

# Legality Compliance Toolkit

Illegal Logging Prohibition Amendment Regulation 2012

## ADDENDUM



January 2016

# Contents

<b>Abbreviations</b> .....	<b>2</b>
<b>Introduction</b> .....	<b>3</b>
<b>General changes</b> .....	<b>4</b>
<b>Attachments</b>	
<b>Attachment A:</b> Due Diligence System Cover Sheet - New Template .....	5
<b>Attachment B:</b> Supplier Questionnaire - Replacement .....	6
<b>Attachment C:</b> Table 1 - Replacement .....	10
<b>Attachment D:</b> Table 2 - Replacements .....	12
<b>Attachment E:</b> Risk Assessment Worksheets - Replacements .....	14

## Abbreviations

<b>ABN</b>	Australian Business Number
<b>ATIF</b>	Australian Timber Importers Federation
<b>CoC</b>	Chain of Custody
<b>CPI</b>	Corruption Perception Index
<b>CSG</b>	Country Specific Guideline
<b>EU</b>	European Union
<b>FSC</b>	Forest Stewardship Council
<b>FLEGT</b>	Forest Law, Enforcement, Governance and Trade (program of the EU)
<b>FHU</b>	Forest Harvesting Unit
<b>PEFC</b>	Programme for Endorsement of Forest Certification (Australian Forestry Standard is PEFC endorsed)
<b>SFI</b>	Sustainable Forestry Initiative
<b>SVLK</b>	The Indonesian Timber Legality Assurance System, also known as Sistem Verifikasi Legalitas Kayu
<b>TLAS</b>	Timber legality assurance system
<b>VLO</b>	Verified Legal Origin
<b>VPA</b>	Voluntary Partnership Agreement (part of FLEGT program of the EU)

### Disclaimer

This toolkit has been prepared to assist timber product importers understand, implement and comply with the requirements of the *Illegal Logging Prohibition Act 2012* and the *Illegal Logging Prohibition Amendment Regulation 2012*. It does not constitute legal advice. Timber product importers may elect to seek their own legal advice in relation to the legislation and related matters.

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# Addendum to Legality Compliance Toolkit

## Introduction

The following documents are provided as an addendum to the ATIF *Legality Compliance Toolkit* (Toolkit).

The purpose is to clarify a number of matters in relation to compliance with the Illegal Logging Prohibition Regulation 2012 (the Regulation) and the specific due diligence requirements. Some changes are a result of feedback from users of the Toolkit and ATIFs work with regulated timber product importers on undertaking aspects of due diligence – particularly information gathering and risk assessment.

Other changes have been flagged by the Australian Government Department responsible for enforcing the Regulation – the Department of Agriculture and Water Resources (formerly the Department of Agriculture). These changes are mainly to do with the use of FSC or PEFC certification as a risk assessment tool and have been flagged as a result of the Department's analysis of the first round of responses from importers to their information requests of specific imported timber consignments.

Importers using the toolkit are strongly encouraged to independently monitor the Department's Compliance Advice Notices at: <http://www.agriculture.gov.au/forestry/policies/illegal-logging/compliance/can>

This addendum is comprised of some general changes as well as a number of attachments that comprise new and updated tables and templates.

Note that where no amendments are indicated other sections of the Toolkit remain unchanged.

## General changes

- The legislation is referred to in the Toolkit as *Illegal Logging Prohibition Amendment Regulation 2013* in several sections. References to this should be replaced by *Illegal Logging Prohibition Regulation 2012*.
- The Toolkit states it is accompanied by a USB memory stick. This is not the case for importers who are not ATIF members who have downloaded the Toolkit directly from a website.
- The Regulation came into effect on the 30 November 2014. Just before this date the Government advised that there would be an 18 month transition period where the focus will be on helping importers understand and comply with the Regulation. No fines will be issued before 30 May 2016 for non-compliance with the due diligence requirements.
- The first paragraph under Section 2.2.8 – Evidence that the timber in the product was legally harvested – Certification/Licences should be replaced with the following:

If an importer is relying on one of the prescribed *timber legality frameworks* such as compliance with FSC or PEFC Chain of Custody of Forest Management certification standards (Section 3) to substantiate that the timber product is at low risk of being illegally harvested, they will need to check that certification covers the product in question and collect any supporting evidence. This includes evidence of product certification on purchase orders, invoices, and/or delivery dockets. Supplier(s) FSC and/or PEFC CoC certification numbers may also be collected at this stage as well as details of any third party legality verification licences/assessments.
- Factsheet 1.1 by the Australian Government and provided in Appendix 1 of the Toolkit has been updated. The latest version is available at [www.agriculture.gov.au/forestry/policies/illegal-logging/information-resources#guidance-materials](http://www.agriculture.gov.au/forestry/policies/illegal-logging/information-resources#guidance-materials)
- The Corruption Perception Index (CPI) provided in Appendix 3 of the Toolkit has been updated with 2014 data. These data is available at <https://www.transparency.org/cpi2014/results>. ATIF recommends that importers always use the latest CPI results.

