

MEMBERS BULLETIN – 3rd May 2024

Dear Members,

ATIF has continued its new approach to stronger advocacy in the last month, and we are excited to share the progress of our activities with the membership and provide you with an update if you missed our latest members’ meeting.

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ATIF’s Latest Members’ Meeting

ATIF has recently held a special members’ meeting to discuss several important developments for members in the Illegal Logging Prohibition Act and Regulation space.

The meeting was held on 11th April, with an attendance of 20 members. ATIF is glad to see such strong interest fielded from membership and extends gratitude to attendees for setting the time aside to participate. We continue to encourage that, if possible, members attend these calls as we consider it important to hear from you, what are your concerns, priorities, and whether you have any perspective to offer on our current activities.

ATIF’s GM, Natalie Reynolds, and counsel Jessie Taylor, discussed and summarised the Position Paper, authored by Jessie, as well as providing updates on advocacy efforts with DAFF, and some discussion of the newly introduced amendment Bill to Parliament, which we note is of significant concern to members.

This bulletin will provide an explanation and summary of the matters discussed in this meeting. A second bulletin will follow which specifically deals with the new proposed amendment Bill and ATIF’s position on this.

Position Paper – Focus Points

We will not extensively summarise the Position Paper here as all members will now have received the complete copy of this, and we will attach it to this bulletin for ease of reference. We will however highlight the priorities and focus areas discussed in the members' meeting for your reference, and you may wish to review the relevant sections of the Position Paper in accordance with this.

The overarching focus within the position paper and in considering further actions that members may want to take is focused on 2 main components:

- Enforcement previously conducted by DAFF being beyond power
- Enforcement previously conducted by DAFF being in contravention of the principles of procedural fairness

Please refer to the relevant sections of the Position Paper which provide extensive elaboration on both points and consider them as they may relate to any previous enforcement activity you have experienced.

Discussions with DAFF

Within April alone, GM Natalie Reynolds, and Chair Jacinta Colley as well as Counsel Jessie Taylor have attended a meeting on behalf of ATIF with DAFF to discuss issues with the current enforcement of the ILPA and Regulation, auditing activity of DAFF, and previous refusal to co-operate and correspond with ATIF, any other industry associations, or members. Natalie has subsequently attended 2 additional meetings with different staff within DAFF's audit branch to discuss the practical realities of the industry being regulated and how this is incongruent with current enforcement approaches.

Natalie is continuing to arrange further meetings with various senior members of DAFF, including in the both the auditing and policy branches, to express the discontent of industry and members at the lack of consultation before major changes, including the exclusion of providing the draft bill to ATIF or other associations in advance of it being tabled.

Discussions will be continuing, with Natalie considering interactions so far to have been mostly positive, and what seems to be a growing willingness to have conversations with ATIF which is a significant improvement from the previous lack of communication.

We will update members as to important developments in this relationship as it progresses.

Action in Contesting Fines

It a recent meeting with DAFF it was suggested by ATIF that fines issued either beyond power or in denial or procedural fairness can be looked at and refunded in a general review of recent enforcement. DAFF was not receptive to this proposal but instead suggested that, should any members feel that they have been issued with infringements for non-compliances that are beyond power, or that your business has been denied procedural fairness in its latest compliance action (which especially includes where your business has been previously audited and found to be in compliance, and the same system has now received infringements), that members should get in contact with DAFF on an individual basis to address this and request a refund.

MEMBER ACTION PLEASE: PRIOR TO CONTESTING ANY FINE, please advise us of the nature and circumstances of the identified non-compliance via email contact@atif.asn.au so that General Manager, Natalie Reynolds, will be able to provide you with a quick estimation (in her capacity as **general manager**, this will **NOT** be legal advice) as to whether you have a basis to contest and request a refund of a previously issued fine.

Updates: Red Sea Disruptions Worsening

We have discussed the delays and disruptions in global supply chains due to the current conflict ongoing in the Middle East in previous bulletins. We are writing to alert members to further developments in this area.

Recently, a cargo ship, MSC Aries, was seized in the Strait of Hormus, demonstrating the continuing risks to and impacts of the current conflict on global supply chains. Countries in the region have also begun to close their airspace creating ongoing global disruptions not only for sea routes but air routes as well.

Members can continue to expect:

- Vessel delays
- Congestion
- Extended transits
- Omissions
- Extended lull times in major Global Transshipment hubs of 3-4 weeks
- Additional costs being incurred by shipping lines/airlines

We have previously requested that members advise us of the surcharges they are seeing on their imports as it has been noted that there are potentially significant differentials in the prices being charged even by the same individual carrier, across organisations, with some paying more than others. We have been quoted USD per container surcharges of between \$500 and \$1800 USD. Given the ongoing nature of this disruption we suspect that the additional charges and delays will remain in place for some time yet and are likely to increase further. In light of this we consider it even more essential to advocate for members on this issue.

MEMBER ACTION PLEASE: Please advise us of the surcharges you're seeing via email contact@atif.asn.au and then we will be able to create an anonymous table to allow you to advocate for a better deal.

[The new Illegal Logging Prohibition Amendment \(Strengthening Measures to Prevent Illegal Timber Trade\) Bill 2024](#) before Parliament

The final area of discussion in the latest member meeting was a brief overview of the new Illegal Logging Prohibition Amendment Bill introduced into Parliament on 27 March. ATIF has noted with disappointment that this Bill was introduced to Parliament without providing any industry or association with a draft in advance, which is a usual process for introduction of new, or significant changes, to legislation.

ATIF notes that despite statements from DAFF that this Bill is based on the previously completed [sunset review](#), none of the concessions recommended in the sunset review to reduce the regulatory burden on importers are present. This includes no allowances for reduced burdens for duplicate/identical supply chains and inputs, and no concessions or repeated due diligence and supplier level due diligence.

Instead, the Bill aims to introduce:

- a new notice requirement is being introduced which will mean importers must provide notice for a product **intended** to be brought into Australia prior to shipping.
- Increased and changing penalties, including the addition of strict liability penalties, meaning no intention or negligence element is required to issue criminal penalties
- Civil penalties now include the power to seize and for goods to be forfeited
- Fibre testing – the power to take, test, and analyse samples of anything entering Australia which can be used to assist with criminal prosecution of importers and to test due diligence practices leading to further civil penalties
- A power to publicise information about importers and their contraventions of the Act/Reg – creating a public name and shame register

The advocacy position of ATIF is that:

- We take issue with the lack of concessions provided for duplicate/identical supply chains and inputs, repeated due diligence and supplier level due diligence, the onerous nature of information gathering has not been addressed either. We will work hard to ensure the Regulation is in a form as to assist with these processes as much as is possible.
- We also strongly oppose the increase of the regulatory burden being placed on importers through this process, which is a position supported not only by the sunset review but a previously completed Regulation Impact Report provided by KPMG. The increase in regulatory burden on importers in comparison to the previous Act and Regulation, which were already incredibly onerous, is something that industry must take a strong position against.

Let us know your thoughts: Please consider providing ATIF with your thoughts on this new Bill, including the impacts you can foresee this having on your business to contact@atif.asn.au. We will use these statements (anonymously) to inform our advocacy position and help to drive the message home to DAFF that the currently proposed Bill is not acceptable to industry.

Thank you for your continued support and commitment to our Association. We look forward to increasing our presence as an industry representative and ensuring we can address issues that are most important to our members.