Transcript

Department of Agriculture and Water Resources

Australia’s Illegal Logging Laws

Due diligence

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[*Opening visual of slide with text saying ‘Australian Government with Crest (logo)’, ‘Department of Agriculture and Water Resources’, ‘Australia’s Illegal Logging Laws’, ‘Webinar 2 – Due diligence’, ‘September 2018’*]

**Nick Housego:**

Good morning everyone, and welcome to the second in our webinar series on Australia’s Illegal Logging Laws. My name’s Nick Housego, and I will be your facilitator for today’s session.

Before we start, I would like to remind you that a recording of today’s proceedings will be made available in the coming weeks on our website, and that website is www.agriculture.gov.au/illegallogging, all as one word.

The recording by the way from the first webinar is available on the website now. It’s worth a look at if you want to refresh your memory on the basics of the laws. But stay with us now for the one we’re about to deliver you. Don’t leave to go and have a look at last week’s just yet.

Before we go any further, I would like to introduce our panel members. They’re the same as they were the first time round, but once again we have Emma Hatcher and Neil Garbutt both from the department’s International Forestry Policy team.

**Emma Hatcher:**

Good morning Nick and good morning everyone.

**Neil Garbutt:**

Good morning Nick. Good morning everyone.

**Nick Housego:**

Okay. And then we have Margie Eddington from the area that monitors and checks the compliance with the illegal logging laws.

**Margie Eddington:**

Hi Nick. Hi everyone.

**Nick Housego:**

Welcome aboard everyone. We’re back. Could I check with you how you thought the first webinar went, just quickly? Margie?

**Margie Eddington:**

I think we had some really positive feedback Nick, so I think we did pretty well.

**Nick Housego:**

Good engagement?

**Margie Eddington:**

We had lots of phone calls afterwards, so great engagement from our community out there.

**Nick Housego:**

Cool. Emma?

**Emma Hatcher:**

And I think we’ve seen a real spike in our website usage as well, which is great, because that’s our single source of truth of all the information that we’ve got. We received lots of questions at the last webinar, and that’s informed the approach we’ve taken today. So keep those coming in.

**Nick Housego:**

So they’re woven in to the conversation today?

**Emma Hatcher:**

Absolutely.

**Nick Housego:**

Cool. Neil?

**Neil Garbutt:**

Look, we had very positive feedback. My personal email was the email that everyone sent their compliments or concerns with. And look, most people were very satisfied with the content. There were a few people obviously who wanted a deeper dive on due diligence, and that’s what we’re doing today.

**Nick Housego:**

Well let’s cover off what are we doing in this session. Emma?

**Emma Hatcher:**

Okay. So on the next slide Nick, you can see that we’re actually going to build on the information we talked about in the first webinar and take that deeper dive in to the due diligence process.

So what we’re going to do is take everyone through the steps in the process. We’ll talk about the different risk assessment methods, and most importantly we’re going to identify the resources available that will help importers undertake an informed risk assessment.

**Margie Eddington:**

We’re also going to be going through what happens when your due diligence system is selected for a compliance audit and what you need to do.

**Nick Housego:**

Okay. So it sounds like we’ve got a fair bit to cover looking at that slide, so let’s get started.

Remember we are happy to take questions along the way participants. To ask a question, please click on the little question button at the top of your screen and type away.

Due diligence we mentioned in the first webinar. So we’ll ask Emma to please recap what this is, as there may be new listeners to the webinar today.

**Emma Hatcher:**

Sure Nick. So on this current slide, we’ve got a bit of an overview of what the due diligence process is, but what it really boils down to is a risk assessment. What’s the risk of your product containing illegally logged timber. And there are the four key steps to that, and that is firstly establishing a due diligence system, secondly, doing that important information gathering about what’s in your product and where it’s come from, thirdly, undertaking that risk assessment using that information that you’ve gathered, and then finally, where you haven’t been able to come to a conclusion of low risk, mitigating that risk, avoiding that risk.

So three things to remember. The due diligence process is undertaken by the importer. It’s your job to do this. It’s done in relation to all regulated timber products, and that’s a concept we talked about in the first webinar, so go back and look at that. And importantly, this process has to be done before you import into Australia.

**Nick Housego:**

Before. You can’t do it when it’s landed.

**Emma Hatcher:**

Correct. That’s right. You need to be assessing that risk, and where necessary avoiding that risk before you even engage with those products.

So it’s really important to your importer’s obligations under the illegal logging laws. If you’re audited by the department, you will need to produce your due diligence system and demonstrate you’ve completed this reasonable risk assessment prior to importing. And if you haven’t got a system or we find that you haven’t done due diligence, you’re at risk of some fairly significant penalties, and I’m talking fines of up to $12,000 for each element.

**Nick Housego:**

Okay. That’s fairly significant. Okay. You mentioned those four steps. Let’s kick off by looking at the first step in the due diligence process. Emma, over to you.

**Emma Hatcher:**

Okay. So step one is the basics of establishing your overarching due diligence system, and this is something you might be familiar with in other elements of your business, such as an operational manual or a business procedure. So, what this really needs to be – and there’s a few key elements it needs to include – it needs to be in writing, it must include certain details such as your business details, your ABN or ACN if you have one, who’s in charge of the system, who set it up and who maintains it, and most importantly how you would conduct your due diligence, what’s your approach to doing the risk assessment.

It’s a really important document. It’s going to set out the steps that you’ll take each time you import. And it will serve as a training manual for your staff about managing risk. So familiarise your staff with it, make it well know, and that’s what your basis for doing your risk assessment is.

