

The Guide to the Act on Promotion of Use and Distribution of Legally-Harvested Wood and Wood Products

(Provisional translation based on the Japanese original as of September 15, 2017)

1 Purpose of the Act

The Act on Promotion of Use and Distribution of Legally-Harvested Wood and Wood Products (Act No. 48 of 2016) is called “the Clean Wood Act” for short.

Illegal logging of forests in Japan or foreign countries and distribution of wood derived from illegal logging may have adverse effects on various functions of forests including prevention of global warming, conservation of natural environments and supply of forest products, and may harm fair transactions in wood markets. The objective of the Clean Wood Act is to achieve sustainable and sound development of the wood products industry by encouraging the Wood-related Business Entities to take measures to ensure the use of Legally-harvested Wood and Wood Products, and thereby to contribute to the conservation of the regional/global environment.

The Clean Wood Act is not to crack down on distribution of illegally-harvested wood but to promote the use and distribution of Legally-harvested Wood and Wood Products by encouraging the Wood-related Business Entities to check/confirm that trees used as raw materials for the Wood and Wood Products that they handle are harvested in compliance with the laws and regulations of Japan and/or the countries of harvest as well as to take other necessary procedures.

2 What Is Required by the Clean Wood Act?

In order to combat illegal logging, Japan has required verification of legality for wood and wood products that the government procures by the “Basic Policy for the Promotion of Procurement of Eco-Friendly Goods and Services” (Public Notice No.11 of the Ministry of the Environment on March 9, 2001) under the “Act on Promotion of Procurement of Eco-Friendly Goods and Services by the State and Other Entities” (Act No. 100 of 2000), and the “Guideline for Verification on Legality and Sustainability of Wood and Wood Products” developed for the implementation of the Basic Policy.

With the implementation of the Clean Wood Act, all business entities are required to endeavor to use Legally-harvested Wood and Wood Products not only in the government procurement but also in the private-sector demand. Especially, the Wood-related Business Entities, regardless of whether they are registered under the Clean Wood Act or not, are required to endeavor to carry out checks/confirmation of legality and other necessary measures for the Wood and Wood Products.

3 The Scope of Wood and Wood Products

Under the Clean Wood Act, the “Wood and Wood Products” means “wood” and “goods such as furniture and paper manufactured by processing wood or using wood as the major raw material, which are specified by an Ordinance of the competent ministries” (hereinafter referred to as “goods such as furniture and paper”).

Specifically, “wood” means:

- (i) logs;
- (ii) sawn boards and square timber;
- (iii) veneer;
- (iv) plywood, laminated veneer lumber and laminated wood; and
- (v) wood pellets, woodchips and wood particles.

“Goods such as furniture and paper” means:

- (i) chairs, desks/tables, shelves, storage furniture, low partitions, coat hangers, umbrella stands, bulletin boards, blackboards, whiteboards and bed frames that contain wood as their main component material;
- (ii) wood pulp
- (iii) copier paper, forms, coated paper for inkjet color printers, uncoated printing paper, coated printing paper, tissue paper and toilet paper that use wood pulp;
- (iv) flooring that uses wood as its base materials;
- (v) wood cement boards;
- (vi) siding boards that use wood; and
- (vii) intermediate goods that are produced using wood or wood pulp during the process of manufacturing or processing the goods listed in (i) through (vi) above and eventually made into such goods through subsequent manufacturing or processing processes.

Things other than the above mentioned “wood” and “goods such as furniture and paper” are not included in the “Wood and Wood Products” under the Clean Wood Act. However, the scope of Wood and Wood Products will be reviewed in the future as the implementation of the Clean Wood Act progresses.

Also, it should be noted that the Clean Wood Act is not applied to the Wood and Wood Products which are made from trees harvested before the Clean Wood Act went into force.

(1) Elaboration on “Wood”

“Sawn boards and square timber” is wood sawn or chipped lengthwise, sliced or peeled, and of a thickness exceeding 6 mm.

“Veneer” is sheets for veneering, plywood or similar laminated wood and other wood, sawn lengthwise, sliced or peeled, and of a thickness not exceeding 6 mm.

“Plywood, laminated veneer lumber and laminated wood” is plywood and similar laminated wood such as laminated veneer lumber, laminated wood, and CLT.

