



CALCULATED RISK

Australia's Exposure to Illegal Logging

July 2023



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Log Yard at the Port of Kribi, Cameroon

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EXECUTIVE SUMMARY

Illegal logging and associated trade is a problem of global proportions, with devastating impacts on climate, biodiversity, and the livelihoods of millions of people.

Forest crime also has severe adverse economic and social impacts in producer countries through the loss of much-needed tax revenues. In a 2019 study, the World Bank calculated the lost ecosystem value of trade in illegal timber at “\$1 trillion or more,” and estimated that 56 countries lost between 6.1 and 9 billion USD in tax revenues in 2017 alone.¹ A report by Global Financial Integrity in March 2017 ranks illegal logging as the third largest global transnational crime, after counterfeiting and drug trafficking, with an estimated annual value of between 65 and 196 billion Australian dollars.² Through the trade in illegal timber, consumers become the unwitting financiers of forest crime.

Illegal logging can only prevail as long as international markets allow trade in stolen timber. To address global deforestation, demand-side countries, including Australia, the United States, and the European Union have created laws prohibiting the import of timber and wood products from trees illegally logged in producer countries. These demand-side measures to keep illegally sourced wood products out of supply chains are having a positive impact on the forest sector in producer countries. Effective implementation of demand-side laws such as the Illegal Logging Prohibition Act (ILPA) are crucial to shift the international market away from illegal timber trade, while at the same time protecting domestic industries from unfair competition through cheap illegal wood supply.

This report aims to provide an overview of timber trade imports into Australia from countries and regions with a high risk of illegal logging. The information aims to inform Australian enforcement agencies and companies in their efforts to implement, enforce, and comply with the ILPA.

The first section provides an overview of the key provisions related to timber and wood products imports in the Illegal Logging Prohibition Act, passed by the Australian Parliament in 2012, and the Illegal Logging Prohibition Regulation (ILPR) from 2014. The second section explains the report methodology and identifies the main high-risk supply chains to Australia.

The focus of the report is on Australian imports from high-risk sources, with separate country case studies. Each case study includes the main products exported to Australia from the respective country, along with specific illegal logging risks. The largest exporters of tropical hardwood to Australia are located in East Asia. Australia also imports timber products from high-risk countries in Eastern Europe and Latin America. While direct imports from Africa are fairly negligible, timber from high risk regions in Africa is likely reaching the Australian market via third country processing hubs such as China and Vietnam. Both countries are today among the world’s largest importers of illegal timber and have become key processing hubs for wood products that are exported around the world, including to Australia. Australia imports significant amounts of wood products from China and Vietnam, and in the absence of effective import regulations in these countries, thorough due diligence should be undertaken to trace the wood back to country of harvest.

Countries were selected for case studies in the report based on wood products trade volumes and illegal logging risk profiles. Countries are included in the report in the following order: China, Vietnam, Indonesia, Malaysia, Myanmar, Thailand, Papua New Guinea, the Solomon Islands, Russia,* Romania, Ukraine,* Brazil, Mexico, Peru, Cameroon, Gabon, and the Republic of the Congo.

Given the value and volumes of high-risk timber and wood products entering Australia, the report concludes that both the Australian government and Australian companies should increase implementation, compliance, and enforcement actions. The report also identifies specific recommendations for actions by the Australian government and Australian companies to reduce illegal timber imports.

* The majority of this report was drafted in 2021, prior to the 2022 Russian invasion of Ukraine. As such, the information and risks for these two countries may now significantly differ from those presented in the report.

THE ILLEGAL LOGGING PROHIBITION ACT

In response to the global problem of illegal logging, the Australian Parliament passed the Illegal Logging Prohibition Act in 2012. The ILPA addresses both domestic and foreign illegally harvested timber and wood products with two main requirements. The first makes it a criminal offense to knowingly or recklessly import or process timber or wood products that have been produced by illegal logging.

The second requires importers of foreign-harvested timber or timber products to conduct due diligence on their supply chain and to file a declaration that they have done so.³ The ILPA also requires due diligence from processors of raw domestic logs.⁴ Due diligence requirements are further elaborated in the Illegal Logging Prohibition Regulation (2014).

Prior to the passage of the ILPA, the forest industry relied on self-regulation and the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) for forest product imports, unlike domestic

timber harvesting, which was already regulated.⁵ Illegal timber is defined by the ILPA as “harvested in contravention of laws in force in the place ... where the timber was harvested,” whether in Australia or another country.⁶ Notably, the ILPA includes only violations of harvest-related laws, in contrast to the U.S. Lacey Act and the European Union Timber Regulation (EUTR), both of which incorporate laws that regulate pre- and post-harvest steps in the supply chain.

Timber and timber product imports within the scope of the ILPA are listed in the ILPR, and fall within the broad categories of logs, sawnwood, veneer, particle board, plywood, pulp, paper, barrels, certain furniture, prefabricated buildings, and paper packing materials.⁷

The ILPA also makes it mandatory for importers to declare to the Customs Minister whether they have complied with the due diligence requirements⁸ by answering “yes” or “no” to a specific question as part of the standard customs declaration.⁹ That is the only



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Logging road, Open Bay area, East New Britain, Papua New Guinea

additional requirement beyond the standard import declaration in Australia (N10), which requires a description of the imported goods and their origin, information about the supplier, and other details related to tariff classification and shipment.¹⁰

While the prohibition on processing illegal wood and due diligence requirements also apply to domestic processors of raw logs harvested in Australia,¹¹ this report focuses upon the Australian market's exposure to illegally harvested timber and wood products sourced from outside Australia's national boundaries.

Due diligence for importers

Due diligence is a key component of forest legality frameworks, and the Lacey Act, the EUTR, and the ILPA all include robust due care or due diligence provisions, requiring actors to gather information about their suppliers, the origin of the timber, and chain of custody. Overall, due diligence violations, when laws provide explicit procedures, have proved easier to enforce and prosecute, as indicated by enforcement actions and cases in Europe. Requiring companies to carry out due diligence also helps reduce illegal logging and improve supply chain transparency in producer countries by requiring suppliers to source their timber legally and document where it was harvested.

Australian importers have an obligation to exercise due diligence similar to that required by the EUTR, to reduce the risk imported products have been produced from illegally harvested timber. Due diligence for imports excludes recycled products¹² and only applies to shipments where the value of the regulated import exceeds \$1,000.¹³

Unlike the EUTR, the ILPA provides three different frameworks that an importer may choose to use when conducting due diligence – timber legality frameworks (section 11 of the ILPR), country specific guidelines (section 12 of the ILPR), or identifying and assessing risk (section 13 of the ILPR). Counterintuitively, the use of a “timber legality framework” allows companies to use the private forest certification systems Forest Stewardship Council (FSC) and Programme for the Endorsement of Forest Certification (PEFC).¹⁴ However, these systems do not actually ensure legality of timber. Another form of due diligence described under the ILPR makes use of country specific guidelines, developed by the Australian government and co-endorsed by each source country government.¹⁵ Identifying and assessing risks is the final approach, which must be taken when not using a private certification or country specific guideline, or when the risk assessment under one of those two approaches identifies a risk that the timber or product is illegal.

Regardless of which type of system is deployed, importers must first gather as much information about the timber or wood product as is “reasonably practicable.”¹⁶ The information includes, but is not limited to:

- a description of the product and the common name, genus, or species from which it is produced;
- where the timber was harvested, down to forest harvesting unit level;
- supplier and shipment details and purchase documentation;
- evidence that the product has not been illegally logged, which may include:
 - that the species is legally allowed to be logged in the region of harvest;
 - that harvesting requirements have been met;
 - that the harvester held a legal right to harvest;
 - that required payments had been made; and
- the documentation required by the relevant timber legality framework or country specific guideline, where applicable.

Importers deploying “timber legality framework” or country specific guideline due diligence systems must still “consider any other information the importer knows, or ought reasonably to know, that may indicate whether the product is, is made from, or includes, illegally logged timber.”¹⁷ Failure to consider such information is in itself an offence.¹⁸

When an importer using a “timber legality framework” or a country specific guideline “is unable, by the use of those procedures, to identify no risk or a low risk that the regulated timber product is, is made from, or includes, illegally logged timber,” they must instead use the process described under section 13 of the ILPR to conduct due diligence,¹⁹ which includes detailed procedures for identifying and assessing risk (Regulated Risk Factors Approach). **It is likely that importers sourcing from the countries described in this report, which have high risks of illegality, will need to take this approach to due diligence, particularly for species for which risks are present, or potentially breach ILPA's due diligence requirements.**

Identifying and assessing risk

Importers who are following the process described under section 13 of the ILPR must combine²⁰ the information already gathered with information about:

- “the prevalence of the following:
 - illegal logging in general in the area in which the timber in the product is harvested;
 - illegal harvesting in the area of the species of tree from which the timber in the product is derived; and
 - armed conflict in that area;
- the complexity of the product; and
- any other information the importer knows, or ought reasonably to know, that may indicate whether the product is, is made from, or includes, illegally logged timber.”²¹

After gathering this information, importers need to identify and assess the risk that a product is, is made from, or includes, illegally logged timber.²² The importer must produce a written record of this process²³ and both it and the conclusions made must be reasonable.²⁴

When risks are identified (and the risk is not a low risk), the importer needs to mitigate these before a product can be imported.²⁵ If risks cannot be mitigated, the product should not be imported.²⁶ Risk mitigation must be “adequate and proportionate” and the importer must produce a written record of the process.²⁷ Steps that an importer may take when conducting risk mitigation may include gathering further information about the product and reassessing risk or seeking alternative supply.

Importers must provide information to the government regarding their due diligence system and compliance with due diligence requirements, upon request from a recognized authority.²⁸

Due diligence for processors of domestic logs

The ILPA also requires processors of raw domestic logs to exercise due diligence.²⁹ Although the steps are the same as those for imported timber or timber products (information gathering, risk assessment, and risk mitigation), the contents thereof reflect the differences in obtaining information for timber harvested in Australia compared to the complexity of information for imported processed timber products from another country.

Processors must also provide information to the government regarding their due diligence system and compliance with the due diligence requirements, upon request from a recognized authority.³⁰

Penalties

The ILPA provides for different penalties according to the type of offense. Importation of illegally logged timber or products which contain it can result in up to five years of prison and/or 500 penalty units (\$111,000)³¹ as well as forfeiture of the timber or timber products.³²

Violations of the ILPA due diligence requirements result in fines of up to 300 penalty units (\$66,600) and customs declaration violations carry fines of up to 100 penalty units (\$22,200), with only civil penalties in these cases.³³

In cases of non-compliance, the ILPA also allows the government to issue infringement notices, which can result in fines, without having to undertake a full prosecution.³⁴ The Department of Agriculture, Fisheries and Forestry (DAFF) can issue fines of \$2,500 for individuals and \$12,500 for corporations, per offense.³⁵

Implementation and enforcement

Although passed in 2012, a majority of the ILPA’s legal obligations did not enter into force until late 2014, as part of a transition period in which importers and processors were not required to undertake due diligence. In June 2014, a “soft-start” compliance period of 18 months was announced during which due diligence was expected, but penalties would not be applied to businesses not meeting these requirements. This soft-start period was extended a number of times until finally coming to a close on January 1, 2018.³⁶ Prior to this date, the government proposed several changes in a 2016 Regulation Impact Statement (RIS)³⁷ that many other governments and non-governmental organizations believed would have weakened the law.³⁸

Among these proposed changes, the Australian government adopted a “deemed to comply” arrangement for PEFC and FSC-certified products, which would have relieved importers of their due diligence duties for certified products.³⁹ This arrangement was removed from the law (“disallowed”) by the Australian Parliament in February 2018,⁴⁰ citing concerns that the change could be used to circumvent the ILPA prohibition on importing illegally sourced timber.⁴¹ The 2021 sunset review of the ILPA⁴² considered similar “deemed to comply” provisions for private certification, which could undermine the due diligence provisions, if pursued.

During the soft-start compliance period, the Australian government did not impose penalties, but did audit both importers and domestic producers, finding non-compliance with due diligence requirements in 60 percent of cases.⁴³ Subsequently, in 2019 DAWE (Department of Agriculture, Water and the Environment, the predecessor to DAFF) concluded that “there is limited concrete data available to measure the impact of the Act in reducing Australia’s exposure to illegal timber,”⁴⁴ due in part to the four-year delay in enforcement. However, DAWE identified shifts in purchasing patterns to less “risky” supply lines through their compliance assessments, and that with full implementation and enforcement of the law it was anticipated that due diligence would continue to improve and reduce imports of illegal timber.⁴⁵

ILPA enforcement actions

Due to the decision to extend the soft-start compliance period, prosecutions for due diligence violations under the ILPA were not possible until 2018.

The first and only publicly known prosecution resulted in a \$12,600 fine following an importer’s continued non-compliance with due diligence requirements.⁴⁶ In March 2023, DAFF announced fines of over \$186,000 for 14 furniture importers for failing to meet due diligence requirements.⁴⁷ Additional details on the nature of the violation are not public.

Comparison with the EUTR

Of the other timber legality legislations developed internationally, the ILPA is most similar to the EUTR, as both include prohibition and due diligence provisions. While the ILPA regulates the acts of importation and processing, and the EUTR regulates the act of “placing timber on the market,” both include domestic and imported timber within their scope.

The EUTR entered into force in 2013 and has seen broad implementation and enforcement actions by EU Member States. Designated Competent Authorities are responsible for verifying that those placing timber on the EU market (“Operators” under the EUTR parlance) are complying with their obligations under EUTR and undertake checks on both domestic and importing operators. Competent Authorities often follow a risk-based approach in developing verification plans and conducting checks.

Member States are surveyed on an annual basis regarding the number of operator, trader, and monitoring organization checks they have undertaken, as well as the number of substantiated concerns (third party reports of suspected non-compliance) they have received and acted upon.⁴⁸

EUTR Member States are required to make available to the public information on the application of the regulation during the previous calendar year. Twenty-eight out of thirty submitted this information⁴⁹ to the European Commission in April 2021 (Iceland and Liechtenstein did not provide or publish information). In total, 9343 Operators were checked in 2020, of which

987 (10.56 percent) were found to be non-compliant. Significantly more Operators placing timber from domestic sources were checked (7865 compared to 1478 Operators importing timber products), however the rate of non-compliance found in domestic checks (4.8 percent) was much lower than for imported timber (41 percent). Given the disparity in the number of checks between the two different types of supply, it is difficult to assess whether this is due to higher levels of non-compliance by importers or of more targeted checks by Competent Authorities. Of note, enforcement levels did not drop significantly as a result of the Covid-19 pandemic: in the most recent Bi-annual Report,⁵⁰ covering enforcement across 2017 and 2018, 21,256 Operator checks were conducted and the 2020 report included 9,340 checks on Operators during one year.⁵¹

In 2020, Competent Authorities issued⁵² 534 notices of remedial action, 4 temporary seizures, 13 temporary suspensions of the authority to trade/injunctions, 1 lifting of the suspensive effect of a complaint/appeal, 15 other interim measures, 338 administrative and 1 criminal financial penalties, 9 permanent seizures, 17 suspensions of the authority to trade as a penalty, and 52 other penalties. Eleven Member States reported court cases; 20 were decided in favor of the authorities, 3 in favor of the operator, 2 had a different outcome, and 28 were still ongoing.

Scientific testing was used in 90 checks; 132 checks were conducted as the result of receiving substantiated concerns from third parties. The investigative results of submissions of substantiated concerns are not published in the annual reports, however, in the 2017-2019 Bi-annual report,⁵³ 98 percent of the 289 Operators

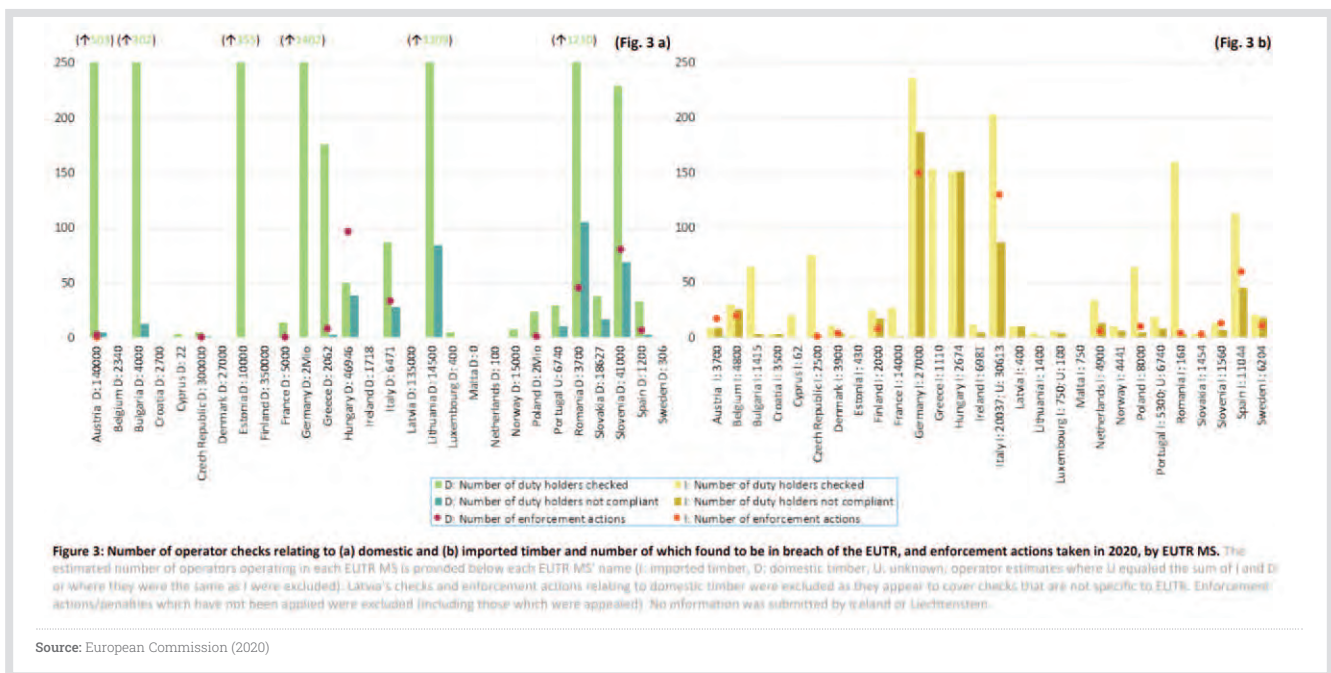


Figure 1
Operator checks and enforcement actions taken in 2020, by EUTR Member States



Bornean orangutans are one of many species threatened by illegal logging

Requiring companies to carry out due diligence also helps reduce illegal logging and improve supply chain transparency

identified in substantiated concerns were reported checked, with enforcement actions implemented against 73 (some checks were ongoing at the time of reporting). A further 188 Traders were identified in substantiated concerns, all of which were checked and 165 penalties applied.

EUTR Competent Authorities have developed guidelines both for those submitting substantiated concerns, and for Competent Authorities receiving these, and some Member States include Competent Authority obligations for responding to these in national legislation.⁵⁴ The high rate of enforcement resulting from such investigations suggest that third party reporting provides strong intelligence, and it is recommended that the Australian government establish similar procedures to promote a similar culture of cooperation within the Australian context.

Australia does not publish figures related to the number of checks and enforcement actions undertaken. The 2018 Compliance Plan⁵⁵ appears to be the most recent document that gives any indication of the compliance actions undertaken, but neither the number of checks undertaken nor enforcement figures were published (although a 60 percent rate of non-compliance was noted across assessed importer due diligence systems). Such publication would assist in increasing transparency and accountability, and help to foster third-party relationships.

IDENTIFYING HIGH-RISK SUPPLY CHAINS

Tools for assessment and methodology

While there is no uniformly accepted tool to assess the level of risk in a given supplier country, more detailed tools to facilitate due diligence are being developed by civil society and the private sector. For example, the Preferred by Nature (formerly NEPCon) Sourcing Hub,⁵⁶ which assesses 21 specific areas of illegality relevant for the timber sector across 70 countries. The Illegal Deforestation and Associated Trade (IDAT) Risk Tool⁵⁷ developed by Forest Trends and EIA with support from the U.S. State Department currently provides risk indicators for 211 countries.

The European Commission (EC) provides guidance to EUTR-regulated entities without a prescriptive due diligence process.⁵⁸ Information and experience, including several studies carried out over the past decade or so, point to a strong correlation between the prevalence of corruption and illegal logging. The EC therefore recommends operators assess the relative risk of a supplier country through the Transparency International Corruption Perception Index (CPI) (while

also looking at other sources).⁵⁹ For the purposes of this report, a similar approach has been adopted, assuming a high-risk of exposure to illegal timber for countries with a CPI below 50 (out of 100) in 2020, with the exception of Malaysia. Malaysia has a CPI rating of 51, but also has numerous, well-documented and widespread instances of illegal logging. This approach, while simplified, allows for a transparent and uniform methodology with global coverage, based on widely used indicators, to assess risk.⁶⁰

In an effort to provide further sources of information, ratings provided by other indexes are also included for each country chapter (where available). This is a similar approach to that applied in the UNEP-WCMC (UN Environment Programme World Conservation Monitoring Centre) EUTR country profiles,⁶¹ which use the CPI, alongside the Rule of Law (RoL, ratings between 0 and 1, higher numbers indicate a perceived greater adherence to the rule of law),⁶² Fragile States (maximum possible rating of 120, higher numbers indicate higher perceived levels of fragility),⁶³ and Freedom in the World (FitW, maximum rating of 100, higher numbers indicate perceived greater levels of freedom)⁶⁴ indexes. Ratings from both the ILAT⁶⁵ and Preferred By Nature Timber Sourcing Hub are also provided in this report.

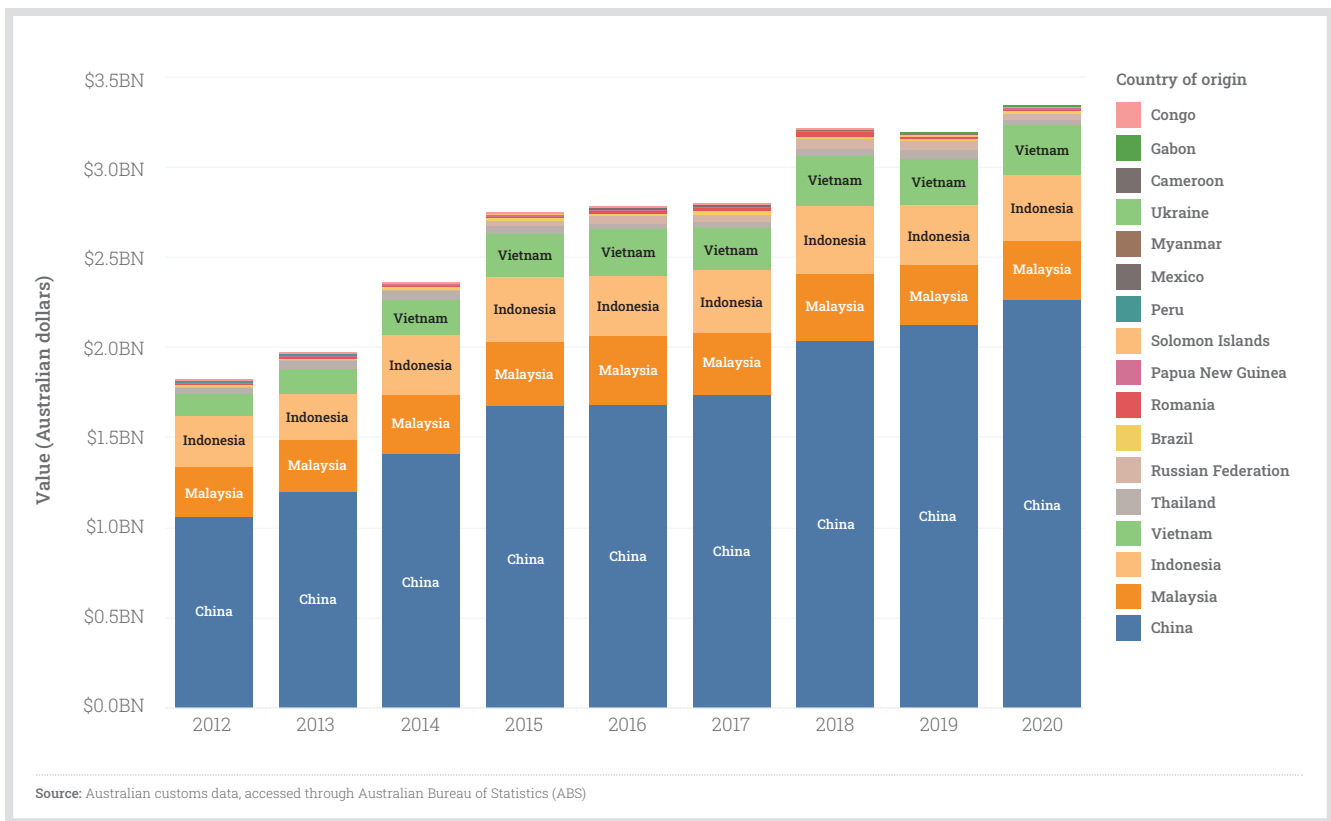


Figure 2
Australian imports from high-risk countries included in the report

Ratings for each have been coded as per the below:

Key:

- LOWEST RISK**
Risk rating assigned in the lowest possible quartile
- LOWER RISK**
Risk rating assigned in the second lowest possible quartile
- HIGHER RISK**
Risk rating assigned in the second highest possible quartile
- HIGHEST RISK**
Risk rating assigned in the highest possible quartile

No tool, however, replaces actual due diligence. Importers need to know the origin of their sources in order to comply with due diligence requirements and to ensure their timber is not a product of forest crime.