**Nick Housego:**

So how large is this document? A four page volume? Is it a 40 page volume? What are we looking at?

**Emma Hatcher:**

So it really depends on the circumstances. For some importers, a simple one or two page document might suffice. That’s someone with a fairly simple supply chain with their arrangements and what they’re going to do fairly set out and simple. It needs to include those key details regardless, and it needs to set out the steps in your due diligence. But one or two pages might be sufficient.

For other importers, it might be something a fair bit more detailed, and this is particularly the case where you’re dealing with a large number of suppliers or you’re trading in riskier products that require a fair bit more work to demonstrate that it’s actually legal. But ultimately we’re not prescriptive. It’s up to an importer to design the system that meets their own needs.

**Nick Housego:**

Okay. Margie, I want to bring you in here. What do people need to do with this due diligence system? Do they have to show it to us every time they import, or do they just keep it on file somewhere? What value does it create back in their office?

**Margie Eddington:**

Well the first thing, the due diligence system is intended to be a living document that’s actually used by the importer, so it needs to be maintained to ensure it’s still relevant. If you’re chosen by the department for an audit, you must be able to produce a copy of your due diligence system. And as part of the audit, we’ll be specifically looking to see that your system has all the key details and necessary information that Emma’s mentioned here, and whether you’ve clearly spelled out your due diligence process.

So you need to keep this due diligence system on file and make sure you regularly update it, and most importantly, make sure you follow the processes that you have set out before importing the regulated timber product.

**Nick Housego:**

Okay. We’ve got a question already about do we have a template. So we will have a template. We’ll tackle that a little further in. Okay. So running through that, I want to get a sense of the resources that are available. What resources are there that are available for people such as this gentleman I think. I can’t read the name, but:

*Q: Do you have a template?*

And that’s Kel.

**Emma Hatcher:**

Okay. I’m pleased to be able to answer to Kel’s question that we do have some resources that we’ve developed. The first one is a due diligence toolkit established by the Australian Timber Importers Federation, or ATIF. That’s a toolkit that can be found on our website. While it’s been developed mainly for primary timber products or fairly unprocessed timber products, it does have several templates and is a really useful starting point for designing a due diligence system for a range of products. It’s got the basics in there.

For furniture importers, you’ll be interested to know that we have another industry toolkit that the department’s co-funded with the Australasian Furnishing Association, or AFA. So that’s going to be released fairly soon, and keep an eye out for our e-updates which you can subscribe to, and our website will be making some announcements about that pretty soon.

**Nick Housego:**

Okay. So once you’ve got that system set up, what’s the next step? Is that you Neil that will tackle that?

**Neil Garbutt:**

I’m happy to talk through this process Nick. So the next step is information gathering. This is really about knowing what type of wood is in your product and where it’s come from.

Importers need to gather information about the products they intend to import, and this kind of information includes tree species, area of harvest, and some evidence that the product has been legally logged. And to be honest, people have a lot of freedom on how they go about collecting that information. They can do whatever they think will get that information. So this could be emails to their suppliers, it could be doing web research, it could be drawing on some of the resources we’re going to talk about today, it could be making phone calls, or it could even involve site visits if they think that’s appropriate.

However, an important thing to remember is we are auditing, we are potentially auditing people, so it’s quite important they must document their request and the information they get back. So keeping records of those interactions is quite important. And this evidence will be critical if you are later audited and you need to explain why you have or have not collected the required information.

**Nick Housego:**

Okay. So that triggered something in me, that last session we spoke about gathering information where it is reasonably practical. And Sanjay has sent in an email and has asked what to do if an importer can’t get all of this information.

**Neil Garbutt:**

So that concept of reasonably practical is an important concept, and it’s something that needs to be considered when you’re collecting information. Where your immediate supplier doesn’t have the information that you’ve requested, you might have to ask them to go further up the supply chain, and hopefully they’ll be willing to work with you to do that. But we do understand for some products, collecting all of the information may be difficult or may be challenging.

However – and I go back to the auditing process again – if you’re audited, we’ll expect to see evidence that you have made reasonable attempts to gather the information.

**Nick Housego:**

So that’s the reasonably practical side.

**Neil Garbutt:**

Yeah. And that’s where that test comes in. You’ve gone out of your way, you’ve done your efforts to try and get the information, and if you haven’t got the information you need to have a good story to tell us about how you attempted to get it in the first place.

**Nick Housego:**

Would there be any need for photos?

**Neil Garbutt:**

I mean it all comes down to, like I mentioned before, keeping records. That could be emails, making records of your phone calls, screenshots. Some photos may be useful to back up your situation. Look, if you go and do an on site visit, you may find that it’s worthwhile having photos to show that they’re keeping one type of wood in one area quarantined from other types of wood. So that could just kind of help build a case.

**Nick Housego:**

Okay. So what I’m hearing is reasonably practical may vary between products.

**Margie Eddington:**

Yes, that’s right Nick. I’ll answer that one. So we’ve got a pretty good idea within the department of what information is generally available, and we’d expect that for wood in the rough and sawn wood and veneers, and even plywood, we expect that it would be reasonably practical to get most if not all of the information on the slide here.

For particleboard, MDF and even some furniture products, we recognise that it might get a little bit trickier, however we’ve still got really high expectations of these sectors, and certainly through our audits we’ve seen some really high standards of information collection from importers of these products.

