



Australian Government

Department of Agriculture



Canada

Country Specific Guideline for Canada

This guideline has been prepared by the Australian Government and the Government of Canada. It is intended to assist businesses importing regulated timber products from Canada into Australia in understanding the regulatory framework in Canada in order for them to carry out their due diligence obligations under the *Illegal Logging Prohibition Amendment Regulation 2013*, which supports the *Illegal Logging Prohibition Act 2012*.

This guideline was co-endorsed by the Australian and Canadian governments on 25 September 2014.

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What is required under the new law?

Australia's *Illegal Logging Prohibition Act 2012* (the Act) restricts the movement of illegally logged timber into Australia at the border, for imported timber and timber products, and at timber processing mills, for domestically grown raw logs.

The Act seeks to address the harmful environmental, social and economic impacts of illegal logging, including forest degradation, habitat loss and threats to sustainable livelihoods.

The Act defines 'illegally logged' as:

'in relation to timber, means harvested in contravention of laws in force in the place (whether or not in Australia) where the timber was harvested.'

The *Illegal Logging Prohibition Amendment Regulation 2013* (the Regulation) prescribes due diligence for the regulated community, that is, businesses importing regulated timber and timber products and Australian processors of domestic raw logs. Under the Regulation the regulated community has to undertake a due diligence process to minimise the risk of sourcing illegally logged timber.

Due diligence requirements for importers include the following steps:

- Step 1:** Information gathering
- Step 2:** Assessing and identifying risk against a timber legality framework (optional) or a country specific guideline (optional)
- Step 3:** Risk assessment (if required)
- Step 4:** Risk mitigation (if required)

Further information about the Act and the Regulation is available at the Australian Government Department of Agriculture's website (agriculture.gov.au/illegallogging).

This guideline is intended to assist an importer of regulated timber products from Canada into Australia to comply with the due diligence requirements of the Regulation.

Information or evidence listed in this guideline is not an exhaustive list of evidence or documentation required to satisfy due diligence requirements under the Regulation. The Regulation should be referred to for the information required to be gathered to satisfy due diligence requirements.

Information gathered by applying this guideline, along with any other information gathered in accordance with the Regulation, needs to be assessed in accordance with the processes

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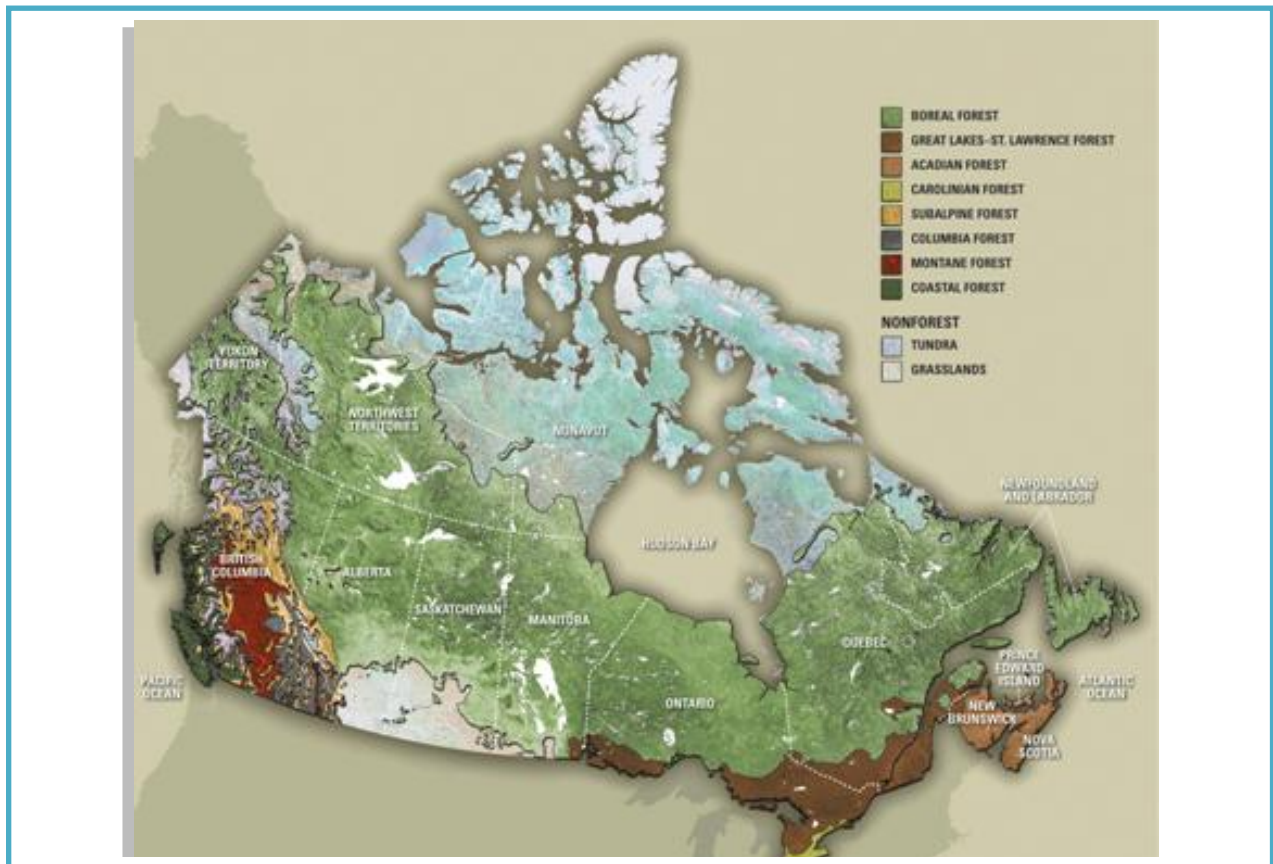
outlined in the Regulation to identify the risk that a regulated timber product is, is made from, or contains illegally logged timber.

