

Enhancing Customs collaboration to combat the trade in illegal timber

Conference on Transnational Environmental Crime:
Illicit networks and enforcement networks, Australia
National University, 15 Sept. 2011

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1. Overview of IGES-TNC study

- **Title:** Enhancing Customs Collaboration to Combat the Trade in Illegal Timber
- **Origin:** Asia Customs and Forestry Law Enforcement Workshop - 2005
- **Rationale/assumptions:**
 - Scale of “greed-based” illegal logging and the resultant trade too large to ignore
 - illegal harvesting represents 40–61% of the total harvest in Indonesia, and 14–25% in Malaysia (Lawson and MacFaul 2010).*
 - Consequences for producer countries are far reaching
 - “illegal logging robs national and sub-national governments, forest owners and local communities of significant revenues and benefits, damages forest ecosystems, distorts timber trade markets and forest resource assessments and acts as a disincentive to sustainable forest management.” G8*
 - Enhanced collaboration between customs agencies would enable them to be more effective in combating the cross-border trade in illegal timber, by providing them with information and other administrative support (surveillance, investigations, etc.) to assist with their controls.
- **Duration:** June 2008 – Jan. 2010

- **Funding:** USAID funded Responsible Asia Forestry and Trade (RAFT) programme
- **Research objectives:**
 - *Develop options for measures to promote technical and legal cooperation between Customs to tackle the illegal timber trade*
 - *Develop a strategy and follow-up steps*



Peer Review Workshop

Methodology

Analytical review

- Customs and illegal logging literature
- International legal instruments
- Bilateral arrangements
- Model and existing agreements
- Customs networks