I think as we’ve mentioned, ultimately if you’ve got really large gaps in the information, it’s pretty hard to come to a conclusion that the product is low risk. So it’s in your own interest to gather as much information as possible.

**Nick Housego:**

Okay. So I’ve got a question for you here Margie. Someone is importing particleboard, and they want to know what to do when their product includes a range of timber species from different sources. This sounds like a - - -

**Margie Eddington:**

Yeah. So this is a really common question for a number of the product categories that we’ve regulated here. So with products that have multiple components or species, such as particleboard, or in furniture as well, it’s usually best to try to imagine breaking the product up into each of its component parts and then gathering information about each of those parts individually.

So if the particleboard is made up of a number of different species from multiple sources and pathways, then you need to try to gather as much information about each of those species and pathways as you can. Your supplier should be able to help you with this.

**Nick Housego:**

Okay. So once you’ve gathered all that necessary information, what then Neil? Where do we take it?

**Neil Garbutt:**

Okay Nick. So this really comes to the heart of the whole risk assessment process. This is where you take the information you’ve gathered and you do a risk assessment. So look, this is really quite important, and there’s a couple of options of how you do this, so we’re going to spend a little bit of time today talking through what those options are.

As shown on the current slide, there are three possible methods you can use for your risk assessment. This includes a Timber Legality Framework, a Country Specific Guideline, and what we call the Regulated Risk Factors.

Each of these methods requires you to come to a conclusion of risk.

**Nick Housego:**

So they’re three different methods.

**Neil Garbutt:**

They’re three different pathways that you can choose.

**Nick Housego:**

You don’t have to use all three?

**Neil Garbutt:**

No. No. Certainly you get to decide which is most appropriate to the products you’re dealing with. And your risk conclusion – and this is a very important point – must be reasonable. So you must be able to stand up, and if you get audited, you need to be able to stand by your conclusion.

**Nick Housego:**

A defensible situation.

**Neil Garbutt:**

Yeah. I mean we’re just having an expectation that you can talk to us and you can explain why you’ve made a certain decision.

**Nick Housego:**

Okay. So let’s start with the top, the Timber Legality Framework. How does it work? What’s its process?

**Neil Garbutt:**

Okay. The Timber Legality Framework risk assessment method can be used when you’re importing products certified under the Forest Stewardship Council, or FSC, or the Programme for the Endorsement of Forest Certification, PEFC, systems. These are quite well-known systems in the forestry sector, and so we’ll generally refer to them for the rest of today as the FSC or PEFC systems.

There are a series of steps that you should follow to assess if your products are FSC or PEFC certified, and these are highlighted on the current slide. You’ll also find a more detailed guide on our website about how to do this process.

**Nick Housego:**

Okay. What are the steps here Neil? What are the key steps that we’ve got to go through?

**Neil Garbutt:**

Okay. So look, it is a common misconception, that people just assume that because their supplier mentions the word FSC or PEFC or they suggest that they’re certified that’s sufficient. That isn’t the case. So there’s a couple of steps that we really require a party to undertake, and the first of these steps is to check the supplier’s certificate number is legitimate.

**Nick Housego:**

So not a counterfeit one? This is bona fide, we can test that this is the real McCoy.

**Neil Garbutt:**

Yeah. So look, certainly one issue is that some people may come with a certification number that isn’t their own. So you have to make sure that it’s ridgy-didge. So a certified supplier should have a unique FSC or PEFC certificate code or number quoted on their certificate. So it’s important to check that.

Second, check that the supplier is the actual certificate holder. This means checking the number matches up with the name of your supplier. Thirdly, check the certificate is not out of date. So I’m saying you need to do a fair bit of checking, and the way you do this is by using each scheme’s online claims portal before importing. The relevant addresses are included on the current slide.

And lastly, and this is an important step, you need to check you’re actually receiving certified product. You can do this by checking your invoices and delivery notices to ensure the right certificate number is quoted. This last step is important, because your certified supplier can still you uncertified product. So you need to make sure that you’re getting what you paid for, that you’re actually getting certified product.

**Nick Housego:**

Right. So this next slide shows some of the key resources for using the Timber Legality Framework method. It’s all pretty useful stuff. During the last webinar, I recall we took a question from someone who tried to validate the certificate number and wasn’t able to. Is there any suggestions on – does that happen often?

**Neil Garbutt:**

Look, we certainly get enquiries about it. People have tried to check numbers and it just hasn’t worked out for them.

**Nick Housego:**

Where do you check?

**Neil Garbutt:**

So the online claims portal. That’s the first thing you need to go to. So you get the certificate number.

**Nick Housego:**

Is that on our site?

**Neil Garbutt:**

It’s the FSC site and the PEFC sites. They both have dedicated sites that allow you to check certificate claims.

The first thing that we’ve probably suggest is that you just make sure that you’ve typed the number correctly. I know that sounds pretty silly, but that’s certainly a common mistake. And these aren’t small numbers. They’re normally a couple of digits. So just check your number.

After that, if you still can’t find it on the claims portal, maybe have a chat to your supplier again, confirm that you’ve got the right details off them, and maybe ask them to email you a link to their online certificate.

And lastly, you can also contact the scheme itself and maybe have a chat to them about the certification claims you received and some of the problems you’re having.

**Nick Housego:**

Okay. I’ve got another question in here?

*Q: Do we have to gather info every time we import, even though it’s from the same supplier?*

So we bring in another import through the same channels, do we have to gather that new information?

