



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
- be available to be provided to the department if you are chosen 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 (if different to the above)
 - 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 due diligence system

Your 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.

Gathering information

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

The information must be relevant to the risk assessment option you choose to use and include:

- About your product
 - Type of product
 - Trade name
 - Country of manufacture
 - Quantity (volume)
- About the timber in your product
 - Common name of the tree/s that it is derived from
 - Genus or scientific name of the tree/s that it is derived from
 - Country of harvest of the trees
 - Region of harvest of the trees
 - Unit of harvest
- About your (direct) supplier
 - Name
 - Address
 - Trading name
 - Business registration number (if any)

Additionally, information for one or more of 3 risk assessment options:

- 1) If a Timber Legality Framework (TLF) applies to the timber in the product (optional process)

- a) 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.
- b) Evidence of compliance with the TLF, for example an invoice containing the timber legality claim for the products covered by the certificate.
- c) Any other information you know or should know that may indicate whether the product is made or includes illegally logged timber.

This assessment option can only be used if the product is FSC or PEFC certified and your direct supplier is FSC/PEFC certified for the product.

- 2) If a Country Specific Guideline (CSG) applies to the timber in the product (optional process)
 - a) The information or evidence that the guideline requires the importer to obtain.
 - b) Any other information you know or should know that may indicate whether the product is made or includes illegally logged timber.

This assessment option can only be used if the product has been sourced, processed/manufactured and exported from a country with a department approved CSG.

- 3) If the illegal logging regulated risk factors are used to assess the risk (alternative to TLF and CSG assessment options)
 - a) Information regarding the occurrence of illegal logging in the area where the trees were harvested.
 - b) Information regarding illegal logging of the species of trees in the area where the trees were harvested.
 - c) Information regarding the occurrence of armed conflict in the area (indicates the government's control level over laws in the area).
 - d) Information regarding the complexity of the product (is it made up of different components?).
 - e) Any other information you know or should know that may indicate whether the product is made with or includes illegally logged timber.

This is the default assessment option for conducting a risk assessment and can be used for all products.

Identifying and assessing the risk

Your system needs to specify:

- the risk assessment option/s provided by the Regulation
- how you will undertake your risk assessment using these options
- how you will reach your final risk identification/conclusion (low risk/not low risk).

This section also needs to clearly note that you are only required to use one assessment option to identify and assess the risk for a particular product.

The 3 risk assessment options and the minimum requirements to identify and assess the risk are follows:

1) Timber Legality Framework (TLF)

The Regulation specifies 2 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).

To assess the risk using this option:

- a) Assess whether the TLF certificate is valid for your direct supplier and the details on it are correct (usually done by checking the certificate details on the FSC or PEFC websites).
- b) Verify you have evidence the product you are importing is covered by the FSC or PEFC certificate (usually done by checking you have a supporting invoice containing the relevant certificate number and/or the framework legality claim such as FCS %/PEFC 100%).
- c) Assess the information you were required to gather in the information gathering section.
- d) Assess any other information you know or should know that may indicate whether the product is made or includes illegally logged timber.

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

If you identify the risk as not being '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 need to make a written record of the risk conclusion with a justification of how it was reached.

2) Country Specific Guidelines (CSGs)

The Regulation specifies that an importer may draw on a CSG to assess risk. Currently, we have CSGs for: Canada, Chile, Finland, Indonesia, Italy, Malaysia, New Zealand, Papua New Guinea, Republic of Korea and Solomon Islands. These [CSGs](#) can be accessed through the department's website.

To assess the risk using this option:

- a) Assess the information or evidence you have gathered against the relevant CSG.
- b) Assess the information you were required to gather in the information gathering section.
- c) Assess any other information you know or should know that may indicate whether the product is made or includes illegally logged timber.

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

If you identify the risk as not being '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 need to make a written record of the risk conclusion with a justification of how it was reached.

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 and can be used if the other 2 options are not relevant.

To assess the risk using this option:

- a) Assess information regarding occurrence of illegal logging in the area where the trees were harvested.
- b) Assess information regarding illegal logging of the species of trees in the area where the trees were harvested.
- c) Assess information regarding the occurrence of armed conflict in the area (indicates the government's control level over laws in the area).
- d) Assess the complexity of the product (is it made up of different components/sources?).
- e) Assess the information you were required to gather in the information gathering section.
- f) Assess any other information you know or should know that may indicate whether the product is made or includes illegally logged timber.

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.

Make a written record of the risk conclusion with a justification of how the risk conclusion was reached.

Risk mitigation

Your system needs to specify that you will undertake an adequate and proportionate risk mitigation process if the risk 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 applies, you may re-assess the risk again via the TLF, CSG or RRFs and conclude that the risk is 'low risk' or 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.

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).

Importers that fail to comply with the requirements set out in this document can be liable for a civil penalty of 100 penalty units (\$22,200).