are generally not expected to be experts in forest laws and timber species/wood products. Economies need to establish legal frameworks and enabling mechanisms for customs and forestry agencies to cooperate, including working groups and cross-agency training. Economies can also consider creating specialized forestry-related customs units in close contact with forestry authorities.	☆ Forest Trends Regulating the Trade in Illegal Timber Report on Asian Approaches ☆ APEC Legality Templates
Utilization of the World Customs Organization (WCO) Customs Enforcement Network (CEN) The WCO CEN was developed to assist the Customs Community in gathering data and information for intelligence purposes. The applications are accessible only to Customs officers and CEN acts as a central depository of non-nominal enforcement-related information including records of seizures.	☆ WCO CEN ☆ CEN Email

SPOTLIGHT: Post-Release Data Monitoring, Trade Compliance Verification, and Audits

Numerous economies are now using post-clearance/post-release audits in order to provide a secondary line of enforcement against ILAT while facilitating trade. Traditionally, these audits were conducted to verify trade compliance on tariff classifications (for duties valuation) and origin (trade agreements). However, these audits can also be used to deter, detect, and enforce timber laws as illegal goods can be imported into an economy without notice at the port of inspection due to unintentional or intentional misclassification or mis-declaration. Typical errors include HS code errors (including taxonomic/species misclassification) and mis-declarations of economies of origin.

Sample Protocol for Customs Data Review

Step 1: Identify potential border compliance risks
Step 2: Conduct risk assessment using high-level risk based data reviews
Step 3: Run data reports based on appropriate search criteria for the risks identified
Step 4: Look for indicators and trade statistics discrepancies
Step 5: Run detailed reports and conduct detailed transaction reviews
Step 6: Conduct desk verifications for one or more importers
Step 7: Conduct books and records verification audits, if necessary

- Sample Post-Release Audits Programs: Canada Border Services Agency's Trade Compliance Verifications and The U.S. Customs and Border Protection Audit Programs

Note: information adapted from Ms Helen Gerson's Presentation

BEST PRACTICE #2

DEVELOPING FORMAL COOPERATIVE AGREEMENTS BETWEEN ECONOMIES

WCO Model Bilateral Agreement

The WCO Model Bilateral Agreement (MBA) serves as the international basis for the negotiation of bilateral agreements for mutual administrative assistance between customs agencies. The MBA specifies two types of agreements: legally binding treaties, conventions, and protocols as well as non-legally binding agreements (known as Memoranda of Understanding). Articles 6 and 7 on "Automatic Exchange of Information" and "Advance Exchange of Information" as well as Article 11 on "Surveillance and Information" are critical to anti-ILAT cooperation. WCO party economies are encouraged to follow guidelines in Chapter V on Cross-Border Cooperation, especially for economies that share land borders and protected forest areas.

- WCO MBA

Memoranda of Understanding

As noted above, Memoranda of Understanding (MOUs) are non-legally binding agreements between economies and/or customs agencies to cooperate on customs matters. In terms of combatting ILAT, effective MOUs contain provisions on the restrictions and prior notification of exported timber shipments. Reciprocal recognition of timber trade restrictions enable customs agencies in the importing economy to seize wood shipments from economies with timber bans, even if the importing economy does not have domestic laws prohibiting importation of the specific timber species or product. Advance notification alerts customs agents in importing economies of potential high-risk shipments, saving time and effort to identify timber shipments.

Customs Mutual Assistance Agreements (CMAAs)

Based off the WCO MBA, the U.S. CBP negotiates Customs Mutual Assistance Agreements (CMAAs) allowing for the exchange of information, intelligence, and documents that will ultimately assist partner economies in the prevention and investigation of customs offenses.

- U.S. CBP CMAAs

BEST PRACTICE #3

ACTIVE PARTICIPATION IN INTERNATIONAL PROGRAMS AND DATABASES

Due to the ever-increasing complexity of global trade and the challenges domestic customs authorities face in enforcing timber laws, managing risks, and coordinating between domestic and international partners, it is vital that economies participate actively in international programs and make use of existing timber-related databases.