International trade in timber and timber products has been identified via Harmonized System (HS) tariff nomenclature. Where it is available, data purchased from the Australian Bureau of Statistics has been preferred when calculating scale of trade. Data from the Chinese and Vietnamese customs departments, and from UN Comtrade (compiled via the World Integrated Trade Solution interface), is also used throughout this report. As shipments declared under different HS codes are measured differently (for example, weight vs. volume), declared customs values have been used in this report to demonstrate the scale of trade, with all HS code reporting requiring that this be declared. Unless otherwise stated, all dollar values are expressed in Australian dollars.

Indirect supply chains

Today, timber is routinely traded via multiple countries, and global supply chains have become increasingly complex. For such indirect supply chains, risk indicators related to the last country a product is manufactured (or the last country of export before arrival in Australia) are not the most relevant. As the ILPA concerns itself with violation of laws in the country where the timber was harvested, not where it was processed or traded, it is the risk that illegal harvest has occurred that importers must prioritize (although risks such as documentation fraud and the prevalence of illegal wood in processor countries should still be assessed).

Regardless of which type of due diligence system an importer deploys in assessing risk, they must gather as much information about their product as is “reasonably practicable.” Information gathered should include the country, region, and forest harvesting unit from which the timber was harvested (failure to collect as much

information as is “reasonably practicable” is itself an offense).⁶⁶ In many instances, this information is not possible to obtain for products that have been processed in a third country, which the importer should take into account when deciding which form of due diligence to apply, or whether to import the product.

Importers whose supply chains involve multiple countries are not permitted to use a country specific guideline-based due diligence system, as these can only be applied when “importing products that have been wholly harvested in and directly shipped from a country with a Country Specific Guideline.”⁶⁷ Instead, importers of products with more complex supply chains must rely upon either certification under the “timber legality framework” process or assess against regulated risk factors.

Both the supplier and the product itself must be certified if importers choose to identify and assess risk against a private certification scheme designated as a “timber legality framework.”⁶⁸ A legitimate certified supplier will be able to provide an importer with information about the point of harvest for a certified product, as this is the most basic information that a certifying body will require. If an importer’s supplier is unable or unwilling to provide an importer point of harvest information, then an importer should insist, as they are unlikely to meet the requirements of a “timber legality framework” approach, which includes the assessment of information that the importer “ought reasonably to know.” Without this information, an importer assigning a low risk to such a product may breach multiple sections of the ILPR, particularly for a product type or species where risks of illegality are present.

An importer of a certified product where the point of harvest cannot be identified will likely be unable to reasonably assign a low risk and will have to instead assess risk under an identifying and assessing risk approach.⁶⁹ Any importer of a non-certified product with multiple countries in its supply chain will likewise be required to take this approach. Due diligence systems based upon identifying and assessing risk are described in the ILPR and specifically require that an importer know the area from which the timber was harvested.⁷⁰

AUSTRALIAN IMPORTS FROM HIGH-RISK SOURCES

The largest exporters of tropical hardwood to Australia are located in East Asia. Australia also imports timber products from high-risk countries in Eastern Europe and Latin America. While direct imports from Africa are fairly negligible, timber from high risk regions in Africa is likely reaching the Australian market via third country processing hubs such as China and Vietnam.

It is important to note that, even if the amounts of timber from a certain region appear relatively small in the overall statistics, removing illegal timber from markets in consumer countries can have significant impacts by reducing illegal logging in the source countries.

To ensure consistency, trade flows are usually assessed by value throughout this report. Some caveats need to be considered when assessing this approach though, as viewing imports by value can result in a very different order of relative importance than sorting by volume or weight. Finished products such as furniture have a higher value, but represent a smaller volume of wood than logs, sawnwood, and even plywood. However, because not all timber products are measured in the same units – plywood is measured in cubic meters, veneer and flooring are measured in square meters, and furniture is usually measured in items – the only convenient and consistent measure for comparing across all categories is value.

While trade information from the 2020 calendar year has been included in this report, where imports for a single year are assessed, 2019 data has been used. Although Australia’s overall 2020 import of regulated products remained fairly consistent with what might have been expected, there has been some decrease in the trade reported under individual HS codes and/or from specific countries. These may or may not be attributable to the Covid-19 pandemic, and, as such, 2019 trade presents a better baseline for analysis.

Removing illegal timber from markets in consumer countries can have significant impacts by reducing illegal logging in the source countries

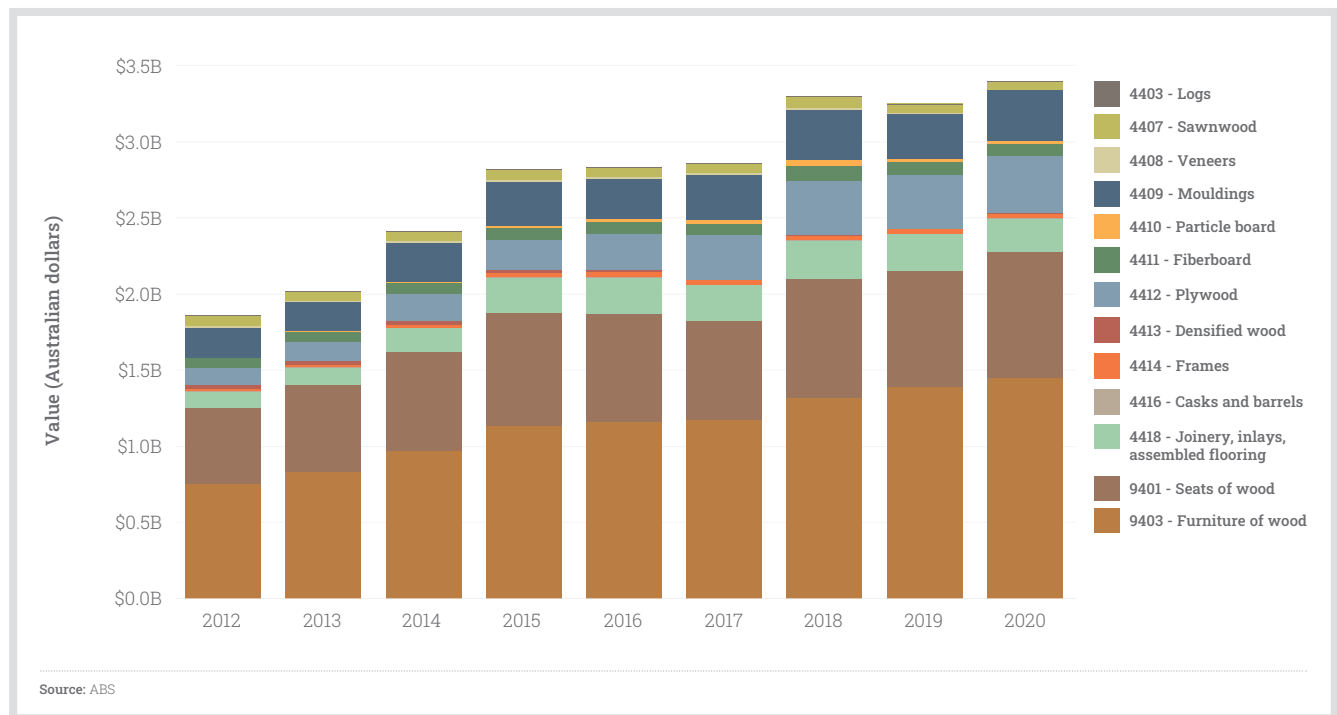


Figure 3
High-risk Australian imports by product type

CHINA

42 CPI rating

39.71 ILAT rating

0.48 RoL rating

69.9 Fragile States rating

77 Sourcing Hub rating

9 FitW rating

The world's largest importer of illegal and high-risk timber, China is also Australia's largest supplier of imported wood products, with imports doubling from \$274 million to \$518 million between 2014 to 2019.

Two very distinct types of risk exist for products sourced from China – those from domestically grown logs, for which a low to moderate risk exists, and those produced from imported logs, for which unspecified to high risks of illegality are present. With China's manufacturing sector's demand for timber having dramatically outstripped domestic supply, it is products produced from imported timber that are the most relevant to Australian supply chains.

In previous investigations related to timber processing in China, EIA has consistently found that traceability and knowledge about the place of harvest of the raw materials ends at the point of import. Chinese importers sell imported logs and sawnwood to thousands of mills, veneer plants and other manufacturers, often without proper origin documentation. Once the timber is further processed and mixed together with timber from different species and origins, the supply chain is completely broken and the origin of the timber is lost. This "black box" phenomenon has been confirmed by every trader and manufacturer spoken to during EIA investigations in the Chinese market over the past several years. This was further confirmed by a 2019 investigation from Chinese media outlet Sixth Tone that showed that major Chinese plywood manufacturers were not aware of the origin of the wood used for their veneer.⁷¹

The origin of a wood product is the foundational block of any due diligence system, without which successful risk identification (and mitigation) is impossible. Without knowledge of the country of origin, let alone the unit of harvest, risk becomes unquantifiable, which is not equivalent to low-risk. As such, compliance with the ILPA for importers of products manufactured in China becomes extremely difficult.

A potential solution for Australian importers conducting due diligence (and for investigators looking for product types to prioritize) is to focus instead upon species as an indicator of risk. Chinese products produced from lower risk species could potentially be ascribed a low level of risk, if the claimed low-risk species can be confirmed.⁷² However, products containing tropical hardwoods, likely sourced from high-risk regions, should in turn be

considered high-risk, and, unless successful mitigation can be applied, alternative supply should be sought.

Importers should also be aware that, in order to "meet" legality requirements of certain import markets, such as the US or Australia, fraudulent paperwork showing some form of legality or sustainability is easily obtained in China (including fake FSC certification).⁷³

An analysis of the risks associated with each country supplying logs and sawn timber to China (and potentially onward to the Australian market) falls outside of the scope of this report. However, each high-risk country that supplies significant volumes to the Australian market also supplies to China, and the same issues facing direct importers are directly applicable to those sourcing products manufactured in China.

Chinese sourcing

China banned the commercial harvest of its natural forests in 2014,⁷⁴ which, alongside increased demand for timber resources from its manufacturing sector, led to a dramatic increase in timber imports. China now relies upon imports for over half of its timber⁷⁵ and has become the world's largest importer of timber.

In 2019, China declared imports worth approximately U.S. \$22 billion under HS code chapter 44. Imports declared under HS codes 4403 (logs) and 4407 (sawn timber) represent raw timber materials that have had minimal processing – so are most likely to have been imported directly from the country of harvest. Nearly 100 million cubic meters of wood were imported under these two codes in 2019.⁷⁶ Of these imports, 44 percent were from countries with a CPI of less than 50 (considered an indicator of high risk). Russia was China's single largest supplier of raw timber materials, supplying China with over a quarter, or 25 million cubic meters, of the declared import (by volume).

Tropical logs are overwhelmingly sourced from countries with well-documented risks of illegality,⁷⁷ with supply dominated by Papua New Guinea and the Solomon Islands.

A similar situation is found when viewing Chinese imports of sheets for veneer (as declared under HS code 4408), with supply dominated by countries with low CPI ratings and well documented risks of illegality. In 2019,

China imported nearly a million tonnes of sheets for veneer, with over 95 percent sourced from just seven countries – Vietnam, Russia, Thailand, Malaysia, Cameroon, Gabon, and Ukraine.⁷⁸ Of these, only Malaysia (CPI 51) has a CPI rating over 40, but it has well-documented and widespread risks of illegality associated with its timber.

Trade to Australia

Macro-level analysis of customs data based on HS code does not provide sufficient species information to inform enforcement priorities. However, it does provide some indication of product type, which can still be of use in identifying high volume, potentially high-risk (and therefore potentially non-compliant) categories.

Timber products

The largest timber categories are plywood (HS 4412); fiberboard, other wood articles (HS 4421); and flooring (HS 4409); followed by joinery (HS 4418) and frames (HS 4414).

Chinese plywood supply chains are often complex, involving numerous actors (such complexity is recognised as one of the five key risk indicators under the EUTR) where changes in custody over materials provide opportunities for documentation to be misplaced or falsified, and for non-legal material to be mixed into legal supply chains.

The world's largest importer of illegal and high-risk timber, China is also Australia's largest supplier of imported wood products

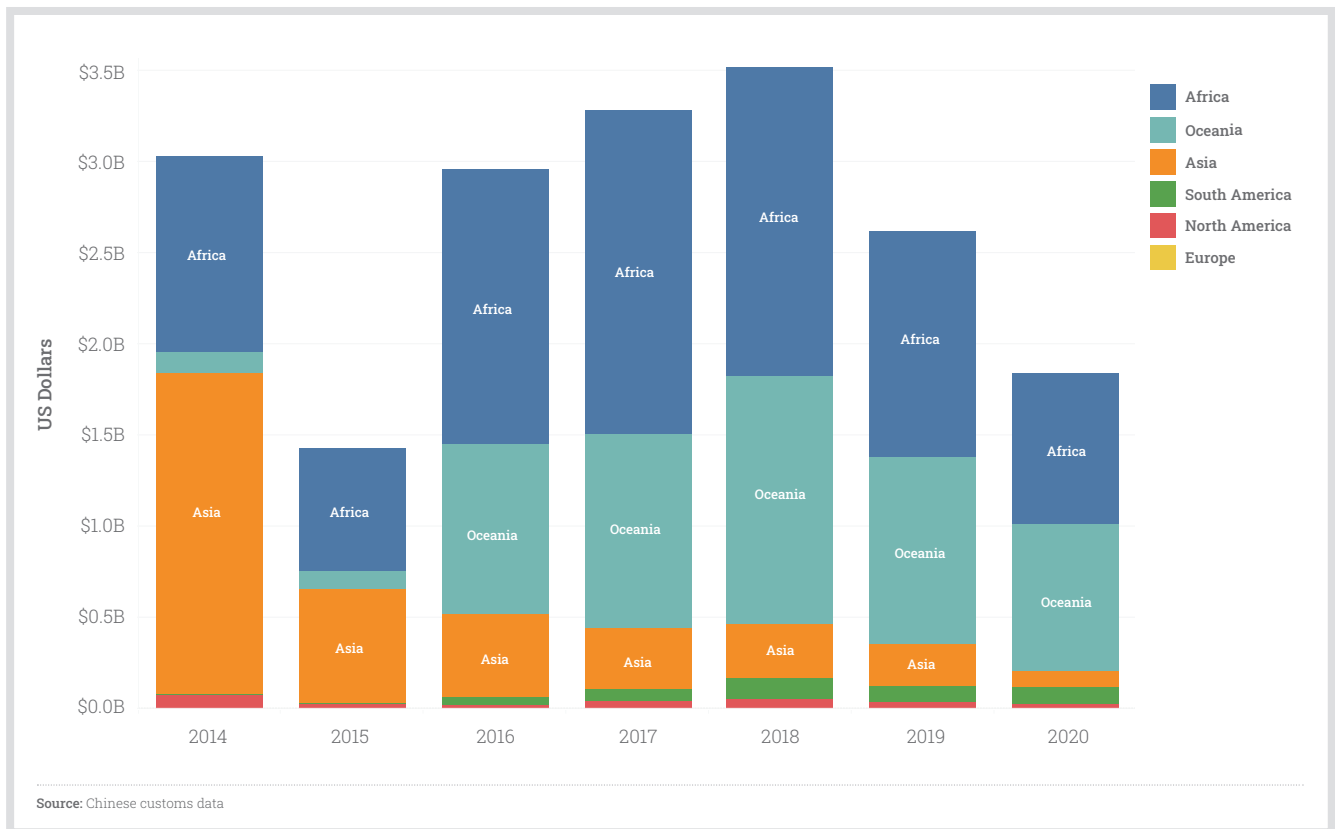


Figure 4
Regions from which China sources tropical logs (TDM)

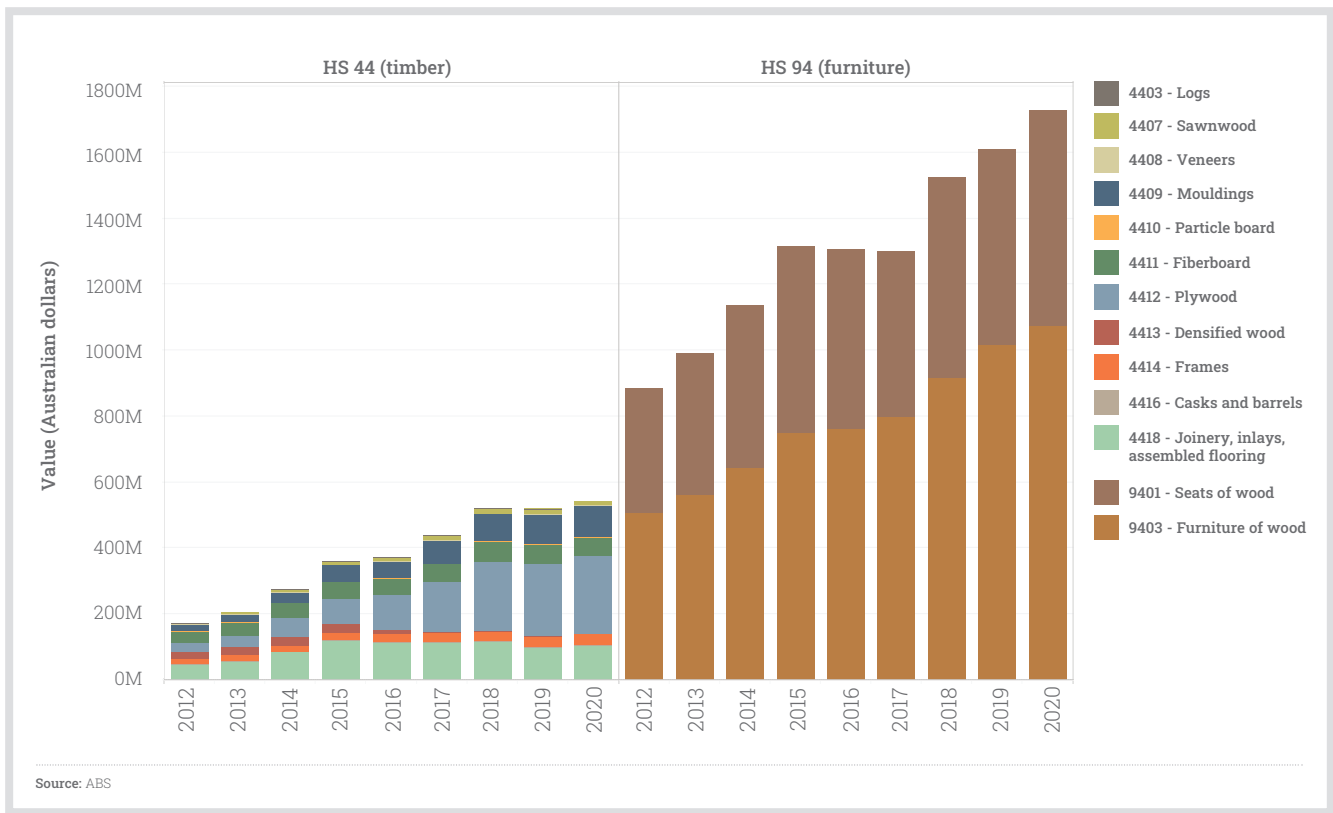


Figure 5
Australian HS 44 and 94 imports from China

Chinese-produced plywood is inherently at risk of containing illegal timber, and such risks are greatly increased when plywood is produced from tropical timber. The vast majority of China's tropical logs are sourced from Papua New Guinea and the Solomon Islands, both of which are experiencing rampant deforestation and routine breaches of forestry laws.⁷⁹

All imports under HS 441231 (plywood containing at least one outer ply of tropical wood) should be considered "very high-risk" and likely non-compliant with the ILPA. Australian customs data gives 2.5 percent of all plywood imports from China to Australia declared under HS 441231, while Chinese customs data records 10 percent of all Chinese plywood exports to Australia as declared under this code.⁸⁰

Given the high risks associated with these products, the relatively high volumes, and the potential to draw upon the experience of EU enforcement agencies, it is recommended that imports under HS code 441231 form a priority for enforcement under ILPA.

Importers of Chinese plywood that fall under other HS codes will have varying degrees of risk, dependent upon species. While logs and timber sourced from temperate countries may be generally considered lower risk, Eastern European countries (especially Russia, China's largest supplier of sawnwood and second-largest

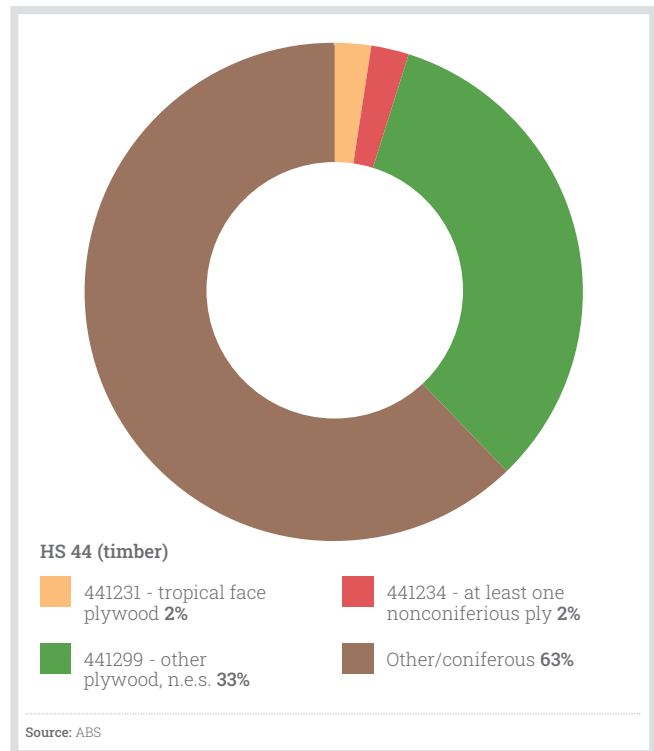


Figure 6
Tropical and unspecified plywood in China's exports to Australia 2012-2020 (by value)



A trader at a log yard in Point Noire, Republic of the Congo

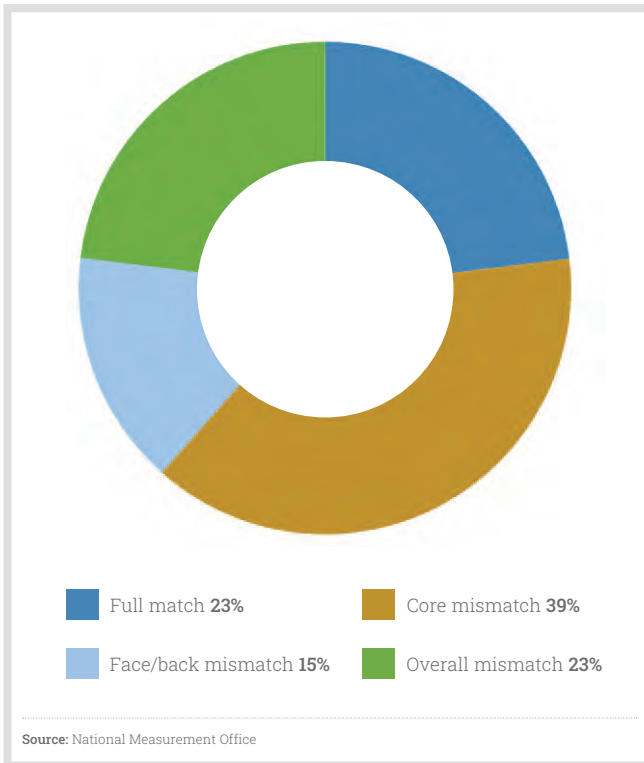


Figure 7
Test results versus species declaration

of logs) are an important exception to this. Mongolian oak (*Quercus mongolica*, potentially imported as plywood under HS codes such as 441233) originating from Russia, where it is listed on CITES Appendix III, may be falsely declared as being of Chinese origin.