General information

Canada has nearly 348 million hectares of forested land. This represents 38 per cent of Canada's total land surface and nine per cent of the world's forest cover.

Most of Canada's forests (nearly 90 per cent) are on public lands, owned and managed on behalf of Canadians by the provincial and territorial governments. Almost two per cent of forest land is under federal jurisdiction and two per cent is owned and managed by Aboriginal peoples. The remaining six per cent of forest land is on private property.

For more information on the state of Canada's forests, please see cfs.nrcan.gc.ca/stateoftheforest.



Detailed information on laws, licenses, permits and enforcement systems in place in each of Canada's provinces and territories can be found at Sustainable Forest Management in Canada, a website hosted by Canadian Council of Forest Ministers (see sfmcanada.org).

The Canadian Council of Forest Ministers (CCFM) is a federal, provincial and territorial partnership composed of fourteen federal, provincial and territorial ministers.

Timber harvesting in Canada: Questions & Answers

The Country Specific Guideline for Canada uses a Question & Answer format to provide information on Canadian forest management. This is intended to enable quick and easy access to the key questions that businesses importing Canadian timber products into Australia may have.

I. Timber products imported into Australia from Canada

Q1: What are the main timber products imported into Australia from Canada?

Canada's principal exports to Australia fall under Harmonized System (HS) tariff codes 4703 (chemical wood pulp), 48 (paper) and 4407 (lumber). In addition, Canada exports some niche products to Australia such as those included in HS codes 4409 (wood that is continuously shaped) and 4418 (builder's joinery and carpentry of wood), and some species for custom/specialized applications including western red cedar and Douglas fir.

II. Canada's forests and their governance

Q2: How much of Canada's forested land is harvested annually?

Less than 0.5 per cent of Canada's forests are harvested annually. The majority of timber and timber products are harvested from provincial lands.

Q3: Who has legislative authority over forest resources and forest management in Canada?

The federal government has legislative authority over forest resources where those resources affect, or are affected by, matters related to: the national economy, trade and international relations; federal lands and parks; and the government's constitutional, treaty, political and legal responsibilities for Aboriginal peoples.

The country's ten provinces and three territories (the territory of Nunavut has little to no forested lands) who own close to 90 per cent of Canada's forest land, have legislative authority over the conservation and management of forest resources on these public lands. This authority affords the provincial and territorial governments the ability to regulate and enforce how Canada's forests are managed.

