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THE JAPANESE CLEAN WOOD ACT: EFFECTIVELY CLEANING UP?

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Acronyms

CoC	Chain of Custody
CWA	Clean Wood Act
EUTR	European Union Timber Regulation
FA	Forestry Agency
FSC	Forest Stewardship Council
ILAT	Illegal Logging and Associated Trade
ILPA	Australian Illegal Logging Prohibition Act
MAFF	Ministry of Agriculture, Forestry and Fisheries
METI	Ministry of Economy, Trade and Industry
MLIT	Ministry of Land, Infrastructure and Construction
OSB	Oriented strand board

1 Introduction

In May 2016, the Government of Japan introduced the Act on Promotion of Use and Distribution of Legally-Harvested Wood and Wood Products – also known as the Clean Wood Act (CWA).

Though it is Japan's first piece of legislation requiring companies to trade in legal timber, the CWA created no penalties for those found to be trading in illegal timber or failing to conduct due diligence. Instead, it aimed to promote legal practices by creating provisions for companies to register as a "Registered Wood-related Business Entity." To apply for registration, companies must hold documents confirming the legal status of the wood used throughout their supply chain. Unfortunately, however, it remains unclear which documents qualify as adequate.

The scope of the CWA is expected to be reviewed and, if appropriate, revised in 2022. Based on documentary analysis and interviews, this report reviews the legislative developments that led to the Act's creation, synthesizes the latest available information (as of April 2020) on the impact of its provisions and implementation, and makes recommendations for its 2022 review.



2 Policy Background

Preceding Legislation: Formal global recognition of the problem of Illegal Logging and Associated Trade (ILAT) began with the 1998 G8 Summit. In 2006, however, the Government of Japan built upon its G8 commitments by adding wood and wood products to its national public procurement law (Government of Japan, 2000). In the same year, the Japanese Forestry Agency (FA) developed a Guideline for Verification of the Legality and Sustainability of Wood and Wood Products to help businesses avoid the purchase of illegal timber (Government of Japan, 2006). Companies voluntarily complying with the guidelines were encouraged to register as trading in legal timber through a system that became known as Goho-Wood.¹

BOX 1

Three Methods of Legality Verification Under the Goho-Wood System

Under the Guideline for Verification of the Legality and Sustainability of Wood and Wood Products, the following three methods are considered sufficient evidence of timber legality:

- Certification methods utilizing forest management certification schemes and Chain of Custody (CoC) certification schemes
- Verification methods implemented by business operators on the basis of certification by forest, forestry, or timber industry-related organizations
- Verification methods based on the individual efforts of individual companies

Perceived Weaknesses in Goho-Wood: International confidence in the system's ability to reduce the volume of illegal wood in Japan's markets was not high (Momii, 2014). Pressure on Japan to introduce additional measures mounted after the 2008 amendment of the United States' Lacey Act to incorporate timber, the creation of the Australian Illegal Logging Prohibition Act (ILPA) in 2012, and the introduction of the European Union Timber Regulation (EUTR) in 2012. In a bid to align with these more robust international efforts, members of the National Diet (Japan's bicameral legislature) adopted the CWA in 2016. However, as is explored later in this report, the Goho standard remains in force, running in parallel, and creating significant confusion.

² "Goho" means "legal" in Japanese

3 Key Players

Registering Bodies: At present, the process of company registration is delegated to independent certification companies known as “Registering Bodies.” These bodies, of which there are currently six, are tasked with assessing the efforts made by applicants to confirm the legality of their timber imports in a systematic manner (Government of Japan, 2016, Article 11). Article 6 of the Act states that the responsible minister (the Minister of Agriculture, Forestry and Fisheries) will clarify this assessment process, but as of April 2020 this has not occurred (Government of Japan, 2016).



Relevant Government Departments: The ministries responsible for the CWA are the Ministry of Agriculture, Forestry and Fisheries (MAFF) for the wood industry, the Ministry of Land, Infrastructure, and Construction (MLIT) for the construction industry, and the Ministry of Economy, Trade, and Industry (METI) for the furniture industry. The main responsible agency is the FA, within MAFF.

Implementation: As with many bills drafted by members of the Diet, the CWA provides a legal framework for action, rather than detailed requirements for compliance or implementation. As a result, a number of technical issues relating to company and government responsibilities remain unclear, even after the introduction of supplementary policy measures in 2017.²

Current Status: The Japanese government and other stakeholders are currently clarifying their expectations and assessment methods. In addition, they are considering the degree to which the CWA, and the requirements it places on companies, are successful in excluding illegal wood from the Japanese market.

The registration bodies hold data that will elucidate this since, alongside basic information such as species and countries of origin, registration requires companies to disclose the total volume of timber they have traded, encompassing both the legal and the unverified. The registration bodies have already submitted reports, and the results of these have recently been published.³

² A provisional translation of policy measures can be found at the following Forestry Agency site: <http://www.rinya.maff.go.jp/j/riyou/goho/english/english-index.html>

³ Results published in April 2020. See: <https://www.rinya.maff.go.jp/j/riyou/goho/case/index.html> (Japanese only).