However, even attempting to assign low risk based upon temperate species for Chinese plywood may prove ineffective. The UK's EUTR Competent Authority, the National Measurement Office (NMO), conducted species testing on Chinese plywood in 2015 and found that 9 of the 13 samples tested did not match the species declared.⁸¹

An additional risk for Chinese plywood is that undeclared or falsely declared timber may be used in the inner plies, for the core of the panel. Plywood HS codes generally refer to the exterior plies, but any importer conducting due diligence must identify the species (and associated risks) of the interior plies also. The British plywood investigation found that 8 of the 13 tested Chinese plywoods had core species that did not match what the importing company had declared, and included species likely to be of tropical origin (e.g., red meranti, medang, kedondong).

Given risks of species misreporting, importers should consider species testing of exterior and interior plies as part of their due diligence.

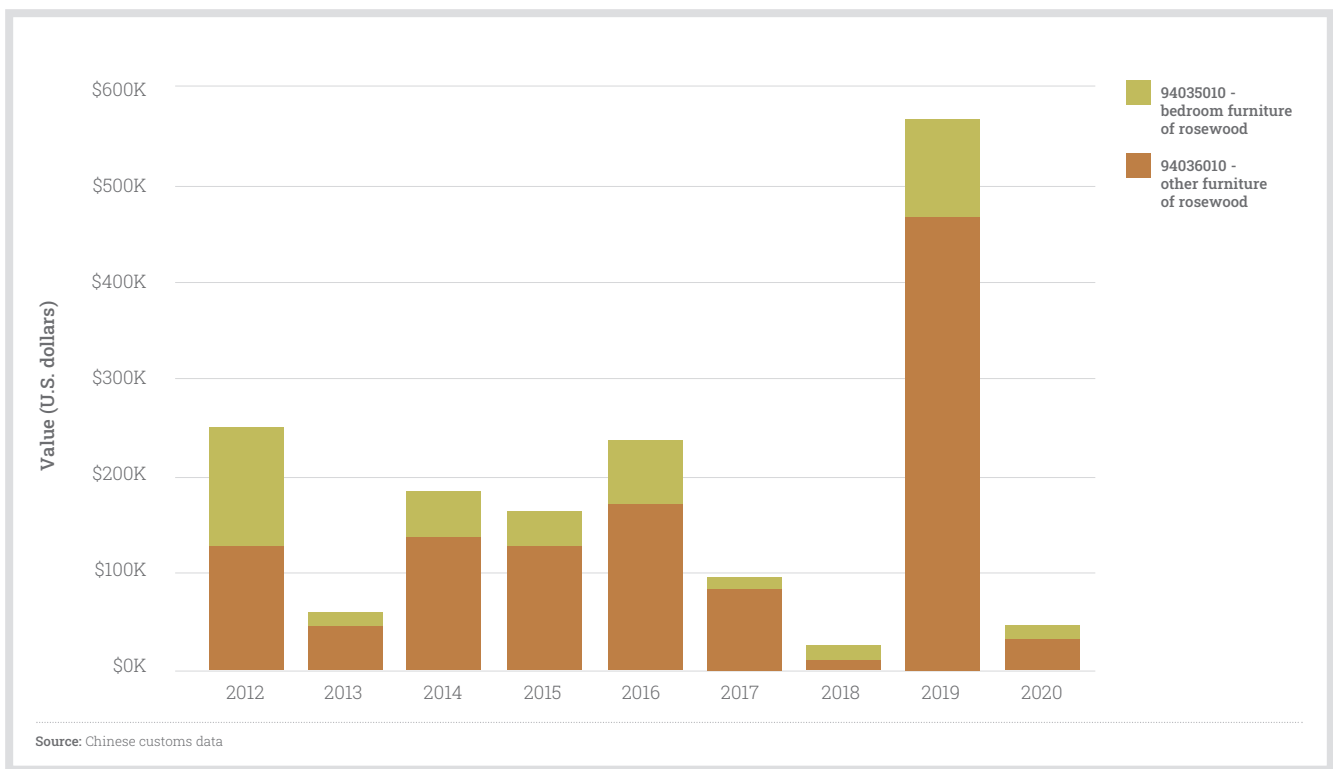


Figure 8
Chinese exports of rosewood furniture to Australia

Flooring

Prior to 2017, HS codes for wooden flooring were split into only bamboo (HS 440921), coniferous (HS 440910), and other non-coniferous (HS 440929). However, from 2017 onward, flooring containing tropical species was given a separate HS code, 440922. As above, all Chinese imports that contain tropical species should be considered high-risk, with importers potentially in breach of ILPA.

Papua New Guinea's most commonly exported species is taun (*Pometia pinnata*), accounting for 20 percent of exports (by volume) in 2019. In 2017, an investigation into the use of Papua New Guinean taun for flooring manufactured in China and exported to the U.S. found that around 20 percent of the taun used in China came from forest clearance permits that are very likely illegal, and that all taun sourced from PNG had a high risk of illegality.⁸²

Non-tropical hardwood flooring manufactured in China can also contain high risks of illegality. For example, U.S. firm Lumber Liquidators was fined over U.S. \$13 million in 2016 for its import of millions of square feet of illegally sourced hardwood flooring, produced by Chinese manufacturers using timber sourced in the Russian Far East.⁸³

Furniture and seats

Furniture, like plywood, is often the product of a complex supply chain that may include many separate factories, and components produced from different species and/or different countries of origin. The legality and origin of each of the component species is required under ILPA, but may be falsified or unknown. Additionally, parts of furniture may be invisible or obscured when fully assembled (e.g., concealed in upholstery, linings of drawers), making it harder to verify manufacturer claims.

Trade codes for furniture and seats do not specify the species used in the furniture, with one exception. Chinese customs data does specify furniture made with "hongmu," which is a category specific to China for certain rosewoods. The 29 species of wood that are classified as hongmu⁸⁴ all grow in tropical regions of the world, and nearly all are extremely high-risk, with 17 listed on Appendix I or II of CITES.⁸⁵

Chinese customs data only lists minimal historical shipments of hongmu furniture from Australia to China. However, in 2019 the value of rosewood furniture exports increased dramatically, nearly equaling the combined value of the previous four years.

Given the high risks of illegality, the relatively small number of Australian importers involved, and the rapid growth of the trade, hongmu imports could provide for an excellent ILPA enforcement project in Australia.

VIETNAM

36 CPI rating

NA ILAT rating

0.49 RoL rating

63.9 Fragile States rating

31 Sourcing Hub rating

19 FitW rating

Vietnam's export of wood products has experienced rapid growth, rising from a value of U.S. \$1 billion in 2004 to over U.S. \$10 billion in 2019.⁸⁶ While Vietnam does have around 4.3 million hectares of domestic plantation (mainly acacia, eucalyptus, and rubber), and produces approximately 28 million cubic meters of wood each year, a majority of this (estimated at 26 million cubic meters) is converted to wood chips, most of which is then sent to China and Japan where it is used to produce paper.

Exports of wood chips represent only 16 percent of Vietnam's wood product exports, and Vietnam imports significant volumes of wood to meet the demands of other aspects of its wood processing and export industry. While trade in wood chips to Australia does exist, it represents a relatively small proportion of total trade and Vietnam, like China, should generally be viewed as a processing (rather than production) country. Unfortunately, the same issues regarding lack of country of origin transparency, high instances of corruption, documentation fraud, and risks of illegally harvested timber entering supply chains for most ILPA-regulated products apply as equally to Vietnam as they do China.⁸⁷

Vietnamese sourcing

In 2019, Vietnam imported U.S. \$2.2 billion worth of wood materials, including 2.6 million cubic meters of sawnwood worth approximately U.S. \$928 million, 2.3 million cubic meters of logs worth approximately U.S. \$650 million, and about U.S. \$660 million worth of wood panels.⁸⁸ Nearly half of Vietnam's imported wood materials originate from high-risk countries, and

previous studies have estimated that 21 percent of Vietnam's total import of sawnwood and 9 percent of imported logs contain illegal timber.⁸⁹

With high instances of illegality in many of the countries Vietnam sources logs and timber from, and a lack of supply chain transparency, Australian importers of products produced in Vietnam are likely to face similar issues to those with Chinese supply chains. As such, a similar species based approach to risk assessment is also recommended for Vietnam.

Softwood species can generally be considered lower risk, and temperate hardwoods lower risk than tropical hardwoods. The U.S., for example, is a relatively low-risk source country that has been the largest supplier of hardwood to Vietnam for the past decade, with the trade primarily consisting of oak, walnut, ash, poplar, and alder (these species represent imports worth U.S. \$275 million from the total U.S. \$350 million 2019 Vietnamese import of U.S. logs and timber). Australian importers of products produced from these species are potentially at lower risk of exposure to illegally harvested products than those importing products containing tropical hardwood.

Vietnam's main sources of high-risk logs and timber are Cameroon (1,604,871 cubic meters), Papua New Guinea (633,971 cubic meters), Central African Republic (378,634 cubic meters), Laos (317,584 cubic meters), Cambodia (1,049,700 cubic meters), Malaysia (525,078 cubic meters), Nigeria (356,988 cubic meters), Brazil (742,765 cubic meters), Congo (505,029 cubic meters), and Ghana (321,154 cubic meters).

Vietnam's Key Export Wood Products (value in thousands U.S. dollars)

Products	2016	2017	2018	2019
Wood chips	987	1,073	1,340	1,687
Logs and timbers	250	172	64	49
Wood panels	407	506	790	848
Furniture	4,540	5,230	5,366	6,836
Other wooden products	615	423	916	910
Total	6,799	7,404	8,476	10,330
Growth		9%	14%	22%

Source: USDA Foreign Agricultural Service

While trade to Australia in products produced from timber domestically harvested in Vietnam is likely minimal, importers of such products should not immediately assume that these are from legal plantation sources. Although domestic logging violations per year have declined from an estimated high of 30,000 to 50,000 in 2014, risks still remain and will need to be mitigated by importers.⁹⁰

Vietnam’s Timber Legality Assurance System⁹¹ (VNTLAS – developed within the framework of EU Forest Law Enforcement, Governance and Trade Action Plan – Voluntary Partnership Agreement negotiations with the European Union) applies to domestically harvested and imported wood and wood products, and requires that Vietnamese companies importing wood and products undertake due diligence for wood and products they import from more than 100 countries.⁹² In October 2020, the Vietnamese government issued a decree⁹³ stipulating a risk-based approach to timber imports as part of the VNTLAS. Processing and manufacturing provisions were slated to enter into force in April 2022.

A joint report⁹⁴ from NGOs and Vietnamese timber associations released to coincide with the October 2020 decree concluded that “most tropical timber imported by Vietnam originates from high-risk geographic areas, from countries that do not meet criteria to be classified non-risk regions. In addition, high-risk timber species comprise a relatively high proportion of imports from these regions, especially those imported from Cambodia and Laos (both logs and sawnwood), and Papua New Guinea (sawnwood).”

Trade to Australia

Despite a significant discrepancy between the values reported by each country, the trade in ILPA-regulated products from Vietnam to Australia has climbed steadily, and is now worth more than twice the value it was a decade ago.

Expressed in terms of value, trade under HS 94 (furniture) vastly outweighs that reported under HS 44 (wood and articles of wood), and accounts for most of this growth. This reflects the highly worked, finished product nature of chapter 94 products and may not be reflective of total volumes. As such, enforcement agencies looking to identify priority product types for investigation projects should view the two chapters separately, looking instead at categories within each, and not prioritize one over the other.

While chapter 44 imports do not represent the same total dollar value, they have also steadily increased over the past decade, rising from a value of U.S. \$2.75 million in 2011 to a peak of nearly U.S. \$12 million in 2018.⁹⁵

Until 2018, HS 44 imports were dominated by 4418 and 4409. Descriptors for 4418 and 4409 are very similar, relating to joinery (including parquet flooring), and it appears that these categories are largely combined under 4418 when reported by Vietnam customs. However, in recent years, plywood (HS 4412), a high-risk product (many of the plywood associated risks discussed in the China chapter of this report are also applicable to Vietnamese supply), has emerged as dominant.

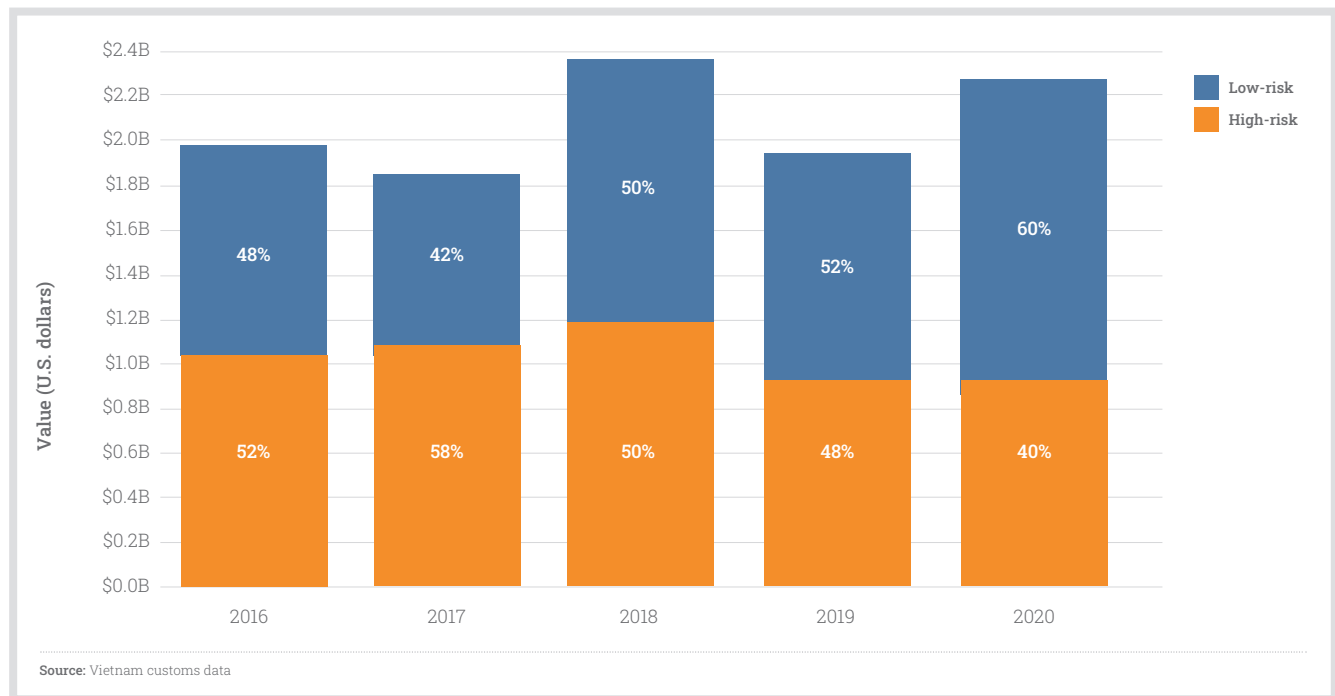


Figure 9
Vietnam log and sawnwood imports by source country risk

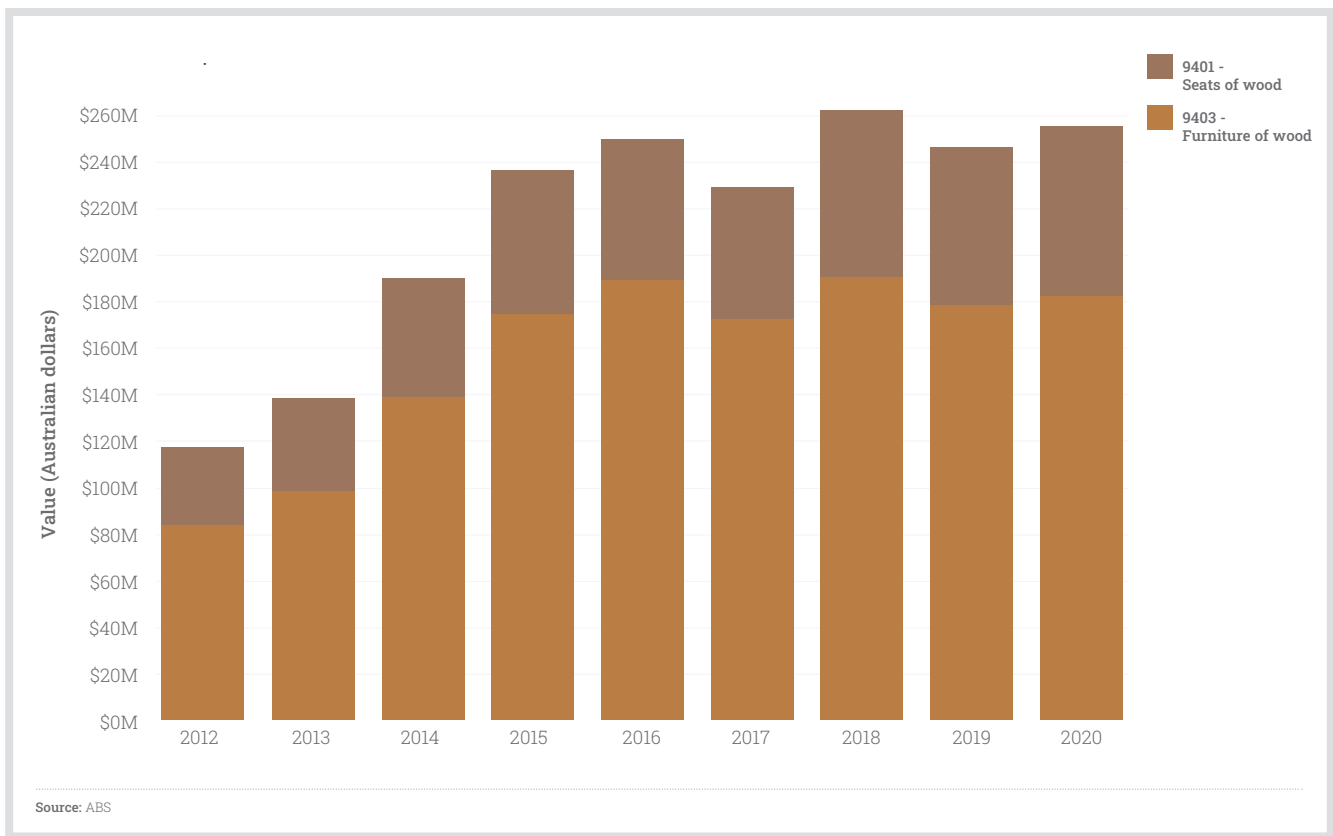


Figure 10
Australian HS 94 imports from Vietnam

Furniture

According to the Vietnam Timber and Forest Product Association (VIFOREST), domestic timber supply for high value processing is limited to approximately 2 million cubic meters per annum and is largely composed of rubber and acacia.⁹⁶ However, this represents only a small fraction of the total timber input, with the remainder coming from international sources.

As HS codes related to furniture focus on furniture type, rather than species, importers and authorities alike will need to delve deeper into individual supply chains, to identify tropical hardwoods (those most likely to have originated from a high-risk country). When taking a species centric approach to risk assessment, it may be tempting to assume that upholstered seating consists of lower risk softwood, hidden behind upholstery. However, high-risk plywoods may be present in furniture, especially where these are covered by upholstery.

All of the species dominating the U.S. supply to Vietnam are hardwoods commonly used in furniture production (although technically a hardwood, poplar is generally only used in applications where it is not visible to the naked eye). As such, determining risk on solely a hardwood or softwood basis is not sufficient, and individual species present will need to be confirmed and their origin identified.

Given the presence of high-risk species in the production of furniture destined for Australia, it is recommended that targeted investigations be conducted that identify major importers of such products.

Plywood

Over 80 percent of Australia's plywood imports in 2019 were made under HS code 4412993937, which acts as an "other" category for plywood with at least one non-coniferous outer layer. Of note, this could exclude plywood produced from lower risk U.S. species (recorded under HS 44123300 through 4412330072).

Given the high number of codes that exist under HS 4412, such a high percentage of imports falling under an "other" code is in itself noteworthy. In previous years reporting was both more diversified and specific:

- in 2018, HS 4412943026 accounted for 43.6 percent (\$314,000) of all plywood imports from Vietnam;
- in 2016, HS 4412390024 accounted for 57.1 percent (\$386,000); and
- in 2015, HS 4412999141 accounted for 45.3 percent (\$510,000) of imports in 2014 and 50.1 percent (\$564,000) in 2015; and HS 4412390023 accounted for 29.6 percent (\$333,000) of imported plywood in 2014 and 31.1 percent (\$350,000)

Given the prevalence of tropical wood in imports in previous years, it is likely that the current trade still has high levels of species with inherent risks, sourced from high-risk countries. As such, HS 4412993937 imports would be a logical choice for priority enforcement, as there is a reasonable chance that non-compliant imports are being misdeclared under this code.

Wood chips

Most wood chip imports were declared as coniferous species, which may often be considered of lower risk than many other species – however, a third of imports were declared under “other” species headings (i.e., no species recorded). While this category might be considered lower risk than the others discussed in this chapter, importers should still use genetic testing to confirm the declared species, and be wary of any associated risks (including for species harvested in Vietnam).

Issues regarding lack of country of origin transparency, high instances of corruption, documentation fraud, and risks of illegally harvested timber entering supply chains for most ILPA-regulated products apply as equally to Vietnam as they do China

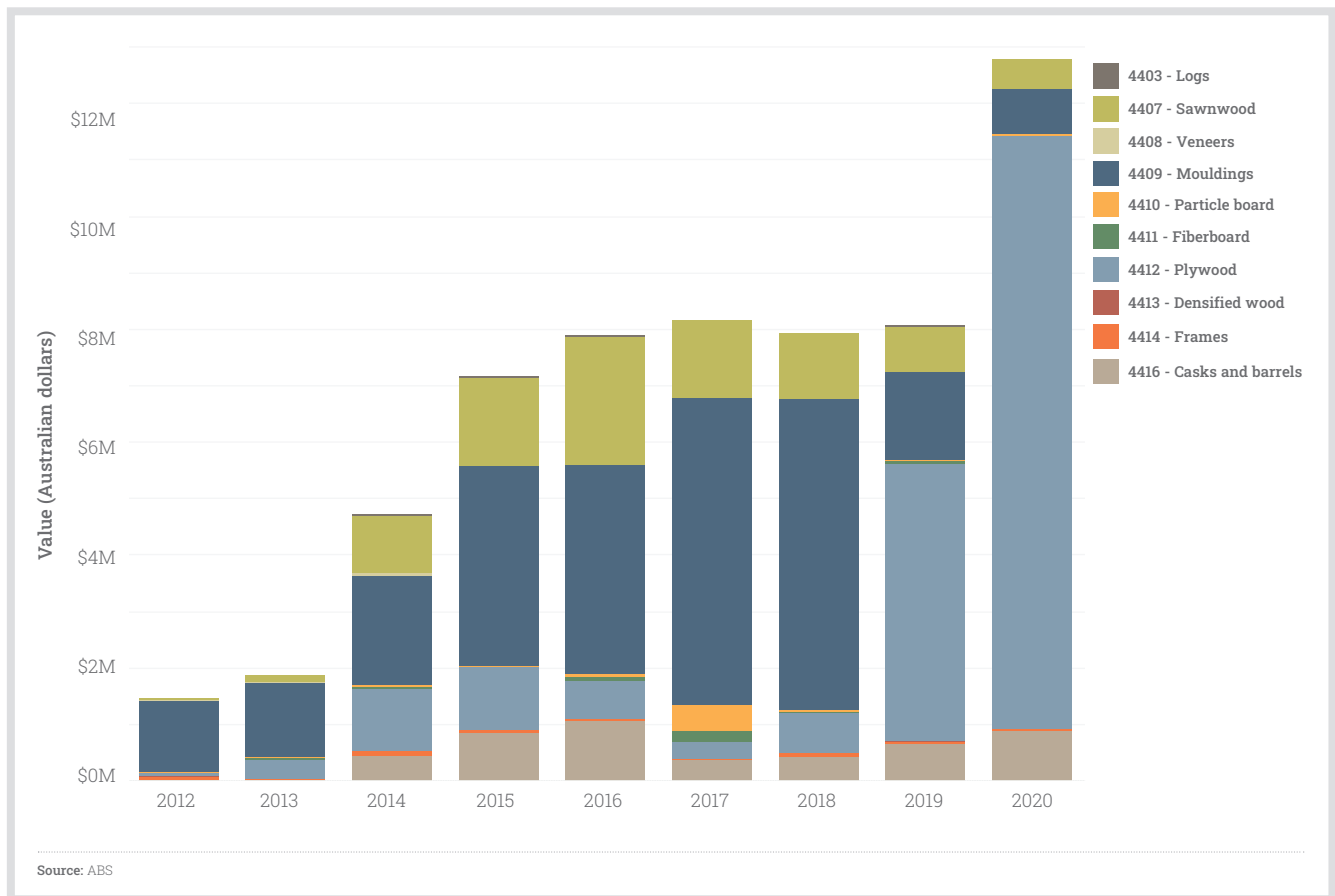


Figure 11
Australian HS 44 imports from Vietnam

INDONESIA

37 CPI rating

49.75 ILAT rating

0.53 RoL rating

67.8 Fragile States rating

NA Sourcing Hub rating

59 FitW rating

Australia's third largest supplier of timber products, Indonesia, requires exporters to obtain "V-Legal" documents through its SVLK timber legality verification system. A result of the Indonesian-EU FLEGT VPA negotiations, V-Legal certificates are intended to demonstrate proof of legal harvest, and, as the only FLEGT licensing system in place, were previously one of only three "timber legality frameworks" previously recognized under the ILPA.⁹⁷

However, a 2018 update to the ILPR removed FLEGT licenses as a recognized "timber legality framework." Importers that previously relied upon SVLK certificates to conduct due diligence are no longer in compliance with ILPR and should use a different due diligence framework prescribed in the Regulation currently in force. Experts familiar with the logging sector have pointed to significant loopholes in the system,⁹⁸ and increased uncontrolled logging activities, in particular in the Papua and Maluku Provinces. In late 2018 and early 2019, officials confiscated 422 containers of illegally harvested

timber from these regions.⁹⁹ The companies involved were certified by SVLK.