Methodology

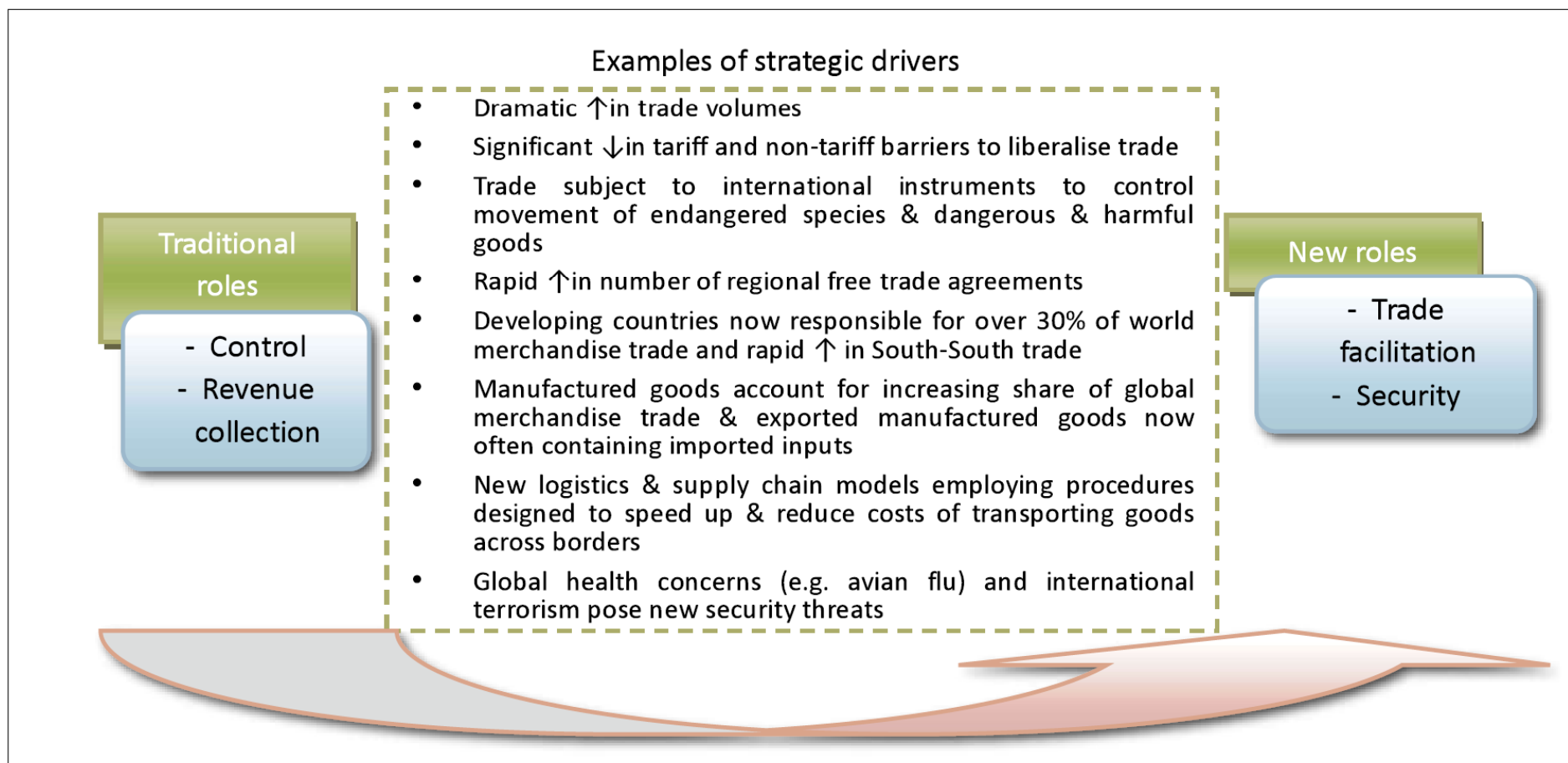
Consultations

- Customs, Forestry and other officials, and key experts

Peer review workshop

- Bangkok, 28-29 October 2009

2. The changing role of Customs



Source: Authors; based on material from Gordhan (2007).

3. Useful types of Customs collaboration to combat the illegal timber trade

Types of illegalities in the timber trade within the jurisdiction of Customs

Illegal export and import of trade in CITES-listed tree species

Export and import of timber in contravention of national bans

Bribing customs officials

Export without a licence or other necessary documents or using fraudulent documents

Undervaluing export prices and volumes and misclassification of wood products and species

Re-routing, trans-shipment fraud (i.e. transferring cargo between ships after export and before reaching the country of import) and tampering with cargo on the high seas

Import without the necessary documents or using faked documents

Useful types of Customs collaboration to combat the illegal timber trade

Info. Sharing on customs and forest laws, shipment documents & export restrictions

Protocols for spontaneous intelligence sharing and to make and accept requests for assistance

