

Reforming Australia's illegal logging regulations

Regulation Impact Statement

September 2017

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Glossary

Consignment value threshold	The exemption provided to importers by section 6(1)(c) of the Illegal Logging Prohibition Regulation 2012. Currently provided when the value of the regulated timber products in an imported consignment is worth less than A\$1 000.
Country Specific Guideline (CSG)	A document negotiated with key trading partners that assists importers to better understand the legal frameworks in that country and how they can minimise the risk of importing illegal timber products from that country.
‘Deemed to comply’	A streamlined process that allows a business or individual to satisfy their regulatory ‘due diligence’ requirements through a predefined process.
Domestic processor	An entity which processes domestically grown raw logs into another form. Is defined further under section 15(1) of the <i>Illegal Logging Prohibition Act 2012</i> .
Due diligence	In the context of Australia’s illegal logging laws, the process of assessing and managing the risk that a timber product includes, or is derived from, illegally logged timber.
Illegal logging	Defined in the <i>Illegal Logging Prohibition Act 2012</i> as timber that has been ‘harvested in contravention of laws in force in the place (whether or not in Australia) where the timber was harvested’.
Importer	A business or individual who imports regulated timber products into Australia.
Integrated Cargo System (ICS)	A system used by the Department of Immigration and Border Protection. It allows for the electronic lodging of formal import declarations by brokers or importers for all goods imported into Australia.

Regulated timber product	A timber product that is regulated under Australia's illegal logging laws. For timber imports, this is defined by their customs tariff code. This includes most timber and wood-based products, such as sawn timber, pulp, paper, veneer, mouldings, wood panels, flooring, medium-density fibreboard, particle board, plywood and furniture.
State Specific Guideline	A document negotiated with Australian state governments that assists domestic processors to better understand the legal frameworks in that jurisdiction and how they can minimise the risk of dealing with illegal timber products from that country.
Timber legality framework	An independent third-party certification scheme, or licence, that is listed in Schedule 2 of the Illegal Logging Prohibition Regulation 2012.
Timber products	For the purposes of this document, includes all timber and wood-based products.

Abbreviations

ABARES	Australian Bureau of Agricultural and Resource Economics and Sciences
ABN	Australian business number
ACN	Australian company number
the Act	<i>Illegal Logging Prohibition Act 2012</i>
CSG	Country Specific Guideline
EUTR	European Union Timber Regulation
FLEGT	<u>Forest Law Enforcement, Governance and Trade</u>
FSC	<u>Forest Stewardship Council</u>
ICS	Integrated Cargo System
PEFC	<u>Programme for the Endorsement of Forest Certification</u>
RBM	Regulatory Burden Measurement
the Regulation	Illegal Logging Prohibition Regulation 2012
RIS	Regulation Impact Statement
SSG	State Specific Guideline

Summary

This Regulation Impact Statement (RIS) describes proposals developed by the Department of Agriculture and Water Resources (the department) to minimise the cost to businesses and individuals of complying with the due diligence obligations established by the Illegal Logging Prohibition Regulation 2012 (the Regulation).

What is the problem that is being addressed?

The *Illegal Logging Prohibition Act 2012* (the Act) came into force on 28 November 2012. The Act requires a structured risk assessment and mitigation process before a business or individual imports a 'regulated timber product' (as defined by their customs tariff codes) into Australia or processes domestically grown raw logs. This is known as undertaking 'due diligence', the specifics of which are set out in the Regulation and came into effect on 30 November 2014.

Since the laws were implemented, some elements of the regulated community have expressed concern that the due diligence requirements place too great a regulatory burden on businesses and individuals and have suggested that they be streamlined to minimise any associated costs.

Why is action required?

The department has estimated that complying with the Regulation's due diligence requirements costs the regulated community approximately \$28.2 million per annum.

In the absence of any regulatory reforms, there is a risk that the regulated community, which in 2015 consisted of approximately 19 522 importers and 300 to 400 domestic processors, could face unnecessary complexity and cost in trying to comply with the due diligence requirements.

What policy options are being considered?

Six regulatory options are considered in this RIS document:

- **Option 1—The Status quo.** Under this option, the regulated community would continue to be obliged to comply with the Regulation's existing due diligence requirements.
- **Option 2—Changing the consignment value threshold.** This option would increase the consignment value threshold from its existing level of \$1000 to a higher threshold level, thereby reducing the total number of regulated consignments and importers.
- **Option 3—Removing 'personal' imports from the Regulation's scope.** This option would preclude persons who import timber products for personal use from having to undertake due diligence.
- **Option 4—'Deemed to comply' arrangements for timber legality frameworks.** This option would establish 'deemed to comply' arrangements for certain prescribed timber legality frameworks, which would remove some of the steps associated with the due diligence process for those businesses and individuals who use such frameworks.
- **Option 5—'Deemed to comply' arrangements for Country Specific Guidelines (CSGs) and State Specific Guidelines (SSGs).** This option would establish 'deemed to comply'

arrangements, which would remove some of the steps for businesses and individuals that use CSGs or SSGs to satisfy their due diligence obligations.

- **Option 6—‘Deemed to comply’ arrangements for low-risk countries.** This option would establish ‘deemed to comply’ arrangements, which would remove some of the steps associated with the due diligence process for importers who import timber and timber products from countries that are assessed as being at ‘low risk’ of illegal logging.

What is the likely net benefit of each option?

The department anticipates that:

- **Option 1—The status quo** is not a preferred regulatory option, as it does not provide for an optimal balance between the regulatory burden associated with undertaking due diligence and risk of illegally logged timber entering the Australian market. In the absence of regulatory reforms, importers and domestic processors could face unnecessary complexity and cost in trying to comply with the due diligence requirements.
- **Option 2—Changing the consignment value threshold** and **Option 3—Removing ‘personal’ imports from the Regulation** will reduce the scope of the Regulation but will not address regulatory burden for those who remain regulated. This will introduce a level of inequity, while also increasing the risk of illegally logged timber and timber products being placed on the Australian market. Reducing the scope of the Regulation could also incentivise ‘gaming’ of the system, further reducing the scope of regulated transactions. Further, it is recognised that these measures would only benefit importers and would not provide any benefits to domestic processors. While the implementation of both of these measures could result in potential regulatory savings of up to \$11.3 million per year, the associated reduction in transactions and entities covered by the Regulation presents an unacceptable risk of illegally logged timber and timber products entering Australia. These are not preferred options.
- **Option 4—‘Deemed to comply’ arrangements for timber legality frameworks** will streamline the due diligence requirements for businesses importing or processing timber products which have been certified under the Forest Stewardship Council (FSC) or the Programme for the Endorsement of Forest Certification (PEFC) systems. This option can provide a regulatory saving for both importers of timber products and domestic processors of raw logs, while not significantly increasing the risk of illegally logged timber entering the Australian market. This is the recommended option (see below).
- **Option 5—‘Deemed to comply’ arrangements for Country Specific Guidelines (CSGs) and State Specific Guidelines (SSGs)** and **Option 6—‘Deemed to comply’ arrangements for low-risk countries** have the potential to distort trade flows by introducing preferential treatment for products from some markets. The implementation of such measures could disrupt Australia’s broader trade relationships, and the determination of low-risk countries could lead to inconsistencies with Australia’s international trade obligations. It is also unclear whether they would deliver significant regulatory savings. These are not preferred options.

Who was consulted about these options?

In November 2016, the department published the [Reforming Australia's illegal logging regulations—Consultation Regulation Impact Statement](#) and sought feedback on the six regulatory options outlined in that document.

The department accepted submissions until early January 2017. A total of 46 submissions were received from regulated businesses, industry associations, environmental non-government organisations (NGOs), certification organisations, and foreign governments. A list of the organisations that provided submissions to the RIS consultation process is included at **Appendix F** (although some organisations did request to remain anonymous and have been de-identified in this list).

What is the best option from those considered?

The recommended option is **Option 4—Establish 'deemed to comply' arrangements for timber legality frameworks**.

How will the department implement and evaluate its recommended option?

The department will implement the recommended option by progressing amendments to the Regulation. The department will also work with the governing bodies of the FSC and the PEFC to develop improved guidance on how to use certification under the amended Regulation. An education and communication program will also be implemented to ensure that the regulated community is aware of the reforms and how it can comply with the amended due diligence requirements.

The evaluation of the effectiveness and efficiency of the recommended option will occur as part of the department's business-as-usual management of the illegal logging laws.

1 Background

1.1 Australia's illegal logging laws

The *Illegal Logging Prohibition Act 2012* (the Act) came into force on 28 November 2012. The Act seeks to 'reduce the harmful environmental, social and economic impacts of illegal logging by restricting the importation and sale of illegally logged timber products in Australia' (Australian Government 2012).

The Act makes it a criminal offence to knowingly, recklessly or intentionally import illegally logged timber and timber products into Australia or to process domestically grown raw logs that have been illegally logged. For the Act's purposes, 'illegally logged timber' is defined in section 7 of the Act as timber 'harvested in contravention of laws in force in the place (whether or not in Australia) where the timber was harvested'.

The Act also requires a structured risk assessment and mitigation process before importing a 'regulated timber product' (defined by their customs tariff codes) into Australia or processing domestically grown raw logs. This is known as undertaking '**due diligence**', the specifics of which are set out in the *Illegal Logging Prohibition Regulation 2012* (the Regulation).

The due diligence requirements are summarised at **Appendix A**.

1.2 Why were the illegal logging laws introduced?

Illegal logging is a global problem. The theft, laundering and trade of illegal timber occurs throughout the world—in both developed and developing countries—and in all types of forest ecosystems, including natural forests, plantations, the tropics, and temperate and boreal forests.

The principal motivation behind these illegal activities is profit. Illegal operators, by their very nature, avoid many costs associated with sustainable forestry management, such as payment of royalties to governments and traditional owners, compliance with harvest controls, labour costs and other legitimate costs. This has a negative impact on domestic market prices, which can affect business decisions, industry investment, profitability and jobs in the Australian economy.

As a key market for timber products, Australia has an important role to play in contributing to international efforts to combat illegal logging and its associated trade. Australia's laws promote a strong, competitive and sustainable international trade in legal timber products, while also reducing the significant environmental, economic and social costs of illegal logging.

The laws are also an important part of the government's strategy for a sustainable Australian domestic forest industry. By reducing the risk that importers and domestic producers introduce illegally sourced timber into the Australian market, the government is ensuring that Australia's forest industries are not undercut by cheap, illegally logged timber products. The laws also complement other key government priorities, such as supporting action to mitigate climate change, combating organised crime activities and alleviating some of the costs of corruption in developing countries (Australian Government 2012, p. 5).

1.3 The cost of illegal logging

Illegal logging has wide-reaching impacts across ecosystems, communities and economies. The environmental impacts of illegal and unregulated logging are immediate, with the loss of biodiversity, erosion and subsequent water pollution changing the ecological balance of large swathes of forest areas (Lawson & MacFaul 2010, p. 1). This damage is compounded by the costs to approximately 'one billion forest dependent people', with additional stresses created as a result of criminal groups increasing instances of corruption, fraud, money laundering, extortion and murder in regions neighbouring forests (Nellemann & INTERPOL 2012).

Illegal logging also imposes a range of intangible costs on forest-dependent communities. These include reducing the standard of living; eroding sustainable livelihoods; destroying customary, spiritual and heritage values; encouraging a wide range of human rights abuses; using and exploiting foreign workers; reducing the quality of the forest environment; and contaminating food and water resources (Australian Government 2012, p. 43).

The economic costs of the illicit trade in forest products are also significant, with governments losing billions of dollars in revenue. In a 2006 report, the World Bank estimated that illegal logging on public land cost developing nations US\$10 billion per year (approximately A\$13 billion), with government revenue losses around US\$5 billion per year (approximately A\$6.8 billion) (World Bank 2006). Illegal logging also depresses international timber prices, which harms legitimate businesses across the supply chain. This depressive effect on timber prices has additional impacts on Australian domestic producer competitiveness, creating long-term negative outcomes for both producers and consumers.

Because of the illicit and often clandestine nature of the activities involved, the scale of illegal logging is difficult to accurately assess. Estimates of the global extent and cost of illegal logging vary, but a recent joint United Nations Environment Programme and INTERPOL report estimated that illegal logging represents an annual cost to the global community of between US\$51 billion and US\$152 billion (between A\$70 billion and A\$206 billion), with illegally logged timber representing between 15 and 30 per cent of the global trade (Nellemann et al. 2016).

1.4 Australia's exposure to illegally logged products

The available estimates suggest that Australia's exposure to the trade in illegally logged products may be significant. In 2013, the United Nations Office on Drugs and Crime estimated that up to US\$500 million (approximately A\$675 million) of Australia's timber and wood-based imports were potentially sourced from illegally logged timber harvested in Asia and the Pacific (UNODC 2013). This represented approximately 9.9 per cent of Australia's annual timber and wood-based imports at the time (A\$6.8 billion in 2013) (ABARES 2016).

Since then, Australia's timber imports have grown to a total of A\$8.1 billion in 2015 (ABARES 2016). Assuming Australia's exposure to illegal timber has remained relatively static (i.e. not considering the potential long-term impact of the Act), this would see Australia's share in the trade in illegally logged timber products sitting at approximately A\$800 million per annum. Other reports have provided similar estimates, with Jaako Pöyry Consulting suggesting that 9 per cent of Australia's timber product imports could come from illegal sources (Jaako Pöyry Consulting 2005).

1.5 International efforts to combat illegal logging

Illegal logging has been recognised as a problem of increasing global significance that requires effective action throughout all points of the timber supply chain to mitigate its social, economic and environmental impacts.

The European Union and the United States of America are two of the most substantial markets for timber products in the world. Both jurisdictions have implemented legislative measures to combat the trade in illegally logged timber and wood products. Combined with Australia's laws, these measures give important momentum to international efforts to address illegal logging.

These initial market-based actions have been complemented by the emergence of new legislative frameworks within several other nations in the Asia-Pacific region, including Indonesia, Japan, South Korea, Malaysia and Vietnam, all of whom are implementing or exploring similar or complementary regulatory frameworks.

At the same time, initiatives outside the government sphere have sought to improve the traceability and sustainability of the world's timber resources. Prominent among these has been the emergence of independent third-party forest certification schemes, such as the Forest Stewardship Council (FSC) and the Programme for the Endorsement of Forest Certification (PEFC) certification schemes. These frameworks provide purchasers with greater assurances about the legality of their suppliers' operations.

2 Regulation Impact Statement

This Regulation Impact Statement (RIS) addresses the department's proposals to minimise the cost to businesses and individuals of complying with the Regulation's due diligence requirements, while not significantly increasing the risk of illegally harvested timber entering the Australian market. It describes the problem the government is seeking to address, explains why an intervention is needed and assesses the merits of six options to determine a preferred course of action.

2.1 The problem

Under Australia's illegal logging laws, businesses or individuals who import regulated timber products or process domestically grown raw logs are required to carry out a due diligence process to minimise the risk that the timber in these products has been illegally sourced. This process has an inherent cost for businesses and individuals in terms of the time, effort and resources needed to understand their due diligence obligations, develop supporting systems and then undertake due diligence.

Since the laws were implemented in 2012, some elements of the regulated community have expressed concern that the due diligence requirements place too great a regulatory burden on businesses and individuals and have suggested the due diligence requirements should be streamlined to minimise costs.

These concerns were originally addressed in the KPMG-led [Independent review of the impacts of the illegal logging regulations on small business](#), which sought to assess whether the due diligence requirements achieved 'an appropriate balance between the cost of compliance for small businesses and reducing the risk of illegally logged timber entering the Australian market' (Department of Agriculture and Water Resources 2014).

