



**Asia-Pacific  
Economic Cooperation**

---

**2014/SOM2/EGILAT/023**

Agenda: IIC

## **Discussion on Defining “Illegal Logging” and “Legally Harvested Forest Products”**

Purpose: Information

Submitted by: Brunei Darussalam



**5<sup>th</sup> Experts Group on Illegal Logging and  
Associated Trade Meeting  
Qingdao, China  
7-8 May 2014**

**DISCUSSION ON  
DEFINING “ILLEGAL LOGGING” and  
“LEGALLY HARVESTED FOREST PRODUCTS”  
for Brunei Darussalam**

### What is Illegal Logging?

There is no single definition or universal definition of illegal logging. It is not a legal term derived from treaties, statutes, or court opinions. Neither is it a technical term that professionals use in a consistent way.

Below are some general terms and definitions used when describing logging:-

1. The European Union Action Plan for Forest Law Enforcement, Governance and Trade (EU FLEGT), states that illegal logging takes place when **“timber is harvested in violation of national laws”**. (*European Commission 2003*)
2. Illegal logging **refers to situations where timber is produced in contravention of national and international laws on cutting, processing, transporting or exporting wood**. (*Definition by FLEGT*);
3. Illegal logging takes place **when timber is harvested, transported, bought or sold in violation of national laws**. (*Brack & Hayman 2001, p.5,FAO Corporate Document Repository*);

## What is Illegal Logging?

4. "Illegal logging refers to the removal of logs in a manner that is against the provision of relevant laws". (*International Tropical Timber Organization ITTO 2007*);

5. Illegal logging is a violation of laws of cutting, processing and transporting timber. The definition of what makes wood legal or illegal is controversial but there are some general requirements for the legal timber. These include harvesting wood only where you have the rights to the timber, respecting quotas and restrictions, paying royalties and taxes and possessing the necessary authorization to transport and process logs. (*Definition by FSC*);

6. Illegal logging is the harvesting, transporting, processing, buying or selling of timber in violation of national laws. This definition also applies to harvesting wood from protected areas, exporting threatened plant/tree species, and falsifying official documents. It also includes breaking license agreements, tax evasion, corrupting government officials and interfering with access and rights to forest areas. (*Source: WWF*);

## What is Illegal Logging?

7. Illegal logging is the harvest, transportation, purchase or sale of timber in violation of laws. The harvesting procedure itself may be illegal, including using corrupt means to gain access to forests; extraction without permission or from a protected area; the cutting of protected species; or the extraction of timber in excess of agreed limits.

Illegality may also occur during transport, such as illegal processing and export; fraudulent declaration to customs; and the avoidance of taxes and other charges. (*Source: Wikipedia*);

8. One fundamental aspect is the "violation of relevant national legislation, including ratified international treaties and conventions". (*World Bank 2006*);

9. "Illegal logging of various forms, movement of wood products, which may or may not have been harvested legally, without proper authorisation or in contravention of controls; and activities directly aimed at avoidance of payment of taxes or forestry charges". (*Callister, 1999*)

## What is Legally Harvested Forest Products?

- “legal sources” are to mean “Harvested in accordance with the applicable legislation in the country of harvest”. (*UK Government Timber Procurement Policy*)
- “Applicable legislation” is defined to mean the legislation in force in the country of harvest covering the following matters:
  - Rights to harvest timber within legally gazetted boundaries;
  - Payments for harvest rights and timber including duties related to timber harvesting;
  - Timber harvesting, including environmental and forest legislation including forest management and biodiversity conservation, where directly related to timber harvesting;
  - Third parties’s legal rights concerning use and tenure that are affected by timber harvesting; and
  - Trade and customs, in so far as the forest sector is concerned.

