



CHINA'S HIGH-RISK TIMBER TRADE: LESSONS FROM PAPUA NEW GUINEA

China's vast wood product manufacturing sector is dependent on raw materials from overseas, but much of the timber it imports comes from countries where corruption and weak rule of law is leading to high levels of illegal logging and environmental destruction. Papua New Guinea (PNG), the source of a third of China's tropical log imports, is one such country. As a responsible trading partner, China should ensure that its companies are taking steps to avoid timber that was produced in violation of laws in source countries like PNG. This brief provides recommendations for carrying out effective checks on their timber supply chain, known as due diligence, drawing on insights from Global Witness investigations into illegal logging in PNG.

WHY CHINA SHOULD CARE ABOUT THE IMPACTS OF ITS TIMBER TRADE

China is the largest importer, manufacturer and exporter of wood products globally. But with nearly half of China's supply of wood coming from forests outside its borders¹, China has a significant role to play in the future of the world's forests.

China is also central to global efforts to tackle illegal logging. The economic value of illegal logging represents at least 10% of the global timber trade.² China is the destination for about two-thirds of all tropical logs on international markets, the majority coming from countries struggling to address corruption and weak rule of law (see Box). If China, the most important actor in the global

timber trade, buys its wood with 'no questions asked', it risks undermining efforts by its trading partners to improve governance, prevent environmental degradation, and achieve the United Nations' Sustainable Development Goals (SDGs).³

The world expects China to continue its leadership in global efforts to mitigate climate change as President Xi has made clear commitments on the global stage and during the 19th Communist Party Conference. Between 1990 and 2010, deforestation and degradation in tropical forests accounted for an estimated 15 per cent of global carbon emissions: roughly equivalent to the emissions from all the world's air, road, rail and shipping traffic combined.⁴ Illegal logging is a significant contributor to forest-related emissions.⁵

Chinese policy makers need to be aware of China’s critical role in preventing the degradation and loss of the world’s forests. Taking measures at its border to screen out illegal wood would be a sensible first step. Other major timber importing members of the G20 – the U.S., the EU, Japan, Canada and Australia – have legislated against the import of illegal timber. As a leading member of the global South, similar measures by China are necessary for the success of global efforts to tackle the illegal timber trade.

In 2012, the concept of “Ecological Civilisation” entered the Constitution of the Chinese Communist Party and the country’s 12th five-year plan. This reflects President Xi’s outlook for China’s greener future, and was reaffirmed during the 19th Party Conference as a key direction for China’s development.

Do not do to others what you would not have them do to you – traditional Confucius teaching also leads China to extend its aspiration for a greener future beyond its

border. Most recently, the government has issued a Green Belt and Road guidance opinion, which is intended to steer increasing Chinese investment and trade overseas towards more environmentally friendly projects.

In August 2017, Global Witness released a report presenting evidence of widespread illegal logging in Papua New Guinea (PNG) and the resulting rainforest destruction and harm to rural communities. PNG is the largest supplier of tropical logs to China. As the destination for almost 90% of PNG’s log exports, China can play a key role in promoting good governance and improved sustainable development outcomes in PNG. However, Global Witness research found that with few exceptions, importers and manufacturers in China are not taking steps to ensure the timber they buy is produced in compliance with PNG’s laws.

Against this backdrop, Global Witness urges the Chinese government to develop

Most countries supplying China with tropical logs rank poorly on indicators of governance compiled by the World Bank

Country	Proportion of China’s tropical log imports in 2016 (%)	2016 WGI ranking for Rule of Law (percentile)	2016 WGI ranking for Control of Corruption (percentile)
Papua New Guinea	29	25	16
Solomon Islands	19	40	44
Equatorial Guinea	11	7	0
Mozambique	6.8	16	18
Cameroon	5.0	15	11
Republic of Congo	4.8	14	10
Nigeria	3.3	14	13
Lao PDR	1.6	24	15
Myanmar	1.6	51	55
Liberia	1.3	17	31

Sources: Import data from China’s General Administration of Customs; Rule of Law and Control of Corruption rankings from 2016 World Governance Indicators (WGI), available at: <http://info.worldbank.org/governance/wgi/#home>

measures requiring its importers to carry out due diligence to ensure that illegal timber does not enter China's markets. Excluding illegal timber is not just good for producer countries struggling to improve governance, or China as it seeks to build a reputation as a responsible trading partner committed to achieving the objectives of the Paris Agreement and SDGs. It can also help the Chinese manufacturing sector ensure that its products comply with existing laws in major export markets such as the U.S. and EU that prohibit illegal timber.