“Wood pellets, woodchips and wood particles” is wood in chips or particles, wood wool, wood flour, and wood particles agglomerated in pellets.

(2) Elaboration on “Goods Such as Furniture and Paper”

“Goods such as furniture and paper” are those made with wood or wood pulp. “Chairs, desks/tables, shelves, storage furniture, low partitions, coat hangers, umbrella stands, bulletin boards, blackboards, whiteboards and bed frames” are prescribed as those which “contain wood as their main component material”. This is, in principle, refers to goods whose weights of containing wood account for no less than 50% of the total weights of their members. The “members” here stand for major components of a piece of furniture such as the top board and legs of a table and does not include parts such as dowels.

For “flooring”, the Clean Wood Act is applied to those “that use wood as its base materials”. The “base materials” here stand for components of flooring excluding a processed top layer used mainly for the purpose of aesthetic face appearance, materials layered to protect the processed surface, and materials layered on the back for the purpose of damp proof and alleviation of surface unevenness.

“Intermediate goods that are produced during the process of manufacturing or processing the goods listed in the previous items and eventually made into such goods through subsequent manufacturing or processing” are, for example, the seating face of a chair, the top board of a table, shelf boards of a shelf, and rolled paper to be made into copier paper, forms and coated paper for inkjet color printers.

(3) Exclusion of Wood Collected or Disposed of after Being Used Once or Unused

Under the Clean Wood Act, “wood” is prescribed to “exclude wood collected or disposed of after being used once or unused and wood made of these excluded wood”, and “goods such as furniture and paper” is prescribed to “exclude those collected or disposed of after being used once or unused”.

Therefore, the Clean Wood Act does not include those wood and wood products in its scope such as disposed construction materials, furniture made with recycled wood, and recycled paper. Likewise, wood collected or disposed of without being used such as offcuts and sawdust from sawmills, remaining logs and residues on logging sites, as well as wood and wood products made from such materials are also out of the scope of the Clean Wood Act.

4 Wood-related Business Entities

Under the Clean Wood Act, a “Wood-related Business Entity” means a natural or legal person engaged in the business of manufacturing, processing, importing, exporting or selling (excluding sale to consumers; hereinafter the same applies) the Wood and Wood Products, the business of constructing buildings and other structures using wood, or the business of supplying electric power suppliers with electricity obtained by burning woody biomass.

The Wood-related Business Entities are categorized into two types: Type I Wood-related Business Entities who, as being in the uppermost stream of distribution, are the first entities to receive the Wood and Wood Products in Japan; and Type II Wood-related Business Entities

who are entities other than Type I Wood-related Business Entities.

“Type I Wood-related Business” means the following (i) through (iv).

- (i) Business of processing, exporting or selling logs conducted by a person to whom logs produced from trees are transferred from the owners of the trees.
(e.g.) Business that purchases logs from a log producer and saws them into timber.
- (ii) Business of processing or exporting logs conducted by the owners of trees from which the logs are produced.
(e.g.) Business that harvests self-owned forests and manufactures plywood from the harvested trees.
- (iii) Business of selling logs at markets conducted by a person to whom the logs are consigned for sale by the owners of the trees.
(e.g.) Business of market operators and wholesalers selling logs at markets.
- (iv) Business of importing the Wood and Wood Products.

“Type II Wood-related Business” means business conducted by the Wood-related Business Entities excluding Type I Wood-related Business.

- (e.g.) - Business of processing, exporting or selling the Wood and Wood Products which are transferred from Type I Wood-related Business Entities.
- Business of constructing buildings and other structures using wood.
- Business of supplying electric power suppliers with electricity obtained by burning woody biomass.

5 Checks and Confirmation of Legality

(1) What should Type I Wood-related Business Entities Do?

Type I Wood-related Business Entities are to obtain the documents listed in (2) (i) and (ii) below from owners of trees or importers of the Wood and Wood Products and check the contents of the documents referring to relevant matters such as related information provided by the Government of Japan.

(2) Documents to Be Collected by Type I Wood-related Business Entities

Type I Wood-related Wood Business Entities are to collect the documents listed in (i) and (ii) below concerning the Wood and Wood Products that they handle.