Reciprocal recognition of timber trade restrictions

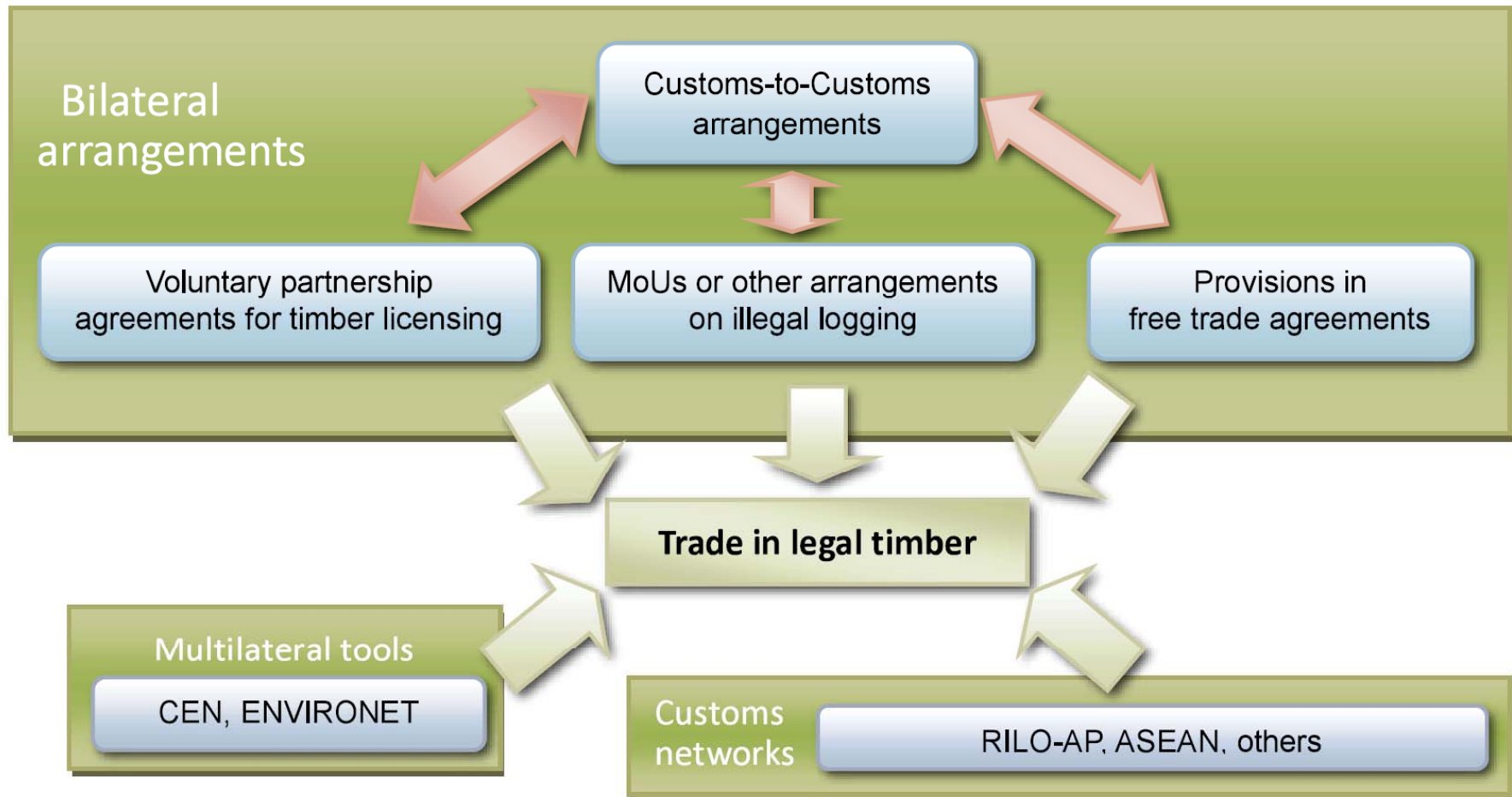
Joint investigation of timber trade statistics discrepancies

Identification of high risk timber and the development of their risk profiles to aid intelligence targeting

Use of customs export declarations, or an additional attestation of legality, in the country of import as a check on legality