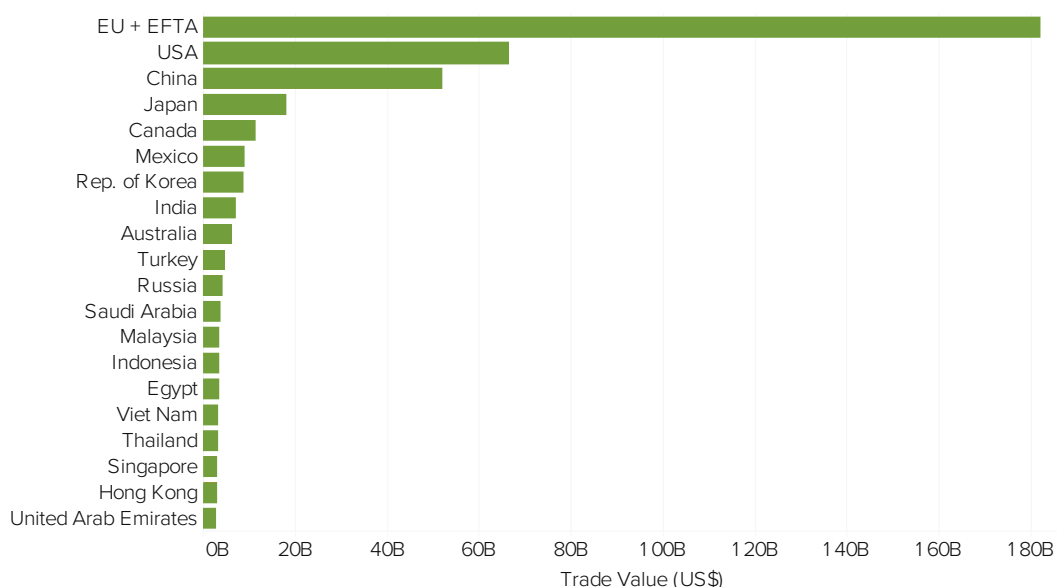


4 Forest Product Trade Context

Japan is the world's fourth largest importer of forest products,⁴ behind the European Union,⁵ United States, and China. In 2018, its forest product imports were valued at \$50 billion USD (Figure 1). The domestic production of wood has slowly increased after the forest damage of World War II, but currently supplies only 36.2 percent of the national consumer demand (FA, 2019: 159). Despite efforts by the Japanese government to bolster domestic production (MAFF, 2019: 259-279), Japan remains heavily reliant on imported forest products.



FIGURE 1 Top 20 (USD) Global Importers of Forest Products in 2018 (USD)



Source: Data from UN Comtrade 2019. Chinese data from the General Administration of Customs, P.R. China, 2019. Compiled and analyzed by Forest Trends, 2020.

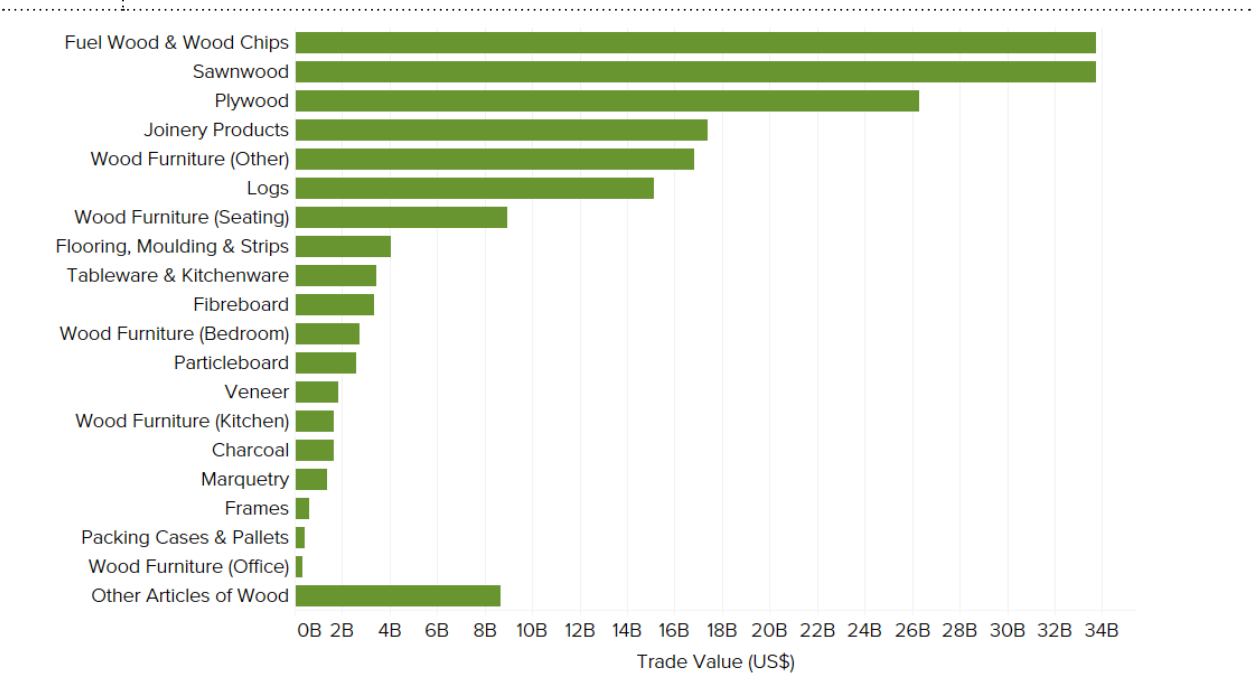
Wood Products⁶ Imported: Since 2006, the main timber products imported into Japan have been fuel and wood chips, sawnwood, plywood, and joinery products (Figure 2). Overall, imports across all product categories have been declining in volume, though value has recently increased over the last five years of reported data for both timber and pulp & paper products, from USD \$16.5 Billion USD in 2015 to \$17.5 Billion USD in 2019 (Figure 3).