See sfmcanada.org/en/forest-products/legal-forest-products for more information on forest management in Canada

Q4: How are forest management decisions made in Canada?

Forest management decisions are governed by each province and territory through a combination of legislation, regulations, manuals and guidelines. This covers forest management planning, forest licensee/permit holder rights and obligations, renewal of harvested areas, wildlife habitat and watercourse protection, mandatory reporting and planning procedures, and payment of royalties (stumpage and other harvesting fees) for the harvesting of timber.

These activities include public processes that set management objectives for public forests and address land use planning, forest management, public consultation, Aboriginal involvement, protected areas, conservation of biodiversity, road construction, timber harvest licensing and harvest allocations, environmental assessments and endangered species.

See sfmcanada.org/en/forest-products/legal-forest-products for more information on forest management in Canada

Q5: Where can I get information on the provincial or territorial jurisdiction in Canada that I'm importing from?

Fact sheets on the extensive laws, licenses, permits, and enforcement systems in place for the majority of Canada's provinces and territories are available from the Canadian Council of Forest Ministers' website (see sfmcanada.org/en/forest-products/legal-forest-products#Prov).

Q6: What national legislation must forestry operations abide by in Canada?

In addition to provincial laws and regulations, forestry operations in Canada are also bound by national legislation. This may include, for example:

- the *Species at Risk Act* (laws-lois.justice.gc.ca/eng/acts/s-15.3/page-1.html);
- the *Fisheries Act* (laws-lois.justice.gc.ca/eng/acts/F-14/page-1.html);
- the *Migratory Birds Convention Act* (laws-lois.justice.gc.ca/eng/acts/M-7.01/page-1.html); and
- the *Plant Protection Act* (laws-lois.justice.gc.ca/eng/acts/p-14.8/page-1.html).

Forestry activities must also comply with international agreements to which Canada is a signatory, such as the Convention on Biological Diversity and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Q7: Concerning federally owned forested lands, how is forest management governed and how much timber and timber products are harvested?

The nearly two per cent of forests that are federally owned are located primarily in national parks and lands owned by the Canadian Department of National Defence (DND). Management and regulation of forestry operations in national parks and national defence lands is the responsibility of Parks Canada and the Department of National Defence (DND), respectively. Forestry operations on federal lands are limited. Consequently, little, if any of the small volumes of timber entering the supply chain from these operations, would be exported to Australia.

Q8: How much timber and timber products are harvested from private land in Canada?

Approximately 10 per cent of the total volume of roundwood and pulpwood harvested in Canada comes from private lands.

Q9: Where are most of Canada's privately owned forests?

Approximately 450,000 private land owners own six per cent of Canada's forests. While some large tracts of forest are owned by timber companies, mainly in the provinces of Nova Scotia and New Brunswick, and on Vancouver Island (in British Columbia), the rest is primarily divided amongst thousands of small family-owned forests or woodlots located across Canada.

Q10: How is forest management governed and tracked on private lands in Canada?

Forest management on private lands is primarily governed by provincial and municipal regulations and guidelines. Some provinces have laws that set standards for forest management practices on private lands, and many private landowners have forest management plans and participate in government programs to guide their stewardship and harvesting activities.

Provinces in which harvesting on private land for commercial purposes is more common, often put in place legislation to regulate this activity. For example, the province of British Columbia has the *Private Managed Forest Lands Act*, the province of New Brunswick has the *Natural Products Act* which includes the development, conservation and management of forest resources on private woodlots and the *Scalers Act* in Nova Scotia applies to both public and private lands. Most provinces have regulatory mechanisms in place to track timber harvested from private lands so that it can be differentiated from public timber (for which royalties must be paid). These mechanisms include regulations for timber scaling, timber marking and transportation. In provinces where there are no specific statutes related to forest harvesting on

private lands, landowners can rely upon laws of general application to protect their property from trespass or timber theft.

For additional information on governance on private lands, please see the factsheets for the majority of Canada's provinces and territories available from the Canadian Council of Forest Ministers' website (see sfmcanada.org/en/forest-products/legal-forest-products#Prov).

Q11: Is public consultation required prior to harvesting timber in Canada?