Prior notification of exported timber shipments

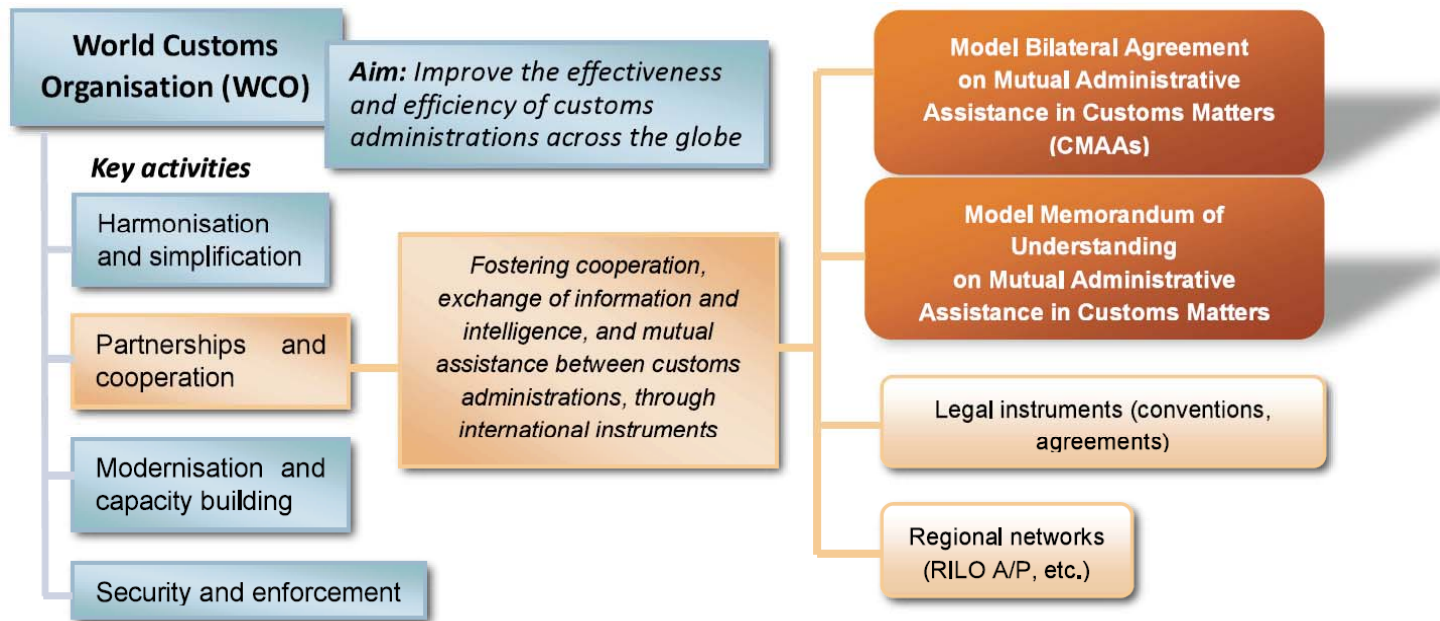
4. Arrangements and tools for Customs collaboration



Source: Authors. Note: Two-way arrows = mutually reinforcing; one-way arrow = contributes to.

5. World Customs Organisation

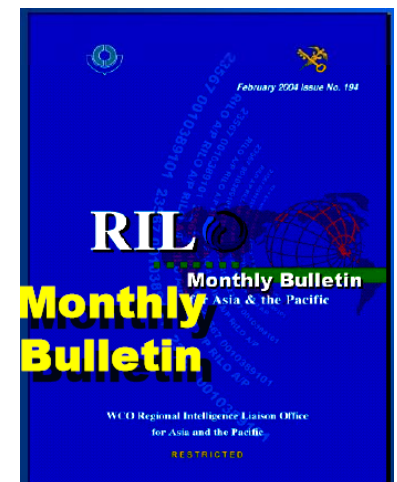
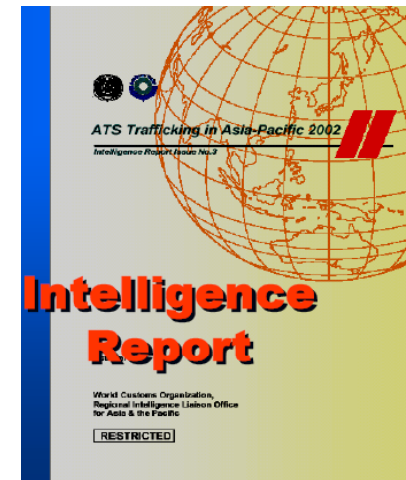
- Established: 1952
- Membership: 174 Customs administrations



- *Potential relevance to illegal timber trade:*
 - *Internationally-agreed conventions/instruments for harmonisation & simplification of Customs systems & procedures.*
 - *“Customs-to-Customs networks” and other co-operation*
 - *Customs Enforcement Network (CEN)*