The United Nations Office on Drugs and Crime (UNODC) has recognized Indonesia as "major source for illegally produced and exported timber."¹⁰⁰ While the prevalence of illegal logging appears to have reduced from the levels experienced in the late twentieth century, corruption and weak enforcement (exacerbated by a lack of enforcement resourcing) continue to be major issues in Indonesia. The Indonesian government reported a total of 152 enforcement operations in 2015-2017, resulting in the seizure of only 8,513 cubic meters of illegal harvested logs.¹⁰¹ In contrast, 2013 timber production from illegally harvested logs was estimated at 15 million cubic meters (roundwood equivalent), accounting for half of the world's illegally logged timber.¹⁰²

While Australian imports from Indonesia can generally be viewed as direct supply chains (with Indonesia as both the country of harvest and production), Indonesia

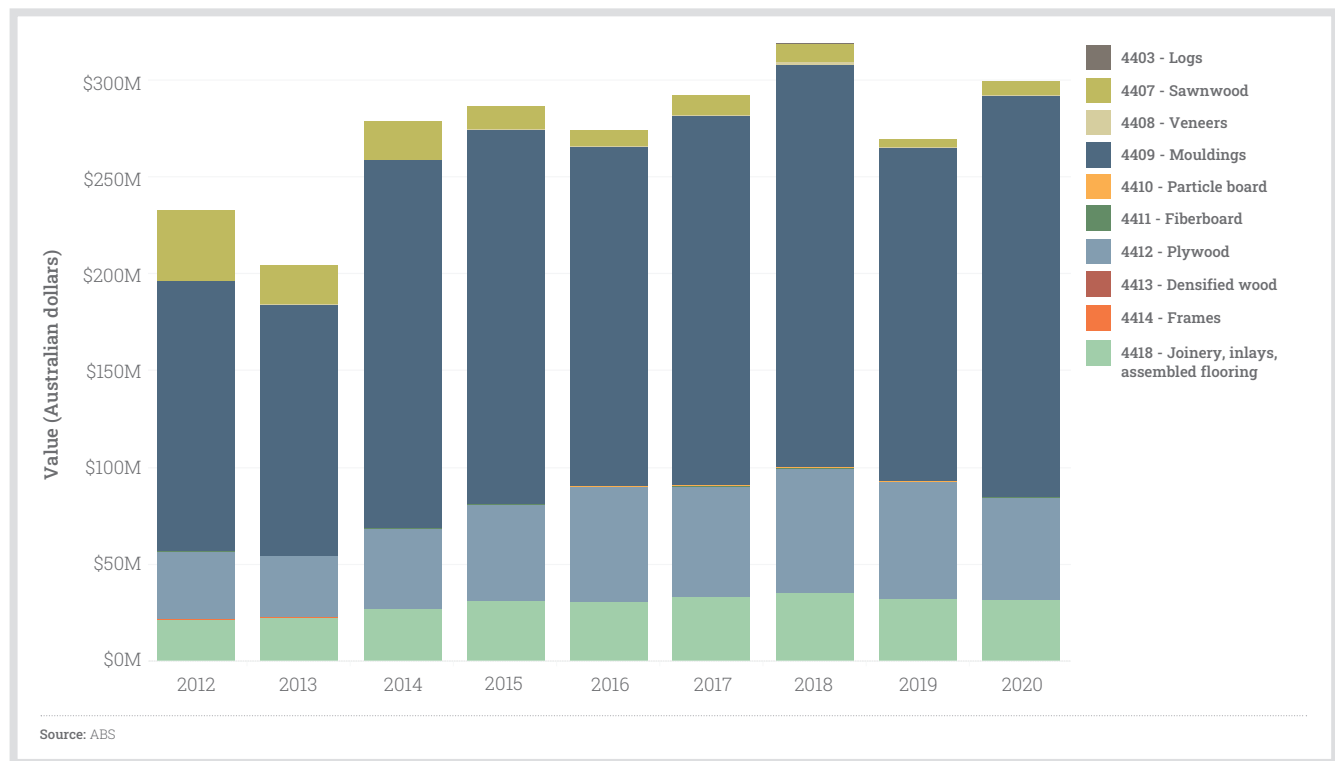


Figure 12
Australian imports from Indonesia under HS 44

also imports a large amount of raw materials. In 2019, Indonesia imported U.S. \$189 million worth of logs and sawnwood; Malaysia was the largest source of these imports (U.S. \$51 million), followed by the United States (U.S. \$39 million), and New Zealand (U.S. \$19.4 million).¹⁰³ Given the prevalence of illegal logging in Malaysia, when Australian importers have a multi-country supply chain, they should check the origin of the timber in the products imported.

Trade to Australia

When viewed by value, flooring imports dominate the trade in ILPA-regulated products from Indonesia to Australia, accounting for almost half of imports during 2012-2019.

Flooring

Over 90 percent of all 2019 HS 4409 imports contained non-coniferous tropical wood, and were declared under HS 4409220012. This equates to almost half of the total regulated Indonesian import for the year (by value).

Plywood

HS codes for plywood do differentiate between tropical and non-tropical species, which does allow for more ready identification of higher risk imports. However, these codes generally only refer to the external layers of the plywood, and a sheet of plywood with a lower risk exterior could still contain interior layers produced from higher risk species. Importers (and enforcement) should evaluate both when assessing risk, and, given the risk of species misdeclaration, include species testing within their assessments.

Imports declared under HS 441231 (plywood with at least one outer ply of tropical wood) accounted for almost half (48 percent by value) of all plywood imports in 2019.

Given that these imports contain tropical wood, they present a logical starting point for any investigation into Indonesian plywood.

Joinery

Over 60 percent of joinery imports related to doors, while over 20 percent were of wooden posts and beams. While this chapter does not differentiate between wood species or type, it is likely that a high percentage of this trade, especially under 4418200015, was of products produced from hardwoods.

Sawnwood

Despite the relatively small volumes associated with the trade in sawnwood, it does present a potentially attractive start point for investigations into the Indonesian trade in ILPA-regulated products to Australia, as identification of shipments containing higher risk species is relatively straightforward. The 2019 trade consisted of approximately 2,080 cubic meters, valued at nearly \$4 million. Between 80 (by volume) and 90 (by value) percent of the trade consisted of tropical hardwood, with 45 and 9 percent (by value, of the total 4407 trade) identified as merbau and meranti respectively.

Furniture and seating

Australia imported \$62.7 million worth of wooden furniture products from Indonesia in 2019. Seats (HS 9401) accounted for 30 percent (\$19 million) and other furniture (HS 9403) for 69 percent (\$43.5 million). Furniture related HS codes do not differentiate by timber species or type, instead providing minimal descriptors of the furniture's intended use. However, tropical hardwood species found in Indonesia are used across multiple types of furniture, and, where these are present, risks of illegality should be assessed.

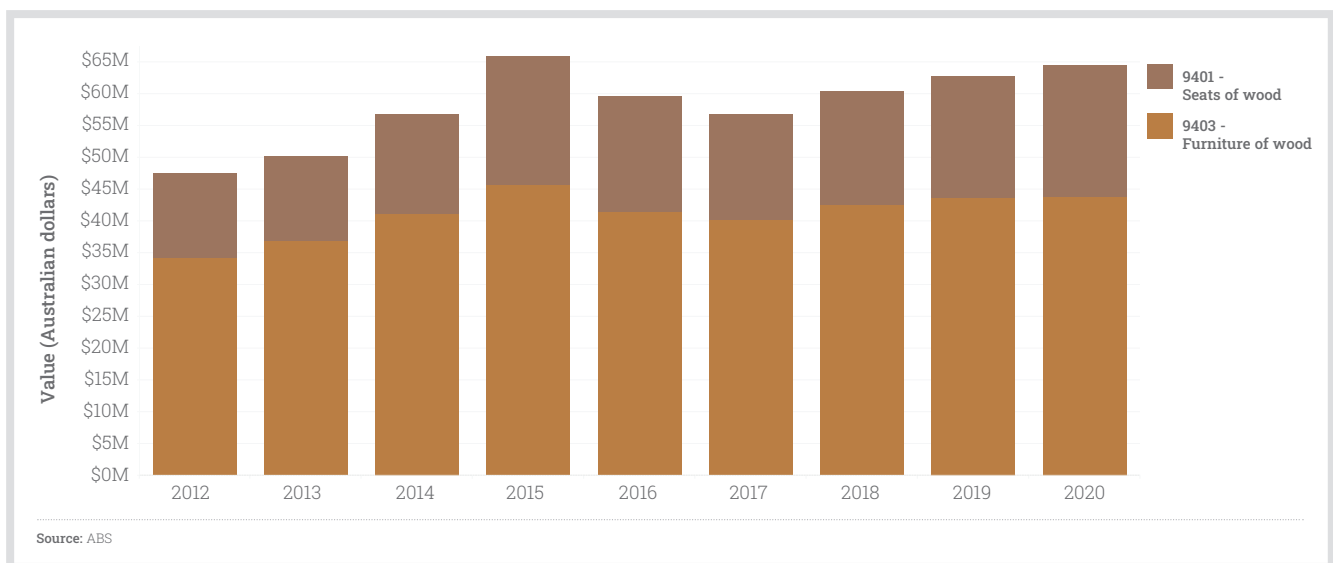


Figure 13
Australian HS 94 imports from Indonesia

MALAYSIA

51 CPI rating

29.37 ILAT rating

0.58 RoL rating

57.6 Fragile States rating

28 Sourcing Hub rating
Peninsula 5, Sarawak 0, Sabah 23

51 FitW rating

Malaysia is an important source of wood products for Australia, both as a producer and processor country, and importers should be careful to understand which role is being fulfilled when assessing their supply chain. While the same processor-related risks present in China and Vietnam are also relevant to third country Malaysian supply chains, this chapter focuses predominantly on risks associated with Malaysia's role as a producer country.

Malaysia recorded the sixth highest global rate of primary forest loss in 2019¹⁰⁴ and has lost over a quarter of its tree cover since 2000.¹⁰⁵ Alongside clearing for agricultural development, illegal logging has been a principal driver of this deforestation.

Malaysia has invested significantly in legality verification and most forested areas in West Malaysia are covered by the PEFC-recognised Malaysian Timber Certification System (MTCS). However, some sources estimate 22 percent of all logging in Malaysia was illegal in 2007,¹⁰⁶ rising to 35 percent in 2013,¹⁰⁷ with "limited progress in tackling illegal logging and related trade in Malaysia since 2010."¹⁰⁸ Concerns have also been raised that MTCS certificates have been issued despite a lack of free, prior and informed consent from local Indigenous communities opposed to logging on their lands.¹⁰⁹

The Norwegian government's pension fund divested from Malaysian logging conglomerates after an independent study found compelling evidence of illegal logging and environmental damage.¹¹⁰

While the Sarawak region has been a focal point for illegal logging,¹¹¹ numerous risks of illegality exist across all Malaysian timber producing regions (including Peninsular Malaysia¹¹² and Sabah¹¹³). Corruption in the allocation of rights to harvest remains a major risk, alongside the directly related risk of dispossession of land from, and displacement of, rightful owners. Numerous other risks are present, including failure to follow harvest regulations, harvest both outside of legal boundaries and inside protected areas, violations of worker's rights, misdeclaration and avoidance of tax and royalty payments, species misdeclaration, and the use of fraudulent certificates, including fraudulent CITES permits.

Given the risk of fraudulent CITES permits, importers of CITES listed species are advised to check the authenticity of accompanying CITES permits directly with the Malaysian Timber Industry Board,¹¹⁴ and if no satisfactory response is received, the CITES Secretariat.¹¹⁵

The European Commission, in conjunction with the UNEP-WCMC, has produced a country guide¹¹⁶ for use by entities conducting EUTR due diligence, which provides further summary of these issues.

Malaysian sourcing

Malaysia imports a significant amount of raw materials, with the 2019 import of logs and sawnwood valued at U.S. \$163.9 million.¹¹⁷ While most of these imports were from low-risk countries (Australia, the U.S., and New Zealand were the three largest sources), Cameroon and the Democratic Republic of the Congo were also important suppliers, providing over U.S. \$8 million worth of logs and sawnwood to Malaysia in 2019.

Trade to Australia

Although furniture imports have declined, it remains the dominant ILPA-regulated product imported to Australia from Malaysia. Joinery (4418); plywood (4412); wood flooring, siding, and moulding (4409); sawnwood (4407); and fiberboard (4411) follow.

In 2018, \$4 million worth of timber products were exported from the port of Bintulu in Sarawak, a known source of very high-risk products. An additional \$20 million worth of products had no port of lading reported in the trade data (classified as "other" or "unspecified" Malaysian port). All of the products exported from Bintulu and unidentified trade warrant investigation, but it should be noted that ports of lading do not always necessarily show where the timber was harvested, especially in the case of processed and finished products.

Joinery

Nearly 60 percent of 2019 joinery imports related to flooring, approximately a third were doors, with windows, posts and beams, and "other" joinery making up the small remainder. Flooring imports were predominantly HS 4418759039 and 4418799041

(approximately 60 and 30 percent respectively), which refer to solid flooring panels (and exclude bamboo). Solid wooden flooring is generally produced from hardwoods, and Malaysian producers may use American (oak, walnut, etc.), tropical (meranti, merbau, etc.), or even Australian (cypress, mountain ash) species. American and Australian species can generally be considered low-risk, but any importer of tropical hardwoods needs to be cognisant of the issues raised in this report.

Plywood

Unlike those for other product types discussed in this chapter, HS codes related to plywood imports can be used to identify tropical wood. However, it is important to still consider that these only refer to external layers, and internal layers in sheets sheathed with low-risk exterior plies may still contain high-risk interior layers. While no study similar to that conducted in the UK on Chinese plywood¹¹⁸ has occurred for Malaysia (see China chapter), importers should still take care to ensure that they are receiving the species indicated by their suppliers.

Imports under HS 441231 contain at least one outer ply of tropical wood (excluding bamboo), and thus should be considered high-risk by importers and authorities alike. Australia imported 12,500 cubic meters of plywood under this HS code in 2019, with a declared value of over \$14 million.

Wood flooring, siding, and moulding

When assessed by value, nearly two thirds of imports declared under HS 4409 fell within HS 4409220012 (at a declared value of nearly \$20 million). When assessed by weight, this rises to three quarters of the trade (over 11,000 tonnes (gross)). This code relates to shaped non-coniferous tropical wood, as do 4409220011 (picture frame mouldings, valued at \$770,000) and 4409220010 (dowelling, valued at \$21,000). Given that these imports contain high-risk tropical timber, they should be viewed as a priority for compliance checks.

Sawnwood

HS codes for sawnwood do differentiate between some species, and/or between tropical and non-tropical wood. Given the known risks associated with tropical wood,

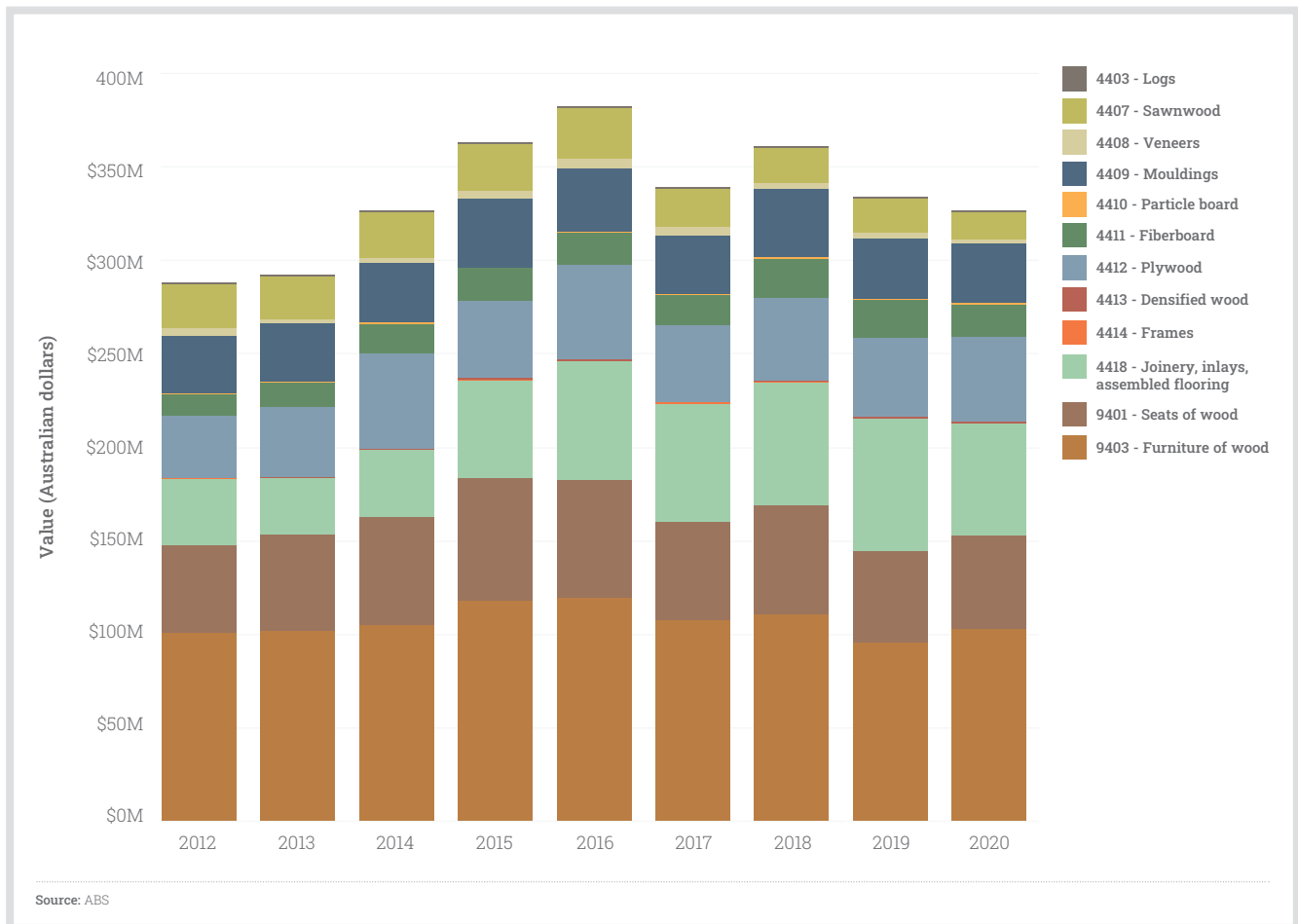


Figure 14
Australian HS 44 and 94 imports from Malaysia

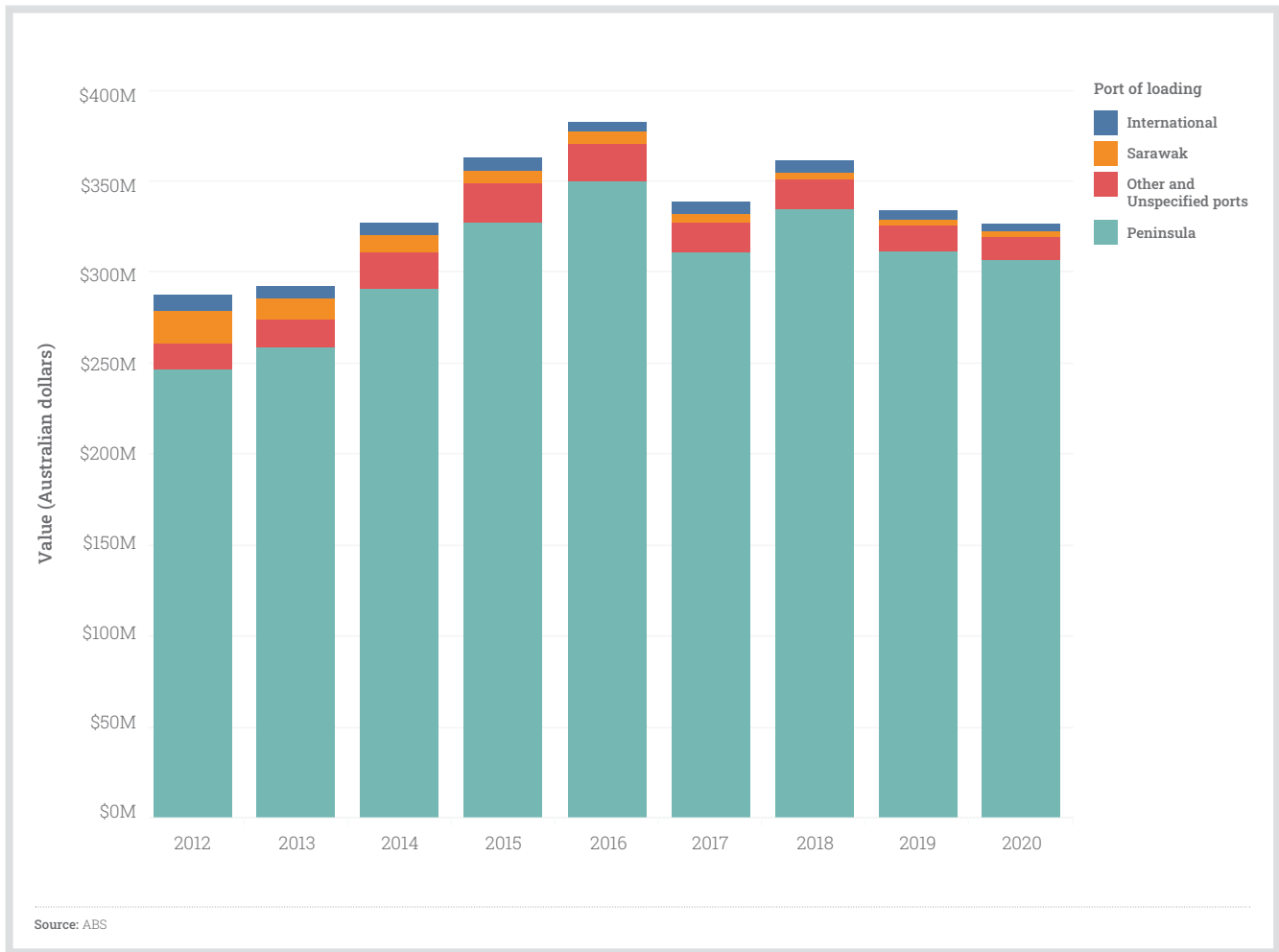


Figure 15
Australian imports from Malaysia by port of loading region

HS codes can be used to identify shipments where high risks of illegality may be present. In 2019, shipments were declared under HS 4407251004, 4407259005, 4407260001, 4407291014, 4407291016, 4407299225, and 4407299326, all of which relate to tropical wood. At a combined value of over \$15 million, the 13.7 million cubic meters shipped represent approximately 80 percent of all shipments declared under HS code 4407. The sheer volume, large value, and ready identification of high-risk wood suggest that sawnwood should be amongst the highest priorities for investigation by authorities when looking at imports from Malaysia.

