

# Comparison of illegal logging laws in the European Union, the United States, Australia and Japan

	📄 US Lacey Act	📄 EU Timber Regulation	📄 Australian Illegal Logging Prohibition Regulation	📄 Japanese Clean Wood Act
Definition of illegal timber	Timber is illegal if relevant domestic and foreign laws protecting plants have been breached.	Timber is illegal if relevant laws in the country of harvest have been breached.	Timber is illegal if relevant laws in the country of harvest have been breached.	Timber is illegal if relevant laws in the country of harvest have been breached.
Practical considerations	In defining what constitutes illegal timber, the EU, Japanese and Australian laws all refer to breaches of laws which are in force in the country of harvest. Those laws could for example be national legislation, international conventions ratified by the country of harvest and customary laws. The approach is slightly different in the US Lacey Act, which refers to all domestic and foreign laws protecting plants.			
Key Requirements	Illegal to trade illegal timber. Penalties may be lower if operator can demonstrate 'due care'. The importer has to file a special declaration.	Illegal to first place illegal timber on the market. Obligation to exercise 'due diligence'.	Illegal to import or process illegal timber. Obligation to exercise 'due diligence'.	No prohibition to trade illegal timber. No legal requirement to use legally logged timber, but a legal requirement to make best efforts to use such timber. Operators who take measures to ensure they are using legally sourced wood can become registered, and are then required to undertake 'due diligence'. Details on the due diligence criteria can be found in a ministerial ordinance of 23 May 2017.

<p><b>Practical considerations</b></p>	<p>The concepts of due diligence in the EU and Australia and due care in the US have similarities: the underlying logic is that an operator must obtain key information about its supplies in order to assess and mitigate the risk that timber has been harvested illegally. In practice, an operator will take very similar steps to comply with legislation in each of the three countries. There is no prescribed definition of what constitutes ‘proper’ due diligence/due care, instead it is dependent on the individual circumstances of each operator and its supplies. For example, greater due diligence would be expected when dealing with timber from countries where there is credible public information indicating high risks of illegality. In Japan, operators voluntarily register their operations. Once registered, they may use the title of ‘registered operator’ and are required to undertake due diligence. In Australia, in October 2017, the government announced a ‘Deemed to comply’ arrangement for FSC and PEFC certified products, which would result in an exemption from the due diligence obligation for such products. This proposal was rejected by the Senate in February 2018, maintaining the due diligence obligations for certified products.</p>			
<p><b>Regulated parties</b></p>	<p>All entities in the supply chain. The importer has to file a special declaration.</p>	<p>Key requirements apply to the entity first placing timber on the EU market: the ‘operator’.</p>	<p>Key requirements apply to businesses who import timber/products into Australia and to businesses based in Australia that process domestically grown raw logs.</p>	<p>Key requirements apply only to registered entities involved in the manufacture, processing, import, export or sale of wood (excl. sales to consumers), and registered businesses using wood in building or construction or other operations using wood.</p>
<p><b>Practical considerations</b></p>	<p>In the US, the EU and Australia, there are key requirements, which apply to all entities that import/first commercialise timber. The entity is required to know essential information about the timber necessary to ensure no illegal timber is traded, and to carry out due diligence or exercise due care. In Japan, concrete requirements related to accessing and recording information confirming the legal origin of the timber apply to entities that have voluntarily registered.</p>			
<p><b>Products covered</b></p>	<p>All plants incl. trees. There are some exceptions, such as for scientific research and plants that will be transplanted.</p>	<p>Applies to a defined list of timber and timber products, set out in an annex of the EUTR.</p>	<p>The prohibition to import or process illegally logged timber applies to all timber or timber products. The requirement to carry out due diligence only applies to a fixed list of timber/products.</p>	<p>Defined in secondary legislation.</p>

<p><b>Practical considerations</b></p>	<p>There are differences in what products are covered by each of the laws.</p>			
<p><b>Enforcement &amp; Penalties</b></p>	<p>Enforced by several specialised governmental departments in the US. Both civil and criminal penalties are possible, as well as forfeiture of the timber/product. Criminal sanctions include fines up US\$500,000 for corporations and imprisonment up to five years.</p>	<p>The EUTR is enforced by 'competent authorities' in each of the EU member states. Penalties vary across the EU and include fines, imprisonment, prohibition to trade, seizure and destruction of illegal timber.</p>	<p>The ILPR is enforced by the Australian Government Department of Agriculture and Water Resources. Maximum penalties include five years imprisonment and/or fines of up to AUD\$425,000 for a corporation. In case of violations of the due diligence requirement, civil penalties apply. The Australian Government has ended the 'soft start' compliance period on 1<sup>st</sup> January 2018, which means that the government will now pursue civil penalties for all breaches of the ILPR, not only for serious or deliberate ones as was the case before.</p>	<p>The Japanese Clean Wood Act will be enforced by the Minister of Agriculture, Forestry and Fisheries and the Minister responsible for wood-related businesses. Maximum penalties for registering bodies (entities which carry out registrations, not the registered entities themselves) include imprisonment with penal labour up to one year, or a fine of up to ¥500,000. Registered entities can only be fined up to ¥300,000 if they misuse their registration title. In case of non-compliance with due diligence, the registration of a registered entity can be revoked but no financial penalties apply.</p>
<p><b>Practical considerations</b></p>	<p>In the US, Australia and the EU, enforcement authorities carry out routine/spot checks or ad-hoc intelligence-based checks, particularly if an authority suspects e.g. that timber may be illegal or that there is a high risk of illegality associated with timber, which hasn't been mitigated by operators. In Japan, enforcement has yet to take place, and the frequency of checks has yet to be defined, but document reviews and onsite inspections are foreseen.</p>			



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