KPMG's review report was released in February 2016. The report concluded that there was an opportunity to amend the Regulation to strike a better balance between the costs of compliance and the risk of illegal timber entering the Australian market. In coming to this conclusion, KPMG recommended amending the Regulation to:

- increase the individual consignment value threshold in the Regulation from its existing level of \$1 000 to \$10 000
- establish simplified 'deemed to comply' arrangements in the Regulation.

In responding to the review's findings, the government provided in-principle support for all of its recommendations and committed to progressing a package of reforms, including through a RIS process to examine the proposed regulatory reforms. The KPMG review report and the government response can be found on the department's [illegal logging webpages](#).

This RIS assesses the expected net benefits of implementing KPMG's proposed regulatory measures and also examines whether there are other regulatory options that could improve the potential balance between the cost of complying with the Regulation and the risk of illegal timber entering Australia.

2.2 Why is action required?

In establishing the Act and the Regulation, the Australian Government's policy objective was 'to combat illegal logging and associated trade by establishing systems that will promote trade in legally logged timber and, in the long term, trade in timber and wood products from sustainably managed forests' (Australian Government 2012, p. 46). This policy objective still guides the government's implementation of the illegal logging laws, with a focus on minimising the risks of the trade in illegally harvested timber. At the same time, the Australian Government is committed to creating an efficient regulatory framework and ensuring its regulations do not burden businesses and individuals any more than necessary.

The *Australian Government guide to regulation* makes it clear that the government will, where possible, reduce the regulatory burden for individuals, businesses and community organisations (Australian Government 2014). It also commits the government to a periodic review of all of its regulations to test their continuing relevance.

The department has estimated that complying with the Regulation's due diligence requirements costs the regulated community approximately \$28.2 million per annum. In the absence of the current RIS process, there is a risk that the regulated community, which in 2015 consisted of approximately 19 522 importers and 300 to 400 domestic processors, could be facing unnecessary complexity and cost in trying to comply with the due diligence requirements.

Considering these twin priorities, the department's objective for any reforms developed through this RIS is to:

Ensure that the Illegal Logging Prohibition Regulation 2012 does not impose any unnecessary compliance costs on regulated businesses and individuals, while continuing to be effective in combatting illegal logging and its associated trade.

2.3 Options that may achieve the objective

Six regulatory options are assessed in this RIS:

- **Option 1—The Status quo.** Under this option, the regulated community would continue to be obliged to comply with the Regulation's existing due diligence requirements.
- **Option 2—Changing the consignment value threshold.** This option would increase the consignment value threshold from its existing level of \$1 000 to a higher threshold level, thereby reducing the total number of regulated consignments and importers.
- **Option 3—Removing 'personal' imports from the Regulation.** This option would preclude persons who import timber products for personal and non-commercial purposes from having to undertake due diligence.
- **Option 4—'Deemed to comply' arrangements for timber legality frameworks.** This option would establish 'deemed to comply' arrangements for certain prescribed timber legality frameworks, which would remove some of the steps associated with due diligence process for those businesses and individuals who use such frameworks.
- **Option 5—'Deemed to comply' arrangements for Country Specific Guidelines (CSGs) and State Specific Guidelines (SSGs).** This option would establish 'deemed to comply'

arrangements, which would remove some of the required steps associated with due diligence for businesses and individuals that use CSGs or SSGs.

- **Option 6—‘Deemed to comply’ arrangements for low-risk countries.** This option would establish ‘deemed to comply’ arrangements, which removes some of the steps associated with due diligence for importers who import timber and timber products from countries that are assessed as being at ‘low risk’ of illegal logging.

3 Impact analysis

3.1 Option 1—The status quo

Description

The Regulation's existing due diligence requirements are intended to encompass all major sources of potentially illegally logged timber entering Australia. They require businesses or individuals importing 'regulated timber products' into Australia or processing a domestically grown 'raw' log to undertake a due diligence process. A summary of the key steps in the due diligence process is at **Appendix A**.

By implementing the due diligence requirements, the Australian Government has sought to drive greater transparency and accountability in Australia's timber supply chains. The requirements apply to the first point of entry of timber into the Australian market (importers and domestic processors) and require regulated businesses and individuals to actively ask questions about the source of the timber they are importing or processing.

'Regulated timber products' are defined by their customs tariff codes (see **Appendix B**). They currently include a wide range of wood and wood fibre-based products, including wood and wooden articles, pulp, paper and furniture.

Not all timber or wood-based products fall within the scope of the regulated tariff codes. Certain imported goods made of timber or wood fibre, such as musical instruments, sporting goods and printed materials, are not regulated. Packaging materials that are being used to transport other products are also not regulated, while bamboo, rattan, osier and vegetable matter are, for the purposes of the Act, not considered timber products.

There are also two specific exemptions to the due diligence requirements:

- where a regulated timber product is made from post-consumer recycled material
- a consignment where the value of the regulated timber products is worth less than A\$1 000.

Analysis

Benefits	Shortcomings
<ul style="list-style-type: none"> • Maximises the scope and effect of the due diligence requirements. • Provides consistency and certainty to the regulated community. • Provides a high level of assurance on the legality of Australian timber products. 	<ul style="list-style-type: none"> • Inconsistent with KPMG's conclusion that the due diligence requirements could be better balanced. • Does not reflect concerns amongst some industry members over the current costs of compliance. • Does not account for the varying capacity of individual businesses to absorb the associated compliance burden.

Benefits

The main benefit of the status quo position is its broad scope, which captures a large percentage of Australia's timber trade (approximately 92 per cent of all imported timber products), and its detailed process, which should limit the amount of illegally logged timber coming into Australia. In their report, KPMG noted that 'the regulations in their current form take a comprehensive approach to reducing the risk of illegally logged timber entering Australia. This approach means

that almost all timber products are within the scope of the Regulations, and it is thus likely to encompass all illegally logged timber that might be brought into Australia' (KPMG 2016, p. 4).

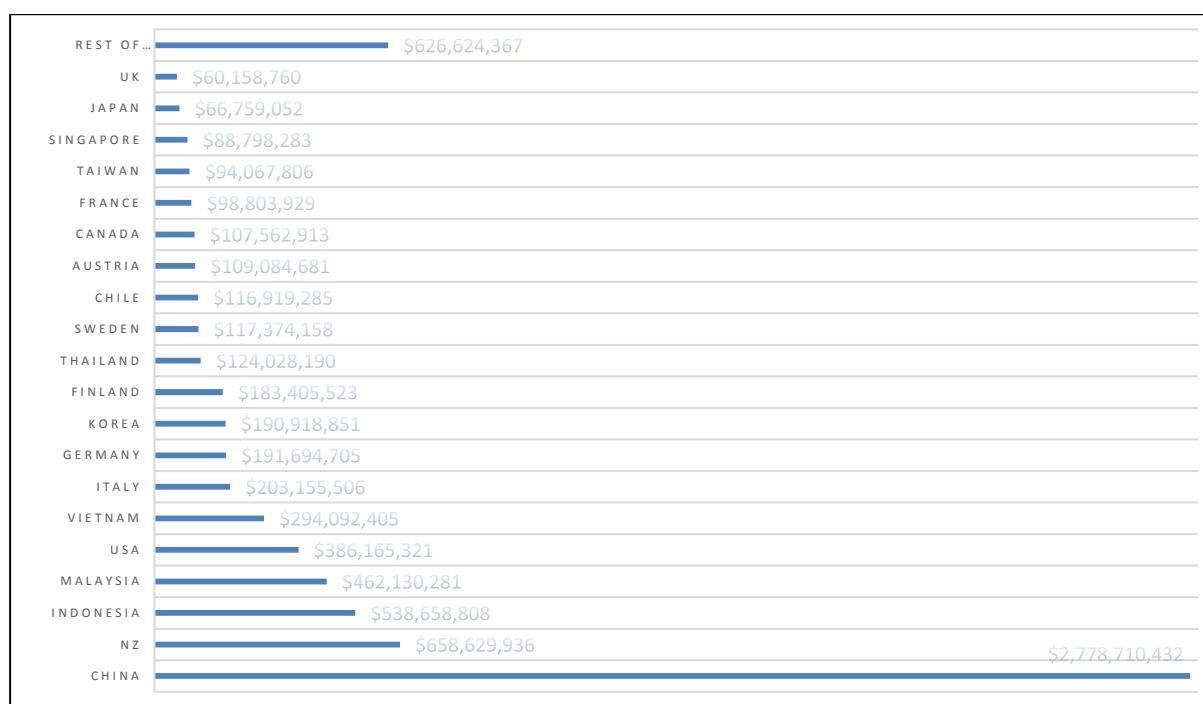
The existing requirements affect a large number of businesses and individuals—approximately 19 522 importers and between 300 and 400 domestic processors in 2015 (ABARES internal analysis of 2015 timber trade data). Data previously prepared by ABARES also suggest that this includes a wide range of business sizes, with a large number of small (turnover of less than \$10 million) and micro (turnover of less than \$2 million) businesses present within the regulated community.

Table 1 summarises the coverage of the status quo of Australia's regulated timber imports in 2015—the first complete year of the Regulation's operation.

Table 1 Existing Regulation settings for importers

Item	Value
Number of regulated importers	19 522
Number of 'one-off' importers (only brought in a single consignment within the year)	10 506
Number of 'multiple' importers (brought in multiple consignments within the year)	9 016
Number of 'new' importers (undertook their first regulated import in 2015)	8 348
Number of regulated consignments (which could be made up of several product lines)	201 685
Number of regulated product lines (represents a single line of regulated products)	1 042 842
Total value of regulated timber products (A\$)	\$7 497 743 192
Imported value of wood and wooden articles (tariff chapter 44)	\$1 867 663 034
Imported value of pulp (tariff chapter 47)	\$223 539 364
Imported value of paper (tariff chapter 48)	\$2 885 489 576
Imported value of furniture (tariff chapter 94)	\$2 521 051 218
Number of supplier countries	128
Major supplier countries (by % of total imported value)	China (37.06%) New Zealand (8.78%) Indonesia (7.18%) Malaysia (6.16%) USA (5.15%) Vietnam (3.92%)

Source: Based on 2015 ICS data.

Figure 1 Value of regulated timber imports by country of export^a, 2015

^a Data shows the final country of export before the product enters Australia. This does not mean the timber was harvested in that country, as the country may be a major manufacturing centre or a key transit hub for timber products.

The data available for the regulated elements of the domestic processing sector is more limited. ABARES data suggest that the sector is likely to include between 300 and 400 individual processors of raw logs who, in the 2014–15 financial year, processed approximately A\$2.0 billion in hardwood and softwood logs (ABARES 2012).

Despite its broad coverage, determining the extent to which the existing due diligence requirements have reduced, or removed, illegally logged timber from Australia's domestic markets remains challenging. This is due to:

- the illicit nature of the trade in illegally logged timber and timber products (which makes it hard to assess any potential impacts)
- the relative immaturity of the existing due diligence requirements (which have been in place for just over two years)
- the potential impact of the government's 'soft-start' compliance approach (during which the department has not applied penalties for any inadvertent noncompliance)
- the reliance on other international efforts to support and reinforce Australia's own efforts.

Nonetheless, the KPMG report did find evidence that the due diligence requirements were driving change and affecting Australia's timber supply chains (KPMG 2016). Anecdotal evidence outlined in the KPMG review indicated the requirements were already encouraging some businesses to avoid suppliers who were unable, or unwilling, to assist the importer to minimise the risk associated with their products. This view has been supported by the department's own experiences, with recent compliance assessments showing businesses reconsidering 'risky' supply arrangements as a result of the due diligence process.

If the initial assessments of Australia's share of the global problem are accurate, up to 9 per cent of the A\$8.1 billion of timber being imported into Australia is at risk of being illegally logged. When fully implemented, the existing due diligence requirements, together with similar measures in other jurisdictions, should prevent a significant element of this illicit trade from entering the Australian market.

Over time, the Regulation can also be expected to deliver benefits to the Australian timber sector, with underpriced illegal products less prevalent or removed from the market. Illegally logged wood products undermine local timber products because they have a competitive cost advantage. The illegal logging laws are likely to provide long-term benefits to Australia's exporters of timber and wood-based products. An economic analysis based on the Global Forest Products Model suggested that illegal material depresses world prices by an average of 7 to 16 per cent, depending on the product (Seneca Creek Associates 2004).

Similarly, Australia's participation in the international responses to illegally logged timber is likely, in the long term, to affect timber export prices and access to overseas markets. With the growing focus amongst Australia's trading partners on timber legality, a cohesive due diligence system is likely to provide long-term benefits to Australia's timber and wood product exporters.

Costs

These benefits need to be weighed against the cost to the regulated community of complying with the due diligence requirements.

Building on the information gathered by the KPMG review and the department's own experiences in administering the Regulation, the department has developed estimates of the regulatory costs associated with the existing requirements. These were developed using the government's Regulatory Burden Measurement (RBM) Framework, which provides a standard method for quantifying regulatory costs on businesses, community organisations and individuals. A summary of the methodology and key assumptions is included in **Appendix C**.

The key findings of the department's estimates of the importing sector's annual costs of compliance are in Table 2.

Table 2 Estimated compliance costs associated with the status quo requirements

Item	Value
Annual ongoing due diligence compliance costs	\$28 227 453 ^a
Average due diligence compliance costs per importer (per year)	\$1 445.93 ^b
Average due diligence compliance time cost per importer (per year)	23.5 hours ^a
Average due diligence compliance cost per consignment	\$139 ^a
Annual due diligence compliance cost as a % of the total value of regulated imports (total regulated imports in 2015 were \$7 497 743 192)	0.0037% ^a

^a These figures have been updated to reflect recent changes to the RBM Framework, including an increase to the hourly labour rate. This has resulted in figures slightly larger than those included in the consultation RIS.

^b Figure is provided for illustrative purposes only. It is important to remember this figure is an average taken across a diverse, regulated community. The experience of each importer is likely to differ depending on their circumstances.

In allocating costs to each imported regulated product line, these estimates may overstate the overall cost of compliance for importers. In practice, a sizable number of product lines, once their initial due diligence process has been completed and they have been determined to be low risk, are likely to require only minimal intervention by an importer. Although the department's costing model has attempted to factor this into its estimates (by applying discounted rates of effort for subsequent imports), it may still overstate the costs associated with this process.

It is also worthwhile noting that, under the current regulatory settings, most (15 322, or 78 per cent) of the regulated community imports 10 or fewer regulated product lines each year. As a result, a large percentage of the regulated community is likely to undertake due diligence only on a limited basis. This is likely to translate into most importers facing relatively limited regulatory costs throughout the year.

Because of the limited data available, the costing figures do not include a formal estimate for the domestic processing sector. This reflects the challenges in identifying the number of regulated businesses in this sector, as well as some of the difficulties in gauging how often domestic processors will need to undertake due diligence. However, an estimate based on the average compliance cost per importer suggests that the domestic processing sector in total may potentially incur costs of between \$460 000 and \$620 000 per year (based on an estimate of between 300 and 400 regulated businesses), although the highly regulated nature of the domestic timber industry is likely to translate into simpler and less cost-intensive due diligence processes for domestic businesses.

Summary of submissions

Stakeholder feedback to the consultation highlighted some of the benefits of the existing due diligence requirements. One submission suggested that there was significant evidence that the requirements were driving forest managers and manufacturers in the Asia-Pacific region to improve their forestry management and the transparency of timber supply chains. Another submission suggested the requirements supported international efforts to improve forestry governance arrangements, complemented associated law enforcement activities, and helped to build the capacity of developing nations to combat illegal logging at its source.

Several submissions argued for the maintenance of the current status quo position. One submission suggested that maintaining the status quo would 'provide the confidence, consistency and clarity to support compliance, while also maintaining the ability of the Regulation to effectively restrict the importation and sale of illegally logged timber products'. This position was mirrored by several environmental and social groups, foreign governments and domestic forestry groups.