Drawing on Global Witness research and investigations published in our August 2017 report *Stained Trade*⁶, this brief summarizes evidence that timber from PNG should be considered high risk and subject to stringent due diligence measures to exclude timber produced illegally. It provides examples of existing due diligence guidelines for mineral and rubber supply chains developed by a Chinese industry association under the Ministry of Commerce and provides recommendations to inform the development of mandatory timber supply chain due diligence measures by the Chinese government.

WHY TIMBER FROM PNG IS HIGH RISK

PNG ranks in the bottom 25% of all countries on indicators of governance compiled by the World Bank measuring how well a country enforces its laws and manages corruption (see Box). While no single indicator can be considered definitive, for companies considering sourcing timber from PNG, this is one of many red flags indicating a high risk of illegal logging. The prevalence of illegality in PNG's forestry sector has been widely documented by a number of reputable,

independent sources, including international organisations, academic researchers and scholars, international and local non-governmental organisations and the media. Several examples are cited in this brief and more can be found in our *Stained Trade* report.

In an assessment released this year, timber certification body NEPCo rated PNG as one of the highest risk countries in the world.⁷ International research institutes Chatham House and Institute for Global Environmental Strategies (IGES) have both published comprehensive assessments of the forestry sector in recent years that highlight the prevalence of illegality in the forestry sector.⁸ The Chatham House study, published in 2014, concluded that "*it is likely that the majority of timber production in the country is illegal in some way*", and that the PNG government "*has shown little engagement in international efforts to tackle illegal logging and associated trade.*"⁹ A major review commissioned by the PNG government between 2000 and 2005 with support from the World Bank painted a similar picture.¹⁰

“Illegal practices are widespread in Papua New Guinea's forest sector, and it is likely that the majority of timber production in the country is illegal in some way.”

– Chatham House, 2014

Companies considering sourcing timber from PNG must recognize the high risk of illegal logging and gather more detailed information before deciding if or how these risks might be mitigated. Chatham House outlined some commonly observed types of legal violations in PNG, for example: licences

being issued or extended in breach of regulations (especially those relating to consultation with indigenous landowners); extensive breaches of harvesting regulations; and the abuse of licences for clear-felling forest for large-scale agriculture.¹¹ These types of breaches involve the issuance of permits by government officials in violations of legal requirements, demonstrating that acquiring official documentation alone is not sufficient to verify legality in PNG.

WHY DOCUMENTS DO NOT ENSURE LEGALITY IN PNG: THE CASE OF SABLs

In recent years, a third of PNG's log exports originated from land leases called Special Agriculture and Business Leases (SABLs), which have been subject to widespread criticism since 2011. Global Witness' *Stained Trade* report examines how SABLs were used to strip indigenous communities of their land and forests in violation to their rights under PNG's Constitution and laws.¹² An official government investigation, the Commission of Inquiry into SABLs, concluded in 2013 that most of the SABLs reviewed had violated laws meant to protect people's land rights and recommended they be revoked.¹³ Over 85% of the logs cut under these leases were exported to China.¹⁴ The Inquiry did not review all of the SABL leases, but some of the leases that were not reviewed have been challenged in court and/or the subject of critical reports by civil society, academia and the media.¹⁵

The Commission of Inquiry documented how the government had failed to obtain consent from indigenous communities before leasing their customary land and forests to companies for large-scale agriculture for up to 99 years. It cited evidence that

government officials had not followed required procedures when issuing documents and found examples of fraud, including forged signatures on documents purporting to show that indigenous landowners had consented to lease their land. In some cases, SABLs were used to fraudulently obtain access to areas of forest for the sole purpose of logging, without any ensuing agricultural activities.¹⁶ Most logging operations were carried out by companies linked to the Malaysian logging industry and involve clear-cutting of rainforest, much of it previously intact.