Around a third of the sawn tropical timber shipped was declared as meranti. At least some of the meranti entering Australia is FSC-certified,¹¹⁹ but numerous investigations have uncovered extensive illegal logging of the species (with Malaysian mills sourcing illegally felled logs from both domestic and Indonesian sources).¹²⁰ As such, importers of FSC-certified meranti cannot rely upon a “timber legality framework” approach to due diligence and should instead utilize a full Regulated Risk Factors-based approach.

The sheer volume, large value, and ready identification of high-risk wood suggest that sawnwood should be amongst the highest priorities for investigation

MYANMAR

28 CPI rating

91.99 ILAT rating

0.42 RoL rating

94 Fragile States rating

0 Sourcing Hub rating

28 FitW rating

Myanmar has the world's largest area of natural teak forests and with roughly a quarter of global production, is the world's biggest producer of teak logs.¹²¹ The vast majority of exports is comprised of natural forest timber,¹²² which is considered superior quality to plantation teak and is highly sought after in international markets, in particular for use in outdoor decking and shipbuilding.¹²³ Exports include both natural forest and plantation teak.

The State is the sole land owner in Myanmar, with the harvesting and extraction of timber the responsibility of the state-owned Myanma Timber Enterprise (MTE). Following the coup, MTE is now wholly controlled by the military junta via the State Administrative Council.¹²⁴

Teak imports to the European Union have been the subject of focus from certain EUTR enforcement authorities,¹²⁵ and the EUTR/FLEGT Expert Group has concluded repeatedly¹²⁶ that it is impossible for teak imported from Myanmar to comply with EUTR legal requirements. According to the Expert Group, effective due diligence and risk mitigation to a "negligible" level for timber from Myanmar is not possible, due the lack of sufficient information on harvest volumes authorized for cutting, the lack of sufficient information to show clear attribution of origin within the country (so as to exclude conflict timber), and the high risk of mixing (legally and illegally harvested logs in the sawmills often owned by the Myanmar Timber Enterprise), combined with the high corruption index.¹²⁷

Prior to the coup, MTE produced additional documentation that it claimed would demonstrate legal harvest, however EU enforcement has continued to conclude that this fails to meet the requirements of the EUTR.

Other organizations have also documented the high risk of illegality for teak from Myanmar: the UNODC has found that 85 percent of all Myanmar timber exports are illegal.¹²⁸ The EUTR Monitoring Organization Preferred by Nature has found that bribery and corruption in the allocation of harvesting rights was "normal" and "essential," and that "the overall high level of risk of corruption and issues with timber throughout the supply chain means sourcing low-risk timber from Myanmar is basically impossible."¹²⁹ Guidance issued by WWF concluded that "most of the timber Myanmar produces is illegally harvested or traded, or comes from natural

forests being managed or converted without regard for broader conservation values."¹³⁰

All of the EUTR compliance issues faced by European operators are directly transferable to Australian importers, and it is difficult to see how any Australian imports of Burmese teak could meet ILPA requirements.

While Myanmar's transition government did see new levels of transparency from MTE, the recent coup and return to military dictatorship has seen this rapidly eroded.¹³¹ In response, the U.S.,¹³² UK,¹³³ and EU¹³⁴ have all issued financial sanctions targeting a range of individuals and enterprises connected to the military, including MTE.

MTE first held three sets of auctions since being targeted by financial sanctions, in May, June, and September 2021.¹³⁵ In May 2022, MTE announced its Tentative Programme for Open Tender Sales in which it detailed the expected auction dates for the May 2022 to March 2023 period. The subsequent Tender Announcements have indeed followed the program, confirming that MTE has and will likely continue to hold auctions, despite financial sanctions being placed on MTE.¹³⁶ Of note, timber auctioned in at least the May 2021 auctions was reportedly sourced from a stockpile of 200,000 tons of illegally logged timber, which had previously been seized by the civilian government.¹³⁷

Despite the increased risks of illegality and connections between the logging industry and Myanmar's military,¹³⁸ trade to Australia has increased since the coup. Given the wide body of experience to draw upon and in the absence of Australian sanctions on the military regime in Myanmar following the coup, imports of Burmese teak are recommended as a priority for enforcement action by DAFF.

As supply chain traceability is close to impossible, Australian importers will likely have failed to:

- identify the concession within which the timber was felled;
- identify who actually carried out the harvest;
- take steps to mitigate the high risk of bribery and corruption in the allocation of harvesting rights;

- view MTE’s or its contractor’s harvest permit (for the annual cut), thereby establishing the actual right to harvest;
- confirm that harvesting conditions were respected by loggers, including the Annual Allowable Cut (AAC);
- confirm correct markings were applied to logs during harvest/transport; and
- identify the transportation operators involved at all points of the supply chain, that transport conditions were followed, and confirm no laundering of unknown origin timber occurred.

doubled between 2014 and 2019. The vast majority of imports are in the form of sawnwood, with very small quantities of furniture, reflecting likely destinations such as shipyards, where Burmese teak is highly prized for ship decking.

Sawnwood is the main form in which Australia imports timber from Myanmar, with imports of 4407 accounting for 95.9 percent of total imports of wooden products in 2019 (\$2.1 million). In 2019, HS 4407299225 (tropical wood as specified in additional note 2, sawn or chipped lengthwise) made up \$1.4 million worth of all 4407 imports, followed by HS 4407291016 (tropical wood, planed or sanded, whether or not end-jointed, of a thickness exceeding 6 mm) which accounted for \$443,165 worth of all 4407 imports.

Trade to Australia

Burmese teak’s reputation and prestige does mean that it is often marketed as Burmese (as opposed to just “teak”), especially in high end applications. As such, despite its indirect nature obscuring much of the trade, European investigations have successfully identified supply chains by working backwards from the point of retail sale. This approach, in conjunction with the use of customs data, is recommended for enforcement in Australia.

Of note, 2020 saw over \$350,000 worth of doors (HS 4418200015) imported to New South Wales (NSW), the first import declared under HS 4418 since 2018, the second shipment of doors recorded in available data (back to 2012), and the first ever such shipment to NSW. These factors point to a single new importer, with a product line that is highly likely to be noncompliant with the ILPA, and should be investigated, if investigations are not already underway.

Australian imports from Myanmar have increased nearly ninefold since the ILPA was enacted in 2012 and

The true scale of the trade in Burmese teak to Australia is likely significantly larger than suggested by customs

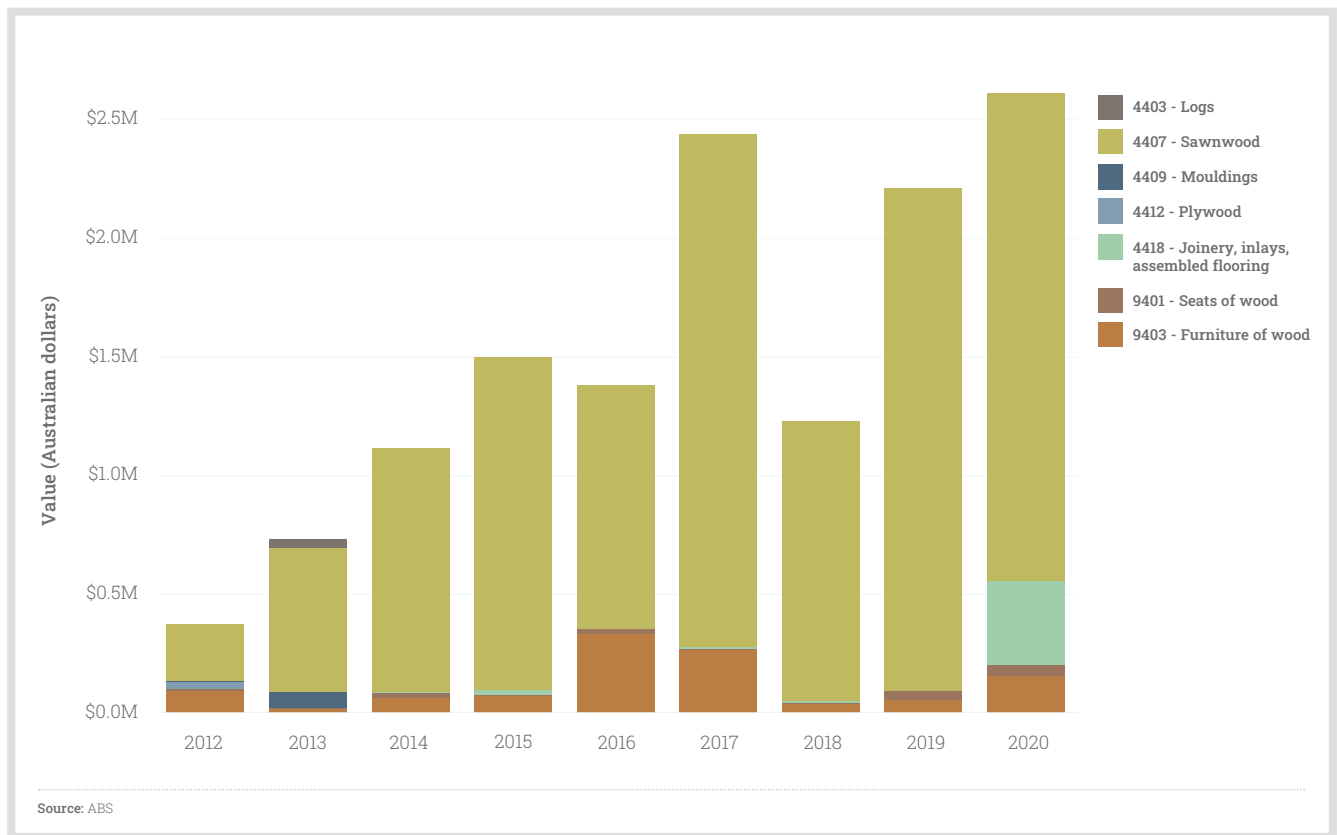


Figure 16
Australian HS 44 and 94 imports from Myanmar

All of the EUTR compliance issues faced by European operators are directly transferable to Australian importers, and it is difficult to see how any Australian imports of Burmese teak could meet ILPA requirements.

data. Myanmar banned the export of whole teak logs in 2014, but, in the lead up to this ban, huge volumes were rushed from the country, offshored to countries such as Malaysia, Singapore, India, and Taiwan, and it is likely that imports to Australia from these transit countries will record each as the country of origin within customs declarations. NGO investigations¹³⁹ have documented the web of interconnected companies controlling this trade, and the illegal practices associated with it. Any teak imports from these third countries should be viewed as being extremely high-risk.

Likewise, large volumes of Burmese teak continue to be smuggled across Myanmar's border with China¹⁴⁰ (all export of teak not exiting from Yangon is illegal under Burmese law), which may then find its way to the Australian market. As such, any Burmese teak entering Australia from China should be thoroughly assessed for illegal origin.

THAILAND

42 CPI rating

58.06 ILAT rating

0.51 RoL rating

70.8 Fragile States rating

28 Sourcing Hub rating

30 FitW rating

Since banning the logging of its native forests in 1989, Thailand has relied upon domestic plantations (rubber trees account for approximately half of the plantation estate) and wood imports to support a rapidly growing wood processing industry. Thailand is a major exporter of wooden furniture and sawn timber, with wood product exports between 2012 and 2016 averaging \$4.5 billion U.S. annually.¹⁴¹

In 2013, Thailand began the formal process of a Voluntary Partnership Agreement with the EU, and the first negotiations occurred in 2017.¹⁴² The ongoing negotiations include stakeholders and seek to incorporate due diligence provisions into the Agreement, given Thailand's role as a major processor and re-exporter in the region.¹⁴³

Thai sourcing

Thailand's main source for logs since 2012 appears to have been Myanmar and Malaysia, while half of sawnwood imports have come from Malaysia and 14 percent from Laos.¹⁴⁴ However, Thailand's log import data is skewed somewhat by the 2012-2014 rush to offshore

teak logs from Myanmar (ahead of the 2014 log export ban, during which enormous volumes of logs with extremely high risks of illegality were rushed out of Myanmar). Thailand remains an important third country source of Burmese teak and the high risks associated with these offshored logs will likely never be mitigatable. While Myanmar still accounted for nearly six percent of sawn timber imports into Thailand in 2019, imports of whole logs from Myanmar effectively have ceased.

Likewise, for the period 2017-2019, log imports from Malaysia effectively ceased, however, Malaysia continued to supply over 40 percent of Thailand's total import of sawn timber (by value).¹⁴⁵ The numerous and high risks of illegality identified in the Malaysian chapter of this report apply to these imports, and where Malaysian hardwoods are present in Australian importer supply chains, extreme care will need to be applied by those conducting ILPA due diligence.

Across the latter part of the previous decade, African nations, and, in particular, the Republic of the Congo, have become important sources of logs for Thailand. In 2017, 2018, and 2019, the Republic of the Congo supplied

Thailand with approximately 24.5, 14.5, and an astounding 47 percent of its logs (by value). With a CPI rating of only 19, and estimates¹⁴⁶ that up to 75 percent of its timber is illegally logged, the prevalence of timber from the Republic of the Congo should be a major concern to Australian importers of Thai-produced products. Other African nations represented approximately 10 percent of the Thai log import across these years.

Around half of Thailand’s log imports were sourced from the relatively low-risk countries of New Zealand and the U.S., while logs from high-risk Brazil represented approximately 10 percent of the trade. All three countries were also important sources of sawnwood. In a 2017 risk assessment for Brazil it was noted that “corruption, illegality and fraud remain widespread in the forest sector” (see also Brazilian chapter).¹⁴⁷

Trade to Australia

Viewed by value, Australia’s import of ILPA-regulated products from Thailand is dominated by furniture, which represented nearly 90 percent of the trade in 2019. A majority of the remainder of the trade relates to MDF, fiberboard and similar products, with the 7,323 cubic meters imported accounting for approximately 7.33 percent of the trade.

Publicly available trade data does not differentiate between imports of hard- or softwood furniture, nor by species, making calculating the volume of high-risk trade difficult. As noted elsewhere within this report, importers will need to identify the species and country of harvest, and, where risks exist, take steps to mitigate them. In general terms, furniture produced from tropical hardwood will have high risks of illegality associated with it.

The prevalence of timber from the Republic of the Congo should be a major concern to Australian importers of Thai-produced products

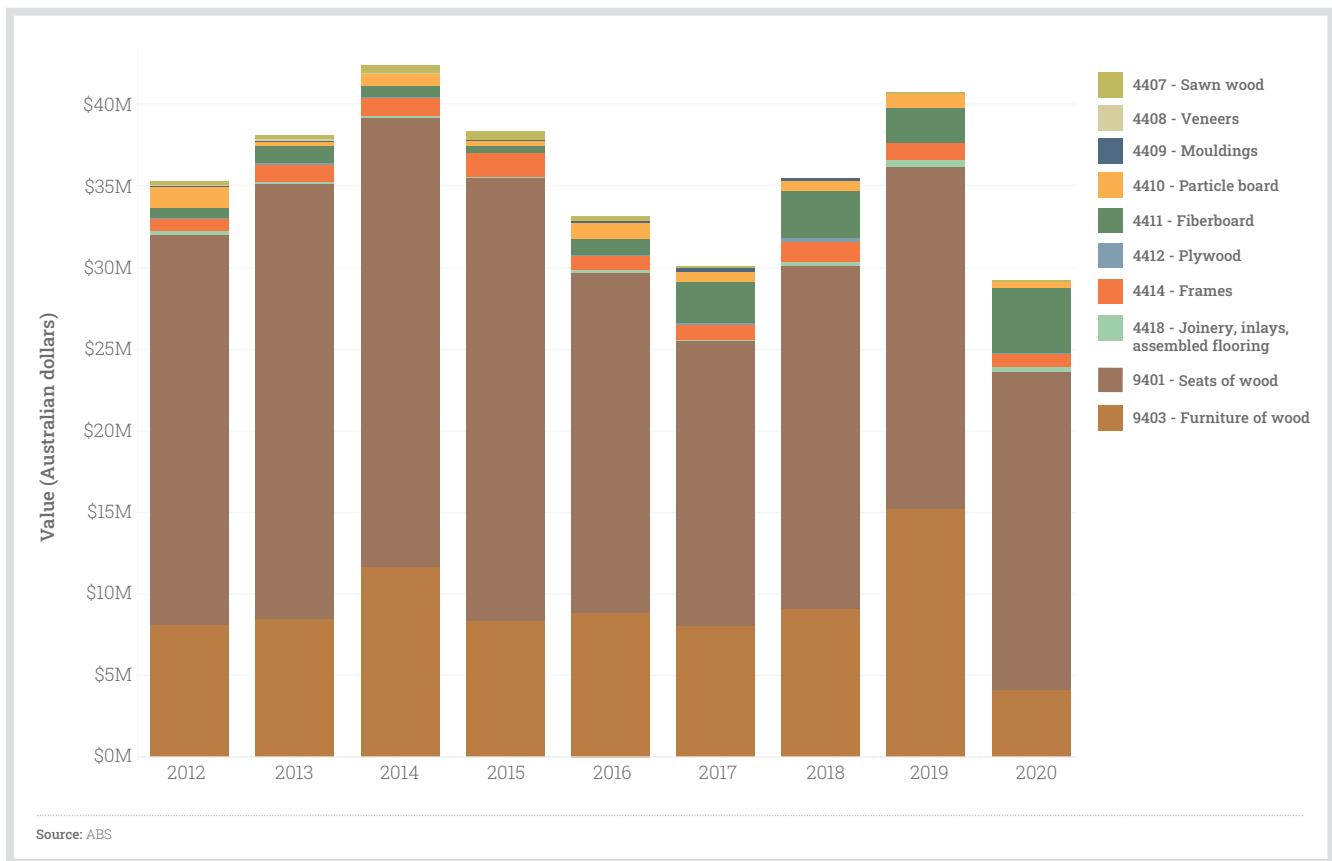


Figure 17
Australian HS 44 and 94 imports from Thailand

PAPUA NEW GUINEA

27 CPI rating

83.43 ILAT rating

NA RoL rating

82.3 Fragile States rating

3 Sourcing Hub rating

32 FitW rating

Over three quarters of Papua New Guinea’s land is covered by forests,¹⁴⁸ and around 97 percent is under some form of community land ownership.¹⁴⁹ Papua New Guinea’s Constitution¹⁵⁰ recognizes the customary rights of Indigenous communities to land and forests, however, laws are poorly implemented, corruption is widespread and logging operations often proceed without the informed consent of customary landowners. Those voicing opposition routinely face intimidation and sometimes violence at the hands of police and other actors working for logging companies.

Much of Papua New Guinea’s primary forest is now degraded, as clearance operations – both for logging and agricultural development – have increased dramatically over the past ten years. Widespread corruption and illegal practices in the forestry sector have been widely documented over decades and continue to this day.

The illicit financial flows out of the country into financial centers in Australia, Singapore, and Hong Kong have been the subject of numerous studies and exposés.¹⁵¹ Tax evasion through illegal activities such as trade misinvoicing, a practice thought to be common in the forestry sector, cost the country significant lost revenue each year.¹⁵²

Papua New Guinea is the second largest exporter of tropical timber in the world¹⁵³ (after Malaysia), and several sources, including the Australian government, recognise the extremely high levels of illegality prevalent across the industry:

- UNODC reports that the “logging industry is associated with widespread corruption”¹⁵⁴ and that regional law enforcement acknowledges that logging operations are “corruption prone.”¹⁵⁵

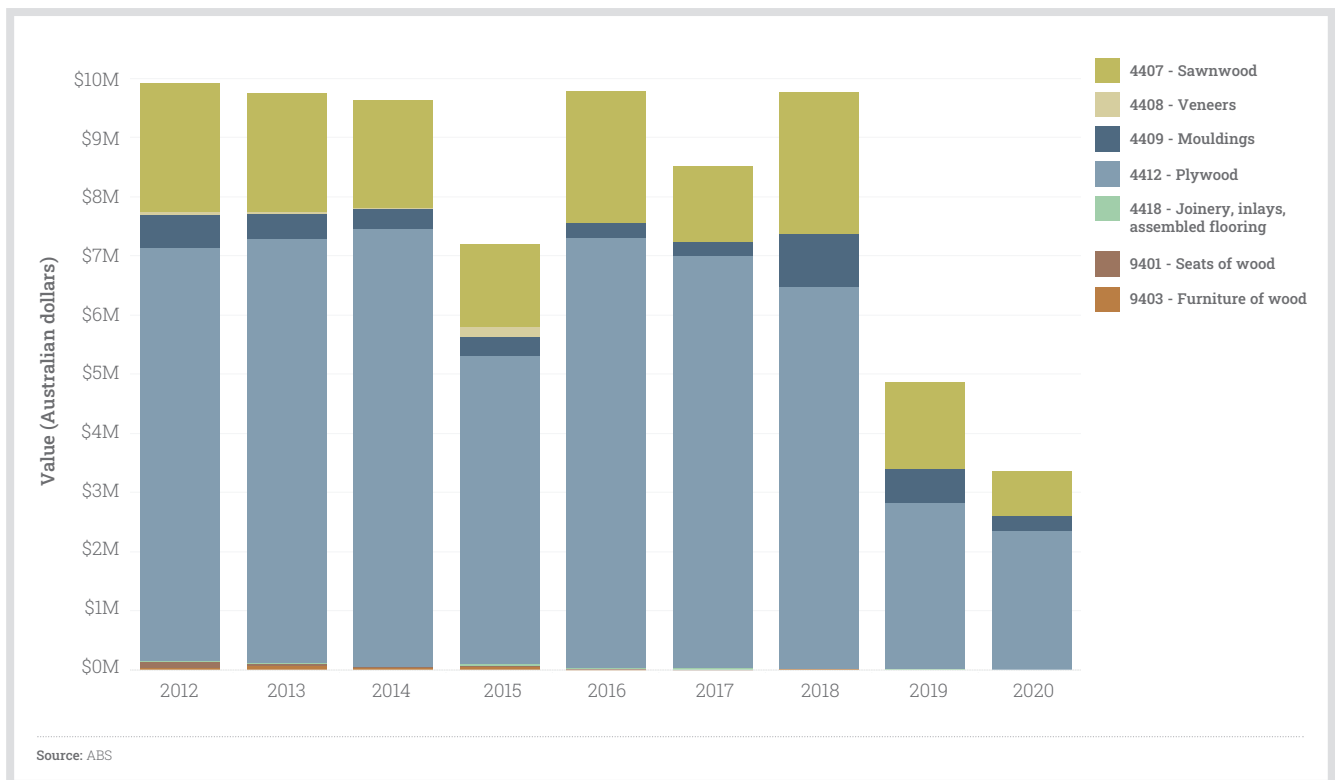


Figure 18
Australian HS 44 and 94 imports from Papua New Guinea

Widespread corruption and illegal practices in the forestry sector have been widely documented and continue to this day

- A 2014 assessment by Chatham House concluded that illegal logging practices were widespread, and that most timber production in the country was associated with such practices.¹⁵⁶ This same assessment found that exports to the U.S. and Europe were declining due to “increased concerns about illegal logging and import controls” – both markets have similar legislation to the ILPA.
- Preferred by Nature’s 2017 legality risk assessment identified multiple risks in every category, including failure to obtain the free, prior, and informed consent of customary land owners, bribery in issuance of permits and licenses, failure to monitor compliance with harvesting rules, tax evasion through trade misinvoicing, labor violations including use of illegal migrant workers and forced labor, and failure to follow CITES implementing legislation.¹⁵⁷
- A satellite-based analysis of logging operations under four major types of permits published by Global Witness in 2018 found evidence of violations of the Forestry Act in each.¹⁵⁸
- Transparency International’s 2021 report found “corruption is rife in the forestry industry” and that “widespread government corruption has enabled the illegal timber trade to continue uncontrolled.”¹⁵⁹
- The 2015 U.S. Department of State’s Trafficking in Persons report¹⁶⁰ found that foreign and local men are subjected to forced labor in logging and mining camps “where some receive little pay and are compelled to continue working for the company indefinitely through debt bondage schemes. Employers exacerbate workers’ indebtedness by paying extremely low wages, which requires employees to purchase food and other necessities from the employers at usurious interest rates.”
- The same U.S. Department of State report also found that Malaysian and Chinese logging companies arranged for foreign women to enter the country with fraudulent visas, after which they “are turned over to traffickers who transport them to logging and mining camps, fisheries, and entertainment sites, and exploit them in forced prostitution and domestic servitude.”