⁴ The term “forest products” is used to refer to timber products (including furniture) plus pulp and paper. It covers products classified in the Combined Nomenclature under Chapters 44, 47, 48 and furniture products under Chapter 94. While the term “forest products” is often used more broadly to cover non-timber and non-wood products such as mushrooms, botanicals, and wildlife, for Forest Trends reports, “forest products” is used to refer to timber products plus pulp and paper

⁵ The term “EU + EFTA” is used to refer to the 28 Member States of the European Union, as well as Iceland, Lichtenstein, Norway and Switzerland.

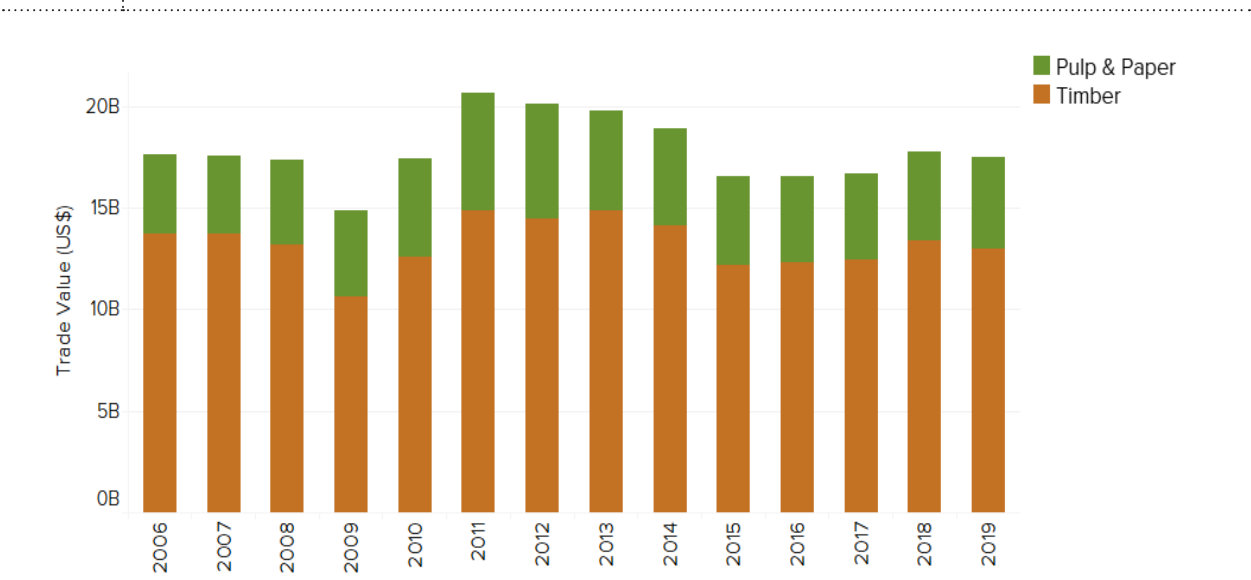
⁶ The term “wood products” is used to refer to products as classified in the Combined Nomenclature under Chapter 44

FIGURE 2 Top 20 Japanese Imports of Wood Products Since 2006 (USD)



Source: Data from UN Comtrade, 2019. Compiled by Forest Trends, 2020

FIGURE 3 Japanese Forest Product Imports (USD)



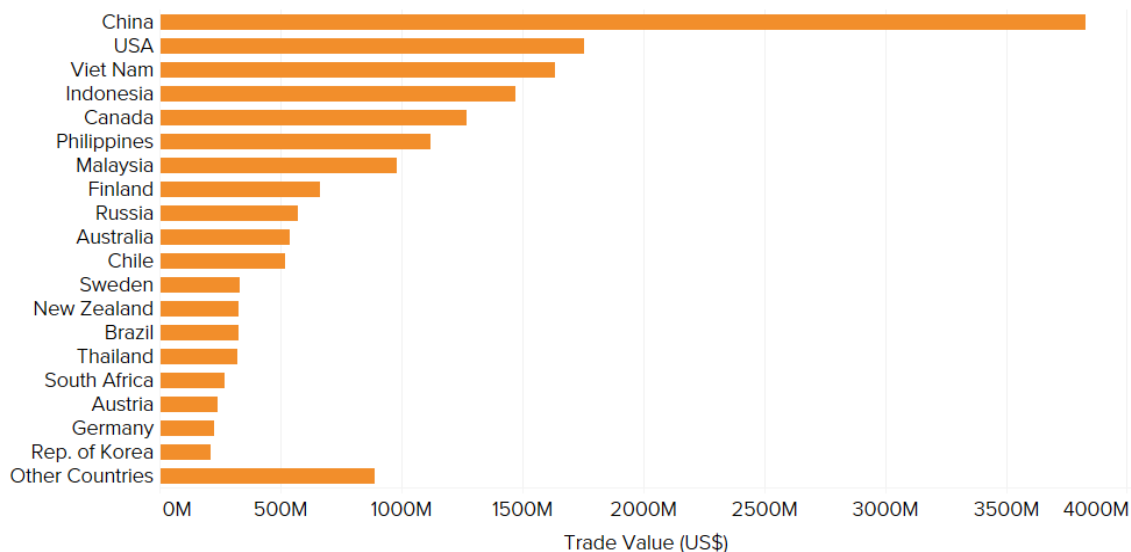
Source: Data from UN Comtrade, 2019. Compiled by Forest Trends, 2020



In 2014, a Chatham House study estimated that approximately 12 percent of all timber imported into Japan was at a higher-risk of illegality (Momii, 2014).⁷ Timber harvested from countries characterized by a higher-risk of illegal logging can enter the supply chain to Japan not only through direct exports, but also via manufacturing hubs such as China and Vietnam.