Extensive NGO and media reports have also presented evidence that landowners did not consent to having their land included under SABLs.¹⁷ A 2013 report by IGES concluded that "...unless strong evidence of legal compliance can be secured, any logs sourced from SABLs should be avoided until the Government has formulated and implemented a comprehensive response to deal with the issues laid out in the Commissions of Inquiry reports."¹⁸ The SABL leases have been associated with a range of human rights and environmental abuses. Police on the payroll of logging companies have harassed, arrested and beaten landowners who try to speak out.¹⁹

The example of SABLs shows how in high risk countries such as PNG, a document-based approach is not sufficient to ensure a logging operation is legal. Companies cannot take permits at face value as government officials may not follow laws when issuing permits. In the case of SABLs, the issuance of documents intended to show that indigenous landowners had agreed to give up their land and forests, notably Land Investigation Reports and Incorporated Land Group registrations, often did not follow

procedures required by law and in some cases involved fraud or coercion.



“ We don’t want the SABL, we don’t want oil palm. We want our land back. That’s our mother. Without the land, we cannot live.”

– Mary Bailonakia, landowner, Pomio District, East New Britain Province, PNG.

Any land titles, land leases or logging permits issued where there was a lack of landowner consent would also be illegal in PNG. This was found to be the case by the PNG courts for several SABLs following legal challenges brought by communities.²⁰ Some legal challenges are still in making their way through the courts.

In one notable example, PNG’s National Court ruled in 2014, in a decision later upheld by the Supreme Court, that a land title and associated SABL were illegal due to violations of customary land rights under the Constitution and Lands Act, and therefore all logging carried out under the SABL was illegal. However, by the time of the Supreme Court decision in August 2016, more than 600,000 m³ of timber had been illegally cut and exported under the lease, mostly to China. In the months following the Supreme Court decision, six additional shipments

carrying illegal timber cut under the lease went to China.

Beginning in late 2016, nearly a decade after many of the SABLs were issued, PNG’s Prime Minister made a series of public statements, reported by major national and international media outlets, declaring SABLs illegal and announcing their cancellation.²¹ While this raises serious questions about the legal status of all the leases, the government does not appear to have taken any subsequent actions to cancel leases or halt operations. Logs continue to be cut and exported under SABLs.

CAN RISKS IN PNG BE MITGATED?

In light of evidence that the government and companies in PNG are not taking steps to ensure laws protecting the legal rights of indigenous landowners are being followed, a Chinese company considering sourcing timber from PNG should familiarize itself with laws related to customary land rights. It should then identify and consult directly with customary landowners, local civil society groups and other independent experts familiar with the circumstances on the ground. This could be done by company staff or by hiring a reputable, independent third-party organization.

Where there is evidence legal protections for customary land rights or other laws have been violated, an importer should immediately stop sourcing. Companies should not source from PNG without first carrying out a detailed risk assessment and putting in place risk mitigation procedures that include independent verification of compliance with applicable laws and regulations. Any meaningful legality

verification procedure for PNG must confirm compliance with laws protecting customary land rights.

Adherence to other applicable laws should also be verified, including anti-bribery, forestry, environmental, transport, tax, and customs laws. Assessments by Chatham House and IGES indicate that there is weak oversight of most aspects of PNG's legal framework. The government is poorly resourced or motivated to enforce its own forestry laws and regulations: one poorly paid and equipped forestry officer may be responsible for checking logging operations over 1,000 km² of rugged terrain.

The use of existing, reputable third-party verification or certification schemes may be taken into account as part of risk assessment, but are not sufficient to prove legality and should be assessed for their coverage of all applicable laws. Regardless of the approach, ultimate responsibility for ensuring timber legality lies with the importer carrying out due diligence.