In its 2019 national risk assessment,¹⁶¹ the FSC reports that the industry is dominated by two large companies, Rimbunan Hijau and the WTK Group, who, between them, account for 60 to 70 percent of total production. FSC reports that Rimbunan Hijau “operates 17 forestry concessions, which have a total area of 1,755,408 hectares and an annual allowable cut of 2,084,000 m³” while “the WTK Group of companies, has a concession area of 400,000ha (WTK 2012). WTK Group has 5 sawmills with an annual sawn timber production of 120,000 m³ and three mills with an annual veneer and plywood production of 240,000 m³.” Rimbunan Hijau is the largest exporter of sawn timber products in Papua New Guinea, and the company gives its main markets as Far East Asia and Australia.¹⁶²

Trade to Australia

Papua New Guinea is China’s largest supplier of tropical logs, providing 30, 33, and 31 percent of its tropical logs imports (440349) in 2019, 2020, and 2021 respectively.¹⁶³ While Australia imports comparatively small amounts of timber directly, it is likely that higher volumes of illegally logged timber from PNG enters the Australian market via Chinese manufacturers.

A vast majority (93 percent by value in 2019) of exports to Australia leave Papua New Guinea from the two main ports – Port Moresby and Lae. In 2019, the entirety of HS 4409 exports and 92 percent of 4412 exports came to Australia via Lae. Port Moresby accounted for 75 percent of sawnwood exports.

An even more pronounced concentration exists at the Australian end, with 94 percent of all wood imports from PNG coming into Australia through the port of Brisbane in 2019. While this may simply be due to Brisbane’s proximity to PNG, it may also point to a relatively small number of regulated actors in Australia, particularly given that 48 percent of the entire 2019 trade consisted of plywood departing from Lae and entering Australia via Brisbane under HS 4412999141.

These indicators of relatively low numbers of actors at either end of the Papua New Guinea to Australia supply chain, coupled with the well-reported (i.e. information that an importer “ought reasonably to know”) high risks of illegality would suggest that enforcement in Australia should be reasonably straightforward, and, despite its relatively small size, the trade is recommended as a focal point for ILPA enforcement. Precedent set within the direct trade would also be directly applicable to any regulated actors importing products produced from Papua New Guinean wood in other countries, such as China.

SOLOMON ISLANDS

42 CPI rating

70.95 ILAT rating

NA RoL rating

79.7 Fragile States rating

21 Sourcing Hub rating

79 FitW rating

The Solomon Islands have among the highest percentage of forest cover in the Pacific region. A 2015 Food and Agriculture Organization (FAO) Global Forest Resource Assessment estimated the Solomon Islands' total forest cover to be around 78 percent (just under 2.2 million hectares), however, this figure is considered to be lower today due to continued uncontrolled and extensive logging in the country.¹⁶⁴ A report commissioned by the Solomon Islands' Ministry of Finance suggested that if logging activities continue at their current pace, natural forests will be exhausted by 2036.¹⁶⁵

Since the 1990s, "round logs have been the most valuable export commodity for the Solomon Islands,"¹⁶⁶ with logging revenue contributing around 60 percent of export income and more than 15 percent of government revenue.¹⁶⁷ About 87 percent of the land in Solomon Islands is under customary land tenure (the Constitution guarantees customary control), however the majority of customary land titles are unregistered.

Rates of illegality within the logging industry cannot be described as anything other than extraordinarily high. UNODC has estimated that between 80 and 90 percent of the formal trade in wood-based products from the

country is illegal,¹⁶⁸ a statistic that should sound alarm bells for any Australian importers. UNODC also noted that senior members of the government have direct interests in logging concessions and that "enforcement remains ineffective against this alliance between the logging industry and politicians."¹⁶⁹

In 2017, the Solomon Islands exported 3 million cubic meters of logs, more than 19 times the sustainable harvest, according to a conservative estimate by Global Witness.¹⁷⁰ The report also concluded that the extremely high risks of illegal logging in the Solomon Islands makes it unlikely for importers in regulated markets to be able to meet legal import requirements without extensive site visits. In its 2018 assessment, Preferred by Nature identified risks across all categories assessed, including harvest rights, logging practices, payment of taxes and fees, transport, and trade.¹⁷¹

Alongside the high risks of corruption and illegal logging, "reports of labour exploitation in foreign-owned logging camps and foreign commercial fishing vessels have increased in recent years,"¹⁷² and children between the ages of six and nine were sexually exploited at "most of the logging camps in the Solomon Islands."¹⁷³

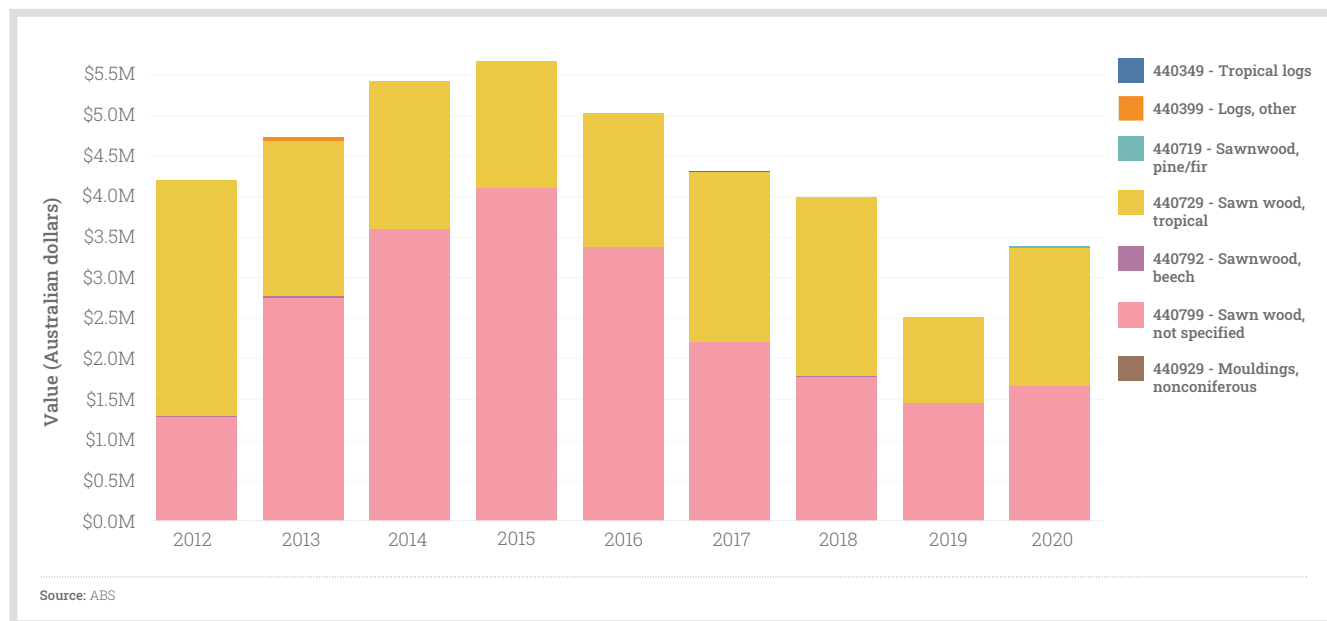


Figure 19
Australian HS 44 imports from the Solomon Islands

The Solomon Islands are China's second largest supplier of tropical logs, with 82 percent of its export trade directed to China in 2018.¹⁷⁴ While Australia only imports small amounts of timber directly, it is likely that illegal timber from the Solomon Islands also enters the Australian market via Chinese manufacturers. An EIA investigation uncovered massive document fraud involving over 100,000 tons of plywood by China's largest plywood exporter, Jiangsu High Hope Arser. EIA analysis demonstrated that the volumes sold by the company to its European customers was an estimated 20 times higher than the quantity of plywood that could have been manufactured from the claimed FSC-certified concession of origin in the Solomon Islands.¹⁷⁵ As such, Australian importers should be aware of the risk of fraudulent origin claims, both for timber products imported directly from the Solomon Islands, but especially for products manufactured in China.

While the direct trade in ILPA-regulated products is relatively low, it is still recommended as a priority focal point for enforcement in Australia, given:

- the relatively low number of product types, which should simplify investigations;
- the majority (approximately 70 percent) of the trade enters Australia via a single port (Brisbane);

- the extraordinary levels of illegality and the already well-documented challenges in conducting due diligence; and
- potential links between this sector and other crimes such as sexual exploitation of children.

Trade to Australia

From 2012 to 2019, imports declared under HS 4407 represented 98.87 to 100 percent of the trade (by value) to Australia. While two subheadings (4407299938 and 4407999938) dominated declarations between 2012 and 2016, from 2017 onwards no imports were declared under these codes, with a switch to three new subheadings (4407299225, 4407299326, and 4407999933).¹⁷⁶

Imports of wood products from the Solomon Islands have been declining since they peaked in 2015 at \$5.6 million.

Australian customs data records 70.7 percent of all the 2019 wood product imported from the Solomon Islands entered Australia through the port of Brisbane, 22.7 percent via the port of Melbourne, and 3.6 percent and 2.8 percent through the ports of Fremantle and Sydney. It is likely that a significant proportion, if not all, of these imports were in breach of the ILPA's due diligence provisions.

RUSSIA

30 CPI rating

77.54 ILAT rating

0.47 RoL rating

72.6 Fragile States rating

6 Sourcing Hub rating

20 FitW rating

Roughly half of Russia (815 million hectares) is forested and 33.5 percent is estimated to be primary forest.¹⁷⁷ One of the largest producers and exporters of timber in the world, Russia produced 212 million cubic meters of logs in 2017,¹⁷⁸ of which approximately 10 percent was exported and the remainder processed by the domestic industry. Approximately 60 percent (or over 32 million cubic meters) of the sawnwood, veneer, and plywood produced in Russia was exported in 2017.

Russia's largest timber exports are spruce, birch, larch, and pine, but it also exports significant quantities of valuable hardwoods such as oak, ash, linden, and elm. China is Russia's largest timber buyer (and Russia China's largest supplier). Approximately 40 percent of Russian timber exports were destined for the Chinese market in 2018. It is likely that many wood products made in China and exported to Australia contain Russian timber.

In Siberia and the Russian Far East (RFE), an estimated 50-80 percent of hardwoods are harvested illegally.¹⁷⁹ Illegal logging rates in Western Russia are often considered to be lower, but the limitations on the activities of independent watchdog organizations (and the few stories that do get investigated) point to large, systemic risks.¹⁸⁰ A conservative 2014 estimate from UNODC found "25 percent of Russia's timber exports originate from illegal logging and the country loses approximately 1 billion U.S. dollars per year to illegal logging and trade." An earlier study from the World Bank estimated as much as half of the log supply was affected by illegal activity.¹⁸¹ Numerous reports¹⁸² have linked the use of North Korean slave labour to logging operations.

According to UNEP-WCMC, "Illegal logging in the Russian Federation, especially in the RFE, has been reported to be carried out via bribes, establishment of temporary trading companies which act as intermediaries between illegal loggers and international

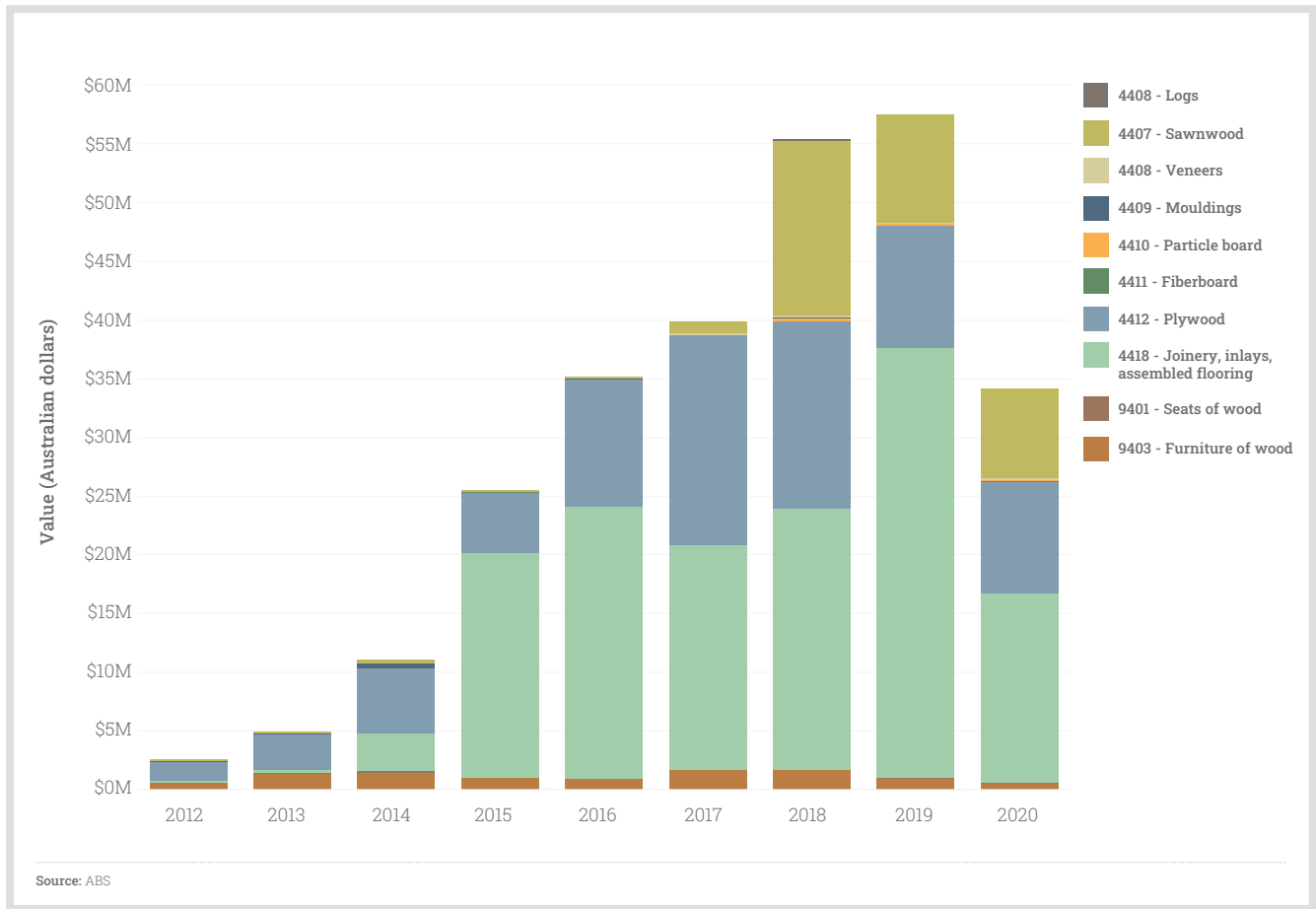


Figure 20
Australian HS 44 and 94 imports from Russia

exporters, misuse of sanitary and ‘intermediate’ logging permits to harvest healthy trees, overharvesting relative to permits and harvesting in protected areas.¹⁸³

In its 2017 risk assessment,¹⁸⁴ Preferred by Nature described risks of illegality as “extensive” and “wide ranging,” describing numerous risks related to “legal rights to harvest, taxes and fees, timber harvesting activities, risk that the implementation of harvesting regulation is lacking, third parties’ rights, and trade and transport.”

Officials charged with managing forested areas and the logging industry have been implicated in illegal logging. For example, in 2019, the Minister of the Forestry Complex of the Irkutsk Region was arrested after authorizing the illegal logging of a protected area. Damages were estimated at 750 million rubles (approximately \$13 million).¹⁸⁵

NGO investigations¹⁸⁶ in 2020 and 2021 revealed millions of cubic meters of illegally logged timber that was either FSC or PEFC-certified. As such, it is unlikely that a “timber legality framework”-based ILPA due diligence system could be successfully applied to Russian timber.

In 2016, North America’s largest flooring retailer, Lumber Liquidators, was found guilty of importing illegally logged and misdeclared oakwood flooring from the RFE via China into the U.S., in violation of the U.S. Lacey Act and other laws. The first criminal sentence triggered by the Lacey Act resulted in over U.S. \$13 million in fines and penalties for the company, which was put on probation and had to completely overhaul its procurement practices.¹⁸⁷

Trade to Australia

Australia’s imports of wood and wood products from Russia increased 15-fold between 2012 and 2019, rising from less than U.S. \$3 million to over U.S. \$45 million:

- imports of builders joinery (4418) increased from \$5,339 in 2012 to \$36.6 million imported in 2019;
- plywood imports grew from \$1.7 million in 2012 to \$16 million in 2018 (\$10.4 million in 2019); and
- sawnwood imports rose from \$87,000 in 2012 to a peak of \$14.9 million in 2018 (\$9.1 million in 2019).

ROMANIA

44 CPI rating

47.5 ILAT rating

0.63 RoL rating

46.7 Fragile States rating

39 Sourcing Hub rating

83 FitW rating

Two thirds of Europe’s last remaining virgin forests are in Romania, however, widespread illegal logging and poor forest governance have led to severe deforestation. Romania lost 376,000 hectares of forest between 2001 and 2020,¹⁸⁸ and almost half of the forest loss occurred within its national parks and other protected areas.

Illegal logging in Romania has been widely documented by independent organizations, experts, and the media:

- A 2019 National Forest Inventory report produced with international experts concluded that Romania produces more illegal than legal timber. The report found that the annual production of illegal timber was 20 million cubic meters, while legal production was 18 million cubic meters.¹⁸⁹
- Six forest rangers have been killed in recent years and 650 forest workers have been attacked.¹⁹⁰
- The European Commission put Romania on notice over illegal logging in 2019, as “national authorities have been unable to effectively check the operators and apply appropriate sanctions.” Concerns were raised

that “Romanian authorities manage forests, including by authorizing logging, without evaluating beforehand the impacts on protected habitats” as required by European directives and that “protected forest habitats have been lost,” in breach of regulations.¹⁹¹

- Austrian companies (often via subsidiaries) are responsible for the majority of timber production and export in Romania. A 2015 EIA investigation¹⁹² concluded that the firm Holzindustrie Schweighofer (now renamed as HS Timber Group) had been the single biggest driver of illegal logging over the previous decade. The company has since shifted its timber sourcing to neighboring Ukraine and then to other countries in the region.
- Illegal logging in Romania is reportedly worth 1 billion euros per year.¹⁹³
- The Chief Inspector of the Suceava Forest Guard has publicly acknowledged¹⁹⁴ that illegal timber can be laundered into legal production “by doubling the loads, falsifying documents, forging harvesting permits.”

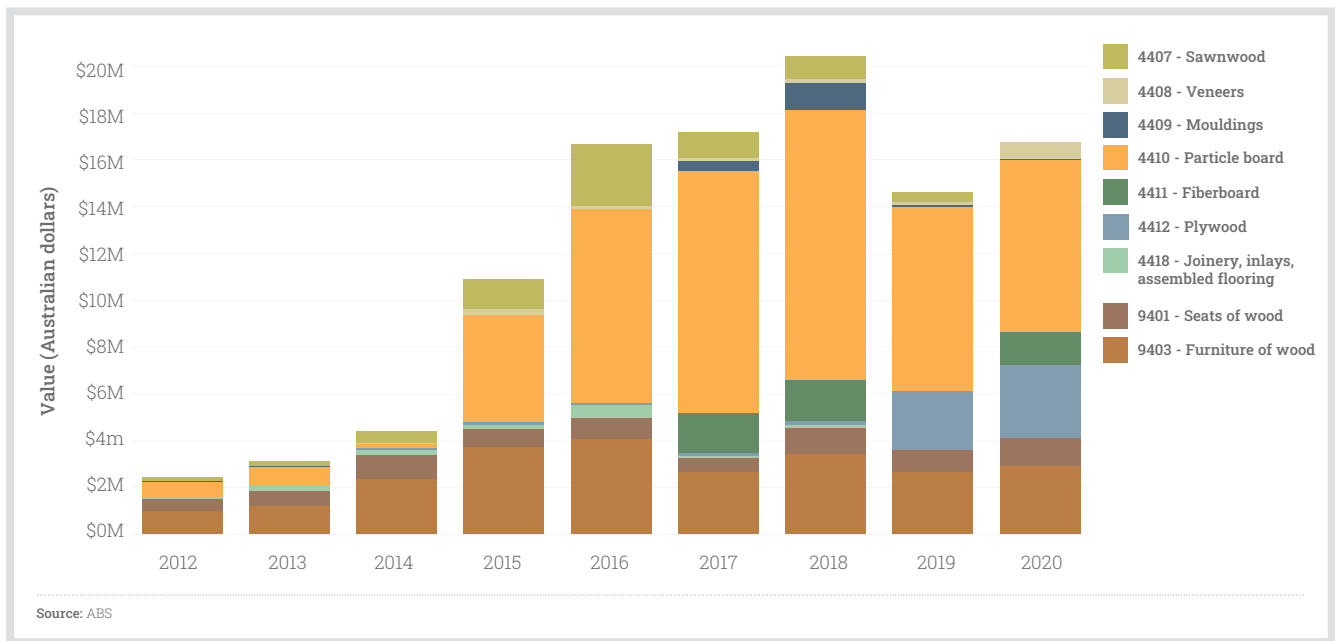


Figure 21
Australian imports of HS 44 and 94 from Romania

Over half of the timber production in Romania is estimated to be illegal

Given that over half of the timber production in Romania is estimated to be illegal, importers will need to apply careful due diligence to products from Romanian supply chains. The challenges associated with conducting successful risk mitigation are compounded by the acknowledged risks around timber laundering and document falsification. As such, any Australian importers relying on solely document based due diligence systems may be exposed to enforcement under the ILPA.

Australian importers should be aware that wood products exported from Romania can be mixed with timber coming from other high-risk countries, such as neighboring Ukraine. Ukraine accounted for 17 percent of Romania's imported raw materials in 2019.¹⁹⁵

Trade to Australia

ILPA-regulated imports from Romania increased eight fold between 2012 and 2018, rising from \$2.4 million to \$20.4 million.

70 percent of the 2018 trade was declared under HS 4410 (particle and OSB boards) and 4412 (plywood and veneer panels). The highly processed nature of HS 4410 and 4412 products can further accentuate risks associated with laundering activities, making legality documentation verification difficult.

UKRAINE

33 CPI rating

68.56 ILAT rating

0.51 RoL rating

69 Fragile States rating

10 Sourcing Hub rating

60 FitW rating

Of Ukraine's total land area, 16.2 percent, totalling 9.7 million hectares,¹⁹⁶ is forested. The Carpathian Mountains in Ukraine (and neighboring Romania) are home to Europe's last intact forests, and provide habitat for rare species including brown bear, wolf, and lynx.

Preferred by Nature describes illegal logging as a "considerable problem in Ukraine,"¹⁹⁷ noting the presence of "illegal logging, illegal wood exports and timber related corruption." The FSC noted 14 specified risks of illegality in its national risk assessment for controlled wood from Ukraine with "low level of enforcement...discrepancies in the information obtained from official (state or departmental statistical reporting) and independent sources...low government effectiveness and regulatory quality noted by the World Bank and a high level of perception of corruption according to the organization Transparency International."¹⁹⁸

NGO investigations have found an "industry steeped in illegality, with the biggest problems involving corruption among the state enterprises that do most of the logging, and their superiors within the country's forest administration"¹⁹⁹ and "systematic, deliberate breaching of a wide range of regulations during harvesting."

Abuse of sanitary logging provisions is a major issue in Ukraine, with healthy trees felled under the guise of preventing the spread of disease, including within national parks and other protected areas. This form of illegal logging is so widespread that the amount of timber produced from sanitary logging is greater than the amount cut under the AAC.²⁰⁰ In 2017, the sanitary logging cut reached 12.4 million cubic meters while 9.4 million cubic meters were cut as part of the planned AAC.²⁰¹

A 2018 NGO estimate found 38-44 percent of total production as illegal.²⁰² UNEP-WCMC reports that “exports of sawn timber in 2016 were estimated to be 50 per cent more than that recorded as having been legally produced in the country’s sawmills.”²⁰³

European Commission guidance²⁰⁴ for timber sourcing in Ukraine requires exhaustive levels of due diligence due to the high risk of illegality. Pointedly, this notes that neither “official documents including certificates of origin” nor “FSC or other third part[y] verification schemes” can stand alone as sufficient to ensure legal origin of timber sourced from Ukraine.

Trade to Australia

While still relatively small, overall trade from Ukraine has experienced a more than 15-fold increase since 2012, rising from \$75,000 to \$1.6 million in 2019. Plywood imports accounted for much of this, with HS 4412 imports rising from \$40,000 in 2012 increasing to \$800,000 in 2019.

The relatively small value of the trade suggests a small number of regulated entities with direct imports, which would allow enforcement across the entire direct trade. However, enforcement should also note that European companies named in NGO investigations, such as Egger,²⁰⁵ have representative offices in Australia, and may be involved in the trade of products produced from illegally harvested Ukrainian wood, but manufactured in (and exported from) other parts of Europe.