**Margie Eddington:**

I’ll take that one Nick. So if the supply chain changes or anything within the supply chain changes, then you will need to obviously gather all new information for the new product that you’re intending on importing for those changes. But if you’ve got a relatively stable supply chain and you’ve done a clear risk assessment on that product in the past, that should be steadfast for future imports and so forth.

**Nick Housego:**

Okay. That clears that one up. Okay.

If they can’t confirm details, what actually happens?

**Neil Garbutt:**

So this goes back to what I was talking about before. Ultimately if it simply doesn’t stack up, the certificate number can’t be found, give us a ring. I think that’s the easiest answer. We’re always interested to hear about it when people are having problems with these systems. It could indicate there’s some fraudulent claims being made, and we’re certainly interested in hearing about any fraudulent or suspicious activity in this space.

**Nick Housego:**

Okay. Cool. I’ve got a question here now about the Forest Stewardship Council and their mix of product. Can it be used under this method, the FSC mix of products?

**Neil Garbutt:**

Yeah. Look, you will find with both the PEFC and the FSC systems they use a range of different labels. One of the FSC labels is FSC mix. That certainly can be used. So anything that has a FSC or PEFC label can be used under this risk assessment method.

**Nick Housego:**

Okay. I’ve got one here, a question without notice so they say in the government world.

*Q: Getting questions on items such as wooden brushes and antiques. How do we know if they are covered under the laws?*

Do we have to be concerned about antiques?

**Margie Eddington:**

Yeah. So we covered that in the last webinar, so I suggest that you revisit the last webinar in the series which went in to quite a lot of detail around which products are regulated under the illegal logging laws. You can also visit our website, which gives a good run through of the different products that are regulated under the laws. Follow the ‘Importers’ tab and you’ll get there fairly easily.

**Nick Housego:**

Cool. Okay. I’ve got another question here which I think is a fairly important one.

*Q: There’s questions about other labelling or certification schemes, whether or not they can be used.*

Insights there Neil?

**Neil Garbutt:**

For this particular risk assessment method, the Timber Legality Framework method, you can only rely on the FSC and PEFC certification systems.

**Nick Housego:**

Right. They’re quite restrictive in that way.

**Neil Garbutt:**

They are. Look, certainly other eco labelling schemes or legality schemes or certification schemes, you will encounter them. They can be used potentially to support your other risk assessment methods, particularly the Regulated Risk Factors method. That’s probably something where you can build any certificates or systems you run into in to that part of your considerations there. But for this method, FSC and PEFC only.

**Nick Housego:**

Okay. We’ve just discussed the first method of using certification. To the panel, how else can an importer do a risk assessment?

**Emma Hatcher:**

Okay Nick. I’ll take that one and talk about the second risk assessment method, which is the Country Specific Guidelines, or CSG. So as I mentioned, Country Specific Guidelines are documents that the department has prepared in cooperation with counterparts in some of our major supply countries. CSGs help importers understand the legal frameworks that regulate timber harvesting in these countries. And that’s important, because remember you’re being asked as the importer to assess whether the timber in your product was harvested in accordance with the laws in the country where it was actually grown. And Country Specific Guidelines are really useful in that they provide an overview of those legal frameworks, and they also spell out some of the relevant documents and information that an importer can seek to demonstrate legality.

As shown on the screen, we’ve currently got nine Country Specific Guidelines in place, and these cover quite a few of our major suppliers of timber products. Solomon Islands, Papua New Guinea, New Zealand, Indonesia, Malaysia, the Republic of Korea, Italy, Canada and Finland.

**Nick Housego:**

Okay. So if I’m an importer of a timber product from one of these countries, how do I use that Country Specific Guideline?

**Emma Hatcher:**

So on this next slide, we’ve set out the steps that we need to do to make those checks. So firstly what you need to do is check that the wood in your product was actually harvested in the country that you’re importing from. So for example if you’re importing paper from Korea, that the pulp in that paper actually was grown from a tree in Korea. If it’s not, then the CSG can’t be used. So if it’s coming through a third country, then the CSG is not really on the table for you to use as a risk assessment.

So that’s your first check. The second step then is to read through the CSG which will tell you about what the forest industry is in that country, and what information and documentation is available that can help you demonstrate legality. So that’s the second step. Read through the CSG and understand what sort of information is out there.

Then the third step would be to check whether you’ve received that information or documents that are detailed in the CSG from your initial information gathering process. Have you got everything now that will demonstrate what the CSG tells you might be legal product? If not, go back and ask your supplier, armed with that information, knowing what documents to ask for, to see if they can provide you that information to fill those gaps.

And then finally you really need to assess whether you’ve got everything that you need, all of the necessary information to demonstrate the timber has been legally harvested. If you are and you’re not aware of anything else that suggests that something is a little bit suspicious, then you can likely assess the risk as low.

**Nick Housego:**

Okay. We’re talking a lot about process here. Can you give us an example or sort of something that we can easily picture?

**Emma Hatcher:**

Yeah. Look, let me bring it to life with an example. So let’s take someone importing outdoor decking from Indonesia. So what they would do – we do have an Indonesian CSG, so they would download the CSG and learn about the forest products and how they’re managed in Indonesia. In the Indonesian CSG the key information will be that the Indonesian government actually issues a V-Legal certificate under their legality scheme, and that certificate is issued in respect of all legal exports of timber.