UNODC-WCO 'Closed Container Programme'

The Closed Container Programme aims to establish container-targeting units to identify high-risk containers while raising awareness to facilitate legal trade and cooperation between domestic authorities and other economies. The Programme requires an economy to sign a formal agreement with the UNODC and WCO. It currently operates in twenty economies through domestic interagency Joint Port Control Units (JPCUs). JPCU officers are thoroughly trained on the use of risk analysis and other proactive techniques to enable them to systematically target cargo manifestos and other relevant data to efficiently handle imports, exports and high-risk containers in transit.

- UNODC Closed Container Programme

WCO Regional Intelligence Liaison Office (RILO) Network

The WCO currently operates 11 RILOs around the world to facilitate intelligence exchange among relevant customs agencies and other stakeholders. Each RILO acts as a regional center for collecting and analyzing data, and disseminating information on trends, modus operandi, routes and significant cases of fraud. The RILO Network heavily uses the CEN in order to create intelligence-based reports, issue alerts, and regional tactical analyses.

- WCO RILO Network Information Sheet

INTERPOL's Project LEAF

INTERPOL's Project LEAF (Law Enforcement Assistance for Forests) is an initiative to combat ILAT with a focus on strengthening law enforcement agencies' capabilities to identify criminals, their modus operandi, as well as to disrupt transboundary criminal operations related to forestry crimes. It acts to coordinate international response to the global issue of illegal timber trade. Project LEAF specifically fosters cooperation among different law enforcement agencies including police, forest authorities, anti-corruption units, financial intelligence units (FIUs) and customs authorities.

- INTERPOL Environmental Crime Website
- Project LEAF Fact Sheet
- Project LEAF Prospectus
- INTERPL Forestry Crime Working Group

Forest Trends TREE Program

Since 2012, the U.S.-based nonprofit Forest Trends has operated a process called the Timber Regulation Enforcement Exchange (TREE) to assist government officials in understanding timber supply chains and landmark legislation. Through TREE, Forest Trends facilitates an ongoing series of networking and information-sharing meetings for public sector officials to discuss timber flows into their economies and practical enforcement issues with each other.

- Forest Trends TREE Information

UNODC
United Nations Office on Drugs and Crime

CONTAINER CONTROL PROGRAMME

RILO
…processing information for more effective intelligence
A GLOBAL CUSTOMS INTELLIGENCE NETWORK

BEST PRACTICE #4

SOUND RELATIONSHIPS WITH FORENSIC TIMBER IDENTIFICATION SERVICE PROVIDERS

Maintaining collaborative partnerships with forensic timber identification service providers is key in tackling ILAT activities. Wood products are not always readily identifiable based on visual inspection, and customs authorities need to have robust scientific evidence on wood identification such as genus, species, and geographic origin, in order to successfully identify and enforce relevant timber laws or pass information to other agencies for prosecution of offenders.

Forensic timber identification services use information inherent to the wood and independent from any documents. Forensic evidence facilitates the law enforcement process from detecting the initial crime to providing evidence for prosecution.

- Global Timber Tracking Network Providers
- Wild Life Forensics Science Member Labs

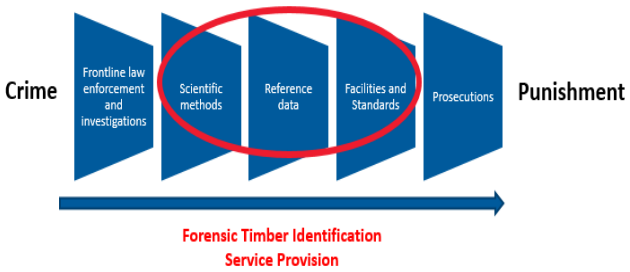


Image above: Role of forensic timber identified services in the law enforcement adapted from the presentation of Dr Eleanor Dormontt, University of Adelaide

BEST PRACTICE #5

KNOWLEDGE OF TIMBER TRACEABILITY SYSTEMS

Many economies in the Asia-Pacific are using single windows and electronic clearance in order to facilitate trade and coordination between individual agencies. These single windows and e-clearance protocols can incorporate timber traceability systems to track or identify potential shipments of illegal timber.