## Attachments

### Attachment A: Due Diligence System Cover Sheet – New Template

This template, to be amended and completed as required by an importer, is an additional resource for the Toolkit. It includes space for information that is required to be a part of an importers' due diligence system. Once completed it can also be provided to the Department upon receiving a Request for Information.

It also includes a statement of the due diligence system used by the importer to assess and mitigate risk of importing illegally logged timber products. If the importer so chooses the system can be the ATIF Legality Compliance Toolkit or another system that the company has developed and uses.

### Attachment B: Supplier Questionnaire – Replacement

This questionnaire replaces those on Page 15-16 and 18-19.

### Attachment C: Table 1 – Replacement

The table replaces Table 1: ATIF risk assessment matrix on Page 21.

### Attachment D: Table 2 – Replacements

The two tables replace Table 2: Assessing risk/compliance for product with FSC or PEFC certification on Page 22.

### Attachment E: Risk Assessment Worksheets – Replacements

The two worksheets replace those on Pages 28 and 30.

# Attachment A: Due Diligence System Cover Sheet

[Amend/delete text highlighted in green, complete as necessary and accept changes]

## Principal Business Activity

[Provide some information about your business to help the Department understand what you do and the relationship between your various business entities]

The principal business activity of your business name [ABN XX XXX XXX XXX] is: .....

.....

.....

## Head Office Address

Our head office addresses are:

Street address	
Postal address	

## Responsible Person

The responsible person who ensures that our due diligence system is maintained is:

Name			
Position			
Contact details			
Phone		Mobile:	
Email			
Contact address (if different from above)			

## Company Due Diligence System Statement

This company uses the ATIF legality compliance toolkit as part of our due diligence system for illegal logging risk assessment and management.

We also subscribe to the Department of Agriculture and Water Resources illegal logging mailing list to ensure that we are kept informed of the release of any related information or guidance materials.

[IMPORTING COMPANY NAME]

## Supplier Questionnaire

Supplier Name: .....

Business number/other identification: .....

Questionnaire completed by: .....

Name: ..... Position: .....

Email: ..... Date Completed: .....

### Sources of Timber Supply in Products

1. In the following table please provide information on the species (scientific, common and/or trade names) and the countries/ areas of harvest of the wood used to manufacture products you supply or propose to supply (use attached sheet for additional products).

Product	Name of tree species contained in product (include all species that could be in each product)	Original country of harvest of trees (include all countries that could be source of the wood)	Description of area(s) of harvest (if known)

### Certification / Legality Verification

2. Are your company facilities Chain of Custody (CoC) certified by any forest certification scheme (FSC – Forest Stewardship Council or PEFC – Programme for Endorsement of Forest Certification) or third party Timber Legality Assurance System?

Yes  No If yes, please provide details including CoC numbers and period of validity:

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

3. Which products can you supply to us under each Certification Scheme/third party Timber Legality Assurance System?

Product/Species	Scheme (e.g. FSC, PEFC) or TLAS (e.g. SVLK, VLO)	Product certification mix (e.g. FSC 100% / Mix / Recycled / Controlled Wood or PEFC Certified / Recycled)

4. Will your invoices and/or delivery notes include certification claim?  Yes  No

5. Has your company ever been denied certification or been disassociated from a Certification or Legality Assurance scheme?  Yes  No

If yes, please detail the reason(s) that you were disassociated:

.....

.....

6. Is there any evidence or documentation available that verify that the timber products you supply to our company are derived in accordance with country of harvest forestry laws and regulations? (See Documentation and Evidence below).  Yes  No

If yes, please detail the reason(s) that you were disassociated:

**Sub-supplier information (if applicable)**

7. Please provide details of all the suppliers to you of these products. Attach any further information about sub-suppliers, any FSC/PEFC certification and/or evidence of legal harvest of wood components they supply.

Product/Species	Wood components they supply	Sub-supplier name and details

8. Does your company have a written system for tracing the sources of the logs or wood you purchase from sub-suppliers?  Yes  No

If yes, please provide detail about your system:

.....

.....