So the importer would then reach out to the Indonesian supplier and confirm that they actually trade in the V-Legal certified product, and that a V-Legal certificate will accompany the consignment. And if they’re satisfied that there’s nothing else that suggests the decking is coming from illegal sources, then the importer can assess the risk as being low. Importantly though, once you’ve imported the product, the importer should check that they have actually got that necessary V-Legal document that they were promised and that it matches the product that they purchased.

**Nick Housego:**

That’s quite critical.

**Emma Hatcher:**

Yep. Absolutely.

**Nick Housego:**

Yeah. Okay. Listen, I’ve got a question. Just going back, one of the other questions that’s popped in.

*Q: What if they are certified, it links to them, but they don’t mark the products and invoices?*

So if they’re certified and links to them but they don’t mark the products and invoices.

**Neil Garbutt:**

Look Nick, that goes back to the point I think I made earlier, which is it’s very important to make sure that your invoices or delivery documents include the certification claim. Because you can do all your checks, you can make sure that the party you’re dealing with is certified, but unless they’re sending you invoices or documents that says that the product is certified, you may not be receiving certified product. And if you’re not receiving certified product, you can’t rely on the Timber Legality Framework risk assessment method. So that’s quite important.

**Emma Hatcher:**

So in that circumstance Nick, I’d suggest they just simply go back and ask their importer to change their practices. It might not have been necessary for them to do that previously, but in this circumstance, to be able to reasonably rely on that, you want to make sure that that invoice shows all the way through the chain, you’ve done your checks, but that the product that’s supplied was the product that you actually did the checks on.

**Nick Housego:**

So that’s the value of today, a deep dive on this process. So good. Okay. Jo’s got a question here asking about when will we see new Country Specific Guidelines? Are they frozen or are these things constantly on the move and we’re getting new countries coming in?

**Emma Hatcher:**

We certainly are Nick, and we’re currently working with five of our trading partners to develop new Country Specific Guidelines. This includes China, which I imagine given it’s our largest supplier of regulated products will be of interest to many people, Chile, France, Vietnam and Thailand. So they’re all at different stages of development, and when we finalise those negotiations, as we did with Korea earlier this year, we let everybody know that there’s a new Country Specific Guideline available for them to use.

**Nick Housego:**

Okay. Makes it fairly clear. Okay. So that’s the first two risk assessment methods, the Timber Legality Frameworks and the Country Specific Guidelines. Margie, tell today’s participants about that third method.

**Margie Eddington:**

So the third method allows importers to undertake a risk assessment against the five Regulated Risk Factors set out in our regulation. So here you need to use your gathered information and judge the risk associated with your product against five factors in order to be able to come to a final conclusion of risk.

**Nick Housego:**

Okay. So what are we looking for exactly? What are we asking people to do here?

**Margie Eddington:**

So I’ll go through each of the questions here, so the five factors you need to consider. The first factor that you need to consider is the prevalence of illegal logging in the area or the areas of harvest. So for some countries or regions, they’re known for having issues with forestry governance or enforcement which makes them much more vulnerable to illegal logging. So here you need to consider the area where the timber in the product has come from, and there are lots of really good independent data sources out there to help you do this, and some of these are up on the screen right now.

So some of these sources, such as the Chatham House website for example, will provide you with information about reports of illegal logging in a country, while others, such as the timber sourcing hub, will provide you with overviews of local laws and country risk profiles.

**Nick Housego:**

Okay. What’s the European Timber Trade Federation: Timber Trade Portal? What’s that one?

**Neil Garbutt:**

I can probably answer that Nick. So the European Timber Trade Federation is an industry based organisation in Europe obviously. They’ve developed a Timber Trade Portal which provides a range of information for their client members, and also there’s a range of information that’s more publicly available which talks about some of the things to consider when trading with certain parties.

**Nick Housego:**

Okay. So they’re pretty powerful resources to be used.

**Neil Garbutt:**

Yeah. And that’s why all of these materials on the current slide are on our website too, and we’ve identified a number of potentially helpful and useful resources.

**Nick Housego:**

Do you have to use them Margie?

**Margie Eddington:**

So no, they’re just examples of some of the resources that are out there Nick. So how and if you use them is totally up to you. In our auditing process, these are the types of data sources that we use to see if your risk conclusions can be reasonably supported with evidence.

**Nick Housego:**

Okay. So that’s valuing the checking situation of where your product is coming from, and that’s pretty important. What’s the next risk factor in your stat?

**Neil Garbutt:**

Okay. So look, Margie’s spoken about where it’s come from. I’m going to speak about what it actually is. So the next risk factor is the prevalence of illegal logging of the species they’re importing. So some timber species are more likely to be illegally logged. We know that. To address this, you need to know the species of timber you’re importing, and as we mentioned before, where it was harvested.

If your supplier can’t tell you what type of timber is in the actual product or you can’t confirm the species grows in the area the supplier says it comes from, or even if the species is listed as vulnerable or threatened, it may indicate a higher risk of illegal logging.

So look, a lot of the resources we mentioned on the last slide can help you to determine if a particular species is vulnerable to illegal logging. I mean we mentioned the Chatham House document and some other documents. We’ve also included some very specie specific resources on the current slide.

**Nick Housego:**

Okay. So CITES I see is listed there. That’s the second bullet point down. How does this fit in, and what is CITES?

**Neil Garbutt:**

So it’s an acronym obviously. That acronym stands for the Convention for the International Trade and Endangered Species. It’s quite a mouthful, so we’ll just call it CITES for the rest of our conversation. It’s an international treaty covering the trade in endangered species, and there are a growing number of tree species that are now being listed under the treaty.