Several economies now have e-clearance systems that incorporate chain of custody (COC) documentation in consideration of illegal timber shipments. Knowledge of the systems in trade partner economies can help customs authorities in identifying illegal timber shipments. For example, Russia maintains a public database of all legal timber shipments leaving Russia, and checking this database can assist in determining the legality of a timber shipment from that economy.

Customs authorities should also consider public outreach and holding dialogues with the private and NGO sectors to better understand their initiatives (especially on chain of custody and certification) to create a holistic, collaborative approach to combatting ILAT.

- Russia's Automated Information System For Wood Accounting And Transactions
- People's Republic of China E-Clearance
- Procedures of the United States
- Sample Private Sector Approach

SPOTLIGHT: THE ROLE OF THIRD PARTY CERTIFICATION SCHEMES

Third party certification chain of custody schemes aim to provide traceability and verification throughout the supply chain to demonstrate that input materials are from legal & sustainably managed forests. These certification schemes rely on documenting an unbroken COC from forest to final product. To be certified, traders/firms need to conduct due diligence in order to prove that all possible efforts were taken to ensure that the timber/wood product was harvested and traded in compliance with domestic laws and regulations. Basic knowledge of these certification programs, the certificates offered, and how to spot falsified or fraudulent documents can be useful for customs authorities, especially frontline agents.

- Learn about the two main Third Party Certification schemes: Programme for the Endorsement of Forest Certification (PEFC) and Forest Stewardship Council (FSC)

Note: information adapted from PEFC and FSC Presentations

3. TOOLS

These tools are meant for customs agents to use in the course of their day-to-day work, as they inspect and assess wood product shipments for legality.

1

KEY GUIDE:

UNODC Best Practice Guide for Forensic Timber Identification

Read and understand Part I especially the *Law enforcement best practice flow diagram for timber* on page 8, and familiarize yourself with Part IV Section 25 on international support available on page 92.

- **UNODC Best Practice Guide for Forensic Timber Identification**

2

QUICK INTELLIGENCE TOOL:

World Customs Organization Customs Enforcement Network Communication Platform (CENcomm) and ENVIRONET

These two platforms allow for real-time communication between customs agencies globally and are a good way to share intelligence on illegal timber shipments. Request access through your customs agency or contact the WCO Secretariat:

- **Email: environet@wcomd.org**

3

CITES LISTING OF TREE SPECIES

Familiarity with the CITES list of protected tree species is essential for customs agents in order to properly identify wood species for legality or violations. The list is updated frequently with commonly accepted international names, and may not list all local or domestic names.

The current list is available through the **CITES website** or through the **U.S. Fish and Wildlife Service.**

4

FORENSIC SERVICES

Should you or your agency need assistance with forensic timber identification, the following databases provide laboratories you may contact:

- **Global Timber Tracking Network Providers**
- **Wild Life Forensics Science Member Labs**

When selecting a partner laboratory, customs authorities should coordinate with domestic forestry universities or existing domestic laboratories for immediate support.

5

SUPPORT CONTACTS:

Network of International Organizations

For any technical assistance requests or questions related to international cooperation, customs agents are advised to consult with their domestic agencies for guidance, but the following organizations are available to assist, train, or coordinate enforcement efforts.

Click each link to get contact information

- **UNODC Field Offices**
- **WCO RILO Network**
- **INTERPOL Economy Representatives**
- **FSC Certificate Search**
- **PEFC Certification Check**