Imports from China: 21 percent of Japan's forest product imports (\$3.83 Billion USD) are from China, a country which itself sources significant volumes of raw materials from states with well-documented problems with illegal logging and/or governance challenges that can fuel that practice. Japan also sources directly, albeit in smaller volumes, from a number of countries experiencing similar problems as China in their forest sectors.

FIGURE 4 Japanese Imports of Forest Products by Source Country (2019) (USD)



Source: Data from UN Comtrade, 2019. Compiled by Forest Trends, 2020.

Fragile States: Japan is also sourcing forest products from a number of countries assessed as higher-risk based on governance, corruption, and harvest indicators, and from states assessed as conflict-affected by the World Bank. This is problematic due to the fact that fragile and conflict-affected states are characterized by weak institutional capacity, ineffective rule of law, poor governance, political instability, and the threat or reality of on-going, small-scale violence (Woolcock, 2014). Such armed conflicts frequently erupt in rural areas, often in forests, which are generally far from centers of government oversight and thus can conceal armed forces.

Logs, sawnwood, and charcoal are the forest products most likely to be imported into Japan from countries consistently identified as fragile and conflict affected on international rankings. Notable supply countries include the Republic of Congo and the Democratic Republic of Congo.

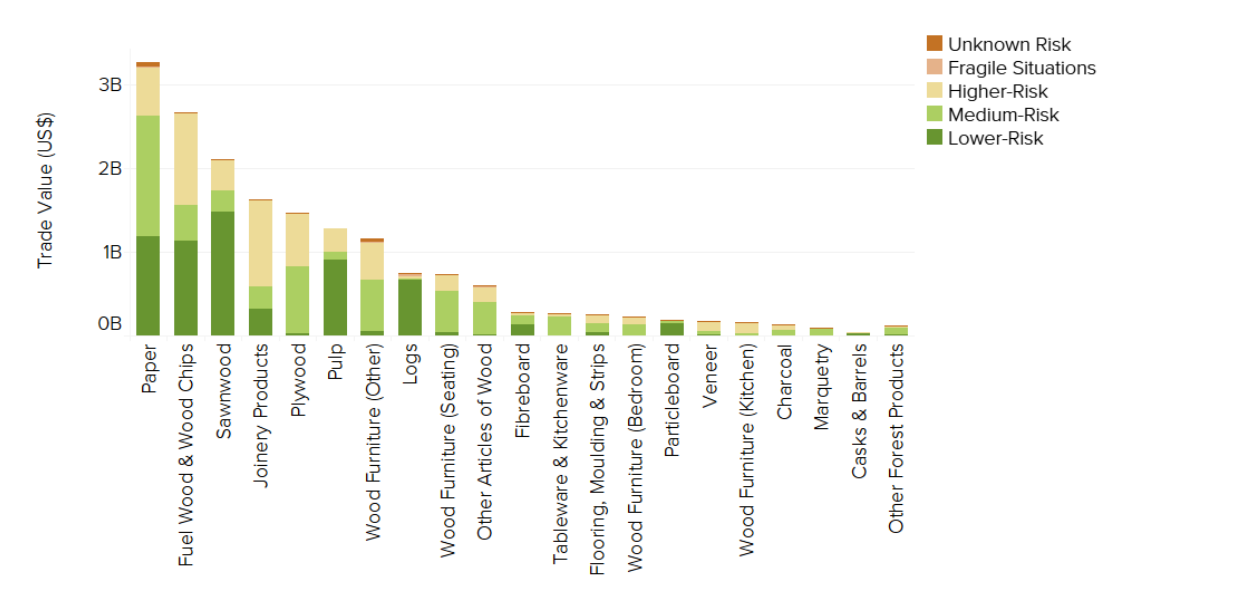
⁷ The comparative study measured the response to illegal logging in 19 producer, processor, and consumer countries, with each country selected on the basis of its significance in the estimated production and consumption of illegally harvested timber and forest products. To compare the countries Chatham House developed a set of standardized indicators covering four areas of national activity relating to illegal logging: media attention, government response, progress by the private sector, and estimated level of illegal trade. Amongst the consumer countries that were evaluated, Japan scored the lowest with regards to measures taken to prevent the trade in illegally harvested wood.

States with Weak Governance: Japanese buyers also source forest products from countries at elevated risk of illegal timber harvest or trade as determined by Forest Trends’ ILAT Risk Score (Forest Trends, 2020). This global ranking was originally established in 2016, recognizing that markers of quality and effectiveness of national governance (i.e. a government’s ability to establish and enforce legitimate laws, regulate business, or manage natural resources) can indicate the likelihood of buying illegal natural resources, including forest products, from those countries.⁸ This methodology has since been updated in 2020 to incorporate NEPCo’s Timber Risk Assessment score, which measures the risk of illegality occurring in 21 areas of law relevant to timber legality.

A government’s low capacity to govern its forest sector effectively is often linked to corruption among government officials, which undermines the enforcement of laws and regulations relating to forest protection and management. Reliability of CoC systems and widespread evidence of fraud are also common factors.

Since 2006, 99 percent of Japan’s imported table/kitchenware, 98 percent of plywood, 97 percent of both charcoal and other articles of wood, 96 percent of marquetry, and 95 percent of both wood furniture and veneer have been sourced from countries considered to be fragile states by the World Bank, or higher-risk or medium-risk by the ILAT Risk Score (Figure 5a). While the overall volume of most of these imports is fairly small, almost all of the products in these categories are at elevated risk of integrating illegally-sourced timber, marking this as a largely unregulated area of trade that should be addressed. Furthermore, Japan has increasingly sourced forest products from fragile states and higher-risk countries, with imports from these countries rising from 23 percent of Japan’s 2006 imports to 32 percent in 2019 (Figure 5b).