Neither “official documents including certificates of origin” nor “FSC or other third part[y] verification schemes” can stand alone as sufficient to ensure legal origin of timber sourced from Ukraine

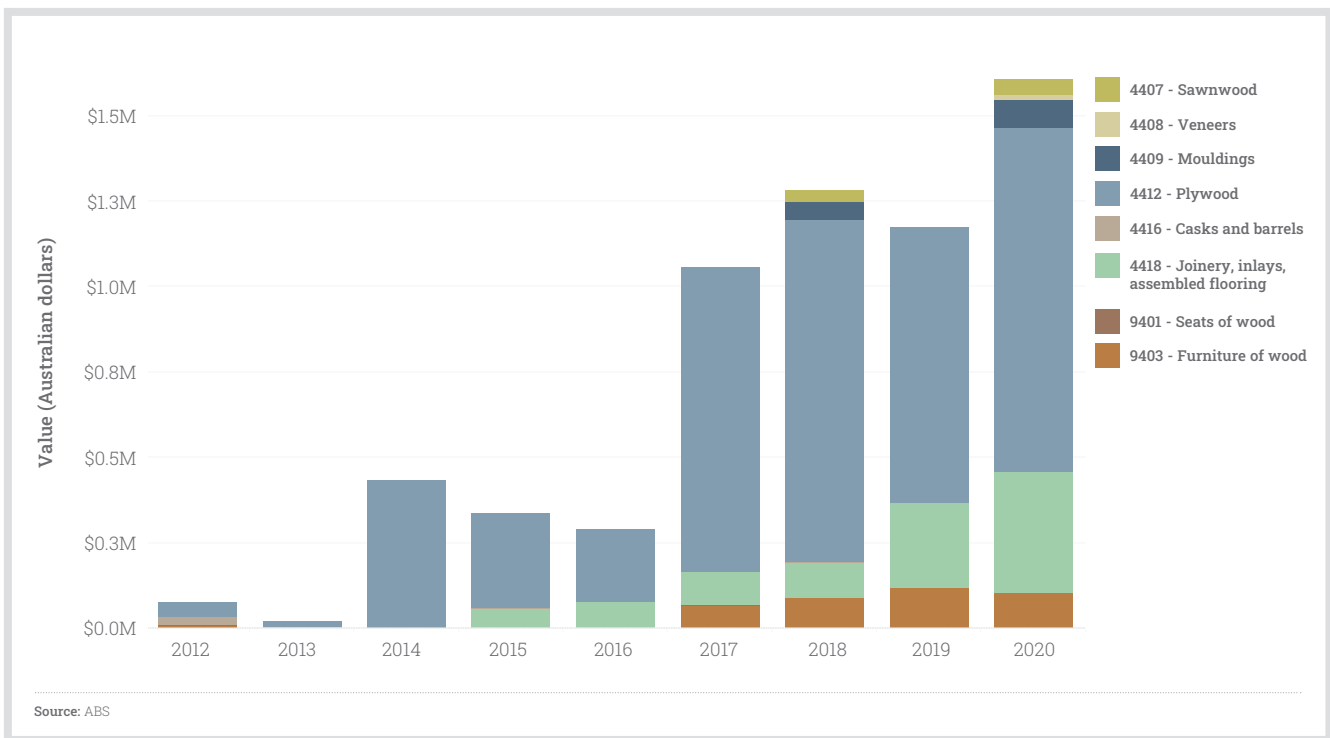


Figure 22
Australian HS 44 and 94 imports from Ukraine

BRAZIL

38 CPI rating

59.69 ILAT rating

0.52 RoL rating

73 Fragile States rating

42 Sourcing Hub rating

74 FitW rating

500 million hectares, or around 60 percent, of Brazil's land area is covered by forest.²⁰⁶ A major supplier of wood products globally, the Brazilian forest sector was valued at U.S. \$22.5 billion in 2017.²⁰⁷

Deforestation rates in Brazil peaked in the 1980s and 1990s, but were reduced in the 2000s, largely through enforcement of illegal logging and land clearing.²⁰⁸ However, illegal logging and forest conversion then began to increase again from 2010, and the 2019 election of President Bolsonaro resulted in both a significant undermining of enforcement agencies²⁰⁹ and soaring rates of deforestation, which has increased by roughly 50 percent since his election.²¹⁰ Experts attributed this "surge in activity by illegal loggers encouraged by the easing of environmental protections under Bolsonaro,"²¹¹ who has been giving "a free pass to illegal logging, farming and mining."²¹²

Officials at the highest levels of government have been directly implicated in the illegal export of timber and the retroactive issuing of permits after timber has been seized abroad.²¹³ The former environment minister Ricardo Salles came under investigation by the federal police for his involvement in illegal logging schemes, including a scheme to export illegal timber to the United States and Europe. Salles resigned from his post in June 2021, after the investigation was ordered. The former head of the environmental enforcement agency (IBAMA), Eduardo Bim, has been investigated for similar timber-related crimes. These cases are a strong indicator of the systemic illegal logging and corruption prevailing in Brazil's timber sector.

Recent analysis by Centro de Vida Institute (ICV – a recognized non-partisan, non-profit Civil Society Organization of Public Interest for the state of Mato

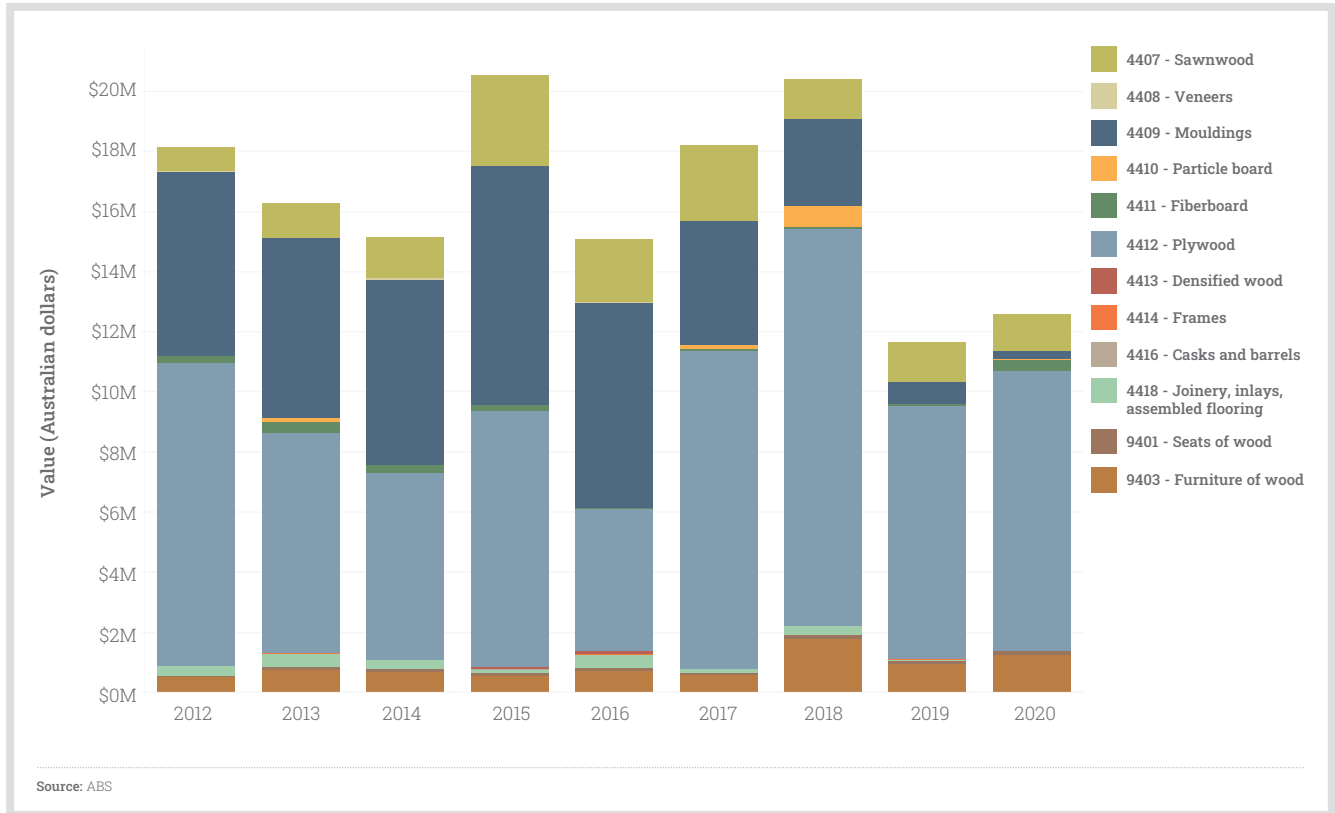


Figure 23
Australian HS 44 and 94 imports from Brazil



Illegal timber in Karipuna Indigenous land in the Amazon in Brazil

Grosso, one of the largest timber producing (and exporting) states, concluded that 38 percent of the 234,200 hectares of native forest logged between August 2019 and July 2020 was illegal.²¹⁴ Similar studies for Para²¹⁵ and Amazonas²¹⁶ (two other large timber producing states) for the same period found 55 percent of logging occurring without authorization in Para, and 26 percent in Amazonas.

In its 2017 risk assessment,²¹⁷ Preferred by Nature described risks as “wide-ranging” and appearing “across all categories of law.” Illegal logging was described as an “extensive problem,” noting that “corruption, illegality and fraud remain widespread in the forest sector.” Specific risks identified include those related to rights to harvest; disputes over land inhabited by Indigenous communities; lack of, or low adherence to, approved management plans; that forestry licenses are obtained illegally due to corruption and lack of law enforcement; tax evasion; illegal logging in protected areas; and the misdeclaration of species, quantity, and quality of wood products.

A 2018 study²¹⁸ examined the fraudulent overestimation of standing stock of ipê (a high value species), to “generate a ‘surplus’ of licensed ipê timber in logging permits to legalize the timber coming from illegal logging.” The study found a “high probability of fraud in logging permits,” and any imports of ipê into Australia from Brazil should be considered high-risk.

The high risks of illegality coupled with complex laundering systems severely undermine document-based approaches to ILPA due diligence. UNEP-WCMC has raised concerns that illegal timber is laundered via “misuses of permits and the chain of custody (CoC) credit system...including issuance of logging permits for areas already logged, overestimation of the number of valuable tree species in an area to be harvested and issuance of credits for the CoC system in excess of those allowed based on the forest management plan for the area to be logged.”²¹⁹

Several other enforcement actions in recent years have uncovered complex, large-scale illegal logging operations.²²⁰ Any importers of Brazilian products should familiarize themselves with the high risks of illegal logging in Brazil.

Trade to Australia

Australia imports mostly plywood (4412) from Brazil, followed by flooring (4409) and sawnwood (4407). Overall imports of wood products from Brazil decreased 43 percent from 2018 to 2019. Plywood codes seem to have changed between 2016-2017; this time period also coincided with a sharp increase in the amount of plywood imported from Brazil (2016: \$4.7 million, 2017: \$10.5 million).

MEXICO

31 CPI rating

69.64 ILAT rating

0.44 RoL rating

67.2 Fragile States rating

17 Sourcing Hub rating

61 FitW rating

Mexican cartels becoming involved in the timber trade has resulted in a surge in illegal logging, murders and the displacement of legal landowners.

One of the most biodiverse nations on earth, Mexico may have more than 10 percent of all terrestrial species present within its borders.²²¹ Much of this biodiversity is concentrated in Mexico's forests, however, between 2001 and 2019, Mexico lost 3.99 million hectares of tree cover.²²² The forestry sector, which includes wood processing and pulp and paper, contributed \$ U.S. 7 billion to Mexico's economy in 2011, or nearly 0.6 percent of the GDP.²²³

Estimates from a wide range of sources generally agree that up to 70 percent of logging in Mexico is illegal.²²⁴ The National Forest Commission, CONAFOR, estimates 14 million cubic meters of wood is illegally harvested each year based upon "the difference between apparent consumption, legal production, exports and imports."²²⁵ This figure contrasts starkly with the much smaller volumes seized by CONAFOR's enforcement arm, PROFEPA, which totalled around 18 thousand cubic meters in 2018.²²⁶

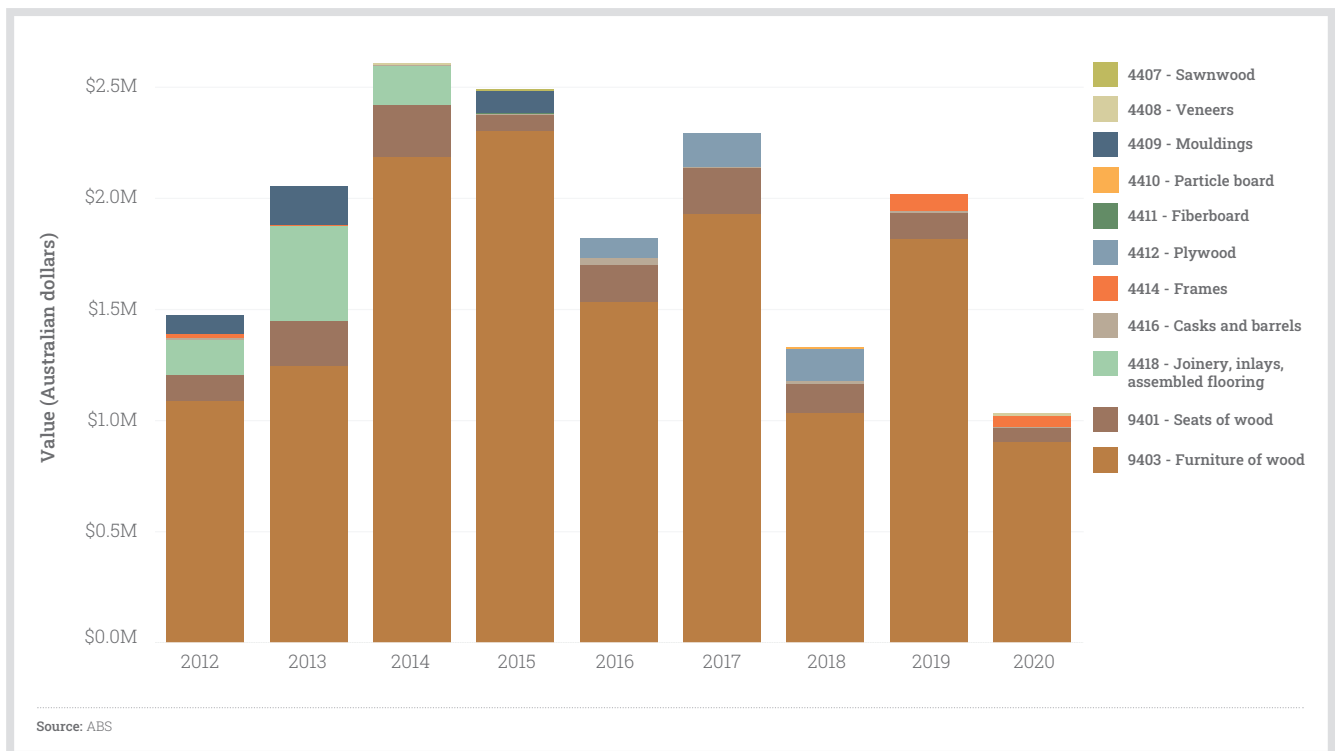


Figure 24
Australian HS 44 and 94 imports from Mexico

In 2020, the Mexican government and NGOs estimated that the illegal timber trade had an annual value of between U.S. \$106 million and U.S. \$175 million per year.²²⁷ Mexican cartels becoming involved in the timber trade has resulted in a surge in illegal logging, murders, and the displacement of legal landowners.²²⁸

Mexican sourcing

Mexico imported 4.5 million cubic meters of sawnwood in 2017 while producing 3.3 million domestically. The United States (37 percent), Chile (23 percent), Brazil (11 percent), Canada (7 percent), and Indonesia (5 percent) were Mexico's main source countries for sawnwood (HS 4407) in 2017.

One of the main suppliers of Mexico's imported tropical timber is Peru. Peru's forestry supervisory body, OSINFOR, has stated that 75 percent of the wood from management plans supervised by OSINFOR that arrived

at Mexican ports was illegal in 2015.²²⁹ Other studies²³⁰ have demonstrated similarly high volumes of illegal Peruvian timber entering Mexico.

Trade to Australia

Imports from Mexico have decreased since peaking in 2014 at \$2.6 million. In 2019, Australia imported \$2 million worth of timber products from Mexico. Although some small amounts of HS 44 codes are imported, most notably 4412 and 4414, the vast majority of imports have been furniture products. HS 9403 comprised 90.4 percent (\$1.8 million) of imports in 2019, followed by 9401 (5.8 percent, \$100,000).

PERU

38 CPI rating

67.4 ILAT rating

0.5 RoL rating

67.6 Fragile States rating

12 Sourcing Hub rating

71 FitW rating

Peru has the second-largest forests in South America and the rainforests of Peru are some of the most biodiverse areas on the planet. Approximately 56 percent of Peru's territory is forested, and nearly all of the forests are on public lands.²³¹ Although government control of forested lands may lead to lower rates of illegal logging in some countries, this is unfortunately not the case for Peru.

NGOs, government institutions, and multilateral organizations estimate that 60 to 90 percent of the timber exported from Peru is illegal.²³² OSINFOR (the national agency responsible for detecting illegal logging) estimated that 67 percent of timber harvested in 2017 was logged illegally.²³³

In 2014 and 2015, OSINFOR, along with the Peruvian customs authority SUNAT and Interpol (International Criminal Police Organization), documented approximately 168,000 cubic meters of illegally harvested timber exported to the United States on board the vessel Yacu Kallpa.²³⁴ In September 2015, the U.S. customs authorities stopped a Yacu Kallpa timber shipment consisting of over 80 percent illegal timber.²³⁵ Shortly thereafter, the U.S. authorities stopped yet another shipment of illegal timber arriving at Houston from the Peruvian port of Callao.²³⁶

NGOs, government institutions, and multilateral organizations estimate that 60 to 90 percent of the timber exported from Peru is illegal

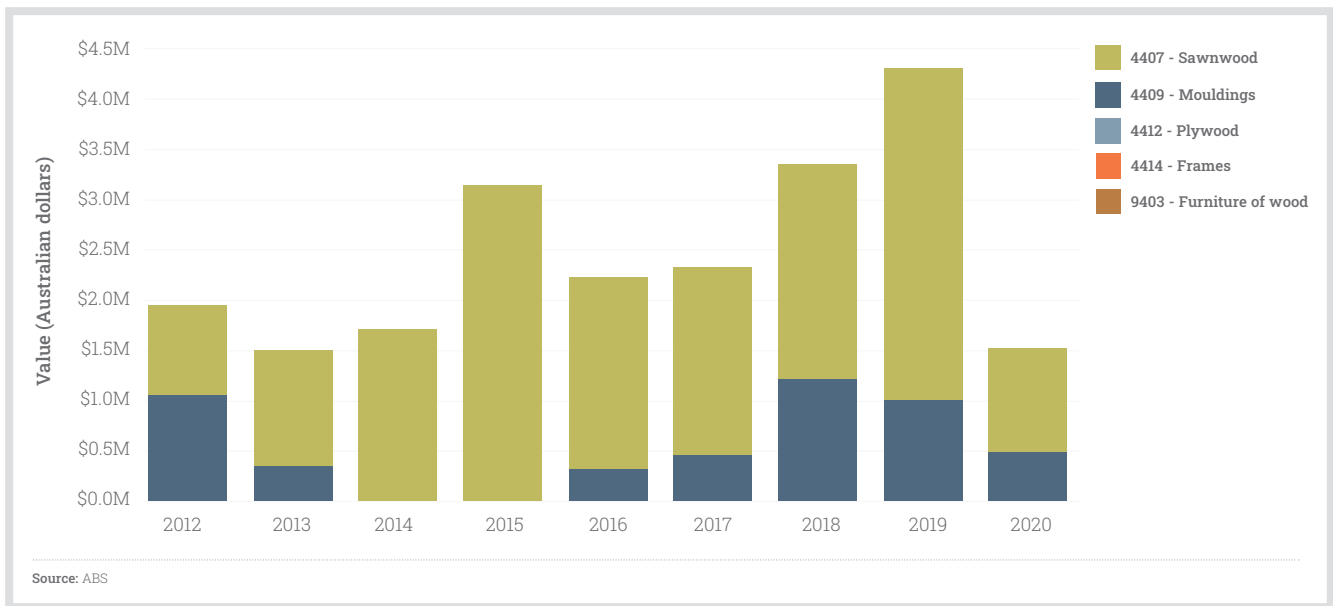


Figure 25
Australian HS44 and 94 imports from Peru

In 2017, the Office of the United States Trade Representative made the historic decision to block timber imports from Peruvian company Inversiones Oroza for up to three years, due to its high levels of illegality in timber exports.²³⁷ In 2020, the U.S. government extended its blockade indefinitely.²³⁸ U.S. imports from a second company, Inversiones WCA, were similarly blocked for 3 years in 2019.

Although Peru has shown that it has the capacity to detect and stop illegal timber trade, there are ongoing efforts by industry and government lobbies seeking to weaken traceability and transparency within the sector²³⁹

and the involvement of government officials in laundering illegal timber is widespread.²⁴⁰ In an analysis of 21 possible sub-categories of law, Preferred by Nature identified risks in all but one, for which no legal requirement existed.²⁴¹

Trade to Australia

Australian imports of wood products from Peru increased from \$2.2 million in 2016 to \$4.3 million in 2019. The vast majority of the 2019 imports consisted of sawnwood (HS 4407) and flooring (HS 4409), making it a suitable target for ILPA enforcement.”

THE CONGO BASIN

Direct trade from countries in the Congo Basin to Australia is minimal, however, the region, and especially the countries of Cameroon, Gabon, and the Republic of the Congo have become important suppliers of raw materials to processing countries supplying Australia, particularly China and Vietnam. Given the scale of the trade to processing countries, the remarkably high levels of risks of illegality present in each producer country, and the high likelihood that products produced from timber grown in the Congo Basin are imported to Australia, chapters outlining the key risks for each are below.

When importing products that have been manufactured in China or Vietnam, but contain species found in the Congo Basin, Australian importers must pay careful heed to these risks, and take appropriate steps to ensure that their timber has been legally sourced.

In 2005, the Congo Basin accounted for seven percent of Vietnam's timber imports by value; by 2019, this figure had jumped to 73 percent

CAMEROON

25 CPI rating

82.24 ILAT rating

0.36 RoL rating

97.9 Fragile States rating

22 Sourcing Hub rating

16 FitW rating

Over 20 million hectares, or 43 percent, of Cameroon is forested,²⁴² 17 million hectares is dense tropical rainforest.²⁴³ A majority of logging operations in Cameroon are foreign-owned and are reported to have “aggressively and unsustainably logged their concessions without much concern over prosecution by corrupt forestry officials.”²⁴⁴

Chatham House, in its 2015 assessment,²⁴⁵ found that “Illegal practices have been reported in all areas of Cameroon’s formal forest sector, most notably by the country’s independent monitors.” It was estimated that 65 percent of production was illegal, and, while rates of illegality were particularly high in the domestic trade, illegality was “also common in supply chains for export.” Chatham House estimated that 27 percent of 2014 exports were illegal and that China and Vietnam received 36 and 10 percent of this trade.²⁴⁶ A higher risk was assigned to log exports than sawnwood. Given the surge in export to these two countries (detailed below), it is likely that these figures have since increased.

Preferred by Nature’s 2017 assessment²⁴⁷ described illegality as “frequently documented at various stages

along the local supply chain” and appearing across all categories of law. This assessment found risks of illegality related to timber harvesting activities, rights to harvest, payment of taxes and fees, third parties’ rights, transport, and trade. Preferred by Nature also identified the risk that children were used as forest laborers.

The UNEP-WCMC 2020 country assessment²⁴⁸ notes that the forestry sector suffers from corruption, and that Ministry of Forests and Wildlife agents were involved in illegal activities. The assessment notes that independent external observation missions regularly observed illegal activity, including “unauthorised logging; exploitation of prohibited species (e.g. bubinga); no delineation of the annual allowable cut; unmarked stumps and logs; overlapping boundaries between cut sales and community forests; and creation and extensions of community fields and agroindustrial plantations.”

Numerous²⁴⁹ companies in Europe have been found in breach of the EUTR following the placement of high-risk timber from Cameroon on the European market, including an FSC-certified importer.