We’re not the experts in CITES. I’m going to say that right now. The Department of Environment and Energy manages CITES legislation in Australia, and on the website for that department, which is currently shown on the screen, you can look up if a species is CITES listed, and it also provides some advice on the permits you need to trade in a listed species.

**Nick Housego:**

Okay. So that’s two factors down. Where do we go to next? What’s our next step here?

**Neil Garbutt:**

Okay. The third factor is the prevalence of armed conflict in the area of harvest.

**Nick Housego:**

The prevalence of armed conflict?

**Neil Garbutt:**

Yeah. So look, you’ve found out where your timber is coming from. The next thing to do is to check is there conflict occurring in that space. It’s pretty logical.

**Nick Housego:**

Why is that important?

**Neil Garbutt:**

Look, conflict affected regions are characterised by weak governments, ineffective laws and political instability, elements that are all very conducive to illegal logging.

**Nick Housego:**

So some form of black market.

**Neil Garbutt:**

Yeah. Look, I mean there’s certainly lots of reports that groups that are revolutionary or insurgencies of if there’s a civil war, they’ll draw upon illegal logging to - - -

**Nick Housego:**

As a stream of income.

**Neil Garbutt:**

Yeah. So look, you can still buy legal wood from these areas, but you need to do so very carefully. And Australian companies considering importing timber from these areas need to ensure that their due diligence practices are detailed and robust. We’ll expect more of you if you’re dealing with one of these countries.

**Nick Housego:**

Okay. I’ve got another question here which I wouldn’t mind raising. It’s from Michelle.

*Q: Is it possible that the material comes from these countries within the CSG but is manufactured in another country?*

**Emma Hatcher:**

So as I said Nick, no. What we really need to see is that timber that’s come from the country, it’s processed within that country and then exported from the country.

**Nick Housego:**

So that’s that Korean example you gave earlier.

**Emma Hatcher:**

It is. And that’s for the reason that if we have timber going through third countries, it could get mixed with other sources of timber, and it’s really hard for somebody to understand what the laws in that country are if it’s not covered by a CSG. But in that circumstance, what you might want to do if you’re using the Regulated Risk Factors for example is think about okay then, we know that the timber was grown in this country and it seems to have this material and information or documents to support it. I think that that’s a good basis, and I then do the broader risk assessment to understand the product in its whole.

So it’s not the CSG pathway, but you can still use the information in the CSG to inform that broader risk assessment about what information you’ve got.

**Nick Housego:**

Okay. That’s a key piece of resource. Margie, where can I learn about armed conflicts? How do I know that they’re out there? You’re the compliance guru.

**Margie Eddington:**

So again, there’s lots of reports and tools to help determine which countries and regions fall in this high risk category. We’ve listed a couple of the current slide here. So obviously the Australian Government’s Smart Traveller website provides regularly updated information on regions where conflicts may be occurring, particularly for those travelling.

**Nick Housego:**

But this is up to me to drive in to there and find that.

**Margie Eddington:**

Absolutely.

**Nick Housego:**

Anything that’s broadcast out? Can I subscribe to any lists?

**Margie Eddington:**

So of course a good Google search can also pull up reports of regional conflicts and wars, and if you’re regularly importing from a particular location, you might actually set your Google settings to give you alerts regarding that particular area.

**Nick Housego:**

And if you’ve got good arrangements with people who are supplying, you’ll be able to find that material out if things have broken down in another part of the country opposite to where they are. Okay. Right. What’s next guys? Panel?

**Neil Garbutt:**

Okay. We move on to the next factor to consider, and that’s the complexity of the product you’re importing. So look, long and complex supply chains make it more difficult to determine where the timber in your product comes from. So it just makes it a bit more tricky.

Complex supply chains may increase the risk of a product containing illegally harvested timber. Obviously if you’ve got multiple steps in the production of the product, there’s more chances that illegal logging can wander its way in to the supply chain. So in essence, the more complex your supply chain, the more information you need to gather to determine the risk of the product containing illegal timber.

As previously mentioned, for products containing multiple components, like furniture, you will need to break the product up into its component parts in order to do a reasonable risk assessment. For highly processed products, you may need to go several steps back in the supply chain. So you need to go a bit further up to identify where the product has come from.

**Nick Housego:**

So the key message here is to think about your product, what’s in it and where all the elements have come from. So you’ve really got to have a bit of a map about that in your head, and then make sure you put that down to the paperwork.

**Neil Garbutt:**

This risk assessment pathway is really about bringing a range of information to your decision making.

And the last one, the last factor that we need to talk about before we move on, is considering any other information that may indicate the product has derived from illegal timber. So this isn’t a tick a box exercise. All of our risk assessment methods require you to consider the context in which you received the information.

So that’s for all of our risk assessment methods, you’re required to consider any other information that you’re aware of.

**Nick Housego:**

Okay. What are some of the things that you’ve got to be looking out for here?

**Neil Garbutt:**

Look, the things that we suggest that you have a look at when you’re looking at any other information is are you being asked to pay a bribe, or are you seeing potentially forged or inconsistent or missing documents? Is your supplier disreputable? Have they suddenly emerged out of nowhere to offer you a deal you can’t refuse? Is your supplier someone that you would have reason to believe is dealing in illegal timber? Are the goods being sold significantly below the market rate? Are taxes missing off the price? You’re asking them very basic questions and they’re being elusive or unable to answer those questions. All of these things. It’s things a reasonable person would look at and go ‘Wait a minute. Something’s not right here’.