In the case of timber from PNG, it is important that Chinese importers recognize that the tagging system run by Swiss multinational SGS does not provide proof of legality. As long as the PNG Forest Authority authorises the issuance of tags, which can be found affixed to logs imported into China, it is not within SGS's remit to verify whether permits or the underlying rights to the land and forests were granted in accordance with PNG laws, or even whether logs were cut in the authorized location. It is the relevant government agencies' responsibility to enforce laws, but as discussed above, the agencies are seriously under-resourced, and corruption among government officials is a widely recognised problem. The newly appointed Minister of Lands and Physical

Planning in PNG has identified tackling corruption, stopping land theft, and cancelling illegal SABLs as key priorities.²²

Where mitigation of legality risks is not possible, or not permitted by the logging operator, government, or other parties, the supplier should be dropped.

WHAT THE CHINESE GOVERNMENT AND INDUSTRY SHOULD DO

Global Witness recommends that the Chinese government put in place mandatory measures requiring all timber importers to carry out due diligence to ensure they do not import timber produced in violation of source country laws.

In 2014, Global Witness outlined a five-step, risk-based approach to due diligence that companies should use to exclude illegal timber from their supply chains.²³ The approach was based on Due Diligence Guidance for responsible sourcing of minerals from conflict-affected and high-risk areas developed by the OECD, and later adapted by the UN Security Council.²⁴ The five steps are as follows:

- 1) Strengthening company management systems for carrying out due diligence
- 2) Identifying and assessing risks of illegal timber in supply chains
- 3) Designing and implementing a strategy to mitigate any identified risks
- 4) Ensuring independent third-party audits of due diligence process
- 5) Publicly disclosing due diligence policies and practices

In December 2015, the Chinese Chamber of Commerce of Metals, Minerals and Chemicals Importers and Exporters (CCCMC), supervised by the Ministry of Commerce, formally released its own mineral supply chain guidelines which include a five-step approach consistent with the OECD Guidance.²⁵ The CCCMC guidelines are intended to help companies avoid sourcing minerals associated with armed conflict and a range of other serious human rights abuses and misconduct.

While Global Witness is recommending that the Chinese government require its importers to carry out due diligence to exclude illegal timber, responsible companies along timber supply chains should go further and put in place checks to avoid timber associated with human rights abuses, including violations of land rights, or harm to the environment.

In October of this year, CCCMC released guidelines for addressing a range of social and environmental risks for companies involved in large-scale rubber plantations.²⁶ The guidelines describe a risk-based approach for carrying out due diligence on rubber supply chains or investments, and can serve as an additional resource for companies developing timber supply chain due diligence policies. The guidelines affirm the importance of adhering to all applicable laws and regulations in the source country and cover a range of other critical issues, including understanding and respecting the customary land rights of local communities and avoiding negative impacts on the environment.

RECOMMENDATIONS

Global Witness recommends that the Chinese government put in place mandatory

measures requiring all timber importers to carry out due diligence to ensure they do not import timber produced in violation of source country laws.

These measures should:

- Focus on importing companies, which represent a bottleneck in the supply chain and have the closest connections to overseas suppliers.
- Follow the risk-based, five-step approach outlined by OECD in its Due Diligence Guidance for minerals from conflict-affected and high-risk areas.
- Take into account compliance with all applicable laws in timber producing countries, including land rights, anti-bribery, forestry, environmental, transport, tax, and customs laws.
- Require importers to collect and submit information about the wood they import, including the country of harvest, species, quantity and supplier details.
- Require detailed risk assessment drawing on information from governments, international organizations (eg. the UN and World Bank), researchers and scholars, international and local non-governmental organisations and the media.
- Not accept official documents as proof of legality in high risk situations, particularly where there is evidence documents may be issued in violation of laws or involve fraud, bribery or other illegal activity.
- Require companies to develop risk mitigation measures commensurate to the risks identified, which may include independent field verification, particularly where there is evidence that the land rights

of indigenous or local communities are being violated.

➤ Not rely on existing verification or certification schemes as a guarantee of legality and place ultimate responsibility for the effectiveness of legality verification measures with companies.

