

	<u>US Lacey Act</u>	<u>EU Timber Regulation</u>	<u>Australian Illegal Logging Prohibition Act</u>
Definition of illegal timber	<p>Timber is considered to be illegal if taken, possessed, transported, or sold:</p> <ul style="list-style-type: none"> • In violation of federal US or Indian tribal law, of State law or of foreign law; • Without payment of appropriate royalties, taxes or stumpage fees required by State or foreign law; • In violation of State or foreign law governing the export or transshipment of timber. 	<p>Timber is considered to be illegal when harvested in contravention of applicable legislation in the country of harvest governing:</p> <ul style="list-style-type: none"> • Rights to harvest timber within legally gazetted boundaries; • Payments for harvest rights; • Timber harvesting, including environmental and forest legislation; • Third parties' legal rights; • Trade and customs, in so far as the forest sector is concerned. 	<p>Timber is considered to be illegally logged when it has been:</p> <ul style="list-style-type: none"> • 'Harvested in contravention of laws in force in the place (whether or not in Australia) where the timber was harvested'.
Key Requirements: Prohibition	<p>It is illegal to 'import, export, transport, sell, receive, acquire or purchase' any plant (incl. timber/products) that is taken, possessed, transported or sold:</p> <ol style="list-style-type: none"> 1. In violation of US or Indian tribal law 2. In violation of any State or foreign laws that protect plants, regulate theft of plants, regulate taking of plants from protected or designated areas or regulate taking of plants without or contrary to, required authorisation. 3. Without payment of appropriate royalties, taxes or stumpage fees required by State or foreign law. 	<p>It is prohibited to first place illegally harvested timber or timber products derived from illegal timber on the market.</p> <p>Timber is considered to be placed on the market when it is physically present in the EU, either harvested in the EU or imported and made available for distribution or for own use by a company.</p>	<p>It is a criminal offence to intentionally, knowingly or recklessly import illegally logged timber or timber products into Australia or to process domestically grown raw logs that have been illegally logged in Australia.</p>

	<p>4. In violation of any limitation under any State or foreign law, governing the export or transshipment of plants it is illegal to import timber/products into the US without a declaration setting out the scientific name, value, quantity and country of origin.</p>		
<p>Key Requirements: Due Diligence / Due Care</p>	<p>There is no legal requirement to exercise 'Due Care' but sanctions for violations will be lower if a person/business practices due care. Due care means the amount of attention a reasonable person in the same circumstances would use. It requires regulated parties to take reasonable steps, such as asking questions, in order to do their best to insure that they do not violate the law.</p>	<p>Those who first place timber/products on the EU market must exercise due diligence on the basis of a regularly maintained due diligence system (DDS).</p> <p>The DDS must comprise three steps:</p> <ol style="list-style-type: none"> Access to relevant information about the timber (e.g. species, origin, information indicating legal harvest) Assessment of the risk that the timber was logged illegally (criteria for assessment incl. prevalence of illegal harvesting and complexity of supply chain) Mitigation of the risk, if the identified risk is greater than negligible (e.g. requiring additional information or third party verification of legality) 	<p>Importers of timber/products and processors of domestic raw logs must carry out due diligence:</p> <ol style="list-style-type: none"> Gathering information about the timber/products (such as trade name, country or region of harvest, quantity and evidence that timber is not illegally logged) Assessing the risk that the timber has been illegally logged (taking account of e.g. prevalence for illegal harvest, armed conflict at place of origin, complexity of product) Risk mitigation: if the risk identified is not low, taking adequate and proportionate steps to reduce the risk such as asking for further information or choosing alternative supplies. Optional step: After gathering relevant information, businesses can choose to use 'Country specific guidelines' or officially recognised 'Timber Legality Frameworks' such as FLEGT licenses to facilitate the due diligence process.
<p>Regulated parties</p>	<p>Everyone who imports, exports, transports, sells, receives, acquires or purchases the illegal timber/product; i.e. all entities in the supply chain are liable and may be prosecuted and</p>	<p>The Prohibition and Due Diligence requirement apply to the entity 'first placing timber on the EU market', the 'Operator'. For timber harvested in the EU, the entity that distributes or uses</p>	<p>The Prohibition and due diligence requirement apply to businesses who import timber/products into Australia and to businesses based in Australia that process domestically grown raw</p>

	subject to sanctions.	the timber after harvest is the operator. For timber harvested outside the EU, the entity acting as importer when timber is cleared by EU customs for free circulation is normally considered to be the operator. Ownership or other contractual arrangements are not decisive.	logs.
Products covered	<p>Everything except:</p> <ul style="list-style-type: none"> Common cultivars other than trees and common food crops; Scientific specimen of plant genetic material used for research unless listed in one of the appendices of CITES or listed as endangered or threatened species in US federal or State law; Any plant that is to remain planted or to be planted or replanted. 	Applies to a defined list of timber and timber products, set out in the annex of the EUTR. Includes e.g. fuel wood, wood chips, pulp and paper and plywood. Does not include e.g. seats, printed books, lamps and wood charcoal.	<p>The prohibition to import or process illegally logged timber applies to all timber or timber products.</p> <p>The requirement to carry out due diligence only applies to businesses importing some timber/products or processing of domestically grown raw logs. The list of timber/products to which the due diligence requirement relates ('regulated timber products') can be found in Schedule 1 of the Illegal Logging Prohibition Amendment Regulation 2013. It includes sawn timber, plywood, pulp, paper, seats and other wooden furniture.</p> <p>Exemption: the due diligence requirement does not apply to regulated timber products, if the product in question has a combined customs value of less than AUD\$1,000 or is made of recycled material.</p>
Enforcement & Penalties	<p>The US Dep. Of Agriculture's Animal Plant Health Inspection Service processes the import declaration and works with the Dep. of the Interior's Fish and Wildlife Service on investigating illegal plant cases. They are supported by the Dep. of Homeland Security's Customs and Border Protection.</p> <p>Both civil and criminal penalties are</p>	<p>The EUTR is enforced by 'competent authorities' in each of the EU member states. The level of penalties must be set at member state level but they must be effective, proportionate and dissuasive. Penalties in force include vary across the EU and include fines, imprisonments prohibitions to trade, seizure and destruction of illegal timber.</p>	<p>The Illegal Logging Prohibition Act is enforced by the Australian Government Department of Agriculture. If a court finds that a business has breached the prohibition, the maximum penalties applicable are five years imprisonment and/or AUD\$85,000 for an individual, and/or AUD\$425,000 for a corporation or body corporate.</p> <p>In case of violations of the due</p>

	possible, as well as forfeiture of the timber/product. Penalties depend whether one knowingly or unknowingly committed a violation. If the violation was committed unknowingly and the person/entity practiced due care, this may decrease the level of sanctions. Criminal sanctions include fines up to USD\$500,000 for corporations and imprisonment up to five years and forfeiture of goods.		diligence requirement, civil penalties apply.
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