At the same time, a number of industry associations and regulated businesses welcomed the government's efforts to decrease the associated regulatory burden. Some regulated businesses also cautioned that any major changes to the Regulation might require them to revisit their existing due diligence systems.

3.2 Option 2—Changing the consignment value threshold

Description

The Regulation exempts a consignment from the due diligence requirements where the total value of the regulated timber products in the consignment is less than A\$1 000. This threshold mirrors the existing goods and services tax (GST) and tariff exemption thresholds for imports. It provides for consistency in the tariff and revenue regimes applying to imported goods.

In 2015, the threshold exempted approximately 53 799 consignments, worth a total of \$12.4 million, from the Regulation's scope (out of 255 484 consignments worth approximately \$7.5 billion). This translates into approximately 9 035 importers being completely exempted from the Regulation's requirements and another 4 575 importers being exempted for some of their consignments (out of a base level of approximately 28 557 importers).

The KPMG review proposed increasing the threshold from its current level of \$1 000 to \$10 000 as an effective way of reducing the compliance costs to the community while, depending on the scale of the increase, continuing to effectively manage the risk of a significant quantity of illegally logged timber entering the Australian market (KPMG 2016).

Analysis

Benefits	Shortcomings
<ul style="list-style-type: none"> Expected to deliver significant regulatory savings (depending on the level chosen—see Table 3 below). Likely to remove significant numbers of one-off importers from the Regulation's scope. 	<ul style="list-style-type: none"> Depending on the value chosen, may have significant impacts on the effectiveness of the Regulation. Not linked to risk. May inadvertently exempt significant amounts of high-risk products. May promote 'gaming' of the exemption via the splitting of consignments into smaller values. Likely to be inequitable, with some parties more likely to benefit than others. Will increase inconsistency with the European Union Timber Regulation / United States Lacey Act.

Benefits

The key benefit of an increase to the consignment value threshold is the reduced number of consignments covered by the due diligence requirements and the associated reduction in compliance costs. These benefits will be realised by those importers who are fully excluded from the Regulation, as well as those importers who see a portion of their consignments excluded.

The department has examined the utility of alternative thresholds levels at \$2 000, \$5 000, \$15 000 and \$20 000. Consignment value thresholds above \$20 000 were also considered but were not progressed due to the diminishing returns they delivered in terms of regulatory savings when compared with their potential negative impacts. A summary of the potential benefits of each of the alternative consignment value threshold levels is provided in Table 3.

Table 3 Potential benefits from changing the consignment value threshold

Threshold value	Regulated consignments	Regulated importers	Reduction in importers ^a	One-off importers	Annual regulatory costs (\$million) ^b	Potential annual cost savings (\$million)
\$1 000	201 685	19 522	0 (current level)	10 506	28.227	0 (current level)
\$2 000	187 040	16 025	3 497 (F), 3 401 (P)	8 234	26.831	1.4
\$5 000	166 880	11 734	7 788 (F), 4 247 (P)	5 516	24.811	3.4
\$10 000	148 520	8 720	10 802 (F), 4 220 (P)	3 633	22.859	5.4
\$15 000	128 551	7 090	12 432 (F), 4 190 (P)	2 751	21.058	7.2
\$20 000	107 786	5 971	13 551 (F), 4 023 (P)	2 243	19.067	9.2

a Represents the number of importers who will be potentially exempted by the threshold value. F is the number of importers who will be **fully** excluded by the change, while P is the number of importers who will be **partially** excluded.

The data suggests that large regulatory costs savings could potentially be made from some of the alternative threshold levels. However, it also suggests that, beyond \$10 000, some of the marginal benefits of amending the threshold begin to plateau. For instance, increasing the threshold from \$10 000 to \$15 000 would see only 1 630 importers removed from the Regulation's scope (an 8 per cent reduction). When compared with the previous thresholds, which provide reductions of 17 per cent (\$1 000 to > \$2 000), 21 per cent (\$2 000 to > \$5 000) and 15 per cent (\$5 000 to > \$10 000), it is evident that the return from each increase in the threshold beyond \$10 000 removes fewer importers from the Regulation's scope.

Another important consideration is how any changes will affect 'one-off importers'. The Integrated Cargo System (ICS) data has shown that a sizable cohort of approximately 10 506 importers (53 per cent of the regulated community) imported only one regulated consignment in 2015. These one-off importers are likely to face disproportionate 'up-front' costs in establishing a due diligence system for their single importation. There is also a high likelihood that one-off importers will be unaware, or have limited understanding, of their obligations or will have limited ability to implement the requirements before importation. As shown in Table 3, the number of regulated one-off importers correlates to a change in the threshold level, with even the more moderate threshold levels significantly reducing the number of one-off importers.

Costs

The benefits of an increase in the consignment value threshold needs to be weighed against its potential impact on the Regulation's scope and its effectiveness in meeting the policy objective of combatting illegal logging and promoting the trade in legally logged timber. Increasing the threshold is likely to significantly decrease the number of consignments subject to due diligence, with each excluded consignment providing a potential avenue for illegal products to enter Australia. The reduction in coverage is also likely to diminish the broader impact of Australia's illegal logging laws in encouraging transparency and accountability in timber supply chains.

Table 4 summarises the high-level impacts of an increase in the threshold level on the number of regulated consignments, regulated product lines and the associated regulated value.

Table 4 Potential costs from changing the consignment value threshold—impact on consignments and value

Threshold value	Regulated consignments	Decrease in regulated consignments	Regulated product lines	Decrease in regulated product lines	Value of regulated product (\$billion)	Reduction in regulated value (\$million)
\$1 000	201 685	0 (current level)	1 042 842	0 (current level)	7.497	0 (current level)
\$2 000	187 040	14 645	1 016 048	26 794	7.476	21
\$5 000	166 880	34 805	965 941	50 107	7.410	87
\$10 000	148 520	53 165	905 203	60 738	7.274	223
\$15 000	128 551	73 134	835 212	69 991	7.024	473
\$20 000	107 786	93 899	754 741	80 471	6.661	837

This data suggests that any changes in the threshold level will significantly decrease the number of regulated consignments (with a steady 15 000 to 20 000 consignments removed at each ‘step up’ in the threshold level), resulting in a 46 per cent reduction in the total number of regulated consignments at the \$20 000 threshold. In addition, the value of products covered by the due diligence requirements decreases significantly after the \$5 000 threshold, with the \$10 000 threshold excluding around \$223 million in product each year, while the \$15 000 and \$20 000 thresholds exclude even greater amounts, at \$473 million and \$837 million respectively.

While the threshold level is based on the value of the regulated timber products being imported, it does not account for the volume, nature or source of the timber products being exempted. The long-term impact of any change to the threshold level will be heavily dependent on the nature of the products it excludes from the Regulation’s scope. A previous study of Australia’s exposure to illegally logged timber suggested that certain products were more likely to be susceptible to illegal timber, with the key risks being associated with wooden furniture, wood panels, sawn wood and products such as doors, mouldings, parquetry, flooring and other carpentry materials. The study also suggested that Australia’s paper imports may come from a mix of low- and high-risk sources, while paper pulp was likely to be only a limited risk (Jaako Pöyry Consulting 2005).

Another important consideration is how any change to the threshold level will affect coverage of some of Australia’s key timber supply relationships. By their nature and the exposure of their forest sectors to illegal practices, some nations are more likely to pose a risk of supplying illegally harvested product than others. An assessment of the countries that currently supply Australia’s timber products suggests that our key trading partners face a wide range of circumstances, with some countries facing significant challenges from illegal logging.

A review of several international resources such as the 2005 Jaako Pöyry assessment of timber legality (Jaako Pöyry Consulting 2005), FSC’s [Global Forest Registry](#), NEPCON [country risk profiles](#) and the United Nations Office on Drugs and Crime (UNODC 2013) suggests that up to one-quarter of Australia’s top 20 timber suppliers may face regular exposure to illegally logged timber. Several of Australia’s key timber suppliers are also manufacturing or transit hubs, which receive their timber from a range of sources and may introduce risk into their supply chains.

A more detailed analysis of the expected impact of any change to the threshold on regulated product types and key trading relationships is included at **Appendix D**. At a high level, this analysis suggests that a change in the consignment value threshold is likely to have a greater impact on paper and furniture imports. At the higher proposed thresholds, both of these product types saw significant reductions in the number and value of the regulated product lines. It also shows that a change in the threshold could see timber products from a number of Australia's key trading partners, including China, Indonesia, the United States, Italy, Japan, South Korea, Canada and the United Kingdom, potentially exempted from the Regulation's scope.

Part of the attractiveness of the existing threshold is its comparative equity. Changing the threshold may lead to significant inequities across the importing sector. Some importers may see a substantial proportion of their imports exempted, while others are likely to see small or no benefits from a change. For example, a large business regularly importing low-value shipments (e.g. weekly \$5 000 shipments) would see significant benefits from a \$10 000 threshold level. However, a smaller business importing a single medium-sized shipment (e.g. \$200 000 of furniture) once a year would see no reduction in its burden. This is in addition to the significant inequities that such a change would introduce between the importing and domestic processing sectors (which would not benefit from any changes in the threshold).

A change to the consignment value threshold could also increase the risk of some businesses 'gaming the system' by splitting their consignments into smaller values. This risk was recognised in the KPMG review and is likely to increase as the threshold level increases, with higher threshold levels providing more scope for such 'gaming'. Depending on the threshold level chosen, this could see major changes in importing practices and an increase in the level of exempted products well beyond that suggested by historical data.

Increasing the value of the consignment threshold is also likely to see Australia's legislation move away from the legal frameworks established by other key timber markets, such as the European Union Timber Regulation (EUTR) and the United States Lacey Act. As it stands, Australia's existing threshold level of \$1 000 is not mirrored in either of these systems, which require almost all commercial imports of timber products, regardless of consignment value, to comply with their respective due diligence / due care obligations (European Commission 2013).

Summary of submissions

Submissions to the consultation process demonstrated only limited support for a change in the consignment value threshold. The majority of the 46 submissions opposed any change to the threshold, with several organisations arguing the existing level was already generous. Parties that did support a change suggested that the government should implement the maximum suggested threshold level of \$20 000 in order to maximise the associated regulatory savings.

The key concern amongst stakeholders was that any change in the threshold level would allow for a range of high-risk products to be imported without any scrutiny. It was suggested that the resultant erosion of the Regulation's scope would potentially undermine the government's illegal logging policy objectives. Drawing on the analysis provided in the Consultation RIS document, submissions also argued that raising the threshold 'will disproportionately remove coverage of key product lines from countries with well-known instances of illegal activity in the forestry sector, as well as some of the world's most complex timber supply chains'.

There was also significant concern expressed about any increased threshold leading to ‘gaming’ by importers. A number of parties noted the significant financial incentives for importers to ‘split consignments’ into smaller values if the threshold level was increased.

3.3 Option 3—Removing personal imports from the Regulation

Description

Section 12 of the Act establishes that a ‘person’ commits an offence if they import a regulated timber product and do not comply with the Regulation’s due diligence requirements. Section 2C of the [Acts Interpretation Act 1901](#) notes that a ‘person’ includes ‘a body politic or corporate, as well as an individual’. This means the obligation to undertake due diligence on any imports of regulated timber products extends to both businesses and individual persons.

At the same time, section 9(2)(c) of the Regulation requires an importer to include ‘(i) the importer’s business or company name and Australian Business Number (ABN) or Australian Company Number (ACN)’ and ‘(iii) the principle business activity conducted by the importer’ in their due diligence system. These elements will be difficult to satisfy for those persons who are importing for personal and non-commercial purposes and are not registered for an ABN or ACN.

Under this option, persons would be precluded from having to undertake due diligence when they import a regulated timber product for ‘a personal and non-commercial purpose’. This would mirror similar administrative arrangements provided for under the EUTR and the United States’ Lacey Act.

An importation for ‘a personal and non-commercial purpose’ could be defined as where:

- the product is being imported for the individual’s personal and non-commercial use or for the personal and non-commercial use of their immediate family or friends
- the goods are not intended to be resold or further distributed on a commercial basis
- the goods will only be used in a non-commercial setting (i.e. a residential home).

The onus would be on the importer to demonstrate the product has been imported for personal and non-commercial purposes and that they satisfy the requirements of the exemption.

Under such an arrangement, personal imports would still be subject to the Act’s prohibition on ‘knowingly, intentionally or recklessly’ importing illegal timber products into Australia. Individuals found guilty of breaching the prohibition could still face significant penalties.

Analysis

Benefits	Shortcomings
<ul style="list-style-type: none"> Expected to deliver \$2.1 million in regulatory savings. Would remove parties who are likely to struggle to comply with the Regulation from its scope. Would mirror similar administrative arrangements under the EUTR and Lacey Act. 	<ul style="list-style-type: none"> Could potentially be exploited, with businesses changing import practices to fit within the exemption. Affected imports are likely to be mainly furniture—a potentially high-risk product. May allow for the illicit trade in certain high-value timber species, e.g. Hongmu (rosewood) furniture. Potentially inequitable—business versus individuals.

Data from the Australian Government's ICS system (and further analysis by the department) suggest that approximately 2 461 individuals are likely to have imported a regulated timber consignment for personal or non-commercial purposes in 2015. This included 2 663 regulated consignments from 60 different countries worth approximately \$20.6 million. The average value of the personal consignments was \$8 382, with a median value of \$3 551. The highest-value personal import was for a single consignment of furniture worth \$430 209.

Table 5 provides a summary of the personal imports during 2015.

Table 5 Summary of personal imports, by value, 2015

Value of 'personal' consignments	Number of 'personal' consignments	% of total 'personal' consignments
\$1 000–2 000	791	30
\$2 001–5 000	829	31
\$5 001–10 000	526	20
\$10 001–20 000	226	9
\$20 000–100 000	79	0.3
\$100 000+	10	0.0

In 2015, the majority of personal imports was in the form of furniture (90 per cent), followed by paper products (5 per cent) and joinery and doors (2.5 per cent), with the remaining 2.5 per cent made up of a range of products from across the regulated tariff codes. Most personal imports were sourced from the Australia's key timber suppliers, with China (66.5 per cent) the main supplier and Indonesia (6.7 per cent) and the United States (5 per cent) also key suppliers.

Benefits

The key benefit of the proposed option would be the elimination of compliance costs for individuals that import regulated timber products for personal and non-commercial uses. These individuals may face some difficulties in complying with the due diligence requirements. They are likely to be one-off importers and possibly be unaware of the laws and their requirements, be in a poor position to gather information from the product's supplier and have limited ability to mitigate the risks associated with the products they are importing (beyond choosing to not purchase that product).

An estimate of the regulatory savings associated with excluding such imports from the due diligence requirements is included in Table 6.

Table 6 Potential benefits from an exemption for imports of a ‘personal and non-commercial nature’

Exemption status	Regulated consignments	Regulated importers	Reduction in importers	Annual regulatory costs (\$million)	Potential annual cost savings (\$million)
No exemption	201 685	19 522	0	28.2	0 (current level)
Personal import exemption	199 022	17 061	2 461	26.0	2.2

Costs

Although the existing ICS data suggests that removing personal imports from the Regulation’s scope is likely to have only a moderate impact on its coverage, consideration needs to be given to how such an exemption might be exploited by some importers to avoid the due diligence requirements. There is a risk that some importers may fraudulently designate consignments as being of a personal nature. Businesses could also seek to ‘game’ the exemption by restructuring their arrangements to deliver products directly to a ‘personal’ user who would, for the purposes of the Regulation, become the effective ‘importer’.

There may also be circumstances where an exemption might not be appropriate—for example, where an individual is regularly importing regulated goods for personal reasons in large quantities or values or where they are dealing with high-risk products, such as furniture made of rare or endangered tropical timber species. In these cases, there may also be value in limiting the exemption to a certain dollar amount (e.g. exempting all personal imports with a value of \$10 000 or less).

