



# INFORMATION SHEET

## WHAT DOES AN IMPORTER NEED TO DO AND WHO IS THE IMPORTER?

### Contents of this Information Sheet

This information sheet will consider:

- Who is an importer?
- Types of import arrangements
- Tips for importers
- Responsibilities and characteristics of an agent
- Responsibilities and characteristics of a buyer
- Complying with due diligence requirements as an importer

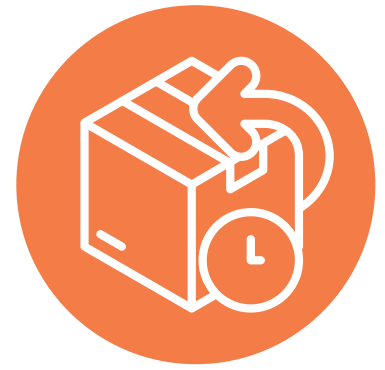
*Under the Illegal Logging Prohibition Act, The importer is responsible for undertaking due diligence prior to import. This includes maintaining a due diligence system at all times, undertaking information gathering prior to import and completing risk assessments and mitigation prior to import. See our [information sheet](#) for the steps.*

### Questions DAFF has considered when assessing who the importer is:

1. Who provided importer and goods information to the Department of Home Affairs and at what point in the timeline of arrival of the timber product into Australia was this information provided?
2. Was there any custom broker or any other agent involved? If so, who engaged their services?
3. Who paid for any costs associated with the movement of the timber into Australia? For example, transportation costs, the costs of a customs broker, the cost of any other agent, import/export duty or any other taxes?
4. Did you take ownership of the timber at any stage, if yes, when did this occur?



# WHO IS THE IMPORTER?



The Illegal Logging Prohibition Act 2012 (Cth) does not provide a clear definition for "import" or "importer". However, we may rely upon the following legal insights:

## LEGAL INSIGHTS

- ***Customs Act 1901 (Cth)***: An importer is defined as “the beneficial owner of the goods at the time of their arrival within the limits of the port/airport in Australia at which they have landed”.
- ***Wilson v Chambers (1926) 38 CLR 131***: Goods are imported when they arrive with intent to discharge.
- ***R v Bull [1974] 131 CLR 203***: Importations involves landing or bringing goods within a port for the purpose of landing them.
- ***Granite Arms v CEO of Customs [2003] FCA 506***: The importer can include a consignee or an entity that caused the goods to be brought to Australia for their own use, even if they are not the legal owner.
- ***Forbes v Traders Finance Corporation Ltd 126 CLR 432***: Importation does not cease at the moment of the import and extends to both sides of the actual act of importing goods into the country.

## INDICATORS YOU MAY BE AN IMPORTER:

If you:

- Cause the goods to be brought to Australia
- Are the beneficial owner of the goods once they arrive in Australia
- Finalise the importation process by completing the customs formalities
- Are named as consignee on shipping documents

# TYPES OF IMPORT ARRANGEMENTS

## DIRECT IMPORT



**Importer = Australian Company**

## AGENCY ARRANGEMENT



**Importer = Australian Company unless transfer occurs prior to landing and completion of customs requirements**

## FOB IMPORT (Free on Board)



**Importer = Australian Company that is the beneficial owner of the goods. Where an agency agreement is in place, ensure that you advise your customs broker to sign the declaration 'as agent for' the company receiving the product**

# TYPES OF IMPORT ARRANGEMENTS

## CIF IMPORT

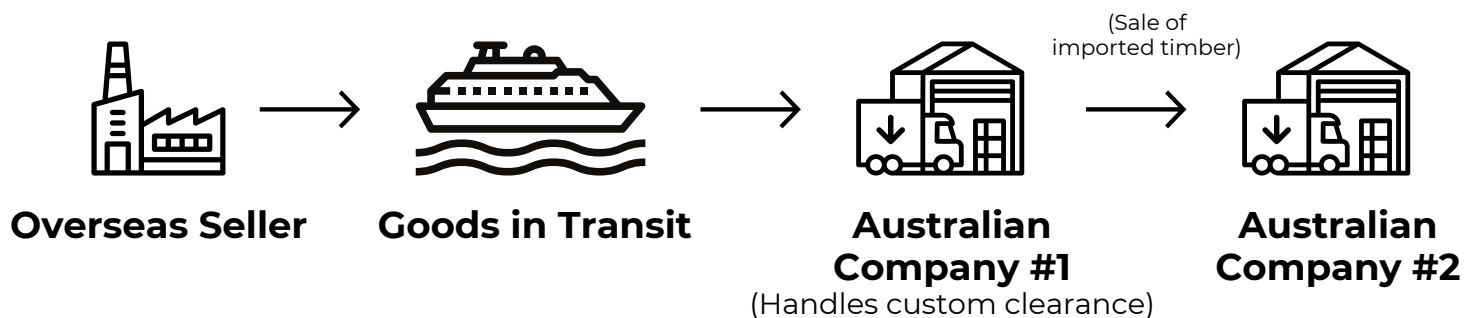


### Importer = Australian Company

Because they:

- Caused the goods to be brought to Australia for their own beneficial use; and
- Have finalised the importation process by handling the customs clearance and transporting the goods from the port.