FIGURE 5A Japan Imported Forest Products Estimated to Come from “Higher-Risk” Source Countries by Product (2019)

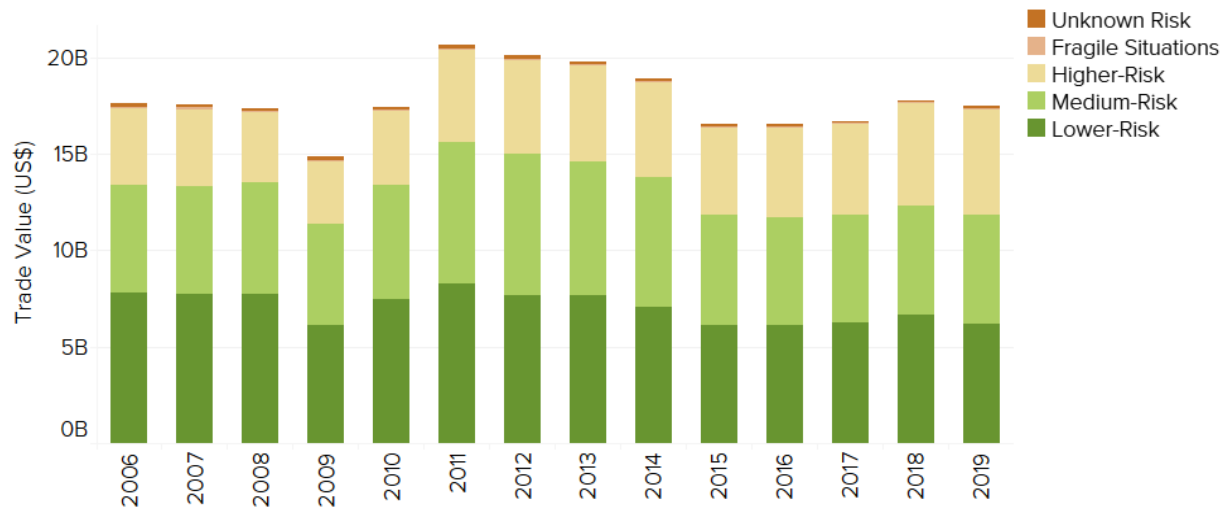


Source: Data from UN Comtrade, 2019. Compiled by Forest Trends, 2020

⁸ The ILAT Risk Score was compiled using a combination of Forest Trends Governance Scores, which provides an average relative governance and corruption ranking for 211 countries globally, and where available, NEPCo’s Timber Risk Assessment score, which measures the risk of illegality occurring in 21 areas of law relevant to timber legality. An average of both the NEPCo and Forest Trends scores has been calculated for 59 countries where both datasets are available. For all other countries, the ILAT Risk Score reflects Forest Trends Governance Scores. Countries scoring less than 25 are categorized as “lower-risk”, while countries scoring between 25 and 50 are categorized as “medium-risk”. Countries scoring above 50 are categorized as “higher-risk”. Imports from countries listed on the 2020 World Bank’s annual Harmonized List of Fragile Situations are labeled as “fragile situations” while “unknown risk” reflects imports from countries without a governance and



FIGURE 5B Japan Imported Forest Products Estimated to Come from “Higher-Risk” Source Countries (2006 – 2019)



Source: Data from UN Comtrade, 2019. Compiled by Forest Trends, 2020

When considering these products' relative trade value, Japan's greatest exposure to the risk of importing illegal forest products lies in its high-volume paper (64 percent sourced from fragile states, higher-risk countries or medium-risk countries), woodchips (58 percent), joinery (80 percent), plywood (98 percent) and wood furniture (95 percent) imports.

5 The Clean Wood Act



Overview: Unlike legislation drafted elsewhere in the world and designed to tackle the trade in illegally harvested timber directly, the CWA was created to promote the distribution of legal timber.

Though the Act encourages all businesses dealing in wood products to trade in legal timber, it creates no penalties for non-registration or for knowingly trading in illegal timber. It also includes provisions for separating the management of legally-harvested wood and wood products from those that have not been verified, thus creating room for illegal products to remain on the market.

The limited efficacy of current incentives to register are illustrated by the fact that, between May 2016 when the Act was introduced and April 2020, only 397 of the estimated 20,000 businesses eligible for registration had volunteered to do so.⁹

5.1 Forest Products Covered

The CWA covers the main timber products categories imported into Japan and therefore applies broadly to both processed and unprocessed wood products – from logs, sawnwood, fuelwood, and wood chips, to plywood and furniture. While the legislation does not define categories according to their HS Codes, Forest Trends has compiled a list of assumed HS Codes (Table 1).