**Nick Housego:**

To a degree, common sense.

**Neil Garbutt:**

Yeah. It’s probably worthwhile mentioning up on the screen we’ve got a web address. That’s for a NEPCON guide, and that’s quite a useful guide that talks about spotting fake documents. It’s not a bad 101 of how to identify if your document is not quite right.

**Nick Housego:**

Right. Okay. Interesting. Okay. So that’s a quick summary of the five factors in the third risk assessment method. Just to recap, there are three ways to assess the risk. Now panel, correct me if I’ve got these right or wrong. Timber Legality Frameworks, the Country Specific Guidelines, and those five Regulated Risk Factors we’ve just discussed.

**Margie Eddington:**

That sounds correct to me. Good job Nick.

**Nick Housego:**

So what happens if the product is what you’d have to say not low risk?

**Emma Hatcher:**

Okay Nick. So that’s when we get into this risk mitigation if it’s necessary. So on the current slide you’ll see that if you ultimately conclude the risk is not low, you do need to take steps to mitigate the risk. But how you mitigate the risk is pretty flexible. Again, we’re not prescriptive. But what it does need to be is adequate and proportionate to the identified risk. So this means the more significant risks or gaps in your knowledge, the more effort you’re going to have to put in to manage that risk, mitigate away or lessen down.

So in some high risk situations where the product itself just might be risky and you’re in risky supply chains, you really, really need to think about whether you can import that product or deal with that supplier.

**Nick Housego:**

Alright. I’ve got another question in here. And just let participants know we’re now landing well over 40 questions, so we’re getting quite a few rolling in. Here’s one.

*Q: If a supplier cannot show a certificate or answers for the first two methods that we’ve discussed today, Glenn doesn’t see how we would find the answers for the third method. Then what do we do?*

**Emma Hatcher:**

Look, I think that gets back to if you’ve got those significant gaps in what your product is, where it’s come from, you’re really going to find it difficult to come to a reasonable conclusion that it’s low risk. Illegal logging is out there. It’s in supply chains. We talked last time about the prevalence of illegal logging and the volume of trade and value of trade. It’s out there, and that’s why we have these laws.

So ultimately if you haven’t got certified product, you’re not importing from a country covered by a Country Specific Guideline, and then you get to the Regulated Risk Factors and you can’t answer questions about the area its harvested, the type of species in the timber - - -

**Nick Housego:**

It should send off some flags shouldn’t it?

**Emma Hatcher:**

I’d be thinking you’ve got some concerns there. Now ultimately that’s for you to assess, but there’s the mitigation methods that you might want to think about, getting more information, doing your best to fill some of those gaps. But if you can’t get that information from your supplier, you might have some concerns and have to consider whether that’s a reasonable option for you to import from them.

**Nick Housego:**

Okay. So Margie, you’re in that compliance space and the risk mitigations. What are some of the examples of good quality mitigation that you’ve seen in your audits to date?

**Margie Eddington:**

So we’ve seen examples from lots of different people doing risk mitigation. Mostly, as Emma suggested, we’ve seen importers obtaining further information about their products. So going back to the supplier and asking more questions. We’ve seen importers requesting certified products from the suppliers. So as Neil said, asking for the certified product and ensuring that the receipt has the necessary information. We’ve seen people completing on site audits. So that means taking photographs, going over, really having a good look at where the product has come from and going through and tracing it back along the supply chain.

And even in the higher end we’ve seen forensic testing. And I’m not suggesting this is viable for everyone, but DNA and fibre analysis there. Also anecdotally we’ve heard of importers just simply changing products or suppliers because they can’t get the necessary information to do a reasonable risk assessment.

**Nick Housego:**

Alright. I’ve got another question in here which I think is an interesting one.

*Q: If we import some cartons and cardboard from China, if the supplier manufacturing the cartons is using recycled materials and I receive packaging specifications and the materials are recycled, is that sufficient to categorise my import packaging as low risk?*

There’s a few assumptions in that.

**Margie Eddington:**

Yeah. So the last webinar we spoke a little bit about what is regulated. We also spoke about what’s excluded from the legislation, and one of those is actually recycled product. And that has to be post-consumer, 95 percent recycled product. So it’s made from garbage essentially. So that’s one of the options that you might consider, depending on the proportion of the product that’s actually been recycled. So it could be exempt from the legislation. But you do have to find specific documents or details to show that and verify that.

**Nick Housego:**

Okay. I’ve got another one here.

*Q: What happens if semi-finished goods such as paper is made from controlled wood sources, but the FSC standard says that the invoice of products, semi-finished products, can’t have a controlled wood claim on the invoice?*

That’s a bit of a tricky one. We might have to research that one.

**Neil Garbutt:**

Yeah. That one is getting into some of the very specifics of how the certification process works.

**Nick Housego:**

But that’s the value of the deep dive today.

**Neil Garbutt:**

Yeah. So just for some people out there who might not understand the terminology, controlled wood is basically where timber or wood fibre has come not from a certified source, but has gone through a due diligence process as part of one of the certification processes. It’s quite a technical question Nick. I think we’re probably better off addressing that one offline and I’ll take that on board.

**Margie Eddington:**

Yeah. I’m happy to take that one offline.

**Nick Housego:**

Okay. I’ll just pick up another couple of questions if I could. We’ve got a few minutes to go.

