



Establishing an illegal logging due diligence system

Guidance for importers

Purpose

This guidance is intended to provide importers of [‘regulated timber products’](#) with information on establishing an illegal logging due diligence system that meets the requirements of the Illegal Logging Prohibition Regulation 2012 (the Regulation).

More detail, advice and scenarios on the [due diligence process](#) is on the department’s website.

Objective of your illegal logging due diligence system

Section 9 of the Regulation requires importers to have a written due diligence system before they import regulated timber products into Australia.

This needs to clearly set out the processes you will use to reduce the risk you are importing products containing illegally harvested timber into Australia.

Your due diligence system needs to:

- set out the steps you will undertake before you import regulated timber products,
- be regularly updated to ensure it remains relevant to your business situation, and
- be available to be provided to the department if you are selected for a compliance audit.

The size, structure and format of your due diligence system should be tailored to meet your business situation and needs. More complex supply chains and business structures may need more detailed due diligence systems. However, all systems need to include certain mandatory elements.

Administration details for due diligence system

Your due diligence system needs to be in writing and must include these administrative details:

- About your business
 - Business name
 - Australian Business Number (ABN) or Australian Company Number (ACN) (where applicable)
 - Street address
 - Postal address
 - Telephone number
 - Email address
 - Business principal activity

- About the person responsible for maintaining your due diligence system
 - Name
 - Position
 - Telephone number
 - Email address

Content of your due diligence system

Your written due diligence system needs to describe the key steps you (or your employees) will undertake before you import regulated timber products, including the requirement for record keeping. At a minimum, the system needs to address 4 key areas:

- 1) Gathering information
- 2) Identifying and assessing the risk
- 3) Risk mitigation
- 4) Record keeping.

1 Gathering information

Section 10 of the Regulation requires importers to gather as much of certain information relating to their regulated timber product prior to import as it is reasonably practicable for the importer to obtain.

Your system needs to specify the information you will attempt to gather (including how you will prove you have gathered the information prior to import) to support your due diligence process. It is important to note you need to gather as much information about the product as it is reasonably practicable to obtain (noting you may find it difficult to reach a reasonable risk assessment without suitable information).

The information must be relevant and include:

- About your product
 - Type of product
 - Trade name
 - Country of manufacture
 - Quantity (volume, weight or number or units)
- About the timber in your product
 - Common name, genus or scientific name of the tree/s that it is derived from
 - Country of harvest of the timber
 - Region of harvest of the timber
 - forest harvesting unit of the timber
- About the product supplier
 - Name
 - Address
 - Trading name

- Business and company registration number (if any)
- If a Timber Legality Framework (TLF) applies to the timber in the product
 - A copy of the TLF certificate (either Forest Stewardship Council (FSC) or Programme for the Endorsement of Forest Certification (PEFC)) from your direct supplier that relates to the product.
 - Evidence of compliance with the TLF, for example an invoice containing the timber legality claim for the products covered by the certificate.
- If a Country Specific Guideline (CSG) applies to the timber in the product
 - The information or evidence that the guideline requires the importer to obtain.
- Evidence that the product has not been illegally logged, which may include:
 - Whether harvesting of the species is prohibited in the harvest location
 - Whether legal conditions on harvesting were met
 - Whether any payments required for the right to harvest the timber have been paid
 - Whether the harvest was consistent with land use and tenure rights
- Any other information you know or ought reasonably know that may indicate whether the product is made with or includes illegally logged timber.

2 Identifying and assessing the risk

Sections 11, 12 or 13 of the Regulation requires importers to undertake a risk assessment prior to import whether there is a risk that the product is, is made from, or includes illegally logged timber.

Your system needs to specify:

- which risk assessment option(s) you will use
- how you will reach your final risk identification/conclusion (low risk/greater than low risk).

Your risk assessment must be undertaken prior to import.

The three risk assessment options and the minimum requirements to identify and assess the risk are as follows:

2.1 Timber Legality Framework (TLF)

The Regulation specifies two TLFs that you can use to help assess the risk. These are the Forest Stewardship Council (FSC) and the Programme for Endorsement of Forest Certification (PEFC).

Assessing the risk using this option includes, but is not limited to:

- a) Assessing whether the TLF certificate is valid for your direct supplier and the details on it are correct (usually done by checking your copy of the certificate against the certificate details on the FSC or PEFC websites). Make a verifiable record of the check you undertook.
- b) Verifying you have evidence the product you are importing is covered by the FSC or PEFC certificate (usually done by checking you have supporting shipping/product delivery documentation (such as the invoice) containing the relevant certificate number and/or the framework legality claim such as FSC x%/PEFC x%).

- c) Considering the further information you were required to, as it was reasonably practicable, obtain.
- d) Considering any other information you know or ought reasonably know that may indicate whether the product is made or includes illegally logged timber. Make a verifiable record of the other information you considered.