TABLE 1 Products Within the Scope of the CWA and their Assumed HS Code(s)

Products listed in the CWA	Assumed HS Code(s)
Logs	4403
Boards and Square Timber	4407, 4410, 4411, 4412
Veneer and Sliced Veneer	4408
Laminated Veneer Lumber & Glued Laminated Timber	4418
Wood Pellets, Chips & Fragments	4401
Wood Furniture (chairs, desks, shelves, storage fixtures, partitions, coat hangers, umbrella stands, bulletin boards, blackboards, whiteboards and bedframes)	940161, 940169, 940330, 940340, 940350, 940360
Wood Pulp	4701, 4702, 4703, 4704, 4705
Paper	48
Wood Flooring	4409, 4418
Wood-Cement Boards	
Wood Siding Boards	
Unfinished goods that will be transformed into the above-mentioned items through subsequent manufacturing or processing using wood or wood pulp	

⁹ For example 11,971 suppliers are registered under the Goho-wood system as of October 2019. https://www.goho-wood.jp/nintei/meibo_info.php (Japanese only)



Exemptions: The CWA exempts recycled wood, firewood, charcoal, bamboo, oriented strand board (OSB), cork, fiber board, particle board, wooden boxes for transportation, and wooden pallets, among others, from its product scope. The Act also exempts plywood used as concrete molding on construction sites.¹⁰

5.2 Businesses Covered

The CWA applies to Japan's entire domestic supply chain including timber importers, producers, processors, and distributors (including exporters). Retailers, however, are excluded unless they themselves engage in manufacturing, processing, importing, or exporting.

To be approved as a Registered Wood-related Business Entity, businesses must register as either Type I or Type II, though some forms of business fall into both categories (i.e. the construction industry and furniture industry).

Type I: The company that first places a timber product on the market. This is equivalent to Operators, or “first placers on the market,”¹¹ under the EUTR and Australian ILPA. Companies registering as a Type I Business must “confirm” the legality of their wood and wood products imports (Government of Japan, 2016: Article 6(1)).

Type II: All subsequent operators in the chain, equivalent to “Traders” under the EUTR (Government of Japan, 2017: Article 2) Type II Businesses need only check the documentation provided by Type I Businesses. This category of business can also limit their registration to specific products or areas of their operation.

5.3 Registration Requirements and Processes

Registration lasts for five years, at which point it must be renewed. On registering, all businesses are required to provide the following information to their chosen Registering Body:

- Whether the application is made for Type I Wood-related Business and/or Type II Wood-related Business
- Whether the applicant's business is one that manufactures, processes, imports, exports or sells the wood and wood products, a business that constructs buildings and other structures using wood or a business that supplies electricity obtained by burning woody biomass
- The sections, offices, plants or workplaces where measures to ensure the use of legally-harvested wood and wood products are taken

¹⁰ If they have been assembled as molds. Some exempted products listed in the following: Forestry Agency of Japan. 2017. Q&A Regarding Act on Promotion of Use and Distribution of Legally-Harvested Wood and Wood Products. <http://www.rinya.maff.go.jp/j/riyogu/goho/pdf/2-4qa.pdf> (Japanese only).

¹¹ The EUTR defines “first placement” as “the supply, by any means, irrespective of the selling technique used, of timber or timber products for the first time on the internal market for the distribution or use in the course of commercial activity, whether in return for payment or free of charge.” (Article 2, Section B) European Commission. 2010. Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32010R0995>

- Types of wood and wood products for which measures to ensure the use of legally-harvested wood and wood products are taken
- Expected annual weight, area, volume or quantity of the wood and wood products mentioned in the preceding item
- In the case of a person engaged in a Type I Wood-related Business, the species of trees used as raw materials (for goods listed in item (i) of Article 2, limited to raw materials used for their component materials, and for goods listed in item (iv) of the same Article, limited to raw materials used for their base materials) for the wood and wood products set forth in item (iv) pertaining to the said Type I Wood-related Business, and the names of the countries or regions where the said trees were harvested
- In stating the matters listed in item (iii) and (iv) of the preceding paragraph, a person engaged in a Type I Wood-related Business must state all sections, offices, plants, and work places as well as all types of the wood and wood products pertaining to the said Type I Wood-related Business (Government of Japan, 2017: Article 6).

Gaps and Challenges: These requirements apply only to those businesses wishing to acquire “Registered Wood-related Business Entity” status. As noted above, only 397 companies have currently registered, equivalent to around 2 percent of the estimated total of 20,000 eligible business entities.

However, the 2017 Guidance to the Act also states that “wood related businesses, regardless of whether they are registered under the CWA or not, are required to endeavor to carry out checks/confirmation of legality,” (Government of Japan, 2017). Therefore, while registration itself is voluntary, confirmation of legality in some form can be considered a mandatory obligation for all businesses.

The Act grants the responsible minister discretionary powers to demand a report on the legality of timber from any operator, whether registered or not (Government of Japan, 2016: Article 33). However, there are currently no documented cases of this power being used.

Article 11 of the Act instructs Registering Bodies to refuse registration if “the applicant is not found to be a person who takes appropriate and reliable measures [...] to ensure the use of legally-harvested wood and wood products,” (Government of Japan, 2016: Article 11). However, neither the Act nor its ordinances defines “appropriate and reliable measures” for specific wood products or supply chains, nor is there any penalty associated with this rejection.

5.4 Definition of Legal Timber

Article 2.2 of the CWA defines “legally-harvested wood and wood products” as “wood from trees harvested in compliance with the laws and regulations of Japan or the country of harvest,” including prefectural and municipal ordinances.

It covers “goods such as furniture or paper that are manufactured by processing legally-harvested wood or using legally-harvested wood as the major raw material and specified by an Ordinance of the competent ministries,” (METI, 2017).



Gaps and Challenges: In contrast with the EUTR, however, the Act does not include a list of applicable categories of legislation, complicating the task for businesses attempting to conduct due diligence. It is also unclear whether the CWA takes into account social elements such as third parties' legal rights concerning land use and tenure that are affected by timber harvesting, as specified in the EUTR.