*Q: What if the timber was sourced from one of the countries but imported from another country that is also part of the Country Specific Guidelines?*

**Emma Hatcher:**

So again, couldn’t use the one CSG to cover that, again because we’re having product that’s been harvested in accordance with the laws in one country potentially entering the commerce and being transformed or processed in another country, which could introduce timber from other sources.

So like I said earlier, I’d suggest that you gather as much information informed by the CSGs in that circumstance, and then probably use that to take your Regulated Risk Factors approach.

**Nick Housego:**

Okay. Thank you. Margie, final question is coming in your direction. We just had it up a second ago.

No. It was a compliance based question please.

Let me just find that.

**Margie Eddington:**

We’ve actually got a slide coming up on the compliance process if you want to - - -

**Nick Housego:**

*Q: From a compliance perspective, if your company has recently developed a due diligence process, is there value in retrospectively performing the due diligence process for previous imports? If so, how far back should I go?*

**Margie Eddington:**

So the laws came out of soft start. So penalties do apply from the 1st of January this year. So I’d suggest that that would probably be a good starting point to ensure that your records are all in order in case you are audited by the department. But obviously up to you. It depends on the frequency with which you order the product.

**Nick Housego:**

Okay. So Margie, whilst you’re on your feet, you’ve mentioned today a few times about the compliance audits process. Could you step us through a little bit of that?

**Margie Eddington:**

Yes. So the department performs regular desktop audits to assess compliance with the due diligence requirements, and if you’re chosen for an audit, we’ll send you a request for information notice and this notice will detail a specific product that is imported.

So in response to our request, we need you to show us how you’ve gone through each of the due diligence steps prior to importing this product, and you need to provide the information by the due date on the notice. And if you can’t do that, you need to call us and seek an extension.

So in assessing you, when we do go through the information that you’ve provided, we will be checking that you’ve got an overarching due diligence system, which Emma has gone through earlier, that you’ve gathered information about the product, and that you’ve undertaken a reasonable risk assessment using one of the three methods allowed under the legislation. So you only have to use one of those methods. And if necessary, where you see higher risk, that you’ve undertaken suitable mitigation to reduce the risk.

**Nick Housego:**

And what happens when all the information is submitted to the department?

**Margie Eddington:**

So then we’ll provide you with feedback on whether the due diligence practices meet the laws’ requirements, and we’ll provide you with information and guidance to assist you with your future compliance. We might also follow up with you to ensure that you’ve enacted on any requested improvements.

And just lastly, a really important point of note, please don’t think that you can just ignore our request. Not responding within the specified time period is actually an offence under the legislation and could also result in a substantial fine.

**Nick Housego:**

Okay. Panel, I have one more question that I want to raise with you, but also just give some consideration, is there anything more we want to tackle or do we think we’ve gone down a fair way on the deep dive?

**Margie Eddington:**

I’ve just got one thing to mention. Tip offs are a really important source of information for our compliance activities. So when you are undertaking your risk assessments and gathering information, if you see anything concerning, please report it. So this might include, as Neil mentioned earlier, the forged documents or anything you suspect to be forged, or where you’ve been approached with questionable goods or any other concerning behaviour that you might see. Please call us on our illegal logging hotline. The number is on the screen. 1800 657 313. Or email us at ILCA@agriculture.gov.au.

**Nick Housego:**

Okay. Emma, is there anything further? I’ve got one more question I’m going to raise with you, but I just want to check is there anything more that you want to cover off?

**Emma Hatcher:**

Look, we’ve just been through the four steps Nick, and that’s really important that there are the four steps. Set up your system, do your information gathering, undertake your risk assessment, come to a conclusion, and if that conclusion isn’t that it’s a low risk, you need to do the risk mitigation. So it’s not a huge process, but each of those steps are important.

**Nick Housego:**

Okay. Neil?

**Neil Garbutt:**

I’ll just throw one thing in the mix. We often get a query about okay, I’ve been provided documents, and those documents are in Chinese, Malaysian, whatever foreign languages. So a common question we get is ‘Do I need to get these documents translated?’ And so the response to that is if you’re relying on those documents, you need to understand what those documents tell you. So we would certainly encourage you to understand what’s in those documents, and to make sure that when you are audited you’re able to explain to us what those documents tell you. So just turning up and going ‘My supplier provided me this documentation,’ without understanding what it means is not going to stand up.

**Nick Housego:**

Well here’s a question that leads on from that that’s come in this morning.

*Q: Can we send you our due diligence assessment to check and for feedback? Do you provide that service?*

**Margie Eddington:**

No, we don’t provide that service, but there is very detailed information on our website that you should be able to self-check to see you’ve met the process required. And if you are audited by the department, obviously we will provide you with the feedback about your due diligence system and the process that you’ve gone through.

**Nick Housego:**

Alright. As a panel I want to thank you. It’s been a fantastic deep dive. We’re now coming up for more oxygen. So it’s been a long way down there. Emma, thank you very much.

**Emma Hatcher:**

Thanks Nick.

**Nick Housego:**

Neil, thank you very much.

**Neil Garbutt:**

Thank you Nick.

**Nick Housego:**

Margie, thank you very much. Signing off here from the Illegal Logging Webinar. Bye for now, and stay tuned for when we hand out the next one. We’ll let you know through the website. Bye for now.

[*Closing visual of slide with text saying ‘Australian Government with Crest (logo)’, ‘Department of Agriculture and Water Resources’, ‘ILCA@agriculture.gov.au’, ‘1800 657 313’, ‘www.agriculture.gov.au/illegal-logging/’*]

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