## Documentation and evidence

Please provide any evidence about the wood used to manufacture the timber products supplied that you can reasonably access related to the wood species, the source of the wood or that show it is low risk of being illegally harvested or that demonstrates it was legally harvested. For example this may include:

### **If product FSC or PEFC certified:**

- Chain of custody (CoC) certificates for your businesses and/or sub-suppliers
- Invoices / delivery notes for the product inputs you purchase showing the CoC certification code and claim type.
- Declaration stating source of timber is from certified sources.

### **If product is not FSC or PEFC certified:**

- Purchase orders or invoices from your suppliers and the suppliers details
- A copy of any evidence(e.g. phytosanitary certificates) stating the timber type/species
- A statement from your sub- suppliers about the forest, region or country that the timber in the product came from
- Country of origin certificates
- Any documents from the country of harvest government that states the timber was legally harvested or of low risk of being illegally harvested
- A copy of your company's sustainability or legal timber sourcing policy
- Notes/photos from on-site visits to your suppliers about the type and the source of the wood in your products
- Copies of any documents listed in the relevant [Country Specific Guideline](#) available from the Australian Department of Agriculture and Water Resources at <http://www.agriculture.gov.au/forestry/policies/illegal-logging/information-resources>
- Any export permits that require the exporter to provide evidence to authorities of the legality of harvest.

### **If you do know the source of the timber used to make our products, evidence may include:**

- Forest concession licences details
- Harvesting permit details from forest management or other applicable government authority
- Records of any site or forest audits or legal harvest verification audits
- Receipt references for royalty or other mandatory payments
- Log transport/delivery document details
- Details of monitoring records relating to log volumes in and sawn/processed/manufactured volumes out.

Please email the completed questionnaire back to us at [\[YOUR ADDRESS@YOURCOMPANY.COM.AU\]](mailto:[YOUR ADDRESS@YOURCOMPANY.COM.AU]).

Do not hesitate to contact us if there is any part of this questionnaire that you do not understand or if you need further clarification. Thank you.



**Importer Use Only**

As a result of this questionnaire what is the status of the product from this supplier in relation to legality verification?

Date: .....

Product	Risk determination	Justification for determination

Date: .....

Name: .....

- Approved       More Information needed       Further action required
- Supplier to be discontinued

Additional comments: .....

.....

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## Attachment C: Table 1 Replacement

**Table 1: ATIF quick reference table for assessing risk and likelihood**

The following table is a quick guide to assess the risk or likelihood at country of harvest level that the wood in the products you are importing has been illegally logged.

Note 1: This is a quick reference table. Importers will still have to gather information about the species and country or area of harvest and document a risk assessment to satisfy the regulation.

Note 2: For some timber types/sources multiple risk assessment methods may be applicable.

Timber Type/Source	Likelihood* /Risk	Mitigation	Risk assessment method in Regulation or basis for advice
<p>Any timber or timber product purchased from FSC or PEFC Chain of Custody (CoC) certified facilities where product purchased is within scope of certification and certification is on purchase invoices/delivery notes.</p> <p>Examples:</p> <ul style="list-style-type: none"> <li>• Spruce, pine, fir (SPF) harvested in US/Canada, from a sawmill with FSC CoC certification, and the timber product purchased is FSC 100% or FSC Mix.</li> <li>• Radiata pine harvested in Chile, from a sawmill with PEFC CoC certification, and the timber product purchased is PEFC Certified.</li> <li>• Timber of <i>Eucalyptus spp.</i> harvested in Uruguay purchased as FSC Controlled Wood from FSC CoC certified wholesaler.</li> </ul>	LOW RISK	Mitigation not needed	Timber Legality Framework
Any timber species that is 100% from forest certified to FSC or PEFC endorsed Forest Management standard.	LOW RISK	Mitigation not needed	Timber Legality Framework
<p>Any timber from a country where there is a Country Specific Guideline (CSG) and the evidence available matches that in the guideline.</p> <p>Examples:</p> <ul style="list-style-type: none"> <li>• Merbau harvested in Indonesia, manufactured by a company with SVLK certificate, and exported by an exporter with valid V-legal document for that consignment.</li> <li>• <i>Vitek sp.</i> harvested in Solomon Islands and exported with a valid export permit.</li> <li>• Any timber species harvested in Canada.</li> </ul>	LOW RISK	Mitigation not needed	Country Specific Guideline
<p>Any known species harvested in a country with current CPI greater than 50, no VPA either being implemented or under negotiation with the EU and no known armed conflict.</p> <p>Examples:</p> <ul style="list-style-type: none"> <li>• Radiata pine harvested in Chile or New Zealand</li> <li>• Douglas fir harvested in Canada</li> <li>• Norway spruce harvested in Finland.</li> </ul>	LOW LIKELIHOOD #	Mitigation unlikely to be needed	Risk Factors Note: Product/ supply chain complexity and 'any other information' must also be considered in the risk assessment