6. Regional Intelligence Liaison Office for Asia and the Pacific (RILO A/P)

- 1 of 10 WCO RILOs; Located in Beijing
- Objectives
 - Promote regional co-operation in the fight against customs crimes
 - Enhance customs capacity in intelligence and enforcement
- Activities:
 - Assistance request and information exchange;
 - Joint projects, including coordinating information exchange on suspicious shipments and monitoring suspicious shipments through prior notification;
 - Collect, analyse and disseminate intelligence;
 - Technical assistance, including expert missions, regional seminars and on-the-job training.
- *Potential relevance to illegal timber trade:*
 - *Replying to requests for assistance and information exchange; joint projects, including information exchange on suspicious shipments and monitoring suspicious shipments through prior notification; technical assistance – seminars, trainings, etc.*



7. Other regional customs networks

Network	Engagement on illegal timber trade
APEC Sub-Committee on Customs Procedures	<ul style="list-style-type: none">- Hosting of conference of illegal logging for APEC members by Indonesia in March 2004- Linked illegal logging with climate change
ASEM (Asia Europe Meeting) Customs DG Meetings	<ul style="list-style-type: none">- CITES-listed species discussed
ASEAN networks	<ul style="list-style-type: none">- ASEAN Ministers on Agriculture & Forestry call for participation of customs to act against the trade of illegal timber- Issue of illegal timber trade raised at Customs Enforcement and Compliance Working Group (CECWG)

8. Customs Enforcement Network (CEN)

- Seizures and offenses database

- 13 categories: drugs; tobacco; alcoholic beverages & spirits; CITES; IPRs; counterfeiting; precursors; tax & duty evasion; weapons & explosives; currency; nuclear materials; hazardous material; pornography/paedophilia

As of September 2009, 12,254 cases of seizures reported under CITES category

- Concealment pictures database

- Alerts

Date	Location	Route	Common Name	Quantity	Concealment
8-Mar-04	Pune	India - Singapore	Red Sandal Wood, Redsanders	50,220 kg	Not concealed
16-Mar-04	Container Depot Cochin	India -Unknown	Red Sandal Wood, Redsanders	27,300 kg	In freight: Sea
30-Apr-04	Tuticorin	India - Hong Kong	Red Sandal Wood, Redsanders	63,470 kg	In freight: Sea
4-May-04	Kandla	India - Unknown	Red Sandal Wood, Redsanders	44,770 kg	In premises
19-Aug-04	Chennai	India - Malaysia	Red Sandal Wood, Redsanders	29,810 kg	In freight: Sea
19-Aug-04	Chennai	India - Singapore	Red Sandal Wood, Redsanders	2,280 kg	In freight: Sea

ALERT MESSAGES

CITES | Currency | Drugs | Hazardous Material | IPR | Tax Duty | Nuclear Material | Paedophilia | Other-Restrictions | Cultural Property | Anabolic Steroids | Tobacco | Weapons & Explosives | Beverages and Spirits | Other

Drug Alert - 24/2004 - 03/08/2004 Cocaine concealed in pearls

Drug Alert - 23/2004 - 03/08/2004 Liquid Cocaine inside Artificial Leg

Tobacco Alert - 22/2004 - 22/07/2004 Tobacco concealed within packets of tea

Drug Alert - 21/2004 - 20/07/2004 Herbal Cannabis & Amphetamine

Tobacco Alert - 20/2004 - 13/07/2004 34100000 PCS of cigarettes concealed in steel components for building

Drug Alert - 19/2004 - 13/07/2004 Heroin concealed in roof of empty trailer

Other Alert - 18/2004 - 09/07/2004 Avian Influenza Epidemic - Message No. 4

Drug Alert - 17/2004 - 30/06/2004 Drugs in parcel destined for Cambodia

CITES Alert -15/2004 - 11/06/2004 Large Scale Smuggling of Redsanders wood (Pterocarpus santalinus) from India



- Potential relevance to illegal timber trade: Sharing of information on CITES listed timber species

9. Customs-to-Customs agreements

Modelled on WCO Model Bilateral Agreement / MoU

Type 1: Customs Cooperation & Mutual Administrative Assistance Agreements (CMAAs)

Legally binding

Type 2: Memorandums of Understanding (MoUs)

Less formal / non-legally binding

Type 3: Letters of Understanding, Administrative Arrangements, etc.