A clear definition of what is a personal import may mitigate some of these issues, as would a strong compliance presence in this space. Penalties for making false and misleading declarations as part of the import declaration process may also discourage importers from ‘shifting’ consignments to a client for ‘personal’ purposes.

If an exemption for personal imports is not progressed, the Regulation may still need to be amended to clarify that the existing requirement to include an ABN/ACN in a due diligence system (as set out in sections 9(2)(c)(i) and 18(2)(c)(i) of the Regulation) only applies where a business has such a number and that a statement of the importer’s principal business activity (as set out in 9(c)(iii)) is only necessary when directly relevant to the importation.

Summary of submissions

Submissions demonstrated only limited support for the removal of personal imports from the Regulation’s scope. Stakeholders noted that it would deliver limited regulatory savings, introduce potential inconsistencies in the Regulation’s application, exempt a number of high-risk consignments and provide a potential loophole for exploitation. It was also stated by one submission that ‘the harm in a source country caused by illegal logging happens regardless of the final use in Australia’. Several parties also suggested that the existing \$1 000 consignment value threshold was sufficient to cover the majority of personal and non-commercial imports.

One environmental non-government organisation (NGO) suggested that the trade in some of the highest-risk precious woods was already characterised by small consignments sent directly for

‘personal use’. The increasingly valuable trade in ‘Hongmu’ rosewood furniture was cited as an example of potentially illegal product being sold directly to ‘personal importers’.

Other stakeholders suggested that, if the government did progress such an exemption, it could be advantageous to limit the exemption to a certain dollar value (possibly a \$5 000 or \$10 000 limit) or a limited number of regulated transactions per annum—although, in making these suggestions, it was acknowledged that this could limit the benefit of any exemption and introduce additional complexities in terms of messaging and enforcement. The majority of stakeholders also recognised the important role that a strong compliance presence would have in deterring any abuse of a new exemption.

3.4 Option 4—‘Deemed to comply’ arrangements for timber legality frameworks

Description

The Regulation allows importers and domestic processors to use certain third-party timber legality frameworks to assess the risk associated with a regulated timber product. Three frameworks are recognised under the Regulation: the [FSC certification system](#), the [PEFC certification system](#) and the European Union’s [Forest Law Enforcement, Governance and Trade \(FLEGT\)](#) licensing system.

The Regulation recognises FSC, PEFC and FLEGT certification and licences as mechanisms for undertaking a risk assessment of legality. If an importer or domestic processor can demonstrate that the timber product they are dealing with has been certified or licensed under one of these standards, they can use the associated ‘timber legality framework’ risk assessment pathway. In using the pathway, an importer or processor is required to:

- endeavour to gather the information required by the Regulation, including sourcing a copy of the relevant FSC/PEFC or FLEGT certificate or licence that provides evidence of compliance with the timber legality framework’s requirements
- assess whether the information obtained by using the framework is accurate and reliable
- identify and assess, by using the framework and the gathered information, whether there is a risk that the product is made from or includes illegally logged timber
- consider any other information the importer or processor knows or ought reasonably to know that may indicate the product is made from or includes illegally logged timber
- make a written record of the process used to make the assessment.

In practice, an importer or processor using the pathway must identify and assess any risks that have emerged, through either their assessment of the certificate or licence or the additional information they have gathered as part of their general information-gathering obligations. The requirement to consider ‘any other information the importer or processor knows’ also ensures that they cannot use a timber legality framework to assure themselves of the legality of a product if they are aware of information that would call its legality into question.

The KPMG review suggested that creating a ‘deemed to comply’ element within the Regulations would allow businesses to more easily rely on such frameworks in conducting due diligence.

Considering the operation of the FSC and PEFC certification systems, the department believes that a deemed to comply to apply arrangement for timber legality frameworks should require an importer or processor to:

- confirm their supplier is certified under the FSC or PEFC schemes
- confirm that the FSC or PEFC certificate is valid for the relevant period of supply (usually through relevant sources such as the certification body's website)
- confirm that the products being imported or processed fall within the certificate's scope
- check invoices and/or delivery notes to make sure that the certification number is quoted and that under the product description the product is clearly listed as FSC or PEFC certified
- maintain appropriate records that provide evidence of certification.

These steps will ensure that any certification claim being relied upon is legitimate, is current and covers the products being supplied. This will minimise the risk of fraudulent or misleading claims being relied upon (a potential risk with all certified timber products).

Applicability to FLEGT licences

While the KPMG review discussed timber legality frameworks generically, in practice their focus was on the FSC and PEFC certification schemes. This reflected that at the time of the KPMG review no FLEGT licences had been issued by any government for access into the European Union market. The first FLEGT licences were issued by the Indonesian Government in November 2016 (EU FLEGT Facility 2016).

Based on the department's understanding of how FLEGT licences operate, the department believes it is unlikely that products being exported directly from Indonesia to Australia will ever carry a FLEGT licence. The Indonesian-issued FLEGT licences are only likely to be issued for products which are directly exported from Indonesia to the European Union. Products from Indonesia that are trans-shipped or further processed in the European Union and then re-exported to Australia will also not legitimately carry a FLEGT licence. Further information about the operation of FLEGT licences can be found via the European Union's FLEGT licensing facility.

The department recognises that, following the conclusion of further Voluntary Partnership Agreements with the European Union, additional countries are likely to issue FLEGT licences. The process for issuing FLEGT licences is a matter for each individual country, and this may open up the possibility of licences being seen in Australia in the future. However, recognising that FLEGT licences are designed for exports destined for the European Union market, the department considers that, at least in the short term, any deemed to comply arrangements should only apply in respect of products carrying FSC and PEFC certification. This view is reflected in the following analysis.

Other certification schemes

The Regulation currently recognises the FSC and PEFC certification and FLEGT licensing schemes as timber legality frameworks. This is based on reports commissioned by the government in 2010, 2013 and 2014 (URS 2010, 2013 and 2014), which developed and applied a structured methodology for differentiating between timber legality verification schemes. While the government has decided to limit the prescribed timber legality frameworks to the FSC, PEFC and FLEGT schemes, there may be future scope to recognise other schemes under the

Regulation. In such a situation, the government would need to consider whether it is appropriate to extend a possible deemed to comply arrangement to the new timber legality framework.

Analysis

Benefits	Shortcomings
<ul style="list-style-type: none"> Expected to deliver \$4.2 million in regulatory savings. Will streamline the information-gathering and risk assessment elements of the due diligence process. Is consistent with how many businesses expect the timber legality framework pathway to operate. Will provide increased certainty as to when the due diligence requirements have been satisfied. May promote a greater reliance on certified products. Will provide benefits to importers and processors. 	<ul style="list-style-type: none"> Moves away from the principle that importers and processors need to understand their supply chains. Removes the specific requirement to consider other information that ought to be reasonably known. Potentially vulnerable to deliberate fraudulent activity by certified parties. May incentivise the misuse or abuse of the certification systems. Will increase inconsistency with the EUTR/Lacey Act.
	–

Benefits

This option would simplify the due diligence process by limiting the information a business would need to collect as part of the information-gathering step. It would also streamline the risk assessment step to verifying the certification claim, gathering suitable evidence of certification (i.e. invoices and or delivery documents) and then keeping a record. This option is also likely to provide increased certainty to regulated businesses and individuals as to whether they have met the Regulation's due diligence requirements.

Drawing on data from recent compliance assessments, the department has attempted to model the potential benefits of introducing deemed to comply arrangements for timber legality frameworks. These outcomes are set out in Table 7.

Table 7 Potential benefits from establishing deemed to comply arrangements for timber legality frameworks

Arrangement	Annual regulatory costs (\$million)	Potential annual cost savings (\$million)
Existing regulatory requirements	28.2	0 (current level)
Deemed to comply arrangements (importers)	24.0	4.2

These figures are based on an estimate that approximately 28 per cent of the regulated timber products imported into Australia are certified under either the FSC or PEFC schemes. It is recognised that this level of usage could increase if the reform is implemented, although this will be limited by the level of certified product available to be imported or processed in Australia.

Given the limited data available on the domestic processing sector's due diligence costs, the department has not sought to formally estimate the potential cost savings for the sector in implementing this option. However, the general availability of timber legality frameworks in the Australian forestry sector, with more than 90 per cent of Australia's production forests certified under the FSC or PEFC schemes, suggests there may be significant take-up of any new deemed to comply arrangement by the domestic processing sector.

Implementing a deemed to comply arrangement could also help to clarify what is expected when using the timber legality framework risk assessment pathway. Both the KPMG report and the department have found that there is significant confusion about how the frameworks should be used. A more defined deemed to comply arrangement (such as the one described above), supported by suitable communication activities, may alleviate some of this confusion.

Costs

The key potential cost of the proposed amendment is its possible effect on the integrity of the due diligence risk assessment process—in particular, whether removing the additional information-gathering and risk assessment elements is likely to significantly compromise or diminish the effectiveness of the due diligence process or increase the risk of illegally sourced timber entering the Australian market. The implementation of a deemed to comply arrangement for timber legality frameworks would mean that importers and domestic processors would largely rely on the risk management processes established by the FSC and PEFC systems, so a critical question is the effectiveness of the controls established by the two systems in preventing illegally harvested timber from entering their certified supply chains.

In preparing this RIS, the department has engaged in discussions with the Australian governing bodies of the FSC and PEFC (FSC Australia and the Australian Forestry Standard (AFS) respectively) to confirm the department's understanding of how the two schemes operate and to better assess their potential exposure to illegally harvested timber. These discussions built on the earlier reports commissioned by the department to assess the rigour and robustness of the two schemes in providing assurance of timber legality (URS 2010, 2013 and 2014).

The discussions with FSC Australia and AFS highlighted the measures being implemented by the two systems to improve the resilience of the application of their certification standards. This includes the establishment of dedicated online claims portals, revised definitions of legality, tightened controls over the sourcing of non-certified products, greater scrutiny of third-party auditors, improved risk assessment resources and more stringent transaction verification requirements. While some of the initiatives are still in the process of being implemented, a significant percentage of these improvements are expected to be in place by the end of 2018.

Despite the improvements being implemented, it is evident that both systems continue to face challenges in dealing with deliberate fraudulent activity. In removing some of the existing steps, there is a risk that businesses may not take full account of relevant contextual information when conducting due diligence. This could lead to situations where a business will import or process a 'certified' product, despite having access to information suggesting that it is likely to contain timber that has been illegally harvested.

This risk is expected to be mitigated to a large extent by the powers provided to the department under the Act to prosecute parties who knowingly, intentionally, recklessly, or negligently deal with illegally logged timber in Australia. The department will prosecute a party where it becomes clear they have ignored evidence that would strongly suggest that a product they are dealing with contains illegally logged timber. This should provide an incentive to regulated businesses and individuals to ensure they do not ignore warning signs that they are dealing with potential illegal product.

Summary of submissions

The establishment of deemed to comply arrangements was supported by the Australian governing bodies of both the FSC and PEFC, with one suggesting that ‘third party certification and chain of custody provides a robust verified framework to prevent the trade in products originating from illegal or controversial sources’. While one suggested that its system was ‘reliable enough that it reduces the risk of illegal harvesting’, it noted that ‘there will always be a remaining risk for illegally harvested timber to be included, but it will be low’.

The establishment of a deemed to comply arrangement for timber legality frameworks was also supported by a range of industry associations and some foreign governments (particularly major timber exporters). One industry association noted that establishing deemed to comply arrangements ‘would represent a positive change to the legislation and would provide positive cost reductions for some importers and exporters, while having very little negative effect on the legislation’s effectiveness’. One submission also questioned the value of collecting additional information once an importer/processor has confirmed that a product has been certified.

A number of environmental and social organisations were strongly opposed to a deemed to comply arrangement, with one stating ‘fraud within even the most robust certification schemes is an increasingly well documented problem’. It was noted that such activity can occur both within the scheme (e.g. mislabelling of products or misleading of auditors) and outside it (e.g. the fraudulent misuse of scheme logos). Some submissions also referenced several high-profile cases where certified parties have been found to be involved in or encouraging illegal logging. One submission argued that ‘to remove the need to consider relevant contextual information would represent an unacceptable outsourcing of responsibility’.

Several submissions encouraged the government to support any new deemed to comply arrangement with a strong enforcement regime that would continue to critically monitor and assess certified supply chains. One industry association indicated that its support for such a measure was dependent on suitable safeguards being implemented and the department closely monitoring trends and compliance levels to ensure businesses are applying a high level of scrutiny to any supporting documents.

Other submissions suggested that implementing a deemed to comply arrangement for the FSC and PEFC schemes would increase the potential inconsistencies between existing legal frameworks. It was highlighted in several submissions that neither the EUTR nor the United States Lacey Act formally recognise third-party certification systems, such as the FSC or PEFC, as a means of assuring timber legality (although both allow them to be used as part of a system of due diligence or due care).

3.5 Option 5—‘Deemed to comply’ arrangements for Country Specific Guidelines and State Specific Guidelines

Description

The Regulation allows importers and domestic processors to use a CSG (for importers) or an SSG (for processors) in the risk assessment component of their due diligence process. This option is available where a relevant CSG or SSG is in place for the country or Australian state the timber has been sourced from.

CSGs and SSGs are intended to help importers and domestic processors understand the legal frameworks in place in the country or the Australian state from which they source their timber products or raw logs. They are detailed documents that explain what frameworks are in place, while also providing examples (where available) of key documents that can be sought to show the products being imported or processed are at low risk of having been illegally logged.

CSGs are negotiated by the department and the government of the exporting country. The content of a CSG varies, reflecting the approach each jurisdiction has taken to regulating the harvest and production of timber. As of June 2017, the department has published eight CSGs—for Canada, Finland, Indonesia, Italy, Malaysia, New Zealand, Papua New Guinea and the Solomon Islands. These countries represent approximately 32 per cent of Australia's regulated imports. The department is also undertaking negotiations on new CSGs with China, Chile, Vietnam, France and South Korea. SSGs for all of Australia's states have also been published.

In using the CSG/SSG risk assessment pathway, an importer or processor is required to:

- attempt to gather the standard information required by the Regulation, as well as any specific documents or evidence set out in the CSG or the SSG
- read the CSG or the SSG and ascertain whether the gathered information satisfies the guideline's requirements
- use the guideline and the gathered information to assess the risk that the product or raw log contains illegally logged timber
- consider any other information the importer or processor knows or ought to reasonably know that may indicate whether the product includes illegally logged timber
- make a written record of the process used to make the assessment.

Implementing a deemed to comply arrangement for CSGs and SSGs would limit the information that needs to be collected and considered to the specific documents set out in the CSG or SSG. Under this approach, a business using a CSG or a SSG would be required to:

- read the CSG or SSG to determine the documents or evidence they need to gather
- gather the documents or evidence specified in the CSG or the SSG
- document in writing the process used.

The business would not be required to gather any additional documents or information outside what is specified in the CSG or the SSG or to consider any broader contextual information that might suggest that the timber in the product has been illegally harvested.

Analysis

Benefits	Shortcomings
<ul style="list-style-type: none"> • Expected to deliver \$2.3 million in regulatory savings. • Will streamline the information-gathering and risk assessment elements of the due diligence process. • May encourage countries to develop further CSGs with Australia. 	<ul style="list-style-type: none"> • Potential negative impact on the overall effectiveness of the due diligence process. • May encourage parties to ignore readily available evidence of illegality. • Changes the role of CSGs and may require the renegotiation of some CSGs and SSGs.

Benefits	Shortcomings
<ul style="list-style-type: none"> Would have benefits for both importers (CSGs) and domestic processors (SSGs). 	<ul style="list-style-type: none"> May not be practical for some economies, which may mean the revocation of several existing CSGs and SSGs.