Public views and values are considered before forest companies can harvest timber, build roads or undertake other forest activities on public forest land. Prior to government approval of forest management plans, companies must invite and consider comments by Aboriginal communities and the public. Opportunities for detailed public consultation during the development of forest management plans are provided for all citizens.

Q12: Do indigenous (Aboriginal) people in Canada have access to forest resources?

Aboriginal peoples own and manage two per cent of Canada's forests. Aboriginal communities have increasing access to land beyond their territory through various mechanisms including access to tenure from public forests.

According to the National Aboriginal Forestry Association, Aboriginal interests hold Crown land tenure exceeding 27 million m³ in annual sustainable timber harvest – more than 13 per cent of the total Crown forest harvest volume in Canada in 2013. This volume is expected to continue to increase through various mechanisms including modern treaties, government-led tenure reform, and joint ventures with industry.

Aboriginal communities can leverage their access to land and tenure to create economic opportunities and the forest sector is recognized as one mechanism to promote economic development in Aboriginal communities. The forest sector provides an important source of employment (11,000 jobs) for Aboriginal communities, representing two per cent of all jobs held by Aboriginal workers.

Aboriginal people can also access smaller volume timber allocations through personal use cutting permits. These permits are allowed under existing treaties and can be utilized to provide materials for shelter, cultural activities and heating.

Q13: What legal instruments in Canada authorize the harvesting of timber?

The right to harvest timber from public lands is subject to terms and conditions outlined in forest tenure agreements. These agreements are legally binding contracts that precisely define

the obligations and responsibilities of the government and the private user or tenure-holder and vary from jurisdiction to jurisdiction.

For more information on harvesting rights, please see the factsheets for the majority of Canada's provinces and territories available from the Canadian Council of Forest Ministers' website (see sfmcanada.org/en/forest-products/legal-forest-products#Prov).

Q14: How are logs tracked from public lands in Canada?

Depending on the jurisdiction, logs harvested on public lands may be physically marked and documented prior to transport or a truck load slip may be used to document the logs being transported.

Logs are then delivered to a government approved scaling sites, usually located at a mill or sort yard. Records must be kept for all deliveries and scaling.

Scaling is the process by which licensed monitors ('scalers') measure the volume, species and grade of logs. This information is used in the calculation of the stumpage and other harvesting fees (e.g. royalties) payable to the province or territory for the trees harvested from public lands.

Q15: How are forest management and harvesting activities monitored and laws enforced to ensure the rule of law is followed?

Governments employ trained compliance and enforcement staff who conduct inspections at all stages of forest management operations. Provincial and territorial ministries responsible for forest management monitor company operations to ensure that all laws, regulations and permits are respected, and are in line with approved forest management plans. Government agencies responsible for enforcement conduct investigations where there are reports or evidence of a contravention. Some governments employ third parties to conduct independent forest audits to provide further compliance with legal requirements.

For more information, please see:

sfmcanada.org/images/Publications/EN/Monitoring_and_Compliance_EN.pdf

Q16: What happens when forest-related laws are broken?

The provinces and territories have systems of inspection and enforce penalties to penalize non-compliance. When forest-related laws are broken, the most serious infractions may be prosecuted through the court system. Legal logging operations that do not meet legislated

standards may also be subject to warnings, tickets, fines or other penalties. Taken together, these measures are important controls which prevent illegal logging in Canada.

Q17: Is payment required for the right to harvest timber on public lands in Canada?

All jurisdictions collect stumpage and/or other harvesting fees (e.g. royalties) for trees harvested on public lands. These fees are determined by governments and vary both within and between provinces and territories, depending on the quality of timber and the costs associated with accessing it. Fees generate revenue for the provinces and territories to support forest administration and other government operations and services.

III. Identifying legal product from Canada

Q18: What evidence of compliance with Canadian laws and associated documentation can importers expect from Canadian suppliers of timber and timber products?

There is no single document that demonstrates legality of timber or timber products sourced from Canada.

Rather, Canada's collective system of checks and balances enshrined in legislative oversight of the forest industry ensures that legality is met. Canada's legislative framework provides assurances that timber products from Canadian forests are of low risk of being illegally harvested.

For more information on these systems, see: sfmcanada.org/en/forest-products/legal-forest-products.