- Enable routine & comprehensive exchange of information and requests for assistance to ensure proper application of customs law and to prevent & combat offences
 - Applicable to all commodities controlled by customs
- Core provisions on definitions, info. exchange, spontaneous assistance, surveillance, etc.

- *Potential relevance to illegal timber trade (for those based on WCO models):*
 - *Specify forms of administrative assistance that could be utilised to combat the illegal timber trade, e.g. information exchange, spontaneous assistance, notification, communication on request, investigations, surveillance, joint action*

10. MoUs & other bilateral agreements on illegal logging and resultant trade

Countries	Type	Year	Activity level	Customs involved
Indonesia-Norway	Letter of Intent	2002	No major activity identified	No
Indonesia-China	MoU	2002	Low	No
Indonesia-ROK	Joint Statement	2003	No concrete action specified	No
Indonesia-Japan	Joint Announcement	2003	Medium	No
Indonesia-UK	MoU	2003	Pioneering, superseded by FLEGT VPA process	Yes
Indonesia-US	MoU	2006	Very high [next slide]	Yes
China-US	MoU	2008	Bilateral forum for cooperation to combat illegal logging	Yes
Japan-China	MoU	2010	Unclear	Unclear

Example - Indonesia-UK MoU: Commits both parties to work together to eliminate illegal logging & resultant trade. Includes training Indonesian customs on illegal logging; capacity building of Indonesian customs to implement collaborative system.

Example - Indonesia-US MoU: Similar aim as Indonesia-UK MoU.; On request, Indonesian customs must inform US whether timber/wood products were legally exported; Digital video conferences between the 2 countries provides channel for discussion and info. requests; bolstered by Customs-to-Customs MoU (2006) and Lacey Act.

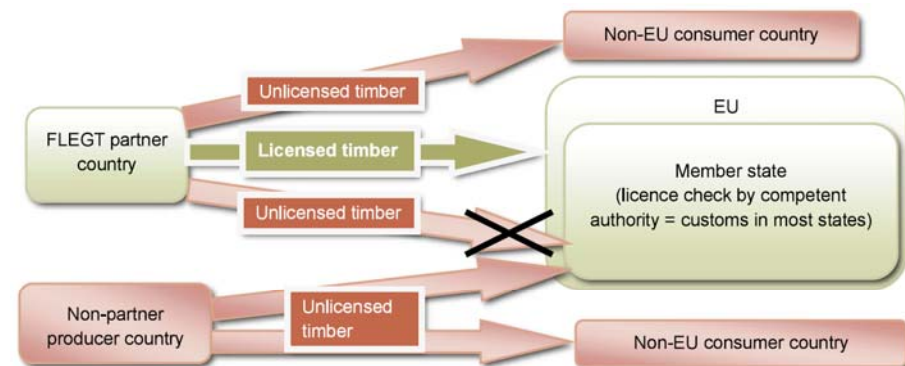
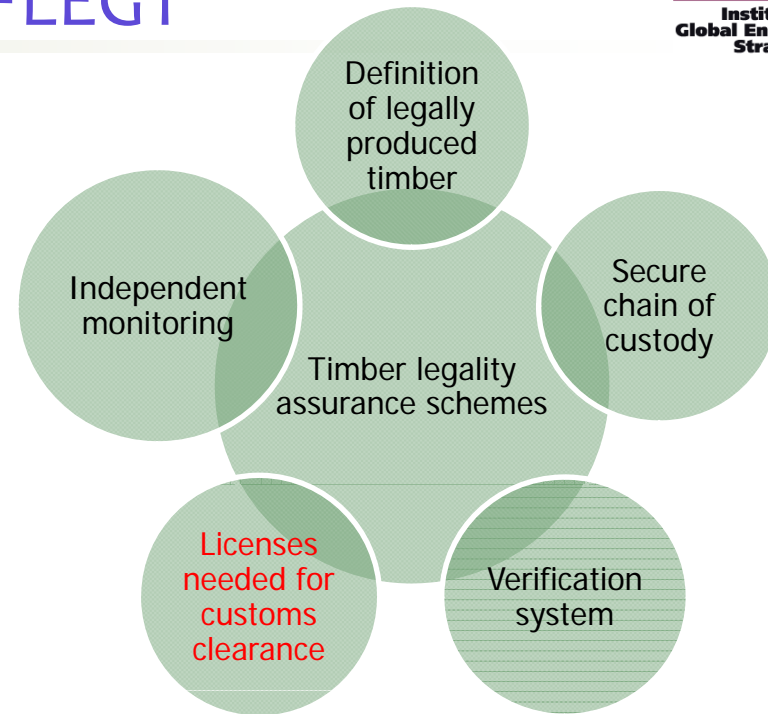
11. Provisions in free trade agreements (FTAs)