A log yard in Cameroon with a long line of delivery trucks arriving

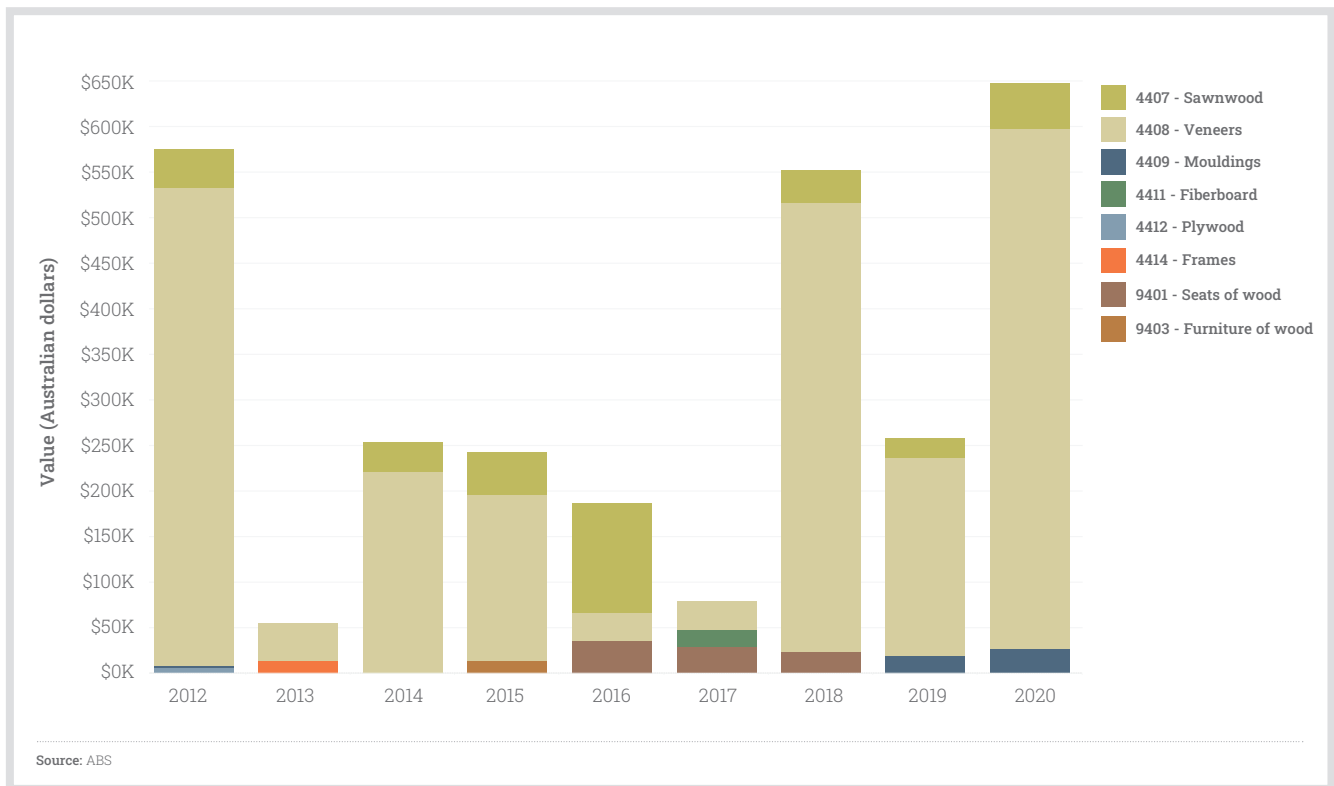


Figure 26
Australian HS 44 and 94 imports from Cameroon

A 2020 EIA and CED investigation documented the booming illegal trade between Cameroon and Vietnam.²⁵⁰ The report provided evidence of illegal harvest, laundering, and widespread violations of Cameroonian export and labor laws. Illegal logging operations were identified in the buffer zone of a United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Site.

The report recommended that regulated markets, including Australia, “recognize the high risks associated with the import of timber products made in Vietnam and increase the controls on imports of Vietnamese timber products, particularly when the origin of the timber is Congo Basin.”

Trade to Australia

In 2019, Australia imported ILPA-regulated products worth \$258 thousand. Approximately 85 percent of this trade was declared under HS 4408909096 (sheets for veneering). Approximately 8.5 percent was declared under 4407, (sawnwood), and a further 7.5 percent was declared under 4409 (shaped wood, such as dowel or mouldings).

All trade was to Melbourne, which, combined with the low volumes, suggests a small number (potentially a single) of importers, which would allow for investigation of all relevant due diligence systems by enforcement officials with minimal effort.

Trade to key processing countries

Raw materials (those declared under HS 4407 and 4403) exports to China and Vietnam totalled over U.S.\$422 million in 2019. A further U.S. \$18 million worth of exports were declared under HS 4408.

Cameroon’s export of logs to China has increased dramatically since the turn of the century, rising tenfold from 50,000 cubic meters in 2001 to over 500,000 cubic meters in 2019 (and over 650,000 cubic meters in 2018).²⁵¹ Chatham House estimated that 43 percent of the 2014 log trade to China was illegal.²⁵²

Exports to Vietnam have likewise surged. In 2005, the Congo Basin accounted for 7 percent of Vietnam’s timber imports by value; by 2019, this figure had jumped to 73 percent. Cameroon is by far the largest timber exporter from the Congo Basin to Vietnam, and now the leading country for sourcing tropical logs, accounting for 37 percent of the tropical logs imported by Vietnam between 2017 and 2019, valued at over U.S. \$880 million.

Any Australian importers of Chinese or Vietnamese products produced from species found in the West or Central African regions will need to assess the risk that their timber was sourced from Cameroon.

GABON

30 CPI rating

86.88 ILAT rating

NA RoL rating

69.1 Fragile States rating

0 Sourcing Hub rating

22 FitW rating

Around 85 percent of Gabon's land area (or 22 million hectares) is forested,²⁵³ and over half of the country is covered by logging concessions.²⁵⁴ Timber is Gabon's second most important export, with around 90 percent of the country's log production sold to the international market.²⁵⁵ Gabon's forests are all owned by the State, which banned the export of logs in 2010.²⁵⁶ Notable species for export from Gabon are okoume and kevazingo (*Guibourtia tessmannii*), the latter of which is listed on CITES Appendix II.

Risks of illegality are high, with a UNODC 2014 estimate concluding that 70 percent of harvested timber is illegal.²⁵⁷ Preferred by Nature's 2017 risk assessment²⁵⁸ assigned a "risk score" of 0/100 (the highest possible level of risk), and identified risks in all categories assessed. Preferred by Nature found that "corruption is frequently used," illegal practices are "simultaneously numerous, varied, and sophisticated in the heart of the Gabonese forest sector" and that "the majority of economic players do not bother with complying with legal requirements."

An NGO investigation²⁵⁹ identified China's Dejia Group (and its Gabonese affiliate, SSMO), which controls 1.5 million hectares of forest in Gabon and the Republic of the Congo, as a key driver of illegal activity. The Group has "bribed officials to win the allocation of logging rights over hundreds of thousands of hectares of forest; operated for years without approved management plans; overharvested thousands of trees; logged many prohibited species; exported hundreds of thousands of logs beyond their allowed quota; and evaded millions of dollars in taxes through sophisticated transfer pricing schemes."

High ranking members of the Gabonese government have been implicated in illegal activity. In 2019, the Gabonese government announced that 350 containers of illegally logged kevazingo timber had disappeared from a Chinese-owned depot at the Port of Owendo after having been seized a month prior. The resulting scandal, which came to be known as "Kevazingogate," ultimately resulted in the dismissal of the Vice President, the Minister of Forestry and Environment and other high-ranking officials.²⁶⁰ The Government of Gabon has recently announced efforts to increase transparency and traceability in its timber sector.

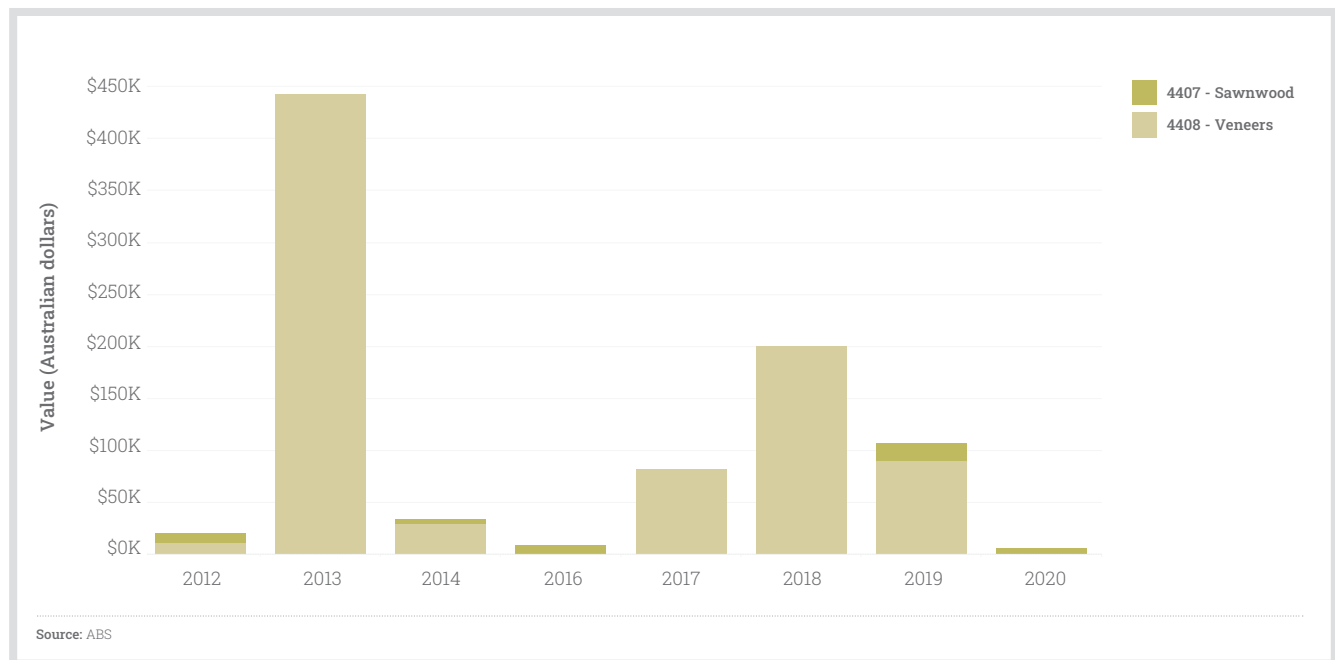


Figure 27
Australian HS 44 imports from Gabon

Trade to Australia

In 2019, Australian imports of ILPA-regulated products totalled \$106 thousand. 84 percent of the trade was declared under HS 4408909096, the remainder was split between 4407299326 and 4407999933. All of the 4408 imports landed in Brisbane, while the 4407 trade was directed to Melbourne.

HS 440890 is an “other” section that relates to veneer that cannot be classified under any of the other 4408 codes, which cover coniferous and tropical wood. HS 4408909096 is then the “other - other” section within this subchapter, and is covered by a Tariff Customs Order (TCO).²⁶¹ Goods covered by a TCO may enjoy lower tariffs, however, misdeclaration can attract penalties.

HS chapter 4407 relates to sawn timber, and HS 4407299326 and 4407999933 are “other” categories. The former is a “tropical - other” code, i.e., the timber species is not one of the 86 listed elsewhere in the chapter; the latter is a further “other code,” i.e., the species cannot be described by any of the codes that deal with tropical or coniferous wood.

While not conclusive, that all trade was declared under “other” codes is still noteworthy, and coupled with the extraordinarily high risks of illegality, warrants further investigation. The small volumes and single entry points suggest that few importers are involved in the trade, which would allow for enforcement to readily assess all relevant due diligence systems.

Trade to key processing countries

Raw materials (those declared under HS 4407 and 4403) exported to China totalled over U.S. \$263 million in 2019 (no trade with Vietnam was reported). This trade was dominated by sawn timber, which accounted for 97.5 percent of the total (reported volume was over half a million cubic meters). However, China did report imports of 14,364 cubic meters of logs from Gabon, valued at nearly U.S. \$7 million, despite Gabon’s log export ban. While direct trade between Australia and Gabon is minimal, okoume is widely used in plywood products, and Australian importers should be aware of risks associated with products produced in China.

REPUBLIC OF THE CONGO

19 CPI rating

97.74 ILAT rating

NA RoL rating

92.1 Fragile States rating

NA Sourcing Hub rating

20 FitW rating

64 percent (some 20 million hectares) of the Republic of the Congo is forested.²⁶² The forests are split between two regions, in the north and near the coast in the south west.²⁶³ While not without substantial risks, the northern forests are generally considered to be slightly better managed and tend to supply the European market, while those in the south west supply East Asia, especially China, and tend to have significantly poorer governance and higher risks of illegality.²⁶⁴

Nationally, 70 to 75 percent of timber was estimated to be illegal in Chatham House’s 2014 assessment²⁶⁵ (noting that this figure likely varies considerably between the different forested regions). Such levels of illegality should be of major concern to anyone conducting due diligence upon Congolese timber, especially when:

- the point of harvest is in the south western region;
- the point of harvest is unknown; or
- products have a multinational supply chain with processing occurring in East Asia.

Chatham House concluded that “it is unlikely that any unverified or uncertified timber from Congo could meet EUTR due diligence requirements,²⁶⁶ (broadly similar to those required under the ILPA). Given the prevalence of high level corruption and illegal harvest, a “timber legality” framework-based due diligence system relying on private certification is unlikely to meet the requirements of the ILPA, and importers of certified products are advised to utilize a Regulated Risk Factors approach.

An NGO investigation²⁶⁷ identified China’s Deji Group (and its Gabonese affiliate, SSMO), which controls 1.5 million hectares of forest in Gabon and the Republic of Congo, as a key driver of illegal activity. The Group was found to have bribed government officials, illegally obtained rights to harvest in at least one logging concession (the Lebama concession), operated without approved management plans, overharvested and logged non-authorized species, exceeded annual log export quotas, and avoided tax payments. Investigations concluded that such activities were not confined to Deji Group, but systemic across the Congolese logging industry.

Trade to Australia

In 2019, Australia imported ILPA-regulated products worth \$18 thousand. All of this was declared under HS 4407999933, and shipped from Valencia to Melbourne. HS chapter 4407 relates to sawn timber, and 4407999933 is an “other - other” category. The chapter lists 86 tropical species – imports declared under 4407999933 relate to species which cannot be described by any of the codes that deal with tropical or coniferous wood.

The minimal value and single ports of origin and destination suggest a single importer, which would allow for ready assessment of all relevant due diligence systems by enforcement officials.

Trade to key processing countries

China is the largest market for Congolese timber. In 2019, the trade in raw materials (HS 4407 and 4403) exported to China and Vietnam as reported by the Republic of the Congo was valued at U.S. \$221 million. When reported by China and Vietnam, the trade totalled over U.S. \$321 million (trade under HS 4403 accounted for a vast majority of the disparity in reporting).²⁶⁸

Levels of illegality should be of major concern to anyone conducting due diligence upon Congolese timber

Okoume logs have dominated HS 44 trade to China since at least 2014, and represented 48 percent of the total trade in 2019, when nearly U.S. \$120 million worth were imported. Sapelli logs have consistently represented around 10 percent of the trade, while logs declared as “other” tropical logs have increased from an annual average value of U.S. \$31 million between 2014 and 2016 to an average of U.S. \$82 million between 2017 and 2019.

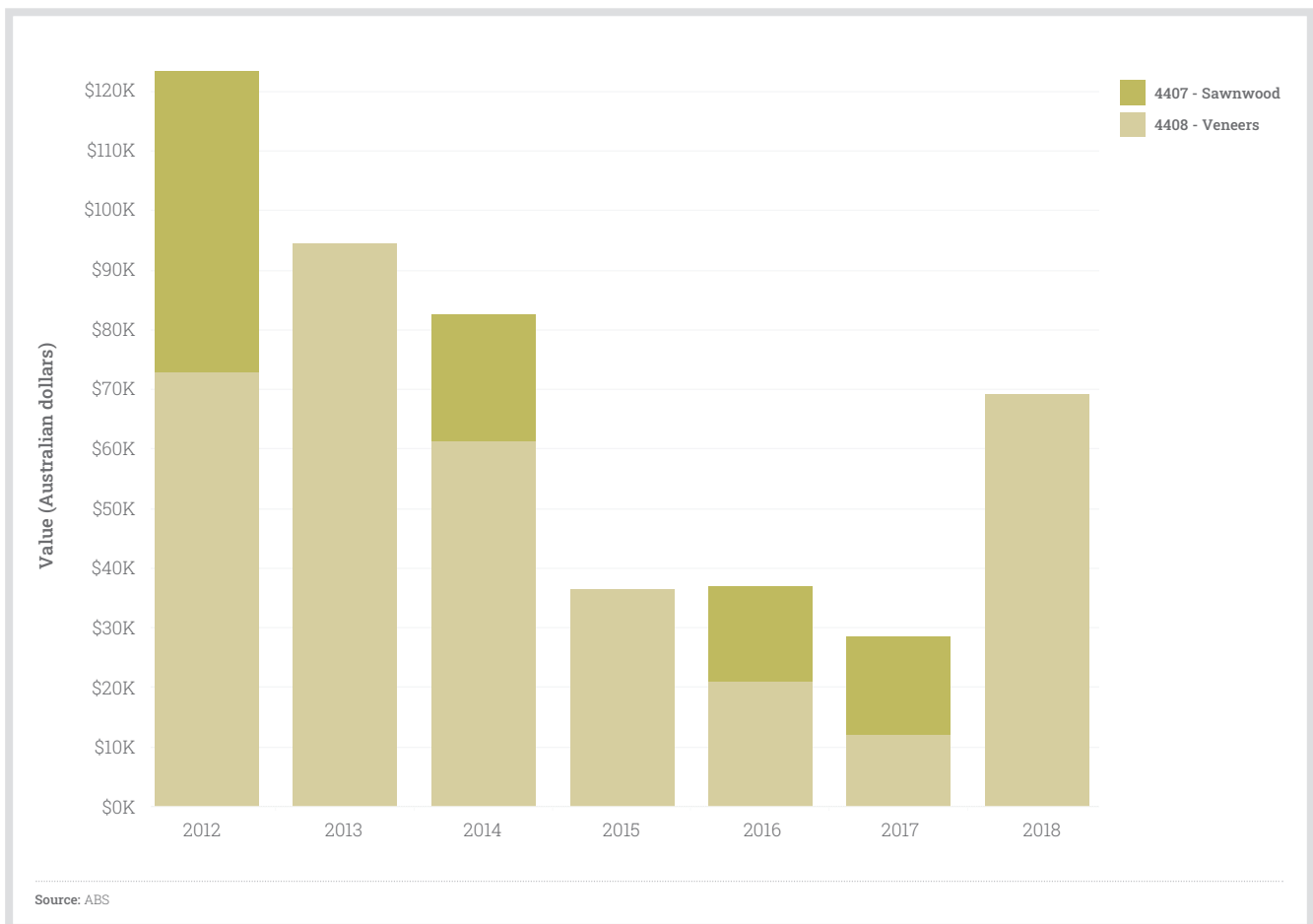


Figure 28
Australian HS 44 imports from the Republic of the Congo



A furniture factory in Vietnam

RECOMMENDATIONS

Since passage of the *Illegal Logging Prohibition Act* in 2012 and its full entry into force in 2018, the Australian government has made substantial efforts to provide guidance to importers through outreach, webinars, and the production of guidance materials, including a risk assessment table to facilitate due diligence.²⁶⁹ In early 2023, the Department of Agriculture, Fisheries and Forestry indicated that based on input received during the sunset review of ILPR that began in 2021 they would soon propose amendments to both the Act and Regulation to expand declaration requirements to include information on species and location of harvest; add seizure, testing, transparency, and enforcement powers; and refine definitions.²⁷⁰ Close to a decade after the passage of the ILPA and five years after ending the soft start period, importers of regulated products should be aware of their obligations and have implemented due diligence systems. While the education and outreach efforts by the government have been commendable, publicly disclosed enforcement actions to keep illegal timber out of the Australian market have been limited.

Given the value and volumes of high-risk timber and wood products entering Australia, both the Australian government and Australian companies should increase implementation, compliance, and enforcement actions. The government should increase checks and compliance actions and publicly report these on at least an annual basis, as Canada does,²⁷¹ if not more frequently, as in the EU. Transparency increases compliance, and both the public and companies need to know that the government is taking action. Increasing enforcement actions also notify companies that they can be held responsible for violations of the law, driving companies to improve due diligence and reduce the risk of importing and selling illegal timber or wood products.

The Australian government's 2018 compliance plan²⁷² did note complex supply chains (those that involve multiple countries) as an area of focus. However, this plan proposed to focus upon imports from countries that are known tax havens. Significant volumes of ILPA-regulated products are not being shipped from tax haven countries, and it is breaches of harvest regulations, not tax law, that the ILPA is focused upon. Instead, the Australian government should update (and publish) its compliance plan to focus efforts upon the significant volumes of high-risk imports sourced from high-risk producer countries and manufactured in processor countries such as China and Vietnam.

Given the complexity of trade routes and supply chains, due diligence to identify the chain of custody of each component made of wood back to the point of harvest is key. Companies need to identify and provide information on the country of harvest of the trees, as the country of manufacture and/or export is not what matters most. As even products exported from a low-risk country may contain high-risk wood from another, tracing supply back to the country of harvest needs to become the norm in Australia.

Australian consumers are also exposed to timber products with significant risks of illegality via supply chains linked directly to the country of harvest. While the volumes involved are often lower than those associated with processor country imports, the simplified nature of these supply chains combined with the well documented risks for many of these countries present low hanging fruit for enforcement. Australia should not discount its capacity to positively influence producer behavior. The government of Gabon for example, significantly stepped up its enforcement²⁷³ after continued investigations into illegal logging and

negative exposure to EU and U.S. markets, and has recently embarked on establishing a comprehensive traceability system in its timber sector.²⁷⁴

Country specific enforcement projects can simplify enforcement approaches, via the identification of risks consistent across multiple supply chains, and should also form a focus for compliance.

For the Australian Government

1. Fully enforce the ILPA and provide an annual report of compliance actions, due diligence checks, and any other relevant enforcement actions, including fines, court cases, and audits.
2. Enforcement agencies need to be fully funded and staffed to be able to undertake a comprehensive program of checks, and further compliance actions, as needed. Interagency cooperation should occur through a formally convened process with consistent meetings, but also through direct staff outreach. In particular, the Department of Agriculture, Fisheries and Forestry should work closely with Customs on enforcement and analysis.
3. Introduce an ILPA declaration (N10) to require scientific species name and country of harvest for wood products. This information, as well as other relevant information needed to assess illegality should be systematically collected and screened for red flags and risks.²⁷⁵
4. Customs Data (to shipment level of detail) should be made publicly available, in order to facilitate the detection and prosecution of illegally imported timber products.
5. Increase the use of innovative timber identification technologies to help identify potential violations of the law, such as misdeclaration at the point of import.
6. Work with enforcement authorities in other countries (including supply-side countries) to share information and best practices and to reduce imports of illegal timber and wood products.
7. Identify and implement priority enforcement projects, including:
 - a. high-risk imports from processor countries, such as plywood from China, or tropical hardwood furniture from Vietnam;
 - b. country specific direct producer to market supply chains, such as Myanmar, Papua New Guinea, and the Solomon Islands; and
 - c. reassessment of the due diligence systems deployed by the 512 largest importers, identified as responsible for almost 80 percent²⁷⁶ of regulated

As even products exported from a low-risk country may contain high-risk wood from another, tracing supply back to the country of harvest needs to become the norm in Australia

imports, to ensure that issues identified in previous audits have been addressed, that the country of harvest is identified for any products that may contain risks of illegality, and that the risks discussed in this report are identified and mitigated.

8. Publish clear advice to importers that due diligence systems must identify the country of harvest, and not just the country of last export, particularly for species where risks are present (such as tropical hardwoods).
9. Foster a culture of cooperation with civil society that encourages the submission of third party substantiated concerns, and publish figures for the number received and percentage acted upon on an at least annual basis.

For Australian companies

1. Work with suppliers to establish traceability in supply chains, identify sources of timber back to the concession level for imports from countries with high rates of illegal logging, including when processed in a third country.
2. Benefit from existing experience of international industry and company best practices in the U.S. and EU, and adapt for the Australian context.
3. In order to assess risks of illegal timber in supply chains, use increasingly available existing information about risk of illegality in source countries from UN and independent organizations (Chatham House, NGOs, Preferred by Nature, Interpol, UNODC, CITES, UNEP-WCMC).
4. Increase the use of innovative timber identification technologies to test the species and geographical origin claims of suppliers.

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