- (i) Documents stating the following matters (e.g. shipping and customs documents):
 - (a) types of the Wood and Wood Products and species of trees used as their raw materials;
 - (b) names of the countries or regions where the trees used as raw materials were harvested;
 - (c) weight, area (of board surface), volume or quantity; and
 - (d) names or entity names and addresses of the owners of the trees used as raw materials or the persons who exported the Wood and Wood Products to Japan.

- (ii) Documents proving that the logs or trees used as raw materials for the Wood and Wood Products were harvested in compliance with the laws and regulations of Japan and/or the countries of origin.

(3) What should Type II Wood-related Business Entities Do?

Type II Wood-related Business Entities are to check the contents of the documents mentioned in (5) below or similar documents. They need not to know the tree species of raw materials and the countries/regions of harvest for the Wood and Wood Products that they handle.

(4) Additional Necessary Measures to Be Taken by Type I Wood-related Business Entities

If Type I Wood-related Business Entities cannot confirm legality of the Wood and Wood Products that they handle according to (1) above, they shall conduct (i) or (ii) below.

- (i) Collecting information, other than the documents listed in (1) above, pertaining to that the trees used as raw materials for the Wood and Wood Products were harvested in compliance with the laws and regulations of Japan and/or the countries of origin, and checking the contents of such information referring to relevant matters such as related information provided by the Government of Japan.
 - (e.g.) Requesting the supplier of the Wood and Wood Products to present elaboration on their supply chain.
- (ii) Not handling the Wood and Wood Products for which legality cannot be confirmed.

(5) Necessary Measures When Transferring Wood and Wood Products

When transferring the Wood and Wood Products (excluding those transferred to consumers), the Wood-related Business Entities shall provide persons to whom the Wood and Wood Products are transferred with documents stating the following matters (e.g. shipping documents).

- (i) The fact that the check was conducted according to (1), (3) and/or (4) above, and that legality of the Wood and Wood Products has been confirmed, if applicable.
- (ii) In a case where the Wood-related Business Entities are registered under the Clean Wood Act or hold any other registration, certification or accreditation by such a system that contributes to promoting the use and distribution of Legally-harvested Wood and Wood Products, the fact thereof.

If legality of the Wood and Wood Products cannot be confirmed by the check according to (3) or (4) above, the Wood-related Business Entities cannot transfer the Wood and Wood Products with a document stating that their legality has been confirmed.

The Wood-related Business Entities need not to provide information other than the documents mentioned above (e.g. information on from whom the Wood and Wood Products were purchased).

6 Maintenance of Records

Type I Wood-related Business Entities shall maintain the documents mentioned in 5 (2) (ii) above and records concerning the checks according to 5 (1) and (4) above for five years.

Type II Wood-related Business Entities shall maintain records concerning the check according to 5 (3) above and the documents provided according to 5 (5) above for five years.

7 Establishment of Necessary Operational Management

The Wood-related Business Entities under the Clean Wood Act shall establish (i) and (ii) below as well as any other necessary operational management.

- (i) Separate management of Legally-harvested Wood and Wood Products: to separately manage the Wood and Wood Products whose legality is confirmed from those not confirmed at each phase of handling the Wood and Wood products, such as keeping them at landings, timber basins and warehouses, shipping them, and processing them.
- (ii) Assignment of Supervisors: to assign responsible persons for implementing the legality checks/confirmation and any other necessary measures.

8 Registration of the Wood-related Business Entities

A Wood-related Business Entity who takes appropriate and reliable measures to ensure the use of Legally-harvested Wood and Wood Products can apply for registration under the Clean Wood Act and be registered at a Registering Organization which is designated by the Government of Japan. Upon the registration, the Registering Organization will publicly notify thereof including the Registered Wood-related Business Entity's personal name or entity name and address, the name of the representative (in the case of a corporate entity), the type of business and sections, and the type of the Wood and Wood Products subject to the registration.

A Registering Organization is to make arrangements with a Registered Wood-related Business Entity on its register so that the Registered Wood-related Business Entity submits a report at least once a year on how it implemented measures to ensure the use of Legally-harvested Wood and Wood Products, and that the Registering Organization will conduct an investigation on the Registered Wood-related Business Entity by making inquiries or using other methods when the Registering Organization finds it necessary to confirm whether the Registered Wood-related Business Entity is taking appropriate and reliable measures to ensure the use of Legally-harvested Wood and Wood Products.