<p>Any known softwood or hardwood species harvested from a plantation in a country with current CPI less than or equal to 50 and no known armed conflict.</p> <p>Examples:</p> <ul style="list-style-type: none"> <li>• Eucalyptus spp. harvested in Vietnam</li> <li>• Mango wood (<i>Mangifera indica</i>) harvested in Indonesia.</li> </ul>	<p><b>LOW LIKELIHOOD #</b></p>	<p><b>Mitigation unlikely to be needed</b></p>	<p><b>Risk Factors</b> <b>Note: Product/supply chain complexity and 'any other information' must also be considered in the risk assessment</b></p>
<p>Any bamboo, rattan/cane, wood/plastic composites, post-consumer recycled material, cork, wood pallets or crates.</p>	<p><b>NA</b></p>	<p><b>These products not regulated in Australia</b></p>	<p><b>Guidance released by Department of Agriculture and Water Resources</b></p>
<p>Any timber of unknown species and/or country of harvest.</p>	<p><b>UNKNOWN LIKELIHOOD</b></p>	<p><b>Mitigation will be needed</b></p>	<p><b>Risk factors</b></p>
<p>Any native softwood or hardwood species harvested in a country with current CPI less than 50 or at VPA implementation or negotiation stage with EU, or that has known armed conflict.</p> <p>Examples:</p> <ul style="list-style-type: none"> <li>• Ipe (<i>Tabebuia spp</i>) from Brasil</li> <li>• Jezo Spruce or Mongolian Oak harvested in Russia's far east</li> <li>• Kwila (<i>Itsia spp.</i>)harvested in Papua New Guinea</li> <li>• <i>Meranti spp.</i> From Malaysia (were documents don't match those in the CSG)</li> <li>• <i>Vitex spp.</i> from Solomon Islands. (were documents don't match those in the CSG)</li> </ul>	<p><b>UNKNOWN LIKELIHOOD</b></p>	<p><b>Mitigation will be needed</b></p>	<p><b>Risk factors</b></p>

# An overall conclusion of low risk only applies provided that after considering product/supply chain complexity is also low likelihood (see Diagram 2: Risk matrix) and no other factors indicate illegal logging.

## Abbreviations

<b>CPI</b>	Corruption Perception Index (of Transparency International)
<b>CSG</b>	Country Specific Guideline (a guideline co-developed by Australian government and the national government of the country the subject of the Guideline)
<b>EU</b>	European Union
<b>FSC</b>	Forest Stewardship Council
<b>PEFC</b>	Programme for Endorsement of Forest Certification
<b>SVLK</b>	System Verification Legality Kanu – Indonesia's timber legality assurance system
<b>VPA</b>	Voluntary Partnership Agreement – a programme of the European Union as part of their Forest Law Enforcement, Governance and Trade (FLEGT) initiative

## Table 2 Replacements

**Table 2a: Assessing risk/compliance for FSC or PEFC CoC certified product.**

Question	Guidance	Action
Is the timber you intend to purchase certified against FSC or PEFC/PEFC endorsed standards	<p>In order to use this method all the timber purchased needs to be FSC or PEFC certified. Certified product can only be purchased from a supplier which is chain of custody (CoC) certified.</p> <p>CoC Certified businesses can handle both certified and uncertified product. Certified product is low risk. Uncertified product, even from a 'certified' supplier, has an unknown risk.</p> <p>The product purchased can be FSC 100%, FSC Mix, FSC Controlled wood, or PEFC Certified.</p>	<p><b>If YES</b> = Go to next question</p> <p><b>If NO</b> = Use another compliance/ risk assessment method</p>
Is the CoC certificate number of the supplier valid and does it match other information gathered?	<p>The FSC and/or PEFC CoC certificate number can to be checked for validity with the relevant certification body.</p> <p>FSC CoC certificates can be checked at <a href="http://info.fsc.org/">http://info.fsc.org/</a></p> <p>PEFC CoC certificates can be checked at <a href="http://www.pefcregs.info/search1.asp">http://www.pefcregs.info/search1.asp</a></p> <p>Note: There is a PEFC CoC Standard as well two other CoC standards that are recognised by PEFC. The SFI CoC standard is not endorsed by PEFC. See <a href="http://www.pefc.org/standards/national-standards/endorsed-national-standards">http://www.pefc.org/standards/national-standards/endorsed-national-standards</a></p>	<p><b>If YES</b> = Go to next question</p> <p><b>If NO</b> = Use another compliance/ risk assessment method</p>
Will the invoice and/or delivery dockets show the formal (FSC/PEFC) certification claim?	<p>Under the rules of FSC and PEFC standards, certified product is confirmed by a formal claim statement and the certificate number of the supplier on either purchasing or delivery documents. Formal claim statements can be FSC 100%, FSC Mix, FSC Controlled Wood, XX% PEFC or PEFC Controlled Sources.</p>	<p><b>If YES</b> = Go to next question</p> <p><b>If NO</b> = Use another compliance/ risk assessment method</p>
Is there any other information available indicating the product is, or includes, illegally logged timber?	<p>For guidance on sources of 'other information and how to consider it if it becomes known, see section 3.5</p>	<p><b>If NO</b> = Low risk – keep records and OK to import</p> <p><b>If YES</b> = Use another compliance/risk assessment method</p>