Benefits

Introducing deemed to comply arrangements for CSGs and SSGs would limit the information to be collected to the documents specified in the CSG or the SSG and would remove the requirement to consider a broader range of information assessing risk. This option would reduce the time and costs associated with the existing information-gathering and risk assessment steps.

Exactly how much time and costs would be saved is difficult to estimate. There would be some savings in limiting the type of information to be gathered. However, the savings associated with removing some of the other steps are more difficult to quantify. For example, it is difficult to assess how much time is associated with considering 'other information the importer or processor knows, or ought to reasonably know, that may indicate whether the product is made from, or includes, illegally logged timber'.

Depending on how the amendment is implemented, there could also be significant changes in the number of businesses who would use the CSG or the SSG for their risk assessment. A streamlined deemed to comply approach may increase the general use of CSGs.

Despite the difficulties in assessing some of these potential impacts, the department has modelled the potential benefits of introducing deemed to comply arrangements for CSGs and SSGs. The outcomes of this modelling are in Table 8.

Table 8 Potential benefits from establishment of deemed to comply arrangements for CSGs and SSGs

Arrangement	Annual regulatory costs (\$million)	Potential annual cost savings (\$million)
Existing regulatory requirements	28.2	0 (current level)
Deemed to comply arrangements (CSGs/SSGs)	25.9	2.3

Costs

While the department has sought to ensure that all CSGs and SSGs contain certain 'core' information, by their nature, each CSG and SSG is different. This reflects the diversity in regulatory systems, forestry controls and documentation used by Australia's trading partners and state governments. It has also meant that, while some CSGs can specify certain key documents (e.g. the Indonesian CSG refers to the 'V-legal' document), other CSGs and SSGs provide a broader overview of relevant forestry laws and their risk profile (e.g. the New Zealand CSG).

Any move to implement deemed to comply arrangements for CSGs and SSGs will require CSGs and SSGs to specify key essential documents that need to be gathered by importers and processors. A number of Australia's trading partners and state governments may find it difficult to identify such documents. In such a situation, it may be difficult to negotiate suitable CSG or SSG documents and, in some cases, a decision might need to be made to retire existing CSGs or

SSGs. This would limit the number of CSGs or SSGs available for use by regulated businesses and individuals and may constrain future efforts by the department to negotiate new CSGs and SSGs.

Depending on the nature of the changes made to the CSGs and SSGs, the department may need to work with key trading partners and state jurisdictions to revisit or significantly renegotiate elements of the guidelines. This will require additional resources from both parties.

As is the case with Option 4, there is a potential risk that, if the additional ‘information-gathering’ and ‘consideration’ steps are removed from the CSG and SSG process, businesses may ignore relevant contextual information when conducting their due diligence process. This could lead to situations where a business imports or processes a CSG or SSG documented product, despite the situation or circumstances suggesting that it is likely to contain illegal timber—for example, the documentation may have been provided in a questionable manner or the importer or domestic processor may become aware of incidents of fraudulent documents being distributed.

The CSG and SSG model was first implemented in Australia’s legislation. It is not present in either the European Union or United States legislative models. Implementing a deemed to comply arrangement for CSGs and SSGs will move Australia’s law in a significantly different direction from these systems.

Summary of submissions

Several submissions to the consultation process, including those from some key trading partners and industry associations, supported the development of a deemed to comply arrangement for CSGs and SSGs. One submission argued that, as the Act’s legality definition requires compliance with the laws of the country of harvest, documents that meet the requirements of a CSG ‘should be considered as proof of legality and obviate the need for further due diligence’.

Other submissions, while noting the valuable role that CSGs and SSGs play in assisting importers and processors to understand relevant laws and documentation systems, noted that the current suite of CSGs had not been developed with a view to providing ‘standalone’ proof of timber legality. Questions were also raised as to whether there were significant benefits to be gained in trying to develop CSGs and SSGs that could support a deemed to comply arrangement, noting the diversity of legality systems among Australia’s key trading partners.

A number of environmental NGOs strongly opposed the development of a deemed to comply arrangement for CSGs and SSGs. While these parties recognised the role played by CSGs and SSGs in informing and educating importers and processors, they saw a deemed to comply arrangement as placing too great an onus on the information specified in the guideline. In opposing the option, several NGOs also noted the risk of businesses encountering poor governance, endemic corruption and falsified documents, all of which could lessen the reliability of the documents specified in a CSG. These parties argued that the information in a CSG or SSG needed to be considered in its context and suggested the existing requirement to consider other available information was a critical element and helped to manage this risk.

3.6 Option 6—‘Deemed to comply’ arrangements for low-risk countries

Description

The due diligence requirements apply equally to all regulated timber imports, regardless of the associated country of harvest. Importers are required to conduct due diligence regardless of the risk that might be associated with a particular country, including those countries where there may be a significantly lower risk of timber being illegally harvested.

Although it is likely to be easier and less costly to conduct due diligence on timber products in such ‘low-risk’ countries, the Regulation requires the same basic information-gathering and risk assessment steps, regardless of the supply country’s risk profile. While no country can be considered absolutely free from the risk of illegal logging, the differing nature of forestry operations and effective forest governance arrangements can significantly lower the risk of illegally logged timber being sourced from some countries.

Some stakeholders have argued that undertaking due diligence on products from countries where there is little history of illegal activity creates an unnecessary regulatory burden. To support this argument, these stakeholders have generally cited countries that have large plantation forest industries and effective forest governance arrangements. Questions have been asked about the value of requiring domestic processors to conduct due diligence on Australian-grown raw logs, with Australia having strong forest management laws and no significant history of illegal logging.

In seeking to avoid any unnecessary regulatory costs, under this option the Regulation would be amended to provide a streamlined ‘deemed to comply’ due diligence process to businesses and individuals that are able to show that the regulated timber products they are importing or processing are a product of a recognised ‘low-risk’ country.

For these parties, the new streamlined due diligence process would consist of:

- gathering evidence that the timber in the product comes from a low-risk country (i.e. collecting evidence that shows where the timber in the product was harvested)
- confirming that the product is sourced from a low-risk country listed in the Regulation (likely to be specified in a schedule to the Regulation)
- maintaining appropriate records that demonstrate that the product has been sourced from a low-risk country.

Recognising the potential vulnerabilities of such an approach to exploitation or fraudulent claims, the government is likely to limit the new arrangement to only those timber products where it can be adequately proved that a product has been harvested and directly exported from a low-risk country. Although this is likely to limit the range of products that could fall within the new arrangement’s scope, it would recognise some of the inherent challenges in tracing products through third-party countries.

A country’s eligibility to be added to the low-risk schedule would be based on a formal assessment against an objective set of criteria developed and administered by the department.

This process would draw on a range of information to determine whether a particular country is inherently low risk.

Consideration would also need to be given to how domestic processors are dealt with under the new risk assessment pathway. If applied equally, an assessment would be made of Australia's circumstances and, if the objective criteria suggest that Australia was low risk, a similar listing would be made. This would mean that all domestic processors would be eligible to use the new optional risk assessment pathway.

Analysis

Benefits	Shortcomings
<ul style="list-style-type: none"> Expected to deliver between \$1.8 and 3.0 million in regulatory savings. Will streamline the information-gathering and risk assessment elements of the due diligence process. Will send a clear signal to importers about sources of low-risk products. Supports the policy objectives of promoting the trade in legally harvested products. 	<ul style="list-style-type: none"> May be difficult to define what represents 'low risk', particularly drawing a line between low- and moderate-risk countries. May be inconsistent with Australia's international trade obligations. May disadvantage honest companies working in high-risk countries and facilitate activities of dishonest companies in low-risk countries. Likely to require new departmental funding/resources to administer. Low-risk countries likely to account for only a limited amount of Australia's imports.

Benefits

The option would streamline the due diligence process for businesses and individuals importing products from low-risk countries by removing the existing obligations on importers and potentially domestic processors to gather a broad range of information about the product they are importing and to undertake further risk assessment relating to the product.

The criteria to establish what countries are considered to have a 'low risk' of illegal logging will determine the final quantum of regulatory savings that might be achieved through this option. Considering Australia's top 20 suppliers of timber products (see **Appendix D**), the department expects that a number of our key trading partners may be considered low risk. The development of precise costings is further complicated by the fact that only a percentage of the products imported from these trading partners is likely to meet the 'directly imported' criteria (as many of Australia's trading partners are major processing centres or points of transit).

An assessment of the potential regulatory savings is included in Table 9. This includes estimates for a 'limited' option (where products would be directly exported from a low-risk country) and a more open-ended option which would not include the directly exported requirement.

Table 9 Potential benefits from a deemed to comply arrangement for low-risk countries

Arrangement	Annual regulatory costs (\$million)	Potential annual cost savings (\$million)
Existing regulatory requirements	28.2	0 (current level)
Deemed to comply arrangement (low-risk countries)—direct	26.4	1.8
Deemed to comply arrangements (low-risk countries)—not direct	25.2	3.0

Costs

This option significantly departs from the Regulation's existing approach, which places the onus on importers and domestic processors to consider the individual circumstances of the product they are dealing with. Under the proposed arrangements, the Regulation would move to a more 'macro' approach for some countries, with risk being assessed at a country-wide level. For products sourced from countries with well-regulated timber production systems, this option would significantly streamline the due diligence process. However, there would still be a risk of illegal activity within low-risk countries.

This option may make low-risk countries more attractive to Australian importers (although the exact impact of such a change is difficult to estimate). While the intent of the legislative framework is to promote the trade of legally produced timber, differential treatment of countries has the potential to create inconsistencies with Australia's international trade obligations, including the 'most favoured nation' obligation established under the General Agreement on Tariffs and Trade (GATT), leaving Australia vulnerable to challenge and harming trade relationships.

Establishing an assessment process to support the listing and potential delisting of countries will also require additional departmental resources. Most of these costs are likely to be incurred during the initial establishment and implementation of the country assessment process, but some ongoing resources may be needed.

Summary of submissions

A number of stakeholders, including industry associations and a foreign government, supported the implementation of this option. It was suggested that it would provide a cost-effective means of compliance without the need to resort to commercial third-party systems.

Other submissions, including those of an industry association and an environmental NGO, opposed this option, suggesting it would exacerbate discrimination against developing nations and facilitate the abandonment of countries where illegal logging remains a problem (instead of giving preference to and rewarding legal products from those countries).

Several submissions also focused on the difficulties in developing and applying objective criteria to establish what is a low-risk country, citing the likely political and diplomatic pressure to recognise key trading partners as low risk. Queries were also raised as to whether this option could be implemented consistently with Australia's international trade obligations.

Finally, several submissions queried whether this reform would deliver significant regulatory savings. This was based on a view that the existing requirements already make it easy for importers to undertake due diligence on products from low-risk countries. It was also noted that limiting the deemed to comply arrangement to timber products that have been harvested and then directly exported to Australia would significantly limit the scope of products that could benefit from any new arrangement.

4 Consultation

In November 2016, the department published the [Reforming Australia's illegal logging regulations—Consultation Regulation Impact Statement](#) and sought feedback on the six regulatory options outlined in that document.

The RIS consultation document provided the opportunity for the public to comment on the proposed options for reform. It also provided the public with the opportunity to help the department test its assumptions and understand the risks and impacts of the proposed reforms. To better target submissions, the consultation document included an appendix of consolidated questions that respondents were encouraged to address in addition to any matters not explicitly addressed in the consultation document. These questions are included at **Appendix E**.

The department accepted submissions until early January 2017. A total of 46 submissions were received from a range of interested stakeholders, including seven regulated businesses, 16 peak industry associations, eight environmental NGOs, three forest certification organisations, nine foreign governments and several other interested parties. A list of the organisations that provided submissions to the consultation process is included at **Appendix F** (although several organisations did request to remain anonymous and have been de-identified).

Submissions will be published on the department's website upon the public release of this RIS.

4.1 Key stakeholders

Australia's illegal logging 'due diligence' requirements are of interest to a wide range of international and domestic stakeholders. These include:

- importers of timber and wood-based products
- processors of domestically grown raw logs
- customs service providers (brokers and freight forwarders)
- relevant industry associations
- foreign businesses exporting to Australia
- foreign governments (including governments with similar laws/requirements)
- members of the Australian Parliament
- Australian state and territory governments
- social and environmental organisations
- members of the general public.

4.2 Communication of the RIS process

Given the diversity of stakeholders interested in reforms to the due diligence requirements, the department used a range of channels to highlight the consultation, including:

- a web page outlining the RIS process and providing a copy of the consultation RIS document and notification through other relevant government websites (e.g. the [Business website](#) and the [Customs Industry Hub](#))
- advertisements placed in national press and industry press inviting written submissions on the issues discussed in the consultation RIS document
- an Import Industry Advice Notice inviting written submissions on the issues discussed in the consultation RIS document
- letters to key industry associations, foreign governments and Australian state and territory governments inviting submissions on the issues discussed in the consultation RIS document
- notifications sent via the department's illegal logging e-update mailing list
- notifications sent to the businesses, organisations and individuals who participated in the original KPMG review process.

The department also worked with industry organisations to promote the consultation document on their websites and through their contact lists.

4.3 Previous consultation

The department has consulted with stakeholders throughout each stage of the development and implementation of the due diligence requirements. This has included:

- **Design and development of the due diligence requirements.** The Illegal Logging Stakeholder Working Group was formed in 2011 to consult on key areas of the Australian Government's illegal logging policy. The group included representatives from a range of industry bodies, businesses, international trading partner representatives and social justice and conservation groups. The working group was also engaged in the development of the Regulation and the associated due diligence requirements. This included participation in a series of drafting workshops and a range of follow-up meetings with the department.
- **Implementation of the due diligence requirements.** During the periods leading up to and following commencement of the due diligence requirements on 30 November 2014, the department facilitated a range of consultative meetings. This included facilitating industry discussions with government ministers, workshops with key trading partners, face-to-face meetings with industry associations, industry roadshows and Q&A sessions, and dedicated information sessions. Regular consultations were also undertaken through relevant forums, such as the department's Cargo Consultative Committee, the Forestry and Forest Products Committee, the Asia-Pacific Economic Cooperation Experts Group on Illegal Logging and Associated Trade, and interdepartmental committees with relevant government agencies.
- **KPMG review.** As part of the review, KPMG undertook a range of structured interviews with 65 businesses impacted on by the due diligence requirements. The business interviews gathered detailed information on the impacts of the requirements and identified potential reform options. KPMG also held a series of feedback workshops with key stakeholder groups to test its findings and to gather additional insights from business groups and other stakeholders on reform options.

5 Recommended option

The consultation indicated broad support for continued action by the Australian Government on illegal logging. However, there was a diverse range of views on the value of the due diligence requirements and whether any, and what type of, regulatory amendments should be progressed by the government. In determining what option/s to progress, the department assessed the net benefit and overall balance of each option in terms of its potential regulatory savings and weighed that against any associated increase in the risk of illegally logged timber being placed on the Australian market and the overall practicalities of implementing the option.

On this basis, the department recommends that the government implement the reform that it believes delivers the greatest net benefit, which is **Option 4—‘Deemed to comply’ arrangements for timber legality frameworks**.

5.1 Option 4—‘Deemed to comply’ arrangements for timber legality frameworks

Deemed to comply arrangements for timber legality frameworks will streamline the due diligence requirements for businesses importing or processing timber products which have been certified under the FSC or the PEFC schemes.

The department believes that this option can provide a regulatory saving for importers of regulated timber products and domestic processors of raw logs, while allowing the Regulation to continue to be effective in combating illegal logging and its associated trade.

This arrangement simplifies the due diligence process by limiting the information a business needs to collect as part of the information-gathering step. It will also streamline the risk assessment step so that businesses only need to verify that a certification claim is legitimate, current and covers the products being supplied, gather suitable transaction documents (i.e. invoices and or delivery documents) and then keep a record. This reform presents a regulatory saving of approximately \$4.2 million per year. While not the largest saving measure assessed in this RIS, it represents a significant regulatory saving, while minimising the risks of the trade in illegally harvested timber.