(1) Registration of Type I Wood-related Business Entities

Type I Wood-related Business Entities play a very important role, as they conduct the checks/confirmation of legality at first in the chain of distribution of the Wood and Wood Products in Japan. Thus, a Type I Wood-related Business Entity which obtains the registration under the Clean Wood Act shall take measures to ensure the use of Legally-harvested Wood

and Wood Products in all of its operational sections (e.g. offices, plants and work places) involved and for all types of the Wood and Wood Products handled in its Type I Wood-related Business.

(2) Registration of Type II Wood-related Business Entities

Considering the complexity of supply chains for the Wood and Wood Products in and outside of Japan, Type II Wood-related Business Entities, who often purchase the Wood and Wood Products from various sources, may obtain the registration for a part of their operational sections (e.g. offices, plants and work places) involved and types of the Wood and Wood Products handled in their Type II Wood-related Business.

(3) Use of Title

The Wood-related Business Entities registered under the Clean Wood Act can use the titles of “Type I Registered Wood-related Business Entity” and “Type II Registered Wood-related Business Entity” respectively for their Type I and Type II Wood-related Businesses. They need to properly use the titles to avoid misunderstanding about their registered scope of business. Fines and/or rescissions of registration will be applied when entities who are not registered use the titles, and when the Registered Wood-related Business Entities do not properly use the titles.

(4) Rescission of Registration

A Registering Organization can rescind the registration of a Registered Wood-related Business Entity when it concludes:

- (i) that the Registered Wood-related Business Entity is not taking appropriate and reliable measures to ensure the use of Legally-harvested Wood and Wood Products;
- (ii) that the Registered Wood-related Business Entity uses the title of “Registered Wood-related Business Entity” in violation of the Clean Wood Act; or
- (iii) that the Registered Wood-related Business Entity obtained or renewed its registration by foul means.

When the Registering Organization intends to rescind the registration, it will notify thereof to the Registered Wood-related Business Entity and grant it an opportunity for an explanation no later than one week prior to the planned rescission.

9 Registering Organization

A “Registering Organization” conducts the work of registering Wood-related Business Entities (hereinafter referred to as “registering operations”). An organization which intends to be a Registering Organization shall apply to the Government of Japan, who then examines the application and designate the applicant as a Registering Organization if it satisfies the requirements prescribed by the Clean Wood Act.

(1) Registering Operations

Registering operations by a Registering Organization is to check whether an applying entity is capable of taking appropriate and reliable measures to ensure the use of Legally-harvested Wood and Wood Products by examining the application documents as well as, if necessary, inquiries and other means, and to judge whether the applicant should be registered or not¹.

(2) Disqualification and Requirements

Disqualification conditions and requirements for Registering Organizations under the Clean Wood Act are the following (i) and (ii).

- (i) An applicant for designation as a Registering Organization who falls under (a) and (b) below may not obtain the designation.
 - (a) The applicant was sentenced to a fine or severer punishment for a violation of this Act or any order issued under this Act, for whom two years have not passed from the date when the execution of the sentence was completed or the date when he/she ceased to be amenable to the execution of the sentence.
 - (b) The applicant's designation as a Registering Organization was rescinded, for whom two years have not passed from the date of such rescission
- (ii) If an applicant for designation as a Registering Organization satisfies (a) and (b) below, he/she is qualified for the designation.
 - (a) The applicant conforms to the standards established by the International Organization for Standardization and the International Electrotechnical Commission concerning organizations that certify products, procedures and services, or the applicant is recognized to be capable of appropriately conducting the registering operations under the Clean Wood Act.
 - (b) The applicant is not an organization controlled by Wood-related Business Entities as it does not fall under any of the followings:
 - in the case of a corporate entity, a Wood-related Business Entity is its Parent Juridical Person;
 - more than a half of the executive officers of the applicant are executive officers or employees of Wood-related Business Entities (including that they were executive officers or employees of the Wood-related Business Entities within the past two years); or
 - the applicant is an executive officer or employee of a Wood-related Business Entity (including that the applicant was an executive officer or employee within the past two years).

¹ Since confirmation of legality is undertaken by Registered Wood-related Business Entities on their own responsibilities, Registering Organizations are not in place to bear any responsibilities when Wood and Wood Products handled by Registered Wood-related Business Entities turn out to have been derived from illegal logging afterwards.