Q19: What is the risk of sourcing timber that has been illegally harvested in Canada?

The probability of illegally logged timber products entering the supply chain throughout Canada is negligible. Comprehensive legislative supervision in Canada provides assurance that Canadian timber products are made from timber originating from legal sources.

Independent evidence from the World Business Council for Sustainable Development and the World Resources Institute has reported that Canada has the lowest occurrence of suspicious log supply and corruption of any country (see sustainableforestproducts.org/Legality).

See Qs 26-30 for more information.

Q20: What is the risk of sourcing timber that has been illegally harvested in Canada when there are many suppliers and/or many components involved?

The probability of illegal logging throughout Canada is negligible. Supply chains involving a large number of companies do not have a higher risk of incorporating illegally supplied components when all the timber utilized throughout the supply chain was harvested in Canada. Even if there are many suppliers or inputs involved, the probability of sourcing timber that has been illegally harvested remains negligible. It is unnecessary to assess the risk for each component or species since all Canadian commercial tree species and timber products in trade are of negligible risk.

Q21: What is the risk of sourcing a mix of timber or timber products from Canada and the United States that includes illegally harvested content?

The forest products sector in Canada and the United States (US) is highly integrated, with logs and other timber products crossing the border to supply mills in both countries. However, importers can feel confident that the probability of illegally logged timber remains negligible when sourcing a mix of products from the US and Canada and from private and public lands that are primarily geographically located along the border.

As noted in other answers (e.g. Q&As 18-20), the probability of harvesting illegal timber in Canada is negligible. In addition, Canada has laws in place to prohibit the import of illegal timber and timber products (see Q24 for further information).

The 2008 amendments to the US' Lacey Act prohibits all trade in plant and plant products (including timber) that are illegally sourced from any US state or any foreign country.

The US and Canadian legislation, therefore, ensure that the risk that US-sourced logs and other timber products crossing the border will have been illegally logged is negligible.

Q22: Are any commercial tree species harvested in Canada prohibited?

No Canadian commercial tree species are listed in the appendices of CITES or under the Canadian Species at Risk Act. CITES sets controls on the movement of animal and plant species that are, or may be, threatened due to excessive commercial exploitation. Species are listed in the three CITES Appendices according to the level of protection they require.

While some provincial or territorial governments have legislation which protects certain commercial species that are indigenous but rare to their region, government approved forest management plans do not allow for their harvest.

Q23: Where is harvesting prohibited in Canada?

Areas have been put off-limits to timber harvest, either as legislated protected areas with defined boundaries or as areas set aside as “non-harvestable” within timber-producing forests.

More than 24 million hectares (7 per cent) of forest land in Canada are within protected areas. Within this, more than 75 per cent of Canada’s protected forest land is considered strictly protected, with no resource extraction permitted, while the remainder are managed primarily for habitat and species protection.

IV. Other relevant laws that relate to legal timber

Q24: How does Canada prohibit the import of illegal timber and timber products?

Canada’s Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (WAPPRIITA) legislation and its enabling regulations (the Wild Animal and Plant Trade Regulation) prohibit the import of illegal timber and timber products. Subsection 6.(1) of WAPPRIITA states:

“No person shall import into Canada any animal or plant that was taken, or any animal or plant, or any part or derivative of an animal or plant, that was possessed, distributed or transported in contravention of any law of any foreign state.”

Where “plant” has been defined by WAPTR, subsection 4(b), as:

“any specimen, whether living or dead, of any wild species of the plant kingdom (kingdom Plantae), and includes any seed, spore, pollen or tissue culture of any such plant.”

This legislation and regulation makes it illegal to import timber products into Canada which were produced or acquired in contravention of any foreign laws.

V. Other relevant non-government resources

Q25: Where can I find non-government resources on Canada’s regulatory landscape for forest management?

Additional information on the forestry regulatory environment in Canada can be found in the Compilation of Canadian Provincial and Federal Regulations Relevant to Forest Management Activities published by the National Council for Air and Stream Improvement at ncasi.org/Downloads/Download.ashx?id=9485.

Q26: What additional assurances are available to verify forests in Canada are managed legally and sustainably?