### Suggested Definition of ILLEGAL LOGGING and LEGALLY HARVESTED FOREST PRODUCTS for Brunei Darussalam

**ILLEGAL LOGGING** – refers to the act of cutting, harvesting, transporting, processing, selling or buying of timber from Reserved Forests, Stateland, Reserved Land other than Reserved Forests, and/or Alienated land with no appropriate license issued by the Director of Forestry, except those considered as part of the privileges for the natives of Brunei Darussalam, as provided for by existing Brunei Forestry Laws, Rules and Regulations.

**LEGALLY HARVESTED FOREST PRODUCTS** – refers to the forest produce that are cut, harvested, found, collected, transported, processed, sold or bought that originates from Reserved Forests, Stateland, Reserved Land other than Reserved Forests, and/or Alienated land under appropriate license issued by the Director of Forestry, to include forest produce that are collected as part of the privileges for the natives of Brunei Darussalam, as provided for by existing Brunei Forestry Laws, Rules and Regulations.

**Existing definition of related terminologies:**

**Forest Produce** – includes, (a) the following when found in or brought from a reserved forest, that is to say, guano, peat, rock, sea-sand, river-sand, sea-shells, shell-sand and surface soil; (b) the following when found in or brought from a reserved forest or State land, that is to say, trees and all parts or produce not hereinafter mentioned of trees; plants including climbers, creepers and grasses, and all parts or produce of such plants; silk, cocoons, honey and wax and edible birds' nests; and (c) the following whether found in or brought from a reserved forest, State land, land reserved under the Land Code (Chapter 40) or any previous land Enactment or alienated land, that is to say, timber, firewood, charcoal, getah, getah taban leaves, wood oil, bark, extracts of bark, damar and atap. (Forest Act, as amended)

**License** - the Director of Forestry may, in accordance with the provisions contained in rules made under this Act, issue a license with respect to the taking of forest produce from any reserved forest or State land. (Forest Act, as amended)

**Existing definition of related terminologies:**

**(Stateland) No taking of forest produce except under license** - Subject to the provisions of these Rules, no person shall except under and in accordance with the terms and conditions of a license in Form 1, 2 or 3, issued by the Director of Forestry (a) fell, cut, tap, saw, convert or injure by fire or otherwise any tree on State land; (b) burn to charcoal any timber on State land; or (c) cut, collect, or remove on or from State land any forest produce included in the First Schedule. (Forest Rules, as amended)

**(Reserved Land other than Reserved Forests) No cutting etc. without permission of the person having control of such land** - No person shall: a) fell, cut, tap, saw, convert or injure by fire or otherwise any tree; b) burn to charcoal any timber; c) cut, collect or remove any forest produce included in the First Schedule; on or from any land (not being a reserved forest) which has been by notification in the Gazette reserved under the provisions of any written law for a public purpose or for a residential reserve, except under and in accordance with the conditions of a license in Form 1, 2 or 3 issued by the Director of Forestry with the permission of the person having control of such reserved land. (Forest Rules, as amended)

**Existing definition of related terminologies:**

**(Alienated Land) No removal of forest produce, except under license - (1)** Subject to any legal or customary right no forest produce included in the First Schedule shall be removed from any alienated land except under and in accordance with the terms and conditions of a license in Form 1, 2 or 3 issued by a Forest Officer. (2) A license issued under paragraph (1) may be issued to the owner of such land, or, with his consent, to any other person and forest produce removed thereunder shall be liable to royalty at the rates prescribed in the First Schedule. (Forest Rules, as amended)

**Privileges to natives of Brunei Darussalam - (1)** Any native of Brunei Darussalam may cut and remove from State land, or with the permission of the owner from alienated land, any timber, attap or other forest produce, which may be necessary for the construction or repair of a dwelling house for the permanent abode of himself and his family, for the construction or repair of temporary huts on any land lawfully occupied by him, for the construction or repair of his boats, landing places and fishing stakes, for the fencing of his land, for firewood for his own domestic consumption, or for the construction, repair or upkeep of any work for the common benefit of the native and other inhabitants of the locality in which he lives. (2) Forest produce for the purposes stated in paragraph (1) above may be taken free by individuals for their own use.