The 2017 Ordinance relating to confirmation of legality obligates Type I Wood-related Businesses to use the information described in the above provision of the Act. The scope of that “applicable legislation,” however, remains unclear (Government of Japan, 2017: Article 2(1)).

5.5 Tools

The CWA obliges the FA to “collect and provide for information [...] in order to contribute to promoting the use and distribution of Legally-harvested Wood and Wood Products,” (Government of Japan, 2016: Article 4(2)).

Clean Wood Navi: To aid companies in adequately meeting the requirements of the CWA, the FA has built a new web portal called the “Clean Wood Navi.”¹² This portal contains information on the relevant laws and regulations for each producer country, as well as examples of certificates and permits for each.

The FA advises companies to integrate the use of the Clean Wood Navi into their compliance systems, in order to document the legality of their wood and wood products in line with Article 2 of the Specifying Standards and confirm the contents of those documents in line with the FA's 2017 Basic Policies document.

While it remains unclear whether the CWA's standards of legality confirmation require the same elements of risk assessment laid out in the EUTR, in order for businesses to carry out rigorous checks they will need to adopt a risk-based approach akin to that adopted by companies in the EU. It would therefore be extremely beneficial for the Clean Wood Navi to organize its information accordingly. It would also be vital for the Government to clarify its position surrounding weak governance of producer and processing countries, which is one of the major reasons for other countries to introduce the concept of due diligence.

Other Sources: The FA cites other sources of information about illegal logging, including Forest Stewardship Council (FSC) certification information, and Fairwood, a Japanese NGO network. The site also lists further studies commissioned to support meaningful compliance.

5.6 Compliance Standards

2017 Specifying Standards: While detailed guidelines for companies have not yet been published by Registering Bodies, the 2017 Specifying Standards of the CWA state that companies registered as Type I Business should undertake what is described as “Confirmation of Legality” (Government of Japan, 2017: Article 2) by asking for the following from their suppliers.

¹² www.rinya.maff.go.jp/j/riyou/goho/english/english-index.html (Note that the English page has limited content.)

1 Documents stating the following matters with regard to logs that are transferred or consigned or re-consigned for sale from owners of trees, or imported the wood and wood products:

- The types of the wood and wood products and species of trees used as raw materials
- The names of the countries or regions where the trees used as raw materials were harvested
- Weight, area, volume or quantity

2 The 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

3 Documents proving that logs or trees used as raw materials for the wood and wood products mentioned in (1) were harvested in compliance with the laws and regulations of Japan and/or the countries of origin (Government of Japan, 2017: Article 2).

Basic Policies: However, the Basic Policies issued by the FA in May 2017 state that Type I Businesses must also “[confirm] the contents” of documents containing information on species of raw materials, countries or regions of harvest, and compliance with laws and regulations in and outside of Japan. This would indicate that the CWA recognizes the possibility of fraud within a document-based system, and that possession of the required documents is not, in itself, enough.

FA Guidance: These requirements have been interpreted by the FA¹³ as necessitating the following two-step process from Type I Businesses:

Step One: Type I Businesses should obtain information and documents as follows:

- Product category
- Tree species
- Country or region of harvest
- Weight, volume or number
- Supplier’s names and address
- Document to prove the legality for harvesting

Type I Business Entities should then carry out Legality Confirmation based on:

- Information provided by the government (“Information on Laws, regulations and Others,” as stipulated in Art. 4(2) of the CWA)
- Past trade records with suppliers, etc.

Step Two: If legality cannot be confirmed, Type I Businesses are required to carry out “Additional Necessary Measures,” confirming legality by “obtaining additional measures from suppliers and other stakeholders, and/or understanding supply chains, etc.” The FA uses the phrase “due diligence” for this.

Conflicting Guidance: If Type I Businesses are unable to confirm legality even after the Additional Necessary

¹³ See the diagram citing “due diligence” on the following page of the Clean Wood Navi: <https://www.rinya.maff.go.jp/j/riyou/goho/summary/summary.html> (Japanese only)



Measures, Article 3 of the Specifying Standards requires them to take the following steps (Government of Japan, 2017: Article 3(2)):

- i** Collecting information, other than the documents listed in items (i) (b) or (ii) (b) of the preceding Article, pertaining to that the trees used as raw materials for the wood and wood products for which legality has not been confirmed were harvested in compliance with the laws and regulations of Japan and/or the countries of origin, and confirming the contents of such information based on the Information on Laws, Regulations, and Others as well as other necessary information; or
- ii** Not handling the wood and wood products for which legality cannot be confirmed

However, in Article 6, the Standards instruct companies to manage legally harvested wood and wood products separately from other wood and wood products, indicating that wood for which legality cannot be confirmed can continue to enter the Japanese market. Indeed, even registered companies can still trade in “unconfirmed” wood as long as they designate it as such (Government of Japan, 2017). This is one of the most significant weaknesses of the CWA.

Forthcoming Report: All Type 1 registered businesses must submit an annual report to their registering bodies, including data on the volume of “unconfirmed” timber they have handled. The registering bodies then aggregate their data and report back to the FA, a report on their findings was published in April, 2020.¹⁴

5.7 Incentives and Penalties

Incentives: The CWA aims to promote legal practices to businesses through the incentive of gaining “Registered Wood-related Business Entity” status, theoretically elevating its brand or corporate standing. The Ordinance for Enforcement states that companies: “must take appropriate measures not to display their titles in a way that may cause misunderstanding with regard to the scope of their business pertaining to such registration” (Government of Japan, 2017: Article 10).

Furthermore, the Act states that: “The State shall take necessary measures to cultivate better understanding among business entities and citizens of the meaning of promoting the end use and distribution of legally-harvested wood... through educational and publicity activities” (MAFF, 2017: Article 4.3).