➤ Be accompanied by dissuasive penalties for importers that fail to comply.

In addition to excluding illegal timber, Chinese companies along wood product supply chains should develop and publish due diligence policies and procedures that exclude timber associated with human rights or environmental abuses

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¹ State Forestry Administration, 2014. National Forestry Annual Report.

² UNEP/INTERPOL, 2012. *Green Carbon, Black Trade: Illegal logging, Tax Fraud and Laundering in the World's Tropical Forest*. Available at: <https://www.interpol.int/Media/Files/Crime-areas/Environmental-crime/Green-Carbon,-Black-Trade-Illegal-Logging,-Tax-Fraud-and-Laundering-in-the-World's-Tropical-Forests-2012/>

³ Sustainable Development Goal 15 sets out targets for halting deforestation and sustainably managing forests by 2020. Available at: <http://www.un.org/sustainabledevelopment/biodiversity/>

⁴ Houghton, R., *Journal of Carbon Management*, 10 April 2014. Available at: <http://www.tandfonline.com/doi/abs/10.4155/cmt.13.41>

⁵ Chatham House, 2010. Available at: <https://www.chathamhouse.org/publications/papers/view/109398>; Forest Trends, 2014. Available at: http://www.forest-trends.org/documents/files/doc_4718.pdf

⁶ Global Witness, 2017. *Stained Trade: How U.S. Imports of Exotic Flooring From China Risk Driving the Theft of Indigenous Land and Deforestation in Papua New Guinea*. Available at: <https://www.globalwitness.org/en/campaigns/forests/stained-trade/>

⁷ NEPCON, 2017. Timber Risk Assessments (beta), Papua New Guinea Timber Risk Profile. Available

at: <http://beta.nepcon.org/sourcinghub/timber/timber-papua-new-guinea>

⁸ Chatham House, 2014. Available at: <https://www.chathamhouse.org/publications/papers/view/198666>; IGES, 2013. Available at: https://www.illegal-logging.info/sites/default/files/IGES-PNG_Legality.pdf

⁹ Chatham House, 2014, previously cited.

¹⁰ For a summary of the five reports included in the review, see Forest Trend, 2006 (in two volumes). Available at: Volume I: http://www.forest-trends.org/documents/files/doc_105.pdf; Volume II: http://www.forest-trends.org/documents/files/doc_161.pdf

¹¹ Chatham House, 2014, previously cited.

¹² Global Witness, 2017, previously cited.

¹³ Final reports and other information available on the Commission of Inquiry on SABLs website: <http://www.coi.gov.pg/sabl.html>

¹⁴ Global Witness, 2017, previously cited.

¹⁵ Global Witness, 2017, previously cited.

¹⁶ Global Witness, 2017, previously cited;

Commission of Inquiry reports available at: <http://www.coi.gov.pg/sabl.html>

¹⁷ For a summary, see Global Witness, 2017, previously cited.

¹⁸ IGES, 2013, previously cited.

¹⁹ Global Witness, 2017, previously cited.

²⁰ Global Witness, 2017, previously cited.

²¹ Global Witness, 2017, previously cited.

²² Radio New Zealand, 25 August 2017. Available at: <http://www.radionz.co.nz/international/pacific-news/338010/new-minister-aims-to-clean-up-corrupt-png-lands-dept>

²³ Global Witness, 2014. Available at: https://www.globalwitness.org/documents/18121/Global_Witness_due_diligence_guidelines_for_Chinese_companies_December_2014_EN.pdf

²⁴ OECD, 2013. *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Second Edition*, OECD Publishing. Available at: <http://www.oecd.org/daf/inv/mne/GuidanceEdition2.pdf>; For more information about UN Security Council guidance, see Global Witness, 2014, previously cited.

²⁵ For more information see:

<https://www.globalwitness.org/en-gb/press-releases/global-witness-welcomes-progressive-new-chinese-mineral-supply-chain-guidelines/>

²⁶ For more information see:

<https://www.globalwitness.org/en/press-releases/chinese-industry-takes-bold-step-tackle-land-grabs-launch-new-rubber-guidelines/>