**Table 2b: Assessing risk/compliance for timber from forest certified against FSC or PEFC endorsed forest management standard.**

Question	Guidance	Action
Is 100% of the timber from forest certified to FSC or PEFC endorsed Forest Management (FM) standard.	In order to use this method all the timber needs to be from FSC or PEFC certified forests or plantations.	<p><b>If YES</b> = Go to next question</p> <p><b>If NO</b> = Use another compliance/ risk assessment method</p>
Is the FM certificate number valid and does it match other information gathered?	<p>The FSC and/or PEFC FM certificate number can to be checked for validity with the relevant certification body.</p> <p>FSC forest management certificates can be checked at  <a href="http://info.fsc.org/">http://info.fsc.org/</a></p> <p>PEFC endorsed schemes forest management certificates can be checked at  <a href="http://www.pefcregs.info/search1.asp">http://www.pefcregs.info/search1.asp</a></p> <p>Note there are more than 30 country forest management standards endorsed by PEFC. See  <a href="http://www.pefc.org/standards/national-standards/endorsed-national-standards">http://www.pefc.org/standards/national-standards/endorsed-national-standards</a></p>	<p><b>If YES</b> = Go to next question</p> <p><b>If NO</b> = Use another compliance/ risk assessment method</p>
Can the certificates be relied on?	If there any reason to doubt the authenticity of the certificates, e.g. forgery suspected, you should answer No.	<p><b>If YES</b> = Go to next question</p> <p><b>If NO</b> = Use another compliance/ risk assessment method</p>
Is their little likelihood of the timber product being mixed with timber that is not from FSC or PEFC certified forests?	In order to answer Yes to this question a clear and justified explanation is needed.	<p><b>If YES</b> = Go to next question</p> <p><b>If NO</b> = Use another compliance/ risk assessment method</p>
Is there any other information available indicating the product is, or includes, illegally logged timber?	For guidance on sources of 'other information and how to consider it if it becomes known, see Section 3.5.	<p><b>If YES</b> = Go to next question</p> <p><b>If NO</b> = Use another compliance/ risk assessment method</p>

**Risk assessment worksheets for three methods outlined**

**RISK ASSESSMENT WORKSHEET – Assess compliance against a timber legality framework (FSC or PEFC Certification)**

Criterion	Evaluation	Justification	Risk assessment
Is the timber product you intend to purchase FSC or PEFC certified or 100% from FSC or PEFC Forest Management certified forest?			
Is the certification confirmed as accurate and reliable?			
If product is certified, will the invoice and/or delivery docket show the formal certification claim?			
Any other information that indicates timber in product was illegally logged?			

Overall risk assessment conclusion: .....

**RISK ASSESSMENT WORKSHEET – Assess risk against risk factors in the Regulations**

Criterion	Evaluation	Justification	Risk assessment
1. Prevalence of illegal logging in area of harvest			
2. Prevalence of illegal logging of species in area of harvest			
3. Any armed conflict in area of harvest			
4. Complexity of product?			
5. Any other information that indicates timber in product was illegally logged?			

Overall risk assessment conclusion: .....

**Legality Compliance Toolkit**  
***Illegal Logging Prohibition Amendment Regulation 2012***

# **ADDENDUM**

**January 2016**

**Australian Timber Importers Federation Inc**

This addendum to the Legality Compliance Toolkit has been prepared to help timber product importers comply with the requirements of the *Illegal Logging Prohibition Act 2012* and the *Illegal Logging Prohibition Amendment Regulation 2012*.



Australian Timber Importers Federation Inc

[www.atif.asn.au](http://www.atif.asn.au)

This toolkit has been prepared to help timber product importers comply with the requirements of the *Illegal Logging Prohibition Act 2012* and the *Illegal Logging Prohibition Amendment Regulation 2012*.