However, the current lack of awareness among Japanese consumers, both of the Act and of illegal logging more broadly, limits the extent to which this represents a genuine market incentive.

Penalties: The Act creates no penalty for trading in illegal timber or failing to register. However, failure to comply with the provisions of the Act can result in the revocation of registered status for businesses that are registered (Government of Japan, 2000: Article 14). Chapter VII also dictates that fines can be levied on individuals failing to meet certain other requirements, such as:

¹⁴ Available: <https://www.rinya.maff.go.jp/j/riyou/goho/case/pdf/H30-nendohoukoku-torimatome.pdf> (Japanese only)

- 1 Misrepresenting the name of “Registered Wood-related Business Entity” carries a fine of up to JPY300k.
- 2 Obstructing or failing to cooperate with reporting requests by the relevant ministers can result in a fine of up to JPY300K.

The majority of other fines are reserved for Registering Bodies that fail to fulfill their obligations or comply with the rules.

Finally, section 9.2 of the FA Guide to the Act outlines the Agency’s powers to disqualify any registering body that has been “sentenced to a fine or severer punishment for a violation of this Act or any order issued under this Act,” (MAFF, 2017: Section 9.2). To date, no official information shows such action being taken.



6

CWA Legality Confirmation and the Existing Goho-Wood System

The CWA's definition of confirmed legality goes beyond the mere collection of documents and requires businesses to "[confirm] the contents of these documents" based on "Information on Laws, regulations and Others" (Government of Japan, 2016: Article 4(2)). This is hugely significant, and creates the potential for real reductions in the volume of illegal timber circulating in Japanese markets.

However, the Goho-Wood legality verification system that predated the CWA has not yet been retired. The parallel-running of a document-based accreditation system managed by industry associations presents a serious challenge to the implementation of the Act. Business entities already accredited through the Goho-Wood system may find it either meaningless or cumbersome to register under the CWA as well. Low incentives are compounded by the fact that becoming accredited through two systems (the CWA and Goho-Wood) involves paying two separate sets of fees.

Trade Association Verification: Of the three methods of verification allowed by the Goho system, the second system managed by trade associations, is the most widely used; 12,045 individual businesses, and 149 trade associations, as of October 2019.¹⁵

In order to participate, industry associations must establish a code of conduct as well as procedures for accrediting their member companies. To gain accreditation, companies must show that they have a system through which to keep legal products separate from other products, and that they maintain the relevant records. This allows companies to issue documents to their immediate buyers, confirming them as registered Goho-Wood suppliers.

Gaps and Challenges: The system requires possession of documents only, and those documents are issued by trade associations of which the companies are members, introducing the potential for conflict of interest.¹⁶

Furthermore, its status in relation to the CWA remains unclear. The Basic Policies issued for the CWA states that businesses may use the Guideline for Verification of the Legality and Sustainability of Wood and Wood Products established in the Goho-Wood system, "[as a way to uphold reliability and simplicity in the Confirmation of Legality," (Government of Japan, 2017).

¹⁵ The Japan Federation of Wood Industry Associations consistently updates this number, for further information see: https://www.goho-wood.jp/nintei/meibo_info.php

¹⁶ For a more detailed explanation of the system, see the Goho-Wood Handbook. <https://www.goho-wood.jp/ihou/handbook.html> (Japanese only)

The CWA is an important step towards reducing the volume of illegal timber on the Asian market. If the Act achieves its aim, Japan will play a significant role in reducing the global incentives for illegal logging.

However, the impact of the Act will depend not only on the issuance of clearer legal requirements for registering companies, but on the effective implementation of those requirements and a robust plan for tackling non-registered and non-compliant companies. Well-resourced institutions, mandated with operationalizing the Act and accountable for its effectiveness, will be key.

In order for the Act to have a significant impact on illegal logging globally, Forest Trends therefore recommends that the Government of Japan undertakes the following steps:

1 Implementation

- Issues clear standards for all businesses seeking to conduct legality confirmation in compliance with the CWA, embedding the concepts of “due diligence” and a “risk-based approach” into this process
- Makes information on risk more visible on the Clean Wood Navi, including a clear disclaimer explaining its function as a starting point for the further research expected from individual businesses
- Pursues company reports on legality checks with greater frequency and proactivity. Otherwise, carry out checks on all business entities including non-registered entities, in order to ensure all businesses are trading in legal products
- Clarifies the conditions triggering a check on non-registered business entities, and the criteria against which such companies would be assessed
- Clarifies the status and application of the Goho-Wood system in the current system of legality confirmation, and supports industry associations to update their accreditation systems accordingly.

2 Impact Monitoring

- Requires registering bodies to publish their assessment standards and processes. The process employed by monitoring organizations responsible for EUTR enforcement might serve as a model
- Continuously improves the reporting system for registering bodies, in order to obtain meaningful data on the effective implementation of the CWA, and publish the results in a timely fashion
- Works with stakeholders to develop data points through which to monitor progress toward the stated objective of the Act

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- Makes it mandatory for Type 1 businesses to register, and gives these businesses a clear, robust set of standards for due diligence



- Considers a penalty for non-registered Type 1 businesses
- Creates a deadline for registered operators to stop trading in “unconfirmed timber”
- Consider means of increasing registration incentives for businesses, including preferential contracts or subsidies for registered companies
- Develops a consistent, committed approach to working with Asian countries currently developing and implementing timber import regulations. Collaboration will create a powerful incentive for legal trade within regional markets

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