US – Peru Trade Promotion Agreement (TPA)

- First FTA to include provisions on trade in illegal timber
- *Annex on Forest Sector Governance:*
 - ✓ Includes detailed provisions which commit Peru to improve law enforcement, management of forest concessions, capacity building, etc.
 - ✓ US can request Peru to audit an exporter
 - ✓ US can request Peru to verify compliance of trade procedures with Peruvian laws
 - ✓ US can request Peru to investigate suspect shipments and can participate in investigations by collecting data in Peru
 - ✓ US can deny entry to suspect shipments, taking into account information obtained from US Customs
- TPA enhances cooperation between Customs administrations, though not specifically on illegal timber trade

12. Role of Customs in timber legality assurance schemes - FLEGT

- *Key elements*
 - *Definition of legality and process to license exported timber as legal*
 - *EU member states' customs to allow imports only of FLEGT licensed wood products from partner countries*
 - *EU implementing regulation provides EU customs with instructions on how to handle shipments of FLEGT timber, exchange information and assess licenses.*



Source: Authors.

13. Findings and Recommendations

- The greatest prospects for enhanced customs collaboration in the short to medium term lie in bilateral arrangements on illegal logging. Customs collaboration under these can be facilitated with CMAAs etc.
- The higher the political support, the more likely it is to engage with Customs on the illegal timber trade (e.g. US-Indonesia illegal logging MoU & US – Peru TPA).
- A coordinated response is required involving customs, forestry, trade, agriculture, other border control authorities, etc.
- Target regional processes and platforms – RILO A/P, ASEAN Senior Officials on Forestry (ASOF) programme, Asia FLEG, ASEAN Customs Procedures and Trade Facilitation Working Group – for regular meetings between customs, forestry and other departments. Specifically:
 - Encourage ASEAN to establish a joint Customs – Forestry working group on illegal logging and trade and/or to organise a workshop on collaboration between Forestry, Police and Customs
 - Request the ITTO to support an Asian Customs-Forestry working group on illegal logging and trade

- Various instruments already exist in the Customs field that could be used to combat the illegal timber trade. Useful measures would be:
 - RILO A/P to include illegal timber trade as a priority element of its work programme
 - WCO to add illegal timber as a 14th category to the CEN seizures database
- Piloting: Two countries to trial use of export declarations as a check on legality

Thank you!



Logs ready for export after independent inspection by SGS, East New Britain, Papua New Guinea

Timber imported from Russia waiting for distribution to China's interior markets - Suifenhe, China