While many stakeholder submissions supported the implementation of this option, there was opposition from several stakeholders who highlighted concerns that a deemed to comply arrangement for timber legality frameworks may facilitate the entry of illegally harvested product into the Australian market.

The department has examined the risks of the proposed deemed to comply arrangement and considers that it fits comfortably with the Act’s objective to lower the risk of illegally harvested products entering the Australian market. The department recognises that the timber and timber products certified under the FSC and PEFC systems go through a due diligence process that includes checking for legality. Compliance with these certification schemes is subject to independent audit processes.

Further, the proposed implementation of the deemed to comply arrangements for timber legality frameworks, in requiring importers and processors to verify the certification claims, will

largely mitigate risks such as misrepresentation of certification claims. Other risks such as fraud and corruption in the supply chain do exist, but such practices are nevertheless equally difficult to detect in the existing due diligence process. The department also recognises the significant measures that the global FSC and PEFC bodies are currently implementing to strengthen the governance and transparency of the operation of their individual systems.

The department remains committed to encouraging and supporting voluntary compliance with the Regulation's requirements. Implementation of this option will be supported by the dissemination of clear and practical guidance materials on how to use timber legality frameworks under the amended Regulation. Additional stakeholder education activities will enable importers and processors to fully capitalise on the reduction in regulatory burden and ensure they understand the steps required to be able to rely on timber legality frameworks.

5.2 Non-preferred options

The department considers that the following regulatory options will not deliver sufficient net benefit to the government:

- **Option 1—The status quo** is not a preferred regulatory option, as it does not provide for an optimal balance between the regulatory burden associated with undertaking due diligence and risk of illegally logged timber entering the Australian market. In the absence of regulatory reforms, importers and domestic processors could be facing unnecessary complexity and cost in trying to comply with the due diligence requirements.
- **Option 2—Changing the consignment value threshold** and **Option 3—Removing 'personal' imports from the Regulation** will reduce the scope of the Regulation but will not address regulatory burden for those who remain regulated. This introduces a level of inequity while also being likely to increase the risk of illegally logged timber and timber products being placed on the Australian market. Reducing the scope of the Regulation could also incentivise 'gaming' of the system, further reducing the scope of regulated transactions. Further, it is recognised that these measures would only benefit importers and would not provide any reduction in regulatory burden to domestic processors. While the implementation of both of these measures could result in potential regulatory savings of up to \$11.327 million per year, the associated reduction in the number of transactions and entities covered by the Regulation presents an unacceptable risk of illegally logged timber and timber products entering Australia.
- **Option 5—'Deemed to comply' arrangements for Country Specific Guidelines (CSGs) and State Specific Guidelines (SSGs)** and **Option 6—'Deemed to comply' arrangements for low-risk countries** are not preferred options because it is unclear whether they would deliver significant regulatory savings. Both measures also have the potential to distort trade flows by introducing preferential treatment for products from some markets. The implementation of such measures could disrupt Australia's broader trade relationships, and the determination of low-risk countries could lead to inconsistencies with Australia's international trade obligations.

5.3 Alternative policy approaches raised through consultation

Submissions made during the consultation period did offer several alternative or additional policies for consideration. These have been assessed by the department.

Alternative policy suggestion	Department consideration
Improved guidance materials, training and industry outreach.	The government, as a response to the KPMG recommendations, has been developing improved guidance material and partnering with industry to develop industry-specific material and training.
Implement a process similar to the current fumigation certificate arrangements, where governments attest to the legality of a product. Establishment of a 'deemed to comply' arrangement or certification process for 'trusted traders' or suppliers.	The proposal to establish governmental legality certification akin to the process for fumigation does not sufficiently recognise the complexity of timber legality or the process and visibility of supply chains that would be required to do this effectively. Also, the Act does not have extra-jurisdictional reach to require foreign governments to undertake this role. The department recognises that 'trusted trader' arrangements have been implemented by the Department of Immigration and Border Protection (DIBP) to facilitate customs procedures for eligible businesses. As the illegal logging laws themselves do not require any pre-border checks or compliance activities, it is envisaged that the trusted trader arrangements would operate quite differently. Given the DIBP trusted trader scheme has only been recently implemented, the department considers it may be premature to consider its application to the illegal logging laws.
International effort to create a single regulatory regime and certification process for timber.	The department recognises the benefits that a global illegal logging regime may deliver. However, creating such an arrangement would probably require a treaty-level agreement, which would be subject to detailed negotiation and is unlikely to result in any outcomes for regulated businesses in the short or even medium term. Such a treaty could result in an inflexible arrangement that may be difficult to match to industry norms of Australian businesses. The department notes that the current requirements of the Act and Regulation are broadly consistent with measures implemented in other jurisdictions, such as the United States and European Union.
Removal of the soft-start compliance arrangements by 31 March 2017. More significant penalties for breaches of the Act/Regulation, combined with stronger compliance measures, e.g. DNA testing, random audits, etc.	The compliance soft-start period has been extended while the RIS process is completed. The soft-start arrangements will end upon the conclusion of the current reform process. As the due diligence requirements have been subject to soft-start compliance arrangements, the department considers it may be premature to consider implementing more significant penalties for breaches of the illegal logging laws. The department's general approach to encouraging compliance with the laws are set out in its Illegal Logging Compliance Statement.

Alternative policy suggestion	Department consideration
Removal of 'low-risk segments', including domestic processors, from scope of the laws.	Removal of 'low-risk' segments, including domestic processing, still presents a risk that illegally logged timber will enter the Australian market. This measure would make Australia's illegal logging laws inconsistent with those in other markets and could be inconsistent with Australia's international trade obligations.
More in-depth assessment of business costs and illegal logging risks.	<p>The government commissioned several reports during the development of the laws to determine Australia's exposure to illegally logged timber. While these reports rely on older information, it is accepted that illegal logging is a global problem, and measures such as Australia's laws reduce our exposure to illegally logged products.</p> <p>The costings developed for the RIS are based on the best available data and estimates developed by the department. Given the diversity of the regulated community together with the range of products and their sources, it is challenging to come up with a 'typical' cost to business. The basis for the department's costings were not challenged in stakeholder submissions.</p>

6 Implementation

The key activity necessary to implement deemed to comply arrangements for timber legality frameworks will be amendments to the Regulation. Administrative procedures, requirements and guidance materials will also be updated to reflect any finalised reforms.

6.1 Legislation

The proposed reforms will require amendments to the Regulation—in particular, to sections 10 and 19 of the Regulation to remove or refine the existing information-gathering requirements for parties using a timber legality framework, as well as changes to sections 11 and 20 to limit the information to be considered as part of the associated risk assessment process.

The department will also update the Regulation to modify the existing requirements to provide an ABN or ACN as part of a due diligence system and to identify the business activity conducted by a regulated entity. As noted in Option 3, persons who import regulated timber products for personal and non-commercial reasons can find these requirements difficult to satisfy. The Regulation will be amended to clarify that these elements only need to be provided where relevant.

The department will prepare drafting instructions, with the Office of Parliamentary Counsel responsible for drafting any changes to the Regulation or the Act.

6.2 Transition

The department recognises that it will take some time to communicate the changes to the Regulation and the associated due diligence requirements for timber legality frameworks. In consideration of this, the department will continue to extend its ‘soft-start’ compliance period until any associated amendments have been progressed in late 2017.

6.3 Stakeholder education

An education and communication program will be implemented to ensure that members of the regulated community (including both importers and domestic processors) are aware of the reforms and how they can comply with the amended due diligence requirements. The department will work with the FSC and PEFC governing bodies to develop improved guidance on how to use certification under the Regulation and on education and outreach activities.

6.4 Evaluation

The evaluation of the effectiveness and efficiency of the proposed options for reform will occur as part of the department’s business-as-usual management of the illegal logging laws.

As required under the Act, a full review of the Act’s first five years of operation will need to be delivered to the Minister for Agriculture and Water Resources by November 2018. The department recognises that the reforms resulting from this RIS will have been in effect for only a limited amount of time prior to the statutory review being completed. As a result, the statutory review is unlikely to significantly revisit the findings of the current RIS process.

Appendix A Overview of the due diligence requirements

The due diligence elements of Australia's illegal logging laws, as set out in the Illegal Logging Prohibition Regulation 2012, came into effect on 30 November 2014.

The Regulation divides the due diligence process into four key steps. For this discussion, the information below outlines the key steps required of an importer. A domestic processor is also required to carry out almost identical due diligence steps.

The key steps in the due diligence process are as follows:

- 1) **Establish a due diligence system.** If a business or an individual imports regulated timber products into Australia, they are required to have a documented due diligence system. This system needs to be in writing and needs to include the processes by which the importer will meet the due diligence requirements.
- 2) **Gather relevant information.** Before importing a regulated timber product, an importer must try to gather certain prescribed information, including the type and trade name of the timber product; the common name or scientific name of the tree from which the timber has been derived; the country, region or harvesting unit from which the timber was harvested; and any relevant documentation that could prove the legality of the product.

An important proviso in collecting this information is that it must be 'reasonably practicable' to gather. This recognises that in some circumstances it may be difficult for importers to source some of the information. What is 'reasonably practicable' will depend on the importer's individual circumstances.

- 3) **Assess risk.** Once the importer has tried to gather the required information, they need to use the information they have collected to assess the product's risk. The Regulation allows an importer to use one of three potential risk assessment options:
 - a) *Timber legality frameworks*—this option is available where a product is certified under the FSC, the PEFC or the European Union's Forest Law Enforcement, Governance and Trade standards
 - b) *CSGs*—this option is available where a CSG applies to the timber in the product or the area where the timber was harvested
 - c) *Prescribed risk factors*—this is the default method and can be used for all regulated products. The factors that need to be considered include the prevalence of illegal logging in the general area where the timber was harvested; whether the tree species from which the timber is derived is being illegally harvested in that area; the prevalence of armed conflict in the area; the complexity of the product; and any other information that the importer knows, or ought to know, that might indicate the product has been illegally logged.
- 4) **Mitigate risk.** If the importer assesses the risk that the product may be illegally logged as not being a low risk, they must apply a risk mitigation process. The Regulation does not

prescribe how this needs to be done, only that it needs to be 'adequate and proportionate' to the identified risk.

One additional step that only applies to importers is:

- **Answer the community protection question.** Before importing a regulated timber product into Australia, an importer is required to make a declaration as to whether they have complied with the due diligence requirements. This is made in the form of a specific 'community protection question' answered as part of the import clearance process.

Appendix B Summary of regulated tariff codes

Schedule 1 of the Regulation describes the timber products that are prescribed under the Regulation. This lists the products by either their four-digit or six-digit tariff codes. For ease of use, we have summarised the codes by their higher-level four-digit codes.

Chapter 44

44.03 Wood in rough

44.07 Wood sawn or chipped lengthwise

44.08 Sheets of veneering

44.09 Continuously shaped wood

44.10 Particleboard

44.11 Fibreboard of wood

44.12 Plywood

44.13 Densified wood

44.14 Wooden frames

44.16 Casks, barrels

44.18 Builders' joinery, doors

Chapter 47

47.01 Mechanical wood pulp

47.02 Chemical wood pulp, dissolving grades

47.03 Chemical wood pulp, soda or sulphate

47.04 Chemical wood pulp, sulphite

47.05 Mechanical or chemical wood pulp

Chapter 48

48.01 Newsprint

48.02 Uncoated writing paper

48.03 Toilet or facial tissue

48.04 Uncoated kraft paper and paperboard

- 48.05 Other uncoated paper and paperboard
- 48.06 Glazed/translucent papers
- 48.07 Composite paper and paperboard
- 48.08 Corrugated paper and paperboard
- 48.09 Carbon and self-copy paper
- 48.10 Coated paper and paperboard
- 48.11 Paper products coated/surfaced
- 48.13 Cigarette paper
- 48.16 Carbon and self-copy paper (other than 48.09)
- 48.17 Envelopes, letter cards
- 48.18 Toilet paper, tissues, serviettes
- 48.19 Cartons, boxes made of paper
- 48.20 Paper booklets
- 48.21 Paper labels
- 48.23 Other paper

Chapter 94

- 94.01 Seats
- 94.03 Other furniture
- 94.06 Prefabricated buildings

Appendix C Costing methodology and key assumptions

Costs considered

The Commonwealth RBM Framework was used for this analysis, consistent with the Regulatory Burden Measurement Guidance Note published by the Office of Best Practice Regulation. The analysis included consideration of the following regulatory costs:

- compliance costs
 - administrative costs
 - o costs incurred by regulated entities primarily to demonstrate compliance with the regulation (usually record-keeping and reporting costs)
- substantive compliance costs
 - costs incurred to deliver the regulated outcomes being sought (usually purchase and maintenance costs)
- delay costs
 - expenses and loss of income incurred by a regulated entity through
 - o an application delay
 - o an approval delay.

Direct financial costs attached to a regulation that are payable to government, such as administrative charges and fees, are not included as part of the RBM calculation.

Key costing assumptions

The regulatory cost of the current due diligence requirements was calculated to determine the baseline costs to importers. The main costs to businesses under the existing scheme included:

- the cost to importers of establishing a formal due diligence system (although this was only calculated for new parties entering the regulated community—see below for further explanation)
- the cost to importers of revisiting and generally maintaining a due diligence system (calculated as a minimum amount of time spent each year to refresh or maintain the system)
- the cost to importers of gathering the required information about the regulated timber products before their import
- the cost to importers of using one of the three available risk assessment pathways (timber legality frameworks, CSGs and regulated risk factors)
- the cost to importers of mitigating any residual risks associated with an imported product

- the costs to importers of keeping associated records and documents
- the cost to importers of answering the community protection question as part of the import declaration process (or directing their customs broker to answer it on their behalf)
- the cost to selected importers of responding to any requests for information from the department and showing evidence of the application of their due diligence system.

Other assumptions

Baseline figures

Unlike the original KPMG costing estimates (which were based on an assessment of individual business experiences), the department's cost estimates have focused on the regulated product lines imported into Australia.

This reflects that the due diligence requirements apply to each regulated product line imported into Australia. Advice provided by the government's Office of Best Practice Regulation confirmed that this approach was consistent with the RBM Framework's activity-based methodology.

Datasets used

The estimated cost to industry of the Regulation was based on a number of assumptions and draws on existing data about the regulated community (based on ICS data and the department's compliance assessments to date), including:

- the total number of importers
- the number of imported regulated product lines
- the number of unique importer-supplier-product-country relationships
- the expected use of each of the risk assessment pathways
- the number of expected compliance assessments.

Establishment costs

In line with the RBM Framework, the department has assumed that at the time of reporting all businesses are fully compliant with the Regulation and therefore have already 'sunk' the costs associated with establishing their due diligence system.

This is a key assumption of the RBM Framework and has meant that the department has not sought to estimate the initial costs incurred by businesses in establishing their due diligence systems. Instead, the estimates seek to quantify the ongoing cost of complying with the Regulation.

The costing model does, however, include a cost component for those businesses that will commence the importation of regulated timber products for the first time in the future and will need to spend time and effort establishing their due diligence arrangements.

Hourly labour cost

All estimates have been developed based on an hourly cost to business estimate of \$68.79 (which is consistent with the RBM costing methodology as of May 2017).

Appendix D Impacts of alternative consignment value thresholds

Impacts on regulated product types

Table 10 summarises some of the impacts that changing the threshold level may have on the four tariff chapters regulated under the Illegal Logging Prohibition Regulation 2012. This includes an assessment of the potential changes to the number of product lines regulated at each alternative threshold level, as well as the expected impact on the value of the regulated products.