If you conclude the product complies with the FSC or PEFC frameworks **and** there is no other information suggesting otherwise or that the product may contain illegal logged timber, then you may identify the risk to be 'low risk'.

If you identify the risk as being greater than 'low risk', you must re-assess using one of the other available risk assessment options OR not import the product.

Once you have reached your conclusion, you **must** make a written record of the risk conclusion **with** a justification of how it was reached. The identification and assessment of risk and outcomes of that identification and assessment must be reasonable.

2.2 Country Specific Guidelines

The Regulation specifies that an importer may draw on a CSG to assess risk. These [CSGs](#) can be accessed through the department's website.

Before undertaking a risk assessment against a CSG, importers must check these webpages regularly to ensure the documents you are referencing are the most up-to-date versions.

To assess the risk using this option:

- e) Consider the information or evidence you have gathered against the relevant CSG and the information provided in it.
- f) Consider the further information you were required to, as it was reasonably practicable, obtain.
- g) Consider any other information you know or ought reasonably know that may indicate whether the product is made or includes illegally logged timber. Make a verifiable record of the other information you considered.

If you conclude the product complies with the information and documentation described in the relevant CSG and there is no other information suggesting otherwise or that the product may contain illegally logged timber, then you may identify the risk to be 'low risk'.

If you identify the risk as being greater than 'low risk' you must re-assess using one of the other available risk assessment options OR not import the product.

Once you have reached your conclusion, you **must** make a written record of the risk conclusion **with** a justification of how it was reached. The identification and assessment of risk and outcomes of that identification and assessment must be reasonable.

2.3 Regulated risk factors (RRFs)

The Regulation specifies certain RRFs that can be used by an importer to assess risk. This is the default risk assessment method; it can be used if the other two options are not relevant and **must** be utilised when the other risk assessment options concluded a greater than 'low risk' exists.

To assess the risk using this option, you should consider:

- 1) information regarding occurrence of illegal logging in the area where the trees were harvested.
- 2) information regarding illegal harvesting of the species of trees from which timber in the product is derived.
- 3) information regarding the occurrence of armed conflict in the area (indicates the government's control level over laws in the area).
- 4) the complexity of the product (is it made up of different components/sources? You must consider the supply chain complexity).
- 5) the further information you were required to, as it was reasonably practicable, obtain.
- 6) any other information you know or ought reasonably know that may indicate whether the product is made or includes illegally logged timber. Make a verifiable record of the other information you considered.

If you identify the risk as being low for each of the risk factors above and there is no other information suggesting otherwise, then you may conclude the overall risk is 'low risk'.

If you identify the risk as not being 'low risk' you must conduct risk mitigation, or not import the product.

Once you have reached your conclusion, you **must** make a written record of the risk conclusion **with** a justification of how it was reached. The identification and assessment of risk and outcomes of that identification and assessment must be reasonable.

You must make a verifiable record of the information used to inform the risk assessment. The identification and assessment of risk and outcomes of that identification and assessment must be reasonable.

3 Risk mitigation

Section 14 of the Regulation requires importers to undertake a risk mitigation process prior to import if section 13 applied to the product and the importer identified a not low risk that the product is, is made from, or includes illegally logged timber.

Your system needs to specify that you will undertake an adequate and proportionate risk mitigation process if the risk after undertaking risk assessment against Regulated Risk Factors (RRF) has been identified as not being 'low risk'.

Risk mitigation means taking active steps to reduce or minimise the risks associated with your product until they are low risk. This may mean obtaining further documentary information about the product, requesting certified alternatives, conducting supporting field visits, or ultimately, deciding to use other suppliers.

If risk mitigation is applied, you may either re-assess the risk via the TLF, CSG or RRFs and determine whether the risk has been reduced to 'low risk', or otherwise not import the product.

Alternatively, if risk mitigation is not going to be conducted, your system needs to specify that products identified as not ‘low risk’ will not be imported.

Once you have conducted a risk mitigation process, you must make a written record of the risk mitigation process undertaken. You must have verifiable records of the steps/information that informed your risk mitigation.

4 Record keeping

Your system needs to specify record keeping requirements in accordance to section 16 of the Regulation. That is, records of all illegal logging due diligence steps must be kept for at least 5 years after the date of import.

Request for information notice

When a Request for Information notice for a compliance audit is issued to you, you must provide the information requested, in writing and by the date specified.

At a minimum, this will include a copy of your due diligence system as well as evidence of the information gathered, risk assessment process conducted, risk conclusion reached and risk mitigation (if applicable). The department’s [illegal logging compliance webpage](#) provides information to assist importers with how to respond to a Request for Information notice.

Importers that fail to comply with the requirements set out in this document can be liable for a civil penalty of 100 penalty units (\$27,500).

Acknowledgement of Country

We acknowledge the Traditional Custodians of Australia and their continuing connection to land and sea, waters, environment and community. We pay our respects to the Traditional Custodians of the lands we live and work on, their culture, and their Elders past and present.

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