## ON SELLING IMPORT



### Importer = Australian Company #1




Because they:

- Caused the goods to be brought to Australia by paying for and managing the order of timber;
- Are the beneficial owner of the goods,
- Have finalised the importation process by handling the customs clearance; and
- Take risk and ownership associated with the goods until sale to Australia Company #2.




# TIPS FOR IMPORTERS



## WHAT TO DO:

-  Clearly identify the importer in any importing arrangements
-  Undertake due diligence processes in accordance with the Illegal Logging Prohibition Act
-  Maintain compliance records for at least 5 years

## WHAT NOT TO DO:

-  Assume the supplier or customs broker is responsible for undertaking due diligence
-  Split due diligence responsibilities across multiple parties or hand products over prior to customs clearance without an agency arrangement in place
-  Arrange for another party to sign the customs declaration form (unless you have agreed to a clear and unambiguous agency agreement)

For assistance on drafting clear and compliant agency & supplier agreements, and for advice on confirming with the Illegal Logging Prohibition Act, you may contact Hikari Solutions on [info@hikarisolutions.com.au](mailto:info@hikarisolutions.com.au) or (03) 9000 5701.



# AGENT

An agent is not responsible for the imported wood and will hold minimal liability in the process as long as they are not the legal owner of the wood throughout the importation process.

A good example of an agent is a real estate agent. They will coordinate the purchase, and may hold money on trust for the buyer, but they never pay their own money to the seller.

## Key characteristics of an agent:

- Acts on behalf of the actual importer
- Does not cause the goods to be imported for their own beneficial use
- Provides facilitation services only
- Limited legal responsibility under the Act
- Not financially invested in the timber products
- Coordinates logistics and documentation
- May handle customs clearance processes

## Indicators you are the agent:

- Arranging shipments on behalf of others
- Receiving commission rather than profit from sales
- No direct ownership of the timber products
- Operating under written authority from the importer
- Coordinating documentation without financial liability
- Following specific instructions from the importer
- No decision-making power over timber specifications

# AUSTRALIAN BUYER (NON-IMPORTER)



A buyer who purchases timber products within Australia after importation is not considered an importer under the Illegal Logging Prohibition Act, even if the products were recently imported.



















## Key characteristics of a buyer:

- Purchases timber products from Australian-based suppliers
- Has no direct involvement in the importation process
- Not named on import or customs documentation
- No direct relationship with overseas suppliers
- Transactions occur after goods have cleared customs
- Deals with domestic invoicing and GST
- Subject to domestic trade regulations only

## Indicators you are a buyer:

- Purchasing from Australian wholesalers or distributors
- Paying domestic prices that include import costs
- No involvement in shipping or customs clearance
- Receiving locally issued invoices with GST
- Taking delivery from Australian warehouses
- Having no direct overseas supplier relationships
- Dealing only with already-imported stock

# CHECKLIST TO DETERMINE OWNERSHIP STATUS

Action	Importer	Agent	AU Buyer
Undertakes due diligence			
Takes ownership of timber products			 (after import)
Arranges shipping and logistics	Sometimes		
Pays suppliers directly	 (overseas)		 (domestic only)
Receives commission for services			
Makes decisions about timber specifications			
Named on customs documentation		Sometimes	Sometimes

**Note:** If you answer "Yes" to most of the "Importer" items, you are likely to be considered an importer under the Illegal Logging Prohibition Act. If your answers align with the "Agent" responses, you are likely acting as an agent. If your answers match the "Buyer" column, you are operating as a domestic purchaser only. This checklist should be used as a general guide only - specific circumstances may vary.

# MEETING IMPORTER REQUIREMENTS UNDER THE ILLEGAL LOGGING PROHIBITION RULES 2025

## 5 Steps to Conformance



### Confirm That Due Diligence is Required

Check whether the timber product is regulated under Section 5 of the Rules. Confirm if any exemptions apply under Section 6; whether it is recycled material or the total regulated product value of the consignment is <\$1,000.

01



### Maintain a Due Diligence System

Establish and maintain a documented system that demonstrates how you assess and manage the risk of importing illegally logged timber for all regulated products. This system must be up-to-date and appropriate for your business size and import volume.

02



### Undertake Information Gathering Before Every Import

Collect information as provided in Section 8 (3) of the Rules. Genuine attempts to source the information must be made by the importer and the documentation must be legible, including translations to English where necessary.

03



### Complete Risk Assessments for Every New Product, or Every 12 Months for Repeat Shipments

Risk assessments must be completed for all timber imports, regardless of certification status. You may rely on a previous risk assessment for up to 12 months, but only if all supply chain and product information remains exactly the same.

04



### Undertake Risk Mitigation Where Necessary

Where a risk assessment does not achieve a low risk designation, undertake risk mitigation until the product can achieve a low risk designation. If you cannot get to low, do not import.

05