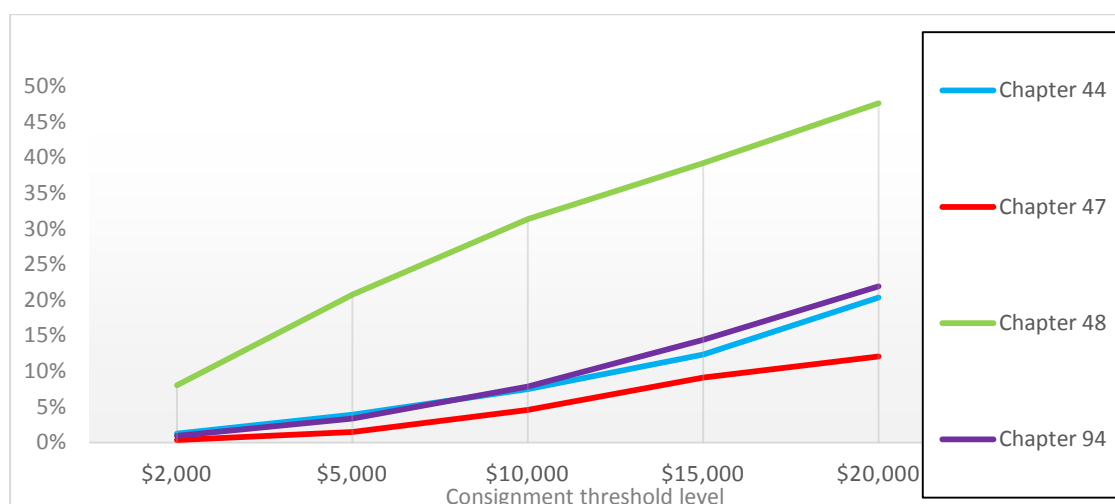
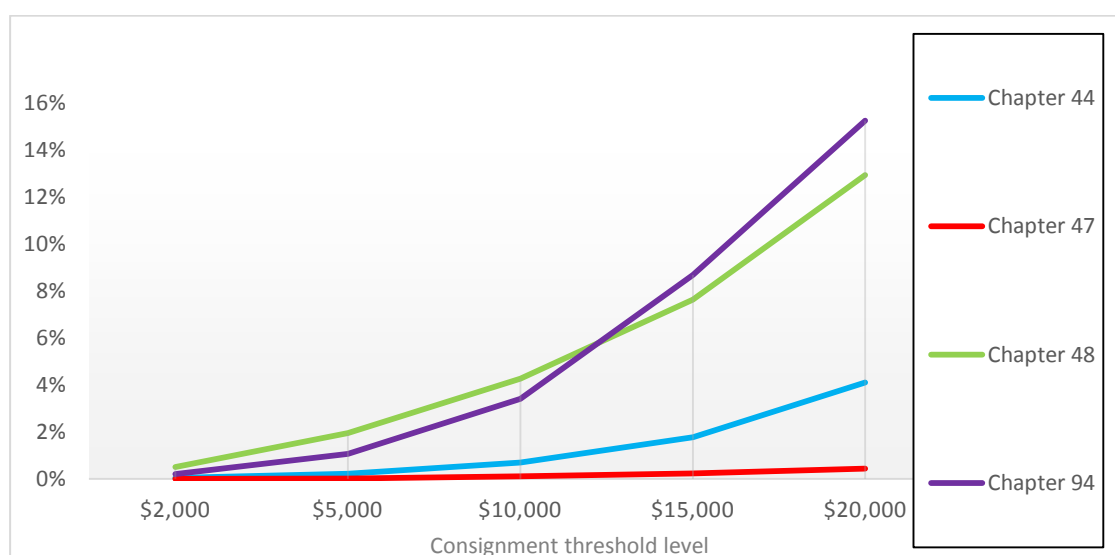
Table 10 Potential costs from changing consignment value threshold—impact on regulated tariff chapters

Threshold value	Chapter 44 (Wood and articles of wood)		Chapter 47 (Pulp)		Chapter 48 (Paper)		Chapter 94 (Furniture)	
	Lines	Value (\$billion)	Lines	Value (\$billion)	Lines	Value (\$billion)	Lines	Value (\$billion)
–								
\$1 000	80 149	1.867	1 075	0.223	238 154	2.885	723 464	2.521
\$2 000	79 163	1.866	1 071	0.223	219 002	2.870	716 812	2.515
\$5 000	77 039	1.863	1 059	0.223	188 801	2.829	699 042	2.493
\$10 000	74 129	1.854	1 026	0.223	163 522	2.762	666 526	2.434
\$15 000	70 268	1.834	977	0.223	144 769	2.664	619 198	2.301
\$20 000	63 865	1.790	945	0.222	124 805	2.511	754 741	2.135

The data in Table 10 suggests that imports of wood and articles of wood (Chapter 44) and of pulp (Chapter 47) are relatively inelastic at the proposed alternative threshold levels. For example, at the \$10 000 threshold, the number of regulated lines of wood and articles of wood (Chapter 44) only falls 7.5 per cent (down by 6 020 lines), with an overall drop in the associated regulated value of just 0.7 per cent (\$13 million). Pulp is even more inelastic, with the number of lines falling 4.56 per cent (down by only 49 lines) and the regulated value falling just 0.11 per cent (a very small reduction of only \$249 000).

Paper (Chapters 48) and furniture (Chapter 94) appear to respond more strongly to changes in the threshold level. For example, at the \$10 000 threshold level, the number of regulated lines of paper falls by 31 per cent (down by 74 632 lines), with an overall fall in the associated regulated value of 4 per cent (down by \$123 million). Furniture is slightly less responsive, with a moderate reduction in the number of regulated lines (dropping by 7.87 per cent, or 56 938 lines) but a more significant reduction in regulated value (dropping by 3.41 per cent, or \$86 million).

Figures 2 and 3 illustrate the ‘sensitivity’ of the four tariff chapter codes to any changes.

Figure 2 Percentage decrease in regulated lines, by tariff code**Figure 3 Percentage decrease in regulated value, by tariff code**

As illustrated in Figure 3, the value of excluded paper (Chapter 48) and furniture (Chapter 94) products increases significantly once the \$10 000 threshold is passed. This suggests that increasing the threshold past this point may unduly increase the risk of paper and furniture products entering Australia without scrutiny.

A previous study of Australia's exposure to illegally logged timber suggested that wood and articles of wood (Chapter 44) and furniture (Chapter 94) products are probably the most susceptible to including illegal product, with the key risks being wooden furniture, wood panels, sawn wood and other wooden products such as doors, mouldings, flooring and other carpentry materials (Jaako Pöyry Consulting 2005). The study also suggested that Australia's paper (Chapter 48) imports are likely to come from a mix of low- and high-risk sources, while pulp (Chapter 47) is likely to be low risk. While now dated, these assessments provide a useful insight into some of the risks associated with any increase in the consignment value threshold.

Costs—impacts on key trading relationships

Tables 11 and 12 below illustrate the potential impacts of a change in the threshold level on the regulated timber products imported from Australia's top 20 supplier countries. When considering the information provided in these tables, it is important to note that the country of export may not always be the country of harvest. This means that any assessment of the risk associated with a particular trading partner should not focus on their domestic forest management systems but also consider that country's role in sourcing timber from other countries where illegal logging may be a problem.

Table 11 shows how the alternative threshold levels may affect the number of regulated product lines from each country and suggests that some countries are more likely to be affected by a change to the threshold level than others. For example, at the \$10 000 threshold level, several nations are likely to see major reductions in the product lines that are subject to Australia's due diligence requirements. This includes China (reduced by 70 223 lines, or 15 per cent), Indonesia (8 648 lines, or 20 per cent), the United States (8 420 lines, or 31 per cent), Italy (4 518 lines, or 22 per cent), Japan (4 064 lines, or 56 per cent), South Korea (3 153 lines, or 4 per cent), Canada (3 184 lines, or 38 per cent) and the United Kingdom (3 182 lines, or 42 per cent).

Table 12 shows how the alternative threshold levels may affect the value of the timber products regulated from the top 20 supplier countries. These data suggest that some of the higher threshold levels would result in a significant reduction in the value of products that fall within the scope of the due diligence requirements. For example, at the \$10 000 threshold level, \$117 million worth of products exported from China would be exempted, with other countries experiencing lesser reductions: United States, \$15.4 million; New Zealand, \$9 million; Indonesia, \$9 million; Malaysia, \$8.5 million; and Germany, \$7.3 million. At the \$20 000 threshold level, the value of exempted product significantly increases for some countries—for example, China, \$455 million; Malaysia, \$51 million; Indonesia, \$43 million; and the United States, \$32 million.

Table 11 Changes in regulated product lines by key trading partners

Country	\$1 000		\$2 000			\$5 000			\$10 000			\$15 000			\$20 000		
-	Lines	% share	Lines	Change ^a	% change	Lines	Change ^a	% change	Lines	Change ^a	% change	Lines	Change ^a	% change	Lines	Change ^a	% change
China	470 294	45.10	458 407	11 887	2.53	433 475	36 819	7.83	400 071	70 223	14.93	358 148	112 146	23.85	316 719	153 575	32.66
NZ	25 168	2.41	24 384	784	3.12	23 298	1 870	7.43	22 322	2 846	11.31	21 307	3 861	15.34	20 486	4 682	18.60
Indonesia	41 528	3.98	40 573	955	2.30	37 891	3 637	8.76	32 880	8 648	20.82	26 969	14 559	35.06	21 261	20 267	48.80
Malaysia	32 821	3.15	32 219	602	1.83	31 130	1 691	5.15	29 664	3 157	9.62	27 228	5 593	17.04	23 986	8 835	26.92
USA	26 605	2.55	23 855	2 750	10.34	20 630	5 975	22.46	18 185	8 420	31.65	16 795	9 810	36.87	15 437	11 168	41.98
Vietnam	3 491	0.33	3 451	40	1.15	3 412	79	2.26	3 367	124	3.55	3 118	373	10.68	2 694	797	22.83
Italy	20 158	1.93	19 095	1 063	5.27	17 227	2 931	14.54	15 640	4 518	22.41	14 179	5 979	29.66	12 723	7 435	36.88
Germany	53 452	5.13	53 047	405	0.76	51 841	1 611	3.01	49 852	3 600	6.74	46 729	6 723	12.58	42 563	10 889	20.37
S Korea	73 500	7.05	72 734	766	1.04	71 667	1 833	2.49	70 347	3 153	4.29	68 955	4 545	6.18	64 424	9 076	12.35
Finland	5 183	0.50	4 788	395	7.62	4 074	1 109	21.40	3 576	1 607	31.01	3 327	1 856	35.81	3 079	2 104	40.59
Thailand	27 612	2.65	27 241	371	1.34	26 670	942	3.41	26 160	1 452	5.26	25 395	2 217	8.03	22 345	5 267	19.08
Sweden	23 856	2.29	23 700	156	0.65	23 462	394	1.65	23 104	752	3.15	22 233	1 623	6.80	20 933	2 923	12.25
Chile	2 289	0.22	2 121	168	7.34	1 959	330	14.42	1 770	519	22.67	1 690	599	26.17	1 589	700	30.58
Austria	2 355	0.23	2 354	1	0.04	2 351	4	0.17	2 348	7	0.30	2 329	26	1.10	2 279	76	3.23
Canada	8 202	0.79	7 490	712	8.68	6 330	1 872	22.82	5 018	3 184	38.82	4 577	3 625	44.20	4 403	3 799	46.32
France	6 014	0.58	5 726	288	4.79	5 254	760	12.64	5 021	993	16.51	4 885	1 129	18.77	4 708	1 306	21.72
Taiwan	10 914	1.05	10 296	618	5.66	9 267	1 647	15.09	8 406	2 508	22.98	7 548	3 366	30.84	6 820	4 094	37.51
Singapore	8 452	0.81	8 316	136	1.61	8 130	322	3.81	7 972	480	5.68	7 844	608	7.19	7 325	1 127	13.33
Japan	7 170	0.69	5 959	1 211	16.89	3 914	3 256	45.41	3 106	4 064	56.68	2 703	4 467	62.30	2 359	4 811	67.10
UK	7 433	0.71	6 599	834	11.22	5 388	2 045	27.51	4 251	3 182	42.81	3 361	4 072	54.78	2 871	4 562	61.37
Other	186 345	17.87	183 693	2 652	1.42	178 571	7 774	4.17	172 143	14 202	7.62	165 892	20 453	10.98	155 737	30 608	16.43
Totals	1 042 842	100.00	1 016 048	26 794	2.57	965 941	76 901	7.37	905 203	137 639	13.20	835 212	207 630	19.91	754 741	288 101	27.63

a Represents the change in the number of regulated product lines, when compared with current \$1 000 consignment value threshold.

Table 12 Changes in regulated value by key trading partners

Country	\$1 000		\$2 000			\$5 000			\$10 000			\$15 000			\$20 000		
	Value \$million	% share	Value \$million	Change ^a \$million	% change	Value \$million	Change ^a \$million	% change	Value \$million	Change ^a \$million	% change	Value \$million	Change ^a \$million	% change	Value \$million	Change ^a \$million	% change
China	2 778	37.06	2 769	9	0.33	2 737	41	1.50	2 661	117	4.22	2 513	265	9.55	2 324	455	16.37
NZ	658	8.78	657	0.9	0.14	654	3.9	0.60	649	9	1.40	642	16	2.57	632	26.5	4.03
Indonesia	538	7.18	538	0.5	0.10	535	2.8	0.53	530	9	1.69	518	21	3.86	495	43.8	8.14
Malaysia	462	6.16	461	0.6	0.13	459	2.7	0.60	454	8.5	1.84	439	23	5.05	411	51.4	11.13
USA	386	5.15	383	0.2	0.61	378	7.7	2.02	371	15.4	3.99	364	23	5.84	353	32.7	8.49
Vietnam	294	3.92	293	0.2	0.10	292	1.5	0.52	290	4.5	1.53	281	13	4.53	265	29	9.87
Italy	203	2.71	202	0.6	0.34	200	2.7	1.34	197	6.2	3.05	194	10	4.94	186	16.9	8.36
Germany	191	2.56	190	0.8	0.45	188	3.4	1.76	184	7.3	3.83	178	13	6.92	169	22.8	11.92
Korea	190	2.55	190	0.3	0.15	189	1	0.54	189	2.1	1.10	187	3.9	2.05	184	7	3.72
Finland	183	2.45	183	0.04	0.02	183	0.1	0.08	183	0.45	0.25	180	3.6	1.99	173	10.6	5.81
Thailand	124	1.65	123	0.2	0.19	123	0.9	0.72	122	2.3	1.82	117	6.9	5.61	106	18.3	14.77
Sweden	117	1.57	117	0.1	0.10	116	0.4	0.35	116	0.9	0.80	115	2.3	1.98	111	6	5.13
Chile	116	1.56	116	0.001	0.00	116	0.008	0.01	117	0.002	0.02	117	0.2	0.17	116	1	0.88
Austria	109	1.45	108	0.09	0.08	108	0.3	0.28	108	0.9	0.84	107	1.8	1.72	104	6.7	6.15
Canada	107	1.43	107	0.1	0.11	107	0.4	0.34	107	0.7	0.73	106	1.1	1.07	108	1.8	1.71
France	98	1.32	98	0.3	0.38	97	1.3	1.26	96	2.5	2.61	95	4.3	4.33	93	6	6.08
Taiwan	94	1.25	93	0.6	0.69	91	2.5	2.64	89	5.2	5.48	86	8.5	9.03	80	13.5	14.45
Singapore	88	1.18	88	0.2	0.24	87	1.1	1.20	87	1.9	2.14	86	3	3.41	84	4.5	5.09
Japan	66	0.89	66	0.5	0.87	64	1.9	2.88	63	3.5	5.24	62	4.7	7.11	59	7.4	11.02
UK	60	0.80	59	0.6	1.09	57	2.3	3.88	55	4.8	8.06	52	7.9	13.12	50	10.3	17.18
Other	626	8.36	624	2.1	0.34	617	8.6	1.38	606	19.9	3.18	587	39.4	6.30	562	65.0	10.37
Totals	7 497	100.00	7 476	21	0.28	7 410	87	1.17	7 275	223	2.97	7 024	473	6.31	6 661	836.7	11.16

^a Represents the change in the value of regulated product, when compared to the current \$1 000 consignment value threshold.