Third-party sustainable forest management certification complements Canada's comprehensive and rigorous forest management laws and regulations by providing added assurance that forest companies operate legally, sustainably and in compliance with international standards for sustainable forest management.

For some timber products, forest management certification is complemented by a chain-of-custody certification. Canada has almost half of the world's PEFC-endorsed certifications (Programme for the Endorsement of Forest Certification Schemes) and almost a third of the world's FSC certifications (Forest Stewardship Council). As a result, Canada has the largest area of third-party independently certified forests (CSA, FSC, SFI) in the world.

For more information, please see certificationcanada.org/english/index.php.

Q27: What third-party forest certification systems are used in Canada?

In Canada, three internationally recognized sustainable forest management certification programs are used. The Canadian Standards Association (CSA) and Sustainable Forestry Initiative (SFI) systems are endorsed by the international umbrella organization Programme for the Endorsement of Forest Certification Schemes (PEFC). The Forest Stewardship Council (FSC) has three regional standards in Canada: Canada Boreal, British Columbia, and Maritimes. All have been accredited by FSC International.

For more information, please see certificationcanada.org/english/index.php.

Q28: Where can I find information on holders of forest management and chain of custody certificates in Canada?

Though not available for all timber products, forest management certification can be complemented by chain-of-custody certification. Information on forest management and chain-of-custody certificate holders is available from third-party certifications system websites.

Certification information for PEFC certificate holders (which includes the Canadian Standards Association (CSA) and Sustainable Forestry Initiative (SFI) in Canada) is available at pefcregs.info/search1.asp. Certification information for FSC certificate holders is available at info.fsc.org.

Q29: Have any third-party studies been undertaken that confirm the strength of Canada’s legislative framework for forest management?

A study entitled, “Global Environmental Forest Policies: Canada as a Constant Case Comparison of Select Forest Practice Regulations” by Dr. Cashore of Yale University in 2004 compared forest policy and regulations across 38 jurisdictions around the world and “... the regime of forest management and conservation in Canada, is, in the aggregate, one of the most advanced in the world.” (see a summary at fpac.ca/publications/2004_HowCanadaCompares.pdf)

A study entitled, “Comparison of Selected Forest Certification Standards” by the Finnish research company Indufor Oy in 2009 compared forest legislation and forest certification schemes in 11 jurisdictions around the world and found “Canada (British Columbia and Ontario) and in Australia (New South Wales) are the countries with the most demanding legislation on the studied elements.” Further, the study found that “...the strength of the legislation contributes to the strictness of the standard more than does the type of the standard (FSC or PEFC).”

Q30: What non-government sources are available that confirm Canada’s track record as a supplier of legal and sustainable timber and timber products?

Organizations in Canada’s export markets confirm Canada’s reputation for sustainable and legal forestry:

- Currently, the Spanish Timber Importers’ Association (AEIM) assesses Canada as a very low risk for illegal logging (see maderalegal.info/fichas)
- In 2014, the World Resources Institute referred to Canada’s record of the lowest prevalence of suspicious log supply and corruption of any country (see wri.org/sites/default/files/wri_report_4c_report_legalityguide_final320.pdf)
- In 2013, Forest Trends reported Canada as a low risk supply country for timber imports into the EU (see forest-trends.org/documents/files/doc_4085.pdf)
- In 2012, the World Business Council for Sustainable Development and the World Resources Institute reported that Canada has the lowest occurrence of suspicious log supply and corruption of any country (see sustainableforestproducts.org/Legality)
- In 2010, the UK Timber Trade Federation classified Canadian wood products as low risk with respect to illegality, and rated our documentation as highly reliable (see Country Guidance: Canada, UK Timber Trade Federation).
- In 2008, in a report prepared by Indufor for the European Commission DG Environment, it found that in Canada, the risk of illegal logging was considered low (see ec.europa.eu/environment/forests/pdf/ia_report.pdf).

Additionally, Canada consistently earns ratings as a jurisdiction with a very low incidence of corruption (see indices maintained by Transparency International transparency.org and the World Bank info.worldbank.org/governance/wgi/index.asp).

Who should I contact for further information?



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Readers should also confirm that this is the most up-to-date available guideline by referring to the Department of Agriculture website.