Figures 4 and 5 illustrate the ‘sensitivity’ of Australia’s key timber supply relationships to any change in the consignment threshold levels.

Figure 4 Percentage change in regulated lines, by top 10 countries of origin

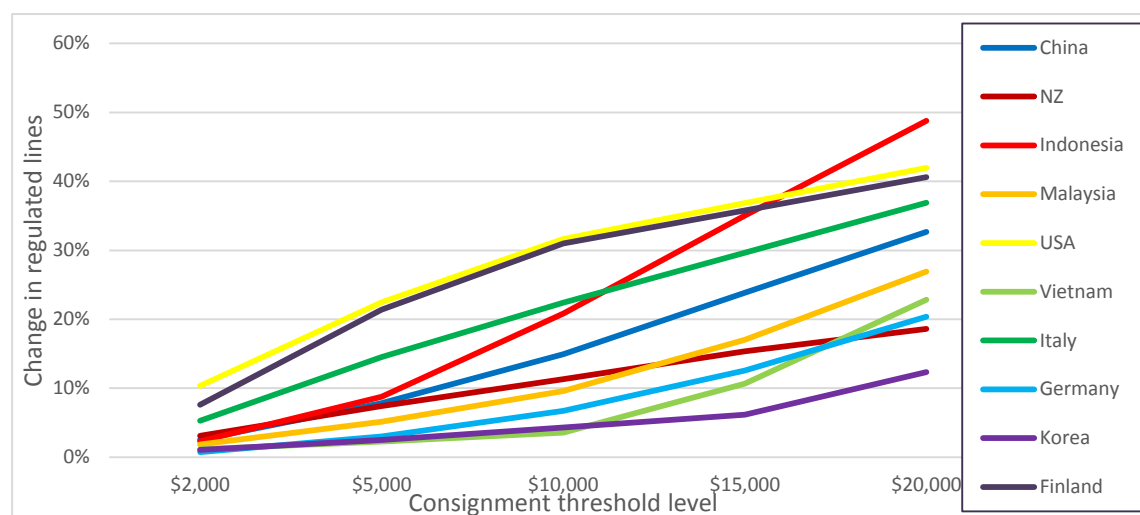
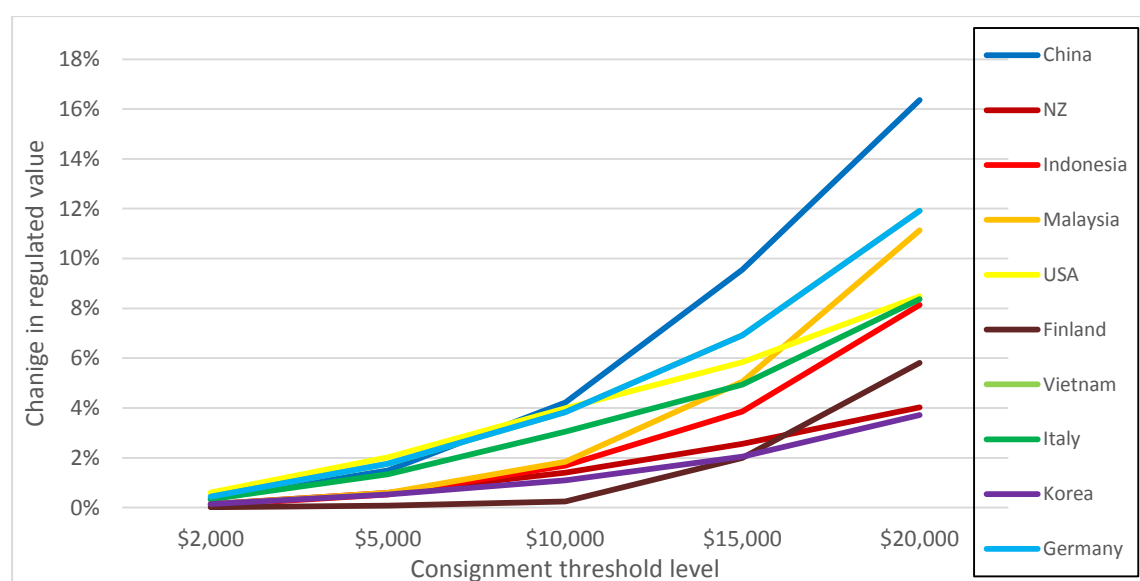


Figure 5 Percentage change in regulated value, by top 10 countries of origin



Any change in the threshold is also likely to remove some of Australia’s less significant trading partners from the Regulation’s scope. Table 13 lists those countries that would be removed from the Regulation’s scope under each of the alternative threshold levels (based on 2015 data).

Table 13 Potential costs from changing the consignment value threshold—potentially excluded countries^a

Threshold value	Country
\$1 000	Andorra, Guadeloupe, Liberia, Mauritania, Mongolia, Namibia, Oman, Puerto Rico, Tanzania, Tonga, Trinidad and Tobago, Uganda, Yemen, Zimbabwe (all were excluded in 2015)
\$2 000	Afghanistan, Kenya, Madagascar, Mauritius, New Caledonia, Qatar

Threshold value	Country
\$5 000	Albania, Ethiopia, Iceland, Kuwait, Malta, Vanuatu
\$10 000	Haiti, Jordan, North Korea, Marshall Islands, Nigeria
\$15 000	Colombia, Kyrgyzstan
20 000\$	Monaco, Panama, Tokelau

a Countries included in this table should be read as being cumulative—for example, a \$10 000 threshold value would exclude all countries listed at the \$10 000, \$5 000, \$2 000 and \$1 000 threshold levels.

Source: Based on 2015 ICS data.

Appendix E Consolidated questions

As part of the Consultation RIS process, the department invited submissions from a range of domestic and international stakeholders, including businesses which import regulated timber products or process domestically grown raw logs, customs service providers, relevant industry associations, state and territory governments, trading partners, environmental and social organisations, and members of the general public.

Respondents were asked to address a range of questions that were highlighted throughout the Consultation RIS. Respondents were also invited to raise matters not explicitly addressed in the Consultation RIS if they were pertinent to the proposed reforms to the Australian Government's illegal logging regulations.

The key questions raised in the original Reforming Australia's Illegal Logging Regulations Consultation RIS are consolidated below.

Option 1—The status quo

Not applicable.

Option 2—Changing the consignment value threshold

- What (if any) changes should the government make to the consignment value threshold?
- What are the risks of increasing the consignment value threshold?
- Are there any measures the government could implement to address these risks?
- What is the likely impact on timber import practices of increasing the consignment value threshold?
- Are there any additional matters that should inform the government's decision on this issue?

Option 3—Removing 'personal' imports from the Regulation's scope

- Should the government introduce an exemption for products that have been imported for a 'personal and non-commercial purpose'?
- Is the proposed definition of a 'personal and non-commercial purpose' appropriate?
- What are the risks of providing an exemption for products that have been imported for a 'personal and non-commercial purpose'?
- Are there measures the government could implement to address these risks (including the possible capping of the exemption or limiting the number of annually exempted consignments)?
- Are there any additional matters that should inform the government's decision on this issue?

Option 4—‘Deemed to comply’ arrangements for timber legality frameworks

- Should the government introduce deemed to comply arrangements for timber legality frameworks?
- What are the risks of introducing deemed to comply arrangements for timber legality frameworks?
- What is the risk of fraudulent certification documents being provided to businesses? What impact would such materials have on the effectiveness of the due diligence process?
- Are there any measures the government could implement to address these risks?
- Are there any additional matters that should inform the government’s decision on this issue?

Option 5—‘Deemed to comply’ arrangements for Country Specific Guidelines and State Specific Guidelines

- Should the government introduce deemed to comply arrangements for CSGs and SSGs?
- What is the ability of the existing CSGs and SSGs to support deemed to comply arrangements?
- What are the risks of introducing deemed to comply arrangements for CSGs and SSGs?
- Are there any measures the government could implement to address these risks?
- Are there any additional matters that should inform the government’s decision on this issue?

Option 6—‘Deemed to comply’ arrangements for low-risk countries

- Should the government introduce deemed to comply arrangements for low-risk countries?
- What are the risks of introducing deemed to comply arrangements for low-risk countries?
- Are there any measures the government could implement to address these risks?
- Is there a need to limit any new arrangements to direct imports from low-risk countries?
- Should there be any other circumstances under which imports from low-risk countries should be subject to the full due diligence arrangements?
- What type of criteria, or resources, could be used to develop an objective assessment process to determine what is a ‘low risk’ country?
- Are there any additional matters that should inform the government’s decision on this issue?

Appendix F Submissions to the RIS consultation process

No.	Organisation
1	Regulated Business (requested their submission be treated as anonymous and confidential)
2	Tetra Pak Oceania
3	Mortim Timber Distributors
4	Customs Brokers and Forwarders Council of Australia (CBFCA)
5	Forest Stewardship Council (FSC) Australia
6	Swedish Forestry Agency
7	New Zealand Institute of Forestry
8	IKEA Distributor Services Australia
9	DATS
10	Australian Paper Industry Association (APIA)
11	The Law Council of Australia
12	Australian Timber Importers' Federation (ATIF)
13	NewsMediaWorks
14	VicForests
15	Engineered Wood Products Association of Australasia (EWPAA)
16	World Wildlife Fund (WWF)—Australia
17	Australian Forestry Standard (AFS)
18	ITS Global (on behalf of the Papua New Guinea Forest Industries Association (PNGFIA))
19	Construction, Forestry, Mining and Energy Union (CFMEU)
20	Australian Forest Products Association (AFPA)
21	Primary Industry and Resources South Australia (PIRSA)
22	Ministere de l'Agriculture, Government of France
23	Ministry of Agriculture and Forestry, Government of Finland
24	Wood Products and Manufacturers Association of New Zealand
25	NEPCon (parts of this submission were deemed confidential)
26	Canadian Forest Service, Government of Canada (confidential submission)
27	New Zealand Forest Certification Association Incorporated
28	NSW Business Chamber
29	Combined submission from the Uniting Church in Australia, the Centre for International Environmental Law (CIEL), Greenpeace Australia Pacific, and the Environmental Investigation Agency (EIA)
30	Timber NSW
31	Responsible Asia Forestry and Trade Partnership (RAFT)
32	Paper Force (Oceania) Pty Ltd
33	Solaris Paper Pty Ltd

No.	Organisation
34	Stephen Mitchell Associates
35	Master Builders Australia
36	Forest Trends
37	Forest Trends—Vietnam
38	Furniture Cabinets Joinery Alliance Ltd (FCJ)
39	Victorian Association of Forest Industries (VAFI)
40	Papua New Guinea National Forest Service, Government of Papua New Guinea
41	Foreign Government (requested that their submission be treated as anonymous and confidential)
42	Australian Furniture Association (AFA)
43	Timber Merchants Association Victoria (confidential submission)
44	Department for Business, Energy and Industrial Strategy, Government of the United Kingdom (confidential submission)
45	Ministry of Economic Affairs, Government of the Netherlands (confidential submission)
46	Federal Ministry of Food and Agriculture, Government of Germany

References

ABARES 2012, *ABARES national wood processing survey, 2010–11*, ABARES research report 12.4, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra.

ABARES 2016, *Australian forest and wood product statistics: September and December quarters 2015*, Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra.

Australian Government 2012, [Illegal Logging Prohibition Bill 2012: revised explanatory memorandum](#), Minister for Agriculture, Fisheries and Forestry, Canberra.

Australian Government 2013, [Explanatory statement: Illegal Logging Prohibition Amendment Regulation 2013 \(No. 1\)](#), Minister for Agriculture, Fisheries and Forestry, Canberra.

Australian Government 2014, [The Australian Government guide to regulation](#), Department of the Prime Minister and Cabinet, Canberra.

Australian Government 2016, [Government response to the ‘Independent review of the impact of the illegal logging regulations on small business’](#), Department of Agriculture and Water Resources, Canberra.

Centre for International Economics 2010, *A final report to inform a regulation impact statement for the proposed new policy on illegally logged timber*, Centre for International Economics, Canberra & Sydney.

Department of Agriculture and Water Resources 2014, [Terms of reference: Independent review of the impact of the illegal logging regulations on small business](#), Australian Government Department of Agriculture and Water Resources, Canberra.

EU FLEGT Facility 2016, [News from Indonesia: The wait is over. FLEGT licences are coming](#), EU FLEGT Facility, Barcelona.

European Commission 2013, [Guidance document for the EU timber regulation](#), European Commission.

FSC (n.d.), [Status of controlled wood national risk assessment](#), Forest Stewardship Council, Bonn.

Gaworecki, M 2016, [How ‘due diligence’ is helping curb the illegal timber trade in key markets](#), *Mongabay*, 12 May.

INTERPOL & World Bank (n.d.), *Chainsaw Project: an INTERPOL perspective on law enforcement in illegal logging*, INTERPOL, France & World Bank, Washington, DC.

Jaako Pöyry Consulting 2005, *Overview of illegal logging*, prepared for the Australian Government Department of Agriculture, Fisheries and Forestry, Canberra.

KPMG 2016, *Independent review of the impact of the illegal logging regulations on small business*, Australian Government Department of Agriculture, Canberra.

Lawson, S & MacFaul, L 2010, [Illegal logging and related trade: indicators of the global response](#), briefing paper, Chatham House, London.

Nellemann, C & INTERPOL Environmental Crime Programme (eds) 2012, *Green carbon, black trade: illegal logging, tax fraud and laundering in tropical forests*, United Nations Environment Programme, GRID Arendal.

Nellemann, C, Henriksen, R, Kreilhuber, A, Stewart, D, Kotsovou, M, Raxter, P, Mrema, E & Barrat, S (eds) 2016, *The rise of environmental crime: a growing threat to natural resources, peace, development and security*, United Nations Environment Programme & RHIPTO Rapid Response – Norwegian Center for Global Analyses, p. 7.

NEPCon 2014, [Is chain of custody certification a 'myth'?](#), NEPCon Newsroom, 2 October.

Pereira Goncalves, M, Panjer, M, Greenberg, TS & Magrath, WB 2012, *Justice for forests: improving criminal justice efforts to combat illegal logging*, World Bank, Washington, DC.

Seneca Creek Associates 2004, *Illegal logging and global world markets: the competitive impacts on the US wood products industry*, Seneca Creek Associates, Poolesville, p. 17.

Timber Veneer Association of Australia 2014, *Submission to the Parliamentary Committee on the Environment's Inquiry 'Streamlining environmental regulation, "green tape" and one stop shops'*, Timber Veneer Association of Australia, Sydney.

UNODC 2013 *Transnational organised crime in east Asia and the Pacific: a threat assessment*, United Nations Office on Drugs and Crime, Vienna, pp. 95–96.

URS 2010, *A framework for differentiating legality verification and chain of custody schemes*, URS Australia Pty Ltd, Melbourne.

URS 2013, *Legal Forest Products Assurance: Supplementary report on selected timber legality assurance frameworks*, URS Australia Pty Ltd, Melbourne.

URS 2014, *Supplementary report on chain-of-custody schemes*, URS Australia Pty Ltd, Melbourne.

World Bank 2006, *Strengthening forest law enforcement and governance: addressing a systematic constraint to sustainable development*, report 36638, World Bank, Washington, DC.